FORT MYERS BEACH TOWN COUNCIL
APRIL 23, 2003
COUNTRY INN AND SUITES
13901 SHELL POINT PLAZA
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Retreat of April 23, 2003 was opened by Mayor Daniel Hughes on Wednesday, April 23, 2003, at 9:00 a.m..

Council members present at the meeting: Mayor Daniel Hughes, Vice Mayor Terry Cain, Howard Rynearson - Council member, Bill Van Duzer - Council member, 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, Bill Spikowski, Janeen Paulauskis and Julia Campbell.

II. BEACH WATER ISSUES

Deputy Town Manager Gucciardo highlighted his portion of the memo. The first portion of the memo deals with the aspects of the Beach Water, which are working well at this time. The ongoing concerns have been addressed and the items, which are a source of major concern are also outlined. The repair and maintenance of the system itself are of major concerns along with the finances, auditing and accounting. Additional concerns with Woodard and Curran relate to their ability to look out for the concerns of the Town.

Deputy Town Manager Gucciardo addressed the repair and maintenance. In the first year of operation with Woodard and Curran (August 2001 to August 2002) and after the final audit approximately $160,000.00 was spent on repair and maintenance issues. This fee was about six or seven times the amount initially provided by the consultants. He has asked Woodard and Curran to go back and review the invoices for the first year. A direct interest has been taken for the second year, which began August 2002. In the first six months he has been provided with invoices that amount to approximately $85,000.00. He has kicked back all with the exception of $33,000.00. He does not understand the invoices and would like further clarification. He does feel this approach has captured their attention. He does feel many of the invoices should have been billed off to a customer or to another contractor. Another series of invoices deal with drainage and Old San Carlos. Damon will be addressing this issue and he is concerned with these invoices as well.

Deputy Town Manager Gucciardo is unsure if eight months into the contract schedule they are ahead or behind of schedule as compared to last year with regard to repair and maintenance. His instinct is that they are doing much better, but he is unsure of the figures. Too many question marks still exist and he is unsure if the utility is making or losing dollars.

Mayor Hughes questioned the response by Woodard and Curran with regard to the questioning of the invoices by the Deputy Town Manager? Deputy Town Manager replied they do understand the position of the Town. Woodard and Curran have provided additional backup information.

Council member Rynearson questioned Bay Beach? Deputy Town Manager Gucciardo felt positive steps have been taken. Johnson Engineering has been hired.

Town Manager Segal-George has control issues. She would like Woodard and Curran to be more proactive. She has tried to get them to be more involved in the permitting process.

Council member Rynearson is concerned with the Pink Shell project? Dan Folke replied that the engineering review does not take place until the permits are into the system and reviewed by Beach Water, Lee County Utilities, Health Department, etc.. He has not been told the engineering is insufficient. He is unsure if this hurdle has been crossed.

Town Manager Segal-George does not feel the original path the Town has taken with the contract has been incorrect. She does feel staff is finding there is not tight enough control. There is nobody else who would be willing to take on the project. She feels it should be taken in-house and a Public Works Department be created. Tighter control can then be achieved.

Janeen Paulauskis discussed that the end of the fiscal year is only 4 months away. The invoices are becoming a concern and she indicated the vendors are stating they have not been paid.

Council member Van Duzer feels the Town should take on a stronger role of enforcement with the contract and put Woodard and Curran on notice they need to comply with the wishes of the Town. He does not want to micro manage and does not feel it would be in the best interest of their government to take this project on.

Deputy Town Manager Gucciardo expressed that after 1 ½ years into the contract the vision he and Janeen had for the Water Utility is far from their anticipated goals.

Town Manager Segal-George explained if the Town went down the path of taking over the Water Utility, the Town would hire the same staffing pattern Beach Water has currently.

Janeen Paulauskis expressed she has had much difficulty with Woodard and Curran. The monthly reporting has turned daily for contacts on additional information. She did meet last week with their new auditor. The problems are identified, but are not being fixed. She has been told three times someone would be in to handle the accounting. She is not convinced the situation will be rectified. Council member Rynearson supports the staff and feels 90% of the work is being done by Town staff already.

Deputy Town Manager Gucciardo clarified Town staff is handling 90% of the work in the problem areas. If the Town took over this process, they would then be responsible for the other aspects which are not presently being focused on.

Mayor Hughes and Council member Van Duzer have concerns with staff beginning to work with the Water Utility should the decision be made to not renew the present contract. The Town staff is already overwhelmed with responsibility and this take over would just add to the work load.

Town Manager Segal-George explained that additional staff would be hired. She indicated the expectations of the Town Council and community are very high. If the contract is not performing and cannot be fixed than the only option is to proceed with another plan.

Mayor Hughes would like to see an additional month be given before a decision is made. He would like figures to come back before the Town Council showing the dollars being spent presently with Woodard and Curran vs. the money to be expended with new experienced staff to be hired.

Council member Thomas concurs with Mayor Hughes. He would like to know the Town's cost to bring this project in-house compared to having this contracted out. Another option would be to put this out to bid to provided additional choices.

The question was raised pertaining to the issue of cost relating to space needed for the Utility should the Town take over. Town Manager Segal-George replied there currently is a cost for the space currently being used. She is unsure at this time if this space would be adequate.

Council member Rynearson feels a part-time consultant could be hired for specific needed items and staff could be hired for day to day operations. He feels this process may be less expensive.

Mayor Hughes added a cost comparison is needed. He is concerned with obtaining experienced personnel. Woodard and Curran should be notified the Town staff is considering a recommendation to the Town Council their contract not be renewed. A decision will be made by the June 1 date.

Deputy Town Manager Gucciardo will review the contract to confirm it is a sixty-day notice period. He will contact Paul from Woodard and Curran to relay today's discussion. Between now and the sixty period the Town staff will attempt to put together figures on cost comparison to take the operation in-house. He is optimistic with the new person on board some real progress will be seen for Janeen. For the last two months, the numbers of repairs and amount of work subcontracted out have dropped dramatically. He hopes these issues will be resolved.

Council member Thomas supports the Mayor's position. Documentation should be provided by the May 19th Town Council meeting or a decision will need to be made.

III. TOWN BUDGET ISSUES

Town Manager Segal-George expressed that the revenue stream is very small. A lot of dollars were saved in the beginning when projects were not being completed. Money was saved and used for capital projects. Other revenue streams are available, if the Council is interested. She feels the community has the impression the Town has access to more dollars then they actually have and more dollars are being received than are identified. Many services are being funded by these dollars. Revenue issues will be faced in the coming years. Many of the calls received are for increased service. The remainder of Lee County is paying a utility tax. The Town of Fort Myers Beach is the only place not paying this tax.

Council member Thomas feels the entire Council is very concerned about the potential income on the gasoline tax? He questioned the status? Deputy Town Manager Gucciardo replied Lee DOT had made the decision to reinterpreted the statute for which the gas tax allocation is on. The new determination is that the Town is only entitled to approximately $220,000.00. The Town reacted quickly to this response and expressed that it was too late in the budget process to make this type of unilateral decision. The Board of County Commissioners gave the same allocation for last year that was previously given (approx. $600,000.00). The Town has been asking for a meeting with the County personnel (Budget and Transportation) to discuss how this would work and if it is open for interpretation. A meeting at Town Hall with County staff took place. Progress was made and an additional meeting took place to organize the specifics. The Town is still waiting to hear back, but he feels this number will come back in the $220,000.00 range. The attempt is for no litigation but to arrange some sort of compromise.

Council member Thomas expressed $200,000.00 is not acceptable. This is not the Town's proper share.

Attorney Dick Roosa added outside Counsel was retained and good legal opinion exists. He feels the Town's position is a more logical approach. This will be an expensive litigation. He feels the chances are better than 50/50.

Mayor Hughes feels the Town's legal position is better both on the basis of statutory construction and the equitable arguments. More significant is that what is decided this year will have some long range effects.

Deputy Town Manager Gucciardo feels the County is more concerned with a template, which will be some sort of comfortable formula to be used for the Town of Fort Myers Beach and be reused for other incorporations.

Council member Rynearson questioned if the formula contained the language "the more money spent the more money you will get back?" Deputy Town Manager Gucciardo replied this is not necessarily in the formula. Town Manager Segal-George replied this is the state formula. If an agreement cannot be made, you will go back to the state formula.

Council member Van Duzer mentioned the last MPO meeting which dealt with transit funding for the future. The establishment of an MSBU was discussed for the transit funding. The basic amount of the transit funding comes from the County out of their general revenue. All communities and municipalities would need to reallocate their gas tax share to pay the additional cost. This is a staggering amount of money.

Deputy Town Manager Gucciardo explained that the Town would consider a new interpretation of the statute. Also, another agreement would be sought to offset whatever loss would be received.

Council member Thomas questioned the dollar figure in the budget for the gas tax? Deputy Town Manager Gucciardo replied when the first draft budget is completed he looks to the previous year's actual income to that point. This is the figure that is then used. Each year they normally receive more dollars than the amounts in the budget.

Mayor Hughes added the assessed valuations will increase 15% island wide. The assessments were up 34% on beachfront property last year.

Deputy Town Manager Gucciardo explained that this year's budget may look slightly different. A concern for long term was expressed.

Town Manager Segal-George discussed the occupational licenses in other Counties. Mayor Hughes expressed this is up for discussion at the Horizon Council and input is requested of the Town Council. Town Manager Segal-George expressed the Town of Fort Myers Beach was the first city to state if the County has already got one why should they need it also. A limited amount of money is being received (approx. $5,000.00). A way was trying to be developed to only have one occupational license. None of the other cities that are getting significant revenue were willing to give theirs up. The plan was if you were in a city you would only pay an occupational license to the city and not to the County. The only ones paying to the County would be those in unincorporated County's. To make the plan work, the Town of Fort Myers Beach would need to agree to charge an occupational license in the city. The same can be charged as the County or the complicated style and expensive formula which raises a lot of money. No net change would take place to the Town's business people. They would pay the same amount to the Town that is now being payed to the County. This would result in an additional $10,000.00 or $12,000.00 for the Town. The purpose for this change would be to cut down on the two occupational licenses, which are now being purchased in other cities. The primary area of concern and complaints are coming from Cape Coral.

Mayor Hughes asked for the Council's view on adopting an ordinance and having their own

occupational license fees? He added that it would only make sense if the fees were increased.

Council member Van Duzer is opposed to the change the present way it is, if it is not financially beneficial to the Town.

Town Manager Segal-George added that the Town would be standing in the way of the system being redone.

Attorney Dick Roosa suggested preparing a draft ordinance, which imposes the occupational license fee currently charged by the County but will not become effective unless and until the County discontinues collecting the fee. He will include the ordinance for the City of Cape Coral. Both alternatives will be provided in a draft.

Mayor Hughes raised the issue of the franchise tax on electrical. Town Manager Segal-George added this is the same as the utility tax. This has the ability to generate significant revenue. She has always felt this to be fair game, because the remainder of the County pays it. If the Town unincorporated everyone on the island would pay it. This tax has enough ability to generate dollars for drainage improvements. It is not required to be designated to a particular project. This has been discussed at length with FPL in the past and is not a difficult process to implement.

Mayor Hughes questioned the type of revenue this would generate? Deputy Town Manager Gucciardo replied approximately $300,000.00 per year.

Attorney Dick Roosa added that many municipalities' pledge this utility tax and use it for bond issues.

Deputy Town Manager Gucciardo explained the bottom line is that the Town is still solid and healthy, but does not have the same reserves as in the past because projects are in the pipeline. The ability to build up the reserves may be impacted in the future due to budget reductions.

IV. TOWN HALL STAFFING RECOMMENDATIONS

A. Accounting Tech

B. Zoning Tech

C. Maintenance Crew

Town Manager Segal-George began by indicating the lion's share of the overload on land use issues belong to Dan Folke. She is only responsible for several hundred. Dan is overloaded with e-mails, phone mails and visitors to Town Hall demanding immediate appointments. There is a tremendous amount of activity and interest with regard to land issues on Fort Myers Beach. One area being looked at as a relieving point is to bring some type of Zoning Tech or Planner Position to handle more complex tasks. The other issue is for Account Tech. Initially, they felt a position could be split to handle the Committees and Council packets along with half time to back up Janeen as an Accounting Tech. This has not worked out. The Committee and Council packets, minutes, meeting quorum, etc. is taking up an individual full time. It has been decided this position must be totally dedicated to accounting work and the other strictly Council/Committee functions.

Dan Folke expressed his need is tied to expectations of the public and their ability to provide good service to the public. A large amount of his time is spent on all issues tied to the interlocal with Community Development. He further explained weekly items which arise and require attention. He could obtain immediate relief with the Planning Position for day to day calls and walk-ins related to general land use questions. He would like to have additional time to spend working with both the LPA and the Historic Preservation committee. Code enforcement is another issue. He is unable to attend the code hearings. The Newton Project is moving forward smoothly. The Hidden Path will require a lot time and should be a high priority. The Short Term Rental Registry is moving forward smoothly also, but annual renewals will need to be completed and will require additional explanation. The Storm Water Management Plan is moving forward, but needs more attention. He feels they are delivering a high level of service, but important projects are being neglected. He would like to consider a planning position. He will provide more detailed information, position description and background to include the daily responsibilities of this new person.

Mayor Hughes questioned if it is possible to reduce the interlocal contract with the County due to the additional burden with regard to the land use? Town Manager Segal-George replied this has been discussed, but she does not believe so.

Dan Folke further explained there is a very large administrative process that goes along with the applications for land use. Lee County staff does all the scheduling, notices, public advertisements, signage and all correspondence that go to the applicant before the public hearing. This is all handled thru the

interlocal with Lee County. He does feel the interlocal is working very well. He would like to be more involved with the planners on the review.

Council member Thomas understands the staff is overburdened. The staff does a great job and has much work. He sees the tax revenue going down. He deals with the government the same as business. When revenues go down very seldom does a company increase its staff. He feels the budget must be made in line and in balance for the future. He knows staff is needed, but does not feel this is the right time to add staff.

Council member Van Duzer takes exception to this. This is a growing community and must have staff to do the job. People are needed who are knowledgeable and understand the new Comprehensive Plan and Land Development Code to be sure the community abides by this. These positions are needed to provide the service the community demands.

Further discussion took place pertaining to Short Term Rental Registry. Town Manager Segal-George expressed that temporary staffing has taken been provided until August. Dan Folke added that by June 2 they will be aware of how many people have applied. Once the list is established this will help for future years. He sees an increased need to work with code enforcement. Once this registry is established, an increased number of complaints will be received for people not on the list who are doing short term rentals.

Mayor Hughes wanted to discuss numbers? Dan Folke replied the Land Planner position ranges between $27,000.00 and $35,000.00, which would be a level one position. This is the type of qualification he would like to see.

Janeen commented on the Accounting Position and felt it would be approximately $30,000.00. The front desk position would be around $25,000.00.

Vice Mayor Cain added if these positions are overlooked some valuable mistakes could be made along with important tasks slipping thru the cracks.

Council member Van Duzer feels authorization should be given to Town staff for the hiring of these positions as discussed.

The possibility for raising taxes was discussed. This issue will need to be addressed at some point in time. Vice Mayor Cain expressed that there is a community with great expectations and very little cost to them.

Deputy Town Manager Gucciardo explained the idea of this retreat is not to make decisions or direction, but to get the Council thinking in terms of the issues coming forward. A draft budget will come forward around July 1st. The summer months are given for review. When the Council comes back after summer break, the public hearings take place and much time is given for changes.

Mayor Hughes agrees with Council member Thomas that the Council must look closely toward giveaways and line items on the expense side. He agrees with Council member Van Duzer that you must have an adequate staff. If they are overburdened, they will not do the job that is expected.

Council member Rynearson agrees the costs need to be kept down with giveaways. He also feels staff is needed. Staff has worked very hard and the two additional people are needed to relieve the burden.

Damon Grant reviewed his memo. He spoke of all the current contracts he is aware of with regard to maintenance. For current contracts the figure is in the vicinity of $214,000.00. Future contracts will be coming up within the next year and the total of all combined are $284,000.00 for a three-man crew. The proposed in-house maintenance crew was discussed. He felt (2) three man crews along with one supervisor would be needed. The figure for in-house would be approximately $241,950.00. This crew would cover all demand for current, future and increased services.

Council member Van Duzer questioned what would happen to Ed Lawler if this in-house maintenance was put into effect? Damon replied Ed Lawler would take a large pay decrease, but he does want to come in-house if the position is open. He is interested in the benefits he presently does not have.

Additional discussion took place with regard to benefits and how this will affect the new employee's salary to the Town. Council member Van Duzer feels this item should be supported by the Council. The in-house maintenance cuts their expenses.

V. "INTERNAL FIXES"

A. GIS System

B. Archives

C. Standardize Contracts: Materials/Policies for Change Orders

D. New Federal/State Government Accounting System: GASB34

E. Computer Upgrades: Server and Windows

F. Special Events Funding

Town Manager Segal-George reviewed the "Internal Fixes" are the types of issues which have come up as a result of the Town maturing. All these items will be coming before the Council in the future. The intent today is to make the Council understand why they are so important.

Town Manager Segal-George moved to discuss the GIS System. This was considered in the past but was very costly. It was determined the Property Appraiser had a system with the GIS system with a lot of the data needed by the Town. The question arose if the Town could add their data to it.

Dan Folke explained "GIS" stands for (Geographic Information System). This is an electronic mapping component and data component. GIS gives spacial data. This can be used as a measuring tool and you have the capabilities to label dimensions. This is a useful tool and Lee County has one of the best GIS systems. The Town has much information within their office that must get into this system. One of the major issues is access and maintenance to the system. It would be necessary for the Town to tie into their server to create a direct link for in-house to get to different layers of information. He does not feel the County favors this approach and technical items must be addressed. He recommends the information be provided to the property appraiser for input.

Town Manager Segal-George added the alternative was for the Town to try to create a GIS System. This would be very expensive. A good system exists and if the Town could tie in this would be most beneficial.

The issue of cost was mentioned. Dan Folke felt confident the cost would be fair. Damon added that the cost to do this project on their own was $300,000.00. Town Manager Segal-George indicated this is needed. The best possible cost approach will be obtained. When the proposal is received from the Property Appraiser's office, it will be brought to the Council. Town staff feels this is essential to have.

Town Manager Segal-George explained paperwork has become an issue. Janeen has been working to find an archival system.

Mayor Hughes questioned if there is a state statute which controls the records? Attorney Dick Roosa replied the County has used adobe, because it has easy access and small records.

Janeen added that she talked to a few companies at the Florida League of Cities conferences. Prices were given in the range of $7,000.00 to $10,000.00 to get your program up and running. This would take the past six years of records on a CD. Once on a CD, the paper information can be stored at offsite storage. A contract is normally obtained and a payment is received when shipments are made. As a plan is created, it will move forward to the Council.

Attorney Dick Roosa added this is critical for research purposes. Indexing is equally as important.

Janeen added that this falls in line with the computer upgrades. Major upgrades will need to take place. A new server will also need to be obtained with the new information coming forward from Dan. The approximate cost to upgrade the server is $15,000.00.

Town Manager Segal-George indicated they would like to do some standardized contracting with regard to materials. When particular maintenance issues arise, the standardized contracts will be available with prices on items gone out to bid. Also, staff would like to come in with tighter policies with regard to change orders.

Town Manager Segal-George explained by law they must comply with a new Federal/State Government Accounting System - GASB34. Janeen added that this has been discussed for the past two years. She felt the auditors indicated this will need to be in the 2003/2004 fiscal year. The Town's books have been maintained on a simple accounting system.

Julia came forward and discussed that many people came forward to the Council during the Budget hearings requesting Special Events Funding. Staff was directed to develop a form to help monitor and document spending. Staff is looking for direction. Should a committee be formed out of committee chairs to review these requests and make recommendations to the Council.

Mayor Hughes can see the advantage to a Special Events Committee.

Council member Rynearson feels the chairs are a good idea. He does not feel any members of the Council should sit on this committee.

Julia sees this committee meeting once a year reviewing the requests and making a recommendation to Council.

Council member Rynearson would like to see the Town of Fort Myers Beach use the TDC as a guide. The TDC will not fund a project after 4 years that is not producing.

Deputy Town Manager Gucciardo does not like the idea of predetermining Special Event funding or

any special funding. He feels the beauty of the small community allows them to be flexible. Good ideas should be able to be brought forward at the last minute. It is very easy to setup a process and the process becomes more important than the result. The result should be to get good things happening.

Vice Mayor Cain suggested splitting the budget to allow for annual events and those which are newly developed.

The Council seemed to favor the form as presented by Julia. Julia explained the application deadline would be July 1st.

Further discussion took place between a review committee vs. allowing staff to review the forms for accuracy and determinating if the guidelines were followed. It was decided a deadline of August 1st will be set.

Town Manager Segal George asked for any additional discussion.

Council member Thomas feels the Town should look toward their own Town Hall for the future. Mayor Hughes agrees this should be constantly looked toward as a future project. Council member Thomas suggested using the Land Acquisition fund for this item.

Council member Van Duzer would like information on UTELCO and the lawsuit. Attorney Dick Roosa replied two numbers exist. The first number is on the contract itself. All dollars have been paid that are required under the existing contract. Existing monies remain, but there is no certificate of completion from the Engineer. This has not been applied for and until it is the Town cannot legally make this payment. Another number with the power company exists. The power company will not pay UTELCO directly, so they will pay the Town. The power company states the Town should pay UTELCO and they will reimburse. He indicated this cannot be done, because this is lending money to a private company. If they paid this to the Town, the Town could then pay to UTELCO. The next number is one million two-hundred thousand. UTELCO has developed this figure by their change orders that have not been approved or verified. A lawsuit has been filed and UTELCO feels the Town lawfully interfered with their ability to perform under the contract. Additional compensation is being sought. They are also claiming the Town has interfered with the contract. Subcontractors were contacting the Town for demand of payment because they had not been paid by UTELCO.

Deputy Town Manager Gucciardo questioned the estimated dollar figure to be paid if verified? Damon replied approximately $230,000.00.

Vice Mayor Cain questioned the Red Tide? Deputy Town Manager Gucciardo replied this is monitored weekly. The only places of bad reports are typically Bowditch and Lynn Hall. The explanation he has received is the runoff from the river.

VI. TRANSPORTATION ISSUES DISCUSSION

Topic not discussed at this meeting.

VII. ADJOURNMENT

The meeting was adjourned. No time was given.

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.

Respectfully Submitted,

Shannon Miller
Transcribing Secretary