

**FORT MYERS BEACH
TOWN COUNCIL MEETING
NOVEMBER 15, 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, November 15, 2004 at 3:00 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

*Arrived late.

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

III. INVOCATION – REV. NADINE COTTON, NEW CHURCH OF SW FLORIDA

Mayor Thomas announced that Town Attorney Richard Roosa would be a few minutes late.

IV. PUBLIC COMMENT:

Tom Myers of 21461 Widgeon Ave., FMB came forward and spoke on 2 specific items: (1) As a member of the Traffic Mitigation Agency, he reported that at their last meeting there had been a vote of the members indicating they would like to become permanent, and that the membership be expanded from 5 to 7, which would require advertisement. He asked for favorable consideration and reported that efforts are bearing fruit. (2) He asked for non-financial support for the Spirit of the Holidays at Warfield Steak House on December 2nd from 5:30 to 6:30 p.m. This is a \$25 donation with a portion going to Spirit of the Holidays. He advised that there will be no complimentary tickets and asked that the charitable event be supported. He complimented Trudy Harvey for working on this and the Easter egg hunt year round.

Bill Shenko, Jr. advised that he preferred to speak later when the Charter item is addressed.

Pat DeVincent also preferred to speak on Charter issues later.

*Mr. Roosa has arrived at this point.

Eddie Foster, a resident of Fort Myers Beach, came forward and commended the Town for the new biodegradable bags placed near the beach. She asked that more garbage receptacles be placed along the sidewalks, especially where there are benches. She also described the state of the sidewalks as "horrendous" and not well maintained, either by the adjacent businesses or property owners. She added that she has a video regarding sand replenishment that she will provide to Mr. Gucciardo. She specifically objected to the bulldozers that scraped up the red algae last year.

Andrew Pulpis of 8542 Lagoon Rd. came forward. He said he is with Laguna Shores Homeowners' Association and had provided some information about the ongoing dredging project. He referred to a photograph depicting Buccaneer Lagoon and described a situation concerning the Estero Bay Aquatic Preserve. In order to get the dredging done they must meet

the requirements of the various agencies in charge of that preserve. He also referred to beach renourishment, which he said has been causing shoaling of the access to Buccaneer Lagoon and Big Carlos Pass. He also referred to aerial photographs from the Lee County Property Appraiser's records showing changes over several years. He expressed the opinion that the Town's actions are removing their access by the shoaling, and the Town should take corrective action. He also referred to shoaling in the pass and suggested plans be made for dredging of that area as well. He also advised that there are 20 to 30 manatees in Buccaneer Lagoon in the summertime, which can produce 3,000 lbs. of feces, and the dredging project would flush the lagoon and eliminate a possible health problem.

V. CONSENT AGENDA:

A. APPROVAL OF MINUTES:

1. Council Retreat of October 8, 2004:
2. Council Meeting of November 1, 2004:

B. FINANCIALS FOR THE MONTH OF OCTOBER:

C. EMERGENCY WATERSHED PROTECTION AGREEMENT:

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

DISCUSSION: Councilman Massucco referred to the October 8th Workshop minutes, top of Page 2, and questioned the asking price for the golf course. It was pointed out that at that time \$2 to \$2.5 million was the estimated price. Mr. Van Duzer recalled that he reported those figures at the November 8th meeting, so the transcription was correct, but the asking price changed later. He also referred to Page 3 of the minutes where he was incorrectly referred to as "Ms. Massucco."

Vice Mayor Reynolds asked to withdraw Items A and B of the Consent Agenda. Mr. Van Duzer asked to modify the motion for approval of the balance of the Consent Agenda.

VOTE: Motion to approve the balance of the Consent Agenda with the exception of A and B passed by a unanimous vote, 5-0.

Mr. Reynolds referred to Page 5 of the October 8th minutes and questioned the reference to 4610 remaining on the property. On Page 6 he made reference to the discussion about the hours of operation for the purpose of clarification.

MOTION: Motion was made by Mr. Van Duzer and seconded by Mr. Massucco to approve the minutes of October 8, 2004 with corrections as noted.

VOTE: Motion was passed by unanimous vote, 5-0.

Mr. Reynolds referred to the November 1, 2004 minutes, Page 2, 4th paragraph, Ms. Ceel Spuhler's comments, and asked that the 3rd line be changed to read, "She said the committee wholeheartedly recommended ...". Mr. Roosa interjected that when making changes to the minutes as transcribed, it would be preferable to insert verbatim transcription of those paragraphs. He suggested that Council members identify prior to the Council meetings any passages that require such clarification. Mr. Rynearson suggested that these minutes be pulled until the corrections can be done. Mr. Roosa pointed out that the official records are the tapes themselves, and the transcribed minutes are generally abstracts of the tapes. However, he said if there is any question as to the accuracy of any particular paragraph, that passage could be typed up verbatim to resolve the issue of what was actually said.

Mr. Reynolds pointed out that Page 5, first paragraph, 5th line, should read, "Ms. Schober explained that her request ..." instead of "...here request..."

On Page 8 Mr. Reynolds referred to the 3rd paragraph under Mayor Bill Thomas' remarks and took exception to the words "intend to," stating that he did not commit the Council to anything. Mr. Rynearson pointed out that this would be a matter of record on the tapes. Also on Page 8, under Public Comment, he made reference to Ms. Schober's mention of the cost to the Town since 2000, for which he received clarification.

MOTION: Motion was made by Mr. Van Duzer and seconded by Mr. Rynearson to accept the minutes of November 1, 2004 as noted above.

VOTE: Motion was passed by unanimous vote, 5-0.

It was determined that the Vice Mayor had not intended to withdraw Item B.

MOTION: Motion was made by Mr. Van Duzer and seconded by Mr. Rynearson to approve Item B.

VOTE: Motion was passed by unanimous vote, 5-0.

IV. ADMINISTRATIVE AGENDA:

A. DISCUSSION AND DIRECTION OF MPO STUDY:

Ms. Segal-George referred to a 4-page memo she had prepared for Council on the MPO Study. She described it as possibly the longest memo she has ever done, and as an attempt to start at the very beginning and explain what has happened with regard to Estero Blvd. Council has already approved the MPO participation, which was to be split between the County and the Town, or at that time, \$12,500 apiece. There was also an agreement to front the \$200,000 for later reimbursement by the State. However, Mike Rippe of FDoT admits that he failed to put this \$200,000 in the budget, which means that funding was not in the State budget for this year and could not be reimbursed if spent. A consultant had already been selected and gone to bid assuming that the project had been approved by all municipalities and the County. There is an attempt to keep momentum without having to wait until July for it to be included in the next budget. The recommendation in her memo is that the Town and the County split the transit and traffic portion of the study and proceed with it at an estimated cost of \$70,000 to \$75,000. She noted that the Town has already budgeted for the \$200,000. This portion could immediately proceed upon approval by the Town and by the County. FDoT would then be asked to correctly place the remainder of this project in their budget in 2005 so that funds would be available for the remainder of the fatal flaw study in July 2005, which would deal with undergrounding utilities, drainage, sidewalks, bike paths, and all issues affecting Estero Blvd. that the residents have said they want. She said the memo also explains the purpose of the fatal flaw study and why it has to be done. None of the \$1 million set aside by Lee County for Estero Blvd. will be available without first conducting this study. She emphasized that this is a State and County requirement, not the Town's. She encouraged the public to go online and pull this document, or obtain a copy by coming to Town Hall. Ms. Segal-George also pointed out that the Town is not able to fund improvements on Estero Blvd., and that to obtain funding from other entities, the Town must comply with their requirements.

MOTION: Motion was made by Mr. Rynearson and seconded by Mr. Van Duzer to separate the transit and traffic portion from the rest of the study in order to move it forward and request funding from Lee County.

VOTE: Motion was passed by unanimous vote, 5-0.

B. DISCUSSION OF PERMANENT STATUS OF TRAFFIC MITIGATION AGENCY:

1. REVIEW OF DRAFT ORDINANCE:

2. PERMISSION TO ADVERTISE:

Ms. Segal-George referred to her memo on the subject of the Traffic Mitigation Agency. She recalled that when the TMA was formed last June, Council made it a temporary agency. She also referred to minutes of meetings that addressed this subject. She expressed concern that this is a very active committee with a very large work plan, and the December 31, 2004 deadline will not allow all of the work to be completed. She is asking that the committee be made permanent, and is also asking permission to advertise immediately for people who may be interested in serving, so Council can make appointments in December. She also referred to the draft ordinance prepared by Mr. Roosa attached to her memo, which needs to be introduced at the next meeting so it can be completed by the end of the year. She also included a memo from the TMA referred to by Tom Myers, recommending creation of an agency of 5 to 7 members and a yearly appointment rather than terms.

MOTION: Mr. Van Duzer made a motion to approve advertisement for members, with parameters, and preliminary approval of the draft ordinance with additional criteria concerning members and number of members, and 3-year staggered terms. Mr. Ryneerson agreed with the advertising, but recalled attending the TMA meeting where preference was expressed for yearly appointments rather than terms. He felt the committee's wishes should be upheld in this regard. Mr. Van Duzer pointed out that staggered terms would provide more continuity. Mr. Massucco suggested that these decisions should rest with the agency. Motion failed for lack of a second.

MOTION: Motion was made by Mr. Ryneerson to direct Staff to advertise, recalling that the TMA had agreed upon 7 members and yearly appointments, so the ordinance should be changed to 1 year and 7 members. Motion was seconded by Mr. Van Duzer.

DISCUSSION: Vice Mayor Reynolds recalled attending TMA meetings including the last one, and said he believes that was the feeling of the group. He agreed with Mr. Ryneerson that 3-year terms might discourage other qualified applicants from coming forward to apply. Mayor Thomas said he supported the motion.

VOTE: Motion was passed by unanimous vote, 5-0.

C. APPROVAL OF LEE TRAN UPGRADE:

Ms. Segal-George referred to a memo on the subject and advised that consultant Chris Swenson was present as well as representatives from LeeTran. She explained that this is the biggest and most key element of the package that was approved by Council last June when the TMA was created. This consists of 3 additional trolleys and the Park-N-Ride system in Season, bringing the total of Park-N-Rides to 6 in Season with an 8 minute service interval, assuming creation of an express lane onto the Island; an additional on-Island trolley during Season would bring the total to 5 trolleys in Season with a 12 minute service interval, assuming a dedicated trolley lane; fabrication of the Park-N-Ride trolleys to beachgoers can bring umbrellas, coolers, etc. on board; additional Next Bus equipment to handle the new trolleys in the system; and an aggressive promotional plan for the Park-N-Ride. When this was first presented to Council by the 3 groups that came together to form the TMA the estimate was \$150,000. After the first meeting of the TMA the feeling was that the cost would be an additional \$320,000. Actual numbers show less than this estimate, and the estimated cost at this time for the package is \$223,666. The only other item to be added is the aggressive promotion plan, which the TMA estimates will cost a minimum of \$50,000. She distributed to Council members some documents which she had just received for later review. They include some preliminary estimates of number of trips to be eliminated by use of Park-N-Ride. She explained several alternatives for funding this project without impacting the Town budget and pointed out that the project had been approved in theory by Council back in June.

MOTION: Motion was made by Mr. Rynearson and seconded by Mr. Van Duzer to approve the LeeTran upgrades and take the funds out of the gas tax.

DISCUSSION: Mr. Reynolds expressed concern about the expenditures by this committee. He expressed doubt about the effectiveness of extra trolleys and also mentioned the possibility of construction of a parking garage behind Seafarers. He also referred to the need for sidewalks, other projects under consideration by the TMA, and the need for a formal agreement with the owners of Summerlin Square. Ms. Segal-George addressed these issues. She also referred to the minutes when the TMA was approved by Council. Mr. Reynolds referred to the number of Staff personnel attending the TMA meetings, and remarked that he had hoped Ms. Segal-George would not be involved due to the demands on her time. Ms. Segal-George replied that she chose to attend these meetings and be personally involved due to the complexity of the issues being addressed by the TMA. Ms. Segal-George pointed out that the purpose of the Park-N-Ride is to reduce the number of cars coming onto the Island so that the residents can move around more freely. She also emphasized that the County has set aside additional gas tax money to be used for traffic mitigation projects as a result of Staff efforts and negotiations.

Mr. Reynolds expressed the opinion that a bus coming over the bridge every 12 minutes will create a traffic problem.

Mr. Van Duzer observed that when the TMA was formed, they were told to pursue this project in a vigorous way. He recalled that he and Councilman Rynearson had voted against that, while they are now the ones making the motion to approve this. The TMA was formed because it was desired to stop putting money into studies and start proactive efforts. He said that this may or may not work, but this will not be known until it is tried. He expressed concern with Council approving projects in theory and reversing itself when it comes time to implement them. He also stressed that the funding is coming from a source that would not have otherwise been available to the Town.

Mr. Reynolds stated that there had been no approval of anything other than creation of the TMA.

Mr. Van Duzer had a different recollection of the Council action at that meeting.

VOTE: Motion passed by a vote of 4 to 1, Vice Mayor Reynolds voting against the motion.

D. FIRST PUBLIC HEARING FOR CHARTER REVIEW REPORT:

Mr. Gucciardo offered to provide a brief overview for the benefit of the public and was asked to do so. He referred to a memo given to Council prior to summer break. Council has been given recommendations from the Charter Review Committee appointed by Council earlier in the spring, after a series of public hearings over a period of time. The recommendations, some of which were input from the public and some arrived at by the CRC, were then separated into a list of clerical changes and substantive changes. Other documents were also referenced. It was also pointed out that members of the CRC were in attendance if their input was desired.

The Public Hearing was opened at this time.

Pat DeVincent of 160 Bahia Via came forward and read a statement recalling the actions of the original Incorporation Committee, of which he was a member. His statement included the request that no changes be made to the Charter as it was written, and the suggestion that there be a referendum to decide whether the Town's name should be changed to Estero Island. Another suggestion was Crescent Beach, which was the name of the Island at one time.

Bill Shenko, Jr., a resident and also involved in the original incorporation, came forward and was given two 3-minute time limits to speak, as he had requested in advance. He referred to a 5-page document being handed out and called attention to certain paragraphs of the letter which he requested Council give consideration.

Dan Parker, Chair of the CRC, came forward and introduced the committee, who were in attendance in entirety. He mentioned that Bob Gaydos was also present in spirit. He reiterated the CRC's mission and pointed out that the proposals were arrived at after many hours of deliberation. He observed that the package given to Council includes the reasons why the CRC voted as they did, noting that some votes were not unanimous. He said he was not here to

debate anyone else's opinions but invited everyone to a Civic Association at 7:30 p.m. at St. Raphael's Church the next evening, at which a review of the Charter amendments will be presented for the benefit of the public. There will be a Q&A format during which the CRC will present the reasons for their recommendations. He offered to address any questions from Council.

Pat Smith of 50 Fairview Blvd., a 5-year resident of the Island, came forward and noted she does not have the background of those who were involved in the original charger. However, she said after reading the CRC recommendations as published in the newsletter, she saw this as another mechanism by which the townspeople could be removed and further isolated from the decision making process of government. She expressed concern about monitoring and controlling the officials by a majority of the Council and also said that Council members should be elected by a majority of the voters of the Town. She felt the Charter provisions, particularly those she addressed, should be left as they are.

Public Hearing on Charter Review was closed at this time.

Mr. Ryneanson expressed preference that Council withhold their comments until after the 2nd Public Hearing in order to obtain public input. Ms. Segal-George advised that this will be on December 6th. Mr. Van Duzer said he concurs and expressed appreciation for the public input at this meeting. Mayor Thomas said he agreed. Mr. Massucco confirmed a paragraph in a memo of June 10th from Mr. Gucciardo with the Town Attorney with respect to changes in the Charter. Vice Mayor Reynolds asked Mr. Roosa whether, in the event there is a petition for referendum, the Council may deny a referendum. He was told that if there is a petition procedure, then there will be a referendum. Mr. Reynolds then suggested that the applicable language be clarified for procedural purposes.

Mr. Gucciardo asked for permission for Mr. Roosa to address the proposed Civic Association meeting with respect to Sunshine Law requirements. Mr. Roosa advised that if the Council members were to discuss the Charter changes at that meeting, there would be a Sunshine Law violation. For them to attend and listen to what the public has to say, as long as they do not participate in the discussion, or among themselves, is permissible. He cautioned the members not to make any public statements or take any position publicly. If asked to comment, he suggested Council members reply that they are unable to do so because of the government Sunshine Laws.

E. PUBLIC HEARING – RESOLUTION RELATIVE TO ADDITION TO, AND CORRECTION OF WATER UTILITY FEE SCHEDULE:

Mr. Gucciardo explained that this grew out of Council discussions of approximately a year ago in terms of reviewing the rates and fees charged by the water utility. There had been a suggestion to consider a late fee, and after research, this is being brought forward for consideration, with 2 changes in the proposed ordinance: (1) The addition of a late fee with language consistent with the County's late fee, and (2) a correction to the fee schedule relative to the fire service charges.

Public Hearing was opened at this time. There being no comments from the public, Public Hearing was closed.

MOTION: Motion was made by Mr. Ryneanson and seconded with question by Mr. Van Duzer to adopt the revisions to the ordinance.

DISCUSSION: Mr. Van Duzer questioned the wording about the late fee on the last page and suggested the wording should be "... on or before the due date ..." Mr. Gucciardo agreed.

Mr. Massucco clarified for the benefit of the public that Council is not raising water rates by this ordinance, but only imposing a late fee. He pointed out that the last increase was by Ordinance 02-31 on September 23, 2002. Mr. Gucciardo added that this increase was in response to an increase in the bulk water rate received from the County.

Mr. Van Duzer observed that this was the lowest late fee he has seen. There was discussion about the amount of the fee, and Mr. Reynolds suggested including a percentage

rather than a dollar amount. It was pointed out that there is a percentage also -- \$5.00 or one percent, whichever is greater. It was verified that this also pertains to businesses.

VOTE: Motion was passed by unanimous vote, 5-0.

F. EMERGENCY SIGN ORDINANCE EXTENSION:

MOTION: Motion to approve this item was made by Mr. Ryneerson and seconded by Mr. Van Duzer.

VOTE: Motion was passed by unanimous vote, 5-0.

G. DREDGE PROJECT FUNDING CONSIDERATION:

Mr. Feeney came forward and referred to a lengthy memo he had presented on this subject concerning canal dredging projects. He explained the status of the several projects and discussed overall construction funding. He described research done to determine how other communities have addressed funding such projects, and provided Council with several alternatives for consideration.

Mr. Reynolds asked whether a percentage discount could be given to those participating in an MSBU who chose to pay up front. Mr. Feeney replied that this may be difficult to implement, and Mr. Roosa explained the procedures of an MSBU in that the assessment is determined, after which the bill is sent out. If it is paid at that time, there is no interest charged; if they elect annual payments, interest charges accrue, so there is a benefit for early payment. Mr. Reynolds said this answered his question. Ms. Segal-George added that this was done in Old San Carlos, and a number of property owners did pay up front to avoid interest charges.

Mr. Massucco referred to several of the examples provided by Mr. Feeney and asked about periodic increases. Mr. Feeney explained what the other communities are using the funds for.

Mr. Ryneerson recalled being opposed to funding any of the canal dredging when it was first proposed. After reading Mr. Feeney's memo he said he agrees that the Town should provide some funding, and suggested 25 percent, maximum \$25,000 per canal. He also noted that there were various ways to raise funds.

Mr. Van Duzer said he was originally opposed to public funding of canal dredging but now agrees that there are benefits to non-canal front property owners as well. He expressed a desire for more information, including number of waterfront properties compared to non-waterfront properties to determine a fair assessment.

Mr. Roosa further described how an MSBU works and the logistical and policy issues to be considered when one is implemented.

Ms. Segal-George explained that an engineer is required at the outset to help determine the cost. She observed that the Council's choice is between creating a storm water utility which would assess everyone on the Island, or doing this project by project. She also spoke about beach renourishment and accretion and migration.

Mr. Feeney noted that some communities tackle this as a community-wide issue in the form of a tax, assessment or utility, whereas others including Lee County assess on an individual basis. He said that Staff is looking for direction based on what other communities are doing.

Mr. Reynolds asked whether there has been any discussion with the affected communities on FMB regarding how they would like to proceed. Mr. Feeney explained the discussions that he has had. Mr. Reynolds suggested that the opinions of property owners be obtained.

Mr. Ryneerson expressed the opinion that the property owners would express preference for the Town to pay the entire cost. He suggested that Council is unable to make a decision with the information before it at present and asked that Staff return with 2 or 3 options.

Mayor Thomas asked about the estimated costs for Madera Canal and for Buccaneer Lagoon. Mr. Feeney advised that construction costs for Madera are estimated at \$60,000 and for Buccaneer, \$177,500.

Mr. Massucco noted that Buccaneer is facing a different situation than Madera. He said he would be in favor of creating an MSBU for each canal. He anticipates opposition from non-canal front property owners.

There was general discussion about anticipated public reaction and perceived benefits.

Mr. Rynearson suggested addressing only these 2 projects at this time, and later setting a policy for the big picture.

Mr. Reynolds also expressed the desire for further information and options before Council can come to a decision.

Ms. Segal-George suggested that Mr. Feeney again speak with representatives of Buccaneer and Madera and obtain their opinion as to what the owners' fair share would be. There was discussion about similar issues with regard to Old San Carlos.

Mr. Rynearson pointed out that Council should be cautious in what it decides with regard to these projects.

Mr. Massucco suggested a workshop on this subject. He pointed out that a great deal of time can be spent on this unless efforts are consolidated.

There was consensus to move this item to the next meeting, December 6th.

H. NEWTON ADVISORY BOARD RECOMMENDATIONS:

Mr. Feeney came forward and referenced another lengthy memo highlighting the NAB's recommendations from their meeting of Wednesday, October 20th with respect to the damages to the Newton property and how it should be handled. For the sake of continuity, he identified 4650 as the Newton residence; 4600 is the caretaker's elevated structure built in 1984 and closest to Estero Blvd.; 4610 is the cottage, and 4610 garage is the cottage's garage. He reported that the committee had reviewed the damages and made the following recommendations: (1) for Jim & Ellie's home, to repair the roof damage; (2) to remove the caretaker's structure from the site at the least possible cost to the Town; (3) for the cottage, to repair the structure, and if at all possible to avoid elevating it, and (4) for the garage structure, if possible, to demolish the structure. To this end, the Staff solicited bids, and he described the bids received. He explained that the committee also discussed auctioning off the caretaker's structure for the cost of removal with no additional cost to the Town. Staff recommends holding such an auction, and in the absence of a sale, Staff recommends demolition. Only 2 bids were received in response to extensive advertising, however, Staff considers them competitive and recommends considering them as valid bids. He noted that 4610 suffered the least amount of damage from the storm, and since it is identified as becoming a passive museum to Mr. and Mrs. Newton, Staff recommends securing the assistance of a historic restoration architect to insure that appropriate repairs are made in keeping with the historic construction methods used.

MOTION: Mayor Thomas made a motion that 4610 be repaired and County and State funding be obtained because there is a requirement that it remain on the property; the roof damage to 4650 be repaired, and if land can be obtained from the School Board, move it where the other buildings are; 4600 and 4610 to be demolished so that one building would remain on the site. Motion was seconded for discussion by Mr. Rynearson.

DISCUSSION: Mr. Reynolds said he has spoken at length about the Newton home and the options that have been considered for it. His feeling is that if the property is moved from the site where it was built, it would essentially be destroyed because of the history created there by the Newtons and their visitors. He explained why he strongly feels that the structure should stay where it is.

Mr. Rynearson said he agreed about not moving the structure, but suggested that the motion be changed to provide that 4610 be designated as historical and it not be raised above grade level. He suggested drying in the Jim & Ellie house and moving it to the site where the Historical Society can take it over. Mr. Thomas agreed to amend the motion, adding that he has spoken with many prominent people on the Island and obtained their opinions. He said they agree with the type of motion he is making at this time.

Mr. Massucco asked that the motion be repeated. Mr. Thomas said the following:

(1) 4650: The Newton House, to be moved to the historical site near the school and the dry-in repair be made in the amount of \$4,448 at grade level; (2) 4600: To be destroyed unless a buyer is located; (3) 4610: The County requires that this structure remain, so this is to be repaired with County funding; (4) 4610 garage: to be demolished. The end result will be one building at the historical area near the school, and only one building on the Newton Park site with rest room facilities and open area for public use and enjoyment.

Mr. Massucco expressed concern about the cost and responsibility for moving the one building. Mr. Rynearson said there are rumors that a private concern will come forward and pay for the moving and that this is a strong possibility. Mayor Thomas added that the community is really behind this. Mr. Massucco's second concern was maintenance costs, which Mr. Thomas pointed out is one of the advantages of retaining only one building on the site.

Mr. Reynolds said the motion could not be carried out, because the Historical Society has indicated they would not accept the building. He suggested 4 different motions, one for each building. In response to a question by the Mayor, Mr. Reynolds said he had spoken with one individual yesterday who had emphatically stated that they will not accept the structure. Ms. Segal-George pointed out that there is no concrete evidence of this position on the part of the Historical Society, and suggested that if it is found that they will not accept it, and/or funds cannot be found to move it, then it would be brought back to Council for further action.

Mr. Van Duzer also expressed concern about the Historical Society's position and also questioned the amount of the dry-in repairs. It was explained that Alexander Building Corp. was the lower bid, at \$4,448. Mr. Feeney reported the results of a clarifying phone discussion with the owner of that company. He said he did not agree with the motion because he believes that lasting roof repairs should be made to the Newton House. There was further discussion about the provisions of the motion, the costs involved, and eventual disposition of these buildings.

Mr. Reynolds asked Mr. Feeney to define "dry-in" which he did. It was agreed that this would make the structure temporarily waterproof.

VOTE: Motion failed on a vote of 2 to 3.

Mr. Massucco recalled a conversation he had with Mr. Feeney regarding the likelihood of finding a buyer for a damaged structure.

MOTION: Mr. Rynearson made a motion to move the Newton Home to the school property, and put on a new roof; put up 4600 for auction without making repairs, and if not successful, either give it away or demolish it; the cottage, which must stay, to be fixed up with funding to be determined; 4610 garage to be demolished and removed. Motion was seconded by Mr. Van Duzer, then withdrawn. Mr. Rynearson added that 4650 is to be moved at grade level to the school property. Motion was seconded by Mr. Van Duzer.

DISCUSSION: Mr. Reynolds expressed to Mr. Roosa his concern with the way motions are being made. He noted that a motion is made in conjunction with discussion before it is seconded. Mr. Roosa explained the procedure. Mr. Reynolds then suggested Mr. Rynearson amend his motion to omit the Newton Home until a future date due to the special circumstances and the uncertainty of having a location to move it. Mr. Rynearson said his motion would stand.

VOTE: Motion was passed by a vote of 4 to 1, Vice Mayor Reynolds casting the opposing vote.

VII. COUNCIL MEMBER ITEMS AND REPORTS: None.

VIII. TOWN MANAGER'S ITEMS:

Ms. Segal-George noted that at the beginning of Public Comment there was a resident who commented on the sidewalk. She noted that the sidewalks do not belong to the Town, but rather to the County, which has on occasion cleaned sand from them. She emphasized that the Town has offered to clean them more often if the County would cover the cost, but there are liability issues and the County was not interested. She added that they are very close to

improving the trolley stops, which will have a cement pad, bench and trash receptacle, providing more for people to use, and the Town will have the responsibility for emptying those receptacles.

With respect to the CRC recommendation and a super majority with regard to the Town Manager, she stated that she never spoke with the CRC nor did she ask Mr. Gucciardo to do so. When she accepted employment it was with the understanding that a simple majority could terminate her employment, and she has never asked for anything more than that. She emphasized that there is no conspiracy or nefarious design on her part.

Mr. Gucciardo presented 3 items: (1) A summary memo status report on the alternating light. (2) another memo about some emergency preparedness initiatives, which will publicize a meeting of the Disaster Advisory Council composed of the individuals and entities who were involved in the recovery efforts, the date of which it has now been learned will conflict with Spirit of the Holidays on December 2nd. This will be a public meeting here in Chambers. (3) He asked for direction and action on a grant program for the Lighthouse Resort which was authorized more than a year ago. They have asked FEMA and the DCA for an extension of time to complete that project because of lost time and supply problems due to the hurricanes. DCA and FEMA have indicated they have no problem extending the deadline from December to March but asked for a signature from Council indicating acquiescence with the delay.

MOTION: Motion was made by Mr. Ryneanson and seconded by Mr. Massucco to grant the requested extension.

VOTE: Motion was passed by unanimous vote, 5-0.

Vice Mayor Reynolds said that he had some items but was advised by Mayor Thomas that that part of the agenda was past.

IX. TOWN ATTORNEY'S ITEMS:

Mr. Roosa referred to a letter from Supervisor of Elections, Ms. Harrington stating that she would allow November elections in odd numbered years. The letter was dated September 7th, after which there were several other occurrences and there was a question whether this would require unanimous approval by all municipalities. This has now been resolved because there was unanimous rejection by all the municipalities. Ms. Harrington has advised Mr. Roosa that if the Town were to choose to have November elections in odd-numbered years, the Town would bear the full cost.

Mr. Reynolds again requested to speak but was denied the floor.

X. PUBLIC COMMENT:

Louis Marrone from Laguna Shores, former President and executive committee member, came forward and now chair of the Buccaneer problem. He noted that there are approximately half who are waterfront property owners and half who are not, and the feeling is the same as was discussed earlier. He said he was under the impression that waterfront property owners pay a higher millage rate and expressed concern over retaining property values. He expressed appreciation for the way in which Council addressed the subject.

Mr. Metz, president of Yachtsman's Cove, came forward and expressed concerns that were stated earlier. He spoke of deposit problems caused by storms and the possible cause by an adjacent seawall opening. He also referred to the costs contained in the \$60,000 estimate.

Tom Myers came forward and mentioned that for those who can't afford dinner, they are expecting gifts at the fire department, the Red Coconut, and the Chamber, as well as non-perishable foods. He also gave ticket locations.

XI. ADJOURNMENT: Meeting was adjourned by motion and second at 6:25 p.m.

Respectfully submitted,

Patricia L. Middlekauff
Transcribing Secretary