FORT MYERS BEACH
TOWN COUNCIL MEETING
MARCH 4, 2002
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Regular Meeting of March 4, 2002 was opened by Mayor Daniel Hughes on Monday, March 4, 2002, 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, 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, Dick Roosa (Town Attorney), Dan Folke, Bill Spikowski and Pam Houck.

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. INVOCATION BY REVEREND DICK TAFEL. NEW CHURCH OF SWFL

Reverend Dick Tafel gave the invocation.

IV. PUBLIC COMMENT

None.

V. PROCLAMATION: Congratulating Ray Murphy on FOLK presidency

Mayor Hughes expressed that it his great pleasure to congratulate Ray Murphy on becoming the FOLK president. He asked Ray Murphy to come forward and read the proclamation. Ray Murphy expressed his gratitude and accepted this honor on behalf of the FOLK's, which is a citizen's service organization. It is comprised of volunteers who give their time to help the park and make it a better place for everyone. It is especially beneficial to the beach. He expressed that the real heroes are those who give of themselves all the time at the park. (Applause was given.) Mayor Hughes announced that on behalf of the Town Council they all wished him luck on his endeavors.

VI. PROCLAMATION: Congratulating Fran Myers on Paulette Burton Award for Citizen of the Year

Mayor Hughes read the proclamation on behalf of Fran Myers. Fran Myers came forward and thanked all Council members. She expressed that many of the people in the audience also deserve this award. She explained that it is very easy to become a volunteer with people such as the Town Council and staff. (Applause was given.)

Mayor Hughes expressed that an additional Proclamation is to be recognized, which is

not on the agenda. It is a Proclamation regarding the Pilot International and the Brain Minder's Organization. He went on to read the Proclamation. The Town of Fort Myers Beach proclaims the month of March as Brain Awareness month. They urge all citizens to take the opportunity to provide additional support for the Brain Awareness Programs, brain research projects and brain injured and disabled individuals. This month they welcome into the Town the implementation of Brain Minder's, which is an education and awareness program aimed at preventing brain injuries in children. This is produced by Pilot International and presented locally by the Pilot Club of Fort Myers Beach. He asked Sara Keller from the Pilot Club to come forward and accept the proclamation. (Applause was given.)

Sara Keller thanked Council for the proclamation. On behalf of Pilot International they hope that everyone will be aware of Brain Awareness month and review their booklet and share with a children. (Applause was given.) Mayor Hughes thanked Sara and wished her luck with the program.

VII. CONSENT AGENDA

A. Approval of Minutes: February 4, 2002, February 11, 2002 and February 13, 2002

B. Resolution: Supporting Federal Funding for Beach Restoration Project

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to approve the Consent Agenda. Consent Agenda Item A to be approved with corrections as noted below.

Corrections and changes to minutes for 2/4/02:

1. Mayor Hughes - Page 7 - Strike the word Council following legal and replace with Counsel.

2. Vice Mayor Cain - Page 21 - Strike the work instructing and replace with constructing.

3. Mayor Hughes - Page 18 - Correct and insert the following: Mayor Hughes is unhappy with the length of the title of the Ordinance.

4. Mayor Hughes - Page 14 - Correct spelling of name to read Paul Shneeberger.

VOTE: Motion passes unanimously.

****Recess as Town Council and convene as Fort Myers Beach Public Works Services, Inc. Board of Directors****

1. Discussion and acceptance of audit services proposal for 2001/2002 fiscal year.

Mayor Hughes indicated that at the last meeting the audit was reviewed. They are proposing quarterly audits as opposed to one final audit.

Deputy Town Manager John Gucciardo explained that they accepted the results of the audit for a two-month period at the last meeting. As part of the audit process, to establish a comfort level, it was agreed by staff to go to quarterly audits to correct any errors in the accounting process. This will keep an error from continuing over for an entire year. The new proposal reflects this change.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to approve the proposal from Shultz Chaipel & Co for

the Water Utility. This proposal is not to exceed $15,000.00.

Discussion: Council member Van Duzer expressed that he feels the quarterly report might be beneficial for the first year. Next year it could be renewed for yearly only.

Mayor Hughes is in agreement.

VOTE: **Motion passes unanimously.**

****Adjourn as Fort Myers Beach Public Works Services, Inc. Board of Directors and reconvene as Town Council****

VIII. ADMINISTRATIVE AGENDA

A. Continued Public Hearing: Seafarer's Developer's Agreement

B. Ratification of Seafarer's CPD Resolution

Mayor Hughes announced that Item A & B are to be continued per the request of the applicant. This is their statutory right to do so.

Beverly Grady came forward and indicated that they had wished to bring this matter to the March 18, 2002 Council meeting.

Town Manager Marsha Segal-George asked Council to begin the March 18, 2002 meeting at 3:00 p.m. to allow for a Workshop to be held regarding this case. She expressed that the continuance of the Developers Agreement and ratification for the CPD Resolution be set for April 15. This will allow time for the preparation of documents following the Workshop on March 18.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to continue the Public Hearing on the Development Agreement and the ratification of the Seafarer's CPD Resolution to April 15, 2002 at 6:30 p.m.

VOTE: **Motion passes unanimously.**

Mayor Hughes explained that he has had discussions with the Special Counsel. This Counsel has indicated that the Town Council has expressed what is not wanted, but have not discussed what everyone would like to have. He suggested a Workshop and Town Manager Segal-George and Attorney Dick Roosa are in agreement.

C. Public Hearing: Community Development Block Grant

Deputy Town Manager Gucciardo expressed that this is an ongoing process. A series of public hearings will take place. Hopefully, some input from residents will come forward as to where they would like to see the CDBG grant funds allocated once they are received for use in 2003. Separate ads in the local papers have been run to see if there is feedback from the residents. He expressed in his memo two tracks which are being followed. The first is for the Town to join in the County's efforts in the affordable housing area. This is a priority item for the County. Another series of eligible activities will be brought forward. He gave a list of four activities. Some of the programs being looked at are after school child care, programs for seniors

and programs through the elementary schools. In the event they do not go down the path of affordable housing a recommendation will be made for one of the other suggested programs. If Council has other ideas they should be brought forward.

Mayor Hughes asked if anyone from the public wished to address the Council. None was heard.

Vice Mayor Cain expressed that she was excited to see the other services being offered. She would love to see more Senior Programs and Child Care Programs along with education.

Council member Rynearson asked if it is still open for certain forms of code enforcement? Deputy Town Manager Gucciardo replied that code enforcement is an eligible activity. The difficulty is that they would need to document for the programs auditing purposes that 51% of the dollars would be spent for areas identified as low and moderate income residents.

Council member Van Duzer asked if in order to achieve the grant do you have to opt into any particular program or can they select their own program? Deputy Town Manager explained that the process between now and mid-April is to identify where they feel the money will be spent. This choice will be transmitted to the County and the County will put the package together to submit to the Federal Government for funding in the fall for use next year. He explained that they do not have to do affordable housing or code enforcement. These are all different eligible activities within the program.

Council member Van Duzer questioned if they selected the use for the grant money to go toward the Senior and Child Care Programs could some of the dollars go to Bay Oaks to assist with the programs already in place? Deputy Town Manager Gucciardo replied that he did not believe so. He did not look into this, but this could be investigated.

Town Manager Segal-George replied that Bay Oaks is not paid by the program. A staffing issue has been raised at Bay Oaks and it is possible these funds could be used in this direction.

Council member Thomas is in favor of assisting families with affordable housing and the improvement of the energy efficiency of the dwelling.

Mayor Hughes questioned how the Comprehensive Plan is involved? Deputy Town Manager Gucciardo replied that one of the reasons affordable housing may be the ultimate recommendation from staff would be due to the Comprehensive Plan. He is working with Bill Spikowski to identify the obligations under the Comprehensive Plan. Bill Spikowski has indicated that merely pooling resources with the County would be enough to meet the obligations.

Another public hearing will be held regarding this matter on March 18, 2002.

D. Approval of Contract for canals: Hans Wilson

Town Manager Segal-George provided some background. In the last Beach Access the Marine Resources Task Force had requested a survey document be placed inside. This survey was for the residents to complete to express if they have issues with their canals and what they would like to see the Town do in regards to this. She showed the response to Council and explained that they have received significant response. She would like to get out a postcard to everyone on the list to show they are aware of the issues and working toward them. Hans has given a proposal. This proposal went to the Marine Resources Task Force where they unanimously recommended that it be forwarded to the Council for approval. Workshop components are included in the proposal and would not be done until the next season. The project is for $17,300.00 and this will give the Marine Resources Task Force the technical support they need to move forward with this project.

Hans Wilson pointed out that this proposal is very sensitive to the needs and desires of the community. He expressed that they felt very strongly about having a Workshop component. He further explained the proposed process and is available to answer any questions of Council.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Thomas to accept the proposal for contract for canals by Hans Wilson.

VOTE: **Motion passes unanimously.**

E. Committee Appointments: Times Square Advisory Board

Mayor Hughes announced that two openings are available and two applicants have applied. Brian Anderson and William Buston came forward to introduce themselves.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to appoint Brian Anderson and William Buston to the Times Square Advisory Committee.

VOTE: **Motion passes unanimously.**

F. County-wide Emergency Shelter Deficit Reduction Program

Deputy Town Manager Gucciardo indicated that a memo is included in Council's packet which shows the latest developments in a series of discussions that go back to July 2000. These conversations were held with the County regarding the deficit of shelters for emergencies. In July of 2000 the County made offers as to how the Town could help contribute to these efforts. These have been changed somewhat and the estimate has dropped from $57,000.00 down to $42,000.00. These would be the Town's share based on a population split. The issue deals with the current deficit and the projected deficit. They are looking for the monetary contribution of $42,000.00 over 5 years. This would address the existing deficit. The future deficit would involve the Town's consideration of certain land use regulations, which are going to be put into place at the County level. He is unsure if adopting these regulations would add anything to the County's effort. By addressing the current deficit situation they would be addressing their obligations. The County has a legal obligation to address this issue by virtue of their Comprehensive Plan. The Town does not have this legal impediment. This would be more of a question of fairness and equity as to whether the Town would like to help participate in solving the County's problem.

Mayor Hughes asked what the other municipalities are doing on this? Deputy Town Manager Gucciardo replied that the City of Cape Coral has just recently agreed to work with the County by adopting the equivalent of the County's All Hazards Tax. In return certain requirements were made. They want a certain amount of the shelter to be built in the Cape. City of Sanibel has been asked to participate. He is not sure of their position.

Council member Bill Van Duzer met with John Wilson and John to discuss this issue. After discussions he personally feels that they have an obligation to proceed with this. He feels that this is putting the right foot forward with the County. It is a one-time situation. He expressed that they do not have anyplace on this island and would be foolish to place any type of shelter on this island. He feels that this would be fair and reasonable.

Mayor Hughes agrees with Council member Van Duzer. He questioned if they give the

whole $42,000.00 or spread over the 5 years.

Deputy Town Manager Gucciardo explained that this would be an unbudgeted item and would be taken out of reserves. This amount would not make a serious impact either way. He could ask if the $42,000.00 amount could be discounted if paid in one lump sum. All Council members were in agreement.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to participate in the Shelter Deficit Reduction Program. Direction was given to Deputy Town Manager Gucciardo to proceed with asking for a discount of the up front payment of $42,000.00.

VOTE: **Motion passes unanimously.**

G. Introduction of Ordinance: Old San Carlos Assessments

Mayor Hughes explained that this came from a previous meeting where the Town Attorney was asked to prepare a resolution containing the options. Section IV contains two different options on the percentage the property owners would pay for new items - 20% or 50%. Section V contains 3 payment options, which will remain. Section VI contains two alternatives of the remaining cost which would be divided proportionately at 62.5% to the Town and 37.5% to the DRA or 50/50 among the two entities. A public hearing needs to be set and these options should be left in. At the public hearing the election of options can be decided on.

Town Attorney Dick Roosa expressed that they will need to have two public hearings. The first public hearing will be the finalization of the resolution. The second public hearing they will sit as the Board of Adjustment. He feels that it is important the Council address the alternatives on March 18th.

Town Manager Segal-George explained that the plan is to ask Council to award the bid on March 18th for Old San Carlos. She is asking Council to continue this resolution until March 18th. Town Attorney Dick Roosa will let her know when the hearings will be held.

It was decided that this resolution will be set for public hearing on March 18th. After the hearing the options will be selected and the adoption of the resolution will take place. Another public hearing will be set.

MOTION: Made by Council member Bill Thomas and seconded by Council member Howard Rynearson to continue this matter until March 18, 2002 for Public Hearing.

VOTE: **Motion passes unanimously.**

IX. COUNCIL MEMBERS ITEMS AND REPORTS

Council member Bill Thomas - February 8th he attended the Pilot Club Auction. On the week of February 6th he volunteered at the Senior Golf Tournament. This is the 4th year he has participated. The proceeds go to the Children of Southwest Florida. In February he attended Ron Shoap's "Do the Right Thing". This was a rewarding experience. He encourages each Council member to attend. February 19th he attended the Civic Association debate on the Pro's and Con's of the weekly rentals. This was very informative. February 27th he attended the Southwest Florida Chamber of Commerce meeting. The main discussion was tourism and the

effects on Lee County. On March 2nd he participated with the Pilot Club on adopt a shore clean up. There was a nice turnout and a lot of trash was collected.

Council member Howard Rynearson - A TDC meeting was held on Friday. He would like to have DT and his groups come to Council to give a presentation. This could be held jointly with the Chamber (Board of Directors). He requested from the Town Attorney a drafted resolution in regards to moving the homes and cottages around on the beach.

Council member Bill Van Duzer - Went to the Civic Association meeting and found it very informative. He has been invited to the Chamber on Wednesday morning. He reminded everyone of the Shrimp Festival. He has received a lot of calls regarding the lights coming onto the island. He will be attending the Historical Preservation sub-committee meeting. A brochure is in the beginning stages. A resolution regarding uncontrolled alarms has not been seen. He would like to see this come forward very soon.

Vice Mayor Terry Cain - She was part of the Watershed Summit up in Punta Gorda on the 7th, 8th and 9th for the Charlotte Harbor NEP. The Charlotte Harbor National Estuaries Program hired a new Director. She expressed that they were very fortunate to get Dr. Lisa Beaver. They are very happy to have her. CELCAB had the sub-committee meeting to review the applicants for the Director position. It has been narrowed down to five selections. These will be presented to the regular CELCAB committee. The Estero Bay Buddies will be having their annual meeting at Florida Gulf Coast University on March 7th. The Florida League of Cities had speakers regarding the governors mentoring initiative. She was hoping they could back someone on staff to go and mentor at the Beach Elementary School. She feels this is a great program for all the children. She is excited about all of the events happening on the beach. She feels everyone should visit the Mound House. It is extremely exciting to have something on Fort Myers Beach so historically significant. She expressed that much is going on right now on the beach with no need to leave the area.

Mayor Daniel Hughes - The Horizon Council had their annual orientation meeting on the 22nd. The baseball game was held on Friday the 1st. He will be appearing at the CRAB meeting on Wednesday to convey the message that Council wishes they would prioritize the Hidden Path Project. A congratulatory letter was received from Christopher Reilly and a group of other citizens that live on Primo. He expressed that a positive letter was much appreciated. He and Deputy Town Manager Gucciardo had a meeting with Ray Judah regarding the beach restoration. This resulted in the resolution, which was contained in this evenings Consent Agenda. The County is adopting a similar resolution to help them obtain Federal funding for this project. He congratulated Anita Cereceda for coming in below the anticipated costs for News Years Eve 2001. He reminded everyone of the Volunteer Dinner on the 13th at 6:00 p.m. He suggested that all Council members speak with any volunteers they come into contact with and urge them to attend this meeting. This is the only thing that is done for them all year. A good turnout did not happen last year. He indicated that the docks at Bowditch are in the permitting stage. The status would be discussed with Jim Lavender and he will e-mail with the status.

X. TOWN MANAGER'S ITEMS

1. Joint sponsorship of St. Patrick's Day parade

Town Manager Segal-George asked the Council to approve joint sponsorship of the St. Patrick's Day parade, so that they may use their insurance coverage and assist in the permitting.

Ray Murphy explained that they will not need to close the bridge, but will close off the portion of the Boulevard from Santini Plaza up the Church of the Ascension.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to approve the sponsorship for the St. Patrick's Day parade.

VOTE: **Motion passes unanimously.**

Town Manager Segal-George announced that Tom and Kathleen Cameron lost their son about 1 week ago. Tom Cameron will not be at the short-term task force on Wednesday. She is working on a contribution from both the Council and the Marine Resources Task Force.

She discussed the proposal from Integrated Marketing and Research Group Inc. She is receiving a lot of comment from the south end of the island. She indicated that some type of surveying needs to be done. The larger study will not get under way until approximately May she does not want to lose data from March. Three options exist with three different prices. If Council approves this it would start immediately and data would be received for March 2002 that will be used in the larger study. She reviewed the options. She would like to document the pass thru traffic on the island. She would like to gain documentation to show the residents that the majority of the traffic problem being experienced is not being caused by island traffic. Her preference is the mail back survey. She feels that they would get the most information from this.

Council member Bill Van Duzer supports this. His goal over the next four years is to be able to prove that the traffic problems on Fort Myers Beach are caused by the tremendous density increase from the surrounding areas.

Council member Bill Thomas questioned the picture taking of license plates? How can you determine if a rental car is staying on the beach or traveling through the beach? Town Manager Segal-George replied that they track those coming on the island and check when they go off the island. This will tell you if they are pass thru vs. someone staying on the beach.

Council member Bill Thomas commented that he does not feel that the traffic lined up at 10:00 a.m. in the morning coming off the island could be people coming from Lehigh. These seem to be local residents and those taking a short cut to get off the island. Most of this problem is caused by the increased number of people they have during the winter season.

Vice Mayor Cain commented on the Fairview Isle group. They would like a toll on the south bridge, because they cannot get out. The first time she heard of this was 3 or 4 weeks ago. She believes that they are having drive thru traffic.

Council member Rynearson asked if the survey could indicate the type of traffic they are getting and the people passing thru. Town Manager Segal-George replied that they can ask a question on truck traffic.

Council member Bill Van Duzer discussed an article from the News-Press on February 25. The amount of people who have moved to Lee County from April 2000 to April 2001 indicate the seventh largest influx of the state. 14,000 people moved to Lee County during this time. 139 of these people moved to Fort Myers Beach. He expressed that they cannot be causing their own traffic problem. He feels that they must prove this.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to authorize the Town Manager to enter into an agreement with Integrated Marketing and Research Group, Inc. and select Option 3. The cost will be $18,375.00. This will utilize staff's

personal experiences and prior study as input.

VOTE: **Motion passes unanimously.**

XI. TOWN ATTORNEY'S ITEMS

1. Request for Permission to file for mediation: Kimley Horn contract

Town Attorney Dick Roosa explained that in August they discovered the engineer Kimley Horn who had performed the survey of the utilities on the island made some serious mistakes. One of which was the age of the pipe installed and the other is the number of connections from Fort Myers. They stated that they had two pipes providing water to the Town when in fact they have only one pipe. A letter was sent and meetings have taken place. Nothing has happened in terms of an adjustment or compensation. The contract provides for mediation prior to litigation. He is requesting for Council to authorize they file with the American Arbitration Association to have a mediator appointed to start the process to attempt to recover some of the damages.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Thomas to authorize the Town Attorney to commence proceedings by filing for mediation in their action against Kimley Horn.

VOTE: **Motion passes unanimously.**

Town Attorney Roosa indicated that they are unsure where in Chapter 34 the following should be placed. It amounts to a codification of the existing Florida statute with regard to drug paraphernalia. The statute states if you are found in violation of this statue you are guilty of a felony. The standard for conviction is quite high. They are proposing the adoption of an ordinance prohibiting this activity from a zoning perspective. This is a new approach and he has talked and worked with Bill Spikowski to incorporate this in the Land Use Code.

Town Manager Segal-George explained that the first ordinance that was done in the state of Florida was done on Daytona Beach. She expressed that they have been talking with Virginia Beach and a number of other locations. She has been very interested in trying to do something that would allow them to get drug paraphernalia off Fort Myers Beach. She feels that this would have tremendous value for Fort Myers Beach.

Mayor Hughes with the agreement of the Town Council gave direction to Attorney Dick Roosa to work with Bill Spikowski to incorporate this into Chapter 34.

XII. PUBLIC COMMENT

Ray Murphy came forward and thanked Council for their support of the parade. This will be the 5th annual St. Patrick's Day parade. This will be held on Sunday around 1:00 p.m. He also supports Town Manager Segal-George's thoughts on the surveys with the cars. This is really important. Once they are complete and presented to the correct people the Town will need to lobby the state and the feds for this top program.

Don Aires (?) is with Ray Murphy regarding the traffic south. He feels their needs to be some coordination with the volunteers. He feels the survey will be great. 6,000 people are on the beach and there are 6,000 cars in the traffic today.

XIII. ADJOURNMENT

The meeting was adjourned at 8:35 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