FORT MYERS BEACH
TOWN COUNCIL MEETING
APRIL 7, 2003
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Regular Meeting of April 7, 2003 was opened by Mayor Daniel Hughes on Monday, April 7, 2003, at 6:30 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, Jerry Murphy and Bill Spikowski.

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. INVOCATION BY REVEREND RICHARD PALMER, ST. RAPHAEL'S EPISCOPAL CHURCH

The invocation was given by the Reverend Richard Palmer.

IV. PUBLIC COMMENT

Mayor Hughes announced that many are present this evening based on the misconception there would be a workshop concerning the Fort Myers Beach Congestion Mitigation Study. He indicated this a regular meeting and the workshop will be held on April 15, 2003 at 6:00 p.m. in the Council Chambers.

Anita Cereceda came forward to address a concern from a citizen who questioned if she would come to the Council meeting this evening to protest the tolls. She indicated that she had no cocktail party knowledge of a discussion on tolls at this Council meeting. From day one she hated the notion of any kind of a toll. Many arguments have taken place with the Town Manager and Council members regarding this issue. She came to the meeting tonight to ask that the Council not give in to another round of hysteria with regard to the future. The wish list for this community has grown to leaps and bounds. She came to listen openly and freely to the comments made by Mr. Swenson and will look to the five members on the Council who will make the decision to guide the community into a future that is real and certainly better than what they live in today.

Dan Parker came forward to provide his vision. In 1950 the population in Lee County was 29 people per square mile. By 1980, the population was 225 per square mile and today it exceeds 560 per square mile. Lee County Commissioners have approved development levels that will exceed 1,600 people per square mile, which equates to a 5,417% increase. An area of 6,000 residents in 1950 could now be a metropolis of 331,020 people. The community population of year round residents has increased and many will come to the beach after the tourist season ends. Imagine this beach if the snowbirds did not migrate north for the summer. Take all of this information and add it to the traffic study. Many snowbirds are deciding to stay and becoming homing pigeons.

Frank Schilling, 6672 Estero Blvd. came forward. He has been on the committee appointed by CRSPE and has addressed a letter to the Town Council. Everyone needs to be made available to the facts. In all data presented to the Advisory Committee, the facts and terms of quantified improvements for each of the options have not been presented. He would like to know for the benefit of the community what the mile per hour improvement will be and total traffic time. This should become a mandatory part of all options by CRSPE to be able to fairly judge.

V. CONSENT AGENDA

A. Approval of March 3, March 10 and March 17, 2003 minutes

B. February Financials
C. Cap Plaza Resolution
D. Coastal Funding Resolution

Mayor Hughes pulled agenda Item C (Cap Plaza Resolution)

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve Consent Agenda items A, B and D.

VOTE: **Motion passes unanimously.**

Mayor Hughes moved to the Cap Plaza Resolution. This is a resolution that was approved at a Land Use Hearing. Due to the complexities contained within the various conditions and exceptions to the resolution the Town Council had asked that it be presented. He referred to the third Whereas, in the second line and inserted the word "request" after applicants and before for. Four lines down after the date February 3, 2003 referring to the conditions and deviations of the staff report the reference should be stricken due to it being incorporated in the resolution in its entirety. He feels this language came from the LPA resolution. He pointed out a typo on page 5.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Thomas to adopt the Cap Plaza Resolution with the modifications as indicated above.

VOTE: **Motion passes unanimously.**

VI. ADMINISTRATIVE AGENDA

A. Presentation by Chris Swenson - Fort Myers Beach Congestion Mitigation Study Options report

Chris Swenson with CRSPE, Inc. came forward. It is a pleasure to present this Congestion Mitigation Study, which has been worked on for some time. The projects steps were to develop the alternatives for congestion relief, which has been completed and a series of reports has been started. Additional options have been developed and will be discussed. Tonight will begin the process of communicating the findings and the public involvement program. Selection of the preferred options will follow at a later date and not this evening. This summer they will work on a road map for implementation based on the direction given by the Town Council. No action is requested this evening. A public meeting is planned for April 15, 2003. Three additional presentations will be made between now and April 15th. He indicated they would be willing to come and talk with any interested organization and these inquiries should be directed to Margie. After this evening and the public meeting on the 15th, the finalization of the revenue, transit, parking and ITS reports will be finalized. These reports are driven by survey information and information received at these public meetings. These meetings are very important in the development of a decision.

Chris discussed a series of alteratives have been discussed. Basic traffic operation improvements in the Times Square area have been discussed. A new bridge possibility has been considered with both a parallel span to the existing bridge with a so-called mid island bridge along with water taxis and aerial trams. In addition, transportation demand management by demand, which is the option to close the island when it is full. An extensive look at trolleys, buses and trams has been considered along with parking. A do nothing alternative was discussed, which is mandatory in a case such as this. Options for revenues were also discussed.

Chris indicated the solutions revolve around increased capacity. The transit appeal must equal or exceed the use of a car. They do feel there are several ways in which this may happen. He made it clear that they are not talking about getting everybody out of their car for every trip and get them onto a bus. Many trips must be made by cars. A transit system with a short time between trolley's is being considered. He indicated there would be 10 minutes between any given trolley. The average wait time for a trolley would be 5-minutes. This is a shorter time period today. There would be extended hours from 5:00 a.m. to 1:00 a.m.. Reliable low or no-cost remote parking is being discussed at the intersection of Summerlin and San Carlos. Several pieces of property have been identified. Lee Tran carried 25,000 people in the month of March for the year 2000, which is the latest data. A priority lane on San Carlos Boulevard is being

investigated and has been discussed with the Florida Department of Transportation. The situation is being reviewed and he feels confident with the contacts made. Florida DOT is very interested in working with the Town to come up with a solution to the traffic problems. He mentioned the idea of allowing trolley's to stop traffic in the same manner school buses do. In stop and go traffic the drivers are not penalized in the thru lane, because they will catch up. It will take legislation to allow this to happen. The legislation for the school buses is Federal, but it is possible to get this through the state. They do feel that transit is the way to go at least in the near term. Remote parking would work in concert with the trolley's using real time information using the NextBus System. This must be a safe location with lightening along with shelter. FEMA funds are available to incorporate the building of shelter with the construction of the parking deck. Potential locations for a remote site have been looked into. He pointed out several locations. They also feel discussions should be entered in with the folks at Summerlin Square to use their existing lot in an expanded mode. He reviewed some slides from Vail, Colorado.

The types of vehicles to be considered would be trams, traditional trolley's and train's. The vehicle should enhance the experience. What improvement will it make? CRSPE feels it will probably show an overall reduction of traffic 9% in peak season. This does not seem like a whole lot. Traffic congestion is a funny thing. 9% of traffic makes a significant difference. He pointed out the existing traffic volumes and project volumes. The peak months of February and March would become equivalent to the existing May or early January. Will it work? The survey results in the field are pending. A general review looks positive. London has experienced a similar system and has experienced a 20% drop in traffic. The focus group of the target market who does not live on Fort Myers Beach is unanimously supportive of a toll concept. Bonita Bay currently operates a private beach. It utilizes transit service to get folks from Bonita Bay over to the beach. 200 people are being moved per day with this system as being proposed by CRSPE. He feels confident it will work on Fort Myers Beach. To fully understand the benefits and to be sure it will work, he recommends a three-year trial period. The costs have been developed to not cause an economic burden based on a trial period.

How is it paid for? CRSPE feels tolls need to be the funding source. Transportation funds in the United States and the State of Florida along with Lee County are tight and are getting tighter. There are no funds in the long range plans to be spent on any type of capacity improvement on Fort Myers Beach. The Florida Department of Transportation is working to increase I-75 from four lanes to six lanes. This will be in place sometime in the next five to six years. The day it goes into place it will immediately be in full capacity. No additional federal or state funds are available until the year 2025. Private citizens are looking toward tolls on I-75 to pay for improvements to bring this online faster. Tolls are capable of generating the level of funding needed to make a real difference in the transportation program. Tolls are a funding option the Town can control. Lee County does an excellent job at operating toll facilities. Lee County would be interested in becoming an operator only and being paid a fee to operate it. The revenue stream would belong to the Town and not to Lee County. Discussions have taken place with the Florida Department of Transportation due to the Matanzas Pass Bridge being a state facility. The initial discussions have indicated they are not looking for a cut of the action. He cannot guarantee there would not be interest from them in the future. Tolls are collected from all bridge users. Tolls can be implemented for a trial period. Tolls work in concert with the transit options. This is a way to move people from their cars and into transit. Tolls help balance the gas tax gap.

Chris went to the topic of parking fees. Parking fees do have some very good potential elements. The best which could be done would be $500,000.00 per year. Gasoline taxes have been suggested, but are not controlled by the Town and would need to be collected in a much larger area to do good. Sales taxes were suggested, but the last sales tax went down to an 82% defeat. Tourists taxes are not directly under the control of the Town. Existing taxes do not have the funding available for the type of transportation improvements that will be needed. FDOT will not fund and are having to struggle dramatically with their current work plan.

Chris raised the question if the public accept tolls? This is one of the biggest issue. Three questions were tracked through the survey process and were tallied quickly. He indicated there are 1,250 responses and no more surveys will be received after Saturday. Once this information becomes available it is possible it will be biased. The surveys will be tallied, but do become suspect. He referred to question #34 and indicated the results are that 21.1% of the people strongly agreed that tolls were a fair mechanism for funding transportation improvements. 34.6% somewhat agreed. A total of 55.7% agreed that tolls were a fair funding mechanism. 10.6% disagree and 31.1 strongly disagree. These are the results from those who would be likely to pay for the toll. A reimbursement for residents changed things a little. The approval went

up to 56.2%, which is .5% with the disapproval dropping slightly. Can the tolls be collected and how are they implemented for a trial period? Chris replied that open road tolling would be put in place. A picture was shown. No building or operator is needed. An antenna is all that is needed. A three-year trial period was considered with a maximum toll cap of between $60.00 and $120.00. Anybody that reaches the capped amount could continue to cross the bridge within a one-year period as many times as needed with a transponder. Video tolls are between $4.00 and $5.00 in season and $2.00 to $4.00 off season. Transponder tolls are between $2.00 and $3.00 during season and $1.50 to $3.00 during the off season. The revenue will generate between $3.1 and $7.8 million. This is after collection costs are taken out.

How does this work? Chris replied that transponders are processed as they are now. An electronic read takes place and this money is deducted from your account. For vehicles without a transponder a license plate image is taken and these individuals must pay the toll within a specific period of time. The annual operating expenses are about $3.825 million with the vast majority in trolley operating costs. Total cost to bring this up and running to include trolley stop upgrades, pedestrian refuges, NextBus installation, moving of the pedestrian signal and development of the Town's pedestrian refuge comes to just under $4 million. If you annualize the cost, it comes to about $1.45 million per year with a total annual cost of $5.3 million. A contingency should be added for unexpected costs. A total revenue stream needed would be approximately $6 million per year for the trial period.

Who pays what? Chris indicated those folks with the capped tolls make up about 55% of the traffic. This would consist of full-time, part-time residents, business owners and service/delivery vehicles. The gross toll collected would be approximately 21.9% of the total tolls collected. Those who have a transponder and who would not reach the cap make up about 6.9% of the traffic. 71.2% of the tolls will be paid by tourists and some full and part time Lee County residents. Toll payment by the Town for its residents can be achieved as long as the toll revenue stream is not the vehicle used to make the reimbursements. Gasoline taxes could be used for the repayment of the residents. This will accomplished around a 15 to 1 levering of those dollars. Toll payment for residents should be limited to full-time residents. He suggested homestead exemption and voters registration be used as the criteria to determine who is eligible. The annual cost depending on the method chosen with a $100.00 cap (reimbursing the entire amount) would vary between $380,000.00 and $430,000.00.

Why full time only? Chris explained this was considered on a strictly economic point of view. He expressed that there are many wonderful things the part-time residents bring. The roads are designed and built for peak season, which includes the transportation system. In Florida, the roads are financed by tolls and gasoline tax. Part-time residents only generate a partial revenue stream because they only pay gasoline tax when they are here and this leads to the gas tax gap. Information was taken from the Lee County impact fee ordinance and applied it to the condominiums. The trip generation rate from the Lee County impact fee for condominium, trip length and nationwide average of miles per gallon with the County and State taxes were totaled, which does not include federal taxes. A 12-month resident will pay about $171.00 a year. An individual here for 5-months will pay $71.00 per year. The difference between the 5-month and 12-month is approximately $100.00. This is the amount of the vehicle toll cap, which is being considered. The tax gap will be greater for those who travel off island.

What about interim funding sources? Chris indicated an FHWA grant is available for some of the toll collection options. There is a good potential for other FHWA and FGA grants. Their contract is very specific to state they may identify grant funding, but under federal law they cannot apply for grants using the dollars available through the federal contract. Work to date has been to identify grants and look at the criteria. Based on this information, Chris feels the Town may be able to secure some additional grants. There are state toll facility revolving trust funds (TRTF), which are loans that can be applied for up to $1.5 million for design and are repayable over a seven-year period and well within the 3-year trial period. Generally, these are at no interest or low interest. Additional interim measures to get the Town up and running would be SIB loans with no or low-cost interest payable over a 10-year period. Chris discussed some work done by Bill Spikowski in association with the Old San Carlos plan with regard to a parking deck location he had come up with between San Carlos Blvd. and Old San Carlos Blvd.. This was tied in with a piece of right-of-way owned by the Town on Center Street and looked toward another deceleration lane after the bridge, which comes back down on grade. No additional structure is being discussed. This will allow you to pull people off the bridge and onto the deck to park. When they leave, they can be brought out the back of the deck or Third Street, which is preferable. Additional options were discussed. This will get people who need to park out of the traffic stream before they get to the major point of concern at Times Square. This also gets them out and off of the island without going into the major traffic jam area at Times

Square. He indicated they are enthused about this possibility. The economic feasibility is pointing toward the private interests and he encouraged the Town to listen to them.

Chris moved to the discussion on traffic operations options and was clear to state the intent is to tweak the traffic flow. This will be a help, but not a solution. Due to the incredible growth of Lee County, you will eventually overwhelm any traffic improvement on the beach. One of the reasons the transit option is favored is due to the growth it can have toward the demands on the beach. More buses and methods can be added. Traffic operations options can work in concert with the pedestrian refuge plans in the Spikowski study. Their recommendation will take advantage and supplement this idea. The pedestrian overpass should be retained as a future possible option. The light is being considered for removal and the movement will take it up to Fifth Street. Traffic demand management (TDM) is the option which closes the island to everyone except residents once it is full. This was discussed on numerous occasions, but it is not legal. He read the Day vs. City of St. Augustine, which was a Florida Supreme Court decision back in 1932. He quoted that citizens of an island do not have a special right to travel over the bridge without paying a toll. Estero Blvd. could be widened to four lanes, but CRSPE feels the consensus is that this would destroy the very item Fort Myers Beach is trying to salvage. The expansion of the existing bridge is not the issue. The do nothing option should be considered. Many people surveyed (60%) feel that something must be done with the traffic on the island. 23% feel the problem should be corrected without users fees. Well over 80% feel something must be done and nothing is not a reasonable option. 15% feel it is a problem, but not big enough for changes. 2.1% feel the traffic is no problem at all.

Chris reminded the Council of the dollars at stake. The total figure is $200 million in direct expenditures and over $300 million in total expenditures annually attributable to the Town of Fort Myers Beach and its tourist trade. The desirability of Fort Myers Beach as a destination is very much on the line. A test location at Coconut Road was completed with regard to a midpoint bridge. He has been told that this bridge will not happen. The level of environmental opposition that would be seen for this bridge would be on the federal level. Construction cost would be significant at $60 million to $80 million, which would not include right-of-way or permitting. To be able to pay for this project a $6 million a year revenue stream would be needed for 30 years. Other options to the bridge would need to be considered before permitting would be granted.

Additional fun options considered, which they feel could have a home on Fort Myers Beach, would be the water taxis and ferry service. He discussed the “Ducks,” which he rode and indicated they are not dependant on parking in the immediate facility of the launch point. The water taxi must have parking very close to where you pick up and drop off. There is excellent tourist appeal. The only downside refers to the ingress and egress, which is somewhat problematic. The newer systems are ADA compliant. This could be a supplement to other services. He recommends the Town work with any interested private investors. Public involvement is very important. A suggestion came forward with aerial trams and this idea has some potential. The scale of operation varies from a chairlift to a gondola. This is one of the safest modes of travel and it has great tourist appeal. It is very inflexible and cannot be changed without great effort. The footprint is small, but the cost is relatively high. Capacity is surprisingly significant, which can move 2,000 people per hour. CRSPE feels the aerial trams are not to be done first. If the buses work, the aerial trams could be a second generation of transportation to and from the beach. Any private vendor that would come along should be consulted.

Chris Swenson thanked the Council for their patience. The reports will be finalized with all information from this evening and the additional received on April 15th. (Applause was given)

Council member Van Duzer questioned when the written format will be received from CRSPE? Chris replied he would like the information out of the public meeting and wrap this into the report. They are hopeful this will be done within 7 to 10 days from the public meeting. Handouts will be provided to Council. Also, the power point presentation will be made available in a hard copy.

Council member Thomas clarified some changes have been made since they first met. A $60.00 transponder for residents was initially suggested. Has this changed? Chris replied that the cap to be required was reviewed and it was determined $100.00 would be more appropriate. He apologized if the exact figure of $60.00 was given, but a range of $60.00 to $120.00 was to be provided.

Council member Thomas commented on the location of the video toll being suggested? Chris replied that a lot more flexibility exists with video tolling. He would prefer to have this equipment located on the San Carlos side of the Sky Bridge.

Council member Thomas questioned the south side, which would have the toll facility located on the Fort Myers Beach side of Big San Carlos bridge? Chris replied he remembers the question asked was

where could it be placed if Bonita Springs would not allow it. He replied that it could be put on the Fort Myers Beach side due to significant right-of-way. Discussions have taken place with Bonita Springs who have not objected to having this on their side.

Council member Thomas asked if the changes made were due to further studies or the current outpouring of public outrage? Chris replied that they do listen to what the public says and try to accommodate the desires. He views this as positive matter. The three-year trial period will answer the question "Will it Work?'. They have listened to the public input and taken it into account. Modifications have been made accordingly.

Mayor Hughes announced the Council will take a five-minute break. They will reconvene at 8:05 p.m..

B. Award of Parking Enforcement Contract

Damon Grant provided a memo for the award of the parking enforcement contract. Representatives from Central Parking Systems are present. The Town has advertised for the enforcement, collection and repair services for the meters in the Times Square and Old San Carlos Blvd. area. The award would be extended to expand the operation to include the meters at the beach accesses. As of the March 5, 2003 deadline, Central Parking Systems was the only qualified proposal of for services received. Central parking systems is the current provider for the parking enforcement in the downtown area of the city of Fort Myers and several other parts of Florida and the United States. Town staff has met with Central Parking Systems representatives to discuss the terms of a potential contract. Initially, Central Parking Systems had asked for $2,000.00 per month and 8% of the gross revenues. After meeting with staff again, the number was reduced to $1,000.00 per month and 8% of the gross revenue.

Page 2, for Phase I pertain to the existing meters and will be what the contract is based on at this point. A conservative estimate ranges between 12% out of season and 30% in season occupancy rate. The total projected revenue will be $608,260.00. The total operation costs including payroll, capital expenditures and operating expenses would result in $132,000.00. The total management costs will be $1,000.00 per month with 8% of the gross revenue is $60,661.00. This leaves a total net to the city of $414,766.00. He provided a chart showing that the Town would receive 68% of the gross, 22% operation expenses and 10% for the management fee. The cost to revenue ratio, initially, appears high, but these figures are consistent with other municipal contracts. Furthermore, upon installation of the additional beach access meters and appropriate cost distribution, the cost to revenue ratio will decrease noticeably.

Upon installation of the Phase II meters the operation and management costs will be distributed appropriately between the meters in the Times Square areas and the beach access meters. The operation costs and revenues will be kept separate from each other. The beach access meters will be earmarked for beach and shoreline enhancements. Staff does recommend that Council award the meter enforcement contract to Central Parking Systems for the $1,000.00 per month and 8% gross for a contract term of 3-years, which is the maximum allowable under the Town Charter. This will be effective April 21st. This awarded contract will cover any and all necessary enforcement of meter violations, collection and deposit of meter revenues and repairs and maintenance of the meters. Central Parking Systems has agreed to include in the scope of service other street ordinance violations to be determined by the Town along with other consulting services. Staff has attached an agreement letter from Central Parking Service summarizing these terms and a proposed service agreement.

Council member Thomas questioned if the $608,260.00 includes the meter violations? Damon replied that this would be gross revenue, which includes the citation revenue. Central Parking would enforce the staff parking violations.

Town Manager Segal-George added that the projected revenue number was developed based on parking meters and citations for parking meter violations. Any other parking violation matters they would be enforcing would be an addition to the revenue.

Randy Jones from Central Parking Systems came forward. He is out of the corporate headquarters in Nashville, Tennessee. Currently, they manage 31 municipalities with another 58 municipalities where they manage various on street parking. He indicated they are the largest parking management firm in the world. They look forward to working on Fort Myers Beach. Central Parking feels they can contribute to the community. Sizeable revenues can be contributed to help the vision be implemented. The numbers provided are conservative. He would like to come back before the Town Council in one-year with a substantially higher dollar figure. Their track record allows him the confidence to aim in this direction. He will be happy to work with the Town's other consultant with regard to the parking.

Mayor Hughes was impressed with the scope of operations in other municipalities.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to authorize the execution of the agreement for Central Parking Systems. **Motion amended:** Made by Council member Howard Rynearson and seconded by Bill Thomas to agree to the changes made by Mayor Daniel Hughes below.

Discussion: Mayor Hughes referred to the agreement and commented on the section referring to subcontracting. He questioned if this clause is desired, but he prefers to have it removed.

Randy Jones replied that the Town Council can strike this language. They have no intention to subcontract the work.

Attorney Dick Roosa clarified this change would be favorable.

Mayor Hughes commented on the 5-year renewal date after the first 3 years. The change will be made to have the renewal time period of 3 years.

VOTE: **Motion passes unanimously.**

C. Flood Mitigation Assistance Program/Lighthouse Resort

Deputy Town Manager Gucciardo indicated the Town Council has a memo with an agreement, which is between the State and Department of Community Affairs and the Town to administer the grant in question. On an annual basis, as part of the Town's participation in the National Flood Insurance Program, they are contacted to reach out to the repetitive lost properties. These are properties that have sustained flood insurance claims more than twice within a 10-year period. Each year the Town reaches out to these property owners about the availability of this grant program. Unfortunately, they do not receive a great response. This program is geared toward reducing or eliminating the potential for flood damage. Their highest priority is to have the property in question bought outright and destroyed from that particular location. Their second priority would be to elevate the property and the third would be to retrofit the property. It is not viable to consider buying a home and destroying it to make it less likely to be damaged by flood. Elevating is sometimes a possibility and retrofitting is the owners most likely choice. The retrofit is the least priority in FEMA's scale. Last year, the Kolar family did respond to the outreach. They own the Lighthouse Resort, which includes six to seven cottages that have sustained repeated flood damage. A plan was put together to elevate the cottages. A grant application was submitted by the Town and was approved after one year. The Town would be the recipient of the grant money and would flow to the Kolar family, if they meet all conditions that the state has put into the agreement. Attorney Roosa has prepared an agreement which mirrors the obligations and conditions and allows the funds to pass from the Town to the Kolar's.

Deputy Town Manager Gucciardo pointed out another important issue. The plan put forward is not consistent with the previously approved CPD for this property. They will be submitting an amended plan for consideration of the Town Council with regard to the cottages. This has been reviewed in the preliminary stages by Dan Folke and the County. The Kolar's, state and Town do understand if this plan is not approved the grant will fall aside and funds will not be accepted.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to authorize the execution of the agreement with the provision it will not be delivered until a similar agreement has been executed by the Kolar's and delivered to the Town.

VOTE: **Motion passes unanimously.**

D. Seafarer's Easement

Dan Folke reported when the Town Council approved the planned development zoning at

Seafarer's Plaza a development agreement was also approved. One of the requirements in the development agreement was that the property owners grant two easements to the Town. One easement is on Estero Blvd. and the other is on Crescent Blvd.. Both easements are for sidewalks. Before Council is the proposed easement language. The property owner is asking that the Town will guarantee not to opt to put the sidewalks in themselves for 10 years. He referred to the existing encroachment for McDonald's. The property owner is asking if the Town puts in the sidewalk, the building will remain and the encroachment will be allowed to stay. Under the redevelopment scenario the building goes away and would not be an issue. The second encroachment refers to a wall and dumpster area. He recommends this not be allowed to encroach. These items were not specifically addressed in the development agreement. Prior to any type of easement agreement being recorded the property owners do need to supply the Town will title insurance to identify any other encumbrances or mortgage holders that need to be party to this easement. The owners agree to provide this, but would like to see if this language is acceptable to the Town.

Council member Rynearson could live with the Estero easement. He agrees with Dan with regard to the dumpster easement. He does not agree with the 10-years. This puts too much burden on the Town and the Town should be able to place the sidewalk when they are ready.

Council member Van Duzer asked if any present plans are scheduled for Crescent? Dan Folke replied that nothing is presently scheduled. If the Council approves what is requested the Town would not have this option for 10-years.

Council member Rynearson feels if the Town comes into additional funding to further First, Second, Third and Crescent this will limit the Town or any other Council from widening the sidewalk. He does not feel this is fair to the public.

Council member Thomas also feels they will be tying the hands of the future Council. He asked if Seafarer's is in non-compliance with the development agreement? He indicated they have not given the easement they promised? Dan Folke replied that this is correct. These are the easements which are required by the development agreement. The Town has suspended all permitting for the property.

Vice Mayor Cain questioned if the Council awarded the property owner the 10-years, he would still have the responsibility to develop the sidewalk, if he develops the property? Dan Folke replied that this is correct.

Mayor Hughes asked the size of a normal sidewalk? Dan Folke replied the 5-foot sidewalk there presently is standard for Fort Myers Beach. The 12-foot sidewalk would be similar to what is on Old San Carlos.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to accept the draft document for the easement from the property owner of Seafarer's Plaza that covers Estero Blvd. and Crescent Street. Allow the McDonald's building, if not redeveloped to extend into the easement. The dumpster area would need to be removed. The owner must furnish the title insurance and other items contained the memo.

Discussion: Council member Van Duzer feels this is a reasonable request. The Town has no plans at this time for redevelopment of the sidewalk. He would like the other easement on Estero. It is imperative to have this easement to move forward with the pedestrian refuge.

Mayor Hughes commented on the plats. It has always been his experience to show an arrow to the easement. He would like the surveyor to add onto the surveys and include the arrow. He does not see the reason to have Exhibit A and Exhibit C. The legal descriptions are on the plats. He is in favor of the motion.

VOTE: **Motion passes 3 to 2. Council member Howard Rynearson and Council member Bill Thomas dissenting.**

E. Public Hearings:

1. Community Development Block Grant

Deputy Town Manager Gucciardo expressed the past few meetings he has provided information for the CDBG Program for the current fiscal year. Tonight's public hearing is a request from the County to see if there is additional input from the public with regard to how the funds are spent within the community. The Council has indicated they are comfortable with the path presently on. A good response was received toward the funding program for this current year. He has not received much input toward the future plans.

Mayor Hughes opened the hearing to the public. None was heard. The public hearing was closed.

Council member Bill Van Duzer commented that the Town should continue on the same path. Some response has been received and he hopes more will come forward in the future.

Mayor Hughes indicated a consensus was received from the Council to continue with the programs allocation of funds as it has in the past.

2. Bicycle Safety Ordinance 03-04

Mayor Hughes indicated this will be the only public hearing with regard to the Bicycle Safety Ordinance. He asked if anyone from the public wished to address the Council on this matter. None was heard. The public hearing was closed.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to accept the second ordinance as written.

Discussion: Vice Mayor Cain expressed this information was faxed to Dan Moser who is with Lee County and has the experience with biking matters.

Council member Van Duzer commented on the identification number located a on a bike. It was confirmed this information should already be on all bicycles, unless it was purposely ground off.

VOTE: Role Call Vote: Council member Rynearson, aye - Mayor Daniel Hughes - aye - Vice Mayor Terry Cain, aye - Council member Bill Van Duzer, aye and Council member Bill Thomas, aye. Motion was unanimously approved.

Council member Rynearson thanked Attorney Dick Roosa for all his assistance on this matter.

IX. COUNCIL MEMBER ITEMS AND REPORTS

Vice Mayor Terry Cain - The last Marine Resources Task Force meeting dealt with the receiving and compiling of information with regard to the John Mulholland Stewardship award. The flyers were upstairs and handed out in the beach access. The nominations were based on three categories for individual, business or non-profit/organization. The criteria met was based on the most innovative, beneficial, educational and cooperative efforts supporting our natural resources. She indicated you could nominate in the three different categories. The three top selections would not necessarily be three businesses, three individuals or three non-profits, but the three of the best on top. MRTF felt the Pilot Club of Fort Myers Beach deserved the award due to their continued effort and cooperative involvement between multiple entities, promoting and protecting our natural resources through Coastal Cleanups, Back Bay Cleanup, Adopt a Shore Program and including the youth of island with incentives and educational tools with the protection of the wildlife and natural resources. Ceel Spuhler was nominated as an individual for her outstanding devotion to the natural resources by attending meetings, clean-ups, education programs and bringing forward the needs of the natural resources for conservation and protection. Louis Speers was nominated and accepted by MRTF. She is a person who walks on the south end of the island daily picking up liter and creating works of art. She sets an example for all. Those chosen are exemplarily examples of people making a difference. MRTF would like the blessing of the Town to give the awards. Leaves have been removed and will begin to have names of the past and present MRTF members. She would like to have a small event on Monday, April 21, 2003 before the Town Council meeting to award the nominees their leaves.

Council member Van Duzer commented that Terry Cain's name was submitted as a nomination. He felt that nobody could be more deserving as a recipient of this award. She disqualified herself.

Vice Mayor Cain expressed that the consensus of MRTF was to disqualify the members from the nominations.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Van Duzer to accept the Pilot Club, Ceel Spuhler and Lois Spears for the first recipients of the Mayor John Mulholland Stewardship award.

Discussion: Mayor Hughes indicated the comments of Council member Van Duzer are noted that she was nominated herself, but the Marine Resources Task Force decided to hold their members as not qualified.

VOTE: Motion passes unanimously.

Vice Mayor Cain had a wonderful walk through Lover's Key with an event through the Pilot Club. She has noted the staff provided excellent negotiations with regard to Central Parking Systems. She commented on a job well done and thanked everyone for all they do.

Council member Bill Thomas - On March 18th, he spoke at the Civic Association. This was the highest attendance since incorporation and he is very proud. On March 27th, he visited FindWhat.com. They opened up a new building and are very successful. This is a progressive company developing much expansion. It is good to see a company doing well that is not tied in with tourism and will diversify the economy. On March 29th, he participated in the 2.6 mile walk on Lovers Key. Several other council members participated as well. On April 4th, he attended the VOICE volunteers breakfast. These people desire a lot of credit. All but one of the volunteers comes from off the island. In the afternoon he attended the Historic Society dedication of another cottage.

Council member Van Duzer - He mentioned the meeting the Land Development Code (Chapter 34) was discussed. He has had some discussions with regard to floor-area-ratio. The setbacks as listed in Chapter 34-2 remain the same. It was his understanding they go back to the old standard way of maximum lot coverage, which had been used for years and years. He also understood they would go back to the setbacks in place before. Bill Spikowski was contact and he indicated his motion did not cover this matter and only dealt with the floor-area-ratio presentation and did not include the setbacks. He has since been told by the Town staff to remove certain areas of the setback requirements, but they will not go back to the way it was before. He asked those who voted if it was not their understanding they would go back to the setbacks as previously used?

Mayor Hughes concurs and feels this was his understanding as well. The entire argument made and supported refers to the setbacks under the existing Land Development Code, which gave ample protection. No additional requirements were needed.

Council member Rynearson also agrees.

Council member Van Duzer discussed that the side yard setbacks have gone from the single family residential area (waterfront) from 7 to 10 feet. If not on the water, it would stay at 7 feet. He is arguing this point, because this is not the way he understood this point made.

Council member Rynearson added that he had commented Lee County has setbacks and these are good enough. These setbacks have worked for years and he felt this was sufficient. The motion made and he seconded that they were going back to the old setbacks that Lee County had, which is the 7 foot and the standard front and back. This is the motion he seconded.

Dan Folke clarified the side setbacks. The previous rule is 7.5 feet for single family RS-1. For the TFC-2 he felt was also 7.5. It was changed in the RS district to 7 feet on non-water lots and it was increased to 10 feet on waterfront lots. In the RC district they went to 7 feet for waterfront and 5 feet for non-waterfront.

Dan Folke reviewed that the single family districts would be 25 feet in the front with 7.5 feet on the side. Council member Van Duzer and Council member Rynearson agreed.

Council member Van Duzer has always favored the front and rear setbacks as they presently have been. He has never supported a change.

Mayor Hughes indicated he understood the motion was adopted as made by Council member Van Duzer to go back to the old setback requirements of 25 feet. He would like to see the language as requested by Council member Van Duzer at the last meeting. He is concerned with going further than the original discussion.

Council member Van Duzer added this could be added to a future agenda for discussion. He indicated people are applying for permits that would like a 10-foot front setback.

Town Manager Segal-George remembers discussion took place with regard to the front setback. The floor-area-ratio included the front setback and if the Council did not approve the floor-area-ratio it would

go back to the way it was before. She felt the direction of the Council was clear the front setback should go back to original way. She felt Bill Spikowski should make a statement out to everyone and make the corresponding change to Chapter 34. Staff did not feel comfortable making this decision.

Mayor Hughes feels a memo should be written by Bill Spikowski showing the amended section accepting Council member Van Duzer's position. This matter will be discussed at a future council meeting.

Mayor Daniel Hughes - Attended the Coastal Advisory Committee meeting. The VOICE breakfast was very well attended. He thanked Council for attending. A letter was received from the Old San Carlos Power Squadron with regard to safety week. He looked for a consensus from Council to meet the request. No Council member objected. Chris Swenson will appear before the Condominium Association of Fort Myers Beach to discuss the matters as discussed today.

X. TOWN MANAGER'S ITEMS

Town Manager Marsha Segal-George - Discussed correspondence with regard to the Harbor Plan. Two issues with DEP took place. One issue was resolved with replacement vessels. The other issue dealt with clarification on the abandonment. It was recommended this is left alone. Serious issues exist in Tallahassee with regard to live aboard's. The Town should take what they have and obtain their permit. She looked for consensus from Council.

Mayor Hughes agrees. He is not completely happy with the situation, but does not want to become involved in a statewide issue. All Council members were in agreement to move forward.

Town Manager Segal-George expressed there is a problem with the meeting on May 19th. This would normally be a 6:30 p.m. meeting. Council member Rynearson has a conflict with the time.

Council member Van Duzer has a conflict with the May 5th meeting. He feels the meeting on May 19th should continue as scheduled.

The May 19th meeting may be canceled, if all agenda items can be rescheduled toward early meetings in the month.

XI. TOWN ATTORNEY'S ITEMS

None.

XII. PUBLIC COMMENT

None.

XIII. ADJOURNMENT

The meeting was adjourned at 8:43 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.