

**FORT MYERS BEACH  
TOWN COUNCIL – SPECIAL SESSION  
Town Hall – Council Chambers  
2523 Estero Boulevard  
Ft. Myers Beach, FL 33931  
October 20, 2005**

**I. CALL TO ORDER**

Mayor Van Duzer called a special session of the Town Council to order on Thursday, October 20, 2005 at 10 AM. He indicated that all Council members were present.

**II. PLEDGE OF ALLEGIANCE/INVOCATION**

All present recited the Pledge of Allegiance, and remained standing for the invocation, given by Mayor Van Duzer.

Mayor Van Duzer asked Mr. Gucciardo to give an update in terms of Hurricane Wilma and any information forthcoming from EOC.

Mr. Gucciardo commented on two basic areas – one, the storm itself; and two, what was being done locally in preparation for it.

Hurricane Wilma: Current projected status was that the storm was moving more slowly than had been anticipated, and that it was staying further to the south than had been originally projected, with landfall projected for late Sunday or early Monday as a Category 1 storm. Mr. Gucciardo said the predicted site of landfall was still somewhere between Ft. Myers and Key West, with the most recent models seemed to indicate it would stay further south, possibly missing Florida altogether. He said the trends were currently in the Island's favor, although the trends could change, in timing, landfall and intensity.

With regard to emergency preparedness locally, a conference call had just taken place at the Fire District offices with EOC and all other fire districts. He said the Geographic Response Division had been activated, that being a partnership between the FMB Fire District and the Iona Fire District, and that the Town Staff would meet with them the next morning to iron out logistical issues.

He reported that the County had ratcheted back some of their original plans, due to the apparent lessening threat, and that shelters would not open until Saturday, if they were opened at all. He said the County had also instructed LeeTran not to talk about using their facilities to transport people to the shelters until Saturday at the earliest.

Mr. Gucciardo said EOC was still activated at Level 2, which he explained was not the highest level, and that they would probably not go to Level 1 – the highest level – until Saturday, if at all.

Mr. Gucciardo pointed out that, based on the data he had just related to Council, EOC was reacting as if there might be a much less significant impact than had originally been anticipated for the Island and surrounding areas.

Mr. Gucciardo said the Town Staff had been working very closely with the FMB Fire District and the Sheriff's Department and the utilities people since Tuesday. He said they would be meeting again with everyone that afternoon to go through their emergency prep checklist. He said the Town Staff had been focused on preparation since Wednesday, in terms of getting Town Hall and Town maintenance facilities ready, as well as vendors and contractors, so that they were prepared to react should the storm's expected impact change from the most current expectations.

Mr. Gucciardo said one reason the Staff had asked the Council to consider having this meeting was because the storm's expected impact had looked worse the day before. He said parts of Cape Coral and all of Sanibel had already moved for a voluntary evacuation, and that if the expected impact had not lessened, Staff would have asked the Council to consider it as well. However, he observed it was a priority at this time, given the new predictions, although it was up to the Council. He said it was not the Staff's recommendation at this time. He said they would check with Bonita and Sanibel to see if they were planning to make any changes in their plans for evacuation, and that they would report back to Council as to what those communities were planning to do.

Ms. Segal-George assumed that the Council would want to meet again the next day, depending on how things were going, and if so, recommended that the meeting be held in the afternoon. Mr. Gucciardo thought the earlier meeting would be better so as to discuss and get an idea as to what the Town's emergency partners and the neighboring communities were doing. He said if things did change for the worse, they would need time to ramp up their operations and get information out to the community.

Mayor Van Duzer felt it would be best to establish meeting times for the next few days. He felt they should plan on meeting every morning at 10 AM for the next few days, although he had no objection to having other meetings later in the day. Mr. Gucciardo asked if 11 AM would work for the Council, as that would give Town Staff the opportunity to have its earlier meetings with the various agencies and entities involved in the emergency operations. Mayor Van Duzer, hearing no objections from the Council, then announced that they would meet on Friday and Saturday at 11 AM, and if necessary, a meeting could be pushed up. He said they would decide on Saturday whether or not they would need to have a Sunday meeting.

Vice Mayor Rynearson felt there was no reason to have the meetings if the storm continued to deteriorate and posed no threat to the community. He felt they should leave it up to Staff to make the call. Mayor Van Duzer pointed out that they wouldn't know until the information was made available, and felt they should just plan to meet. He said he wanted the public to know that the meetings had been scheduled, and if

something had to be done sooner, it could be done on an emergency basis. He wanted a definite plan in place, and if there was no impending emergency, the meeting(s) could be very brief.

Mayor Van Duzer then opened the floor for Public Comment.

### **III. PUBLIC COMMENT**

Michael Ketchmark came forward. He asked, if there were a voluntary evacuation, if it meant some people would be denied access back onto the Beach for any particular amount of time. He said he had to do things in advance of the storm, with regard to his property and business, if he knew he could not get back onto the Island after the storm.

Mr. Gucciardo addressed Mr. Ketchmark's questions, noting that there always seemed to be some misunderstanding about evacuation orders, both mandatory and voluntary. He explained that, typically, during a voluntary evacuation, people would be allowed to drive on and off the Island. He said the Island would be in a lock-down situation only in a post-storm environment where some level of damage needed to be addressed before the Island would be deemed safe.

Fran Myers came forward. She said there was plenty of sand on the back of the Red Coconut property, and that the Fire Department was trying to get the Boy Scouts to fill sand bags as a project. She expressed concern about many of the people who lived in the park, as their homes were mobile and had to be treated differently in the event of a bad storm. She said she really needed to know if the mobiles needed to be taken off the Island.

### **IV. DISCUSSION OF HURRICANE PREPAREDNESS**

Councilman Massucco felt it was better to set up the meetings, if only to report that there was nothing to report. Mayor Van Duzer agreed.

Councilman Katcko said he was in favor of setting a definite time for meetings on the following two days. He asked Mr. Gucciardo at what point access would be denied to the Island in terms of when the hurricane was expected to hit.

Mr. Gucciardo said that when there were 40 per hour-sustained winds, traffic would not be allowed on the Bridge, and was when emergency vehicles were off the roads. He said if people wanted to come back onto the Island a day or two before the expected storm's arrival, to get more supplies or to further secure their homes or businesses, they would be given access to the Island for sure. He affirmed Councilman Katcko's understanding that there were physical conditions that would close the Bridge. Councilman Katcko wanted it understood that, regardless of wind speed, if someone wanted to evacuate an hour before the storm arrived, they would not be denied egress over the Bridge.

Councilman Katcko asked for confirmation of several changes that had been made after Hurricane Charley:

1. **# of generators and where deployed.** Ms. Segal-George reported 11 generators were in the Town's possession. She said there would be enough power to run both water towers on the Island, and that one generator would be at the Mound House – the highest point on the Island – to run Town Hall. She said all other generators were off Island on trailers, and that there were spare generators available to run the lift stations for the County sewer system. She said there was also a large enough generator that could be brought onto the Island to maintain water pressure for the Fire Department, which had been a major issue after Hurricane Charley because the County had been unable to get the water onto the Island. She said they were all located on Pine Ridge Rd. and under the Town's control. She added that all the generators that were hard-wired at the lift stations were operational.
2. **Locations of off-Island meetings and information would be made available in a worst-case scenario.** Mr. Gucciardo said it was predicated on an evacuation and a situation where re-entry to the Island would be prohibited for whatever reason. In that case, Mr. Gucciardo said there were several sites, the primary staging area being the Masonic Temple on Pine Ridge Rd. He said that was where the public could obtain all information. Beyond that, he said there were other locations, depending on after-hurricane conditions – Health Park, Gulf Waters RV Park, etc. – but felt it would be confusing to name all the other locations as all information would be available at the Masonic Temple, and if another location needed to be used, someone would be stationed at the Masonic Temple to direct people to the alternate location.
3. **The emergency phone number – could it be used to notify residents, in the event of a mandatory evacuation, as to where the off-Island staging area was located and where information updates could be obtained?** Mr. Gucciardo said that messages typically given on the Emergency Notification System (ENS) were kept fairly brief, including the fact that an evacuation was ordered, what the situation was, and what the weather expectancy was. He said it was possible to add that if re-entry was prohibited, to give instructions to go to the Pine Ridge Rd. location for updates.
4. **Advertising in the local papers regarding off-Island locations, times announcements about the Island would be made on the radio or television.** Mr. Gucciardo said that the conditions thus far had not warranted advertising those things as yet, and Council had not given Town Staff any direction to do that. Ms. Segal-George said the Town had been issuing releases about the Town's hotline numbers, but that Channels 2 and 7 had been showing surrounding communities', but not the Town's, numbers. She said they had been calling every station to find out why the Town's numbers were not on the "crawl". She hoped that that would be rectified in time for the noon broadcasts. She said as long as the generator could power Town Hall, staff would be able to update, run the phone system, keep the hotline, update the website and maintain broadcasting abilities. She said the main ways people could get information would be through

the website, the hotline and the “crawls” at the bottom of the screen during news broadcasts.

Councilman Katcko said he had been very surprised when he had not seen the Town’s hotline number in the “crawls”, as he had checked every local television channel. He said he had known that the Mayor had done at least two interviews already, but had not seen either one on any station. Ms. Segal-George said the Town’s hotline information and the latest status had been faxed to all the stations, and did not know why they had not appeared in the “crawls”, and was why staff was engaged in re-contacting all the stations.

5. **Has the building in which Town Hall is located ever been evaluated as to its ability to hold up through a hurricane? What is the elevation of Council Chambers?** Mr. Gucciardo said he did not know if the building had ever been evaluated thusly, and didn’t know what the elevations were. Mr. Katcko said it looked like a solid building, but was curious about it. Ms. Segal-George noted that it had made it through Hurricane Charley, although there had been some leaks, but as far as she knew the Chamber had never flooded, and felt the roof was fairly sturdy.

Councilman Katcko then asked if it would be appropriate for the Council to come to a consensus at that time as to holding meetings off-Island in the event that there was an evacuation and residents were not allowed to return to the Island right away because of damage. Mayor Van Duzer said he had intended to raise that issue himself.

Councilman Reynolds agreed with having meetings scheduled for the next few days, and that was all he wanted to say at that time.

Mayor Van Duzer said they needed to discuss the idea of having off-Island meetings. He felt that if people were uncomfortable with the situation, that they should evacuate if they wanted to, and knew several people who had already left the Island. He was afraid people would relax due to the most recent information, and felt people should continue their preparations for the worst-case scenario.

Regarding the issues Councilman Katcko had raised, Mayor Van Duzer said off-Island locations had been arranged, and hoped the information would spread by word-of-mouth, along with the media coverage. He pointed out that the only reason people would need those off-Island locations was if the Island were to be barricaded after the event. He said anyone who came to the bottom of the Bridge and couldn’t get onto the Island would be given the information at that time. He said it was impossible to predict which off-Island site would be used, because no one could predict which buildings would be damaged.

Councilman Katcko said he wanted the residents to have the information that they would need in a worst-case scenario, and thought the identity of the off-Island

sites should be made known to the residents as soon as possible. He felt this would give the residents confidence in the improved, updated evacuation plan. Mayor Van Duzer acknowledged that Councilman Katcko was not fully satisfied with what had been done thus far, and Councilman Katcko said that wasn't fully the case, although he noted there had been no newspaper ads with the information. He understood Mayor Van Duzer's viewpoint that it would be confusing to give multiple sites in an ad before knowing for sure which site would be used. He said that, after talking to many residents, that a lot of them had no information, as they did not watch the Council meetings. He just wanted to ensure the Council did everything they could to get the information out. Mayor Van Duzer pointed out that "you can lead them to water but you can't make them drink". He felt the information was there if they wanted to know what was going on, and the only reason they would need that information would be if they could not get back on the Island after the event, and the people at the foot of the Bridge could have all that information to give to everyone.

Ms. Segal-George said that, if it got to the point of mandatory evacuation, the Town would get an ad into the News-Press with as much contact information as possible. She said the Town would try everything, and had been. She listed out the various information outlets that were set up: hotline, broadcasting and Internet. She said if the Council wanted an ad in the paper, they would place one. Ms. Segal-George said that until the situation was known, people couldn't be given a specific off-Island location.

Mayor Van Duzer asked Staff to stay on top of the situation. Councilman Katcko seemed satisfied with that.

With regard to having Council meetings off-Island, Mayor Van Duzer said the Town Attorney had advised him that the Council could hold special meetings outside the Town limits with proper notice. He felt if it were established at this meeting that off-Island meetings would be held, that would cover the "proper notice" aspect of that. He wondered if a notice should be posted on the door saying that, under certain circumstances, off-Island Council meetings would be held.

Attorney Dalton believed proper notice couldn't really be given until they knew for sure where and when the Council meeting(s) would be held. Mayor Van Duzer said the meeting they were currently engaged in had not had much notice either. He said he had no problem with having off-Island Council meetings to discuss the issues that the Town might be faced with, but in order for them to make decisions under those circumstances, they would have to be made with the Emergency Management team. He envisioned having the meetings on Island with the EM team, and then immediately going to the designated off-Island site to report to the residents. He felt it would be a burden to make rash decisions off Island without the EM team knowing what Council was doing. He felt Council would need their advice, as he felt they would be more qualified to understand

what was going on. He did not want to pull the EM team off-Island for meetings. He envisioned having meetings off-Island so that the Council could converse and listen to the residents, but wanted the decision-making to be done on-Island in tandem with the EM team. He said the Council had been criticized after Charley for not getting input from the residents or giving enough information while they were unable to return to the Island, but the Council also needed the advice of the EM team members in terms of what decisions were made.

Attorney Dalton said the meetings could be convened on the Island, be temporarily adjourned, and then reconvened off-Island.

Mayor Van Duzer added that the Council was in control, as delineated in the ordinance. He wanted the citizens of the Island to know that. He felt the Island had recovered well after Charley because the EM team was on the Island, and he didn't want to take them off for meetings.

Councilman Reynolds felt the discussion was "going 'round and 'round the bush". He said the Council had voted 4 to 1 to sign away their right to attend the emergency meetings. He said he hoped the Mayor had not forgotten that, and that he better look up the ordinance. He said the Council had exonerated itself from all responsibility with that vote. He believed the Council was not in control, as he believed it should be, although the Council had voted against it.

Mayor Van Duzer said Councilman Reynolds was incorrect, and that the vote to which he had referred was with regard to one storm situation, and the vote had been 3 to 2, as he had not agreed with it either. He said the vote had been looked at by legal counsel, and it had been determined that the vote had pertained to only one storm situation only. He asked Ms. Dalton to address it. He added that he didn't want to get into wrangling over something that happened in the past, and that Council was looking at the future. He said Council was definitely involved in the meetings, that everyone understood that, and that the issue should be let go. He acknowledged it was a bad point of the Council's past.

Attorney Dalton said Ordinance 96-19, which was amended in June of this year, specifically stated in Section 4 – the Disaster Advisory Council (DAC), that their job was to "advise the Town Council on relevant recovery and reconstruction issues". With regard to the Post-Disaster Recovery Task Force (PRTF), she said the ordinance stated that "the function of the Disaster Advisory Council is pre-disaster planning, post-disaster recommendations. The Council's duties and responsibilities include advising the Town Council on relevant recovery and reconstruction issues." She said the ordinance thus specifically set up the DAC and the PRTF to make recommendations to the Town Council, but not to supersede the Town Council's ability to make decisions themselves.

Councilman Massucco said from his viewpoint he could not make any decisions under the possible disaster circumstances without hearing first from the

professionals. He said they were the people who knew what they were doing, and as a layman, he did not have the knowledge that each of EM team had. He said he would make no decision without input from the professionals in that circumstance.

Mayor Van Duzer agreed with Councilman Massucco. He said the Council would meet with the experts, if the circumstances dictated – utility contractors, Sheriff's Department, Fire Department, etc. – and would be very much a part of those meetings. At that point, the Council could go off the Island and meet with the Townspeople to get their input and give them information.

Councilman Massucco thought they could clarify the point that Councilman Reynolds had tried to make. He remembered that he had voted for Council not to attend the meetings. He said he had come to regret that vote, as he now felt the Council should be there. But he did not feel that Council should take over the meeting, but rather should gather all the information that could then be relayed to the public. Mayor Van Duzer acknowledged Councilman Massucco, but said the Council would be in control of the meetings, so if they didn't like the information that was being given to Council, the Councilmen had the authority to change what was being done if they chose to do so.

Attorney Dalton thought the ordinance required the Council to take the advice of the EM teams. She explained that if the two entities (DAC and PRTF) were unable to meet in order to agree as to what to advise the Council, she thought the Council would be in violation of its obligation. She felt Councilman Massucco's comments were correct and to the point, that those teams were set up to put advice together to present to the Council.

Councilman Reynolds said he was pleased that one Councilman remembered how the vote had gone, referring to the vote he had spoken of earlier, and thanked Councilman Massucco. He said no matter how they went around the issue, it didn't change the fact that the Council rejected allowing Council members into the emergency meetings. He said it was obvious that they had the advisory groups set up for a long time, and that they should make their decisions when the situation was clear, and that the Council should be in attendance at those meetings. When they reached their decisions, he said they would bring that information to Council. He said the Council then would make the decision as to how to act on that information, which is what he had always believed, and thought it was a state law anyway. He added that the Council could not exonerate itself from its responsibility, and felt they had with the ordinance. He said if the Council could not attend the meetings, they were not going to get the information. He said that was why he interrupted the meeting, or got permission, to express his disappointment at the discussion, as they had rejected their authority. He said it seemed now they were trying to regain their authority. He said that was fine, and that they should never have given it up. He said the Council wanted the advisory

committees to let them know the status of things, but the Council should be in charge.

Mayor Van Duzer said he was not going to get into “that history”, and Councilman Reynolds interrupted with the comment “It isn’t history, Mr. Chairman. It’s still in effect.” Mayor Van Duzer said it was not still in effect. Councilman Reynolds said it was and that the last thing they had signed said so. Mayor Van Duzer asked that the vote to which Councilman Reynolds was referring be looked up immediately to determine if it was, in fact, in effect. He felt Councilman Reynolds would find, from the minutes, that that particular vote had been with regard to one event. Councilman Reynolds said it was not, but was looking forward to the next disaster. Mayor Van Duzer said it would be looked into, and if Councilman Reynolds were correct Mayor Van Duzer would certainly apologize. He said he had attended meetings after that one event, and when questioned, it had been determined by the legal counsel that the vote had been for one event. Additionally, Mayor Van Duzer said it was history, and that Council did not need to be stirring it up. He felt they should go on and move into the future. Councilman Reynolds interrupted the Mayor, and said “Mr. Chairman, please don’t accuse me of stirring anything up. I called the attention to something...”.

Vice Mayor Rynearson interrupted with a point of order. He said it was sickening and tiresome. He started to discuss why the meeting had been called, and Councilman Reynolds interrupted him and said, “You called a point of order, Mr. Chairman. Deal with it. Don’t elaborate.” Vice Mayor Rynearson then said they had called the meeting for an update on the hurricane, and that was all the meeting was supposed to be about. He felt the Mayor and Councilman Reynolds were “way out in left field.”

Mayor Van Duzer said he didn’t agree with that, because they were using the meeting also to determine how they would handle the meetings in the near future with regard to the hurricane. Vice Mayor Rynearson noted that the agenda said that they were there to do an update on Hurricane Wilma, and that was how it had been announced to the public.

Councilman Reynolds said the one point he had wanted to make was that he agreed with the direction the Council was going in now, but that Council had signed something that was the opposite of that direction. He said he wanted that corrected, and wanted an official rejection of that earlier resolution, and then a possible re-vote. He restated that he was not at all in opposition to what the Mayor was saying or the direction the Council was going in at this time. He said it was not in accordance with what they had previously signed.

Mayor Van Duzer told Councilman Reynolds they would get the information and find out for sure. He then asked if Council was in consensus that the Council would meet with the EM team and then go off-Island to meet with the public.

Councilman Katcko was in agreement, and pointed out that the Council would have to be on the Island to address any issues that could come up with the residents who might choose not to evacuate. He also clarified that he had not been on Council during Hurricane Charley. Councilman Reynolds interrupted Councilman Katcko by calling a point of order, and said that Councilman Katcko had misquoted him, as he had been talking about Hurricane Frances. Councilman Katcko averred that he had not been on Council for that either.

Once again, Mayor Van Duzer asked if there was a consensus regarding meeting both on and off the Island if need be. There was no objection raised.

Mayor Van Duzer asked if anyone had found the minutes from the meeting to which Councilman Reynolds had referred. Councilman Reynolds said he had a copy of it at home and would be glad to bring it to the next meeting. Mayor Van Duzer said it would be brought to the eleven o'clock meeting scheduled for the next day.

#### **V. PUBLIC COMMENT**

Lee Melsik came forward and said he had a question for the Town Attorney. He asked if the Council met with the EM team on the Island after an evacuation, and discussed things they would later have to vote on, the meeting would have to be open to the public and noticed.

Attorney Dalton noted to the Mayor that Council policy did not include the Town Attorney answering questions from the public in open session.

Mr. Melsik asked Councilman Reynolds to "ask her that."

Mayor Van Duzer asked, if he advised Ms. Dalton to respond to Mr. Melsik, if she could do that, to which Ms. Dalton replied "Sure."

Ms. Dalton said there was a Sunshine component to the meetings, and it would not necessarily be waived due to an emergency situation. Thus, she said a meeting where the Council members would be considering subjects upon which they would be making decisions would have to be noticed. She understood the Mayor's intention that the meetings convened on the Island would be noticed, that they would be adjourned to take the meeting off the Island, and reconvened there.

Mayor Van Duzer said they would not get into a debate during Public Comment. Mr. Melsik said he was not debating, but had a question for Council. He added that he was still in the middle of his Public Comment. He said if people were not allowed on the Island, they couldn't come to the public meetings on the Island, and they would still have a Sunshine problem.

Councilman Reynolds asked for a response from the Town Attorney regarding Mr. Melsik's claim that the Council would be in violation of the Sunshine Law if

it met on the Island during a time when people were not allowed back on the Island.

Attorney Dalton said she would give him an answer at the meeting the next morning. She believed she had answered the question, but wished to have the opportunity to review the law under the situation where some people would not have access to the meeting. She didn't believe any meeting of the Council should be characterized as a closed meeting because that was not the intent of the Council.

Councilman Reynolds said he knew it wasn't the intent, but if people were not allowed to attend it because they were not able to get over the Bridge, essentially it would be closed. He hoped that while Ms. Dalton checked the law she would think in terms of the public and their rights, rather than in terms of trying to find a way to keep them out. He said he would rather have a positive direction on the legitimacy of trying to have the Council open in such a location that everyone could come and listen.

Ms. Dalton said public policy behind the Sunshine Law was that all meetings were open except to the very limited extent that they could be closed for litigation and other purposes. Thus, she believed the public policy of the state supported exactly what Councilman Reynolds wanted.

Mayor Van Duzer said they were all difficult issues, but the bottom line was that Council was trying to accomplish, in an open manner, the actions that needed to be taken to protect and provide for the citizens of the Town. He said no matter what discussions took place, all decisions would be made off-Island before the public. He felt that might delay decision-making if the Council could not discuss issues with the EM team, and they would be trying to recover from an emergency situation without delay. He said no one was trying to keep anyone out from anything. He said they needed to know if they could not meet on Island. He asked Ms. Dalton to bring the information to the meeting scheduled for the next morning, and remarked it was fortunate that they didn't need the information at this meeting.

## **V. ADJOURNMENT**

**MOTION:** Councilman Massucco moved to adjourn the meeting. Vice Mayor Rynearson seconded the motion.

**VOTE:** The motion carried unanimously.

Mayor Van Duzer adjourned the meeting at 10:58 AM.

Respectfully submitted,

Jo List  
Transcribing Secretary