

**FORT MYERS BEACH
TOWN COUNCIL
Town Hall – Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, FL 33939
June 6, 2005**

I. CALL TO ORDER

The assumption is that Mayor Van Duzer called the meeting of the Town Council to order at 3:00 PM on Monday, June 6, 2005.

Members Present: Mayor Bill Van Duzer, Vice Mayor Howard Rynearson, Councilman Don Massucco, Councilman Garr Reynolds, Councilman Ken Katcko

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. PUBLIC COMMENT

Carl Conley, editor of the Island Sand Paper and Island resident said that when he heard things enough, he felt compelled to come forward and say something. He asked the Council to take a hard look at the pros and cons and to vote for the evidence in the case, and fairly, in the best interest of all the Islanders.

Pat DeVincent was called forward by the Mayor to speak next. Mayor Van Duzer told him that although he had filled out four requests to speak to Council, that he was only going to honor one of them, as it could lead to other individuals filling out 20 or even 50 requests. Mr. DeVincent indicated to the Mayor that he wanted to speak after other people spoke. The Mayor allowed that.

Tom Myers, owner of the Red Coconut, came forward to speak on behalf of the Friends of the Matanzas Preserve. He then invited the Council, Town Staff, everyone present and anyone watching the meeting on television to a public workshop at 5 PM the following evening at Bay Oaks. Tom Becker, the agent for the Florida Yard and Neighborhood program, was the featured speaker. Mr. Myers explained that Mr. Becker was going educate them on which species of plants were best to put in the Preserve, and how to plant them and care for them properly. He expressed his belief that the residents of the Beach were very fortunate to have 50+ acres preserved on such a small island.

Fran Myers, of 21461 Widgeon Terrace, came forward regarding two topics, the first of which was the Mound House, about which she felt there had been a little bit of confusion. She mentioned to the Mayor that she had invited him to address CELCAB, of which she is the Chairperson, on June 20th to see if some issues could be put to rest. The Mayor indicated he would be there. She then brought up the contract renewal of the directors of the Mound House, which she noted was on the

agenda for this meeting. She said CELCAB had the understanding that the contract had expired on May 31st of this year. She prefaced the second thing she had come forward to discuss by saying she respected Mr. Schilling and his opinion and that her coming comment had nothing to do with the way she felt about him as a person. She proceeded to discuss Beach Renourishment, and cited a copy of a resolution that had been presented at the TMA, and said there were many innuendos and untruths in it. She read "Lee County Tourist Development Council has now publicly endorsed the renourishment effort to bring more tourists to Ft. Myers Beach and is poised to roll out its marketing plan for more tourists." She said she had sat on the TDC for twenty years, and could not recall seeing Mr. Schilling at any of the meetings, and had no idea where he had gotten that idea. She said the TDC meets every month and the marketing plan didn't change much from year to year. She said if they were able to double the tourists coming to Lee County they'd probably be on television, and didn't believe anyone could accomplish that. She also read "Tourism and traffic was up 15% this year", which she said was very obvious and was owed to the fact that Sanibel was down 700 rooms. She said it was not the intention of the TDC to double their efforts, whereby bringing more traffic to Ft. Myers Beach. She asked the Council to consider that most of the things in the TMA resolution were untrue. She said she had learned at a recent TDC meeting that the mean high tide line was moving back toward beachfront property owners, and there were aerial photographs to prove it, and that therefore there were probably many beachfront property owners who believed they still owned certain property who actually did not any longer. She felt that beach renourishment was very important, and couldn't imagine any community that would turn it down, and that very little of the cost would be coming out of Ft. Myers Beach's pocket. She said the TDC had millions of dollars set aside for it, and they were just waiting for the Council to make a decision. She hoped the Council's decision was a positive one.

Pat DeVincent, of 160 Bahia Via, came forward. He distributed something to the Council members that he called "No Beach Renourishment Needs Documentation Map". He said in 1990 he and his family had visited the home of his parents in Italy, and then had gone on to the coast of the Adriatic Sea, and that it had been beautiful except for the city of Remi. He said the main road there ran alongside a beautiful wide beach, but it was not viewable from the road. He said all they could see was row upon row of beach umbrellas and cabanas that extended so far out that they could not see the water. He said that not much of the town of Remi, on the other side of the road, could be seen because high-rise buildings seemed to be crammed into every available space. He had told his children at that time that he was pleased to live in the seaside town of Estero Island where the beaches were open to all and the boulevard was uncluttered with a canyon of condos and high-rise hotels. He then noted that he had heard about the need for beach renourishment about five years ago, which had made him think about Remi, Italy, but "they" had said a documentation map which showed the need for it along the length of Estero Island would be provided, which he then said had never been. He said it was clear "they" had other plans for the Estero Island beach. He believed "they" wanted Estero Island to become the Remi, Italy on

the Gulf of Mexico, and that “they” wanted to do it during turtle season. He asked the Council to “stop this charade now”.

Jeff Warner, of 7150 Estero Boulevard, and a member of the MRTF, came forward to speak in favor of Beach Restoration. He said he had found the words “beach renourishment” or “beach restoration” in the Town’s Comp Plan four times. He read the four passages from the Comp Plan:

“A large renourishment project for Estero Island would be extremely beneficial to the Town. The major attractor for tourism and the Town’s economic base is the Gulf of Mexico and its beaches.”

“The beach renourishment project should be a Town priority for the critically eroding areas of beach we have. The long-term recreational and economic benefits derived from this project will offset the initial cost.”

“Beach dune preservation, stabilization, and restoration would greatly enhance the beauty, economic value and well-being of the beach.”

“Beach renourishment will be necessary along much of the Gulf beach. The long-term recreational and economic benefits will offset the cost. The Town shall work closely with Lee County, which has agreed to take the lead role in carrying out this important activity. All practical measures shall be taken to ensure that beach renourishment improves sea turtle nesting habitat rather than interfering with it.”

Mr. Werner said he also found the timing of the project mentioned once in the Comp Plan: “All coastal construction projects, including beach restoration and renourishment, shall protect sea turtle nesting areas by limiting construction in dune and beach areas to non-nesting periods except under emergency conditions.”

Mr. Werner said he had spoken with Robert Neill of Lee County Natural Resources Department and Eve Haverfield of Turtle Time, Inc. the previous Friday, regarding the timing of the project. Mr. Neill said once all necessary easements had been received, it would be at least 90 days before the actual work could begin, and that it should take about 6 months to complete. He said that the Town government, through the administrative staff, had told Lee County that the restoration project should not take place during tourist season – November 15th through April 15th – which he remarked was counter to the Comp Plan. He said that Eve Haverfield had told him that, ideally, the project should not be done during turtle nesting season, but if it had to be done during nesting season, all nests in the path of the new sand slurry would be moved. She said nest-moving had been done successfully for other beach restoration projects on Bonita Beach, Captiva, Naples, Lovers Key, Boca Grande and Englewood, to mention a few. She said any temporary inconvenience to the nesting turtles would be far outweighed by the positive outcome of the increased nesting habitat. Mr. Warner summarized by saying the Town Comp Plan obliged the Town Council to move ahead with the Beach Restoration Project, and to make it as uninvasive as possible on the nesting turtles’ environment. He asked the Council to remember that, just because they might read something over and over in “Letters to the Editor”, it didn’t mean it was factual or true.

Frank Schilling, of 6672 Estero Boulevard, came forward and said that apparently there was a new version of the Beach Renourishment Plan. He said that at the last public workshop held months ago, Lee County had said, but not put into writing to his knowledge, that 200 feet of sand would be added to the beach. A few weeks ago, he said that it had been clarified to mean that the entire beach would be renourished so that everyone would get 250 feet of beach uniformly. Now, he said there was a May plan, which he indicated as being on display in Council chambers, which each of the Council had received a copy of at this meeting, and that it showed that already-wide beaches in front of commercial areas were now slated to get more sand than some “skimpy” beaches in front of some residential areas. He gave as an example, using the County’s maps, north of Donora Boulevard, where he said there was a 130-foot wide beach, to which almost 200 feet of beach would be added, making it almost 330 feet wide. He said the County predicted that, eventually, the area would fall back to about 280 feet wide. Mr. Schilling called it a “generous business beach”. In contrast, citing page 7 of some document, he said needy residents south of the Smugglers Cove area would end up with a stabilized beach about 140 feet wide. He said the basic question was why some residential areas with little beaches deserve so much less renourished beach than their northern commercial neighbors. He asked, if renourishment was for protection from erosion, why were some areas more worthy of protection than other areas. He asked, if some Council members had been thoroughly briefed with written plans, if they understood the reasons for the new disparities in the latest plan. He said if all of the Council had not been thoroughly briefed with a written plan covering the seven million dollars of taxpayers’ money, then it made sense to him to call a hold on the renourishment until both Council and residents had received printed plans, to which they could then make inputs. He thought people would, once they got the facts and were allowed to give input, support real renourishment. He characterized the current plan as possibly faulty, and did not want the Council to let it pass.

Tom Merrill, of 21581 Indian Bayou, came forward to speak against beach renourishment. He said everyone could agree that the Beach needed hurricane protection. He said the question was whether beach renourishment would actually accomplish that. He felt that, after more than ten years and thousands of pages of research, hard facts were not there to back up the empty promises of protection. He asked which structures would be protected by beach renourishment and how protection would be accomplished. He asked if anyone could guarantee that the renourishment project would protect anyone’s house better in a hurricane, and if they couldn’t guarantee it, he asked why they would spend the money on it. He said they could also agree that the project would do more than just fill eroded areas. He cited surveys from 1927 that showed very little beach erosion. He characterized the project as being a big landfill project to make a big, artificial beach that would extend further into the Gulf of Mexico than it had ever had. He thought a map should be generated showing the coastline now as compared to how it would look after renourishment. Mr. Merrill said the base year of all surveys was 1927, and thought comparisons should be made with that data. He said that live shelling and turtle ordinances could be agreed upon by all as being important to the environment, and then asked why the

Town government was contemplating killing millions of them en masse, when individuals could not kill even one. He said doing the project in the middle of turtle season violated the Town's Comp Plan. He asked the Council if they could really say that the project was good environmentally and did not violate any of the Town's ordinances. He said they could all agree that the project would not increase the elevation of the Island, and so didn't understand how it would stop flooding. He said the biggest threats during a hurricane were wind and flood, and the restoration project did not address either one, that it would be the biggest expenditure the Town was going to have, and asked why spend the money when it did not address the most destructive elements of a hurricane. He said they could also agree that a bigger beach would hold more visitors, and asked where else growing population of Lee County could go. He said the three million dollars from the Tourism Council for, and the Chamber of Commerce endorsement of, the restoration project underlined the tourism value, and that one study showed that 80% of the value of the restoration project was recreation and tourism. He asked why the Town was spending money to help the County at the expense of the Beach residents' quality of life. He said it was a "cruel hoax" that deceived Islanders into believing they would receive protection during a hurricane due to the restoration project, when the primary change would likely be more traffic during season. He said if he knew there was bona fide protection with the beach restoration project, he would not be against it, but had not seen any proof of such and had tried, through many avenues, to get that information, including having had several conversations with both Ray Judah and Steve Boutelle. He then distributed a chart to the Councilmen that he felt clarified the issue in a simple format that he felt anyone could understand.

Mayor Van Duzer then closed Public Comment.

V. CONSENT AGENDA

A. APPROVAL OF MINUTES

- 1. May 2, 2005**
- 2. May 16, 2005**

B. FINANCIALS FOR MONTH OF APRIL

C. RESOLUTION 05-14 - SWFL WATER MANAGEMENT

D. APPROVAL OF EXTENSION OF LAP AGREEMENT - ALTERNATING LIGHT

MOTION: Vice Mayor Rynearson moved to consent agenda. Councilman Massucco seconded the motion for the purpose of discussion.

Councilman Massucco, in reference to Item D, cited a memo from John Gucciardo from which he read: "the State would then reimburse the Town for that payment up to approximately \$111,500." Councilman Massucco asked if the Town had loaned the State \$140,000 to do the project. John Gucciardo said the Town had not spent any money yet, and the County had estimated that it would cost between \$110,000 and \$120,000 originally. He said there had been some potential changes in the actual

construction due to some design elements that had to be reworked, which meant the Town was not sure what the final price would be, but that the work had not even started as yet. He said the Town had indicated a willingness to pay up to \$120,000, and he knew that the Town could get reimbursement up to between \$111,000 and \$112,000. Councilman Massucco said he had the \$140,000 figure in his mind from previous negotiations, and Mr. Gucciardo said it might have originally been an outside figure.

Councilman Katcko asked that his name be corrected in the minutes of both May 2nd and May 16th. He also cited the May 16th minutes, page 21 of 35, and said the unnamed gentleman was Hugh Thimler, and everyone called him “Coach”.

Vice Mayor Rynearson, in reference to Resolution 05-14, said he wanted to “cc” the governor, the cabinet, the County Commissioners and the TDC.

Mayor Van Duzer, also in reference to Resolution 05-14, said it was in support of the crucial importance of a timely completion of the SWFL Feasibility Study, and was being done in partnership with Lee County Convention and Visitors Bureau, etc., etc., and that it related to the SWFL water group.

VOTE: The motion carried unanimously with corrections as noted above.

VI. ADMINISTRATIVE AGENDA

A. INTRODUCTION OF ORDINANCE 05-15 - EARLY VOTING STATUTE

Vice Mayor Rynearson asked if it could be done with a consensus because early voting would take place in Bonita and not on the Beach. Mayor Van Duzer said he had checked on it before the meeting, and if it was the feeling of the Council members, and they voted that way, this ordinance would be stopped now. Mayor Van Duzer explained for the public’s sake, that the cost of the early voting that was not even going to take place on the Beach, but rather in Bonita, would be \$12,249.60. He said it was up to Council to decide whether to vote for the ordinance or not.

MOTION: Vice Mayor Rynearson moved to opt out of the early voting. Councilman Massucco seconded the motion.

Councilman Katcko said he was not in favor of the ordinance, and that he was in favor of early voting. He said he understood it would have to take place in Bonita Springs, but felt any opportunity the voters could get to show up at the polls was a good thing. He didn’t think \$12,000 was too much, and that there was poor voter turnout on the Beach. He especially liked the fact that it would be on a Saturday. He was in favor of encouraging people to use absentee ballots. He reiterated that he was not in favor of the ordinance.

Mayor Van Duzer thought it would be better to use the \$12,000 on a campaign to encourage people to use absentee ballots, rather than spending the money on the early voting in Bonita, because it did not include absentee ballots. He also wanted to say that the voting turnout on Ft. Myers Beach was tremendous compared to most places, with the average voter turnout on the Beach being close to 50%, whereas it was closer to 20%, even with early voting, in Ft. Myers. He felt the Town's money would be better spent advertising about absentee ballots and how easy it was to get one. He said the newspapers could do the Town a big favor by telling people all they had to do was call the voting office and an absentee ballot would be sent to them. He said he voted with an absentee ballot even when he was in Town because it was easier.

Councilman Reynolds clarified that the voting would be open for thirteen days, rather than just on Saturday, which would give the voters two weeks.

VOTE: The motion passed 4 – 1, with Councilman Katcko dissenting. It was then determined that a roll call vote was needed.

Mayor Van Duzer	aye
Vice Mayor Rynearson	aye
Councilman Massucco	aye
Councilman Reynolds	aye
Councilman Katcko	nay

B. INTRODUCTION OF EMERGENCY ORDINANCES:

1. Ordinance 05-16 Amending Emergency Ordinance 96-19

Town Attorney Anne Dalton read the ordinance in its entirety so as to introduce Ordinance 05-16.

MOTION: Councilman Massucco moved that a public hearing be set for Ordinance 05-16 on June 27th at 3:00 PM. Vice Mayor Rynearson seconded the motion.

Councilman Reynolds said he didn't like the ordinance because it did not mention the role of the Council during emergencies, and he believed a disclaimer should be included in it that stated that the Town Council issued all powers and authority of the Town to the suggested emergency team until such time as the emergency team declares all is safe and makes the decision to return operations back to the Town. He didn't feel good about signing something that gave away his privileges as a Councilman.

Attorney Dalton said, in looking at the entire ordinance, because Ordinance 05-16 was an amendment only, that Section 13 of the original ordinance, and which was not being amended, stated: "Nothing in this ordinance limits the authority of the Town Council to declare, repeal or extend the state of local emergency." Councilman Reynolds said it was not in their packets. Attorney Dalton explained that the first document in the pack was the amendment, and that the entire original ordinance (96-19) was the second document in their packs. Councilman Reynolds said that the

Ordinance 05-16 didn't mention Town Council at all. Ms. Dalton said it was an amendment to the original ordinance. Councilman Reynolds said if they were going to amend the ordinance he wanted to see it end there.

Vice Mayor Rynearson explained to Councilman Reynolds that the amendment was not redoing the whole ordinance, but rather amending what was underlined. Councilman Reynolds said he very well understood that. Vice Mayor Rynearson went on to explain that the rest of the ordinance would stay on the books. John Gucciardo added that the reason the original ordinance was put into Council's packets for this meeting was so that they would see the other portions of the ordinance that were not going to be amended. He said the Town Attorney was exactly right in that the Town Council was the trigger for declaring the local State of Emergency and could also undo it. He said the Council was the key to turning on the mechanism of the emergency ordinance. He said it was by no means an attempt to preclude the Council from exercising its obligations, duties and powers as Town Council. Attorney Dalton said, to further address Councilman Reynolds' concerns, they had been discussing the codification of the ordinances, and if it got done, they would then have one ordinance that had all the changes in one document.

Councilman Reynolds recalled, during the hurricane emergency it had taken three days for the emergency team to decide that Town Council had nothing to do with that situation at all, and that they had not even been welcome to speak. He said that since they did not have any power, it seemed it was only fair to put a disclaimer in Ordinance 05-16 that it be stated as he had suggested earlier in the discussion. He said he had been embarrassed because all the Councilmen had attended the emergency meetings thinking they were part of it, only to find out they were not. He said he would support the amendment if they were going to go into emergency mode knowing that, only if the disclaimer he had suggested was put in there to explain where the Council was coming from. Attorney Dalton did not believe the Council could legally abdicate responsibility. She understood the emergency ordinance would kick in only in the event of a dramatic disaster where Council could not meet. Councilman Reynolds agreed the Council could not abdicate its responsibility, and he felt that was what had happened during the first three days of the Hurricane Charley aftermath. He said there needed to be an understanding in the ordinance somewhere that Council maintained its right to step in during an emergency. He said he had been censored at the emergency meetings, and hadn't been allowed to speak. He added that the ordinance was not clear enough, and that it was leaving things the way they had been last year.

Mayor Van Duzer disagreed with Councilman Reynolds, and said he had known from day one of the emergency what the Council was doing. He went on to explain that they had established the Emergency Management Team by ordinance, and that was who had been in control during the days following the disaster. He said he had never had a problem with it and understood exactly what the Council was doing and things were being done. He thought it would be best if the Council got their heads together on setting the public hearing, and then hashing it out at the hearing. Councilman

Reynolds countered that the three Councilmen who had been there had talked during the first three days, only to learn that they were not supposed to have been. He said they had been sharing and giving input, and that none of them could deny it. Mayor Van Duzer said he had been sharing useful information, but had not been telling anyone how to do it. Councilman Reynolds said that was what they all had been trying to do, and that the amendment to the ordinance did not clear it up. He said he could not support it without a statement clarifying Council's powers in an emergency. He said there were ordinances all over the books that clearly stated that Council was in charge. He said they had not been in charge during the state of emergency and they had not known it, and he wanted it made clear in this ordinance.

VOTE: The motion carried 4 – 1 with Councilman Reynolds dissenting.

Councilman Massucco hoped the Council would discuss what Councilman Reynolds had brought up at the hearing. Mayor Van Duzer said the Council realized that there might be some question in that regard and that they could look at it further.

2. Ordinance 05-17 Amending Emergency Ordinance 96-06

Town Attorney Dalton read the ordinance in its entirety so as to introduce Ordinance 05-17.

MOTION: Vice Mayor Rynearson moved to set a date for a public hearing of Ordinance 05-17. Councilman Katcko seconded the motion.

Councilman Reynolds asked why a motion and a second were needed when the Council was not going to vote on them at this time. Attorney Dalton said there would be a vote. Councilman Reynolds said there hadn't been a vote on the ordinance they had just discussed. Ms. Dalton said there had been a vote and he had voted "no". Mayor Van Duzer said they were only voting on setting dates for public hearings on the ordinances. Councilman Reynolds laughed and apologized.

Councilman Reynolds said that on page 2, not knowing who wrote the ordinance, there was a lot of verbiage that he thought could be cut down. Citing the second line, Councilman Reynolds thought the two lines could be cut out that started with "However, the Town...". At this point, Ms. Dalton pointed out to Councilman Reynolds that they were currently addressing Ordinance 05-17. Councilman Reynolds remarked that he was on 05-18, and apologized.

Councilman Reynolds, citing the first page of Ordinance 05-17, Section 4.2, where it named enforcement officers, said it did not mention attorneys, but it did mention businesses and everything that could be on the Island through the night hours, and asked if attorneys were included. Ms. Dalton read from the ordinance: "Regular employees of local businesses". Councilman Reynolds read it further: "... while traveling to and from their jobs for their regular hours" and stated that that was in reference to night traveling. He asked if it included all businesses, or certain businesses. Ms. Dalton thought that because it included the words "regular

employees” that was meant to include owners and employees. Councilman Reynolds said that residents were being left out.

John Gucciardo said the point of the curfew language was to keep people off the streets from dusk to dawn, which the Sheriff’s Office felt was more workable than the original curfew hours of 7 PM to 7 AM,. He said the point was that they had carved out an exception there, with business owners and employees, because there might be instances when a person in the regular course of business needed to be at work after curfew and then drive home. He said they would not want exceptions for residents or people who were not engaged in their normal course of business because it would defeat the purpose of the curfew. Councilman Reynolds said he just wanted to point out that the residents were not mentioned there. He said some attorneys had been left out during the last emergency, and he wanted to make sure they had been included in the exception. Mr. Gucciardo said that no attorneys had been singled out for any kind of separate consideration during last year’s emergency. Councilman Reynolds asked Attorney Dalton if the ordinance included all business people on the Island, and if she saw attorneys and dentists as being included. Ms. Dalton said if they had offices on the Island, they were included. Councilman Reynolds said he just wanted to make sure no one was denied access. Mayor Van Duzer pointed out that they were not discussing access, but rather curfew. Councilman Reynolds again said he wanted to be sure it pertained to all businesses on the Island, and that the curfew couldn’t be applied to someone unless they were on the Island.

Councilman Reynolds then cited Section 3 of Ordinance 05-17, where an entire paragraph was going to be deleted, and asked why it was being deleted. Ms. Dalton said they had broadened it out and made it into a separate, more comprehensive, ordinance (Ordinance 05-23) and that it was on the agenda later in this meeting.

VOTE: The motion carried unanimously.

The public hearing for Ordinance 05-17 was set for June 27th at 3:00 PM.

3. Ordinance 05-23 New Ordinance on Price Gouging

Attorney Dalton read the ordinance in its entirety so as to introduce Ordinance 05-23.

MOTION: Vice Mayor Rynearson made a motion to set a hearing for Ordinance 05-23 on June 27th. Councilman Katcko seconded the motion concurrently with Councilman Massucco.

Councilman Reynolds explained how he had gotten confused as to what they had been discussing earlier, and apologized.

VOTE: The motion carried unanimously.

C. INTRODUCTION OF AMENDMENTS TO COMMITTEE ORDINANCES

1. CELCAB 05-18 (revising Ordinance 05-09)

Attorney Dalton read the ordinance in its entirety so as to introduce Ordinance 05-18.

MOTION: Vice Mayor Rynearson made a motion to move the item. Councilman Katcko seconded the motion for discussion.

Councilman Reynolds said that on that on page 2 of this ordinance there were two or three lines not needed, starting with “However...” and the it could be simply stated “CELCAB shall not have more than seven persons...” with the rest of it being okay. Ms. Dalton said she had written it, and she was okay with deleting that language.

Councilman Katcko noted that Bill Thomas’ name still appeared in the ordinance, and Mayor Van Duzer directed Ms. Dalton that that needed to be changed. He then said they were introducing the ordinance for public hearing on June 27th and called for a vote.

VOTE: The motion carried unanimously.

2. MRTF 05-19 (revising Ordinance 05-11)

Attorney Dalton read the ordinance in its entirety so as to introduce Ordinance 05-19.

MOTION: Vice Mayor Rynearson made a motion to move the item. Councilman Massucco seconded the motion.

Councilman Reynolds cited page 2 of the ordinance, and asked that, in the first line starting with “the Town Council shall have the ability...” the entire two lines be eliminated. He thought it became redundant after a point.

Mayor Van Duzer humorously noted that Councilman Katcko’s name was spelled correctly in the ordinance, and then called the vote on the motion and to set the date for a public hearing of the ordinance on June 27th.

VOTE: The motion carried unanimously.

3. CRAB 05-20 (revising Ordinance 02-03)

Attorney Dalton read the ordinance in its entirety so as to introduce Ordinance 05-20.

MOTION: Vice Mayor Rynearson made a motion to move the item and to set the public hearing date for June 27th. Councilman Katcko seconded the motion.

VOTE: The motion carried unanimously.

D. DRAFT ORDINANCE OF LPA MEMBERSHIP 05-22

Mayor Van Duzer said he had asked this to be brought forward to the Council.

MOTION: Mayor Van Duzer made a motion to move the ordinance forward and to set a date for a public hearing. Councilman Katcko seconded the motion.

Councilman Reynolds cited Section 34-13, and thought it could be completely eliminated because five and seven members had already been mentioned. He said the LPA did not need the Council's permission to invite people to come and hear their presentations no matter what the topic of the discussion was and that they could do that without Council's permission. Attorney Dalton said that Section 34-13, subparagraph C, was mandatory language and it did make the school district member a member of the LPA, albeit non-voting member, and therefore did not believe it was extraneous information, and that it gave that person all the rights of membership, short of voting. She said it was not like having someone in the audience listening and observing. Councilman Reynolds didn't believe they needed a whole paragraph so that they could invite someone to sit in a meeting. Ms. Dalton said the language had existed before the amendment was written. Councilman Reynolds persisted in his view that it was unnecessary language, and said he would not vote for something that he felt was totally redundant. He said if it was left in there, it would be a total conflict and could set a trend to override the Comp Plan on density. Ms. Dalton repeated that the language he objected to had already been in the ordinance, and that she had not added it herself. Councilman Reynolds felt that because they were looking at it that it should be in the right form. Mayor Van Duzer asked him if he would agree to look at the wording if the Council decided to move this item forward. Councilman Reynolds said he would have no problem with that, but that he just wanted recognition from someone that it needed to be worked on.

Councilman Massucco commented that the ordinance gave the school board person all privileges of a committee member except voting. He asked if that meant they could also solicit testimony from whoever might be appearing before the LPA. Ms. Dalton said they had all the rights of membership in the LPA except for voting. She suggested consulting the LPA attorney who was present at the meeting. Ms. Segal-George, the LPA attorney, said it was a statutory requirement, but the reality was that, because of the fact that the Town was pretty much built out and the Town had very little impact on schools, the school board had no interest in being involved with the FMB LPA, and that while it was state law, they really had never been involved in any LPA meetings since the incorporation of the Town. She said that although they have no interest in the Town's LPA, and although the Town didn't have any real impact on the schools, it was still the state law and they had a right to have a representative sit on the LPA as a non-voting member if they wanted to. Ms. Dalton said her point was that she didn't think the Town had the legal right to delete that language. Councilman Reynolds said he questioned the statements that both Ms. Segal-George and Ms. Dalton had made with regards to the non-voting membership privilege because it had never been used by the school board. He asked if permission to sit in on their LPA

meetings appeared in the County's ordinances. Ms. Segal-George explained to Councilman Reynolds that it was state law. Councilman Reynolds said that didn't matter, and wanted to know if it was in their ordinance. Ms. Segal-George asked if he meant if it was in the School Board's ordinance. He wanted to know if it was in any ordinance. Ms. Segal-George explained that it was a state law, which was senior to everybody, and which states that the school board has a right to participate in the local planning agencies. She said the theory behind it was that there had been so much trouble with not having enough schools, and this gave them the ability to find out what kind of developments were being approved in the different communities so that they could plan better for schools. Councilman Reynolds addressed the Chairman, Mayor Van Duzer, to clarify what he was concerned about. He said the reason he mentioned it at all was not because of the invitation to the Lee County school board. The part he was really objecting to was the 4th line down "at which the Local Planning Agency considers comprehensive plan amendments and rezoning that would increase residential density on the property that is the subject of the application." He found that to be a conflict with, and an overriding of, the Comp Plan. Ms. Dalton said the language was there to limit the ability of the school district to participate in the LPA. She read: "Their ability to be a member, albeit non-voting, is as to those meetings..." She explained they don't have the ability to be a non-voting member as to other matters coming before the LPA. Councilman Reynolds said that was not the part he was really questioning, but rather the part about density, because they would attend if the LPA was going to increase density. He said if the attorney did not find a conflict there with the Comp Plan on density, then he would not worry about it.

Vice Mayor Rynearson said he couldn't support the ordinance because it was changing it from 5 -7, to 7 - 9 members, and all the other committees and agencies were at 7 members, and Lee County ran their LPA on 7 members with a much bigger area to cover. He believed 7 members were plenty and fair to the rest of the committees.

Councilman Reynolds said that several of the LPA members had spoken with him and had expressed that since they had been operating with 9 members, and they were doing all the work, they felt that 9 members made them more efficient, and he didn't know why the Council would object to them working in a more efficient manner. He gave this as the reason why he had no problem increasing the LPA from 7 to 9 members.

Mayor Van Duzer said he was in favor of increasing the LPA back up to 9 members. He said he was one of the original members of the LPA, when it had 7 members and 2 alternates. He said that after a short period of existence it was determined that the two alternates would come to every meeting as regular members. He thought it was one of the most committees in Town, along with the TMA. He said they were different than a committee, in that they made very demanding decisions for the community, and had always operated in a very responsible manner, and had had a lot of good members. He thought the loss of two prime people - Harold Huber and Hank

Zuba - when the membership was cut - was a big loss because they offered a lot of good advice and information. He felt cutting the membership had been an error, and had brought it back to Council, and if they decided to increase the LPA membership back to 9, he would beg and plead with both of those men to come back. He emphasized that the LPA felt they should not have been cut in membership size and he thought the Council should have listened to them. He appealed to all of the Council members to look at the issue carefully, and suggested the Council should allow the LPA to go back up to 9 members. He acknowledged that it would not be easy to effect because it was part of the LDC.

Councilman Massucco pointed out he had been the originator of the membership cutbacks, and recalled a statement he had read at the last Council meeting. He said that he still felt the same way, and just because they were good people and had done a good job on the LPA, that did not give them tenure. He said there were other good people in Town who might want the opportunity to serve on the agency. He felt that if the same people were appointed repeatedly that it discouraged volunteerism. He felt that 7 good people could accomplish the same as 9. He said that Harold Huber was the only one who was asked to step down, as Hank Zuba had tendered his resignation. He thought it had worked out well, because he felt the change had opened the LPA up to more volunteerism, rather than less. He said he would not support the amendment.

Vice Mayor Rynearson said he knew that Mayor Van Duzer had not meant to be disrespectful, and that he greatly admired Hank Zuba and Harold Huber. He said it had nothing to do with personalities. He said the Council had gone through this process five times, and they had all decided to put the agencies and committees at 5 or 7 members. He said they had already done what was needed and that it should be left alone. He believed 7 members could do a good job, and that there were 7 good people on the LPA now. He felt the Council needed to move on.

Mayor Van Duzer said he would not pursue or debate it any further, once they had voted.

VOTE: The motion carried 3 – 2.

There was some off-mike discussion about when the hearing would be set. Councilman Massucco asked, if the amendment was passed, if the same two people who had left the LPA when it had been cut would have to be brought back necessarily. Mayor Van Duzer and Ms. Dalton both said they did not. Councilman Massucco stressed that he had nothing against those two people, he just wanted to know. Mayor Van Duzer mentioned to Councilman Massucco that the members of the agency had three-year terms and rotated on a regular basis.

E. COUNCIL COMMITTEE APPOINTMENTS AND ALTERNATES

Mayor Van Duzer referred to the list of openings on the various committees and agencies, along with the list of who was serving currently.

After some discussion, all but the Charlotte Harbor National Estuaries Program Policy Committee alternate were named:

Regional Planning Committee

Appointee – Bill Van Duzer

Alternate – Ken Katcko

Chamber Traffic Committee

Appointee – Howard Rynearson

Alternate – Don Massucco

Horizon Council

Appointee – Ken Katcko

Alternate – Bill Van Duzer

Charlotte Harbor National Estuaries Program Policy Committee

Appointee – Don Massucco

Alternate –

Coastal Advisory Committee

Appointee – Don Massucco

Alternate – Ken Katcko

Mayor Van Duzer asked what the possibility was for a Town Staff member to be named as alternates to any of the committees. John Gucciardo said it could impede their ability to operate with other Staff at staff level.

F. RESTORATION LANDSCAPING FOR NEWTON PARK

Matt Feeney came forward, and indicated two bid submittals that had been received as a result of the advertisement that had been published regarding the initial landscape restoration work that would basically involve the planting of native plants.

Custom Earthworks Design submitted a bid of \$27,866.63 and All Native Garden Center, Nursery and Landscapes submitted a bid of \$17,735. He said it would be funded through the TDC Park Development Grant, and Staff recommended awarding the contract to the lowest bidder.

MOTION: Vice Mayor Rynearson made a motion to move Staff's recommendation to award the contract to All Native Garden Center for \$17,735. Councilman Massucco seconded the motion.

Councilman Katcko said that most of the listed costs were comparable between the two bids. He asked what 'mobilization' was. Mr. Feeney said it basically covered labor and what it would take to get the labor force to Newton Park. Councilman Katcko pointed out a tremendous difference between the two bids regarding 'irrigation installation and site preparation', in that one company had quoted \$15,500 and one had quoted \$3,000. Mr. Feeney said that they had received three bids, one being from an irrigation company specifically for the irrigation work, whereas the Town had advertised for a package deal to include the plantings and irrigation. He said the bid from the irrigation company had been in line with the quote from All Native of \$3,000. He added that Custom Earthworks had included soil treatments in its irrigation line item, which was not something the Town wanted.

Mayor Van Duzer commented that, for the benefit of the public's understanding, the work had been pre-approved, and was being funded, by the TDC.

Councilman Massucco had hoped that when it came time for planting in Newton Park that the Ft. Myers Beach Garden Club could be involved somehow, and asked if that was a possibility. Mr. Feeney said that it definitely was and that he had intended on contacting them. He said the contract was for the initial dirty work of installing the plants. He added there were already in existence planning documents for a Heritage Garden, and additional things on a smaller scale and less labor-intensive, and Staff would love to have the Garden Club involved. Councilman Massucco asked if the work would begin immediately upon Council's approval. Mr. Feeney said if the contract were awarded at this meeting, the contractor would have 30 days to line up the plants and start planning, and that the contractor was eager to get started.

VOTE: The motion carried unanimously.

John Gucciardo said that at the next Council meeting, Staff was going to bring for their consideration the ability for the Town to go ahead on a grant application that had been brought to Staff from the Garden Club. He said there were potential grants available to pay for vegetation at Newton Park as well as the Mound House and that there existed a great deal of interaction between the Garden Club and the various Town volunteer committees with regard to Town properties.

Vice Mayor Rynearson had some confusion as to whether the question had been called to a vote. When he was apprised of the fact that they had already voted, Councilman Katcko jokingly asked if someone could get Vice Mayor Rynearson a cup of coffee. Everyone laughed at that.

G. MOORING FIELD RENTAL RATES

Matt Feeney cited a previous memo to the Anchorage Advisory Committee (ACC) and the Council, wherein he had outlined the current expenditures on the mooring field compared to the occupancy rates that had been observed, as well as the average going rate for other municipal mooring fields around the state. It was found that the

initial rates at the Town's mooring field had been set low. He said the new rate structure was streamlined and more comparable to what existed at other municipal mooring fields, and that it would help the Town cover its costs. He said the ACC had recommended that the Town adopt the day/month rate structure with the price being set at \$13.00/day and \$260/month. Mr. Feeney concurred with the ACC's recommendation and asked the Council to adopt the new rate structure.

MOTION: Vice Mayor Rynearson moved to adopt the new rate structure of \$13/day and \$260/month. Councilman Massucco seconded the motion.

Councilman Katcko asked about the six live-aboards in the mooring field, and asked if they would get a break on the monthly rate. Mr. Feeney said that they had received a break in the previous rate structure. He said that no discussion had come up in the ACC with regards to offering a lesser rate to them.

Councilman Reynolds asked Mr. Feeney why the boat size consideration had been eliminated from the new rate structure. Mr. Feeney said the rate structure had been developed by the engineering firm and really mirrored the size of the buoys, and their swing circles, in the Town's mooring field. He said a smaller boat would be taking a space of water, with the same service, the same dinghy dockage, the same rest room, the same shower, and the same pump-out as a larger boat, and that the new rate structure was a simpler method with regards to accounting. He said some cruisers had mentioned to him that the rate structure was a bit complicated, and had suggested the Town go with the a day/month rate structure so as to be in line with everything else they were used to. Councilman Reynolds asked if there were boats smaller than 25 feet long anchored in the Town's mooring field. He thought there might be a few 24-footers. Councilman Reynolds thought the new rate structure was reasonable.

Councilman Massucco, referring to the Staff recommendation, said that Mr. Feeney had said the magic words: "self-sustainability". Mr. Feeney said that was the goal, and that he had been working with the contractor to get the costs down, and felt the new rate structure was a significant component, and that it would contribute greatly to the goal of getting the Town's mooring field to the level of self-sustainability.

Mayor Van Duzer asked how many live-aboards there were now, and Mr. Feeney told him there were six: the Council had approved eight, two never stayed, and one had left, so there were actually only five at this point. Mayor Van Duzer said he believed in what Mr. Feeney was doing, and that he was familiar with several of the harbors cited in his memo – especially Marathon – and that the proposed new rates for the FMB mooring field were still less than those others. He said they had fought really hard for the live-aboards when the mooring field had gone in, and asked if they could consider raising their rate, but not to \$260. Mr. Feeney said there were only five of them, and that number could not increase. Mayor Van Duzer asked if they were presently paying \$150 per month. Mr. Feeney said that the permits had required that the live-aboards already in place be given 6 months of free service, and that June 2005 had been the first month any of them had actually paid. He said most of them,

due to the size of their boats, had paid \$178.50 for June rent. He repeated that it had not been discussed at the ACC level. Mayor Van Duzer said it was important to him. He asked the Council if they would consider giving the live-aboards a \$25/month yearly increase as opposed to jumping it up to the \$260 all at once.

Vice Mayor Rynearson said he would love to pay \$260 a month if he were a renter. He pointed out they got pump-out, showers, everything. Mayor Van Duzer said he understood that. Vice Mayor Rynearson felt the new rate structure was fair the way it was. He said that Mr. Feeney had done a lot of work on it, and had taken it through all the proper committees, and everyone had been in agreement. Mayor Van Duzer felt the 30% increase all at once was high. Vice Mayor Rynearson said they had gotten six months free. Mayor Van Duzer said that had been something the Council had agreed to do.

Councilman Massucco asked if they had been live-aboards all along. Mr. Feeney said the five live-aboards who had been grandfathered in had been given 6 months of free service per the Town Council's decision a year ago, and had begun paying rent on June 1st. Mayor Van Duzer said the state had initially told the Town there could be no live-aboards in the mooring field, and the Town had fought for them at the state level, and had won their agreement to allow ten live-aboards.

VOTE: The motion carried unanimously.

H. PARKING IN RIGHT OF WAY AT 2330 ESTERO BOULEVARD

Mayor Van Duzer asked this to be brought forward. He cited a Staff Report in which Staff did not recommend converting from a No Parking zone. Mayor Van Duzer said he had taken a good look at it, and realized that the situation had existed for many years, and noted that the tenants of the commercial structure, or the owners, had arranged for long-term parking across the street. He appealed to the Council to allow them to have short-term parking, with a fifteen-minute limit. He didn't believe it would change anything, and had never heard any report about fatalities in connection with people loading and unloading from that spot.

Vice Mayor Rynearson said the increase in traffic made it a different situation. He said the Town Staff and County had looked at the spot, and County had told the Town to put the No Parking signs up because it was deemed dangerous, and that they had to trust the Staff's recommendation. He said he was all for business, but there were three people who wanted the Town to put people in jeopardy by allowing people to park there. He felt someone was going to get hit if they allowed loading and unloading in that spot. He didn't want to take the chance of someone getting hurt.

MOTION: Vice Mayor Rynearson made a motion to take Staff's recommendation and leave it as is. Councilman Massucco seconded the motion for discussion.

Councilman Massucco said he had been checking into the situation, and had thought that in place of designating it a loading zone, they could designate it a fifteen-minute only space, at least on a temporary basis, until the tenants or owner could arrange for a permanent parking solution. He pointed out that the business owners used the three parking spaces on the side of the building, and that perhaps they could park somewhere else so that their customers could use those spaces. He offered a contradictory note to what Vice Mayor Rynearson had said, and read from a memo written by Brian Miller from Lee County: "However, considering the overall parking conditions occurring along the corridor, absence of documented safety problems with a crash experience at the referred locations, relatively low speed conditions, and high demand for parking, we are reluctant to proceed with authorizing No Parking regulations based on the observed conditions." Councilman Massucco remarked that this showed that the County had not been in favor of it. Vice Mayor Rynearson countered that they had authorized it nonetheless. Councilman Massucco conceded that fact, but felt it was tantamount to putting the businesses in that location out of business, because there would be no place for their customers to park. Mayor Van Duzer pointed out that they had arranged something with the Mango Street Market with regards to long-term parking. He felt if someone parked there, so as to walk their dog across the street to get to the groomer, that it posed just as great a danger as having them unload directly in front of the businesses on the Boulevard. Councilman Massucco said he had spoken with the Mango Street Market owner, and he had said he wouldn't allow anyone to park on his property for the purpose of doing business across the street or elsewhere. He said he wasn't being argumentative, but didn't think there was any other alternative parking. He said he had parked there to do business with the printer many times, and that he had been aware of the conditions, and so far there had been no incident. He wanted to see the No Parking signs replaced with 15-Minute Parking signs.

Councilman Reynolds said he had spoken with the owners of the two businesses at the location in question, and that they had rented parking spaces from the man who ran the fruit market across the street so as to leave spaces for the customers. He felt it was safer for people to park in front of the businesses than to have customers parking across the street and having to cross the boulevard. He said it had been safe so far to use the space in front of the businesses, and agreed with Councilman Massucco that leaving the space in front a No Parking zone would be tantamount to putting them out of business. He said the County neither approved, nor put up, the No Parking sign, but they hadn't said it couldn't be put there, either. He said there had been no documented accidents there, and he just couldn't be callous enough to tell those people they couldn't have parking in front of their businesses. He said it was County right-of-way, and didn't understand why they were even fussing over it, and hoped the Council would decide to remove the No Parking sign and allow short-term parking.

Councilman Katcko said he was surprised that none of the businesses had contacted him, and noted that none of them were present at this meeting. Referring to the letter from the DOT from which Councilman Massucco had read earlier, Councilman

Katcko said he had been swayed by it. He said he was in favor of either Temporary Loading Zone or 15-Minute Parking. He said the printer had been hit twice, in that his A-frame signs had been banned, and then his parking had been taken away. He jibed that perhaps they should just slap a “condemned” sign on his front door and get it over with. This provided a little comic relief. He concluded by reiterating that he wanted them to be allowed to park there again.

Vice Mayor Rynearson and Mayor Van Duzer engaged in a little repartee when the Mayor had been about to call for a vote, and the Vice Mayor expressed his desire to make another comment. This also caused some good laughs to be had by all.

Vice Mayor Rynearson thought it seemed to come down to the idea that the Councilmen were villains if they took certain actions such as this one. Councilman Katcko said “you are, Howard, not us” – this drew lots of loud laughter. Vice Mayor Rynearson said he was for the No Parking for the sake of safety. He said there was an open area, next to that building, that could be a parking lot, and Mr. Feeney had gone to them and suggested they work out a deal to use that, and the business owners had rejected the idea, which he characterized as uncooperative. He felt it was a dangerous situation to have people parking and getting out of their cars in that area, no matter how long they remained parked at any given time. He said if was the will of Council to take the No Parking sign out, then so be it, but he would not put his name on it. He felt if it were opened back up to parking, people would park every which way, as they had before.

Councilman Katcko asked Vice Mayor Rynearson if people who parked at an angle or otherwise unsafely would get a ticket for doing so. Vice Mayor Rynearson said the law enforcement people don’t go past that spot every five minutes.

Ms. Dalton commented that, technically, it was a County right-of-way, so the motion should be to request authorization from the County to change it from No Parking to whatever. Mayor Van Duzer said the motion on the floor was to uphold the Staff recommendation.

VOTE: The motion failed 4 – 1, with Vice Mayor Rynearson voting in favor of the motion.

MOTION: Councilman Reynolds made a motion to post a Loading Zone sign. Councilman Massucco seconded the motion.

Mayor Van Duzer pointed out that there was a problem with that motion in that they needed to request authorization to change the sign. The motion was amended as such. Mayor Van Duzer wanted to add a fifteen-minute limit to the sign also. Councilman Reynolds thought it should be shorter, so Mayor Van Duzer suggested a ten-minute limit. Councilman Massucco disagreed and said he would like it to be a fifteen-minute limit. Councilman Reynolds conceded.

MOTION (Amended): Councilman Reynolds made a motion to request authorization from the County to remove the No Parking sign and replace it with a 15-Minute Loading Zone sign. Councilman Massucco seconded the motion.

VOTE: The motion carried 4 – 1, with Vice Mayor Rynearson dissenting.

I. MOUND HOUSE DIRECTORS' CONTRACT RENEWAL

Theresa Schober, Mound House co-Director, came forward to address the Council. She cited a memo she had submitted to Council that was in their packets for this meeting. She said it was her understanding that the one-year renewable contract that she and the co-director had been working under, had expired on May 31, 2005. She believed there had been some confusion caused when in February the Mound House co-Directors had come before Council, after they had secured a \$269,500 grant that had included some archeological services, and they had asked that their contract be amended to include those archeological excavations, because their job description had included on- and off-site archeological projects. She said that had been approved by Council at that time. She said the request before them at this meeting was to continue their administrative contract to manage the Mound House for an additional year, and a rate increase from \$25 to \$30 per hour was being requested, the rate of which was comparable to the Town's benefit package. She explained they were not eligible for the Town's benefit package because they were contract employees. She said that CELCAB had unanimously approved this request at their May 23rd meeting, and then pointed out that in the last three years, they had received \$126,000 in compensation from the Town, and had secured over \$303,000 in grant funds for the Mound House. She added that they had just submitted another \$350,000 in grant funds. She believed that now that the Town was going to go forward with the house restoration project, the Town's investment in her and the co-director would more than triple or quadruple in the next few years in secured grant funds for the project.

Vice Mayor Rynearson said he wanted to continue the item until the June 13th meeting because he wanted to listen to the tapes of the February meeting to which Ms. Schober had referred in her remarks. His understanding, when they had voted on it, had been that they had extended the co-directors' contract. He believed they had gone through all the contract figures, and his vote at that time had been to extend the contract.

Councilman Massucco remembered that they had extended the contract so that the co-directors could perform a certain obligation, but that they hadn't extended it for a year. Ms. Schober said her understanding from that meeting was that the contract had been extended specifically for the archeological mitigation, which had been written into the grant proposal, and would require them to commit services above and beyond the management contract. She noted that the funds to off-set that additional contribution were all grant funds. She felt the confusion was that the pool exhibit project, which they had intended to begin in March but could not, due to State complications with regards to plan approval, and which was not going to begin until

October, and would be done by December of 2006. Her understanding had been that that arrangement had been different from their one-year management contract with the Town.

Councilman Massucco remembered that if the co-directors didn't perform that function that the Town would have had to pay it out of pocket. Ms. Schober said that was true, and that there was an in-kind contribution of the Mound House directors, which was part of the contract for which they were requesting renewal at this time. She explained that if the Town did not have professional archeologists serving as the Mound House Director, the cost for a professional archeologist would not be covered by the grant.

MOTION: Vice Rynearson made a motion to table this item until June 13th as a courtesy, so that the tapes could be listened to for understanding of what had transpired. Councilman Katcko seconded the motion for the purpose of discussion.

Councilman Katcko then deferred, as he had not been at the February meeting in question.

Councilman Reynolds felt they should deal with the item now, and did not want to table it.

Mayor Van Duzer said he spent a lot of time that day going over the minutes from that meeting, but that it was still confusing as to what action they had actually taken. He said he had mixed emotions, in that he wanted to see it get done, but it seemed there were a lot of complications connected to the action they had taken. He said he had read it and felt comfortable with the notion that they had taken that action to be sure the co-directors would look after the pool project. He thought what the Council had voted on, according to Council minutes, was very questionable.

Vice Mayor Rynearson said all he wanted to do was clarify it. Councilman Reynolds said he agreed.

Ms. Schober said that even if they were continued to December of 2006, which she said would not be a typical contract term, they would still request a rate increase now.

Vice Mayor Rynearson said that was fine, but he wanted to take the discussion to the June 13th meeting and not debate it at this time. He said he really wanted to listen to the taped minutes.

Mayor Van Duzer told Ms. Schober that she had done a tremendous job and was worth every penny that she got for the job. But he said there were some problems and they needed to get them clarified so that the Council knew exactly where they were with it, and no questions could come back at them later. He said he was in support of putting it off for one week, but added that he did not think what Ms. Schober was asking for was unreasonable.

Councilman Reynolds said that he had forgotten about the other contract that they had voted to extend during the February meeting. He said it sounded as if there was a conflict, in that they had a contract, but were asking for another contract. Ms. Schober said they only had one contract with the Town, which had expired on May 31st and that it was a contract to manage the Mound House. She said what they had asked for in February had been an addendum to that contract to allow them to conduct the archeological services related to the Pool Exhibit project. Councilman Reynolds asked if it hadn't been covered in their present contract. She said the on-site archeological projects had been, but the scope of the Pool Exhibit project was too great to be conducted within the confines of their existing contract. Councilman Reynolds asked Ms. Schober if Council had approved an additional amount for the co-directors, and she said that was correct, and was commensurate with additional labor above and beyond the full-time Mound House directorship position. Councilman Reynolds said he hadn't realized that was what they had agreed to at the time the Council had voted to approve it, and although he did not remember how he had voted, he certainly would not have voted for it. He cited something Ms. Schober had written in her request: "The current pay rate for the Mound House Director was established in 1998 with the creation of the position." He said that she had not mentioned the rate, but he believed it had been \$48,000. Ms. Schober indicated the initial rate had been \$25 per hour. Councilman Reynolds thought that originally the contract had called for a part-time position for \$24,000 per year. He went on to say that when she and the co-director had taken the position, it had doubled to \$48,000, and now he realized that Council had approved an interim contract additional to it. He said now she was coming for another increase, and though it wasn't clear, it sounded like she was asking for \$62,400, and wanted to know if it included two people. Ms. Schober said it was for one full-time directorship position, but that there happened to be two people sharing the position. Ms. Schober said she would be happy to detail the history of it. Councilman Reynolds said he was pretty well familiar with it and he knew what the original plans had been regarding the director position. He said he had heard a lot of comments from people, and the essence of what they were saying was that the Town was throwing more money into the Mound House than they had ever anticipated, but noted that while the Town was getting funds for it through different sources. He said they were getting something out of it, but he was now having second thoughts about his decision, and that he had been one of the original promoters of the Town's acquisition of the Mound House. He said he was not ready to go for salary increase. He thought when they had come to the position they had been employed by Gulf Coast University, and Ms. Schober said initially the contract had been with Florida Gulf Coast University, but it had shifted last May to them as individuals contracted by the Town rather than as employees of FGCU. Councilman Reynolds asked Ms. Schober if she had been employed by FGCU, which she said she had, but that her employment at FGCU had ended as of May 31st of 2004.

Mayor Van Duzer said Councilman Reynolds had gotten far away from the question on the floor. Councilman Reynolds countered that he needed to know the things he

was asking. Mayor Van Duzer told him the information could be gotten outside of the meeting. Councilman Reynolds asked what the question on the floor was. Mayor Van Duzer told him it was whether the Council was going to continue the item until the next meeting. Councilman Reynolds said there was no question but that they would have to continue it because the information wasn't there to act on it, and hoped that, before it came back to Council, they could get the taped transcript of the meeting in question as well as the Mound House Director contracts.

VOTE: The motion carried unanimously.

Mayor Van Duzer said they would see Ms. Schober at the June 13th meeting and believed the meeting was at 10:00 AM.

J. RESEARCH ON AVAILABLE PROPERTY FOR TOWN HALL

Councilman Reynolds, who had brought this item forward, said he had mentioned the Holmes House property across the street from the current Town Hall site about three times in Council. He had thought it would have been a right location for the building of Town Hall. He said a realtor had furnished everyone on Council with information in September 2004, and had written a letter to the Town Manager, to which he believed he had gotten a response, but it had come in at about 1:00 PM that day and so he had not had a chance to read it. He thought that, after reading Damon Grant's response, that Mr. Grant was not in favor of pursuing the Holmes House property. Councilman Reynolds said he had expected another suggestion as to where they might build Town Hall, and hoped that the Council would still consider the Holmes House property, although he believed there had been an offer made on the property. He said he had stopped by Mr. Loffreno's office and picked up information about the Holmes House property and had distributed it to the Council members. He noted that Chris Loffreno was in the audience, and might be available to answer questions. He then gave the floor back to the Mayor. Mayor Van Duzer asked Damon Grant to come forward.

Damon Grant came forward and said they had started an investigation into the former Holmes House property, as well as other possible Town Hall locations, at the Council's request, which he believed had been prompted by the increase in the square foot charge in the current proposed lease agreement in the current Town Hall location, and also because real estate prices were on the rise.

Mr. Grant said the first information he had gotten about the Holmes House property was that it had been sold, but during a subsequent call, he had learned that it was only under contract, and he believed that contract was set to close in a couple of months. The realtor had told Mr. Grant that they did not believe anything could prevent the closing from happening. He added that the Holmes property had 19,272 square feet, and in doing initial calculations as to what they would need in parking alone, they would need about double that amount of space. He said that unless the Council wanted to consider a costly decking situation, it was not feasible logistically. He said

a general contractor had estimated they would need about 35,000 square feet for parking, and Mr. Grant said with drainage and landscaping, they would need about 40,000 square feet – roughly just under one acre – for the parking necessary to accommodate the proper building size.

Mr. Grant said for the size building they wanted – and he had figured a bare-bones square footage of 7,000 square feet, which was about 1500 square feet more than they had in the current Town Hall quarters, and which would give them an added conference room, one or two storage closets and a larger computer room – that parking came to light as the big issue. He said where they would find a lot big enough to accommodate the parking they would need, for the size building they wanted, was the big question.

Mr. Grant said they were still searching for other parcels, and that there was a potential parcel on School Street that he thought had come to the Council's attention in the past. He said there was one owner who owned 8 or 9 lots that together would be big enough to handle the parking, and with Council's direction, they would follow up on that.

Vice Mayor Rynearson asked where the financing would come from for this project. He asked, if the Town bought a piece of property for 1 – 1 ½ million dollars, which the Town did not have, and the Town couldn't bond, and there was no income, where the money would come from.

John Gucciardo said the Town did have reserves, but the policy of the Council in the past had been not to use those funds for that sort of purchase. He said some of the reserve dollars were restricted in terms of what they could be used for, and he felt the Town would have difficulty replacing those reserves if they were used for this sort of purchase. Mayor Van Duzer said that what would have to be done, if Council decided to pursue it, was the Town would have to have a referendum for the Town's voters to decide if they wanted to change the Charter so that the funds could be used. Vice Mayor Rynearson said they would have to bond. Mayor Van Duzer said there might be other ways to figure out how to fund it. Vice Mayor Rynearson said his point was that the Town could not just go out and buy a piece of property tomorrow. He thought the Council should figure out how it would be funded before they decided they were actually going to pursue it.

Councilman Massucco pointed out that Council had just directed Staff to enter into another five-year lease, with a series of one-year options beyond that, and that the projected amount of money the Town would be spending on rent was impressive. He said the Town couldn't just keep handing out that kind of money on rent. He thought it would be better spent on the Town's own property, and he understood that some changes would have to be made in order to do that. He then mentioned Topps Market, which he said would be ideal. He said he was in favor of starting the search, and that figuring out the funding should be part of that action.

Councilman Katcko said he was in favor of the Topps site, as long as Casey's Alley was left alone. Vice Mayor Rynearson teasingly remarked that it was Councilman Katcko's office, much to everyone's delight. Councilman Katcko agreed that the Council should move forward and if it had to be a Charter amendment, and taken to the voters, that the Council should do that because of the increase in the lease amount and the fact that property would not get any cheaper. He pointed out that Bank of America had first option on the building the Town currently leased.

Councilman Reynolds had asked Chris Loffreno if he could take a back-up offer on the Holmes property, and he hated to see them pass it up. He asked Mr. Grant if he had been referring to the need for a two-level or a three-level parking facility if they built on the Holmes site, and opined that even if it were three-level, and the offices were the 4th and 5th levels, they would end up with more parking there than they had at the current location of Town Hall. Mr. Grant said there were 68 parking spots at the current site of approximately 45,000 square feet, whereas the Holmes property had a 20,000 square-foot footprint, not including setbacks. He believed all it would be zoned for would be two levels above flood zone, although he thought they might be able to get a variance for parking decks. He felt it would be very expensive, with a lot of the costs going toward parking, but if it was the will of Council to acquire that property, a way could be found to make it work. Councilman Reynolds then opined that the Town should be able to save a lot of money over the span of 5 or 6 years that could be set aside under capital improvements. Mr. Gucciardo said the Town did have contingencies and reserves, but a lot of the issues were beyond the Town's ability to predict what they might be needed for. Councilman Reynolds felt that if the Town obligated itself to a property, the Town could probably pay it off before the construction actually began five years hence. He suggested putting the question before the voters. He used the water plant purchase, and the financing arrangements for that, as an example of how things could be worked out with the finances. Ms. Segal-George pointed out that there was a revenue stream in that situation, and the Town had pledged what people in Town paid on their water bills as revenue for that loan. She said they couldn't do anything else that was in the Town budget because it would get into bonding, which the Town's Charter did not allow for, and said there would be no revenue stream. She said it couldn't be paid off in five years because the Charter wouldn't allow that. Councilman Reynolds said it would have to be paid off in three years maximum. Councilman Reynolds then asked if Council could ask Mr. Loffreno questions at that time, and Vice Mayor Rynearson thought not because they were not engaged in a Town Hall meeting. The rest of the Council members all agreed, and Mayor Van Duzer said it was not the purpose of this meeting. Councilman Reynolds said he just wanted to know if Mr. Loffreno would take a back-up offer, which he had indicated to Councilman Reynolds at an earlier time that he would. Mayor Van Duzer asked Councilman Reynolds if he were suggesting that the Council make an offer on a piece of property at this meeting. Councilman Reynolds said he wasn't, but wanted to determine if Mr. Loffreno was open to an offer. Mayor Van Duzer thought that would be out of order for what the Council was doing at the meeting, and thought some direction was needed from Council members,

as to whether they were in favor of pursuing research on possible properties for a future site for Town Hall.

Vice Mayor Rynearson added that, while he agreed they should be looking for property, but that first how it would be financed needed to be addressed. He said they would still need a revenue source, and if they wanted to take it to a bond, there was only a week left to get a bond put on the ballot. He said the referendum should ask the people if they wanted a bond to build a Town Hall so that they could tell Council what they wanted. He said there was no revenue source, and no money with which to make offers on properties.

Mr. Gucciardo suggested, because preparation of the draft budget was well underway for the next fiscal year, that he try to put something together - to project out for the following year in the CIP – such as a game plan for the Council regarding what the options could be in terms of financing, what the legal ramifications would be regarding the Town Charter, and possibly, by putting money aside, getting professional input as to how much space would be needed. He thought this would give the Council more clear choices as to what direction to go in by this time next year. He said there were too many variables at this point for the Council to make an offer on any property.

Councilman Reynolds, citing a communication he had given to Council regarding this issue, said that he had no financial interest in pursuing the Holmes property. He noted that Bonita Springs had recently moved into their new town hall, and had only been a town for 5 ½ years, whereas FMB had been a Town longer and was still floundering with this problem. He said the property values on the Beach had quadrupled since incorporation of the Town, and were going to be higher. He said he was happy that Council was beginning to move in a positive direction regarding the acquiring of property.

Mayor Van Duzer believed it was the consensus of the Council to look into this issue on a regular basis, including looking into the capital improvements segment of the budget for the coming year. He noted that Town Hall and Loffreno Realty had had some discussion regarding the Holmes property, and Ms. Segal-George confirmed that.

Mayor Van Duzer asked if it was the consensus of Council that the acquisition of property for a Town Hall, and how it would be financed, should be pursued, and there was a consensus to do so.

K. DISCUSSION OF BEACH RENOURISHMENT – Requested by Councilman Massucco

Councilman Massucco clarified that he was not against renourishment, although his statements regarding it may have led people to think otherwise. He said there were so many questions involved in the subject, and he felt compelled to take a step back. He

then read a prepared statement, the gist of which was that he wished Council to have an open discussion in order to find out if the project was 100% necessary and wanted, and to determine the main reason for County's insistence that it be done. He said if the main purpose of the renourishment was to protect the properties on the Beach, then the County should be able to produce evidence to support that. If they did, he felt he would be duty-bound to bring the project to fruition. He said if it was really about tourism, then he could not in good conscience support the project, given the severe traffic conditions already in existence on the Beach. He thought it should be shown which areas of the beach have been subject to serious erosion and which were stable over many years, and that it would save a lot of money and time. He said those questions, along with those about dunes, beach plantings, easements, new beach ownerships, and the seeming extra attention in front of commercial properties, needed answers, and believed it was prudent to delay the renourishment project.

MOTION: Councilman Massucco made a motion to delay the beach renourishment project until more information was available to the Council, so that an informed and intelligent decision on whether or not to move forward with the project could be made; to direct Staff to contact County – Steve Boutelle and Bob Neal – and initiate a meeting between Council, Staff, and County before the summer break, to answer those questions. Councilman Reynolds seconded the motion.

Mayor Van Duzer indicated a woman who had not been able to be present during public comment at the beginning of the meeting, and asked the Council if she could make her statements at that time. Councilman Massucco asked if public comment was going to be opened back up, and when the Mayor said it was not, Councilman Massucco asked if it would be fair to read her letter. Mayor Van Duzer said he had given a copy of the letter, written by Joellyn Reckwerdt, to the Council members. Councilman Reynolds said that he and Councilman Katcko had not gotten Section K in their packets for this meeting. Several people said there was no Section K, and that the letter had been placed in the Councilmen's mailboxes. Councilman Massucco said he intended to offer his statement as Section K.

Councilman Reynolds said he had problems with the renourishment plan, acknowledging Frank Schilling's efforts to get information for the Council. Councilman Reynolds said they had been misled into thinking there was going to be a uniform beach as a result of the renourishment, but the plan didn't show it. He indicated the disparity between the projected sizes of the beaches at one location as compared with another, and said there were a lot of fallacies connected with the project. He pointed out the elevation of the beach was not going to be raised, and didn't think the breadth of the beach would save someone's house. He said Council needed some straight answers. He discussed the changes in the easement requirements, and said the idea that the Corps of Engineers required lifetime access to people's properties had been refuted at an earlier Council meeting. He said the Council had gotten a "hodgepodge" of misinformation from Mr. Boutelle, and thought Commissioner Judah had been given misinformation, and Councilman Reynolds had not been happy about it. He noted that the government had backed off

on the amount they would contribute to the project. He said the renourishment would be a temporary thing because the beach fluctuated in size all the time, as he had observed over the seventeen years he had lived in Town. He said in comparison to the beach survey that had been done in 1927, the beach had basically not changed, and that it was a fluctuating situation. He was sure that renourishment would not protect one's home. He hoped Council would delay before taking any action.

Vice Mayor Rynearson cited a brochure on storm protection that clearly showed that renourishment would give protection. He said they did have information in the form of the brochure and the maps that had been supplied by the County. He said he had been to workshops about renourishment, and knew the information was there. He said he was definitely for beach restoration.

Mayor Van Duzer said Councilman Reynolds' figures were absolutely not factual. Councilman Reynolds interrupted the Mayor, demanding that he show him which figures were not factual. Mayor Van Duzer reiterated that the information Councilman Reynolds had given was false, and said that if one looked at the maps on display, one could see that the beach was going to be added to where it was really needed, and that it would protect the structures on the Island. He added that he had gone through a lot of hurricanes, and he had sustained a lot of damage from wave action during Hurricane Charley, and a broader beach would have added protection. He noted that a rising tide would not be mitigated by beach renourishment. He felt the people who had characterized the County's information as "smoke and mirrors" had been supplying "smoke and mirrors"- type information to the local papers. He said if someone looked at the maps on display, they would clearly see where the beach would be added to, and would find that it was a reasonable and understandable system that would protect all the residents of the Island. He said the information that Councilmen Massucco and Reynolds felt was missing had always been available. Addressing the idea that renourishment was going to be done so that more people could fit on the Island, Mayor Van Duzer said more people couldn't be brought to the Island, and that the Council and Staff were trying to do everything they could to mitigate that problem. He felt the broader beach would give the residents a little more room. He felt the amount of money the Town would have to contribute to the project was minimal in proportion to what the Town would get out of it. He then brought up the subject of dunes, and how many people objected to them. He said the dunes were not a requirement, but the ones the County had been asking for would be about 6 inches high, and would not block the view of the water. He knew of an Island resident who had a dune in front of their home, and they had had more protection than anyone on the Island because of it during Hurricane Charley. He appealed to Council to go ahead with the project so as to make the beach more valuable to the residents.

Councilman Katcko asked if the Council packets could be ready by the Friday before the Monday meetings, as he did not have time to check his mailbox in the Town offices just before the meetings, and so that he would have a few days to review the materials. This was in response to the fact that he did not have any of the information to which the Mayor had referred during his remarks on renourishment. He went on to

say there had to be some information regarding the damages inflicted by Hurricane Charley and how the breadth of the beach and the presence of dunes may have affected the extent, or lack, of those damages. He suggested getting that information to people to help them decide.

John Gucciardo said he appreciated what Councilman Massucco had asked for, and thought it was good that the issues came to a head so that they could be cleared up all at once. He said that it had been frustrating to Staff, through no fault of the Council's, to have had to address each issue separately as each was raised. He said there had been a few workshops where they had attempted to do put all the information into a package for Council, but it apparently had not been cohesive or coherent enough. He explained that, due to the length of time that would naturally exist between now and when all the bidding and so forth were to take place – minimally three months for bidding alone – that nothing would be done on the project before Council returned from the summer break and were well into the Sept/Oct budget cycle. He then proffered six questions he could put to the County, that he had gleaned from the discussion they had been having at this meeting, in this order:

- 1) **What is the purpose(s) of the project?**
- 2) **What is the proof that a restored beach adds to the protection of upland property?**
- 3) **What areas of the beach need the additional sand, and why?**
- 4) **Is there any relationship between commercial and residential property in terms of the placement of sand?**
- 5) **What are the approximate dimensions of the additional sand?**
- 6) **Are dunes and dune vegetation a mandatory component of the project?**

He said if they got those questions answered in writing from the County as quickly as possible, he hoped it would resolve the issues so that the Council could make a decision. He said that if Council were still not resolved on it, he suggested Council, Staff and County Staff have a face-to-face meeting to boil down the remaining issues.

Vice Mayor Rynearson suggested that Mr. Gucciardo put the answers to those questions in memo form and then distribute them to the Council members. Mr. Gucciardo said he would get the information to them as soon as possible, but was reluctant to name a particular date when it would be done. Vice Mayor Rynearson said that County should send along documentation, if it existed, to support their answers.

Councilman Massucco said there were people in Town who were more knowledgeable on the subject, and wanted to know if they had additional questions. Mr. Gucciardo said he had spoken with Frank Schilling and Tom Merrill – who he assumed were the 'more knowledgeable people' to whom Councilman Massucco had been referring, and he thought he had already gotten most of their questions included in his list. Councilman Massucco and Vice Mayor Rynearson asked him to check with Mr. Schilling and Mr. Merrill before he sent the questions to County.

Councilman Massucco said he liked Mr. Gucciardo's idea, and if those questions were answered, it would be fine. Mr. Gucciardo said that he wasn't sure what else Mr. Merrill had questions about, but could not promise the Council that he would list 100 questions for County to answer. Rather, he said he wanted to touch on the overall concerns so they could come to some understanding about what the project actually was.

Councilman Reynolds hoped that Mr. Gucciardo would get supportive, factual information, as opposed to the erroneous stuff that had been received in the past. He then invited everyone in the audience to check the maps on display in Council chambers. He said he didn't think Mayor Van Duzer understood the maps, to which the Mayor replied that he understood them totally. Councilman Reynolds said he didn't understand them totally, and Mayor Van Duzer said that he knew that. Councilman Reynolds countered that the Mayor didn't know that, and that he (Councilman Reynolds) had studied the map and had spoken with someone who knew about it. Mayor Van Duzer said they could debate it after the meeting. Councilman Reynolds countered that Mayor Van Duzer had said that he (Councilman Reynolds) didn't know what he had been talking about with regards to the maps, and Councilman Reynolds said he was relaying what he had been told about them, and then had explained his understanding of it. Mayor Van Duzer commented that the explanation just given echoed exactly what he had said earlier. Councilman Reynolds hoped that Mayor Van Duzer would stop disputing him every time he spoke, and that it did not make the Mayor any more knowledgeable than Councilman Reynolds. He went on to say that he tried not to do that to the Mayor. Mayor Van Duzer reminded him that he had told the Mayor "the gloves are off – if you want war, you can have it". Councilman Reynolds denied having said that. Vice Mayor Rynearson asked if they could move on. Councilman Reynolds continued in his response, saying it had been a mean thing to say, and he didn't like it.

John Gucciardo thought he could proceed with direction from Council, rather than needing a motion, to get the information from County by asking the questions he had formulated and listed for Council earlier. Councilman Reynolds asked him to speak with Frank Schilling and Tom Merrill before he submitted the questions, which Mr. Gucciardo said was understood.

Councilman Massucco agreed to withdraw his motion, and Councilman Reynolds agreed to withdraw the second.

L. AUDIT REPORT Year 2004 - 2005

- 1. Basic Financial Statements**
- 2. Public Works Services**

Marty Redevin, of Schultz, Chapille and Company, came forward to say they had completed the audit for the Town of Ft. Myers Beach and the Town of Ft. Myers Beach Public Works services.

Beginning with the Town of Ft. Myers Beach's financial statements, Mr. Redevin told the Council they were now in a new format that conformed to governmental accounting standards. He said the transition presented the Town's financial statements both on a full accrual basis – known as the "Government Wide Financials", as well as on a modified accrual basis, similar to the way the financials had been presented in the past.

Citing Page 11 of the Town's financial statements, he indicated it was the statement of net assets under the full accrual method, which would have been the balance sheet in the past. He said it included things that had not been included under the old method, such as fixed assets of the Town, including some infrastructure. He said FMB was categorized as a "Phase 3 Government", which, under the Gasby Rules, meant they did not have to include all infrastructures, specifically the roads that were in the Town's purview as opposed to the County or the State. He said that, as a Phase 3 implementer, the Town had the option to go back and retroactively capture the information for the roads and put them on the financial statements, and that his company had not done that, but could on a prospective basis if it were deemed necessary. He said the reason some governments would include that data would be if they had debts related to the infrastructure assets, so that their balance sheet did not look skewed. He said in the case of FMB, there were no outstanding bonds for road improvements, so the exclusion of the infrastructure would not hurt the presentation. He said that the FMB financials showed that the Town had equity in its governmental funds of over \$15 million, and in the business-type activity, which was the water utility, the Town had almost \$900,000 in equity. He went on to say the net assets of the Town as a whole totaled up to \$16.4 million.

Mr. Redevin then cited Page 12, and remarked that it was a unique way of presenting an income statement. He said the basis of the presentation was that it started out with expenses on the left side, to indicate the expenses of the Town for the fiscal year. He said the demonstration of the funding for those expenses appeared to the right. He said that where there were specific revenue sources such as fines and forfeitures for parking related items, or grants for specific projects, they would show up as a revenue item. Then, on the far right of the page, the net expenses and/or excess revenues appeared, to show each function that was funded by specific revenue sources and those that were not. He said that in the Governmental Activities column, it was shown that the primary government had excess expenses of \$1.1 million, which had not been funded by direct revenue sources. He indicated that as one looked down that column, one could see how those excess expenses had been funded – ad valorem taxes, gas taxes, franchise taxes, communication fee taxes, interest revenue, etc. He said the bottom line was that there were positive changes in the Town's net assets of \$3 million.

He continued explaining what each of the financial statements showed, and, citing the bottom of Page 14, he said that the Town had a net excess of expenses of \$375,000 on a combined basis this year. He explained that the Town had spent more than it had collected in revenue this year on a cash basis, but that figure included all the expenses

related to Hurricane Charley, and for which the Town was still waiting for reimbursements. He thought taking that into consideration changed the picture slightly. He said that in the General Fund, there had been positive results of operations of about \$400,000, and that it was Hurricane Charley expenses that had used the Town's resources pending FEMA and FHA reimbursements. He said those reimbursements would be recognized in the next fiscal year. Following that were budget-to-actual statements for the general fund, the gas tax and the CRA fund, and then the proprietary fund, which Mr. Redevin called the Public Works Services. Mr. Redevin explained to Council that they sat as the Council for Beach Water, and under the rules, it had to get consolidated into the Town's financial statements, which was done.

He said there then followed detailed notes to the financials, which he did not cover in detail. And then, the Schedule of Expenditures of Federal Awards and State Financial Assistance appeared in the report, which showed the grant money that had been received by the Town, and how it had been spent.

He said his company had the responsibility for reporting the Town's financial statements, and that it had to be done in a number of different areas. On Pages 1 & 2 of their report, there appeared his company's opinion of the Town's overall financial statements, and that it was an unqualified opinion, which meant there was no problem in their opinion. He said there were a few documents they were required to issue later in the document, regarding compliance with laws, rules and regulations, as well as internal control. He indicated that on Page 44 they had reported that they had found no material weaknesses in the Town's internal controls and found no instances of non-compliance, the reporting of which was required. He said it was the highest level of assurance his company could give the Town.

The next report had to do with compliance with the terms of the grant agreements, and his company had found no material weaknesses in the internal controls, nor had they found material evidence of non-compliance with the grant agreements. He said that, again, it was the highest level of assurance they could give.

Citing Pages 53 – 56, Mr. Redevin pointed out the Management Letter. He said this included things that were important enough to communicate, but were not material weaknesses or things that needed to be reported at higher levels. He characterized it more as a compilation of suggestions of ways to improve the internal control, operating activities, accounting procedures, etc. He pointed out that Town Management had responded in writing to their comments and suggestions on Page 57.

Councilman Massucco asked, with regards to the Management Letter, if the Management response had been acceptable by Mr. Redevin's standards. Mr. Redevin responded in the affirmative. He went on to say that the Management Letter draft was usually shown to the Town Manager, the Deputy Town Manager, and the Town's Finance Director, to ensure the facts were correct. He said this prompted good discussions on the points that were raised in the letter, and the Management response

letter addressed the specific points. He said while there may be some points on which they disagreed, there had been a good dialogue about those points. Councilman Massucco asked if both reports were acceptable to him, and Mr. Redevin said they were.

Councilman Katcko joked that he had rechecked all the figures and everything looked fine to him. Citing Page 56, Section 10, he then asked Mr. Redevin to elaborate on the statement that the Town had not met one or more of the conditions regarding financial emergencies. Mr. Redevin said that within the statute for financial emergencies, there were specific items listed regarding missing payroll or payroll taxes, running fund deficits two years in a row, and one other thing he couldn't remember. With regard to the payroll, he said it was obvious the Town had met its payroll and paid its payroll taxes.

Councilman Reynolds said he had a simple question, and Councilman Katcko jokingly commented that he found that hard to believe. This drew some guffaws all around. Councilman Reynolds, referring to payroll deduction, and stating he had discussed it with the Town's financial person without getting a satisfactory answer, asked about the practice of holding taxes for one year and applying them to the previous year. Mr. Redevin was not sure what he wanted to know. Councilman Reynolds explained that his W-2 form had 2005 taxes and payroll charged to 2004, and said he'd rather not have it done that way. Mr. Redevin said the payroll had to be reported whenever it was remitted to an employee. Therefore, when the actual checks had been written and funds had been received by the employees, the income would be applied to the W-2 for that calendar year. Councilman Reynolds said it may have been what happened, and explained that the Council members get paid up front, and asked if it was a customary practice in government. Mr. Redevin said it was not, and that usually a person would be paid for work already performed. Councilman Reynolds asked Mr. Redevin to discuss it with some of the finance people at Town Hall. Janine Palauskas, who handles finances for the Town, stated that the Council was paid at the beginning of the month of June, along with car allowances for the Town Manager and the Deputy Town Manager, and it had been done that way since the Council began receiving a salary. She said it could be looked into and changed if it was the will of the Council. Ms. Segal-George said that it needed to be clear that the employees were not paid on June 1st for the month of June. Ms. Palauskas added that the employees were paid bi-weekly, but one week out of the year, it worked out that they were paid in advance. Councilman Reynolds said he wasn't saying that, but was asking a question that he was familiar with, and questioned being paid in advance. Mr. Redevin said he normally saw people paid in arrears. Councilman Reynolds then said he understood that if the check were dated in 2004, it would be applied to 2004 taxes.

Councilman Reynolds asked if Mr. Redevin audited his own work for the Town. Mr. Redevin said his firm handled none of the bookkeeping for the Town, but took the books and records that were kept by the Finance Director, and audited them. He said they might suggest audit adjustments based on things his firm felt should have been

posted differently, but that they did not handle any of the Town's books or records. Councilman Reynolds asked if his firm had been auditing the Town's books since the Town had been incorporated, and Mr. Redevin said they had. Councilman Reynolds commented that he was sure they had done a good job, but he had just had some questions that had come to mind.

Mayor Van Duzer commented on the four or five considerations on the last two pages, at which Mr. Redevin's firm had asked the Town Manager to look. Mr. Redevin confirmed that those considerations had been responded to in a favorable manner, and Mayor Van Duzer said he wanted to be sure it was on the record again.

Mr. Redevin then commenced reviewing the Public Works audit report for the Council. He explained the financial statements were under the new pronouncement as the Town's report was, but that it didn't drastically change in form and content as it had the Town's report had. He said the good news was that it favorably compared the changes in the utility from last year to this year. He said the equity – net assets - had increased by almost \$500,000. Citing the income statement on Page 3, Mr. Redevin pointed out where the changes had been made both in increased revenue as well as connection fees. He said the detailed notes behind the financial statements that were consistent with past years' notes did not have to be gotten into in great deal, and contained only a few specific questions. He also pointed out the existence of the Management Letter for this report, and the responses from Town management.

Mayor Van Duzer commented that he thought the audit reports had been beautifully done, and very understandable. Mr. Redevin thanked the Town Manager, the Deputy Town Manager and the Finance Director for their cooperation and assistance. He said that while they don't always see things the same way, there was always an opportunity for a dialogue wherein they could reach an understanding. He said this year's audit was especially difficult, due largely to the effects of Hurricane Charley and the expenditures connected to it. He also mentioned that Damon Grant had been "buried in reimbursements", and they had had to spend a lot of time with him to ensure they understood the reimbursements completely, which was why the reports had been held up a little this year.

At this time, the Mayor called a ten-minute break.

**M. GLITCH ORDINANCE SECTION 34-636 - PARCELIZATION
OR SUBDIVISION OF EXISTING BUILDINGS - ORDINANCE
05-21**

***PUBLIC HEARING – 6:30 PM CONTINUED FROM APRIL 18,
2005 AGENDA ITEM VI – C**

Mayor Van Duzer called the meeting back to order. Attorney Dalton then read the ordinance title in its entirety. Mayor Van Duzer announced that this would be the final hearing on this issue, and that there would be a vote. He then asked all who

wished to speak on this issue during public comment to stand so that they could be sworn in, which was done.

Carl Kopps, of 21533 Indian Bayou Drive, came forward to give testimony. He first congratulated Councilman Katcko on his appointment to the Council. Mr. Kopps said he had attended three hearings on this issue, regarding his request for a property split. He said that in June of 1998, the property had been sold to him as a single-family unit, and that both the real estate broker and a local attorney had assured him that it was a single-family unit, only to learn later that in fact it was a duplex. He said each half of the structure had been sold as single-family units, one-half to him and one-half to his neighbor. They both approached the County, and the Town Council, to request a split of the property for something they already owned, and not for something they were trying to make money on. He said that during the April 18th Town Council meeting, there had been certain criteria required to get a lot split: the lot for each side had to be 45 feet wide, and commented that the total lot width was 100 feet; the minimum requirement had to be met for the flood plain base elevation of 11 feet, effective September 29, 1996; the property had to have a one-hour fire wall. He said they met those requirements for obtaining a lot split. He said he would appreciate an affirmative vote for the lot split. He explained he had already paid for the property, and he was not asking for anything other than what he had already bought.

Karen Lyons, of 21541 Indian Bayou, came forward to give testimony. She said she was the owner of the other half of the property in question. She said every paper she possessed on the property stated that she owns a single-family dwelling, sharing the property and the dock. She said she could not get refinanced, and could never sell the property. She said she could not get air-conditioning because of the situation. She said she thought she owned her own home, and had not bought the property for profit. She said she had been trying for three years to get the property split, and said the Town Council was her last hope.

Jeff Hanson, one of the owners of 71 Mango Street, came forward to give testimony. He said he had spoken about the property in the past, and felt there had been some confusion as to how the Glitch Ordinance would affect his property, and that it would be severely impacted by it. He explained that they had two separate 2-story houses on a legal non-conforming lot, and that they had done a lot to beautify them. He said that when they had purchased the property in 2004, they had spent a lot of time before and after the purchase with Dan Foulk – employed by the Town at that time – and Mr. Foulk had indicated in a letter that he had had several meetings with the Town Attorney and had determined the LDC was not there to dictate form of ownership, but rather the use. He said in his particular circumstance, he thought there had been a confused notion that they were trying to convert each unit into its own condo. He said they had never wanted to do that, but had wanted to create two condos – one for each structure –and which would then render the firewall requirement not applicable. He said that nothing else about the property would change, and it had been deemed to be appropriate. He said all they had needed was an acknowledgement letter from the Town, after having spent a lot of time and effort with condo documents that proved to

be unnecessary. He said the State had asked for an acknowledgement letter from the Town showing the property complied with applicable zoning. As an aside, Mr. Hanson said that several attorneys had questioned whether it meant an approval letter based on codes, or some other thing. He thought it could open up questions down the road with regard to other properties, because a lot of people believed the State dictated form of ownership. Mr. Hanson then stated that, although it turned out later not to have been necessary, they had submitted their condo documents a year ago per the Town's guidance. He felt they were still waiting a year later with a proposed ordinance effectively being enforced upon them, and they didn't feel it was due process or fair. He said they wanted to make it clear that they were simply asking for two separate condos, which were essentially two single-family homes. He said they had been approved for what they wanted to do with the property, and had done a lot of work on it, and were asking the Town to honor it. He noted that he had just found out that his family had an appeal coming up the following week.

Michael Vincent, who represented a father and son who were buying a property at Knotty Turn Drive, came forward to give testimony. He said the seller of the property had gone through the process, similar to what was described by Mr. Hanson in his testimony, regarding condo documents and working with Mr. Foulk in order to get a partial split. He listed out requirements he had met: completion of the Lee County Application for Limited Review; existence of a fire wall which divided the property directly in the middle; possession of a 'meets and bounds' description; possession of a letter from their architect or engineer certifying they had a two-hour fire wall in place. He asked if there were anything else he needed to do for his clients to obtain approval.

Beverly Grady, of Roetzel and Andress, in representation of the Hanson family – Sea Breeze Properties of SW Florida LLC – came forward to give testimony. She said they had received new language for consideration for the Council's addition of Section 34-636 in the LDC. She said the property that would be affected by the proposed change in the ordinance was 71 Mango Street, at which there were two structures, each structure having more than one unit. In July 2004, she said the Hanson family had requested the Town's acknowledgement for the creation of a residential condo, and were still waiting for the response. She said that, in their meeting with Dan Foulk, they understood nothing in the Town's LDC precluded residential condo creation, but the ordinance under consideration at this meeting would. She then listed out their specific requests of Council: because they had made their request eleven months ago, the Hanson's wished to have the 71 Mango Street property be made exempt from the proposed ordinance, and have that exemption issued so that they could proceed with their plans; if the proposed ordinance were to be adopted, the Hanson family asked that, under the A section on two-family building, the Council adopt Option 2 and not Option 1; when looking at the multiple family building, under Section 2 on Flood Plain, they asked the Council to delete what was there, and add Option 2, explaining that under Section 2, on Flood Plain and multiple family, it would prohibit condo form of ownership if the structure was below the Base Flood. She said that section raised a concern because the State legislature

had adopted 718, which provided that a developer could create a condo by converting existing, previously occupied improvements to such ownership by complying with the state law. She added that the legislature especially provided that conversions were allowable. She said the proposed ordinance prohibits conversions, and gave as an example that if the density for a two-family were over density for what would be allowed for vacant property it would be prohibited. She believed that Florida State Statute 718-507 prohibited the Town from discriminating against the condo form of ownership. Ms. Grady then quoted from a May 24th memo from the Community Development Director, which she characterized as a policy question: "Should the subdivision or parcelization of a non-conforming building be considered an improvement which extends the life of the building, or is it an inconsequential legal change in ownership that needs little or no regulation?" She said that question had already been addressed in the City of Miami Beach vs. Arlen King Cole Condo Association, a case from 1974, the findings of which were in favor of the owner. She said that in that case, the court held that "changing the type of ownership of real estate upon which a non-conforming use is located will not destroy a valid, existing non-conforming use." She explained that, in that case, the City of Miami had brought an action to prevent the conversion of an existing structure to a condo because the city wanted a later-enacted ordinance regarding sufficient parking, to be brought to bear on the property. She said the proposed change in the LDC essentially prevented conversions of existing units to condos because it required that, prior to the conversion, if it's a two-family, it must comply with the density restrictions as to vacant land. She said in the multiple-family, residential condos were prohibited if a portion of the structure did not comply with the Flood Plain requirements. She said that under the Arlen case "the city may not properly eliminate a valid consisting non-conforming use, if the owner is merely changing the type of ownership." She believed the proposed code provision precluded the two-family and multiple-family building for issues in which they would be a nonconforming use or structure. She said condo was not a form a use, but a legitimate form of ownership. She thought the Town's LDC already addressed buildback, or substantial improvements.

At this point, Mayor Van Duzer indicated that Ms. Grady had used up her allotted time. Ms. Grady said her client would appreciate being exempted from the proposed ordinance, should it be adopted, based on the length of time her client had been waiting for the acknowledgement from the Town.

The Public Comment portion of this agenda item was then closed, and Jerry Murphy was called on to address the issue.

Jerry Murphy came forward, and pointed out that this was the third time this particular provision had come before Council, and that the latest draft sought to incorporate the comments that had been received from Town Council at the last hearing. He had attached a memo, included in their packets, which he said explained and outlined what those changes were.

Mr. Murphy said, with regard to Subsection A, Staff recommended that Council adopt Option 1, Subsection 2, which he said would bring the buildings more into compliance with the current regulations in the Comp Plan. Addressing the Flood Plain regulations that had been brought up in the discussion, he said the idea was that buildings that were nonconforming in general would basically be tolerated, and buildings that were nonconforming for Flood Plain, there was stronger language that encouraged the buildings to be elevated when substantial improvements were made, or if they were substantially damaged.

MOTION: Vice Mayor Rynearson made a motion for Council to adopt Staff's recommendation – Option 1, with an effective date of June 15th, 2005. Councilman Massucco seconded the motion.

Vice Mayor Rynearson stated that he wanted both 71 Mango Street and the Indian Bayou properties to be exempt and asked how that could be accomplished. Mr. Murphy said delaying the effective date of the adoption of the ordinance would accomplish that and open the door for the application for Limited Review Development Orders in order to split the properties. He said he had spoken with both owners about it, and was willing to help them through that process.

Councilman Reynolds referred to Mr. Murphy's memo of May 24th, and pointed out the Summary of Issues in the second paragraph. He read "results of standard zoning philosophy, that nonconforming buildings are to be tolerated and may remain in place, but they must be upgraded to current standards if their useful life comes to an end. Improvements of these buildings are restricted so as to not excessively extend their lifespan." He felt that meant the Council should be cautious before they approved something that would extend to the future. Without specifying which property, he said the little buildings had been built for the purpose for which they were currently being used, and couldn't see jeopardizing future buyers by opening up a market for people who possibly could not buy a more appropriate condo. He felt it was a disservice to the public, who would be seeking homes in the future, by breaking the buildings down into condos.

Regarding the effective date of enactment of the ordinance as being June 15th, Councilman Reynolds asked if that meant the Council was doing it for one person and was not going to do it for someone else in the future. He said it should be the only exception, and expressed disagreement with making the one exception. He read more from the second page of Mr. Murphy's memo with regards to Previous Proposals: "effectively grandfathering over-density buildings" which he thought was the same way the Town did when buildings were being entirely rebuilt under the buildback plan. He felt it was wrong to think in those terms. He felt Alternative A was the direction to go in. He said the owners knew the Council was "pulling their hair out" – and joked he couldn't afford too much – but that they were trying to make it legitimate so that they could survive in their situations. Directing his comment to the property owners, he said it was important to remember that Council had to survive when the next person came along. He said if he had his 'rathers', the buildings would

have to stick to what they were built for, and if a person bought otherwise, the old adage “Buyers Beware” should be remembered, as that was just the way it was in investments. He said he found it difficult to approve something that wasn’t along any lines established in Town or the State. He said he was in a mix, and wasn’t sure what to do, but didn’t want to bring nonconforming property into compliance by allowing a firewall to be built and then allowing the units to be sold off to someone else as a condo.

Councilman Katcko spoke off mike, but sounded as if he was not in favor of Option 1, and preferred Option 2. He wanted multi-families to have the same options. He said he was in favor of an exemption for 71 Mango Street, and felt the Town had done a great disservice to the owners by delaying their approval for over a year.

Mayor Van Duzer said he had considered the issue at hand, and cited the third paragraph in the Summary of Issues reading: “The policy question here is, should the subdivision of nonconforming buildings be considered as improvements which extend the life of the building.” Mayor Van Duzer said splitting a duplex down the middle into two separate units of ownership would absolutely not extend the life of a building. He said it was an inconsequential change in ownership and did not need any regulation. He said he would “defend to his dying day” the fact that ordinances had been written on Ft. Myers Beach that stated that if a building had been built before the Flood Plain regulations, it could stay in existence until it was totally destroyed or sustained damages beyond 50% of the fair market value of the structure. He took exception to what they were doing at this hearing, and felt they were taking people’s private property rights and walking on them. He felt Option 2 was fair. He felt he was in a losing battle for Option 2, but thought it was terrible that they were taking people’s property rights away from them. He said that, with regard to the specific properties in question, they were only changing the type of ownership of the same building in the same location with the same function, and that the nonconformity was not being extended. He said he could not support the motion, and thought they should go to Option 2 for both duplexes and multi-family dwellings, and to maintain the protections that should be required, such as the firewall - which he characterized as being a very difficult thing to put in. He said the ordinances on the books already covered what they had been discussing.

Councilman Reynolds asked the Town Attorney if it was appropriate to ask if there were any conflict of interest in voting for an ordinance. Attorney Dalton said the Council was currently involved in a legislative function. She said there could be a conflict, and guessed that he could ask. Councilman Reynolds pointed out that Mayor Van Duzer was one of the bigger contractors on the Island, and thought if he – Councilman Reynolds – were a big contractor, he would probably fight for all the leniencies he could with regard to existing buildings. He doubted that would ever be the best thing for future investors. He said he was asking if there were a conflict with a contractor promoting the more lenient approach when he could end up with a contract to do the work, and so wondered if there was a conflict based on profession. He then said he did not mean anything personal by his remarks. Mayor Van Duzer

said his remarks did not justify a response. Councilman Reynolds laughed. Mayor Van Duzer stated that he had “no conflict at all”.

Councilman Massucco said there had been so many misrepresentations in the “old days” – by the realtor, the landlord, the County, the sellers – and that it was unfortunate that it would come to the point where people would become the recipients of these determinations, and be told that everyone was wrong in the past, and what the ordinance said now would be what they had to live with. He said the current owners of 71 Mango and of the Indian Bayou property had bought them in good faith, and were led astray by a lot of misrepresentation. He said, based on all they had been through with their properties alone, that they should be given what they want. He said all they wanted was a change in ownership.

Mayor Van Duzer said that was exactly what he had been saying. Councilman Massucco said he was in agreement with him. Mayor Van Duzer, a bit surprised and in good humor, said “Really. Okay, let’s have a vote!” This provided some comic relief in the proceedings.

Councilman Reynolds said he wanted to hear the motion again, but thought Vice Mayor Rynearson had the right idea.

Vice Mayor Rynearson said he asked, in his motion, to give relief to the people who owned the properties in question. But in the future, Vice Mayor Rynearson opined the Council wanted to stop it before it started. He agreed 100% that the people before them needed relief and that the following Monday, when they heard their cases, the Council could decide what they could do for them. As far as the what was going to be done in the future in protecting the Island with regard to splitting old buildings and ending up with many old buildings, he didn’t think that was the direction in which the Town wanted to go.

Councilman Reynolds said he agreed with the motion, because he didn’t want the people before them to be caught in the glitch. He felt Vice Mayor Rynearson had spoken well when he said that somewhere down the line the practice of splitting up old buildings had to stop. He said it was the fault of the owners in question, and not the Council’s fault, that they had been led into the situation, but that Council was going to offer them some relief anyway. He said that hereafter, if someone were misled due to ignorance or lack of information when they purchased a property, they would have to bring the property into compliance. He said the Council members were not saviors for investors, but were there to represent the general residents of the Island rather than for a few people who might get into trouble due to erroneous investments.

Councilman Katcko, referring to the Public Comment regarding Indian Bayou Drive wherein someone had remarked that they wanted the Council to pass the ordinance because it would solve all their problems, said he wanted to solve their problems. He said he was unfamiliar with the property, but wanted to know how the Council could

help them without passing the ordinance. He said he did not want them to think he was for the ordinance, or that he wanted to shoot down their particular case. He said he was against the ordinance for a lot of different reasons, but their property was not one of those reasons. Mayor Van Duzer said he could solve their problem by voting for Option 2. He went on to say that they were not talking about adding units, nor making units larger so as to increase density or intensity, but rather they were talking about giving them the right to sell existing units if there existed proper firewall separation. He said he was opposed to requiring that existing units also be above flood plain, and that that requirement would mean the end of a lot of units on the Island, which he felt would take away people’s property rights.

Vice Mayor Rynearson said everyone was forgetting that, with Option 2, a lot of units would be allowed back into service if they decided to convert to condo. He said with Option 1, FEMA would have stepped in, the building would be split down the center, the building would be elevated, the ground floor units would have been done away with, and that would earn the Town points toward Flood Mitigation, which would help everyone.

Jerry Murphy said that Option 1 would work for the properties on Indian Bayou Drive as well as the properties at 71 Mango Street and on Knotty Turn, and that it would not allow the situation where increasingly they would have multiple-ownership of buildings below flood, and that at some point would have to come into compliance, with perhaps one owner wanting to bring it into compliance sooner than another owner.

Ms. Segal-George pointed out that Councilman Katcko’s had wanted to know if there was a way to help Indian Bayou without passing the ordinance, and she said the answer was ‘no’. She said whether it was Option 1 or 2, one of them had to be passed in order to help them. Mayor Van Duzer said he understood that he could battle all night, but he was ready to call the question.

VOTE:	Vice Mayor Rynearson	aye
	Councilman Massucco	aye
	Councilman Reynolds	aye
	Councilman Katcko	no
	Mayor Van Duzer	no

The motion carried 3 – 2, with Mayor Van Duzer and Councilman Katcko dissenting.

VII. COUNCIL MEMBER ITEMS AND REPORTS

Councilman Katcko said he had been at The Taste of the Beach over the weekend and thanked the Chamber of Commerce for holding a nice event, and thanked the Town for allowing them do have it.

Councilman Reynolds said he had received a call from a business owner who had unexpectedly had to pay a \$200 for a display permit. He said it was a shelf display with wheels on it that sat against the front wall of a small business, about 25 feet from the sidewalk, and that their rent included out to the sidewalk. Councilman Reynolds said he didn't know why they would need a permit for something like that as well as for clothing racks. He said it was not hurting the Town and the Town didn't need their money. He suggested that if a permit were required, that the fee be \$10 for processing, and asked that it be put on the next Council agenda so as to make corrections on the ordinance regarding those permits, which he recalled they had passed in June 2004. He said he did not want the Town competing with the County on the fee for permits, as they had their permit fees up so high. He said it seemed like the Town was getting into the business of selling permits, and he didn't want that. He didn't think there had been any mention of fees in the sign ordinance they had passed last year. Mr. Murphy said there had been no specific fee amounts mentioned in it, but rather in a memo he had presented to Council in April 2005.

Councilman Reynolds then said he was not going to get into the subject of the Mayor having sign unauthorized documents. He said that the Mayor had signed something and had sent it someplace out of Town without the Council's knowledge. He said it had always been the practice of Council that anything the Mayor signed would be something the Council had discussed and approved, and that it was well outlined in the Town Charter. He then noticed that Ms. Segal-George was indicating that what he had said was not true. When Ms. Segal-George made to respond, Mayor Van Duzer said it was not proper to have a dialogue back and forth at this time. He then told Councilman Reynolds he could request to have it put on the agenda, and Councilman Reynolds said he did not want to do that.

Regarding the Holmes House property, which he acknowledged they had already discussed, he thought it would be fine if they could come up with something better. Otherwise, he hoped they would seriously consider that property.

As he introduced the topic of decorative palm lights in Times Square, the tape ran out. When the next tape resumed, Councilman Reynolds was talking about renourishment and dune plantings, and it was unclear what point he had made before the tape resumed.

Councilman Reynolds said the Taste of the Beach was nice, and that the vendors had told him it had been a good turn out, although Councilman Reynolds had thought the crowd had looked smaller than in other years.

Councilman Massucco said one of his highlights of the last few weeks had been the closing ceremony of the Little League. He said the Town had gotten recognition for its part in establishing new scoreboards, and posts that had to be put in, and all the associated paraphernalia. He said he really felt good about it when the Town was thanked publicly, because the kids were something else to watch. He said the Mayor

had been there too, and Councilman Massucco said he was really proud to be part of contributing to the improvements.

Vice Mayor Rynearson thanked the Chamber of Commerce for the great time he had at the Taste of the Beach. He said he hadn't gotten much to eat because of Councilman Katcko, which caused a few chuckles.

Mayor Van Duzer said that he wanted to respond to questions about him signing documents, and said that the Town Attorney had responded to those questions, in which she determined Mayor Van Duzer had had the legal right to sign those documents because they had not been policy documents. Vice Mayor Rynearson said he, for one, had no problem with that. Mayor Van Duzer thanked him.

Mayor Van Duzer said he had had a lot of fun at the Taste of the Beach. He said there were some difficult issues that were going to come before Council soon, and he hoped everyone would be considerate. He then prayed for no more rain.

VIII. TOWN MANAGER'S ITEMS

Marsha Segal-George, with humor, said she had no items.

IX. TOWN ATTORNEY'S ITEMS

Town Attorney Dalton said she had e-mailed all the Council members a fairly lengthy review of Disaster Management and Police Powers. She noted that everyone on Council "looked blank". Mayor Van Duzer asked her to repeat what she had said. Ms. Dalton said she had e-mailed an article about Disaster Management and Police Powers in the municipality. She said she wanted to compile a small library of articles, like that one, for the Council to review if they were interested.

There ensued a brief discussion about whether or not various Council members were getting their e-mails and how to ensure that they did.

Mayor Van Duzer remarked that Ms. Dalton had sent the Council members a memo with regard to Council members serving on advisory committees, and asked her to put together more information on it and offer it to the Town Council to see if they would like to make a change to what was in the ordinance currently.

X. PUBLIC COMMENT

Pat DeVincent of 160 Bahia Via, came forward to discuss three issues with regard to dogs, and then distributed some literature to the Council members and Town Staff. Mr. DeVincent said it was a follow-up on a presentation he had made at an earlier time. Referring to the couple who had related to him that a Beach Patrol officer had told them that dogs were not allowed on the beach during turtle season, he said he wanted to be sure that was not the Town's policy, and said he had not gotten a response to that question as yet. Ms. Segal-George said the Council had made a

response that had been sent to Mr. DeVincent. He said he hadn't gotten it yet, and thanked them for it. Ms. Segal-George added that it was not the policy of the Town.

Mr. DeVincent said the second issue had started in November 2004 when his wife had been ticketed with a warning, upon which he had gone to talk with people in control, and had asked for a drawing for the parking layout, as he believed it would be better with angled parking, and that he was still waiting for that drawing.

Mr. DeVincent said the third issue was that he had seen a sign prohibiting dogs from Little Estero. He said he had never heard of that policy change, and wanted some feedback on that.

Marsha Segal-George indicated to Mayor Van Duzer that all the items brought up in Mr. DeVincent's remarks were in the response that had been sent to him.

Joellyn Reckwerdt came forward to speak about renourishment, which she said was a good thing. She said people renourish their bodies, their souls, their friendships, and many other things, and couldn't think of one bad thing about renourishment. She said renourishment of the beach would be done for the protection of all Islanders. She thought that more sand would not bring more people, and that tourists come for the beach no matter what size it is. She pointed out one particular spot on the beach where a turtle nest was located, and said that part of the beach had worn away considerably over the years and would continue to do so without help. She asked the Town Council, while the opportunity to get so much federal, state and county financial help with the project was available, to get the project done. She didn't believe federal, state or county people would wait forever. She said the Florida Panhandle was begging for renourishment, and didn't want them to get the money that had been offered to the Town for the project.

Donald Baker, of 275 Pearl Street, presently living at the Neptune Inn, came forward. He requested that Wesley Place Vacation be put on the Council agenda for the June 27th meeting. He said he wanted to rebuild his home, and that he had been maintaining the property since 1960, and was on a street that was never used.

Frank Schilling, of 6672 Estero Boulevard, came forward and thanked the Mayor and Council for listening to some of the questions that had been raised about beach renourishment. He said that for a very long time, there had been a lot of questions raised, for which answers had not been forthcoming. He thought the answers, to the questions that Mr. Gucciardo had formulated, would go along way to dispel concerns. He thought a lot of the issues around renourishment were relative to not being able to get answers from the Project Manager, as well as Commissioner Judah.

Mr. Schilling then said he had been surprised at Fran Myers' questions about a TMA document. He said he would be happy to sit down with her and help her understand some of the reasons for the TMA resolution.

Jeff Warner, of 7150 Estero Boulevard, came forward and reluctantly brought up the names Tom Merrill and Frank Schilling, but that Council had brought them up in an earlier discussion at this meeting. He said he was speaking to their intentions and not to their character, and then described them as two residents who were being obstructionists to the Beach Restoration Project. He felt the project would benefit thousands of residents and visitors. He thought Councilmen Massucco and Reynolds should be ashamed of themselves for being snookered by Mr. Merrill's and Mr. Schilling's "smoke and mirrors". Mr. Warner thought it had been irresponsible for Councilman Massucco to defer to Tom Merrill and Frank Schilling, and to call them experts in a public meeting, because they were not experts and had no background in beach restoration. He then brought up another topic, and said he was puzzled and amused by all the discussion about volunteer committee reappointments, and limiting committee membership, that had taken place over the past month or so. He said he serves on both the MRTF and the AAC, and that he and all the volunteer Town committee members served at the behest and approval of the Town Council. He said if the Council wanted "new blood" on the committees, or wanted to limit the number of members, he suggested that they not reappoint old members, and not appoint new members, until the level of committee membership had been reached that was wanted by Council. He said they didn't need ordinances limiting membership, and had not needed to spend their valuable time on it. He felt the Council would better spend its time in strategic planning for the Island, and should leave the tactical decisions to the more-than-capable Town Staff.

Tom Merrill, of Indian Bayou Drive, thought Mr. Gucciardo had the right idea by getting the right questions on the table. He wanted to keep the focus on erosion and protection. He felt a map that showed where the beach would be going out, where it was presently, and a line that showed the 1927 survey, would be very helpful in looking at the erosion of the beach. He said protection was the "biggest killer", and if documented evidence could show what would be protected, he thought it would take a lot of concerns off the table. He said consistently, through the large amount of research he had done on the project, there were a lot of qualifiers related to where protection was documented very well, but they were never relative to hurricanes. He said that there had been a claim made that renourishment would protect structures, but when he investigated, he found that it really didn't.

Councilman Massucco asked to be allowed to respond to comments that were made by Jeff Warner, and then explained that he had never called Mr. Merrill or Mr. Schilling an expert, but had said they knew more about the subject of beach renourishment than he did. Mayor Van Duzer joked that that made them experts, at which everyone laughed heartily. Councilman Massucco added that he made up his own mind based on the maps and materials that were made available to him, and very much resented being accused of being led down a path.

Councilman Reynolds stated that he had mentioned Mr. Merrill and Mr. Schilling earlier in the beach renourishment discussion because of the materials that had been sent. He said he was not passing anyone off as an expert, and felt it was an insult for

Mr. Warner to have suggested that Councilman Reynolds had made up his mind based on what those two men had told him about beach renourishment. He said he was glad that Mayor Van Duzer had said that Mr. Warner had been out of order. Mayor Van Duzer replied that it was like saying someone had a vested interest. Many people present found this comment amusing.

XI. ADJOURNMENT

The meeting was adjourned at 7:50 PM.

Respectfully submitted,

Jo List
Transcribing Secretary