

**FORT MYERS BEACH
TOWN HALL MEETING
APRIL 26, 2004
Town Hall-Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER: The third Town Hall Meeting of the Town of Fort Myers Beach was called to order on Monday, April 26, 2004 at 6:00 P.M. by Town Hall Committee Chair Carol Schardt. Ms. Schardt introduced the Council members as follows and congratulated the new Council members and the new Mayor:

Councilman Howard Rynearson, Councilman Bill Van Duzer, Councilman Don Massucco, Councilman Garr Reynolds, and Mayor Bill Thomas.

Ms. Schardt announced that in view of the new membership of the Council, each Council member will have a 2-minute opening statement if they wish.

Staff present at the meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Finance Director Janeen Paulauskis.

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

Mr. Massucco began his opening statement by saying that everyone had been thanked for their support and promising to do the best to realize the wishes of the public, which he said is his main concern and focus.

Mr. Rynearson said he was present to listen to the public's questions, not to talk.

Mayor Thomas said he enjoys these Town Hall Meetings and said the best way for understanding is communication. He said this is a great way for people on the Beach to communicate with each other.

Mr. Reynolds said he thinks the Town Hall Meetings are an excellent idea but would like to have true Town Hall Meetings such as Porter Goss holds when he comes to town; that is, not held in Town Hall. He suggested several other venues within the community and said he wants everyone to feel welcome, wherever they are held. He expressed the wish for a full house.

Mr. Van Duzer expressed pleasure at being present having been in a dental chair an hour ago and said he is here to listen to what the public has to say and answer any questions he is able to answer. He recalled that he and Carol Schardt had been instrumental in the inception of these meetings, of which this is the third and hopes they are beneficial to the community as an opportunity to speak directly with the Council. He welcomed the public and expressed readiness to begin.

Ms. Schardt introduced the Committee: Roxie Smith, Dan Parker, Tom Merrill, Mr. Petrocelli, Councilman Van Duzer, Angie Parker, and herself. She stated that the purpose of the Old Fashioned Town Hall Meeting is to allow residents the opportunity to bring questions to Council for answers. She advised that questions asked should be questions that all the Town will benefit from rather than isolated incidents which can be addressed by mail or phone to the Council. Speakers were advised to follow the rules of civility, and ground rules were specified. Angie Parker was then introduced as moderator, and Tom Merrill as microphone attendant. Some written questions had been presented prior to the meeting.

Ms. Parker read the first letter, which expressed concern over loss of open space at the Bay Beach Golf Course. Mr. Massucco observed that the previous history and zoning was before his tenure, but said he believes what is now occurring is in all likelihood legal, and nothing can now be done in view of previous court rulings. He referred to a lawsuit between the Town and

Bay Beach, which Mr. Van Duzer further explained, adding that the Town and Bay Beach had reached an agreement to limit development along Estero Blvd. to residential rather than commercial as originally planned. He said there have been several complaints about recent filling of the lakes which has been researched and found to be allowable under the previous CPD. He explained that improved drainage as a result of this work will benefit Bay Beach area residents, and the golf course itself could disappear, but the footprint must stay and cannot be built upon but must remain open space. Mr. Reynolds pointed out that Bay Beach sued the Town, not the opposite. He observed that while over several years approximately \$250,000.00 was spent on this lawsuit, the developer got everything they wanted in court. He expressed sympathy for those in Bay Beach who have objections, and suggested those residents attend a meeting at which Town Attorney Richard Roosa is present to provide a legal explanation. Mr. Thomas added that the Bay Beach project was grandfathered in and he was always against the project. He recalled that the sales office was approved last year by Council, and he voted against this. Mr. Rynearson also commented on what will be built in front. Ms. Parker read two additional questions from this letter concerning what has been allowed in the past and what will happen in the future, both of which had been discussed above.

Lucinda Keller Esh came forward with a question which she referred to as conflict of interest and riparian rights. She described problems she has had with the Town ever since Mr. Primeau raised the lay of the land, which caused her property to flood every time it rained. She said she agreed to have a drain line run across her property, but in the meantime there was a new survey which changed the configuration of her lot. She said that she owns properties at 223 Carolina Ave. and also directly behind Norm Primeau's parking lot. It was pointed out that this is a legal question, and both Council and Staff declined to answer. Mr. Van Duzer said that he has never been aware of such a problem and that he ran his campaign on private property rights. He acknowledged that there are some drainage problems which he is attempting to address, and said that if Ms. Esh's properties are in one of those areas he would like to have a personal conversation with her on the subject. Ms. Esh referred to a 3-story house built by Mr. Van Duzer on Carolina Avenue and expressed the opinion that perhaps he is part of the problem. Ms. Esh was cautioned not to make personal references. Mr. Reynolds said he was not sure he had heard a question from Ms. Esh but rather some observations with respect to drainage problems. He said he was aware of the problem and that a drain had been installed, and asked whether this had not resolved the problem. She replied that the Town sent out their own surveyor, and this differed from her original survey going back to the 1930s. She also referred to a neighbor who allows his tenant to park cars on her property. In response to a request from the members to express her concerns in the form of a question, she asked if the Town intends to allow residential property to be turned into commercial property. Several Council members responded absolutely not. Mr. Reynolds suggested calling the Sheriff's Office as this was a civil matter. It was pointed out that at these Town Hall Meetings many good questions are raised, but also problems such as this one that the entire group should not be asked to deal with. It was suggested that the Town Attorney or specific Council members should be contacted on these individual and personal matters rather than address them in a Town Hall forum. Mr. Parker agreed that there was an attempt to do this but stressed that specific questions were needed that did not require an answer from the Town Attorney.

An unidentified speaker came forward and addressed a question to Councilman Massucco and Vice Mayor Reynolds. He referred to the campaigns of both in which they ran on the issue of uncontrolled growth and asked if either had specific plans to carry out that promise. Mr. Massucco pointed out that the Town has an award-winning Comprehensive Plan and a Land Use Code and remarked that by following the restrictions in both of those documents the growth would be curbed. Mr. Reynolds said he concurs that Council should enforce what is already in place. In response to a question, Mr. Reynolds said he has heard nothing about a moratorium but did not know if he would support one if this were proposed.

Frank Schilling of 6672 Estero Blvd. came forward and asked a multi-part question in regard to the feasibility study being planned for the widening of Estero Blvd. (1) It is his

understanding that the figure is \$200,000.00 and that Lee County will pay for that next year, and the Town pays for it this year. Assuming that is correct, what is the objective that Lee County has in proposing this? Mr. Ryneerson explained that the figure is \$200,000.00 but it is not coming from the County but rather from the MPO. The County is paying half up front and the Town is also paying half up front, and we will be reimbursed next year. The reason for doing this is to get the road project moving forward, because if this is not done now conditions will become worse. The speaker asked whether there were anything in writing regarding payment next year and said the question about the objective was not answered. Mr. Ryneerson advised that the objective is that they will not put this out to contract until the engineer planning is done, and this is a battle he has fought for several years. In response to the questioner, Mr. Ryneerson explained that this has nothing to do with streetscape. He referred to a cross section in the *Observer* and also the *Sandpaper* a few months ago, which is the subject of the study, and this will include burial of underground utilities so the sidewalks can be widened, and curbs and drainage installed at the same time. The questioner then asked if this were part of the SMRT tram or trolley lane widening study. Mr. Ryneerson replied that this is included, and explained that a lot of time has been spent researching this and it is not possible simply to widen the sidewalks, stressing that the adjunct work must be done simultaneously. He also referred to the Hidden Path Workshop at which 90+ comments indicated the public's wish to have Estero Blvd. fixed, and Mr. Ryneerson stated that it is going to be fixed.

Mr. Reynolds added that he has talked with the Commissioners about this since the road belongs to the County, and he does not want to wait another 8 years to have bike and pedestrian paths along Estero Blvd. He expressed a desire to move ahead with this quickly rather than continue with further studies. Mr. Ryneerson explained that the County will not move forward without the feasibility study, which is expected to take 6 to 8 months. He said he anticipates the work will not take 8 years, but more like 3. He pointed out that the County has never said they would not do this, but has emphasized that it must be done properly, and he cautioned against exerting pressure as probably counterproductive. Mr. Van Duzer added that in the last several years the Town has come to good terms with the County on numerous joint projects. He pointed out that when a project goes to the MPO it must have the blessing of all 5 County Commissioners, which this one did. He also stressed that there is a restricted amount of right of way, and the road cannot be widened without taking private property, and that is not the intent of this effort. A dedicated tram lane together with the traffic lanes and sidewalks on both sides of the street with proper drainage and underground utilities for the benefit of the traffic problems on Fort Myers Beach is the intent; the right of way will not be widened. A preliminary study has indicated that this is possible, and Mr. Van Duzer feels that the County is cooperating fully. He referred to Mr. Ryneerson's efforts on this issue. Mr. Reynolds added that from the base of the bridge to Lover's Lane there is a 50-foot right of way, and from there to Flamingo Court it is 60 feet, with one small portion 65 feet. From Lover's Lane to the south of the Island there are 80 feet. He pointed out that there is only one area in which there will be difficulties.

(2) Mr. Ryneerson was asked who will pay for this and whether there were an agreement with the County. He replied that he hopes they will pay most of it, stressing that everything is under negotiation and there is nothing in writing. He said he would like to see the Town use the \$500,000.00 per year gas tax revenue for the next 4 years toward this expense. He estimated that the County's share would then be approximately \$10 million which they are aware of and are willing to negotiate. He added that much will depend on whether FP&L will agree to bury the utilities at their cost, which may be possible. Mr. Ryneerson emphasized that after the feasibility work is done, the Town will negotiate costs with the County and the work will commence. He advised that there will be 4 ft. sidewalks on each side with a 4 ft. bike path, curbed and guttered, and the resulting work will be done properly. Mr. Massucco expressed a concern with the project itself, pointing out that beneath Estero Blvd. there are antiquated water and sewer systems. Should either one fail, everything would have to be dug up for repairs. Mr. Ryneerson advised that the systems are not that old and have been checked. Mr. Reynolds pointed out that the pipes are over 50 years old and are made of asbestos, which he never heard of before. He was told by the engineer in charge of the system for many years that they are very brittle, and any kind of movement can cause a break. He also understands that repairs are difficult because

sleeves are unavailable, and the authorities were not made aware of these facts when the system was purchased.

Another speaker pointed out that this was the County's responsibility 50 years ago, and suggested that if the County is not using tax revenue for improvements that the Beach public wants, they should be made aware of the public's feelings on this. She emphasized that more tax dollars go to the County than to the Town, pointing out that the Town has kept taxes down by reducing the millage rate. Mr. Reynolds said that it is certainly intended to work and negotiate with the County as mentioned by Mr. Rynearson, and he expressed the hope to work more effectively than in the past.

Another unidentified speaker mentioned the Film Festival and the Town's sponsorship. She said she attempted to purchase one of the \$50.00 films that had been advertised but was advised that they were all gone. When she asked to see the list of films to purchase individual tickets, she was told they were not yet available. Mayor Thomas asked the speaker to give her name and obtain an answer for her regarding the tickets. Janeen Paulauskis joined the meeting at this time and explained that she had listened to the conversation upstairs. She explained that due to overwhelming demand the tickets had sold out, but that tickets would be available at the theater on Thursday at \$5.00 each. *The Haunted Mansion* will be free outdoor at Lynn Hall Park; the independent films at the Beach Theater are available at \$5.00 apiece.

Lyle Dumers, 203 Chapel St., came forward and reported that he had requested Staff to research a project on Chapel St. and Mango St. and asked whether there were any other questions on that subject. Ms. Parker replied that there were no other questions. He advised that he had responded to a newspaper ad requesting public questions, and Ms. Segal-George advised that this pertains to the Kelly-Higgins property. She said this property has been at issue for a long time and that the Town had unsuccessfully attempted to acquire it several years ago through the 20/20 Program. An amendment to a 1984 Development Order was filed in December 2003 on the property by the present owners. The request was to build 4 11-story buildings and a total of 232 units. The request was denied because the Development Order for which the amendment was being requested was no longer active. The request requires a new Development Order. In addition, the property subject to the request is not wholly owned by the applicants and is inconsistent with existing Comprehensive Plan and zoning, the property is in the Wetlands Use Category and is zoned Environmentally Critical. An appeal of this denial has been filed, but the applicant has requested 45 days to consider whether to proceed with the appeal. The applicant also recently retained a lawyer. If they do appeal, a Public Hearing would be held before the Town Council. In order to build what is requested, the Comprehensive Plan would have to be amended, the property would have to be rezoned, the existing conservation easements would have to be released by the holders, which are the State of Florida, and the right of way would have to be vacated by the Town. The Seagrape Condominium would have to sell property to the applicant. The current owner has been advised that if they would like to sell it to the Town, it should be returned to 20/20 because after they purchased it they offered it to the Town for \$1 million. She advised that the Town adopted Resolution 02-20 which requested that no permits be issued that would impact the existing wetland habitat and that Staff has had meetings with the applicants and their consultants and has repeatedly told them that they do not see how this property can be developed, nor how they can vacate property or extinguish a conservation easement. They believe otherwise and that they have some particular rights that the Town is not aware of, and have retained their own attorney.

Ms. Esh again came forward and raised the issue of the configuration of her property. She said that she has sought legal advice and would probably raise the issue at a hearing. Ms. Segal-George pointed out that she would be required to present an issue that would appropriately come before the Council to be addressed.

Councilman Reynolds requested that the information presented by Ms. Segal-George be made available to Council and also to the questioner.

Bob Simon of 13 Sunview Blvd. came forward and expressed a public safety concern with respect to a proliferation of golf carts and mini-scooters using the sidewalks at the South end of the Island. He said the users of these vehicles force pedestrians off the sidewalks and are also seen on Estero Blvd. and on the side streets. He pointed out that these vehicles are unlicensed and are dangerous, with possible municipal liability, and in the case of the mini scooters are against State law, as reported recently in the news media. He sees no evidence of enforcement and asked whether there were any applicable ordinance. Mr. Rynearson advised that there is an ordinance and suggested calling the Lee County Sheriff's Office West District to request enforcement, and he further advised Mr. Simon to let the Council know if no satisfaction is received so that appropriate action can be taken. Mr. Simon pointed out that when the Sheriff's Office is called, the offenders have disappeared by the time a deputy responds, and the complainant is told that unless violators are observed nothing can be done. He stressed that this is becoming an escalating situation. Mr. Rynearson promised to investigate and obtain an answer. Mr. Massucco pointed out that some of these vehicles are licensed, and these are subject to the same laws as other licensed vehicles. He suggested taking down tag numbers to trace the owners. Mr. Reynolds asked about the ages of the operators of these motorized mini-scooters, and Mr. Simon replied that they are children approximately 8 to 12 years old; the golf cart operators are adults.

Ms. Parker read a written question concerning the Fort Myers Beach *Observer* which the questioner referred to as littering the streets and driveways with the paper. Mr. Massucco advised that the *Observer* has a policy that no paper is supposed to be left if one is still there from the previous week. He is aware of upcoming discussions about this issue as well as other means of delivery of the papers. A gentlemen in the audience came forward and referred to the news rack areas, asking whether they could be made more attractive. Mr. Rynearson explained that a series of meetings is in progress at this time on this subject with all of the newspapers. There will either be "pods," where the kiosks will be grouped together and properly maintained, or a very good idea proposed by the newspapers wherein a design has been submitted for a stuccoed wall to screen the news racks. The agreed-upon 30-day period for discussions will soon expire, and the matter will come before Council within the near future. Mr. Massucco agreed that there were a great many news racks and that this is a concern.

Jean Sanders came forward and asked for the status of the beach renourishment project. Mr. Rynearson said that the Federal Government is giving everyone a runaround and asked Deputy Town Manager John Gucciardo to answer the question. Mr. Gucciardo explained that in the last few years Federal money has been budgeted for construction, but in recent years there has been reluctance to see that line item funded. The problem has been that the agreement which needs to be signed between the County and the Army Corps of Engineers, called a Project Cooperation Agreement, is needed prior to going forward, and the Corps is reluctant to go ahead with negotiations before knowing that the project will continue to receive funding in the Federal budget. He said that at this point it is hoped this agreement will be signed this Summer, allowing bidding to take place and the project to begin no sooner than September or October. Realistically, he advised that construction may be delayed until next year outside of Season. It was asked whether beach renourishment could take place during turtle season, and Mr. Gucciardo explained that part of the Federal permits with the Army Corps of Engineers have to go through all of the approvals of different regulatory agencies such as DEP, and in this case they will allow the project during turtle season with extra monitoring and nest moving if necessary.

Ms. Parker had another written question addressed to all 5 Council members regarding the possibility of implementing a moratorium on construction on Fort Myers Beach. Mayor Thomas replied that he was disappointed in the question because it was anonymous. He said this was the first he has heard of a moratorium and did not know the origin of the questioner's information. Mr. Reynolds said his only thought is that he has not heard of a moratorium and has no plans for such. Mr. Van Duzer agreed and had no comment, as did Mr. Massucco and Mr. Rynearson.

The next written question read by Ms. Parker asked about filling in the area between the sidewalks and the pavement which is now sand. Mr. Ryneerson replied that this was attempted with DoT who was adamant that this would remain for drainage purposes until the entire project is undertaken. He referred to descriptions of the complete Estero Blvd. project above. Mr. Van Duzer concurred but also observed that where this had been done at the South end of the Island a worse drainage problem had been created. He acknowledged that there was a dangerous situation with the soft sand and suggested caution, also pointing out that the area discussed above where the golf carts are a problem is not owned by the Town. A comment was made that where asphalt was put down it was not rolled, making it unsuitable to ride on, suggesting that the contractor may be responsible.

Arthur Cavanagh of 8350 Estero Blvd. came forward and asked if it would be feasible to run water taxis, and also if a sign could be erected at the South end of the Island to indicate the traffic congestion to discourage motorists. Mr. Massucco advised that the issue of water taxis had been covered extensively in the Traffic Mitigation Study, where it was determined that the Town would be happy to cooperate with a private entrepreneur, but that it would not be appropriate for the Town to undertake this at this time. Mayor Thomas said he concurs. Jane Plummer came forward and advised that there is a water taxi on the Island. She said one could call Rusty's Motel and that it runs until approximately 9:00 P.M. Mr. Van Duzer added that there is one running from Cape Coral to Fort Myers Beach, but that when he attempted to ride it, it did not show up.

An unidentified speaker asked for an explanation of the 5 parts of the traffic study which were approved for implementation. Ms. Segal-George replied that this had not been approved by Council until January and that there has not been sufficient time for engineering. She said there has been a sign erected in Times Square with the 5 projected projects and a timeline for each. The extra trolley has been accomplished, and the County is purchasing Next Bus, requiring compliance with their lengthy procurement process. This is scheduled in May at which time a vendor will be selected. With regard to the left turn lane and signalization, engineering proposals are required, as is State and County approval because of double jurisdiction. She explained that all of these documents are ready to go to bid, and advertising will be placed within a month. With respect to signage, Council has been copied on some of the signage, with sign packages both for on-Island and also for the trolley off-Island. If Council approves these signs, the County Sign Shop will fabricate them under a cooperative effort. Financial assistance from the County is also under discussion with respect to all of these projects.

Ms. Parker read a final written question from some Lexington residents regarding parking permits for off-beach residents. Mr. Van Duzer replied that parking has come under lengthy discussion and that it was originally intended to use parking meter revenues to maintain the beach accessed, which has been done. He referred to trash pickup and other problems resulting from off-Island visitors and suggested calling it a user fee rather than a parking fee, which he considers fair and reasonable. He advised that parking passes were instituted for Beach residents, but stressed that the funds are used solely to maintain the beach areas. Mr. Massucco concurred and pointed out that the questioner mentioned often using bicycles as their mode of transportation, emphasizing the fact that bicycles do not require parking fees. Mr. Ryneerson added that as residents of Lexington, the trolley at Summerlin Square would be appropriate for them.

Kay Suzuski from Bay Beach came forward with a question about the future of the lights at Buttonwood. She was advised by Mr. Van Duzer that arrangements have been as a result of his efforts and Mr. Ryneerson's to approve year-round operation of these lights and explained the funding agreement whereby the Town has advanced money for implementation now for reimbursement in 2006. There have been successful discussions about making this a permanently operating light implemented by need.

An unidentified speaker came forward with a question about the trolley schedule. Mr. Van Duzer said it is his understanding that they will run on the same schedule, but after Season one of the units will be taken off. Mr. Reynolds added that having the Season schedule continue another 5 days during the Film Festival would have been helpful. He understands they will now arrive every 30 minutes instead of every 15 minutes.

Another questioner observed that she continually sees empty trolleys going by and asked how to encourage people to ride them. She was advised that by having them moving constantly people will more readily use them. The dedicated tram lane was also discussed.

Arthur Cavanagh pointed out that there were monthly passes available for the trolley. Mr. Reynolds expressed appreciation for this information as he was not aware of it.

It was pointed out that there was a representative present with flyers for the Film Festival.

Mayor Thomas thanked everyone for attending and expressed the hope that questions were answered satisfactorily, promising to obtain answers where necessary. He said he is looking forward to more of these meetings in the future. Other Council members also expressed appreciation for attendance and participation. Mr. Reynolds stressed that the Council must consider being fair to everyone.

The meeting was adjourned, time not stated.

Respectfully submitted,

Patricia L. Middlekauff
Transcribing Secretary