FORT MYERS BEACH
TOWN COUNCIL MEETING
FEBRUARY 3, 2003
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Regular Meeting of February 3, 2003 was opened by Mayor Daniel Hughes on Monday, February 3, 2003, at 3:00 p.m..

Council members present at the meeting: Mayor Daniel Hughes, Vice Mayor Terry Cain, Howard Rynearson - Council member, Bill Van Duzer - Council member and Bill Thomas - Council member.

Excused absence from meeting: None.

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Damon Grant, Attorney Dick Roosa, Dan Folke and Bill Spikowski.

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. INVOCATION BY REV. BOB STUCKEY, PASTOR FIRST BAPTIST CHURCH

The invocation was given by Pastor Bob Stuckey.

IV. PRESENTATION BY SHERIFF ROD SHOAP - STAFFING AND SUBSTATION STATUS

Sheriff Rod Shoap came forward. He does believe today will be his first formal proposal. He is present to discuss the beach substation. The present building (trailer) is very dilapidated. A portion is too dangerous to use at this time. He indicated they are prepared to move this station off of the beach, although the intent is to wait until after spring break. Eventually, the Sheriff's office would like to move the station offsite and not replace it. After measuring the services this building provides to Fort Myers Beach it has been determined this is not providing any service. He feels there is a more effective way for Fort Myers Beach to get the attention it needs in lieu of this station. The station is kept open 24 hours per day all year long. This involves 5 ½ civilian clerks. Not many phone calls are received and walk in traffic is limited to two stingray person's per week. Dollars are being wasted. He has spoken to both the Town Manager and Council member Rynearson. The salaries of these 51/2 people can be taken and turned into three sworn officers for Fort Myers Beach. The three new sworn police officers can be dedicated to community policing for the city. These officers will work daily in the city only solving city problems. He is making this recommendation to the Council today. He has received much positive response. Once the station is moved, he will still need dedicated parking. The officers working this area will need these spaces 24-hours per day. This will free up a lot of parking space once the station is removed.

Council member Rynearson suggested the same parking for the officers stay in place. He asked for the opinion of Sheriff Shoap? Sheriff Shoap relied that this would be the perfect solution.

Council member Bill Van Duzer thanked Sheriff Shoap for his consideration. He feels his proposal is excellent and serves the Town very well. The presence of those deputies on the street vs. clerical help will serve the Town well. He does feel this is a fair tradeoff. He offers his support to the suggestion as presented.

Council member Bill Thomas endorses the proposal. He feels this is an excellent proposal for the Town of Fort Myers Beach.

Mayor Hughes clarified that the three extra officers will not require an increase in the interlocal agreement. Sheriff Shoap replied there will be no additional cost. This will take the Sheriff's office resources and distribute them in a different way.

Council member Rynearson suggested a contract. Sheriff Shoap did not feel one was necessary, but it can be done very easily. Council member Rynearson thanked the Sheriff and all officers.

Mayor Hughes agreed and also thanked Captain Griner and the officers assigned to the beach. He feels everyone is doing an excellent job. (Applause was given)

V. PUBLIC COMMENT ON ALL ITEMS EXCEPT: AMENDING LAND DEVELOPING CODE- CHAPTER 34

Mayor Hughes began by indicating there are rules of civility. There is a three minute time limit. He asked that everyone abide by the rules.

John Lallo, Pete's Timeout, came forward. He addressed the parking meter issue. His wife serves as the Chairman for the Times Square Advisory Committee. The general consensus is that no one would like to use the spaces for all day beach parking. He is in agreement with this issue. The Town Council will receive the suggestion to enforce the meters from 9:00 a.m. to 10:00 p.m.. He feels this is an overkill. 10:00 a.m. to 6:00 p.m. will deter the all day beach parking and will help promote the off hours. This will also create an 8-hour one shift enforcement rather than a 12-hour two shift enforcement. He is sure the goal is to restrict parking to two hours maximum. Please remember all money spent promoting this island for tourism and look to keep it honest and user friendly.

Lori Bagley, 207 Driftwood, Ft. Myers Beach, came forward. Urged the Town Council to get the parking meters in soon. Best customers are being lost.

Al Van Horn, 6895 Estero Blvd. came forward. He has been a member of the traffic committee since its inception. The traffic committee felt they had a successful experiment last year. The key was to make this permanent. This has gone through various processes and will come into place. The next step was to encourage the installation of the alternating light on an interim basis during season. The last meeting of the Traffic Committee they were informed by John Davis this would go in on February 1. Now there seems to be a funding problem, which could delay this situation. He encourages the Town Council's consideration to implement this situation. This is not just a Fort Myers Beach concern or problem. Have you explored any additional sources of funding that could help share this cost? This is a hot topic and he urges all efforts with the County Commissioners and with additional funding sources.

Tom Merrill, 21581 Indian Bayou, came forward. Staff has been working toward developing some proposals on parking meters and beach accesses. From a residential prospective he feels good proposals have been put together. Staff has been very receptive to residents use of the parking spaces. He pointed out that Collier County residents have no cost to park down by the beach, downtown or within their parks. Sanibel has a charge of $10.00 per year to residents. This needs to be considered for Fort Myers Beach. Residents should be able to go to beach accesses for free or have permits. If residents must pay to park downtown, this would not be an incentive for them to shop here. They would have more of an incentive to go elsewhere. He suggested a certain area with parking meters for residents exclusively.

VI. CONSENT AGENDA

A. Proclamation - Leave a Legacy
B. Proclamation - Children's Month
C. Review of Financial Reports: December 2002
D. Approval of January 13, 2003 minutes
E. Town Hall lease renewal
F. Resolution: Supporting the Shrimp Industry
G. Resolution: Levying Assessment Lien on Nuisance Ordinance- Lot Mowing
H. LPA member terms
I. Community Development Bock Grant (CDBG) - agreement with County

Mayor Hughes pulled item D. Council member Van Duzer pulled item F. Vice Mayor Cain pulled item B.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve Consent Agenda items A, C, E, G, H and I.

VOTE: **Motion passes unanimously.**

Mayor Hughes began with Item B. This is a proclamation relating to quality child care and education. Peggy stepped forward from Child Care of Southwest Florida. A portion of the proclamation was read by the Mayor. February 2003 is Children's Month on Fort Myers Beach.

Peggy indicated she is present on behalf of Child Care of Southwest Florida. She thanked the

Town for the proclamation and all the good work that is done on behalf of Children and Families on the Beach. (Applause was given)

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Thomas to approve Consent Agenda Item B.

VOTE: **Motion passes unanimously.**

Mayor Hughes moved to discuss corrections and changes to minutes of January 13, 2003.

Corrections and changes to minutes:

1. Mayor Hughes - Page 1 - Invocation. Strike Deacon Scoop Kiesel and replace with Father Robert Murphy for Church of the Ascension.

2. Mayor Hughes - Page 2 - Discussion with Robert Wagner - Mayor Hughes questioned Robert Wagner with regard to permits, approvals and designs. Robert Wagner indicated these had been completed and should be part of the record. Mayor Hughes also questioned the "Welcome to Fort Myers Beach" sign. Comments pertaining to this matter should be included.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Howard Rynearson to approve the Consent Agenda Item D.

VOTE: **Motion passes unanimously.**

Council member Bill Van Duzer addressed Consent agenda Item F. The resolution was read.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to approve Consent Agenda Item F.

Discussion: Council member Bill Van Duzer indicated he has many friends in the shrimping industry, which are suffering serious hard times. He wanted to see a resolution prohibiting the purchase of foreign shrimp. This is a valuable industry to the area and the finest shrimp (pink gold) should be cherished. The foreign shrimp cost less to the retailers, but to the public it costs only a little less. He would like to see the communities support.

VOTE: **Motion passes unanimously.**

VII. ADMINISTRATIVE AGENDA

A. Introduction of Ordinance - Amending the Finance Ordinance

Mayor Hughes began by reading the ordinance. The public hearing has been set for March 3, 2003 at 6:30 p.m..

B. Public Hearing-Amending Park Ordinance-intoxicating beverages/illegal substances; providing effective date

Mayor Hughes began by reading this ordinance. He indicated a prohibition has been placed for beverages. These beverages must be served only in plastic containers. The Town Manager may place further restrictions and limitations. These conditions have been placed within special permits in the past. The Town Council felt this should be a general ordinance.

Mayor Hughes asked if anyone wished to address the Council on this matter. None was heard. The public hearing was closed.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Bill Thomas to approve Ordinance (0301) amending Park Ordinance.

VOTE: **(Role Call) Council member Bill Van Duzer - aye, Council member Bill**

Thomas, aye - Council member Howard Rynearson, aye - Mayor Daniel Hughes, aye - Vice Mayor Terry Cain, aye. Motion passes unanimously.

C. Recommendations from Times Square Advisory Committee:

***Old San Carlos parking meter options**

***Delivery truck restriction**

***Restriction on parking permits**

Damon Grant began by indicating that the Old San Carlos Streetscape project involves 60 parking meters. At this time, the parking meters are in the process of installation. The rate per hour, maximum parking limit, enforcement and fine for noncompliance has not been addressed. The Times Square Advisory Board, Old San Carlos business owners and the Alliance Committee have come to a consensus of $2.00 per hour with a two-hour maximum. This would be from 9:00 a.m. to 9:00 p.m. hours of enforcement. A $35.00 fine for noncompliance is also recommended.

Council member Van Duzer would like to recommend the $2.00 per hour rate and two-hour maximum parking. The hours of enforcement should be from 9:00 a.m. to 6:00 p.m.. He feels this will fit the needs more appropriately in this area. The $35.00 fine for noncompliance is acceptable.

Mayor Hughes commented on the 8-hour time period for enforcement? Town Mayor Segal-George does not feel this is significant at this time. Staff needs basic approvals to order the plates for the meters. Significant discussion took place between the committee and merchants wanting to go later with parking. A consensus of going later in the evening was reached. Contract options with regard to enforcement will come back before the Town Council. Once the time limit passes into the dark the back lightening will be needed. Central parking was consulted and although back lightening would make it easier the street lighting is normally sufficient. The intent for under the bridge is long term parking. No two limit would exist. $2.00 per hour would be the fee in this area.

Council member Rynearson would like to see the time left until 9:00 p.m. for the present time.

Council member Van Duzer would agree.

Town Manager Segal-George indicated some flexibility would be appreciated.

Vice Mayor Cain suggested 9:00 a.m. to 7:00 p.m.. This would make the beach accesses uniform with the Old San Carlos parking.

Town Manager Segal-George would like basic decisions from Council at this time. Meters need to be put in as soon as possible. The remainder will be worked out in the future.

Mayor Hughes addressed the Town Attorney. He questioned if an ordinance must be adopted? Town Attorney Dick Roosa replied this is correct. Mayor Hughes indicated this cannot be finalized today.

Town Manager Segal-George indicated that this was not brought up by the Town Attorney. She must have meters up. The merchants will lose during season the ability to have proper parking by their businesses.

Town Attorney Dick Roosa feels the meters must get out. The Town Council can follow up with an ordinance.

Town Manager Segal-George understands the meters can be setup and collection can take place. Enforcement can be delayed. Town Attorney Dick Roosa indicated this could be done.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to set the meter rate for Old San Carlos at $2.00 per hour with a two-hour maximum parking limit. A $35.00 parking fine for noncompliance should also be in effect. At next month's meeting an ordinance will be brought forward to the Town Council. Hours of enforcement will be set from 9:00 a.m. to 9:00 p.m..

Discussion: Council member Bill Thomas would like to add to the motion. The residents should have a decal added, so they will not need to pay. Many business owners have indicated business is off approximately 30% this year. He feels $2.00 per hour is detrimental to the business community, especially at this time. He feels maximum income for the Town could be received at $1.00 per hour.

Council member Bill Van Duzer feels a beach resident pass should be considered in the future for all parking meters. He is unsure if this should be completely free.

This matter should be discussed in the future.

Town Manager Segal-George added staff will come back to the Town Council with some parking structure for residents.

VOTE: Motion passes 4 to 1. Council member Bill Thomas dissenting.

Damon Grant indicated a problem exists with delivery trucks and oversized vehicles making turns. Colored pictures are included in Council's packet. The Times Square Advisory Committee, Alliance and business owners spoke on this topic and made recommendations. For 24 hour street availability for delivery trucks it would require trucks to be under 7 tons and a maximum length of 30 feet. A truck larger must come down Old San Carlos between 2:00 a.m. and 9:00 a.m. with a maximum cutoff weight of 25 ton with no more than 3 axles. The committee looked into alternative loading areas that could be possibly located on Second and Third Street or under the bridge. No double parking on Old San Carlos would be allowed at any time. Two areas along Old San Carlos have been highlighted. These are parallel parking areas, which take up four spaces. These would be the designated delivery areas between 2:00 a.m. and 9:00 a.m..

Mayor Hughes commented on an ordinance? Town Attorney Dick Roosa replied the Police Chief of the Community designates these parking areas. In the absence of the Police Chief the Town Council would have this authority. He will research this matter further.

Mayor Hughes indicated this matter can be approved. If this needs an ordinance, it will be prepared. Mayor Hughes questioned the signage. He is not happy with additional signage, but it is necessary. Mayor Hughes also questioned if this is consistent with the Times Square area? Damon replied that the Times Square area along with the speed table project is a delivery lane for them, which is on north Estero adjacent to Lynn Hall Park.

Mayor Hughes commented on further down on Estero in the downtown redevelopment area. Beer trucks are parking on Estero Blvd. with double parking. Town Manager Segal-George indicated this is a problem, but it is not their road. Town Attorney Dick Roosa added the traffic is the responsibility of the County.

Council member Rynearson commented that he spoke to John Davis one week ago on this matter. He indicated if the Town would draft a letter to him explaining exactly what should be done he would take this to their attorneys. The attorneys would develop an ordinance or agreement to work with the Town on this matter.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to accept staff's recommendation with regard to delivery truck restrictions.

VOTE: Motion passes unanimously.

Damon indicated the last recommendation from the Times Square Advisory Board is to restrict the sale of the under the bridge parking passes to area employees only. This may need to be coordinated with the residential passes. The Times Square Committee felt to leave the parking meters along Old San Carlos and behind Winds open to customers and their employees should have a more designated place to park. They felt under the bridge should be restricted to employees.

Town Manager Segal-George added that a lengthy discussion took place. In the future, they will need to find alternate ways for employees to park. No immediate solutions can be made. Some yearly passes were sold. By next year an alternate plan should take place. Passes are only being sold to employees and this can continue with the approval of Town Council. This matter and resident parking can come back before the Council at a later date.

D. Beach Access Metering and Enforcement Options

Damon reviewed that the rate per hour, maximum hours, hours of enforcement and the monetary fine amount for noncompliance must be established. Staff recommends a fee of no more than $2.00 per hour and unlimited hours for maximum parking limit. The goal is to have beach parking available on the beach accesses for all day. Hours of enforcement may need to keep flexible with the meters on Times Square and Old San Carlos. The suggested times are from 9:00 a.m. to 7:00 p.m.. After 7:00 p.m. will be left open for residents to come down in the evening with a $35.00 fine for noncompliance.

Town Manager Segal-George indicated bids are coming in with regards to maintenance on the beach access and enforcement opportunities. These matters will come back before the Town Council at a later date.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve an hourly rate of $1.00. Unlimited hours for parking will be allowed with enforcement between 9:00 a.m. to 7:00 p.m. A $35.00 fee for noncompliance will be set.

Discussion: Council member Bill Van Duzer mentioned the financials for the beach access parking meters. He questioned the rate used to assess the amount of income at this time? Damon replied $1.00 per hour was used.

Council member Van Duzer feels $2.00 is acceptable for downtown, but $1.00 is better for the beach accesses. The meters should be income producing, but keep the cost as reasonable as possible.

Mayor Hughes questioned if more than $2.00 can be placed in the meter at a time. Damon replied in downtown the cost will be $2.00 per hour with a two-hour maximum. The most put in would be $4.00. It is not necessary to keep running back and forth to the meter.

Town Manager Segal-George added there will be additional options, such as a machine which produces cards to be purchased (ex: 8-hour card). This will be discussed at a future date.

Council member Thomas opposes the $2.00 per hour parking rate. The maximum revenue for the Town would be $1.00 per hour. Many empty meters will be seen. He feels people will park along the side of the residential streets to avoid paying $2.00 per hour. If you are going to be at the beach for the entire day this will add up quickly.

Council member Rynearson feels this is a good way to charge those coming to island and allow them to pay their way. Citizens on the beach can be taken care of through passes. He would like to see $2.00 per hour with special passes for the residents.

Town Manager Segal-George explained by law any money collected must be spent with regard to the beach.

Damon added that staff would recommend researching and establishing a beach access parking pass for on island residents.

Vice Mayor Cain questioned if cash or ticket meters will be ordered? Town Manager Segal-George explained additional machines can be purchased for the purchase of cards to be used in the meters.

Vice Mayor Cain added that the County uses machines with a reduced option for all day parking. Possibly this can also be considered at a later date.

VOTE: **Motion passes unanimously.**

E. Request to fill Community Resources Advisory Board vacancy (CRAB)

Town Manager Segal-George had asked that this agenda item be deleted.

F. Recommendations on Hidden Path consultant

Dan Folke commented that CRAB handled the interviews. If the Town Council would like to interview the top ranked category, staff has recommended this be addressed next Monday.

Town Manager Segal-George indicated the two top choices would be available for interview on Monday, February 10, 2003.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Howard Rynearson to interview the top two selections for the Hidden Path consultant.

Discussion: Mayor Hughes agrees that the interviews for both should be held by the Town Council.

VOTE: **Motion passes unanimously.**

G. Alternating Lights

Deputy Town Manager Gucciardo referred to a memo, which was given to the Town Council today. This was added onto the agenda because it became an issue last Wednesday. The County is looking to the Town for funding beyond the limits of funding the Town has already committed too. The Board of County Commissioners met today. He has been on the phone since this meeting started with John Davis from Lee DOT. The Board of County Commissioners requested that John Davis attend this meeting to deliver their position. It was decided that Deputy Town Manager Gucciardo felt comfortable delivering the position of the Board of County Commissioners for the Town Council consideration. The Board of County Commissioners has taken the position the issue of the alternating lights is shared by not only the residents of Lee County, but in particular the residents of Fort Myers Beach and surrounding areas. A 50/50 contribution is being sought by the County toward the cost of installing the lights for this year. The County determined these figures by acknowledging the commitment made by the Town for $47,000.00 worth of studies necessary to convince the FDOT to move with this process. These studies must continue to monitor the effects of the lane changes and the alternating light changes, so funding can be secured in the future. The County indicated they expended about $45,000.00 for setting up the experimental light last year. These two figures are offsetting with the remaining funds between $33,000.00 and $46,000.00 for this year's installation to be the sum in question. The Board of County Commissioners is requesting the Town Council commit to one-half of the figure of $33,000.00 to $46,000.00. The total cost between last year and this year is about $140,000.00. The memo indicates how the Town has arrived at this point and what the options for consideration might be at this point. He indicated he takes another position on this matter, because consideration of the experimental dollars was not an issue in the past. The Board of County Commissioners is looking for a decision immediately. Without the Town's additional financial participation they will not go forward with the installation of lights for this year.

Mayor Hughes questioned the possible alternatives for financing? Deputy Town Manager Gucciardo replied that up until last Wednesday the Town was not made aware that funding was an issue. There did not seem to be a need to look further.

Council member Rynearson provided some figures for consideration. He pointed out that 60 days are left in season. This will cost the Town of Fort Myers Beach $1,166.67 per day, if this is submitted by the end of February. He feels the Town should only contribute the $47,000.00.

Deputy Town Manager Gucciardo added that the County does have plans to make this a permanent fixture through the FDOT budget cycles, which would be several years out. It is the hope of the Town whatever is installed this year can be put into effect next year in a lesser amount.

At this point in the meeting, John Davis entered the meeting.

John Davis indicated the Board of County Commissioners is looking toward the $45,000.00 or so the County has expended toward the previous two attempts along with engineer and planning work that has gone forward to this point. He pointed out the difference between the $33,000.00 and $46,000.00 is due to the uncertainty to restore the pavement markings.

Council member Rynearson questioned why the lanes were reworked? He asked if this process

took place because San Carlos Island was upset with the removal of the turn lane? John Davis replied that this was in part to satisfy concerns. The Board of County Commissioners or those present at the MPO meeting in the Fall felt it would be a solution to address these concerns.

Council member Rynearson questioned if this should be a cost beared by the County and not the Town of Fort Myers Beach? John Davis felt he raised a good point. Their position is in the grant scale. The cost has been balanced and to move forward would be a 50/50 split. He indicated the light is not controlled by Lee County. San Carlos Boulevard is a state road under the control of Florida DOT.

Mayor Hughes questioned the permanent installation and funds which may be available through the state? John Davis indicated this is a possibility. A project has been approved by the MPO to be programmed for the alternating traffic signal. Once these funds become available in the program there is a possibility of an advance on those funds.

Mayor Hughes questioned if implementation would begin immediately? John Davis replied a briefing took place this afternoon. He indicated they would be supportive of this position, once the necessary reply is received from the Town of Fort Myers Beach. The actual agreement can be worked out. The implementation can begin this week.

Council member Thomas questioned how long this process will take to complete? John Davis replied it is estimated the pavement markings will be the longest process (4 to 5 days).

Vice Mayor Cain reviewed that before John arrived next year was being discussed. She asked for additional clarification. John Davis replied that if they move forward with the alternating traffic light this season, the data being collected by Chris Swenson will be submitted to the Florida Department of Transportation shortly after Easter. This will be considered and it will be determined if the alternating traffic signal will be considered by itself without the lane control changes. Once this decision is received the planning for permanent installation can be considered. Cost estimates have been received to date. Funding will also be a consideration.

Vice Mayor Cain clarified a lane change could be payed for twice? John Davis replied this is correct. Presently the black out paint is being used. The only other means to adjust the pavement markings would be to grind them off or simply resurface the markings.

Deputy Town Manager Gucciardo mentioned if the permanent fix cannot take place next year will the temporary fix for this year goes through the same scenario? Would a savings be a possibility? John Davis replied they may not have to go through the same process. The cost will be to black out the markings and installing the signal. He added this cost would be about $33,000.00 to $46,000.00.

Council member Van Duzer provided some background for the benefit of the audience. Back in October he went in front of the MPO. He felt he did not have a chance getting this project passed. After a vote the project was to be done in 2006. This battle was won on an 8 to 3 vote. 3 out of 5 County Commissioners voted against this. Several additional meetings took place and at some point the County Commissioners voted unanimously in favor of this project for 2006, and agreed the light could be put in on a temporary basis. He commented that the position seems to be that the Town of Fort Myers Beach has a past due bill from the last couple of years that they had no knowledge of. The road entrance coming onto the island is not within the Township of Fort Myers Beach and this is not their road. The traffic problem on Fort Myers Beach is not due to residents, snowbirds or tourists. It is due to the tremendous population in Lee County. He feels that a fair solution is to have Lee County or everyone in Lee County pay for this solution, not the 4,000 registered voters on Fort Myers Beach. He feels this is a political situation. He added that Lee County should take care of this and thank Fort Myers Beach for offering a solution.

Mayor Hughes expressed a decision must be made today. This needs to be communicated to the Board of County Commissioners who will be having a meeting tomorrow on this issue.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to offer the $47,000.00, which is alternate 2 in Town Manager Gucciardo's memo.

Discussion: Council member Thomas clarified the motion does not include the funding of $23,000.00 for installation. Council member Rynearson replied this is correct.

Mayor Hughes feels it is very troubling to be put in this position at the last minute.

Council member Thomas pointed out the money could be spent better next year by

beginning earlier in the season.

Council member Van Duzer is willing to go to the County Commission meeting tomorrow to express his feelings on this matter.

VOTE: Motion passed unanimously.

Deputy Town Manager Gucciardo clarified that the Town Council is willing to pay up to 50% of the current cost. The issue is when the previous year's figures are factored in. Council member Van Duzer replied that this is correct.

Mayor Hughes cannot attend tomorrow's meeting. He felt it would be favorable for Council member Van Duzer to attend the meeting along with Tom Myers.

VIII. PUBLIC COMMENT ON PUBLIC HEARING ON AMENDING LAND DEVELOPMENT CODE-CHAPTER 34

Attorney Dick Roosa began by reading the ordinance.

Mayor Hughes announced that the Council's action today will not be finalized. This is the first public hearing. No decision will be made until the March 3 meeting.

Bill Spikowski, Planning Consultant to the Town, came forward. He indicated this is the entire new zoning code, which implements many portions of the new Comprehensive Plan. The new zoning code eliminates many hundreds of pages of the existing code, which are irrelevant to the Town of Fort Myers Beach. After public testimony he recommends the Town Council go through one article at a time and review the unresolved issues. He will work on any additional language, which will be brought forward at the final public hearing on March 3 at 6:30 p.m..

Mayor Hughes opened the public hearing. After the public hearing, the Town Council will review Chapter 34 and will deal with all issues other than floor-area-ratios, residential design standards, FEMA issues on build backs and short term rentals. These four major topics will be addressed last.

Gertraud Short, 470 Madison Court, came forward. She and her husband have owned a home for the last 12 years. She has not received a benefit nor suffered from short term rentals. This Town was incorporated, so that Fort Myers Beach would be looked after better than previously done. A continued proliferation of short term rentals would alter the areas of residential neighborhoods and following this the character of the entire island. The quality of life will decline. The visitors who come now like the way the island presently is. It is not suggested that weekly rentals are not removed, but only that proliferation in designated quiet residential areas is halted. Occupancy rate is low this year. It is essential that weekly rentals not be allowed to spread further.

Ann Alsop, 8102 Lake San Carlos Circle, came forward. It is a shame that such a controversy has divided this island again. This has divided the community and has made enemies of neighbors. Let's call a truce and go back before Chapter 34 and delete it all. This is a vacation island.

Brad Hill, 111 Bahia Via Dr., came forward. He questioned how the zoning of his property can be changed without asking him? Mayor Hughes replied that once zoning is established it is not forever and can be changed through the legislative process. Brad questioned if this could be changed in the future? Mayor Hughes replied that it can be changed. Brad is opposed to his zoning change.

Emma Kolpek, 345 Mango #606, came forward. She is not directly affected due to being a condo owner. She feels this legislative change should be implemented, because it will upgrade the entire appearance of the island. She is concerned with the short term rentals.

George Whistler, 21630 Madera Rd., came forward. He is deeply disturbed that you can segregate off part of the island and change the zoning. This is taking away property rights. He would not mind if this was implemented across the whole island. He feels discriminated against. He distributed flyers to try to get this information out to everyone. Hundreds that he has spoken to are not in favor of the implemented change. Anyone should be able to rent their home for whatever time they prefer as long as the peace is not disturbed. Five people on his street rent and he has never seen a problem. He indicated there have been problems since this Town incorporated.

Carol Schardt, 21650 Madera Rd., came forward. She does not rent her home. She is opposed to the limiting of short term rentals to a minimum for 28-days as requested, for a 30-day rental represents only 1% of the requests for rentals on the island. This will essentially stop the short term rentals on the island. She does not want a deed restriction on her property. This is her main concern. She wishes to leave her

property to her children. If her children are unable to cover the cost of taxes, insurance and maintenance, they will be forced to sell the house. This is not why she purchased the home. All residents may need the option to rent their home at sometime. The opposition states that there are 89 rental properties involved. If this is true than shame on the LPA for not finding a solution to control 89 properties. Just take property rights away from everyone. Is this leadership or a special interest agenda? No police reports are available to support the claims of the problem rentals. If the Town Council cannot manage 89 properties without deed restricting the whole area than the wrong people are in power. Under the law 42-USCS 1982, 1983 and 1986 there are property rights protection. This law will be used against the Town Council for any infringement on their property rights. The quiet zone is discriminatory. She spoke of the reduction of the 50% rule to 25% damage to property two times in 10 years. This is hardly for the common good and general welfare of the citizens. This is also an insurance problem. She commented that businesses will be reluctant to come to Fort Myers Beach. The results are higher taxes for everyone. Vote for freedom.

Mayor Hughes commented on deed restrictions. A zoning ordinance is not a deed restriction. A deed restriction is created by a conveyance and is applied by a person in title when he sells his property to another person. Zoning is established as a legislative matter by a governmental body at a given point of time and can be changed by legislation. The term deed restriction has no relevancy to zoning cases.

Lori Bagley, 207 Driftwood Lane, came forward. She owns a short term rental. She is opposed to restrictions on short term rentals. The option of going street by street for a rationale approach to rental zoning has not been properly reviewed. The proposal that a large portion of the island is to be subject to short term rental restriction is the result of a small group of elitists trying to dictate what others do with their property. There are too many important pieces of the zoning ordinance to be sidetracked by this single issue. Why not defer it or better subject it to a referendum and let the voters be heard on this important issue. The current recommendation is the result of a narrow 5 to 4 vote by a small group of appointed individuals on the LPA. This is too important an issue to be decided by 5 non-elected individuals.

Mike Roeder for the Fort Myers Beach Chamber came forward. He spoke on behalf of the Chamber of Commerce. He indicated they did address the LPA and provided a written memo regarding their major concerns. The Chamber of Commerce is opposed to further restrictions on short term rentals on the island at this time. He suggested a possible compromise. A code of conduct could be adopted immediately and hire someone for the Town to enforce this code of conduct. Someone who will work nights and weekends when the County code enforcement officer is not available. He felt this would be a good experiment. The Chamber is concerned with the floor-area-ratio limitation and the design standards. The new regulations would not restrict any of the homes being built. Why is this needed? Fort Myers Beach is a very diverse place. The Chamber does not believe you can impose one set of design guidelines on the entire island. The Chamber is very concerned with some of the limitations of procedures. The Chamber is pleased that the definition of “hotels” has been modified. He provided a copy of the memo submitted to the LPA. The Chamber is also concerned with the 25% rule being applied twice for the flood elevations. The Chamber would like to see if FEMA will provide any reduction in insurance rates. This information should be documented immediately.

Town Manager Segal-George indicated that this topic needs clarification. This matter is not before the Town Council in Chapter 34. Dan Folke indicated this is a rule that was addressed in the article he submitted to the newspapers. This rule has already been adopted in Chapter 6.

Mike went on to indicate Mr. Fred Paine owns property at 821 Estero Blvd.. His property is almost directly across from Lynn Hall Park and is adjacent to the Edison Beach House commercial planned development parking lot. In 2001, he purchased this fairly small lot for over $300,000.00 with the understanding it was zoned C-1 commercial. He indicated this property is in the mixed residential land use category. He believes this is a mistake and should be in the pedestrian commercial land use category. In this case, the commercial zoning could be utilized. The first request is to change the land use map to pedestrian commercial for this small area. This detail should be corrected.

Ellery Casey, 5245 Williams Drive, came forward. He is located in the so called quiet center of the island. He is against any restrictions on short term rentals. He has over 130 families rent his home in the past five years. Not one problem or complaint with the neighbors has existed. He feels a referendum should be established and allow the people to vote on this matter. This matter is controversial enough and affects everyone. He indicated there is a landslide of opposition against the restrictions.

Laura Casey, 5245 Williams, came forward. She opened with a quote from Tom Cameron when he spoke at the Civic Association meeting of January 21, 2003. He indicated the people of the beach should come forward and make their presence known. The squeaky wheel gets most done. She reminded the

Council they have been elected and appointed to carry out the will of the majority tax paying people. She assured the Council there will be repercussions. She does not want their personal property rights, which are in essence the civil rights, taken away. Tell the Council "No" to deed restrictions. Plan for decreased floor-area-ratios and to the 50% repair and rebuild rule being decreased to 25% and the short term rental ban that will lower all property values for each and every one of the homes in the quiet zones.

Council member Thomas added that he does nothing behind the scenes. He represents the people on the island. He is not a wheeler-dealer. He does everything out in front.

Mayor Hughes indicated that any remarks that a predisposition and this Town Council has already made up its mind are totally unjustified and without foundation. He personally resents any comments made.

Council member Rynearson replied that there is not one member of the Council that does anything behind anyone's back. These are all good people trying very hard. He has spent many sleepless nights the last couple of weeks. He resents the fact of being part of a group that conspires with people. He is his own man.

Leslie Corcelli, 290 Ibis Street, came forward. Her family owns rental property at 2670, 2672 and 2680 Estero. She is the reservations manager for Resort Quest Southwest Florida. She served on the Task Force for the LPA regarding the short term rental issue. She read directly for the Town Charter, which is on the internet. Aren't you the people of the Town? As leaders and citizens of the Town are you promoting the general welfare and common good of the community? So far, it seems not. Short term rentals have been and should continue to be a way of life on the island. A dozen or so residents do not like short term rentals. Facts and figures have been provided. These figures seem to have swayed the Council's judgement. Their facts are erroneous and just plain wrong. Why is it so difficult to enforce the rules which already exist on a mire 89 rentals? How many more public hearings will it take for the Council to finally listen to the majority? She asked the Council to do the job they were elected to do. Do not segregate sections of the island and do not violate the property rights of your citizens.

Sharon Bethke, 18523 Cutlass Dr., came forward. She works at 2670 Estero. She works for a vacation rental company. She is concerned about the loss of her property rights. She indicated there are just a few people who do not seem to get along with anybody. These people are ruining it for everyone. She feels very strongly on this issue and she believes this must be put to the vote of the Town residents. This should be held during a time when the majority of residents are here to protect their rights.

Warren Babcock, 474 Washington Ct., came forward. He has lived at this property for only four years, but he knows most of his neighbors. He is in favor the LPA modified Option two. If properly enforced it will go a long way in eliminating disruptive influences in RS areas. It will discourage the purchasing of homes by outside investors in RS areas. This will stop the erosion of the neighbors, which are one of the vital facets which make up the charm of Fort Myers Beach. Rental homes will be subject to regulation and this will level the field for many fine resort motels. He added that Council had done a great job. Whatever is decided will be the law and will be supported.

James Purtell, 848 Lagoon St., came forward. He has a financial interest in 855 Lagoon St., 846 Lagoon St. and 831 Estero St.. He is a neighbor of Fred Paine. When this property was purchased in November of 1997, it was zoned C-1. He believes they are situated in a really nice spot for future development. The C-1 zoning is necessary. He has spoken to the neighbors on Lagoon St. and the neighbors have signed a petition stating they wanted the commercial zoning for their property to remain. Signatures were received from all parties on the street, except for one. He brought this record to be submitted. He is recommending another Comprehensive Plan amendment be completed to incorporate the C-1 zoning for their property on 831 Estero.

Jessica Titus, 300 Seminole Way, came forward. She has been an island resident for 23 years and is on the LPA. She raised one son here and they own five businesses, including a real estate company and an accommodation's agency. The annual rental division properties are not the way to compare to the quality of the season rentals. 30 annual rentals have more problems than 250 seasonal rentals. She spoke of a comment made by Anita Cereceda at a recent LPA meeting. She believes it would be unfair to diminish anyone's private property rights, because a very small minority of homeowners want it this way. Another layer of government is not needed. The majority of islanders do not want a ban on short term rentals anywhere on the island. A good compromise is needed with a simple solution. A zoning law is not needed that will put neighbor against neighbor. Nor do they do a law which is complaint driven. The definition of family should be addressed. Realtors are not the only ones who are fighting this issue. The decision made will affect the future of over ½ of the single family zoned property owners on this island (1,300 homeowners).

Lorraine Albino-Hinkley, 135 Del Mar, came forward. Her family has been on this island since 1970. She has a thirteen-year-old child. She commended the Council for their support for Children's Month in February. If this ordinance is in place and the families suffer loss the problem will lie with the existing mortgage. Who will pay to rebuild? What will happen to the families? They will need to sell their property at a loss and move off of the island. Many young families will be forced into bankruptcy.

Darin Smith, 839 Estero, came forward. The current proposal is too restrictive on the issue of redevelopment. To further restrict the build back of outdated homes and hotels will likely stop the upgrade and remodeling of such properties. This will lead to lower property values for all.

Hal Humphrey, 5 Glenview Manor Dr., came forward. He referred to page 4-45 of the Comprehensive Plan. He questioned how they will determine if a short term rental is a residential use or a commercial activity, because it is surely not a home occupation. Some logical questions can be asked. The only legal short term rental in a single family residential zone are those which were conducting business prior to the adoption of the Comprehensive Plan on January 1, 1999, and have continuously registered as transient accommodations from this time with proof that all lodging and sales tax is paid. The only way short term rentals created after 1-1-99 can operate in the single family neighborhoods is by changing the Comprehensive Plan. Until this happens all illicit transient accommodation businesses should be made to cease and desist. He encouraged the members of the Town Council to carefully consider ending the short term rental problem in areas zoned low density, single family residential with the enforcement tools already available.

Rick Smith, 843 Lagoon St.,came forward. He is Fred Paine's neighbor and Joey's neighbor. He feels the proposed ordinance is too broad based. This will affect everyone's lives. He is against the entire ordinance for this reason.

Tom Cameron, 200 Curlew St., came forward. He is a member of Neighbor for Neighborhoods. This is a group of Fort Myers Beach residents who organized one year ago to research the short term rental issue and make recommendations based on facts and analysis. He wanted to share their work with the Council. This group feels it is important for everyone to understand the issues, facts and impacts. The final decision will be made by the Town Council. Everyone in the Town will be effected by the consequences of Council's actions. He was a member of the Task Force charged by the LPA to assess the problems of short term rentals and suggest solutions. Their neighborhoods were surveyed. He provided some of the feedback received. Noise and behavior mostly in the evening were the most frequent response. Legal and dangerous behavior ranked next. Unsightly and unsanitary garbage disposal followed. Overcrowding of the unit is another concern along with increased traffic and danger to children from motorists not familiar with the neighborhoods. The Council must assure the domestic tranquility and property rights of the single family residential neighborhoods.

Dan Parker, 305 Dundee Rd., came forward. He lives in the quiet section. He has been an elected official for the Fort Myers Beach Fire District. The real problem is accelerating proliferation of rental properties in areas zoned residential single family. Business has a legitimate place in their Town. It should not invade their single family neighborhoods.

Michael Short, 470 Madison Ct., came forward. Last May Neighbor for Neighborhoods briefed the LPA on its research and shared its vision of residential neighborhoods. Neighborhoods are areas of single family homes where neighbors know one another and can depend on one another. Respectful and courteous neighbors enhance the quality of life. Stable neighborhoods are important. Healthy, single family residential neighborhoods are as important to the economic success of Fort Myers Beach as the commercial zones that support tourism. Their vision is consistent with the vision of the Comprehensive Plan that was accepted when Fort Myers Beach incorporated. He proceeded to read several policies from the Comprehensive Plan. The Town's Comprehensive Plan could not be clearer about the need to protect residential neighborhoods. The Town's Land Development Code zoning restrictions are the proper tool for giving our Town the protection.

Robert Simon, 13 Sunview Blvd., came forward. He is a year-round resident. 2,200 single family homes exist on the island. 1,450 of these homes are located in the residential single family zoning district. As of April 2002, there were 256 single family homes being rented weekly. Only 110 of these homes were registered with the State of Florida as public lodging establishments. The majority of these rentals are operating illegally. The Realtors and Chamber of Fort Myers Beach approach provides no protection. The LPA Task Force proposal was marginally better, because it addressed the behavior problems, but ignored proliferation. A commitment from the rental agencies to police themselves and enforce a renter's code of conduct would have been more helpful than asking the Town to take on the burden of licensing, registering

and policing their rental properties.

Annie Babcock 5130 Williams Dr., came forward. She has owned property for 13 years and has been a resident for 3 years. She strongly believes the LPA has it correct. Commercial intrusion into residential neighborhoods is a zoning issue. The LPA formally recommended to Council in December that using Chapter 34 of the Land Development Code is the right way to control property uses. A zoning approach is effective, easy to understand and economical for the Town to implement. Zoning supports the Town's Comprehensive Plan for creating diversity and harmony among commercial and residential interests by keeping the land uses separated. Zoning defines property rights. Good zoning will maximize everyone's property values. A rigorous process executed by Council with a foundation of a strong Comprehensive Plan will stifle any legal challenges for the Town of Fort Myers Beach.

Maria Eigerman, 5 Glenview Manor Dr., came forward. She served on the Short Term Rental Task Force. She discussed the economic impacts of the LPA's zoning proposal. The proposed zoning changes do not eliminate rental of any single family home. All properties in the residential neighborhoods would still be allowed to rent for a minimum of one month. The number of properties impacted by the zoning proposal is small - 31 legal units relative to those being favorably impacted with about 1,300. Families choosing to vacation on Fort Myers Beach for a short term are still very much welcome here. There are 3,500 hotel/motel and condominium units to serve them. She referred to a land use economist who indicated resort communities have experienced declining growth rates in property values due to the impacts of short term rentals and their inherent incompatibility with single family uses when the number of rentals reaches about 12%. Estero island is currently at 12.1%. There is a reason to worry about a fall in property values unless the proliferation of short term rentals is stopped in time. The economic impact of a zoning change will be positive.

Kathleen Cameron, 200 Curlew St., came forward. Bill Spikowski has provided Council with a useful table that compares the features of eight options. Council has the task of finding the best solution. She expressed the five criteria she felt necessary to make this decision. Each Council member should consider how well an option provides strong protection against proliferation of weekly rentals for single family residential homes located in quiet low density neighborhoods, implementation of the vision of Fort Myers Beach as defined in the Comprehensive Plan, reasonable protection for all property owners (those currently renting and those who do not), cost effectiveness for implementation of the Town and protection from legal challenges. Option 3, the LPA minority proposal and Option 6 do not stop proliferation of weekly commercial rentals and should not be considered. Option 1 is the simplest and generates the least administrative burden to the Town. Option 5 is a variant of Option 1 with the primary intent to protect owners with adjacent property. These two options were also eliminated by the LPA, because they do provide protection for existing weekly rentals. Option 2, the LPA majority proposal and Option 4 have received the most attention. The LPA modified Option 2. She feels this is a significant improvement. Sanibel accepted a grandfathering clause 17 years ago and continues to have complaints about weekly rentals. Grandfathering is a mistake that Fort Myers Beach can avoid. Option 4 is the same as the LPA recommendation, except it has a fail safe provision. We feel a definitive time when private property rights become the same for everyone is fair and best for the Town.

Tom Babcock, 5130 Williams Drive, came forward. He recommends that the Town Council evaluate features using the five criteria listed by Kathleen Cameron. The first and key issue is to decide the minimum rental period in the protected areas. All five zoning proposals agree in concept to one month rental. Four proposals state a one month period with a minimum stay of one week. This is an improvement over a one week minimum, but only if it is properly enforced. No other Town found uses this wording. He suggested a preferred wording of "a single family for periods of one month or longer." When should the new ordinance take effect? The LPA recommended the date of ordinance option. This would make sense, but several people including one LPA member, are on record stating they have already registered or intend to register as a resort dwelling with the purpose of gaining an exception before Council acts. He referred to Smith vs. Clearwater. He indicated a date of January 1, 2008 be established when all remaining exceptions would end. This would be a clear universally understood point in time when the Town would no longer have the administrative burden of policing short term rentals. Everyone would then have the same private property rights. Five years is ample time for rental business to adjust their portfolio.

Lois Parker, 305 Dundee Rd., came forward. She indicated lots of facts and figures have been provided to the Town Council. In summary, their recommendation is a one month minimum rental period, which would be reasonable for a tourist island such as Fort Myers Beach. The safest course for the Town is to adopt October 22, 2002 as the effective date for new zoning. All short term rentals should be terminated

in protected zones with a date far enough in the future for adjustment, but soon enough to encourage harmony in our neighborhoods. Facts and figures do not adequately express what is really important. Fort Myers Beach has been described as a family island. The diverse environment we live in is what make Fort Myers Beach so special. It is time to translate the goals adopted in the Comprehensive Plan into the regulations defined by the Land Development code. Everyone's private property rights will be defined and we will accept the decision by the Town Council as best for the community as a whole.

DINNER BREAK 6:30 P.M.
RECONVENE AT 7:20 P.M.

Beverly Grady came forward on behalf of the Red Coconut. She has worked with Bill Spikowski. Three issues are to be discussed. The first is the redevelopment alternative. The second is to be sure the Red Coconut stays in operation the way it has operated in the past. The plan placed in the Comprehensive Plan and prepared by the expert Karen Day reflects a 50-foot view corridor in this plan. She referred to two options in the Land Development Code. The second option is being requested for approval. This refers to the 50-foot view corridor, which is consistent with the plan that was placed in the Comprehensive Plan. This was also supported by the LPA. A greater concern exists with the mandatory 100 foot plaza. 100 feet of frontage on the Gulf of Mexico causes great concern to the owners. It is requested that the Council direct Option 2 of the view corridor on page 103 to be the option of choice for placement in the Land Development Code. The other two sections relate to maintaining the Red Coconut in the same situation as a mobile home or RV park would find themselves in the City of Sanibel or in all of the Lee County. She is looking for support of Option 2 to allow the Red Coconut to be treated like all mobile home or RV parks. This option protects Gulf View Colony and the Red Coconut. The definition of "Substantial Damage" is the one that is required by FEMA and would not subject the Gulf View Colony or Red Coconut to an additional test. The third item is a request to recognize the use of the laws. A letter has been attached from the acting zoning director, which indicates that all of the lots in the Red Coconut may be used for transient RV. It is being requested that the attached language be adopted to show that all sites may be RV and certain sites are limited to only RV. This will keep the same language and use what has always been approved for the Red Coconut. The goal of the Myer's has been to cooperate with the Town, but they would like to keep and maintain the Red Coconut. Beverly indicated many residents of the Red Coconut are very much in support.

Beverly Grady spoke next with regard to the amendment to the planned development districts. Beverly indicated that by the code up for consideration of adoption, more and more planned developments districts will be established. The design standards will be much more detailed and the requirement for architectural elevations at the time of zoning will be required in much more detail. She expressed that they are looking to see how in the Town of Fort Myers Beach can you seek some small changes to the planned development before you must go into the public hearing process. The code already contains the administrative change that can be approved by staff or the full public hearing process. The Town Manager strongly recommended at the LPA hearing to keep the language as drafted by Mr. Spikowski. An interim approach has been recommended, which is an ability for items the Town Manager wishes to not sign off on can come before the Town Council and have an abbreviated process. This is an in between process which would allow review from the Council, but would not require investment of the full application with all of the exhibits in the time it takes for this amendment. Please review the language and consider. Sunstream requested additional clarification when looking toward the build back section. The new code, under the build back section, limits the build back to interior square footage. Interior square footage excludes hallways, stair towers, elevators, open back balconies and common areas. A question was raised if there would be a limitation on these items? She discussed repairs and the director is required to keep a record of the cost amount. What is the purpose of keeping this record? Bill Spikowski has prepared FAR for all single family homes for many years, which was beneficial. Had he applied the FAR to commercial parcels to show a perimeter? The answers to some of the issues submitted would be of interest to anyone who has property over the development regulations, which are being considered for adoption. The final item Beverly had was a letter from Boykin to be submitted into the record.

Mayor Hughes indicated all letters submitted by Beverly will be admitted into the record.

Brenda McGinn was not present, but noted that she favors having a ban on short term rentals.

Barb Artrip, 850 Lagoon St., came forward. She addressed the zoning issue. She was recently made aware of Chapter 34. Their property is located close to Times Square. The property is behind Lynn Hall Park, exactly behind the 7-Eleven. She called zoning and talked with Julie Ende at length. Julia

explained that they were currently used as single family, but were zoned C-1. Julie expressed the Altrip's have a 3,812 square foot gold mine. If the zoning is taken away what will this leave? Any future use they may want or if sold any future property owners use.

Dan Folke replied that many interim changes were made for the use of the C-1 zoning category. A Comprehensive Land Use map was adopted, which will really change the use of the property even if you have a C-1. He will be happy to sit down and talk with the Artrip's regarding this matter.

Charles Mann, 1833 Hendry St., representing Flamingo Holiday Homes came forward. Flamingo Holiday Homes owns multiple vacation homes (10) in the Town of Fort Myers Beach. They are opposed to Option 2 as recommended by the LPA. There is a lack of actual evidence supporting Option 2. His clients have owned and operated these vacation homes for 11 years. Only one report or complaint has taken place. This particular incident arose from excessive noise and a party held by the cleaning lady who is an owner on Fort Myers Beach. The person who turned her in was a weekly rental next door. Noise problems can be attributed to daily, weekly, monthly, annual or residents. The selection of short term rentals may not be supported with Option 2. The various options have been reviewed. Option 3 and 6 would adequately address this problem. The code enforcement process will be utilized with these two options. Proper enforcement is the best way to remedy this problem. He believes all matters cited can be resolved through better enforcement. Please support Option 3, 6 or no Option.

Council member Van Duzer requested a list of the properties owned by Flamingo Homes. Charles Mann will comply.

Dan Graviss, 283 Carolina Ave., came forward. He is a resident and a contractor. The 25% rule on insurance will put many people out of business, if there is a flood this year and next year. Many families will be unable to remortgage. As a contractor he will benefit. As a homeowner he would be unable to mortgage his home. Many of the codes the Town of Fort Myers Beach is trying to adopt will be a mess going through the County. He feels the Council should look at this situation and stay with the County's format.

Denise Loomis, 185 Jefferson St., came forward. Government officials are elected by the majority of participating registered voters. Their elected officials are therefore obligated to perform their duties upon that majorities consensus and within the best interest of public welfare. Decisions made should be unbiased and with no regard to personal opinion or agenda. She tallied the for's and against's at the meeting of January 13, 2003 with regard to the ban for short term rentals in designated quiet zones. By almost 5 to 1 the majority spoke against the ban. She expects the Council to listen to the majority consensus and act accordingly. She is opposed to any sort of ban on short term rentals in any designated areas on Fort Myers Beach currently without such restrictions in place.

Joanne Klare, 17542 Johnston Ct., Ft. Myers, came forward. She has been handling long and short term rentals on this island for 13 years. She also served on the Short Term Rental Task Force. Most people who buy homes on this island do so because they do not want to be under the deed restrictions of a condo. With the issues before Council, and if they should pass, many of the homeowners on Fort Myers Beach will have less private property rights than those in condominiums. When you take a private property right away there is always a cost. Some things are just best left alone.

Lawanna Wood, P.O. Box 6734, FMB, came forward. She is a local Realtor and has been working on the island for over 15 years. 75% of their buyers, buy for future use. Most plan to retire or snowbird 5 to 10 years down the road, and rent out their properties until this time. A natural life and progression has taken place since the first homes were built on this island. She is concerned with the regulations being imposed. Short term rentals have been a way of life forever. She is concerned that behind the attack of short term rentals is the hotel industry. Fort Myers Beach should recognize and utilize its resources. Let the public speak in dollars and enact a Town bed tax to provide the support a resort community requires.

Jane Plummer, 340 Fairweather Lane, came forward. She provided a handout with facts to the Town Council. The tax roll shows 1, 854 homes in the RS zoned district on Fort Myers Beach. Many additional figures were addressed by Jane. She indicated there was no proliferation of rentals as of May 21, 2002. A reduction of 31 units has taken place. She explained the blanket license used by Realtors. Facts are not straight. She finds possibly only 14 homes that are not listed with the state. She would be happy to meet with someone and get verification on the numbers presented. She feels the facts should be dealt with.

Diane Jones, 269 Driftwood Lane, came forward. She commented on both short term rentals and the 25% rule. Mr. Cameron was complaining about short term rentals due to noise, fireworks year round, overcrowding of residences, people using the island as a personal playground and excessive litter. She indicated he has described her teenagers. Her home was seriously damaged during Tropical storm Gabrielle ($40,000.00). No damage was done to the exterior, but all damage was to the interior. She is a

previous insurance agent. This island could be devastated. Most of those speaking on behalf of Neighbors for Neighborhoods have lived on the island for less than five years. She moved to this island almost 20 years ago and lived in a condo. She felt this living was not for her due to the restrictions. This is a community of many different colors, shapes and sizes. To restrict us is taking away our property rights. She does not feel this community should even be that restrictive.

Peter Lisich, 131 Estero Blvd., came forward. He is a property owner with a multi-family building. The short term rental issue has clouded the other substantial issues. Many other items are important. He feels it would be wonderful to ban all short term rentals. He is an Inn Keeper and feels all this business would flow to him. He encourages the Council to adopt none of the ordinances. He has no intention of ever owning a single family home for a short term rental. He feels no additional regulations are needed. He addressed the pre-disaster build back policy. He pointed out the language to the Town Council he is addressing. He feels that himself as a property owner who lives in an apartment setting are being penalized. Other ways to regulate this matter are in place. His property was initially built when there was septic, which severely restricted how large people would go. He is concerned that square footage not be prohibited. He feels others have spoken on this matter, but have not addressed to the specific section this problem exists.

Gary Carter, 151 Madison Ct., came forward. He and his wife began coming to Fort Myers Beach about 10 years ago. They both worked and could only stay one week. They came to Fort Myers Beach every year. Two years ago they purchased the home on Madison Ct.. They rented this home for one year and in April moved here permanently. The sign says this is a family island. How many people present here came and stayed for one month. It is very expensive to come for that period of time. Most people living on this island came for only one or two weeks before they purchased. He loves the island, but is at the point of wanting to sell.

Kevin Mulhearn, 2450 Estero Blvd., came forward. He was born and raised in Florida. The folks speaking for the rental ban are discussing the cheap way and least administrative burden with the easiest solution. This is really about poorly regulated rentals or no regulation at all. The rentals should be regulated or professional companies should regulate the rentals. He manages more long term rentals than any other on the island. He is handling 4 evictions presently. The last eviction process took 35 days. He does manage the Flamingo Holiday Homes. If he has a problem with his vacation people they will be immediately removed. The type of vacationers going into the large vacation homes are normally large families. These families cannot afford multiple hotel rooms. The simple solution is to put this to a vote in an election format.

Mayor Hughes commented that many who have come forward suggesting a vote take place are not authorized to vote on this matter.

Anita Cereceda, 7307 Estero Blvd., came forward. She began this discussion about 13 months ago. This has been one of the most difficult issues to deal with since the Town's incorporation. The bottom line is about zoning and it is about the future. It is not about behavior. The result is what the future of this community will look like. The Comprehensive Plan is an excellent plan. This plan states the neighborhoods will be protected. The diversity of this community will be encouraged. The whole nature of the incorporation and the whole effort of the Comprehensive Plan is an exercise in zoning. This is painting the picture of the future. A level of protection must exist.

Carrie Hill, 111 Bahia Via Dr., came forward. She is a native Floridian. She grew up in Miami Beach and has seen land development change drastically. The police force is willing to come if a problem exists. She does not feel prohibiting people's usage of their property will help in this manner.

Roxie Smith, 21521 Madera Rd., came forward. She asked what is wrong with Fort Myers Beach the way it is? She has lived on the island for 50+ years. She has seen it grow and progress. She does not feel the community will change. This is a community of tourists, native residents and a combination of short term residents and long term residents. This is what makes Fort Myers Beach what it is. Regulations do need to exist. She asked Council to think carefully before a decision is made with short term rentals.

Mayor Hughes indicated that this matter will be continued to March 3, 2003.

Bill Spikowski began reviewing at the beginning of Chapter 34 with Article one. This is general language that applies to the whole code along with enforcement language. This does include all of the definitions.

Council member Van Duzer questioned the definition of building (page 12). The definition includes tents. He has concerns with this language. Bill Spikowski replied this is the same definition as in the current code. He is not sure if it is important for Fort Myers Beach to keep this language present.

Council member Van Duzer moved to page 18 - "existing only." He wanted to know what the date of September 27, 1993 represents? Bill Spikowski replied that this was a change in the County regulations. The County has changed all of its existing only definitions go back to this date. He suggests the same for Fort Myers Beach.

Council member Van Duzer would like the wording for "existing only" reviewed for clarity. He found this language confusing.

Mayor Hughes commented on the shared permanent parking lot, which is assigned to specific businesses or properties. He feels this is a good addition. How does this get controlled? Bill Spikowski referred to Diamondhead. The spaces they want are not required spaces under the code. Extra spaces are just wanted. A similar case in Snug Harbor exists. They own about four adjoining properties. At the time any redevelopment takes place it will be checked to make sure they have enough spaces. If they decided the space was not needed and sell all together no future building permits would be received. He is unsure if there are any mechanisms are in place. Mayor Hughes suggested that Attorney Dick Roosa could give this matter some thought.

Council member Rynearson gave an example of a store or hotel which decides to purchase offsite parking. If they purchase 10,12,15 or 20 spots and they build this hotel and the parking area is sold how will the hotel come into code? Bill Spikowski explained unless they change something they would no longer be in compliance, but there is no mechanism to shut them down.

Attorney Dick Roosa commented that he does not feel you can use leased parking to meet the minimum requirements of the code. You must have a binding parking easement.

Bill Spikowski added that he will look further. It may be possible to use the method for joint parking for the situation as described by Council member Rynearson.

Council member Van Duzer moved to page 59 (administrative amendments to the approved Master Concept Plan). He indicated a request has been made to consider an alternative addition to the present administrative amendment process. This was brought forward by John Richard and is asking for consideration through Counsel. He feels this should be considered. There is room to accommodate an easier approach. He is referring to existing planned developments. Minor issues could be addressed without a full hearing. Council member Rynearson agrees.

Bill Spikowski replied that this could be handled several ways. He does not feel a short cut process is needed. He would rather find another way to address this situation. He feels an easier way exists and could be considered by March 3. He will talk with Attorney Roosa. Additional language will be submitted for the next meeting.

Council member Rynearson suggested Bill sit with John Richard's attorney to establish an agreement. Bill Spikowski will work on this and provide a suggestion by the next meeting.

Council member Thomas added that he has read the staff report. Some legitimate concerns with regard to change exist. He feels this should be considered.

Council member Van Duzer moved to page 67 referring to the new zoning map. He was looking for clarification once this Chapter is adopted will the zoning map also be adopted? Mayor Hughes replied this is correct. Bill Spikowski added that the map before the Council would become an exhibit to the ordinance. This map will show only the zoning districts and does not show special exceptions or variances. A year from now a merge of the existing maps with all variances will be brought together. These maps will be brought forward to Council for adoption.

Council member Van Duzer pointed out four people have come before Council tonight with concern about the change in zoning. He is looking for special consideration with regard to the parcels brought before the Council today. Mayor Hughes replied that special consideration can be made. Bill Spikowski added there is certain latitude within what the Comprehensive Plan allows. Two ways exist to change the Plan. The normal way of filing an application at the end of December can be done. He also suggested the shorter procedure called "small scale Comprehensive Plan amendment." If certain criteria is met, the review process is shorter.

Mayor Hughes indicated Mr. Roeder did expressly request the Town institute an amendment to the Comp. Plan. He was unaware of the short form.

Bill Spikowski can bring back a description of the small scale amendment process.

Mayor Hughes added a resolution of the property owners requests cannot be made today. He is not familiar with the properties in question and is not suggesting any proper zoning categories at this time.

Council member Van Duzer moved to page 103. He is recommending Option 2. He questioned Bill Spikowski on the procedure. Bill Spikowski indicated if language is being changed it should be discussed

today. He wanted additional language “this plaza need not be available for public use.” This property is on private property. Mayor Hughes agreed and was unsure why this was in the first option but not the second.

Bill Spikowski added the “plaza” implies public usage. It will not hurt to add the additional language.

All council members were in agreement with this addition.

Council member Van Duzer raised the issue of the “village.” Confusion exists between Council member Van Duzer and other Council members. He would like additional clarification and try to limit this section to four pages. He believes it would be in the best interest of the Town to say this whole park could be a recreational vehicle park rather than any other mobile home park, etc..

Bill Spikowski stepped in with some basic options. If any mobile homes are damaged in a storm the rules would allow them to replace the unit, but elevation would be required. This is awkward and is not a good idea. The first choice would refer to a site being damaged and a replacement would be a transient RV. Beverly Grady’s language which states that any site can have an RV without doing anything to make the mobile homes non-conforming or a simple sentence stating this could be handled either way without any rules. He is concerned with the taking out of the rules entirely. This would be the only totally deregulated zoning district the Town has.

Council member Van Duzer questioned how high up the mobile homes would need to be? Nine foot was the response. Council member Van Duzer commented that at one time this was debated in Lee County. Many of the mobiles homes were going to have to be elevated but never were. He questioned what happened?

Bill Spikowski replied that Congressman Goss received a change in the Federal law. For mobile homes in mobile home parks only you can replace a mobile home three feet off the ground. This is already in the Town’s code. The issue is if substantial damage occurs a different set of rules sets in.

Discussion took place regarding a small paragraph off to the side contained within the language provided by Beverly Grady. If her idea is liked, it must be changed in Chapter 6. It should not be in both places without cross reference.

Bill Spikowski reviewed there will be an amendment to Chapter 6 this fall. Many issues exist and he will flag this area for future discussion.

Additional language was pointed out by Council member Van Duzer for clarification and cleaning up. All council members were in agreement. Bill Spikowski will comply.

Council member Van Duzer moved onto page 212. He addressed pre-disaster build back. When the building is rebuilt, it cannot be any larger than the existing square footage. He has already taken exception to this matter.

Mayor Hughes feels that paragraph three covers this matter. At their option they can go to the codes current regulations, which could be larger.

Bill Spikowski referred to the situation of Peter Lisich. Neither of these situations relate to his issue. He is discussing adding an additional bedroom or bathroom now, which is not pertaining to build back. He is on the previous page which discusses buildings that are non-conforming, because they are higher density than the code allows.

Bill Spikowski went back to address the concerns of Council member Van Duzer. Several applications are in the works where people want to rebuild way above the current density. These people want to rebuild more square footage and want to sell this to the Council. These individuals will ask for a deviation from the requirement which says they cannot expand. These applicants must show that it is not an increase in intensity, which is the Comp. Plan outer limit, but even though it is larger in square footage it is not an increase in intensity. These cases will come forward and he expressed there will be a lot of these.

Council member Rynearson moved to page 197. He suggested adding garden and law ornaments into this section. Bill Spikowski will bring back language for review. He feels these should be brought in at night, if they are out on the street. This could become a storage depot rather than a display if you are not careful.

Council member Rynearson questioned Bill Spikowski on the six inch columns? Bill Spikowski replied that back in the commercial design standards there is a section on colonnades and arcades. If you build a colonnade or arcade on the front of your building out over the sidewalk, certain standards must be followed. One is that the columns, which go to the sidewalk, must be at least six feet in diameter. He directed this question to Victor Dover and is awaiting an answer.

Discussion was held on radio antennas. Council member Rynearson would like to see a 50-foot preferred in the backyard. Bill Spikowski replied Lee County says 50-feet by right and any higher by special exception. The language he has brought forward is 75-feet by right and you cannot go higher. Bill

Spikowski can provide optional language which would limit it to 50-feet and encourage them to be in the backyard. The preemption says the location restriction cannot be so strict as to eliminate the ability to have it.

Council member Bill Thomas raised the question if this code restricts people from parking a motor home in their yard? Bill Spikowski replied there is nothing in the code that states you cannot do this. You are not allowed to live in it while it is parked in your driveway.

Mayor Hughes has raised this issue in the past. He is in favor of this language being added. He does not feel these motor homes should be in their front yard.

Bill Spikowski began on page 81 with regard to floor-area-ratio. The current code has a different measure for measuring the intensity of buildings, which is called lot coverage. Lot coverage only measures the amount of coverage at ground level. This cannot exceed 40% and is defined in the code to include driveways and swimming pools. The County has not been enforcing in this matter. This is a limit in the current code. This code suggests throwing this language away and replacing with floor-area-ratio, which measures the footprint of the house plus the footprint of the upstairs. The number is larger due to including more. This has become controversial and many ask why it is needed. The proposed levels he has suggested are stricter than just regulating by setbacks and height. If this language is adopted and a person would like to build a home larger it will need to be built on a larger lot. He has reduced the setbacks in several of the districts. He has proposed this floor-area-ratio for all zoning districts. This has only been controversial in residential districts. Research for commercial buildings has been included.

Council member Rynearson is not opposed to leaving the floor-area-ratio for commercial. He does want to pull it out of residential and go back to the Lee County way. He does not feel another layer of government is needed.

Vice Mayor Cain has a great fear of future buildings. She would like to see more creativity and design on Fort Myers Beach. She feels the floor-area-ratio will provide this. She commented everyone would receive an additional 5 feet in front to work with. She feels this is a move in the right direction for the future of what is being created. This will encourage porches.

Council member Van Duzer commented that he applied the floor-area-ratio to his home. He is over the 40% maximum coverage, because he has a swimming pool. He does not feel the pool or roof screened in areas should be included. He does not see the benefit of applying this method to Fort Myers Beach. This area is almost sold out. He sees no value, but can see many possible problems. He does not like the setback changes.

Bill Spikowski questioned the floor-area-ratio for multi-family? He added that lot coverage can be established for single family and duplex districts. A substituted lot coverage definition can be used. He will bring the language for Council's review and a final decision can be made on March 3.

Council member Thomas discussed the small homes on canals. A concern is that these small homes will be torn down and replaced with the large homes, two stories above parking. These could be placed in between ranch homes on either side. He does not feel that 90% of Fort Myers Beach being built out is a valid argument.

Council member Rynearson added whoever builds back FEMA has stated they must go up. This will happen throughout their neighborhood. He agrees with Bill Van Duzer.

Council member Van Duzer is opposed to any land development code that would address design standards for residential structure. Many different designs exist on Fort Myers Beach and this is what makes the island unique. People should be allowed to design their own homes.

Council member Rynearson is also opposed to the design standards.

Vice Mayor Cain likes the cottage look and porches. She sees this as a step in the right direction for the future. She would like them to move into the future with some type of vision.

Council member Thomas added that Bill Spikowski put a lot of work in this. He had a vision for the future of the Town with these new designs. He agrees with Vice Mayor Cain.

Mayor Hughes feels it should be left in at this point. An obvious split is seen between the council members. This will be addressed at the next council meeting next month.

Bill Spikowski indicated there is a request in the village district to negate the 50% rule. He feels if this is denied for the village it is a bad idea for everyone. He feels this should be looked at in Chapter 6.

Bill Spikowski commented on the items which would not be included. Council member Van Duzer and Town Manager Segal-George added that they suffered a lot of damage from Gabrielle. This would not be included toward the 50% substantial damage as long as it is on the exclusion list. Only structural damage is included.

Town Manager Segal-George added that the Town came in with a very strict rule that helped with regard to the community rating for flood insurance. Specific language is used to exclude most of the items which are typically damaged that will not count toward the 50%.

Bill Spikowski added that if FEMA comes forward and states this cannot be done a repeal of the other changes could be made.

Council member Van Duzer questioned if FEMA has reviewed this proposal? Deputy Town Manager Gucciardo replied a formal review has not taken place since adoption.

Council member Van Duzer feels the Town may be better with the rule they presently have as long as FEMA agrees. If FEMA does not agree, it should be repealed. Town Manager Segal-George added that this will have no affect on insurance. Deputy Town Manager Gucciardo indicated that his annual review with the community rating service is in October. Perhaps, this can be timed to get a formal response on this matter.

Bill Spikowski feels this rule may hurt Red Coconut. Deputy Town Manager Gucciardo added that you are more likely to have structural damage in a mobile home area than you are in regular residential.

Council member Rynearson would like to put the village back under Lee County's 50% rule, until a decision is made on Chapter 6. This will allow protection until such a decision is made.

Mayor Hughes is unsure if two separate rules should be in effect. He is concerned about a fairness issue. Additional mobile homes are on the island beside what is located within the village.

Town Manager Segal-George suggested Bill Spikowski and Beverly Grady discuss this issue. Possibly, some suggestion could be made for next month's meeting. Bill Spikowski added additional language is needed. He will bring language to the next meeting.

A five-minute break was taken at this point in the meeting.

Mayor Hughes indicated much input was provided this evening. A number of options exist. A vote for deletion cannot take place today. He asked if any council members would like to add an option or provide a modification?

Council member Thomas added that many good options exist.

Mayor Hughes felt many articulate comments were made. More statistical data was provided. He must digest this information.

No other suggestions were given toward providing additional language at this time.

Council member Van Duzer was looking for additional conversation on this matter today. He read that the purpose of Chapter 34, which is to encourage and promote the safety, health, order, convenience, prosperity and general welfare of the citizens of the Town of Fort Myers Beach to recognize and promote real property rights. Whatever decision is made the Council must protect property rights. The Short Term Rental Task Force should be commended for their efforts. He is distressed with the negativity and false information along with angry people on the island. He would like this issue to move on so they may move forward.

Bill Spikowski added if any new language is to be added it would be helpful to provide it at this time.

Mayor Hughes shared Council member Van Duzer's remarks with regard to the public. He is extremely impressed with the articulation of some residents of the island, especially those who came forward to express their opinions. He urges that the same people not speak at the next meeting. Their comments have been noted. Public hearing can be closed, so the Council may deliberate the matter.

IX. COUNCIL MEMBER ITEMS AND REPORTS

Vice Mayor Terry Cain - Tomorrow the Estero Bay Buddies is supporting and helping the author's reading and book signing at the Black Box Theater arts complex at the University. This will be held tomorrow at 7:00 p.m.. The directors meeting will be held at 6:00 p.m. She commented on the letter from the National League of Cities in regard to a creation of a legal defense fund. She felt this is a good idea and has always advocated this issue. She would like to see this discussed by Council in the future.

Council member Bill Thomas - Spoke at the Civic Association last week. The main topic was items coming before the Council over the next three to four months. A few of the hot button items were discussed. In April, the traffic study from Chris Swenson should be discussed. The newspapers quoted a lot of what he said quite accurately and he stands by what he expressed.

Council member Howard Rynearson - Had a meeting with Captain Griner. He suggested a drafted ordinance for the bicycle businesses that they effectively put all safety equipment on their bicycles (lights, tail lights, etc.). This will give extra enforcement for them to go around while doing safety checks.

Mayor Hughes is in favor. He asked Attorney Dick Roosa to bring forward an ordinance as soon as

possible.

Mayor Daniel Hughes - Commented on a letter written at the suggestion of Council member Van Duzer on the Babcock Ranch. He spoke at the Kiwanis Club on the state of the Town and he will appear before the Chamber next month. The Horizon Council annual meeting took place. He has a letter by the Horizon Council asking for renewed supported of $2,500.00 for 2003. He asked for objections on this matter? None were heard. Two new tennis courts were dedicated with the County. A beautiful plaque was received.

X. TOWN MANAGER ITEMS

None.

XI. TOWN ATTORNEY'S ITEMS

Attorney Dick Roosa commented on the discussion with regard to parking meters. This is authorized in Florida Statute for the Town Council to establish them and enforce them. However, the fine is $32.00 unless an ordinance is adopted to increase this amount.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to modify the earlier motion made to change the fine on both Old San Carlos and Beach Accesses from $35.00 to $32.00.

VOTE: **Motion passes unanimously.**

XII. PUBLIC COMMENT

None.

XIII. ADJOURNMENT

The meeting was adjourned at 11:22 p.m..

Respectfully Submitted,

Shannon Miller
Transcribing Secretary

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.