

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JUNE 7, 2004
Town Hall-Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER: The regular meeting of the Fort Myers Beach Town Council was called to order on Monday, June 7, 2004 at 6:30 P.M. by Mayor Bill Thomas.

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

Excused absence from the meeting: None.

Staff present at the meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Town Attorney Richard Roosa, Director of Public Services Matt Feeney.

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

III. INVOCATION BY REV. JEANNIE DAVIS, BEACH UNITED METHODIST CHURCH:

IV. PUBLIC COMMENT: *Transcriber's Note: The tape began at this point during Public Comment. The previous portion of the agenda was not recorded. The person speaking was in the middle of his remarks and was not identified.*

An Unidentified Speaker had come forward and was in the midst of commenting on the mooring field. His comments concerned Moss Marine and the number of transients and live-aboards. He was speaking against the insurance requirement, observing that most damage is caused by boats at the gas dock.

David Gabriel came forward and read comments which he had been asked to read for Sharon Eldred, saying that he also agreed with these comments. The comments were in favor of insurance, pointing out that companies often cancel homeowner's insurance coverage and expressing the belief that boat owners should be required to provide coverage in the event they cause damage to homes and property ashore.

Randy Eibler came forward and recalled that when he moved his boat into the back bay 27 years ago, he was the second boater to do so. He expressed the opinion that live-aboards take care of their boats and that none of the sunken boats and derelict vessels resulted from live-aboards. He stressed that the back bay is not a parking lot. He said he was in agreement with a modest charge but was concerned that costs are uncertain.

Tom Cameron came forward and identified himself as a 14-year waterfront property owner on Fort Myers Beach and a licensed Coast Guard captain and lifetime boat owner. He wanted to go on record to state that he believes it is incumbent on a boat owner to have liability insurance, pointing out that he has always had insurance coverage on his boats.

Jane Plummer came forward and advised that she had telephoned several marinas today regarding insurance coverage, providing information about number of slips and insurance coverage requirements at each. She said she was not as concerned about damage resulting from the Town's mooring equipment as from weekend renters who drive through and

cut lines. She referred to a previous speaker (*not recorded*) who had referenced the cost of boaters' liability insurance, pointing out that she pays much more than that for homeowner's insurance, as well as property taxes. She also referenced boater responsibility and ethics with respect to property ashore.

Dan Parker came forward and introduced Bob Gaydos, both members of the Charter Review Commission. He named the other members: Claude Bowyer, Tom Babcock and Al Van Horn. As Chairman, he said it has been his pleasure to guide a group of knowledgeable, competent and dedicated and articulate men, and proceeded to read a statement which had been prepared summarizing and referencing the CRC's deliberations and recommendations. He expressed appreciation to Staff, particularly Deputy Town Manager John Gucciardo, Administrative Services Director Rachel Lambert, and Transcribing Secretary Patricia Middlekauff. He advised that packets will be finalized and provided to Council shortly.

Bob Gaydos came forward and thanked those who donated blood at the recent Bloodmobile visit. He read into the record a letter containing a poem which he had provided to the Council on this subject. 19 pints of blood were collected on May 26th. He thanked all who participated and assisted in this drive, advising that there will be another drive in 8 weeks.

Theresa Schober, Director of the Mound House, came forward to announce the airing of a historical documentary about Fort Myers Beach on Public Television, WGPU-TV. This is part of the Untold Stories of Southwest Florida series. The current program was funded in part by the Town, the Estero Island Historic Society, and Lee County, and will air on Friday, June 25th at 9:00 P.M. with additional showings on Saturday, June 26th at 6:30 P.M. and Sunday, June 27th at 11:00 P.M. Courtesy copies of WGPU's publication, *Expressions*, containing an article highlighting the history of the Mound House property, were presented to Council. Ms. Segal-George added that the first showing will be June 22nd at Town Hall from 6:30 P.M. to 9:00 P.M., hosted by the Historic Society. She invited everyone to attend this showing.

Public Comment was closed at this time.

V. CONSENT AGENDA:

- A. APPROVAL OF MINUTES, MAY 17, 2004
- B. PROCLAMATION OF NATIONAL SMALL CITIES AND TOWN DAY
- C. APPROVAL OF REPAVING CONTRACT
- D. RECOMMENDATION FOR BID FOR ABANDONED VESSEL REMOVAL
- E. EXTENSION OF CONTRACT FOR OPERATION OF BEACH WATER
- F. PERMANENT INSTALLATION OF ALTERNATING LIGHT
- G. ARCHITECTURAL SERVICES FOR MOUND HOUSE PRESERVATION PLAN

Vice Mayor Reynolds requested to withdraw the minutes of May 17, 2004.

MOTION: Motion was made by Councilman Van Duzer and seconded by Councilman Rynearson to approve the remainder of the Consent Agenda.

DISCUSSION: Vice Mayor Reynolds observed that the viewing public does not have access to the written agenda and asked that the Consent Agenda items be read prior to approval. Mayor Thomas read the captions of Items V.B through G.

VOTE: Motion was approved by unanimous vote.

Vice Mayor Reynolds called attention to the last page of the minutes and pointed out that his family was not called for the emergency test. He stressed that anyone else who did not get

this call should call Mr. Gucciardo or the Assistant Fire Chief Ed Moran and let them know. Mr. Gucciardo added that they are asking those within the Fire District who did not get a call two Thursdays ago should call Mr. Moran at the Fire District, 463-6163. He recalled that in the past approximately 75 and 80 per cent of the calls have been connected and was not sure what happened during the last test, but there was only about 45 per cent coverage, with particular problems in the South district.

MOTION: Motion was made by Vice Mayor Reynolds to approve the minutes of May 17, 2004 and seconded by _____.

DISCUSSION: Councilman Massucco called attention to the first vote on Page 5 and recalled that the motion was made by Councilman Van Duzer, and he would not have dissented on his own motion. It was pointed out that the motion had been restated, and that in order to determine the actual outcome, the tape will be reviewed prior to the next Council meeting. The approval of these minutes will be deferred until the next meeting.

VI. ADMINISTRATIVE AGENDA:

A. REQUEST OF TAYLOR SHOWS FOR TOWN TO SPONSOR SECOND ANNUAL THANKSGIVING ART FEST:

There being no representative present from Taylor Shows, Ms. Segal-George explained that the individual who had made this request had been involved in the successful art show held last year on Old San Carlos. This individual has requested that the Town be a sponsor and provide insurance coverage. She has consulted with Town Attorney Richard Roosa about the Town's liability issues. Mr. Roosa explained that there is no procedure established for waiver of the insurance, which is a requirement for special events permits. He proposed that any entity requesting the Town to sponsor an event be required to apply for the special event permit so the information would be available to Council in making a decision, and also that their budget and financial records be submitted as part of the public records of the Town for consideration on a case-by-case basis. It was verified with Mr. Roosa that the Town is not able to obtain limited liability; if the Town becomes a sponsor it will become the primary insured. Mr. Massucco verified that last year the individual acquired his own insurance and inquired why this could not be done again. Ms. Segal-George explained that instead of asking for funds for the event, they have chosen to ask for sponsorship in the form of insurance coverage. She added that this was a well received and popular event. She pointed out that the event does not take place until Thanksgiving, giving 3 meetings after this one to address the issue and come to a decision prior to break. Mr. Rynearson asked if it would be acceptable to continue the item until additional information is available from the applicant, and Ms. Segal-George agreed that this would be acceptable. Vice Mayor Reynolds asked whether this would be a general policy for special events, and Ms. Segal-George explained that liability insurance is typically required with special event permits. There was also clarification regarding events on private property. There was consensus to continue this item to a future meeting.

B. INTRODUCTION OF ORDINANCE 04-09 TO AMEND CHAPTER 6 OF THE LDC, FLOOD PLAIN REGULATIONS:

C. INTRODUCTION OF ORDINANCE 04-08 TO AMEND CHAPTER 34 OF THE LDC, OUTDOOR DISPLAY IN DOWNTOWN ZONING DISTRICT:

D. INTRODUCTION OF ORDINANCE 04-11 TO AMEND PARKING VIOLATIONS:

E. INTRODUCTION OF ORDINANCE 04-12 TO SET DISTRICT NAME OF OLD SAN CARLOS M.S.B.U.:

Mayor Thomas referred to the above items. Mr. Roosa proceeded to read the captions of each ordinance. Ms. Segal-George announced that the First Public Hearing for Items VI.B and C will be June 21st at 6:30 P.M. with the final Public Hearing on June 30th at 9:00 A.M. Items VI.D and E each require only one Public Hearing, and this will be on June 21st at 6:30 P.M.

F. FIRST PUBLIC HEARING, ORDINANCE 04-10: REQUEST TO AMEND THE FUTURE LAND USE MAP OF THE FORT MYERS BEACH COMPREHENSIVE PLAN:

Mayor Thomas read the first case. Ms. Segal-George provided an introduction by stating that these are the first small-scale Comprehensive Plan amendments. This is the first Public Hearing; the second Public Hearing will be on June 21st at 6:30 P.M. She pointed out that the first 2 were requested or initiated by the Town, and the last 2 by individuals. All of them have been reviewed by the LPA, which has made recommendations. It was agreed that the cases would be handled one at a time.

Request Initiated by the Town:

1. Case Number: FMB-SSA-04-03 Request to change the future land use designation from Mixed Residential to Recreation. The subject property is located at 4600, 4610, & 4650 Estero Boulevard, known as Newton Beach Park. The property is 0.8 acres.

Ms. Segal-George explained the purpose of requesting this change was to remove future residential and commercial development rights on this property and preserve its use for public recreation purposes. The proposed amendment will reduce the density from 6 dwelling units to 1 dwelling unit per 20 acres; however, residential and commercial uses are not permitted in the Recreation category, which is appropriate for a public park, is consistent with Comprehensive Plan policy 4-C-10 and 4-B-13, Policy 10-D-3 and Policy 10-F-3. She emphasized the benefits of creating Newton Beach Park.

Mayor Thomas opened the meeting for Public Comment at this time. There being none, Public Comment on this case was closed.

Ms. Segal-George explained that no motion is required to go to Second Public Hearing on this case. If there is no discussion, the item will be moved forward to that agenda.

2. Case Number: FMB-SSA-04-04 Request to change the future land use designation from Mixed Residential to Recreation. The subject property is located at 216 Connecticut Street, a vacant lot owned by the Town of Fort Myers Beach. The property is 0.42 acres.

Ms. Segal-George explained that this proposed amendment also removes future residential and commercial development rights on the property and preserve its use for public recreation purposes. Objective 10-H, Neighborhood Parks, of the Comp Plan calls for the creation of small scale parks to serve individual neighborhoods; Ms. Segal-George called attention to the fact that no amenities are planned beyond the possibility of some benches. The subject property has also been used for overflow parking for cultural events at the nearby Mound House. The request is consistent with the FMB Comp Plan including Policy 4-C-10, Map Amendments.

The meeting was opened for Public Comment at this time. There being none, the Public Comment was closed.

Councilman Massucco asked whether the neighbors had any comment when the property was used for parking. Ms. Segal-George advised that traffic cones and someone directing traffic had been utilized, and the only comments from neighbors had been positive. She stressed that there has never been any intention to create a children's park nor to pave the property, as had been rumored. It had been zoned to allow a duplex, and this amendment will remove development rights.

Vice Mayor Reynolds expressed concern about the need for an amendment. Ms. Segal-George explained that when applying for grant funding, such as for the Mound House and the Newton Property, the Town stated in the applications that upon acquisition the properties would conform with the Comp Plan; therefore, Town government must follow the same process as private property owners. She explained the steps that would be required by a future Council in order to change the usage. Mr. Reynolds expressed preference for a procedure that would eliminate the need for amendments in so many cases. Mr. Van Duzer added that the only reason for the change is that the Land Use Map will then reflect what the property is being used for, giving the neighborhood some comfort that it will not be used for other purposes.

There was consensus to move this item forward to Second Public Hearing.

Request Initiated by the Public:

3. Case Number: FMB-SSA-04-02 Request to change the future land use designation from Low Density to Boulevard. The subject property is located at 111 Bahia Via Drive, and is 5850 +/- square feet.

Ms. Segal-George described this property and explained this request, pointing out that a change in land use category would also require a zoning change prior to any commercial development.

The applicant, Brad Hill, came forward and explained that the reason for his request was that at the time he purchased the property, approximately 8 years ago, it was zoned C-1, and remained so after he build the house on it. During the adoption of the Comp Plan it was changed to RC. He feels that his property rights have somewhat been revoked, and his request is for the purpose of restoring what he had at the time of purchase. He advised that he has no plans to change the use from his residence, but that at the time he would sell it he would like to be able to have what he had restored. He verified with Ms. Segal-George that any commercial development would require a separate zoning change. Mr. Hill referenced the Staff Report which includes mention of the surrounding commercial properties.

Mayor Thomas opened the meeting for Public Hearing at this time. There being none, the Public Hearing was closed.

The Staff Report was referenced by Ms. Segal-George. She summarized this report by explaining that any change in intensity, such as from residential to commercial, requires certain steps which she outlined. Staff Report further states that it is highly unlikely that the subject parcel is viable on its own for commercial use, pointing out that any possible commercial usage would probably be in conjunction with one of the surrounding properties. Staff further states that the request is inconsistent with Policy 4-C-10, Map Amendments, which specifies that increases in density must clearly be in the public interest, not just in the interest of a petitioning landowner. There is no demand for additional boulevard acreage at this time, and the area is not blighted or in need of redevelopment. Staff recommends denial of the request.

Vice Mayor Reynolds reported having driven by the property, expressing the opinion that if this property were approved there could be a "domino effect" with adjacent properties. Ms. Segal-George explained that this is a Comp Plan amendment, not a rezoning request, and cautioned that the terminology must be kept clear.

4. Case Number: FMB-SSA-04-01 Request to change the future land use map designation from Mixed Residential to Pedestrian Commercial. The subject property is located at 821 Estero Blvd., 831 Estero Blvd., 819 Lagoon St., 823 Lagoon St., 831 Lagoon St., 839/841 Lagoon St., 843 Lagoon St., 846/848 Lagoon St., 849 Lagoon St., 855 Lagoon St., and 859 Lagoon St.

Request to change the future land use map designation from Recreation to Pedestrian Commercial. The subject property is located at 815 Estero Blvd. The subject parcels total 2.85 +/- acres.

Ms. Segal-George read the case and recognized the applicant's representative.

Mike Roeder came forward on behalf of the owners/applicants and introduced himself as the Director of Planning at Knott Consoer Ebelini Hart & Swett, P.A. He provided some background on the case, recalling that his client became aware at the time Chapter 34 was being adopted that a change from C-1 to RC was being implemented. Mr. Roeder also recalled that at that time the applicant and some of his neighbors came to the Public Hearing and objected to the change. Mr. Roeder referred to a visual exhibit and explained the number of properties on the inner and outer circles of the area. He pointed out that all 13 property owners are in agreement to have their land use categories changed. He also referenced the 7-11 and the Sand Castle as examples of commercial developments in the area.

At this time Mayor Thomas asked about ex parte communications. Mr. Roosa pointed out that this hearing is legislative in nature, rather than quasi-judicial, and ex parte communications are therefore not an issue. He explained that in this case, Council would be passing a law, in which case ex parte is not relevant. When the law is applied, however, ex parte must be disclosed. Ms. Segal-George also pointed out that this would be the appropriate time to file any conflicts of interest. Mr. Massucco asked to file such a document which he has filled out, and to abstain from voting on this case. This was entered into the record and furnished to Mr. Roeder.

Mr. Roeder resumed his presentation and described some non-residential uses, such as the Town's water tower, in the adjacent area, referring to the area as bracketed by commercial and institutional uses and adding that most of the residential properties within the site are rentals. The 2 permanent homesteaded properties have also signed up for the request. He also referred to properties across the canal. He recalled lengthy discussions at the LPA regarding the inner circle versus the outer circle and referred to a letter which he had sent to Dan Folke on the subject. He also referred to concerns brought forth by the public at the LPA hearing about the possibility of bars and other establishments that would generate noise, and expressed assurance that no such establishments are contemplated, pointing out that consumption of alcohol on premises would require Council approval in any event. He also referred to a letter which had been sent to former Mayor Thomas in February summarizing the applicants' position, which he provided to the Council. He emphasized the benefits of Pedestrian Commercial.

Mayor Thomas opened the meeting for Public Hearing at this time. There being no public comment, Public Hearing was closed.

Ms. Segal-George called attention to the lengthy Staff Report contained in the Council's packets recommending denial. She addressed the issue of C-1 zoning, explaining that even before incorporation there was a rule with regard to commercial development requiring rezoning to CPD. After incorporation, the Town adopted Ordinance 97-21 in December of 1997; Section 34-841 was amended to require any properties zoned C-1 to rezone to a Planned Development before issuance of a development order. Four of the lots which had been zoned C-1 were purchased after the Town adopted this requirement: 815 Estero, 821

Estero, 846 and 848 Lagoon, and 850 Lagoon. 831 Estero was purchased in November 1997 by 2 of the current owners, and a 1/3 ownership was sold in 2001. Only 831 was purchased before Ordinance 97-21 was adopted; none of the other owners have the right to redevelop on C-1 property without first rezoning to a CPD. She pointed to a need to clarify what rights and expectations these property owners had with regards to purchasing. She also pointed out that the existing zoning does allow a limited amount of lower impact commercial uses, such as offices and motels, if rezoned to a Planned Development, stressing that the requested Pedestrian Commercial allows the most intensive commercial uses, such as restaurants, bars and retail, and also allows more guest units or hotel rooms and increases the density. She also pointed out that by requiring a Planned Development procedure, Council has the opportunity to put terms and conditions in place at time of approval.

Vice Mayor Reynolds advised that he has visited the area and expressed the opinion that approval would be inappropriate. With respect to owners who bought property subsequent to the change, he does not feel it is appropriate for them to request restoration of former zoning. He also referred to a parcel from which density had been transferred, which he called the Edison House. He expressed the opinion that some of the parcels "up front" next to the 7-11 would be appropriate for a CPD, but not those further back.

Ms. Segal-George announced that these cases would all be forwarded to the next Public Hearing on June 21st at 6:30 P.M.

G. REQUEST BY COUNCILMAN MASSUCCO TO RECONSIDER THE VOTE ON INSURANCE OF BOATS USING THE MOORING FIELDS:

MOTION: Councilman Massucco made a motion that the Council revisit the liability insurance issue for visitors to the Town's mooring field; motion was seconded by Councilman Rynearson.

DISCUSSION: Mr. Massucco recalled that on May 17th at the last Council meeting on this issue, he voted not to require liability insurance for boaters using the Town's mooring field. He also recalled that although he was not a Council member at the time, he had attended the Council meeting at which this subject was initially introduced. Only one attendee at that meeting spoke in favor of the insurance requirement, and only one person, Mr. Jay Light, spoke against this requirement. During Mr. Light's presentation he referenced a study conducted by an unidentified CPA indicating that as a result of the insurance requirement many boaters would opt not to use the Town's mooring field, resulting in a possible deficit as high as \$95,000.00 per year. Mr. Massucco said his vote was based solely on this criteria and his resulting opinion that this would pose too great a financial risk for the Town, coupled with the fact that only one Bayfront resident spoke in favor of an insurance requirement. Mr. Massucco explained that since the May 17th meeting he has received numerous communications expressing disagreement with his vote, and pointing to bad experiences they personally have had with runaway boats. Because of this new information he would like to make the motion that as soon as practical, all boaters using the Town's mooring field be required to have necessary liability insurance coverage to protect the residents from damage caused by uninsured boats.

VOTE: Motion to reconsider the insurance issue was approved by unanimous vote.

MOTION: Mr. Massucco moved that the Town of Fort Myers Beach, as soon as practical, require all boaters using the Town's mooring field to have necessary liability insurance coverage to protect the residents from damage caused by uninsured boats. Motion

was seconded by Mr. Rynearson.

DISCUSSION: Vice Mayor Reynolds recalled that at the last meeting when Council voted not to require this liability insurance, he did not know a great deal about the subject, which was the reason he made a motion to table the issue until a subsequent Council meeting. Based also on the presentation by Jay Light, Co-Chair of the Anchorage Advisory Committee, who expressed deep concern that a decrease in occupancy would result in considerable yearly deficit for the Town. Having only this information on which to base his vote, Mr. Reynolds explained that this was the reason he voted against the insurance requirement. He also recalled that there was only one person present who spoke in favor of insurance; however, he has since heard from a number of individuals who were disappointed with the vote, and he is now in the process of reconsidering the issue.

Mayor Thomas recalled that he voted for insurance, and has heard from the public that they want such a requirement, so he continues to support the requirement of liability insurance on boats using the mooring field.

Councilman Van Duzer asked whether the requirement is for liability insurance only. It was verified that this was correct. He expressed mixed emotions, having also received several communications from the public in favor of insurance. He said while he had felt comfortable with his vote at the time, after hearing from the public he no longer feels as comfortable with that decision because his job is to listen to the public. He expressed concern that everyone understands what the requirement is, and that a certificate of insurance with the Town named as an additional insured must be presented. He pointed out that most boaters will not know of this requirement, and such certificates are not normally carried by boaters on their boats.

VOTE: Motion was carried by a unanimous vote.

Mr. Massucco commented that he was very gratified to see the public turnout on this issue at tonight's meeting, and that he wished more would come out on other issues.

Ms. Segal-George requested that clarification of the insurance requirement be provided by Director of Public Services Matt Feeney. Mr. Feeney pointed out that the previous request from Staff two meetings ago was not for the Town to be named an additional insured, but merely to require proof of liability insurance be shown by mooring field users. The motion that has just been approved to require the Town as an additional insured was not what Staff had previously requested. Several Council members expressed a desire for clarification and further discussion. Mr. Roosa explained that in the case of automobile insurance, which insures the owner and vehicle from claims from the owner's conduct, but not the municipality. He explained that only when there is a direct contract with a subcontractor would the Town be involved as an additional insured. Another example he gave was a mortgage holder because of the insurable interest. He expressed the opinion that the real issue is whether the boater has a valid insurance policy, which he understands can be verified rather quickly by computer and/or telephone, and would thus be reasonable to monitor. Additional insured would require an endorsement on each insurance policy, and he does not know of anybody who would require that.

MOTION: Mr. Massucco amended the motion to delete the portion of his motion which makes reference to the Town as additional insured. Seconded by Mr. Rynearson.

DISCUSSION: Mr. Van Duzer verified that boaters will now be required under the amended motion to obtain a standard insurance policy. He expressed concern that after they move into the mooring field there is no way to know if the policy lapses. It was pointed out that they would have to show proof of insurance every year. Mr. Van Duzer pointed out that

vehicles entering the Town are not asked to show proof of insurance, and transient boats are not asked for such proof. The public who spoke want liability insurance to cover them in case of damage. He cautioned that the Town would incur liability in the event a boater moved in and subsequently let their insurance lapse, pointing out that additional insured entities are notified when a policy lapses. Mr. Rynearson and Mr. Van Duzer recalled personal experiences with their businesses. There was discussion about how this would be enforced and monitored by the Town. Mr. Feeney explained that live-aboards must sign annual leases, and that monitoring would be a combined management function of the Harbormaster and Staff.

VOTE: Motion was passed by a vote of 4 to 1, Councilman Van Duzer opposing.

H. RECOMMENDATIONS FROM TRAFFIC COMMITTEES (CIVIC ASSOCIATION, CONDO ASSOCIATION, AND CHAMBER) – TOM MERRILL AND TOM MYERS.

Mayor Thomas expressed appreciation to Mr. Myers and Mr. Merrill for their efforts on this committee. Mr. Myers came forward and began his presentation by expressing the belief that this is a historic meeting in that 3 groups that have not been known to work together have come together harmoniously for several months on the very important issue of traffic. All 3 groups have met at the request of Town Manager Segal-George to study the CRSPE report and provide recommendations for the Town to implement. Mr. Myers introduced Mr. Merrill, who proceeded to present each specific proposal representing the joint efforts.

Mr. Merrill recalled the previous workshop meeting at which much information had been presented, minutes of which were contained in Council members' packets. He said there were 6 subjects to be discussed:

A Traffic Mitigation Committee should be formed which should report directly to Town Council. He said there were several projects to be addressed immediately by such a committee upon its approval. To expedite this recommendation, a temporary committee should be appointed now that will serve until the end of the year, at which time a permanent committee would be appointed. Normally committees are formed by advertising for members, but given that this is June and Summer recess is imminent, the group feels it would be prudent to form a committee now composed of 5 members and then advertise for an additional 2 members over the next few weeks. The 5 names recommended to start the committee are Tom Myers, who is in charge of the Chamber Traffic Committee; Frank Schilling, who has been very involved with the traffic situation over the last year; Tom Cameron, member of the Civic Association Board of Directors; Ken Katcko, President of the Chamber of Commerce presently, and Mr. Merrill himself. He also recognized the input and expertise of other groups such as the Sheriff's Office, Fire Department, Lee County DoT, and Lee Tran, suggesting that these groups be included as expert advisors. He recommended that these members be selected by Council tonight so that several critical projects can move forward immediately.

Town Staff was also referenced, with a recommendation that a Staff individual be named to serve as project leader and have responsibility for traffic mitigation. He also requested that such an individual be appointed at this meeting.

One of the projects considered very helpful by this group is installation of video cameras so that residents of condos and elsewhere could see the traffic situation at any given time and help them make decisions to travel. He asked that Council approve an expenditure of \$8,000.00 to begin this project.

The Park & Ride system and the Next Bus Trolley system were referenced. The group has made recommendations to expand and study the system above what the CRSPE report recommends. They would be requesting that approximately \$150,000.00, the cost to expand that system, be approved tonight.

They request that Council put a hold on Times Square changes recommended by

CRSPE so that the committee can review the issue in combination with the \$200,000.00 MPO study.

The group recommends putting on hold all CRSPE recommendations, including Trail Blazing Signage. He stressed that this is not being retracted, but there may be additional improvements prior to implementation. He expressed the belief that if a committee is formed tonight, a total recommendation could be presented to Council by June 21st.

Mr. Myers concluded by adding that since CRSPE has put so much time and effort into the issue, perhaps they could be included as one of the expert advisors. He suggested that at its pleasure, Council approve the package as presented and the committee, if approved, work toward an implementation date of December 1, 2004 for projects outlined to be ready for next Season. They also suggest that this committee conduct its initial meeting quickly, preferably next week.

Ms. Segal-George was asked who she would recommend from Town Staff should the recommendation be approved. She replied that while it is her responsibility to select a Staff person, she is not sure at this point exactly who she would select. Mayor Thomas asked for comments from the public at this time. There being none, the issue was returned to the Council for discussion.

Councilman Van Duzer recalled having stated before that he was in favor of a traffic committee. He said he believes that time is of the essence, but takes exception to the recommendations by this group that a committee not yet formed make determinations. He is in favor of appointing 5 members on a temporary basis and advertising for 2 more, and he expressed agreement with the 5 names submitted by Mr. Merrill. He asked for guidance by the Town Attorney in establishing the committee.

Mayor Thomas noted that Vice Mayor Reynolds had left the room while the presentation was being made and repeated the 5 names that had been submitted.

Councilman Massucco agreed with Councilman Van Duzer that time is of the essence. He felt that as many goals as possible should be accomplished prior to the Summer break at the end of June. He expressed the desire to get a committee formed and get it off the ground now with the help of Mr. Roosa to set up the committee. He suggested that the list of requests be provided to Ms. Segal-George.

Councilman Rynearson also agreed with the 5 names submitted. He stressed that he would also like to serve on the committee, calling attention to his past experience on the subject. He observed that a great deal of money had been spent already on Center Street and expressing the opinion that this project should be continued. With respect to the signage, he recommended hearing the CRSPE presentation before making a decision.

Mayor Thomas was in favor of having the Council act on these 5 names at this time.

MOTION: Motion was made by Mayor Thomas to appoint the above 5 individuals on a temporary basis as the first 5 members of the new Traffic Committee. Motion was seconded by Councilman Massucco.

DISCUSSION: Vice Mayor Reynolds expressed agreement with the temporary nature of the committee because there has been no advertisement. He stressed that this must be opened up to the community. It was clarified by Mayor Thomas that the motion was to form a temporary committee of these 5, with 2 additional positions to be advertised. Councilman Rynearson disagreed with advertising for an additional 2 members at this time, suggesting that the 5 be appointed now to begin their work and advertisement for the entire permanent committee be done at a later date. Mr. Reynolds questioned the \$150,000.00 for the 3 additional trolleys and asked for clarification from the committee. It was pointed out that this issue is not pertinent to the motion on the floor. Mr. Roosa pointed out that a committee can

be established tonight by written resolution, which can be prepared subsequent to a vote tonight. However, he recommended that the committee be identified, and the format of the committee similar to that for all of the other committees be utilized to establish the temporary committee, pointing out that there should also be a goal or purpose for this committee stated in the motion.

Mr. Van Duzer agreed, suggesting that this committee be tasked with advising Council on traffic mitigation issues that come before the committee. Vice Mayor Reynolds expressed concern that all 5 individuals live on the Island. He agreed that a goal is necessary, recalling that a traffic committee had been discussed 8 ½ years ago and suggesting that it be called a Traffic Mitigation Agency. He also expressed a desire to serve on the committee, pointing out that he has a great deal of experience also but cautioning that perhaps no Council member should serve on such a committee.

Mr. Roosa had some questions about the temporary nature of the committee and the advertisement for members, as well as the Staff individual. Ms. Segal-George added that upon formation, the committee will be subject to the Sunshine Laws, which requires advertising and adequate notice minutes, all of which must be taken into consideration. Mr. Roosa also called attention to the fact that the members would not be able to discuss these issues outside of publicly advertised meetings.

Mr. Merrill was asked to come forward for clarification of the dates of appointment of members, which he provided. They are asking for 5 temporary appointees plus 2 to be advertised, to be appointed now to serve through December 31st, at which time all 7 members would be obtained through advertising. Mr. Reynolds pointed out that there are many people on vacation at this time. He expressed preference for delaying advertising until October, at which time a permanent committee would be appointed. Mr. Rynearson asked whether the committee could function with 5 people, pointing out the expense of advertising twice, and Mr. Merrill agreed that this would be possible. Ms. Segal-George agreed that she could advertise in time for a meeting to be held next week, and she also stressed the provisions of the Sunshine Laws. Mayor Thomas obtained consensus from representatives of the 3 committees involved that what was under discussion would be acceptable. Mr. Massucco asked whether the Sunshine Laws would be detrimental to the groups, and Mr. Myers expressed the opinion that this would not be a problem, since the groups had been working individually in the past. Ms. Segal-George pointed out that there could now only be one representative from this committee on each of the separate committees to avoid Sunshine Law problems. Mr. Roosa had a concern about the role of a Council member who would serve on the committee, but it was established that this is not an issue with the 5 names submitted at this time.

VOTE: Motion was approved by a unanimous vote.

I. DISCUSSION AND FORMATION OF TOWN TRAFFIC COMMITTEE AND ASSIGNED STAFF:

Vice Mayor Reynolds inquired about the \$150,000.00 for the 3 extra trolleys. Mr. Merrill explained that these would not serve the entire Island at this time, but would be in addition to the present Park & Ride. He added that the other areas would come under future study. Mr. Reynolds expressed concern with the cost. He described personal observations from yesterday's Taste of the Island and expressed concern that residents should be considered as well as day visitors. Mr. Merrill agreed that residents are a priority but explained that the issues are being considered in stages one at a time so that a valid study can be conducted. The second phase would be the \$200,000.00 MPO study which concerns moving traffic up and down Estero Blvd. He also explained that additional steps would be addressed over the next several years and studied to determine whether or not they work.

Mr. Rynearson observed that the subject under discussion would be appropriate for discussion by the new Traffic Committee who would then bring their recommendations back to Council. He expressed the opinion that this was not the proper time to address individual issues of the presentation.

Mr. Reynolds disagreed and expressed preference to discuss these subjects now. Mr. Merrill added that his presentation constituted a package, all of which they would like to have addressed by Council at this meeting. Mayor Thomas verified that the committee would have a report for Council at the next meeting. Ms. Segal-George will identify the Staff person later, which will probably be herself. She explained that no motion is required for the Staff person. She further explained that of the issues contained in the package, Council has taken action on one of them, which was to approve formation of the committee and appointment of its temporary members. The additional items they are requesting action on are to (1) approve the traffic video camera project, (2) the Park & Ride expansion, (3) putting a hold on the traffic improvement in Times Square, and (4) putting a hold on the signs.

MOTION: Motion was made by Vice Mayor Reynolds to approve the balance of the package, items (1) through (4) above as presented by Mr. Merrill with implementation through September. Motion was seconded by Councilman Massucco.

DISCUSSION: Councilman Van Duzer expressed discomfort with the motion as worded. He expressed preference for the committee making detailed individual presentations on these items, acknowledging that time is of the essence. Mr. Reynolds pointed out that this approval would be for the preliminary package which would be refined later. Mr. Rynearson observed that he does not want to see everything put on hold beyond break in the event the committee is not able to act by that time. He agreed with Mr. Van Duzer that more clarification is needed. Ms. Segal-George pointed out that every item on the list must come back before Council for approval of contracts and the like, and she interprets this as their work plan. She also called attention to the extensive paperwork needed by LeeTran. Some of the recommendations they would present on the 21st could be worked on by Staff over the summer. Mr. Reynolds clarified the intent of his motion, and Mr. Rynearson then asked that Center Street be specifically deleted from the package because work was already in progress.

VOTE: The motion was restated by Vice Mayor Reynolds: To approve the package so the group can move ahead with the study. Motion passed by a vote of 3 to 2, Councilman Van Duzer and Councilman Rynearson opposed.

J. RECOMMENDATION/APPROVAL OF TRAIL BLAZING SIGNS ON ISLAND AND OFF ISLAND – CHRIS SWENSON:

Ms. Segal-George advised that in view of the previous action she would withdraw Agenda Item J. This will be addressed by the new committee next week.

VII. COUNCIL MEMBER ITEMS AND REPORTS:

Vice Mayor Garr Reynolds provided for consideration copies of a document having to do with briefing of Council members by the Town Manager prior to each Council meeting. He said that during the campaign it was brought to his attention that all Council members are given approximately an hour's, briefing at each meeting to explain their packet material. He recommends that instead of doing this upstairs in the office, the Council request the Town Manager to brief everyone en masse in the Council Chambers at the beginning of the meeting, or at a time set aside during the week before. He does not agree with individual briefings.

Mayor Thomas asked whether there would be a legal issue to have such a group meeting, and Mr. Roosa advised that this would have to be an advertised meeting. Mr. Reynolds explained that this was his intent; his concern was that everyone hear the same thing at the same time.

Mr. Reynolds also presented a report from the Lee County Tax Appraiser's Office indicating that there is a significant increase appraised value of property on Fort Myers Beach. As a result, he asked Council to consider reducing the millage rate.

He presented copies of a document that addresses the issue of amendments to the Comp Plan and the LDC. He recommended that applications that do not meet the current requirements without amendments not be considered by either the LPA or Council.

Mayor Bill Thomas made reference to Memorial Day ceremonies.

He also commented on Taste of the Beach yesterday.

Mayor Thomas commented on Vice Mayor Reynolds' remarks by recalling that Council has cut the millage rate twice. Without seeing next year's budget he is not prepared to discuss the possibility of a third cut at this time.

With respect to a meeting with the Town Manager, Mayor Thomas recalls meeting with the Town Manager over the last 3 years and expressed appreciation for the input which he has received. Vice Mayor Reynolds raised a point of order at this time. Mayor Thomas found Vice Mayor Reynolds out of order. Mayor Thomas expressed preference to continue meetings in his office with the Town Manager on a weekly basis.

Vice Mayor Reynolds explained that he had brought up a new subject for consideration and did not believe it appropriate for discussion or debate at this time. Mayor Thomas disagreed and expressed the opinion that this was the proper time for such discussions among Council members in open forum. Mr. Roosa explained that there are no restrictions or limitations on Council members having discussions on any subject at this time.

VIII. TOWN MANAGER'S ITEMS:

Deputy Town Manager John Gucciardo presented a memo prepared by himself and Rachel Lambert this date and apologized for bringing an item without prior opportunity for Council's review. However, correspondence was received last Friday from the County asking for the Town to review and respond by June 16th. Mr. Feeney described the subject as a fairly routine matter having to do with the CDBG funds of which the Town has received approximately \$48,000.00 per year over the last 3 years. The money has been used in the Senior Program at Bay Oaks and also an after-school community children's program, as well as about half which was used for housing rehabilitation for qualified individuals. The agreement just received is a renewal for the next 3 years. Since it is an ongoing program which the Town has already been party to, Staff felt comfortable bringing it to Council with recommendation to approve. It requires the Mayor's signature.

MOTION: Motion to renew the agreement was made by _____ and seconded by _____.

DISCUSSION: Vote to approve was rescinded by Mayor Thomas in favor of discussion requested by Vice Mayor Reynolds. Mr. Reynolds asked whether this was an emergency item, and it was explained that Staff considers it so because there is a deadline of June 16th and there is not another Council meeting until June 21st. Mr. Reynolds made the point that he is not in favor of voting on items without time for prior review unless they are emergencies; Staff reiterated that they acknowledged the short notice in their opening remarks.

VOTE: Motion was passed by unanimous vote.

Mr. Gucciardo also pointed out that in the Consent Agenda, Council had approved extension of the contract on the operation of the water utility in preparation for negotiations on the next round of another 3 year contract. He wanted to call attention to a situation that developed last Friday in that there has been a change in the management of the contractor, with the result that one employee is no longer there. He pointed out that while the Town prefers to outsource whenever possible, there are pitfalls to outsourcing, one of which is loss of control and accountability with people you are used to doing business with. The reason Staff was recommending an extension was that after 3 years they felt comfortable doing business with the personnel, and the fact that these personnel are changing without the ability of the Town to impact the change, is troubling. He stressed that this may impact the potential recommendation at some future date to bring the water operation in house.

- IX. **TOWN ATTORNEY'S ITEMS:** No items.
- X. **PUBLIC COMMENT:** None.
- XI. **ADJOURNMENT:** Meeting was adjourned at 9:50 P.M.

Respectfully submitted,

Patricia L. Middlekauff
Transcribing Secretary