

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JANUARY 7, 2002
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The regular meeting of January 7, 2002 was opened by Mayor Daniel Hughes on Monday, January 7, 2002, at 3:08 p.m.

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

Excused absence from meeting: None

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

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. INVOCATION BY REVEREND WILLIAM DODD, ST. RAPHAEL'S EPISCOPAL CHURCH

Reverend William Dodd gave the invocation.

IV. PUBLIC COMMENT

Michael Short from 470 Madison Court, Fort Myers Beach came forward and expressed that he has been an owner on the island for the past 11 years. They were very excited when the Town first gained its own independence and Marsha Segal-George was appointed. They felt that the island would take charge of its development and was going to limit excessive development. His concern is that nothing much has been done to limit traffic on this island. Streetscaping has also not taken place and traffic has gotten worse. He addressed the toll bridge and has concerns if it will reduce traffic. He expressed that there are three projects that have been outlined for approval for the Old San Carlos Blvd. area. This will increase traffic if they take place.

Earl Lester from 300 Estrellita Drive, Fort Myers Beach indicated that he moved to Fort Myers Beach 6 years ago. He felt this was a wonderful place to retire. He was aware of the traffic problem when he moved here. He believes by putting a toll on the bridges you will penalize all that have made the beach what it is today.

Ray Murphy from 8402 Estero Blvd., Fort Myers Beach came forward and addressed the issue of the grant to be considered for the variable pricing. A lot of confusion exists that people feel the Council will be voting on the issue of tolls. This is not the case. The media is building this up to be a big vote on tolls for Fort Myers Beach. He hopes that when this is considered today the Council will vote to approve the receiving of the grant, which is being afforded to the Town. This will allow the study of the issue of traffic. The variable pricing issue is but one part of the study that will take place. The number one issue on Fort Myers Beach is traffic. He is endorsing the idea of education.

Francis Santini from 191 Primo Drive, Fort Myers Beach came forward. She is against

the toll bridges. She is wondering how the tolls have helped Sanibel, because they are still backed up. Many people travel between each island several times a day. By putting a toll on the island the goal is to keep people off the island, and why not just stop any new construction. She went on to discuss the signage and felt that they were trying to get rid of signs. She was wondering why they would be having another sign on a post someplace. For \$100,000.00 a year she feels that money would be better spent to put trashcans at each bus stop and have it picked up. She asked how many people at this meeting today would be riding the Trolley this month? She would like to think it would be nice to do something for

the people who support the island and not just for the tourists.

Mayor Hughes commented that what the Town Council is trying to do is for the people of the island. He hopes that she does not misunderstand.

Jim Bagley came forward and announced that he is the representative to the Citizens Advisory Committee for the Metropolitan Planning Organization. The MPO is a requirement by the National Highway Transportation Funding that is used to generate the monies nationwide to create the best transportation system in the world. The funding from Washington is created by the money paid in the form of gas taxes and comes back to the community with strings attached. One string is that the County must have a Metropolitan Planning Organization and its appropriate support committees. The purpose of the MPO is to create priorities in the way this money will be spent. It is also to produce a 20-year plan that will say how this money will be spent over 20 years. It must report annually on congestion. The latest report indicated that they have world-class congestion on Fort Myers Beach. If they quit building new structures, and eliminate all of the density on the island they will still have world-class congestion over the next 20 years. The reason is due to being on the shortest route between Bonita and North Collier. There will be tremendous growth over the next 20 years. The computer model shows that congestion will exist and continue to get worse. He is confident that the money that has been given by the Federal government will produce a 20-year plan that will solve this problem. Also, it will contain some innovative ways to pay for this. He strongly recommends that the money be accepted. The cost of doing nothing will be a continued negative impact.

V. CONSENT AGENDA

- A. Proclamation: Children's Day in Fort Myers Beach**
- B. Street lighting on Sabal**
- C. Approval of Minutes: December 10, 2001; December 17,2001**
- D. Approval of Statewide Mutual Aid Agreement**

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Howard Rynearson to approve the Consent Agenda.

VOTE: Motion passes unanimously.

VI. ADMINISTRATIVE AGENDA

- A. Public Hearing: Petition to vacate**

Mayor Hughes announced that this item would be deferred until 6:30 p.m.

**** Mayor Hughes reconvened the meeting at 6:30 p.m.****

Beverly Grady came forward and announced that she is the representative for the vacation of a 30-foot wide portion of Cottage that is located between Mango and the Neptune Inn. This right-of-way serves no public purpose and provides no access except to the two property owners that have filed this joint petition. The right-of-way dead ends where the right-of-way has already been vacated. The portion of the Neptune Inn physically sits across this

vacated right-of-way. The property owners would like to receive the vacation to clean up from the current misuse of this right-of-way. She handed a picture to Council and proceeded to explain this picture. She indicated that they would request approval of the vacation, because it does meet the criteria for the vacation. She would be happy to answer any questions and the property owners are also present.

Council member Thomas commented that he visited this property the other day. The dumpster was not overflowing and the stack of wood was also not present. He feels that they have cleaned it up from these pictures.

Vice Mayor Cain indicated that she was there today and it did not look the same as the picture.

Kevin Mulhearn came forward and expressed that he and his wife purchased the property at 71 Mango early last year. He brought another picture forward. He indicated that this is not always the condition of the property. Most of the time there was a larger dumpster, which was hanging significantly over their property line. Their solution was to put a smaller dumpster and increase the frequency of pickups. The smaller dumpster still extends past the property and creates a bigger problem. During any holiday time they are significantly overflowing. They tried to resolve this a long time ago (October 2000). He made several phone calls to the Manager of the Neptune Inn. She did not respond and he also sent a certified letter that was also not responded to. He then went to Deputy Town Manager John Gucciardo for direction. On November 7 he wrote a letter to them stating the issues and concerns with problems. No real response happened. On December 11, 2000 he went around the neighborhood and had 21 people sign a petition. He read the petition to Council. He would like to see the road vacated and remove the dumpster. This area could then be landscaped. It has never been maintained by the County. There is no reason for the dumpster to be there and can be moved to the other side.

Council member Rynearson indicated that there is a letter from Neptune Inn indicating that they have been in business since 1961, and have never had a problem up until last year. What seems to be the cause of this? Kevin Mulhearn indicated that people are afraid to go up against the businesses in this Town.

Sal Elrubaie from Development Services in Lee County came forward. He indicated that this was approached by the standpoint of what the public has to lose or gain from vacating this alleyway. From this standpoint he came to the opinion that there is no public interest in this as a right-of-way, but there is a drainage and utility easement. They would not give this up totally, because there is an electric line running up the alley.

Sandra Reno, Manager of the Neptune Inn, came forward. She has been employed there since 1974. She feels that this would directly impact the Neptune Inn and the pictures were taken when the larger dumpster was present. They do have a problem with some of the properties behind the south wing adding to the Neptune's garbage. They never put garbage in past 4:00 p.m. in the afternoon. This is when the gate is locked and is secured by the maintenance men. The smaller dumpster is on the Neptune property. The larger one was over the property line. The area is kept as clean as possible. This is the one access to the back of the south wing for utilities or anything else. If this is closed off they cannot use it and will directly affect the Neptune Inn. She expressed that she had spoken to Mr. Mulhearn on several occasions to try and work things out. She indicated that there is no other place to put this dumpster. It would be a larger hardship and a financial one to try and have extra dumps. She does not feel that this should have to be done.

Beverly Grady came forward and expressed that it would be important to look at the criteria for a vacation. Originally Cottage connected to an alleyway that would be on the Neptune's property. This was dedicated for public access, but the public does not use Cottage for access. Why? Because the alley that was connected to Cottage was vacated and there sits the structure of the Neptune Inn. This alone would be sufficient to justify the vacation. It is used

for the dumping ground of a commercial property in a residential neighborhood. A residential area should not be the dumping ground of a commercial enterprise. With the information that has been submitted and provided to Council they feel that Council should grant the vacation of this portion of Cottage Ave. and protect the neighborhood.

Henry Schlichte came forward and expressed that he lives at 61 Mango Street on the south side of Cottage. He indicated that his home was finished in 1995. When he first moved there he objected to the dumpster. He indicated that they can put the dumpster on Estero and enclose it. Others are forced to do this also.

Mayor Hughes asked Beverly Grady where her clients would put their garbage? Kevin Mulhearn replied that the trashcans are placed on Mango Street and picked up by the regular truck that comes through the neighborhood.

Vice Mayor Cain has concerns if the two homes on one parcel could be sold separately? Kevin Mulhearn replied that they were bought together, they have a single strap number and he does not feel that they could be sold separately.

Mayor Hughes has concerns for Mr. Mulhearn because he purchased this property knowing of this situation. Mr. Mulhearn replied that he tried to remedy the situation soon after he purchased. This was there when they acquired their residence and was fenced. When it was discovered that the fence was significantly on the public property it was removed. The small dumpster still extends over onto the public property.

Sandra Reno came forward and expressed that there is no room for another dumpster. If the smaller dumpster is a few inches over the line she suggested lifting it up on the slab that is on their property. This needs to be kept where it is. This situation seems very unrealistic to her.

Mayor Hughes asked Sal Elrubaie to come up and specifically address paragraph 5? Sal replied that he was referring to their other dumpster. He has no knowledge of the volume of trash that is produced and what size dumpster is needed.

Council member Ryneerson asked if any consideration had been given to dragging the trash from the side of the building to the other? He feels that this would be a handicap to them. Sal replied that this was approached from the viewpoint of if there was any real public interest in this road. There is a very small confined space behind the Neptune Inn that is available for dumpster storage. It is not the ideal location. He is unsure of the alternatives.

Pat Mulhearn has some pictures from when Superior was picking up the garbage. The platform was filled with 20 or 30 empty sinks for many months.

MOTION: Made by Council member Howard Ryneerson and seconded by Vice Mayor Terry Cain to deny the petition.

Discussion: Council member Ryneerson feels that Neptune has been there a long time. They should have been well aware when they purchased the property that the dumpster was there. He sees no reason to close the road just to get rid of the dumpster.

Vice Mayor Cain was there today. She is very familiar with Cottage Street. The Neptune has been there a long time. The vacating of a street is an issue that really needs to be looked into. She would like to see some type of a compromise before they go and vacate.

Council member Van Duzer has concerns with the dumpster being off of their property. To vacate the street is a difficult problem to solve. He sees another area for the dumpster which would provide a solution. He feels that it should be vacated or the unit should be removed.

Council member Thomas went to see the property and he indicated that it did not look anything like the pictures before them this evening. He does not want the pictures to influence anyone. He can see a lot of work done on the Neptune property. The homes on Cottage have also been improved. He is unsure if the dumpster could be moved over to the loading dock and not be on the public property. Two good arguments exist.

Mayor Hughes feels that the property owners chose to move there knowing the location of the dumpster. The dumpster does encroach onto the public right-of-way. The public right-of-way should not be used for dumpster storage. He agrees with this. He would like to see the parties spend some more effort to try and resolve this matter. He asked Deputy Town Manager Gucciardo if it is possible to locate a dumpster on Neptune property at the end of the right-of-way without encroaching into the easement? Deputy Town Manager Gucciardo replied that he assumed not. They tried to mediate or facilitate some type of resolution between the parties early on, and when it was brought to the attention of the Neptune that the original dumpster was encroaching on the right-of-way they made efforts to reduce the size and move it back. He assumes that they made the best effort.

Attorney Dick Roosa does not feel that the dumpster is the proper issue to consider in a vacation matter. When you go to a vacation it is an issue as to whether the public is using a road. You vacate a road that is platted. It was originally platted for public use and for neighborhood use. The public is not using this portion of Cottage Street. The public solid waste carrier is using it only because the abutting property owner has a dumpster placed back there. You cannot create an easement on public property.

VOTE: Role call vote. Council member Bill Thomas - aye, Council member Howard Ryneerson - aye, Vice Mayor Terry Cain - aye, Council member Bill Van Duzer - nay and Mayor Daniel Hughes - nay. Motion passes 3 to 2.

Mayor Hughes instructed the Town to be sure that the dumpster is not on public property. He urges Ms. Reno to continue discussion with these people and try to find some type of alternative.

B. Council appointments to Town Committees

Mayor Hughes expressed that Staff has done a great job organizing each committee. There are only two committees where the number of applicants exceed the available positions. These two committees would be the Local Planning Agency and Public Safety Task Force. They will need to vote by ballot on these.

Mayor Hughes went first to the Bay Oaks Advisory Committee. There are 10 members and 5 are Town appointed. He went through and announced each reappointment and the new appointment.

MOTION: Motion made by Council member Bill Van Duzer and seconded by Council member Bill Thomas to approve the reappointments and new appointment for the Bay Oaks Advisory Committee.

VOTE: Motion passes unanimously.

The next is the Community Resource Advisory Board and this is a variable membership. He reviewed all that are seeking reappointment. He announced that Chairman Rick Sowash is resigning and will be moving from the community. Mayor Hughes expressed that they appreciated his time and efforts.

MOTION: Motion made by Council member Bill Van Duzer and seconded by Council member Bill Thomas to approve the reappointments for the Community Resource Advisory Board.

VOTE: Motion passes unanimously.

The next committee to be discussed was CELCAB. Mayor Hughes read the reappointments and new appointment.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to approve the reappointments for the Cultural and Environmental Learning Center and Advisory Board.

VOTE: Motion passes unanimously.

The next committee is the Marine Resources Task Force. 9 members exist and can be expanded to 10 members. The ordinance allows them to expand. He reviewed the reappointments and one new appointment.

MOTION: Made by Council member Bill Thomas and seconded by Council member Bill Thomas to approve the reappointments and new appointment for the Marine Resources Task Force.

VOTE: Motion passes unanimously.

The Times Square Advisory Committee was next to be discussed. There are 4 seeking reappointment and 3 who wish to be added to this committee. This is appropriate and allowable. Mayor Hughes reviewed those who are seeking reappointment and the 3 new appointments.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to approve the reappointments and new appointments for the Times Square Advisory Committee.

VOTE: Motion passes unanimously.

Town Manager Segal-George asked that the new appointments for the LPA be made effective on January 15, 2002. This will allow the old members who have already been contacted for tomorrow's meeting to handle the two cases that will be before them. The same will be appropriate for the Public Safety Task Force. Each Council member took time to make out their ballots for both Public Safety and the LPA.

Mayor Hughes announced that the Town Council appreciates the work done by the volunteer committees. This saves the Town many dollars that they would have to provide in house or contract for. Anyone who runs for an appointment and is not chosen is appreciated, and hopefully they will retain an interest in the community and resubmit their name in the future.

Town Manager Segal-George announced that Ann Alsop, Joe Croker, Bob Gaydos, Flip Harby, Timothy Linskey, Tom Myers, Joellyn Reckwerdt, Larry Schafer and Carolyn Van Duzer have been appointed for the Public Safety Task Force. She went on to announce the appointments for the LPA. They are Anita Cereceda, Jodi Hester, Harold Huber, Nancy Mulholland, Betty Simpson, Jessica Titus and Hank Zuba.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain effective on January 15, 2002 the above appointments for the Public Safety Task Force and the Local Planning agency are approved.

VOTE: Motion passes unanimously.

C. Discussion of variable pricing grant

Town Manager Segal-George indicated that a lot of the concerns this evening from public comment could be addressed in the information provided in a past meeting from Chris Swenson. She is not prepared to provide this information this evening. She feels that they have tried to find solutions to the problems in many different ways. She does not feel that they have a solution, but have gotten better at identifying where the problem issues are.

She went on to discuss the concern regarding the Streetscape. The Council went through a long process to hire a consultant to come up with a plan for the Streetscape for Estero Blvd. The Council picked Wilson Miller who came up with a beautiful plan including sidewalks, bike paths, Trolley pull-offs and the under grounding of utilities. The end resulted in a 30 million dollar price tag. This is where the Streetscape stopped due to lack of funds. Who should pay for improvements on the island? The County and MPO have no money budgeted for the beach. The grant before Council is a three party grant between the State of Florida, Federal Government and Fort Myers Beach to complete the study. This will help determine what the economic impact is to Lee County, look at the congestion issues and how to solve them and toll component or congestion pricing. Tolls are not the majority of the study. She feels that it is incredible that the Federal Government is interested in the problems of Fort Myers Beach, and is willing to put so many dollars on the line. They are looking at this problem as a priority. She attempted to give a historical history of what has happened since April when the grant was first applied for. If Council decided to accept these dollars they will need to go to bid and request proposals. The Council will have to select the consultant to do this work. This work will take 1 to 1 ½ years to complete and will come back to Council. At this point Council will need to make a decision of what to do.

She spent some time discussing all of the negatives that have been mentioned regarding tolls. The tolls are being considered for a means to an end. Technology is changing daily and the options are endless.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to move forward with both agreements - The Tri-party Cooperative Agreement between the State and Federal Department of Transportation and the resolution between the State, FHA and the Town.

Discussion: Council member Van Duzer commented that people were interested in him becoming part of Council due to him being against tolls. People have also commented that if he is voted in he better fix the traffic problem. He has given a lot of consideration and was going to vote against this study, because he had felt that enough studies had been done. He spoke with

Mr. Bagley and has a lot of respect for him. He is in favor of doing something with the traffic problem on the island. The traffic on Fort Myers Beach is not the residents, business owners or suppliers. The traffic problem is due to the growth in Lee County. He would like to see those who come to the island to spend the day, and who do not support the island pay for the right to use the island. He complimented Town Manager Segal-George for her work on this grant. He hopes if this is voted on and accepted the successful bidder will be under continuous pressure to come up with answers.

Vice Mayor Cain is excited to find the feasibility of aspects seen through Chris and others. Many options have been discussed. She feels that there are many different things that can be done to help. You will never eliminate the traffic, but there may be wonderful ways to move it along a little better. She hopes that this will be the open door to do this. She feels that it is very important to accept the grant.

Council member Thomas thanked Town Manager Segal-George for a very thorough report. He indicated that the grant is \$500,000.00 and no one has mentioned that Fort Myers Beach will contribute 20%. All studies are concerned with how to bring more traffic to Fort Myers Beach. He has yet to hear of how to get traffic off the island. He feels before this goes any further there should be a referendum on tolls and stop all the surveys that cost a lot of money. This money can be put to better use in the Town. He does not feel that they should go forward with this and does not feel the people are in favor. There are petitions in the lobbies of condominiums against tolls. People off the island are petitioning against the idea of tolls. He does not feel this is what the people want and he feels that they are headed in the wrong direction.

Council member Ryneanson suggested adding to the motion that they are looking strongly at not tolling the residents. This will indicate that they mean business about taking care of the people.

Council member Thomas indicated that an election just took place this last November. All four candidates that ran for office stated that they were against tolls. He feels that they should hold their feet to the fire.

Vice Mayor Cain expressed that they are voting on a grant. There is always a match for the grants and this should have been mentioned. This is a grant to study the feasibility of traffic congestion. She feels that it is smart to obtain as much education to make an educated decision on what to do. Hopefully, they will find a solution.

Mayor Hughes took exception to several remarks by Council member Thomas. One is that the emphasis is to bring more traffic. He does not feel that this is the emphasis at all of this study. Tolls would be to deter bringing more traffic on the island. He referred to the website survey on tolls. Town Manager Segal-George replied that it is running even regarding the "for or against" tolls. He also mentioned that the dollar

amount for the grant is a maximum and could possibly be reduced and not be spent.

Council member Thomas discussed the alternate lanes with the traffic light on San Carlos. This was tried in the Summer, but road construction was going on. It is planned to try and use this plan again during the season. He feels that this plan did and would help the traffic somewhat. He has heard three different versions of what the toll money could be used for. He does not feel that this is the way to go.

Town Manager Segal-George replied to Council member Thomas. When earlier discussions were made regarding how revenues would be spent they were just ideas on how. It is always up to the Council. There is no plan that is outside the hands of the Council. The Council will decide in any circumstance on how these dollars will be spent.

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

D. Discussion of NextBus

Chris Swenson came forward and expressed that Larry Rolsten from Lee Tran is available to answer questions. As part of the original study one idea that was proposed was the idea of giving real time information to those using the Trolley service. During the course of the study it was determined that NextBus does exist and does provide this service for other communities in the United States. It was a routinely positive item throughout the entire study. The gross cost estimate is \$100,000.00 per year. There is a real significant possibility of advertising revenue offsetting these dollars. There may also be grant opportunities. Tonight they are not asking Council to commit to any specific amount of money. They are asking Council if they would like them to proceed in talking to Lee County and Lee Tran about the possibility of implementing NextBus on the Town's Trolley system. There is a cost associated with this and it is very doubtful that Lee Tran has additional revenues to offset these costs. If they would receive the go ahead today they would go to the Lee County Commission and let them know what is going on. He would work with Lee Tran to determine the technologies that are available. They would come back to the Town Council and give the results of the investigation, and provide their recommendation of whether or not the Council should consider proceeding with NextBus immediately.

Town Manager Segal-George and Mayor Hughes felt that Chris Swenson needed to explain NextBus for all present. Chris Swenson went on to discuss that NextBus is a system that uses global positioning systems. Each of the Trolley's would be equipped with a GPS receiver. They are also equipped with a digital phone or similar device, so that the latitude and longitude can be sent out to a central location. At this location the buses location then and previous locations are mapped, the speed of the bus is determined and the route of the bus is known. The system will take the arrival time information and send it back through a wired system or a digital wireless system, and puts a display on a small LED screen located at each of the bus stops. This will let the passengers know when the bus is to arrive, so they can depend on this. This information can also be put on a cable network. It is a very versatile system with a lot of possibilities.

Mayor Hughes feels that a lot more people would utilize the Trolley system if they knew when it would arrive. The Council will be giving direction to Mr. Swenson as to whether this discussion should pursue.

Larry Rolsten who is the operations manager for Lee County Tran came forward. He

indicated that they operate the Trolley system for Fort Myers Beach. The main issue is to make this system more user friendly.

Council member Bill Van Duzer would like to know who pays the cost to investigate this and how much is it? Chris Swenson replied that the Town would be paying under the general services contract. He is unsure of the exact figure. It would be more than \$2,000 or \$3,000 but no more than \$6,000 or \$7,000.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to move forward in obtaining information for NextBus.

Discussion: Council member Bill Thomas attended the workshops with Chris Swenson. He feels the NextBus system is fantastic. It would make it more user friendly for those who will use the Trolley. He asked if the Town has the money to supplement this? They would need an additional 32,000 riders to pay for the system. He is watching the taxpayer's dollars.

Vice Mayor Cain expressed that there is a large population of seniors who use the Trolley system. It takes a little longer, but she feels that there are many on the island other than visitors that this will benefit.

Chris Swenson did suggest that the advertising revenues could offset the \$100,000.00 cost. This is why the study would be beneficial to help provide a snapshot for the future of NextBus.

Mayor Hughes commented that the Trolley service is a real asset to the community. It is not efficient at the present time.

Council member Van Duzer feels that they must try things. He has used the Trolley system. You must spend some of the taxpayer's money to try these projects. They will never get anywhere without a trial.

Council member Thomas does not believe in rubber stamp government. He is bringing up issues that should be questioned and discussed by the Council. He is bringing up both sides.

VOTE: **Motion passes unanimously.**

E. Council areas of interest

Council member Van Duzer has had time to carefully consider what was offered and he feels that it is a very fair split of the committees.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to approve the Council areas of interest as indicated in the memo dated January 2, 2002.

VOTE: **Motion passes unanimously.**

F. List of delinquent merchants on Times Square Maintenance MSBU

Town Manager Segal-George reviewed that in December the Council told the Times

Square merchants if they would pay by December 31, 2001 the Council would forgive 50% of the 1999/2000 assessments. They have also received a number of merchants that have paid since January 1, 2002.

She would like to extend from December 31, 2001 to January 31, 2002 the agreement made by Council in December. She feels that they will be able to collect almost all delinquent payments.

Damon Grant added that they started out with 36 business owners owing approximately \$20,000 and they are down to 20 (almost half) owing approximately \$11,000. This is not including several of the owners intending to pay. For one reason or another they have been out of town and have not been able to come in and pay.

MOTION: Made by Council member Bill Van Duzer and seconded by Mayor Daniel Hughes to extend the discount period to January 31, 2002. Also, those that have still failed to pay by the February 4, 2002 meeting the Town Council is instructed to have a resolution available to proceed with placing a lien on the defaulting parties property.

Discussion: Town Manager Segal-George expressed that they will bring Council a list on February 4 of those that still remain unpaid. At that time they will ask to place liens on these properties.

Council member Rynearson thought that this was all gone through at the last meeting in order for staff to close out their books. Town Manager Segal-George explained that a lot of confusion existed at the last meeting. The Town's auditors needed a decision from Council with regards to how this would be treated.

Council member Thomas commented that when your taxes are due you have to pay your taxes. One opportunity was given at the last meeting and they were not paid. He does not feel that they should reward those that are late on their taxes. Interest should be charged to give an incentive to pay.

Mayor Hughes would normally agree with Council member Thomas, but they did not receive much notice and with it being over the holiday period an exception should take place.

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

G. Resolution on Marina Towers

Town Manager Segal-George began by indicating that this has rolled around with questions on whether this parcel can be vacated or not, and also who owns this parcel. There is a deed from Leonardo Santini where he deeded this property to the County for right-of-way. When the Town came into existence Lee County sent a letter that everything but Estero Blvd. from the Sky Bridge to the South Bridge the Town gets. It went through the Waterway Advisory Committee downtown as a step to see if the County Commissioners vacate it. Issues existed on whether or not the County Commission had the authority to vacate it, and whether the Town Council did instead. From staff's side there is a real desire to try and help Marina Towers. There was also a desire to bring this whole parcel within the Town's authority of control rather than the County Commission. The resolution prepared asks the Council permission to talk to Lee County and ask Lee County if they can acquire this property from them. At this point they can then try to deal with the Marina Towers issue.

Attorney Dick Roosa added that the vacation of the portion of the road that Marina Towers is requesting still does not resolve the concerns of the Town. The concerns of the Town are that this is a parcel of land that is in “public ownership” by title in the County. This is something that the Town ought to have control of and make the decisions as to how this property is to be used. The purpose of the resolution is not in opposition of the vacation, but rather that the County transfers title over to the Town. The Town would then be the proper party to make a decision with regards to transfer of property to Marina Towers, and the protection of the interest of the people here on Fort Myers Beach.

Mayor Hughes indicated that if the County accepts this and deeds it to the Town it would be the intention of the Town to vacate the portion that is utilized by Marina Towers as their parking area. This would be the long-range intent.

Beverly Grady came forward to represent Marina Towers Yacht Club Association. They are here to request the support of Council in remedying a long-term situation. Marina Towers is adjacent to a parcel of land that has been owned by Lee County since 1953. Marina Towers has always maintained the area. Marina Towers did the research to find the deed showing that Lee County owns the parcel. This parcel was given to Lee County at no charge by Leonard Santini for public road purposes. It is not now nor has been used for public road since the County posted their sign. When no longer used for the public road purposes there is relief by the Florida Statute. Marina Towers would like relief in the most efficient way possible, and would like the support and help from Council. They are requesting legal recognition of this portion of the road being closed and discontinued, and recognized that it has always been used by Marina Towers. Marina Towers would simply like to protect its parking, access, landscaping and seawall. She discussed the alternate language provided to the resolution which has already been drafted. They have added some additional clauses. They do not want to get caught in between the County and Town. They would like the County to grant their relief with the support of the Town. If the Town would like to proceed with obtaining the whole parcel they are asking to amend the resolution to provide some comfort to Marina Towers that they are ultimately able to be secure that the Town will remedy this and grant them relief.

Attorney Dick Roosa expressed that he understood their concern. He explained that Council does not have the jurisdiction to indicate that they will grant the relief that Marina Towers is requesting, because a public hearing must be held first. He has no problem with the resolution, but must add “to hold a public hearing”. Mayor Hughes had a different suggestion. He suggested adding “which would provide the Town the authority to hold a public hearing to consider the relief requested by Marina Towers”. Attorney Dick Roosa replied that this was OK.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Thomas that the resolution requesting Lee County Commission deed a surplus parcel to the Town of Fort Myers Beach with the modifications presented by Beverly Grady and the further modification suggested by Council be approved.

Discussion: Vice Mayor Cain asked if the County must hold a public hearing to grant to Marina Towers? Attorney Dick Roosa replied no. The County can transfer by deed without holding a public hearing.

VOTE: **Motion passes unanimously.**

H. Public Hearing: Land Development Code Chapters 1, 2, 6, 14, 22 and 26
Mayor Hughes announced that Council has a memo from Bill Spikowski dated December 26, 2001. This is a public hearing on ordinance 02-01, which is an ordinance amending Chapters 1, 2, 6, 14, 22 and 26.

Bill Spikowski, Planning Consultant for the Town, came forward. He expressed that this is the first of two public hearings that are required to adopt this ordinance. The second public hearing will be on February 4, 2002 at 6:30 p.m. He indicated that Council and the LPA are in receipt of the whole code to see how the pieces fit together. The binders are being tested and if they are liked they will be used in the future. He indicated that two County officials are with him this evening that has helped to draft portions of the code. One additional change has not been included and this would be Appendix J. This needs to be repealed and he would like to include this to be deleted. The other changes that have been made are spelled out in the memo and highlighted in the ordinance itself.

Bill Spikowski went on to discuss Chapter 1. This chapter is very basic introductory material. The most important issue is page 5 of 9 pertaining to rental agents who fail to take adequate steps to prevent violations of the code on the property they manage. They can be cited for a violation of the code. One of the many methods that can be used for the code is a penalty of \$500.00.

He went on to Chapter 2 and commented that they would only be dealing with one part of this chapter. This would be mainly the impact fee section and reflecting the new park impact levels adopted by Lee County. Also, adding in school impact fees that are imposed by the County and which are already imposed by the County, and being collected within the Town. This will make this very clear to anyone who uses the code what will need to be payed under the County ordinance. The only additional change is the change from hearing examiner to code enforcement hearing examiner last year, and now it is being suggested to call it code enforcement.

Chapter 6 has some provisions of substance. This is where the Local Planning Agency discussed at great length a few of the items discussed at the joint workshop. He called Council's attention to three specific items. He referred to the substantial damage language. This information is voluntary and he considers it to be important. Since the previous hearing he has clarified the language. The LPA did support this matter.

Council member Van Duzer expressed that he still has difficulty with this situation. He does not feel that it is reasonable to include this, if it does not have to be included. This could also offer a reduced premium for flood insurance for the entire island. He would like to know this amount? He is opposed to having this language. If it is going to reduce his flood insurance by a significant amount he will then make this decision.

Deputy Town Manager Gucciardo replied that each year they undergo an evaluation through the community rating service folks. Every five years they do a total re-evaluation of the island. Currently they have a rating that affords them a 15% reduction in flood policies on the island. He feels that this may result in another 5% reduction.

Town Manager Segal-George commented that she also has one of the homes damaged by Gabrielle. Most of the damage to her home is in the non-structural and interior refinishing that do not even count. You would have to have significant structural damage twice within 10 years in order for this apply.

Mayor Hughes questioned how this type of information will be tracked? Deputy Town Manager Gucciardo replied one way would be through the permitting office downtown. The second way would be through the NFIP.

Bill Spikowski explained that he felt this language was important and necessary for them to have. Council member Van Duzer decided that he was in agreement with the language.

Council member Van Duzer commented on the double door restriction. He feels if you have a double steel door and it allows a six-foot opening this should be allowed.

Town Manager Segal-George commented that many violations were taking place last year with people taking storage space and converting it into living space. She began dialog with Bill Spikowski to try to have it finished in such a way that it makes the conversion to living space

more difficult. This is not an attempt to stop people from using it from storage space.

Council member Ryneerson agrees with Council member Van Duzer. If he were going to put in an apartment it would not matter the door size. He does understand the wider door for storage. He agrees not to put the French doors in.

Bill Spikowski will adjust the language and bring to the next hearing for review.

Bill Spikowski went on to Chapter 14. All the divisions within Chapter 14 have new, improved and identical enforcement language that has already been discussed. The changes of substance are in division one and a few on division two regarding sea turtles. Division one is the existing Beach and Dune Management Ordinance, which would become Division one of this code. The Marine Resources Task Force had been dealing with the new absence of the DEP permitting process for beach raking and driving on the beach. It would now become a Town permitting process.

Discussion was held regarding the movement of jetski's beyond the seawall. Several properties are not able to comply. The existing language will keep these several properties in a constant violation. Bill Spikowski commented that the benefit of keeping the language will be that the rule will apply to all those that can comply. The only others that do not have to comply will be those with the very specific hardship problems. Vice Mayor Cain commented that they hope after the beach renourishment program this will change.

Council member Van Duzer asked when turtle-nesting season is? Bill Spikowski replied May 1 thru October 31. Council member Van Duzer asked how this affects the power boat races? Town Manager Segal-George expressed that nothing has changed and the Town will be doing the permitting.

Bill Spikowski moved to Chapter 22. This chapter is very straightforward and basically takes the historic preservation ordinance and changes it to Town jurisdiction. The LPA will serve as the Town's Historic Preservation Board. This is a program that works very well in Lee County and will be getting off the ground here in the Town with the efforts of the LPA and the Historic Society.

Bill Spikowski commented on Chapter 26. The only thing of substance beside the enforcement would be an issue debated by the LPA regarding boathouses that were permitted prior to the County having boathouse regulations. The new language states that the boathouses would have to be put into compliance within a 2-year period. The LPA debated whether this time period would be too short. The LPA asked Bill Spikowski to express their unease with the short time period.

Mayor Hughes in not in favor of giving anymore time. Council member Ryneerson agreed.

Mayor Hughes announced that this public hearing will be continued for a second hearing on February 4, 2002 at 6:30 p.m.

VII. COUNCIL MEMBER ITEMS AND REPORTS

Vice Mayor Terry Cain - Attended the last LPA luncheon. Bill Van Duzer was honored and received a lovely plaque for all his years of hard work. It was an interesting meeting and she enjoyed it. Happy New Year!

Council member Bill Thomas - New Years Eve day he was at Times Square. The ladies of the beach baked cupcakes and handed them out to the public. The entertainment in the afternoon was fine. He returned to Times Square at 10:00 p.m. to watch the festivities until midnight. It was very crowded. The merchants did very well in Times Square.

He was fortunate to go the Orange Bowl and see the Gators beat Maryland.

Mayor Daniel Hughes - He commented that they had a nice Birthday party.

This Thursday he will address the Chamber at their luncheon to give the State of the Town. He would be delighted if any of the Council members would chose to give him some moral support. Deputy Town Manager Gucciardo is checking to see if he can make a change

with the Southwest Florida League meeting.

He had his second Horizon Council meeting. They devoted a lot of time to the matter of seeing a local minor league team play baseball. They decided to see the Indians. Mayor Humphrey is attempting to get the Red Socks to move their minor league down from Sarasota.

VIII. TOWN MANAGER'S ITEMS

1. Council Retreat

2. Workshop with CELCAB

Town Manager Segal-George began with the Council retreat. In December the Council indicated that they would like to do retreats more often and sooner. She is planning one for February 13 or 20. She went through the calendar for January.

She discussed the concerns of holding the workshop with CELCAB on the January 17 due to the events with regards to the Director. She is putting this before Council to see if there is still an interest. She also mentioned a few developments. She is hoping to have a proposal from Florida Gulf Coast in regards to them submitting a proposal to run the Mound House. She is hoping to have this by the 17th. She also feels that Council needs to sit face to face with CELCAB to discuss some of the issues. A number of issues need to be discussed. All Council members felt that the workshop needed to continue.

She also would like topics for the Council retreat. One of her topics would be Newton Beach. She would like this information by the 4th of February. She is shooting for the 13th of February for the retreat.

IX. TOWN ATTORNEY'S ITEMS

None.

****The meeting was adjourned at 5:20 p.m. The meeting will re-adjourn at 6:30 p.m. and move to agenda item VI - A.****

X. PUBLIC COMMENT

Mark Combs, owner of the Gulfshore, came forward. He discussed the maintenance issue. As soon as he got the bill he paid it. He has 40 foot in front of the restaurant and he has never seen anyone maintain it except for himself and his maintenance people. He contacted Deputy Town Manager Gucciardo to see what his cost is to maintain the property. He replied that it was his \$296.00 bill. He received a bill the next day for the Cottage. He indicated that he is on the delinquent list for the Cottage Bar and there is not such thing as the Cottage Bar. Town staff is looking into this. A lot of good things take place in Times Square, but nothing takes place at his property. He has no problem paying his maintenance. He commented on the maintenance bills being sent out 19 months late. He feels that there is not enough staff. He also asked how the maintenance is calculated and who pays what? He feels that this needs to be looked at.

Town Manager Segal-George disagrees with everything said by Mr. Combs. She believes that he absolutely knows everything that has gone on. She finds this very insulting.

Mayor Hughes commented that they did discuss and knocked out the formula at an open Town Council meeting and adopted the ordinance. This was July 1, 1999. This ordinance has been in effective for 2 ½ years. He and Town Manager Segal-George will discuss the Cottage Bar issue with Mr. Combs.

Mr. French came forward and congratulated Mayor Hughes. He understood approximately 55% of his speech. He understood nothing from the rest of the Council members. He feels that this is a secret meeting and this is illegal. They have a PA system and should turn it up, so people hard of hearing can hear. He asked what legal steps he can take to move against the toll action?

Mayor Hughes replied that they did not adopt any toll action this afternoon.

Mr. French commented that he has no intention of paying a toll to get to his home. He has lived here for 23 years. He will sell his home and move out of Town. He will take his bank account, church activities and grocery shopping somewhere else. A lot of others will do the same. He understands the traffic situation and is willing to put up with it. He hopes that all vehicles are never on the road at the same time.

XI. ADJOURNMENT

The meeting was adjourned at 9:05 p.m.

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