

**FORT MYERS BEACH
TOWN COUNCIL MEETING
OCTOBER 11, 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, October 11, 2004 at 6:30 P.M. by Mayor Bill Thomas.

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

Excused absence from the meeting: None.

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

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

III. PUBLIC COMMENT: *Transcriber's Note: The tape began with Mayor Thomas' words: "... Democratic way of doing things."* Mayor Thomas said that there had been quite a few requests and requested anyone else who desired to speak to fill out and submit a card.

Jamie Diaz came forward and expressed the opinion that not only do the residents of the Island want change, but that their wishes are not being properly considered. He also said he found the demeanor of certain individuals at previous meetings to be unacceptable and asked everyone to try to work together as professionals. He also made reference to the issue of whether or not to retain the Town Manager. He said there are residents and business owners who are afraid to attend meetings and speak up because they fear repercussions. He also spoke about the lawsuits that have been filed against Council.

Carl Bergstrom, a resident for about 8 years and an investor on the Island, came forward and commented on the Town Manager's contract with respect to the budget. He estimated that with benefits, the total package amounts to approximately \$180,000.00 and said he feels this is excessive for a town of this size. He also referenced any personal consulting work being done by the Town Manager and asked if it is being reviewed, and if so, by whom. He also referred to what he called inadequacies in the information submitted with respect to the budget and said it should not be passed because of this. He also expressed the opinion that Council has not acted in accordance with the wishes of the people, citing short-term rentals as an example.

Pat Smith, a 5-year full-time resident, came forward and referred to a package that she had sent containing budget materials. She suggested that Council and Town administration should convince the public that the entire budget amount is needed. She apologized to the Town Manager and Deputy Town Manager for her statement at the previous meeting saying that the budget figures were wrong.

Mayor Thomas explained that each speaker has a 3-minute limit, pointing out that if anyone is allowed to speak longer there will not be enough time to attend to the business at hand. He added that having Public Comment at the beginning of meetings is a new element of Council meetings.

Carole Schardt of Madera Road came forward and submitted some questions on specific budget figures.

Bill Shenko, Jr. came forward and made reference to some procedural issues. He suggested that a Department of Revenue TRIM compliance certificate should be carefully read before signing because he does not believe that what is being sworn to is based on accurate information.

Pascual Loffreno came forward and repeated his request from previous meetings for a letter concerning short-term rentals. He has still not received this letter. He also made some comments concerning short-term rental restrictions.

Ralph _____ came forward and referred to speed limit signage and certain budget items. He asked what the Council was going to do for the Town with \$3 million.

Public Comment was closed at this time.

IV. OPENING OF FINAL PUBLIC HEARING OF TOWN BUDGET:

Councilman Van Duzer requested and was given the floor. His comments concerned the final decision on the Town budget, and he said he had given the matter careful consideration. He disagreed with the statement that the Town had been promised “bare bones” government and had not delivered, attributing this statement to the late Bob Gaydos. Mr. Van Duzer said that “Government Lite” was the term used when the Town was formed, and he expressed the opinion that this has been delivered, pointing out that the millage rate has never been raised in 9 years, but has been reduced twice to date. He acknowledged that the property taxes have increased because of increased property values, stressing that neither Council nor Town management establish the value of property. He recalled presenting illustrations at the previous meeting with respect to the amount of ad valorem taxes the Town receives. He said that it is an absolute fact that the people in the Town of Fort Myers Beach are paying 35 per cent less in the local portion of their tax than the people directly across the bridge on San Carlos Island. He also pointed out that the Town does not collect the 3 per cent franchise fees collected on the electric bills, although it could have chosen to do so. He also clarified that the tax paid to this Town is not an added tax – adding to Mr. Diaz that he never said he thought the Town should un-incorporate – pointing out that the tax paid to the Town was formerly paid to Lee County prior to incorporation, but not something that was added when the Town incorporated. He stressed the accuracy of his statements and said that he believes Council and Staff have done an excellent job of providing “Government Lite” along with many enhanced services to the citizens. He added that it is a fact that if FMB were not a town, citizens would be paying more in taxes and receiving less service. Mr. Van Duzer said that everyone has been besieged with inaccurate information, devious commentary, false facts, and figures from a few self-serving souls who he believes are using the citizens of this Island. He referred to statements made at the last meeting to the effect that the budget figures did not add up, saying that this was not correct. He further said that although the public had been told there was a \$3 million budget increase, this was not correct, and that the statement that taxes had been raised by 30 per cent was likewise not true. He also objected to letters in the press, including “rubber stamp” accusations, which he said were patently false. He went on to say that the Town has come a long way in 9 years because of devoted, sincere, capable leadership by the elected officials and Town management and staff. He said he is very tired of name calling, yelling, story telling, and continued confrontation and does not want to see it continue. He thanked the Mayor for giving him the opportunity to present these remarks.

Councilman Don Massucco also requested and was given the floor and stated that he is in favor of a rollback. He advised that during the past week, FEMA has announced that instead of the normal 75 per cent reimbursement, they will reimburse up to 90 per cent for storm-related expenses incurred by the Town. This will save the Town approximately \$360,000.00 which he said would more than offset the rollback reduction in revenue. He noted that the budget was compiled before FEMA made this announcement. He also pointed out that the U. S. Government uses tax breaks as incentives to stimulate the national economy, saying the same principle would apply to the Town. He suggested that a “win-win-win” situation would be created by the Town showing compassion to its voters and asked that there be a unanimous vote by Council on this issue.

Vice Mayor Reynolds received the floor and read a statement which he had prepared concerning the budget and which was provided at this meeting.

Mr. Roosa read the titles of the 3 resolutions.

Public Hearing was opened on all 3 resolutions at this time.

Jeff Werner, an Island resident, came forward and expressed disagreement with Councilman Van Duzer's position. He spoke in favor of a millage rate rollback or property tax reduction and suggested several alternatives for doing so.

Pat Smith again came forward and stressed that by voting to hold the same millage rate there will be an increase in revenue, and she said this is viewed as a tax increase.

The Public Hearing was closed at this time.

Deputy Town Manager John Gucciardo came forward and acknowledged Ms. Smith's apology as well as her comments. He said he was not aware of the Vice Mayor's difficulties with the readability of the budget and expressed a desire to work together on that issue. He addressed several specific issues that had been brought up by various speakers. He pointed out that although a budget will be finalized at this meeting, this does not end discussion, and he stressed to both Council and the public that any questions about particular line items will be welcome. With respect to comments concerning errors or omissions, he acknowledged one error that he was not previously aware of, having to do with the Town Manager's salary, and he gave assurance that he will correct this in the final version. He said this figure should read \$118,000.00 which is a combination of her salary previously agreed to by Council plus the \$18,000.00 from the LPA salary which Council decided last year to move into her salary, and took responsibility for this error.

A. RESOLUTION 04-35 – ESTABLISHING AND LEVYING AD VALOREM TAXES:

MOTION: Motion was made by Councilman Van Duzer to establish the millage rate per resolution at .85 per \$1,000.00. Motion was seconded by Mayor Thomas.

DISCUSSION: Mr. Gucciardo advised that at a millage rate of .85 there would be a difference of approximately \$370,000.00 in total revenue and, as Councilman Massucco pointed out, well within the additional range that it is hoped to collect from FEMA.

Vice Mayor Reynolds said that the expression "Bare Bones" did not come from Mr. Gaydos, but from another source. He also said that taxes had been increased for every year except the 2 years there had been rollbacks, noting that this will be the largest rollback ever.

Mr. Roosa read Section 2 of the resolution which he had prepared in anticipation of this motion.

VOTE: Motion was passed by unanimous vote.

B. RESOLUTION 04-36 – ADOPTING THE TOWN BUDGET FOR 2004-05:

MOTION: Motion was made by Councilman Van Duzer that the Town Budget be adopted with the changes as previously addressed. He also recommended deletion of 2 items: on Page 24, Land Acquisition for \$250,000.00 and the Pink Shell Cottage purchase for \$30,000.00 for a total of \$280,000.00. He noted that since the rollback was approved and these items removed from the budget there would still be funds available for the work suggested by the Traffic Mitigation Agency and approved. He also called attention to the last sentence of the first paragraph on Page 3 wherein the Town Manager speaks to her recommendation to roll back the millage rate to .85. Mayor Thomas said that he was also going to recommend deleting the Pink Shell item. Motion was seconded by Councilman Rynearson.

DISCUSSION: Councilman Massucco also made reference to the Town Manager's position on the rollback.

Mr. Van Duzer pointed out that the reluctance of the Town Manager on the rollback issue was because of funding the TMA recommendations, which has now been answered.

Mr. Massucco asked Director of Public Services Matt Feeny who owns the cottages, and he was told that the owner is Flint & Doyle. He verified that the Town is paying \$200.00 monthly for storing them, and Mr. Gucciardo clarified that this was done in order to keep the

option open, and noted that the \$1,500.00 deposit money will be returned. Mr. Massucco verified with Mr. Van Duzer that he recommends deleting the entire \$250,000.00 Land Acquisition item for this year only and not for subsequent years; he said he would agree with this.

Mr. Reynolds noted the public's active participation. He said that he would like to defer action on the budget because there were too many errors in it, noting that Mr. Gucciardo has acknowledged one. He also referred to the changes made in the motion and said he would not like to vote on something without having the opportunity to study the corrections.

VOTE: Motion passed on a vote of 3-2, Vice Mayor Reynolds and Councilman Massucco voting "no."

C. RESOLUTION 04-37 – ADOPTION OF THE BUDGET OF THE DOWNTOWN REDEVELOPMENT AGENCY:

MOTION: Motion was made by Councilman Rynearson and seconded by Councilman Van Duzer to approve this resolution.

DISCUSSION: Vice Mayor Reynolds said that there is too much tax money that continues to flow into the Times Square area and would like the businesses to contribute to their own cause. He noted that the Town has made many improvements in the area with taxpayer funds that were intended for beautification of Estero Blvd.

Councilman Massucco called attention to Item 5 on Page 2 of the draft which refers to a pedestrian refuge at Seafarers for \$250,000.00 and suggested it may not be appropriate to spend such a large sum in an area that is part of a larger project.

Councilman Rynearson agreed that this item should be put on hold in view of the larger project that has recently been proposed, but pointed out that the item needs to be there in case it is needed. Town Manager Marsha Segal-George explained that the Council has an obligation to build this sidewalk under the Seafarers development agreement under a previous Council's approval, and there is a time limit. This has been put on hold with the hope of working something else out, but if that subsequently fails the Town has that responsibility. She also pointed out that the DRA collects taxes in a certain defined area which legally can only be spent in that area. Those tax dollars only come from that area, not from other parts of the Island, and can only be spent there. Vice Mayor Reynolds said that this was his point.

Mr. Reynolds also had some comments on Page 15 of the budget but was advised that this had already been acted upon.

VOTE: Motion passed by a vote of 4-1. Vice Mayor Reynolds cast the opposing vote.

**** The Council at this time recessed as the Town Council and reconvened as the Town of Fort Myers Beach Public Works Services, Inc. Board.**

D. ADOPTION OF FORT MYERS BEACH WATER UTILITY BUDGET:

The meeting was opened for Public Hearing at this time. Mr. Roosa provided procedural guidance. There was no public comment.

MOTION: Motion was made by Councilman Rynearson to adopt the FMB Water Utility Budget. Motion was seconded by Councilman Van Duzer.

DISCUSSION: Vice Mayor Reynolds questioned a portion in which expenses were higher than last year's income. Mr. Gucciardo advised that he believes this is accurate for the upcoming year, and that there are some reserves that will be used. Mr. Van Duzer noted that this is approximately \$150,000.00.

VOTE: Motion was passed by unanimous vote.

**** The Council at this time recessed as the Town of Fort Myers Beach Public Works Services, Inc. Board and reconvened as the Town Council.**

V. COUNCIL MEMBER ITEMS AND REPORTS:

Councilman Don Massucco reported attending the Welcome to the Island Expo 2004 held at Diamond Head last week and described it as very impressive. He said there were numerous exhibitors taking part and there was a lot of positive reaction, and he hopes the event can continue in future years.

Councilman Howard Rynearson: No items.

Vice Mayor Garr Reynolds referred to Page 15 of the Town Budget and encouraged Mr. Gucciardo and Janeen Paulaskis to combine certain items that he had difficulty with because of their placement. He also expressed concern about the harbor usage fees and asked why this is not a County rather than a Town project. Ms. Segal-George explained that the harborage is within the Town's corporate limits, and the County has paid through grants for a pump-out vessel, the mooring hardware, and almost all of the costs to create the harborage. He also pointed out the last 3 items on Page 16 which have been grouped, and also had several comments about several specific items in the budget.

Councilman Bill Van Duzer: No items.

Mayor Bill Thomas reported on a Council workshop last week which he described as very productive.

VI. TOWN MANAGER'S ITEMS: Ms. Segal-George addressed her comments to those in the audience and also those watching on television at home. She stressed that it is important for people to understand that the Town's budget and accounting practices are governed by the rules of government accounting, which is very different from other types of accounting. The Town is audited annually by an external auditor working at the behest of the Council, and for the last 9 years there have rarely been any audit exceptions or irregularities, nor have there been any unusual issues with regard to any accounting or dollars missing or anything of that nature.

With regard to how the Town is run, the administrative costs to run the Town are still at 14 per cent of the total budget, and she submits that even in the private sector this would be considered excellent.

Concerning the question why she had not evaluated the debt position of the Town, she explained that this is because the Town has no debt.

She explained that the Town Manager drafts the budget and accompanying letter in June, and this year's draft was done prior to the hurricanes and resulting crisis situations. She said she has been complimented extensively both on the budget and on the manager's letter and recalled that when she was accounting manager there had been a very complicated budget, however, when she came to work for the Town it was decided to attempt to make it as simplistic as possible. She said that she and the others on Staff who are involved are always willing to listen to ideas and other possibilities, but when none are offered until the last moment, they are placed in a difficult position by not being able to respond adequately.

With respect to comments concerning Estero Blvd. and its aesthetic appearance, she pointed out that there are varied and opposing views among Island residents regarding tourists and businesses. She went on to explain that the entire boulevard from the bridge to the South is owned by Lee County, with the exception of a small piece at the end of Seafarers that is owned by the State of Florida, as is the bridge. Estero from the bridge to the north is owned by the Town of FMB. So while she wants to plant trees and beautify Estero Blvd., and has always said so, the Town must get an agreement from FDOT and Lee County to do anything whatsoever on that road. She further explained that Lee County collects gas tax dollars on Estero Blvd., and it has always been hoped that there could be some kind of agreement, with a number of Council

members having worked on that issue. She stressed that the public needs to understand this relationship and the facts concerning speed limits, speed signs, and the like, none of which can ever be placed on Estero Blvd. by the Town without County permission. She said that the Town likewise has no jurisdiction over the sewer system, which is also owned by Lee County. Thus the Town in many cases does not have the ability to respond unilaterally to public comment and take immediate action.

VII. TOWN ATTORNEY'S ITEMS: No items. Mayor Thomas asked the status of the lawsuits and was told that the Town's position would be filed by the end of this week. Ms. Segal-George verified that despite references to "lawsuits" there is only one lawsuit.

VIII. PUBLIC COMMENT:

Carl Bergstrom again came forward and responded to Ms. Segal-George's comments. He agreed that she gets blamed for many things that are not under her control, such as Estero Blvd. and the sewer system. He said he prefers that the County keep those things because he finds it obvious that buying the water system may not have been a good idea, and that by allowing the County to keep the road and sewer system the Town will spend less money. By purchasing the bridge or purchasing those facilities he said the Town would be taking on too much. He said his biggest concern has been the feeling that Council was not listening to the public, but that tonight he got the feeling they area, and he thanked Council for doing so.

Howard Huber came forward and challenged Vice Mayor Reynolds on the references to Bob Gaydos and "bare bones," saying he was one of the first and Ray Murphy would corroborate that Bob Gaydos was "bare bones." Mr. Reynolds said he would not argue the point.

Sherry _____ came forward and recalled that "bare bones" was adopted when the Town was incorporated. She said there is a big sign in her garage reading "Bare bones sign shop" and that everything was started from scratch. She also commented on Ms. Segal-George's observation that while work on the budget begins in June, people do not comment until fall. She said that many people leave during the summer, and this would be the reason for this.

Charles Meador, a 44-year resident of FMB and a 25-year business resident came forward and complimented Council for listening to the voters of FMB and taking the first step on a roll back of government. He referred to Ms. Segal-George's comments and said that he believes everyone can work together.

Pascual Loffreno again came forward and made reference to traffic problems and traffic lights. He asked that FDoT be contacted with certain suggestions, such as mini-buses. He also had comments about trash left at the south end of the Island from the storm. Ms. Segal-George responded by advising that letters have already been sent asking for some of his recommendations, and although the response was negative, the Town is still making attempts to discuss this and various other recommendations. She noted that the Traffic Mitigation Agency has a long list of projects that are being pursued, both small and complex. She again stressed that there are other jurisdictions that determine the outcome.

Ray Murphy, former Mayor and Councilman, came forward and congratulated Council on the rollback, observing that this was the 3rd one. He also congratulated Staff for doing another fine job on the budget and wished everyone well for the upcoming fiscal year.

Jeff Werner came forward to follow up on Mr. Loffreno's suggestions and pointed out that Key West has a mini-bus system, which he described.

IX. ADJOURNMENT: Meeting was adjourned at 8:18 P.M.

Respectfully submitted,

Patricia L. Middlekauff
Transcribing Secretary