

**FORT MYERS BEACH
TOWN COUNCIL MEETING
SEPTEMBER 23, 2002
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The Regular Meeting of September 23, 2002 was opened by Mayor Daniel Hughes on Monday, September 23, 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 and Bill Spikowski.

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. INVOCATION BY REV. DICK TAFEL, NEW CHURCH OF SOUTHWEST FLORIDA

The invocation was given by Reverend Dick Tafel.

IV. PUBLIC COMMENT

Bud Hiatt from 28 Bayview Blvd., Fort Myers Beach, Florida came forward. He complimented the board on the consideration of lights at Buttonwood. This is the first positive step and action taken by anyone in this Town with regard to the traffic situation. He feels they must go all the way and the spend the necessary dollars to make this happen.

Bill Kinney came forward from 8015 Buccaneer Drive, Fort Myers Beach, Florida. He has reviewed the budget and cannot see where the police department is paid for. He asked if the police department is being given a raise? He indicated that the police report never contains information with regard to Fort Myers Beach. This summer his home was broken into and \$151,000.00 was stolen. This past summer alone eight different break in's took place in Laguna Shores.

Mayor Hughes replied that the Town of Fort Myers Beach does not have a police department. The law enforcement authority is served by the Sheriff of Lee County. This service is paid for through an interlocal agreement.

Town Manager Segal-George added that on the residents tax bill there is a portion which goes to the Town and a portion paid to Lee County. The dollars paid to Lee County help fund the police department. There is no portion of the Town's tax dollars which go to pay the Lee County Sheriff. She expressed that staff would be more than willing to discuss with him after the meeting this topic and point this out on the tax bill.

V. CONSENT AGENDA

- A. PROCLAMATION:** National Estuaries Day
- B. REVIEW OF FINANCIAL REPORTS:** August 31,2002
- C. APPROVE CONTRACT FOR GINI ROSS**
- D. APPROVE COMMUNITY DEVELOPMENT INTERLOCAL AGREEMENT BETWEEN LEE AND COUNTY AND TOWN OF FORT MYERS BEACH**
- E. UPDATE ON BEACH RESTORATION PROJECT**
- F. APPROVAL OF MINUTES:** September 9, 2002

Mayor Hughes pulled consent agenda item F.

MOTION: Made by Council member Howard Rynearson and seconded by Council member

Vice Mayor Terry Cain to approve consent agenda items A thru E.

VOTE: Motion passes unanimously.

Corrections and changes to minutes:

1. Mayor Hughes - Throughout minutes correct spelling of name Carl Connolly, which should be Carl Conley.
2. Mayor Hughes - Throughout minutes correct spelling of Commission Jaynes, which should be Commissioner Janes.
3. Mayor Hughes - Town Attorney's Items - Paragraph 3 should be separated from discussion with regard to the Water Utility.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Thomas to approve consent agenda item F.

VOTE: Motion passes unanimously.

VI. ADMINISTRATIVE AGENDA

- A. Final Public Hearing: Resolution 02-29** to Establish and Levy Ad Valorem Taxes in the amount of 1.0400 mills within the Town of Fort Myers Beach.

Mayor Hughes explained the calculation of this rate. He expressed that the Town of Fort Myers taxes are 5.3% of the total tax bill.

Deputy Town Manager Gucciardo added that the millage rate of 1.0400 of is the same that was in effect last year. It represents a 16.29% increase over what would be the rollback rate of 0.8943%. Staff had computed for Council earlier in the budget process that maintaining this millage rate would generate approximately \$250,000.00 in additional revenue. The Council had indicated that these dollars would be dedicated toward land acquisition. This is the manner in which the budget has been structured.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to adopt Resolution 02-29 to establish and levy ad valorem taxes in the amount of 1.0400 mills within the Town of Fort Myers Beach.

VOTE: Motion passes unanimously.

- B. Consideration of Resolution 02-31:** increasing the fees and charges for water utility service within the Town of Fort Myers Beach.

Deputy Town Manager Gucciardo commented that normally after the adoption of the millage rate the board would go directly into a discussion with regard to the budget. This item was inserted because it directly relates to the budget for the Water Utility, which is included in the general scope of the budget. Assumptions made by the board in the past have lead staff to prepare this resolution with regard to rates and fees. He feels these numbers reflect the direction of the board and if this passes these numbers will be reflected in the budget during the next item.

Mayor Hughes discussed page 2, meter installation fees and tap in charges, both charges went from a specific fee to a specific fee or actual cost. He has concerns with the lower or higher.

Attorney Dick Roosa replied that it would be the higher. The language came directly from the County. Mayor Hughes does not feel that this is specific enough and should be clarified.

Deputy Town Manager Gucciardo pointed out a typo on page 4 with regard to the monthly charge to single family/multi family residential is listed for \$6.25 and should be \$6.20. This would reflect also the recent increase imposed by the County.

Mayor Hughes asked if anyone wished to address the Council on this matter. Mayor Hughes expressed that the rate increase is based on a pass thru. Under the contract with the County they do have the right to increase up to \$2.50 and the Town increased by the same proportion as the County did. If the Town had not purchased the Water Utility, the \$2.25 administration fee would also still go into effect on October 1.

Deputy Town Manager Gucciardo explained that this resolution and the resolution just passed by

the County has to do with increases in rates and fees. The County considers the Town a customer. The County must be paid per thousand gallons. The County instituted a rate increase to the Town, which will up the price by approximately 9%. This amount has been reflected in a rate increase to the Town's end customers to offset the funds, which will need to be paid to the County. The County also instituted the rate increases for the fee side. The direction of the board was to mimic these changes and will not be pass thru's. These dollars will result in additional revenue for the utility. These increases do not put the residents of Fort Myers Beach at any disadvantage.

Mayor Hughes asked again if anyone wished to address the Council. None was heard. Public hearing was closed.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to adopt Resolution 02-31 increasing the fees and charges for the water utility service within the Town of Fort Myers Beach.

Discussion: Council member Van Duzer commented that there was never a promise to not increase the rates by the County. He added that the County stayed below the maximum figure they were allotted in the contract agreement. An additional \$2.25 is being collected, but if you lived on the other side of the bridge this would also be paid. A great deal of problems have existed with the water system and this is necessary to put a few dollars in the bank to offset charges to get the water system intact.

VOTE: Motion passes unanimously.

C. Final Public Hearing: Resolution 02-30 to Adopt Town of Fort Myers Beach Operating Budget for Fiscal year 2003.

1. Funding request for interns at the Mound House.
2. Tuition Reimbursement for Town Hall Staff.

Deputy Town Manager Gucciardo began by summarizing some of the changes from the last public hearing and direction received from staff at the Council retreat. The first changes deal with the increased budget line items for seasonal, special events and cultural events. These were each increased by \$10,000.00 as a result of the action taken by Council at the last hearing. The second change to be made will be an increase of approximately \$12,000.00 with regard to the project presently being worked on with Council member Thomas and LeeTran for benches. He is unsure if this will go forward, but it was the desire to increase the line item with anticipation this will take place. Also, the line item for capital projects for the Town may be increasing to include the cost of a generator. Damon has been working on this project. This will allow the Town staff to continue working during a weather emergency. The final change deals with the balance in the CRA budget. At the last public hearing the balances were reviewed after the expenditures from the Old San Carlos Project and anticipated projects for the current year. The balance is approximately \$5,000.00 to \$10,000.00. This amount has been increased to have a reserve of approximately \$160,000.00 at the end of this upcoming fiscal year. More in reserves for the CRA should be available for future projects, if these numbers hold true.

Mayor Hughes opened this matter for public hearing.

Corbett Torrence came forward to address the matter with regard to the request for interns for the Mound House. He prepared a flow chart for the Town Council, which addresses several activities in addition to the interns. He explained that there would be unpaid interns for no cost to the Town of Fort Myers Beach. The director for the interns recommended that an incentive be given to increase the reliability. The initial thought was that this could be paid through operations and maintenance. The Town Manager expressed that this would fall under a different line item. A unanimous decision came from CELCAB to come forward to ask for \$6,000.00 to support three interns. The three interns would be for website design, elementary education and adult education. The overall concern is the fiscal budget. He invited all the Town Council to come for a tour of the Mound House. He and Theresa put together a real itemized budget. Once this was established, some concerns do exist. He explained that the home must be completely rewired at a cost of approximately \$20,000.00 to \$30,000.00. There is so much that needs to be done at the home. He would like the electrical fee to be rolled over. CELCAB voted at the last meeting unanimously to retrofit the Florida Room into a lecture hall. Costs will be associated with air

conditioning to keep visitors comfortable and equipment safe. Next year Council will get a line item budget from the Mound House. Work needs to be done and the intent is to make this something everyone can be proud of. The interns will really help start jump start this process. He is before Council to ask for \$6,000.00 for interns and \$30,000.00 for electrical.

Mayor Hughes asked for clarification between interns and docents. Also, a second request is before Council at this late date for electrical.

Corbett replied that everyone including the Town management felt that the electrical would be completed in this fiscal year. This matter should have been resolved last fall. The directors feel they are inheriting this problem. Programs at the home need to be monitored and run in a professional manner. He and Theresa will be writing and designing the website. The writer for this program will be a major in computer science. They will put the text and designs as created into the computer. The elementary intern program will free up the directors six hours per week to focus on other items. The final intern can run the living labs, organize field trips (ex. docent training exchange program) and help develop exhibits and research. He expressed that \$13,000.00 was spent in lawns and grounds. If the lawns and grounds are worth this amount, he feels the education programs are also. If the Council will not approve the \$6,000.00, the directors would like approval to take this from the existing operations and maintenance budget.

Jerry Mitchell from 8100 Lagoon Road, Fort Myers Beach came forward. He asked for the initial purpose of purchasing the Mound House. He is unsure why so much education is happening at the home. Why do they need to spend additional dollars for interns to teach classes? He does not feel the money is being well spent.

Helen Caldwell came forward and expressed that she has lived here long enough to know the potential in the Mound House. People have made commitments. This is a jewel. She does not feel this should be let go. If the money is available, it should be utilized. Housekeeping needs to take place. Wonderful programs and docents are needed. She expressed that they are very fortunate to have the University come into this with them. Only something great can come out of this as long as this effort is supported. She is in support of the interns.

Robin Curley from 180 Jefferson Street came forward. She is 100% behind the extra monies allocated for the intern program. These are very well educated young people who are very enthusiastic to learn more and pass the knowledge onto the community.

Town Manager Segal-George commented that the \$30,000.00 for the electrical was not discussed with her prior to this meeting. She asked the Council to not consider this item. A recommendation cannot be made. This amount is substantially more than the original estimates with regard to the electrical. She expressed that some of the questions raised by Corbett need to be reviewed by CELCAB with regard to how much can the Town afford with capital work in anyone year. There are some grant and funding opportunities which need to be explored once a plan is in place. The only fair question to be placed in front of the Council has to do with the interns. She expressed that \$50,00.00 is in the budget this year for CELCAB.

Council member Thomas added that the CELCAB meeting with Council brought up several items of concern. One of his concerns related to the leaking roof. He asked if this was repaired? The Town Manager replied that it was. His top priority was the electrical. The whole building could be lost. If money was allocated, he feels it should have been spent.

Town Manager Segal-George expressed that this has been worked on by staff since it went before the Council.

Council member Van Duzer commented that the man who came forward with the proposal stated that the existing electrical is OK. Polishing of the panel needed to take place. A considerable amount of work between County inspectors and electrical inspectors has taken place to come up with a scope of work to bid this project appropriately. He feels this needs to be addressed.

Damon Grant explained that three contractors gave proposals prior to the Council break. It was decided that the bids were not comparable. He and Council member Van Duzer went to the home and made their own list. They met with three different County inspectors for their opinions. They saw no immediate threat or danger to the Mound House with regard to electrical. Town Manager Segal-George added that staff is not prepared to discuss this item. Once everything is together, it will be brought before the Council.

Council member Van Duzer commented on the interns. He reviewed his minutes. He has concerns that someone will be at the home in charge and looking after the home. He does not feel what

is happening was agreed to verbally during the meeting. He had questioned the onsite management and time spent on the site every day. Theresa replied that even though they both had ½ time teaching loads there was flexibility due to the time schedule. This would allow one person to be at that house. Corbett had commented that the property must be monitored eight hours a day, six days per week. Council member Van Duzer is concerned about the additional people being added. His major concern is the management of this site. He would like to see the programs before the adding of additional people.

Corbett replied that he and Theresa are combining 40 hours per week onsite. He did comment on being at the home eight hours per day, six days per week. The general consensus with CELCAB is that being open this often is overkill. This matter has not been discussed formally with CELCAB. He and Theresa have relocated to Fort Myers Beach. He agrees that the home is not in the structural state to handle the program as presented. This is his biggest concern. The electrical contractor that met with himself and Theresa commented that this project should not be done piece meal. Cloth cabling exists and no outlets have grounds on them.

Mayor Hughes commented that the discussion of electrical is not on this evenings agenda. The topic needs to move back to the discussion on interns.

Vice Mayor Cain discussed the interns. She commented that programs were held at the home last year with the home in its present condition. Free interns will still be received. She feels that there are different levels and different qualities of interns. She added that the request for \$6,000.00 amounts to \$500.00 per month for a little extra help from students. She feels this would be a very good investment into a property they are trying to get off the ground. The Mound House has many needs. She suggested trying this for one year and if Council does not like the end product it will not need to be funded the following year.

Council member Rynearson would like to handle things the way it is presently. If this does not work next year, it can be funded. A lot of work needs to be done to the house. He feels they can get along without the interns at this time.

Ceel Spuhler from CELCAB came forward. She expressed that Vice Mayor Cain has made the point a lot of CELCAB member's feel. Corbett and Theresa have indicated they would like to start this process professionally. They do not want to have count on people who volunteer. These people may not show during the holidays and the program will not continue. The \$6,000.00 would be used to get this program underway.

Council member Thomas commented that he voted for the University last year due to the good presentation and volunteers. The Mound House has not progressed over the years as quickly as it should. This is the one thing the Town owns. He supports the \$6,000.00 request this year to try and make the desired programs happen. The structural items also need to be addressed in the future.

Mayor Hughes has reservations regarding the matter. He has never seen any reports or memos. He commented that the discussion never took place during the interview process that these interns would require additional dollars. This was a very significant part of him choosing Florida Gulf Coast University as the executive directors. He is impressed with the concerns of the condition of the Mound House.

Council member Van Duzer would like some sincere understanding that the hired director(s) are or will be putting in 40 hours per week at the site. The people to be hired will be additional personnel to help get the Mound House to the place they have always wanted it to be.

Vice Mayor Cain expressed that a lot of what is happening now at the Mound House is not visual. Records are being reviewed that were not kept complete in the past. She feels that CELCAB should discuss the perception of 40 hours per week on site.

Town Manager Segal-George added that a communication break existed with the discussion of interns at prior CELCAB meetings. She brought this before Council as soon as she became aware.

Council member Rynearson asked why the issue of paid interns was not discussed during the interview process? No response was required.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Van Duzer to fund interns at the Mound House in the amount of \$6,000.00 for this fiscal year.

VOTE: Motion passes 3 to 2. Mayor Daniel Hughes and Council member Howard Rynearson dissenting.

Mayor Hughes added that he is not against interns, but feels some ambiguities and vagueness exists. More clarification is needed and he hopes that staff will receive this information.

Council member Van Duzer was against this also in the beginning. He expects sincerely to have immediate action to move forward with the Mound House facility and projects. He wants to see continuous reports from this day forward.

Council member Thomas also had some reservations while voting in support of this matter. He feels some additional communications need to be made from CELCAB to the Town Council. More detailed information should be presented to the Council.

Town Manager Segal-George discussed the issue of Tuition Reimbursement. Because the Town is new policies are not in place to affect certain items which come up. Three members of Town staff would like to go back to school to finish up undergraduate and/ or graduate degrees. She feels a policy should exist. All three individuals who are interested in additional schooling would benefit the Town and be in the Town's best interest. She provided policies of the cities in Lee County with regard to tuition reimbursement. She is not requesting any one policy. This would be an approximate \$12,000.00 line item as a maximum.

Council member Thomas commented that a great staff at Town Hall exists. Some of the staff would like to further their education. This furthering of education will benefit all in the Town and community. Major companies have plans to reimburse their employees for education purposes. He supports this issue. Four choices are before the Council and if this moves forward the Council must decide which plan to adopt.

Town Manager Segal-George explained that a policy can be prepared for the manual. She would like some direction on which plan the Council favors.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Thomas to approve the educational reimbursement for the Town staff.

Discussion: Council member Van Duzer would like to see guidelines placed that the classes relate to an individual's official duties at Town Hall. He agrees with plan #3 (Cape Coral), which pays for 100% of the fees for a letter grade of A, 75% for a B and 50% for C. Nothing will be paid for a grade lower than C. He feels this is a good incentive to the people taking the classes.

VOTE: **Motion passes unanimously.**

Vice Mayor Cain is in agreement with the Marco Island method, which translates to a C or above would result in 100% reimbursement.

Council member Thomas added that everyone is not an A student and he supports the Marco Island method.

Mayor Hughes favors the Lee County approach and his second choice is Cape Coral.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to select option #3 (Cape Coral) plan. This plan results in 100% reimbursement for A students, 75% for a B and 50% for a C. **Motion withdrawn.**

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Howard Rynearson to select the Lee County plan. This plan results in 100% reimbursement for A students, 85% for B students and 70% for C students.

VOTE: **Motion passes unanimously.**

Dr. Joe Croker came forward and cautioned the Council on their education selection. He encourages the Council to have a commitment from the employee when education is being paid for.

Mayor Hughes replied that there is a one-year requirement in the documentation.

Dr. Joe Croker expressed that he is speaking as a resident on Fort Myers Beach. He discussed the money for special events. He firmly believes that it is not the business of government to spend

money other than seed money to accomplish an objective. He feels the stipulated amount of \$50,000.00 is a bit excessive for seed money. The overlay district is a beneficial asset to residents and visitors alike. Any additional events should be paid for by those who will benefit from the fruits of the production. He feels the decision approved needs to be revisited before the budget can be finally approved.

Mayor Hughes indicated that a proposal has been provided to Council from the President and Secretary of the Fort Myers Beach Offshore Grand Prix and Air show.

Dean Clausen, President of Fort Myers Beach Offshore, came forward. He expressed that this next coming year will be the ninth year of the race. He indicated that they are a 501C3 nonprofit organization. The four-day event will be held. The air show will be on Saturday and the boat race on Sunday. Last year during the boat race according to TDC 1400 room nights were secured on the beach. This translates to \$125,000.00. In the past the city has given \$5,000.00. Due to the increase in the air show he is asking for \$15,000.00.

Robin Calabrese from 19260 San Carlos Blvd., Fort Myers Beach Observer, came forward on behalf of the Offshore Grand Prix and Air Show Board. She explained that there are about 13 members on the board from various professions. She expressed that last year they were a little weak in the manner in which some events were handled. They realize they must regroup and move forward. Their mission is to continue operating as a 501C3. Perhaps in the future by looking toward going into a foundation some of the monies received will be going back into the 501C3, and monies could be used for the following year. Hopefully, they will not need to come before the Council for additional funds. She hopes that this does in fact happen for the future.

Deanna Turner from Sunstream Hotels and Resort - Director of Operations, came forward. She mentioned that they just won the Horizon Council Award for 2002. Their firm believes in community involvement. Any event on the island brings a well-roundedness to the community. She has been involved in the Off Shore Races and would personally like to take a responsibility to improve the quality of this event. It is important for the city to back this event for the business owners to see that the city is also in support of the event. Her intent this year is to improve the marketing and advertising promotions of this event. She feels they have been weak in this area. She hopes that the Council will consider this amount and approve it.

Mayor Hughes expressed that in past year's this event has been in the special events line item. The special events line item is \$42,000.00. He had asked the Deputy Town Manager if an increase of \$10,000.00 took place what would the necessary amount be needed to increase the line item. The response was an increase of only \$3,000.00

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Van Duzer to increase the line item "Special Events" from \$42,000.00 to \$45,000.00 with the understanding that a maximum of \$10,000.00 may be available to the Fort Myers Beach Offshore Grand Prix and Air Show a 5013C organization to offset any deficit for its 2003 events on Fort Myers Beach, as substantiated by a post event financial statement and provided that said organization otherwise complies with all Town rules and regulations to special events and any specific condition for its special event permit.

Discussion: Council member Bill Van Duzer expressed that he is in the position of trying to figure if this is a benefit to the residents or businesses. He enjoys the boat races, but was very critical of the boat committee last year. The rules were not followed and he is skeptical of giving extra dollars. He would like an understanding from the committee present this evening that they will comply with the requirements of the Town.

Both Deanna Turner and Robin Calabrese came forward to address a few items of concern from the last boat race. They both assured the Town Council the intent is to see that these types of situations do not recur at future boat races. They expect the races to continue on for years to come.

Council member Ryneanson expressed that he has been asked to be part of the board for the boat races. He has agreed and will look out for the Town's benefit.

Council member Thomas expressed that the Offshore Races have been a tradition on the beach. A TDC grant was applied for and this will bring in additional business for the hotels. He supports this function.

MOTION: **Motion passes unanimously.**

Mayor Hughes asked the public if anyone wished to address the Council with regard to any other issue pertaining to the budget. None was heard. This will end the hearings on the budget. Mayor Hughes thanked all who participated.

Deputy Town Manager Gucciardo questioned the \$12,000.00 figure for LeeTran with regard to the Trolley benches. Council member Thomas replied that he is still waiting to hear from LeeTran on the proposal. The written proposal is to be ready before Council's first meeting in October. The intent is to go back over the last two years revenue and they would like the Town to pick up a portion of the dollars that would be lost.

Deputy Town Manager Gucciardo indicated that this is presently not in the budget. Should the Town anticipate if this agreement goes forward would the \$12,000.00 be a sufficient figure to set aside? He would like a number to plug into this line item or it could be left blank and the funds could be taken from reserves if and when an agreement is made.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Bill Thomas to include a \$12,000.00 line item to cover the possible loss revenue for the Trolley benches.

VOTE: **Motion passes unanimously.**

Mayor Hughes reviewed the resolution and changes to the budget.

MOTION: Made by Council member Bill Van Duzer and seconded by Council member Bill Thomas to adopt Resolution 02-30 Town of Fort Myers Beach Operating Budget for Fiscal Year 2003 with amendments.

VOTE: **Motion passes unanimously.**

Mayor Hughes thanked the staff for all their hard work.

- D. Final Public Hearing: Ordinance 02-07** Comp Plan amendments
1. Application 2002-1-Text Annual updating of five-year schedule of capital improvements.
 2. Application 2002-3-Text Revise the Recreation Element to establish policies regarding public acquisition of beachfront land.

Mayor Hughes began by reading the ordinance. This matter has been before the Council several times and this is the final public hearing.

Mayor Hughes opened the public hearing and asked if anyone wished to address the Council. None was heard.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Howard Rynearson to adopt Ordinance 02-07 amending the Comprehensive Plan.

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

- E. Final Public Hearing: Ordinance 02-29** Amending Chap. 14 of the Land Development Code changing permitted beach raking times.

Mayor Hughes began by expressing that this is an ordinance amending Chapter 14 of the Fort

Myers Beach Land Development Code providing authority and changing the permitted beach raking time. This ordinance has also been before Council and tonight is the final public hearing.

Mayor Hughes opened the public hearing and asked if anyone wished to address the Town Council. None was heard.

MOTION: Made by Council member Bill Thomas and seconded by Council member Bill Van Duzer to adopt Ordinance 02-29.

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

F. Times Square Extension of Premises Agreement

Damon Grant summarized his memo and expressed that his memo was put together in an effort to go from a number of tables method to a per square foot of revenue. The Times Square Advisory Committee wished to go to a set per square foot to make it more equitable for all business owners based on the size of the extension. The per square foot charged calculated by the committee is \$2.85, which would be per year. Staff has recommended an increase of \$2.98, which would bring them up to \$16,401.92 per year. This would be an increase in revenue of only \$1.92. Staff recommends that a 6% sales tax be added. Presently, the Town has been paying this tax. A stipulation to rule #8 would be the restriction of size of signs in the extension areas. The signs would need to comply with the Town sign ordinance. The merchants would be responsible for in full payment for the year, regardless of whether or not they keep their tables out in the extension for the full year.

Mayor Hughes complimented Damon on a very good memo and report, particularly the exhibits attached.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to approve the Times Square Extension of Premises Agreement with all recommendations made by the staff.

Discussion: Vice Mayor Cain questioned if the yearly contract is not entered into the merchant would not be responsible for the fees? Town Manager Segal-George replied that the merchants are not required to enter into this agreement.

Mayor Hughes commented that he is in favor of the motion. The staff increase is minimal. He advised staff to review with Attorney Dick Roosa the specifics of the liability limits to be requested.

VOTE: **Motion passes unanimously.**

***The Council will recess as the Town Council and reconvene as the Town of Fort Myers Beach Public Works Services, Inc. Board.*

Mayor Hughes called this meeting to order. All members are present.

1. Consideration of Resolution 02-35U: Resolution of the Town of Fort Myers Beach Public Works Services, Inc. adopting a technical specifications manual.

Deputy Town Manager Gucciardo expressed that the technical standards have been reviewed by the contractor, Beach Water over the course of last year. It contains a compilation of County items, which have been adjusted slightly for use here on Fort Myers Beach.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to adopt Resolution 02-35 to include the suggested changes, which make

reference to the unanimous adoption of the Board of Directors of the Town of Fort Myers Beach Public Works Services, Inc.

VOTE: Motion passes unanimously.

2. Consideration of Resolution 02-32U: Resolution of the Town of Fort Myers Beach Public Works Services, Inc. to borrow on behalf of the corporation.

Deputy Town Manager Gucciardo expressed that this matter was before the board at the last meeting for an introduction. This is a short term loan from the Town to the Utility to the end of this fiscal to allow the payment of the interest and principal payments due to the lender. It is anticipated these funds will be repaid in the upcoming fiscal year by way of the connection fees collected by the County. The loan amount has been modified downward to \$250,000.00.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Howard Rynearson to approve Resolution 02-32 with the suggested changes.

VOTE: Motion passes unanimously.

***The Council will recess as the Town of Fort Myers Beach Public Works Services, Inc. Board and reconvene as the Town Council.*

G. Consideration of Resolution 02-33: granting a loan of \$300,000 to the Town of Fort Myers Beach Public Works Services, Inc.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Howard Rynearson to approve Resolution 02-33 with the provision that the whereas clauses presently in the draft be deleted and replaced with the language as indicated in the memo by Mayor Daniel Hughes.

VOTE: Motion passes unanimously.

Council member Van Duzer commented that the loan amount has been changed from \$300,000.00 to \$250,000.00. Attorney Dick Roosa replied that this has been revised. Initially, the \$300,000.00 was anticipated, but as it came closer to the budget time only \$250,000.00 was needed.

VII. COUNCIL MEMBERS ITEMS AND REPORTS

Council member Bill Van Duzer - Attended the MPO meeting last Friday morning and discussed the alternating lights. He left the meeting feeling good, until he read the paper on Saturday. The vote was 8 to 3 to approve putting the alternating back on the agenda. It could be four years before this matter is taken up. It is very important this matter is pursued to be sure the alternating light is present this season.

Town Manager Segal-George commented that Chris Swenson has been helping on this item. He has had conversation with John Davis and so have other Council members. She will be preparing a letter for the Mayor's signature asking for the temporary alternating lights for this season. She will try to tie this in with a better study to prove this is valuable. The information from the Town's study does show there was significant interest and people felt that this was helping. She feels it is important the people of the island understand how difficult this fight has been. Opposition is being faced every step of the way.

Council member Van Duzer attended the Horizon Council Luncheon and enjoyed it. Felt it was superb one of the local industries, Sunstream, was one of the five recipients. Enjoyed the bus trip and was glad to see the amount of work and good projects coming out the capital improvement fund for the drainage problems.

He participated on Saturday with the Coastal Clean up. He brought in 68 pounds of trash.

He continues to work on the Short Term Rental item.

The Council Retreat was informative and helpful. He feels they should be held twice per year.

Enjoyed the Pink Shell groundbreaking.

He has concerns about the Harbor Plan.

Asked if a member from CELCAB is leaving? Town Manager Segal-George replied that she is unsure, but will have this information for the next Council meeting.

Vice Mayor Terry Cain - Reported the September 11 program was outstanding. It could not have happened without the help from everyone. She expressed thanks to all involved.

September 12, she served as the alternate for Bill Thomas at the Southwest Regional Planning Council meeting. This was a very interesting meeting with outstanding candidates. A new chair has been selected. She is happy with the selection.

She enjoyed the Retreat and feels they should hold these more often.

The Horizon Lunch was enjoyable and she is proud of the local community.

She expressed that the Pilot Club did an outstanding job at the last Coastal Clean-Up. They collected 2,062 pounds of trash. Many organizations and individuals were present. This was an outstanding day.

Provided a memo and would like consideration to be part of the Bay Oaks Advisory Board. Discussion took place between the Mayor and Town Manager with regard to the process for her appointment to this board. Town Manager Segal-George will check to see if a vacancy exists and report back to the Council.

Council member Bill Thomas - Attended the 9-11 event in Times Square and it was very successful. Everyone who participated in this program did a great job and was a very enjoyable evening.

The Council Retreat was wonderful. He would like to see these twice per year.

Missed the Horizon Council meeting. Congratulated Sunstream.

Mayor Daniel Hughes - Participated in the Pink Shell ground breaking. John Naylor had a great presentation. All other items were addressed by the other Council members.

VIII. TOWN MANAGER'S ITEMS

Town Manager Marsha Segal-George - Discussed the Harbor Plan. The Mayor is to appear before the Governor and cabinet on October 8. Discussions have been taking place between herself, the Mayor and the consultant with the aids. A call was received last week from DEP in Tallahassee. If the Council is going to keep the provision requesting year round live aboard's for 10 spaces, they will be removed off of the agenda for October. At this point, they will need to try to get on an agenda in November or December. After the first of the year the cabinet will be diminished in size. She offered an additional alternative to go forward on October 8 and drop the provision. This would allow them to move forward and start receiving the core permit and grant dollars to get the project going. At that point, a modification of the submerged land lease could take place to ask for this provision. There is no policy in Florida with the Governor in cabinet and DEP with regard to the year round live aboard issue. She is looking for direction from Council to keep or remove the provision.

Mayor Hughes added that the consultant indicated the DEP office has another project, which is controversial, and has been asked to defer this issue until after the election. A community on the east coast has also been asked to defer. He commented that they are not being treated in an isolated manner. He feels once it is approved it will be difficult to go back and change.

Council member Ryneerson cannot see jeopardizing the whole plan for 10 slips. He feels they should drop their demands and do due diligence at a later date.

Vice Mayor Cain commented if they will not allow them on the agenda she prefers to wait until after the election. She does not want to drop the provision.

Council member Van Duzer has fears with the opinion of Council member Ryneerson. There would be no reason for a change in the future.

Council member Thomas feels they should move forward and the Mayor should go up on October 8. He does not want to see another one-year delay.

Mayor Hughes and Vice Mayor Cain would like to wait until the November agenda. Council member Van Duzer agrees.

Town Manager Segal-George reviewed that tomorrow, if the Council agrees, staff will remove from the October agenda and schedule for November. Discussions will take place with the aids in advance of the Mayor going to Tallahassee. This will give an indication as to what type of authority the Mayor will need to carry.

MOTION: Made by Vice Mayor Terry Cain and seconded by Council member Bill Van Duzer to defer until November for the Harbor Plan up in Tallahassee, because

there will be no drop in the provision for live aboard's at this time.

VOTE: Motion passes unanimously.

IX. TOWN ATTORNEY'S ITEMS

Commented on the Harbor Plan. There is a concept of law of legal impossibility. When you make a contract and it turns out to be unlawful or legally impossible you will be excused from performance. He feels this issue needs to be faced. A public hearing may need to be held to see and to determine if the public wants to pursue this issue absent the 10 live aboard's.

X. PUBLIC COMMENT

None.

XI. ADJOURNMENT

The meeting was adjourned at 9:43 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