FORT MYERS BEACH
TOWN COUNCIL MEETING
MAY 20, 2002
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Regular Meeting of May 20, 2002 was opened by Mayor Daniel Hughes on Monday, May 20, 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 JEANNE DAVIS, Beach United Methodist Church

No invocation was given at this meeting.

IV. PUBLIC COMMENT

Maria Eigerman from 5 Glenview Manor Drive, Ft. Myers Beach came forward. She addressed the Council on the subject of the Newton Property and community return on investment. She expressed her concerns with most over the past week regarding the downside risks inherit in the most recent proposal to acquire the Newton land. She submitted a letter to document her concerns and to propose a mechanism for overcoming the fundamental problem the Town will continue to face, whatever the Newton property outcome. She urges the Council to consider the possibility of partnering with a private land trust established to acquire land for the purposes of open space protection and the creation of location appropriate recreation opportunities for their community. This group is tentatively called The Pelican Trust. It is a privately funded and managed corporation. Creating this institution does not require Town action, but its ultimate success depends on working relationships with local government. This relationship can begin today with an expression of Town Council for the principals that the Pelican Trust is intended to serve. She urged the Council to listen carefully to Phil Buchanan's presentation on the Calusa Land Trust. Fort Myers Beach is a prosperous community and she feels the time is right for their community to invest in its own future.

Steve Antonacci came forward from 121 Gulfview Ave. He just recently discovered that there is a change order this evening for some additional funding for the Hyde Park flood project. He thanked Council for initially approving the project. He is present to encourage the Council to please approve the additional funding. Rainy season is here and flooding is a problem.

Anthony Seeger from 128 Gulfview Ave. came forward. He echoed the comments from Steve Antonacci. He appreciates that the Town has done the engineering for the Hyde Park plan. He feels the extra funding is needed to be sure that they do not flood again. He has lived there for 18 months and has flooded 3 different times. He just finished repairing his home and purchased an SUV to get out of his driveway and make it to work when it rains. To proceed with this is a very good idea. He thanked the Council for their time.

V. CONSENT AGENDA

A. Approval of Minutes: April 15, 2002

B. Request for Extension of Premises and Service Bars for Fourth of July: Times Square area

D. Resolution: access channel from Big Carlos Pass to Buccaneer Lagoon

E. Quarterly update on Public Works

Mayor Hughes announced that items A, B and D will be pulled for discussion.

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

VOTE: **Motion passes unanimously.**

Corrections and changes to minutes:

1. Mayor Hughes - Page 2 - 2nd paragraph - Strike median and replace with medium.

2. Mayor Hughes - Page 10 - 5th paragraph - Correct sentence "Mayor Hughes does not feel that this is a ridiculous property." Strike property and replace with project.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to approve the minutes of April 15, 2002 with corrections.

VOTE: **Motion passes unanimously.**

Council member Rynearson pulled item B. He would like to insert only plastic and cans, no glass and bottles. He would like to suggest that this be a standard condition for the future.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to insert the language "only plastic and cans, no glass or bottles" into the Request for Extension of Premises and Service Bars for Fourth of July: Times Square.

VOTE: **Motion passes unanimously.**

Town Manager Segal-George commented on item D (Resolution). She indicated that the Council had already approved this, but DEP wanted it placed in resolution form.

Mayor Hughes commented that the whereas clauses are good and this certainly is something he supports. He asked who is requesting to obtain a submerged land easement? Town Manager Segal-George replied that this is the Town's request.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Thomas to approve the Resolution: access channel from Big Carlos Pass to Buccaneer Lagoon.

VOTE: **Motion passes unanimously.**

VI. ADMINISTRATIVE AGENDA

A. Calusa Land Trust presentation by Phil Buchanan

Phil Buchanan came forward to talk about the Calusa Land Trust. He indicated that the Calusa Land Trust was established in 1976 by two couples that lived on Calusa island. In 1990 some people on the south end of the island decided they needed a land trust to address all of Pine Island. The Calusa Land Trust was expanded to cover all of greater Pine Island. Additional board members were added and a series of actions took place. At their first meeting in January of 1990 they had 35 members and $50.00 in the treasury. They immediately went out to contract on a $20,000 purchase of property with a one-year option to raise the money. They did raise the money and did not forfeit the contract. A year later they owned 420 acres of mangroves and immediately contracted for a 470-acre purchase of mangroves with a one-year option to buy. A series of fund-raising events took place. 800 members now exist and the dues produce about $25,000 per year. The fund-raising events will total another $20,000 to $25,000 per year. He went on to explain some of the fundraisers and other ways that this group creates additional funds. All combined these generate about $50,000 per year. It is a lot of work, but it creates a lot of good will and a lot of publicity. He commented that they are mentioned in several wills and should receive additional funds ranging between $100,000 to $200,000. Business people have written checks for $25,000 and one for $50,000. Another donor is willing to donate about $30,000 per year, if they can come up with a worthwhile project.

Phil commented that the result is that they do have 800 members, which are mostly families. 1 out of 5 families belong to their organization. This is a very environmentally conscious place. They have preserved some 2,300 acres. He pointed out the red and green areas on the map. He is proud of Saint James City. He expressed that this is their most striking success. In the last year or two they have started a series of partnering with the state, local and other private entities. This has been working out quite well. The partnering with 2020 is working out very well. He explained several transactions where they made out quite well. As long as you have your facts straight and go down to make your presentation you end up with a very good chance at receiving the needed funds.

How does this relate to Fort Myers Beach? The beach is not going to preserve 2,300 acres, but there is a lot that can be done. The Newton property is a good candidate for a land trust project. The environmental health of Fort Myers Beach depends on factors which arrive outside of Fort Myers Beach. The health of Estero Bay and the water flow to Estero Bay from the mainland is a primary concern from an environmental viewpoint. To get started he recommends a steering committee with at least 12 people. Next comes the incorporation and bylaws. He has the Calusa Land Trust articles of incorporation and bylaws on the back of his book for their review. He indicated that they should go after 501C3 status, which best fits a land trust. He recommends an inventory of all sensitive and desired property within the area of interest.

Phil recommended to Council that they start a land trust now. It should be made broad and be named broad. It is best to keep the land trust separate from the government. The land trust should stay totally out of politics.

Vice Mayor Cain asked how long it took him to gather the information for the Nature Lovers Guide to Pine Island? Phil replied many years.

Mayor Hughes questioned if he has a staff? Phil replied that he is the staff. He spends about 40 hours per week. He works out of boxes in his spare bedroom.

Town Manager Segal-George asked if a council member and members in the community wanted to form a land trust could the Town do the legal work to form it? Phil replied that he would willing to help. He is also a retired attorney and has all the proper forms.

Phil commented that he sits on the 2020 subcommittee. He indicated that the Newton property is not a good match. He would be very surprised to see any funds come out of this program.

Mayor Hughes questioned if it would be possible to go ahead with the project with the County, if a condition was in the inter local agreement to raise the funds through outside sources and take the County out. He asked Phil if he has ever done this in the past? Phil replied absolutely. A preservation 2000 project was done on Pine Island. He indicated that they got their own members to work for free and

the real estate commissions became their sole contribution.

Mayor Hughes commented that the Council is familiar with what has happened at the Board of County Commissioners regarding the Newton property. Town Manager Segal-George indicated that on May 30th a meeting will take place to discuss the terms of an inter local agreement between the County and the Town to see how flexible they can be. The details of this meeting will be brought back to Council, and if agreement from Council is received they will then proceed. The application must be to Florida Communities Trust by the end of July.

Town Manager Segal-George feels that creating an inventory is very important. She feels the Town has a strong argument due to the amount of money they contribute. Some properties should be available for 2020 funding.

The Council members thanked Mr. Buchanan for his presentation.

Mayor Hughes would like an expression from Council as to whether a consensus exists for the Town to participate in assisting private individuals in setting up a land trust.

Council member Van Duzer would love to see this happen. He suggests that this be done outside of the Town government, but recommends Terry Cain to be the council member who acts with this group.

Vice Mayor Cain would like to see the steering committee together and up and working. She is willing to represent the Council on this committee.

Attorney Dick Roosa does not feel it would be appropriate to have Vice Mayor Cain as a Council representative. She can be a citizen member.

B. Committee Appointment: Bay Oaks Advisory Committee

Town Manager Segal-George expressed that this has been advertised. One vacancy exists and one application has been received.

Jim Hurley came forward and expressed that he was born in Buffalo, New York. He has a bachelor's degree in business and masters in education. He worked for 26 years at General Motors as a Supervisor. He also had a real estate business on the side. He has had property in Fort Myers for about 20 years and has had a condo on the beach for 12 years. He has lived here full time for approximately 6 years on Lenell Street. He is interested in an appointment to the Bay Oaks Advisory Committee. He feels his education and business experience will be beneficial to Bay Oaks and the community.

MOTION: Motion made by Council member Bill Thomas and seconded by Council member Bill Van Duzer to appoint Jim Hurley to the vacancy on the Bay Oaks Advisory Committee.

VOTE: **Motion passes unanimously.**

C. Change order request for Mid Island/Hyde Park project

Dan Folke came forward and indicated a memo was submitted to Council explaining a request for a change order on the Mid Island/Hyde Park project. He separated out the two portions. The total amount of the change order is $46, 252.32. The net cost to the Town would be $43,368.32. Some of the changes to the Mid Island portion are property-owner requested changes and they will be paying for these. The total change for Mid Island is $6,356.32. $2,884.00 will be received back from property owners. The bulk of the changes are in the Hyde Park portion of the project.

Bill Morris came forward to explain the difference between a No-Notice general permit vs. Notice permits. The No-Notice to general permit has two or three main components. The total project drainage area is less than 10 acres total and you must have less than 2 acres of imperviousness. Other more discreet qualifications exist, but these are the two primary issues the Water Management District looks at. The Notice to general-permit they be would qualifying for is a permit issued to municipalities.

Dan Folke explained that the South Florida Water Management District is asking that they underground the entire portion of the project. This will change the footage of underground pipe from 670 feet to 1,080 feet. 86% of the change is the additional pipe and the boxes.

Dan added that the options would be to approve the change order. He has recommended this change, so they can go forward with this project. If it is not approved, they can go back to South Florida Water Management with the original plan and try to get a general permit. There is always a chance they will wind up in the same position. Staff is recommending approval. Bill Morris will answer any questions.

Council member Rynearson asked if this will be the avenue they will need to go down with all the projects with the perforated pipes? Bill Morris replied that the Water Management District representative he spoke with expressed a desire to incorporate the Town limits into an all-encompassing permit. To say that this will necessarily construct them method and this method alone would not necessarily be part of the criteria. This avenue was not pursued due to the expense.

Mayor Hughes commented he read the consensus of the environmentalist and engineering profession was that the best way to filter water going into the bay was by an open swale. Bill Morris replied to a large extent this function is still being performed, but in a different fashion.

Council member Thomas asked about the maintenance on the skimmers? Bill Morris replied that there is a periodic maintenance to observe the condition of the boom and replace this article. He has no figures relating to the cost. He does not believe they are terribly expensive. The Town is already using the instrument in other areas.

Vice Mayor Cain asked if this is approved will they be able to stay on track with the project? Bill Morris replied that the contractor has requested a 3-week period extension. This is primarily for fabrication time of some of the new inlets being proposed. This should put the project completion some time in late June. The contractor is set to get the project moving as quickly as possible.

Mayor Hughes commented on a memo on a request for storm drains on Bayview. Is this the same underground system that this group is wanting? Both Dan Folke and Town Manager Segal-George replied that this is not the same system. Dan added that the people on Bayview would like to have the pipes start on Estero Blvd. and go all the way down Bayview to the end where this pipe will come out into the bay. This was discussed at the public meeting and is a separate issue. These changes will please some of the property owners.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to accept the change order request for Mid Island/Hyde Park project as specified in the memo, which is a net cost of $43,368.32.

Discussion: Council member Van Duzer had some concerns with the figures on the pipe cost. Dan Folke explained how he came up with his figures contained in the memo.

VOTE: **Motion passes unanimously.**

D. Times Square and Old San Carlos Improvement Alliance report: activities, calendar of events, request for funding

Anita Cereceda came forward and expressed that this presentation was made to the Times Square Advisory Board. The Advisory Board would like to be involved in approving a calendar of events to be recommended to the Town Council. This calendar is only for the summer. She has brought this forward this evening, because several events are being worked on for the remainder of this year. The intent is to see if Council would agree to do matching funds with the Alliance on events scheduled for the remainder of this fiscal year. The calendar of events for 2003 will be brought to Council at the end of June, and will be recommended by the Advisory Committee.

She commented on Mayor Hughes' concern regarding fireworks. This is not included in this request. She did express that the fireworks for New Years Eve are very important to the business community and they will not make a request to the Council for fireworks, but will do everything possible to raise funds for them.

She added that the most important event they are requesting funding for is the Volleyball

Tournament. Brian Anderson has been working on this for some time. It consists of local clubs, high school teams and college teams. It will be a three-day event and they anticipate it being quite successful. Tom Kolar at the Lighthouse will partner with offering special room rates. This is family oriented and it is an ideal project to apply to the TDC for a marketing event. However, everything was not together enough to apply this year. This event will cost in excess of $20,000 to $25,000. They are asking for $7,500 from the Town. She received negative comments from some about the Taste of the Islands idea. It is not designed to compete with the Chambers Taste of the Beach. It was designed to start something in the middle of the summer, and is designed specifically for island residents.

Mayor Hughes asked Deputy Town Manager Gucciardo how they are budget wise with funding? Deputy Town Manager Gucciardo cannot tell the Council at this time what they look like in regard to these particular line items. Town Manager Segal-George indicated that she would request these funds come out of reserves. These were unanticipated when the budget was written.

Council member Thomas asked Anita Cereceda about the Cinco de Mayo event and its success? Anita replied that Mr. Grant is very nice and supportive of the Seafarer's project. Mr. Grant, as well as others, have real issues with noise. The Alliance did not handle this event. She listed it because there were several events that members of the Alliance sponsored individually. She commented that this was a good event. Her concern was music and she investigated the noise issue and found this to not be a problem. They tried to ease Mr. Grant's anxiety over the music, but short of shutting off the band there was no way to do this.

Council member Thomas commented on the Taste of the Islands. $5,000 is being requested. This is in the middle of Hurricane season. Will a contingency plan be in effect? Will they lose $5,000 if nothing happens? Anita replied that scheduling anything in the summer is a risk. If the Council is not comfortable participating in it then they should choose not to fund it.

Council member Rynearson would like to see the numbers broken down to see how the money is being spent. Anita Cereceda replied that Brian Anderson has this information, but could not be present this evening. She would be happy to provide this information. She suggested submitting bills, so the Town will have confidence and trust.

Council member Rynearson feels the Town should fund only four or five events. He believes the south end and middle island deserve some funds also.

Discussion was held regarding the budget breakdowns requested by the Council. Council members would like to see this information before a recommendation of approval is made.

Council member Van Duzer does not support the Taste of the Islands. He feels it is in a direct conflict with an event already being done.

Council member Thomas also disagrees with the Taste of the Islands.

MOTION: Made by Council member Bill Van Duzer and seconded Vice Mayor Terry Cain to approve the funding for SunFest 2002 - not to exceed $2,500 (matching funds), beach volleyball tournament - not to exceed $7,500 (matching funds) and the back to school party at Times Square - not to exceed $2,000 (matching funds).

Discussion: Mayor Hughes questioned why he eliminated the 4th of July? Council member Van Duzer replied that they do a 4th of July event and he feels it is a good one. It is basically held in Times Square and he feels it benefits and profits the businesses in the area.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to table the motion to the next meeting.

VOTE: **Motion passes 3 to 2. Council member Bill Van Duzer and Vice Mayor Terry Cain dissenting.**

Town Manager Segal-George expressed that the Beach Volleyball has a real funding situation. She is unsure of June 3rd is too late.

MOTION: Made by Mayor Daniel Hughes and seconded by Vice Mayor Terry Cain to reconsider the motion to table. **Motion withdrawn by Mayor Daniel Hughes.**

Anita Cereceda suggested taking out the Taste of the Islands. She also suggested taking out the June event. The 4th of July events presently circle around Thursday. They were looking to create a weekend long activity. If she can provide, the budget information prior to the next meeting would the Council approve this contingent upon her bringing the budget.

Council member Rynearson does not have a problem with this. He indicated that this is a business and must be run this way.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Van Duzer to approve the funding request for SunFest 2002 - not to exceed $2,500, 4th of July - not to exceed $2,500, beach volleyball - not to exceed $7,500 and back to school - not to exceed $2,000 with the condition Anita Cereceda will bring before the Council a budget at the next meeting.

Discussion: Council member Van Duzer commented that the Council has approved funding for one other event with the Alliance. The Alliance is providing matching funds and will provide detailed expenses. He is unsure what more they can ask for.

Vice Mayor Cain is worried about the time frame with SunFest.
Anita Cereceda asked if the Council is requiring her to do additional work she would prefer that the Council cut the SunFest item.

Discussion was held regarding 9-11. The County would like to have some type of event. This will be discussed at a later time. Vice Mayor Cain would like to see an event on Fort Myers Beach.

Council member Thomas feels that there is enough fund-raising on the beach without the Town putting in $1,000 for the 4th of July event. He does not feel that Alliance has enough time to plan SunFest 2002. He cannot support SunFest, 4th of July and Taste of the Islands.

VOTE: **Motion passes unanimously.**

E. Request for change in Ordinance 99-09: Times Square Advisory Committee

Town Manager Segal-George explained that there was a workshop at the last Times Square Advisory meeting with the Alliance. She was concerned about Sunshine issues between the Advisory Board and the Alliance. When the Times Square Committee was formed, it was formed specifically to handle the MSBU's with regard to garbage and maintenance. The committee is asking to broaden their scope in the ordinance to include recommendations to the Council on the calendar of events and also capital improvements.

Council member Van Duzer asked the Town Manager if she recommends this? Town Manager Segal-George feels that this works for the committee.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to instruct the Town Attorney to prepare the necessary change to

Ordinance 99-09 - Times Square Advisory Committee.

VOTE: **Motion passes unanimously.**

F. Request for funding for banners and decorations for Fourth of July

Damon Grant explained that they have been using the 16x45 on all decorative light poles in the Times Square overlay district, which is option 1. The only other option were the larger banners at the request of a few Times Square merchants. He has recommended option 1. This is the most cost effective and does cover the whole area. These decorations could be used for September 11 - Patriots Day.

Town Manager Segal-George explained that they spent out of the budget already this year for decorations.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to choose Option 1 with regard to banners and decorations for the Fourth of July.

VOTE: **Motion passes unanimously.**

G. Discussion of Town Manager performance evaluation/merit bonus

Mayor Hughes has reviewed all evaluations. Vice Mayor Cain and Mayor Hughes would like a different evaluation form for next year.

Council member Van Duzer commented that he has known the Town Manager for quite some time. She has done great things for this Town and is a profound blessing. Fort Myers Beach is very fortunate to have her. She earns every penny of her salary. He is happy to have her and he hopes she'll be here for many more years. She has brought a lot of money to their Town.

Vice Mayor Cain took this opportunity to comment that you can always tell a good "boss" by those they hire and who are surrounding them. She indicated that they have an outstanding staff and this is due to Marsha. Staff is constantly overworked and she sets the pace. She is a good leader and hard worker. She is a great asset to this community.

Mayor Hughes reviewed that the Town Managers bonus is based on her base salary, which is $95,000.00. The staff bonuses paid in March range from 5% to 10%. Last year the Town Manager's bonus based on $85,000.00 was $5,950.00.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve a merit bonus for Town Manager Segal-George for 7% of her base salary.

Discussion: Council member Bill Thomas indicated that the report indicated they would look into a compensation specialist. Has anything been done about this? Mayor Hughes replied that this has not been done. All documentation is available to them from other communities. A person would be paid a considerable amount of compensation for information they already have.

VOTE: **Motion passes unanimously.**

VII. COUNCIL MEMBERS ITEMS AND REPORTS

Council member Bill Van Duzer - Has been working hard and been to all meetings he was to attend. Short-term rentals is difficult and takes a lot of effort and time. He spent limited time at the Boat Races. He had a good time.

Vice Mayor Terry Cain - Monday evening was a CELCAB meeting. She feels that there will be a lot of new things coming out of CELCAB shortly that will come before Council. A MRTF meeting

took place and they are working on their Speakers Bureau and Educational Program, which will tie in with the Leadership Beach Program. Please sign up for this program. Today she was at the Coastal Advisory Council meeting. They are about ready to send out some additional easement papers and provide a push to easements that have not been signed.

Council member Bill Thomas - Last Thursday he attended the Southwest Regional Planning Council meeting. They recommended approval of the Sarasota 50 year Comprehensive Land Plan. He attended the Boat Races. It was an enjoyable event. Too bad it rained, because it really hurt business on the beach.

Council member Howard Rynearson - Attended the Chamber Traffic meeting. He updated on the crosswalk. The person John Davis was dealing with has quit. He must go back to the manufacturer and start all over. No time line was given, but it is moving forward. The alternating light data should be gathered by the end of June and it will come to Council first for review.

Mayor Daniel Hughes - The trolley pull-offs are going to be a big help. Attended the Boat Races both days. The addition of the air show was quite a thrilling event. An Estero Bay Buddies Board meeting was held last Monday. A video is being worked on and will eventually come before Council.

VIII. TOWN MANAGER'S ITEMS

None.

IX. TOWN ATTORNEY'S ITEMS

Attorney Dick Roosa explained that they have been served with a foreclosure action against Mary Lou Zoewitz. She has a code enforcement lien against her and some property on the beach. The property in foreclosure is in Fort Myers. However, because it is a lien against her property and her he needs to defend this action.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Van Duzer to authorize Town Attorney Dick Roosa to represent the Town of Fort Myers Beach in the foreclosure between Smart Mortgage Corporation vs. Mary Lou Zoewitz.

Discussion: Council member Bill Van Duzer asked for the value? Town Attorney Dick Roosa replied the lien is worth about $20,000.00.

VOTE: **Motion passes unanimously.**

X. PUBLIC COMMENT

None.

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