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

I. CALL TO ORDER

The Regular Meeting of October 7, 2002 was opened by Mayor Daniel Hughes on Monday, October 7, 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

Jack Glarrow of 924 SE 35th Terr., Cape Coral, FL came forward. He is the publisher of the Breeze Corporation Newspapers. His concern is regarding the agenda to study the Newsrack ordinance. He recited the first amendment to the Constitution. He indicated that their intent is to have information made available to both residents and visitors of Fort Myers Beach without restrictions. He suggested the option of cooperation by the Town Council. He expressed that newspaper publishers are a cooperative lot and requests concerning Newsracks can be honored. Through cooperation newspaper publishers will place racks in safe locations and keep racks in an orderly and presentable fashion. New law will bring new problems and challenges. Everyone can work together to resolve the issues without new law. He also suggested the creation of a map, which would allow the Council to show where the preferable location of the racks should be.

Mayor Hughes expressed that tonight's discussion is very preliminary and no formal action will be taken today. Mr. Glarrow will have the opportunity to go before the Public Safety Task Force and Local Planning Agency to state his case.

Robin Calabrese from 2910 SW 29 Ave., Cape Coral, FL came forward. She came forward on behalf of the Breeze Newspapers and the Town of Fort Myers Beach as community. She would like to be helpful and instrumental in the creation of the rack ordinance.

Jerry Mitchell from 8100 Lagoon Road came forward. His concerns are the multiple papers he finds thrown all over the yards all summer long. He indicated that he handles pest control on the island and spends much of his time picking up four or five papers in various yards. He feels an ordinance needs to be in place. He would also like to see an ordinance in place for telephone books. He would like to see phone books delivered during the winter vs. the summer.

V. CONSENT AGENDA

A. PROCLAMATION: World Population Awareness Week

B. APPROVAL OF MINUTES: Sept. 10, Sept. 16, Sept. 18 and Sept. 23, 2002

Mayor Hughes pulled Consent agenda item B - minutes from September 10 and September 23.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve Consent Agenda item A and Consent Agenda item B - minutes from September 16 and September 18, 2002.

VOTE: **Motion passes unanimously.**

Corrections and changes to minutes (9/10/02):

1. Mayor Hughes - Page 4 - 4th line from bottom - Comment beginning with Mayor Hughes agreed - Strike agreed and replace with disagreed.

2. Mayor Hughes - Page 6 - Last line - strike the word code and replace with permit.

Corrections and changes to minutes from (9/23/02):

1. Mayor Hughes - Page 13 - Motion to be amended as follows: insert after "to defer until November" - a decision on the Town's position on the Harbor Plan provision for live aboard's.

MOTION: Made by Mayor Daniel Hughes and seconded by Council member Bill Thomas to approve consent agenda item B - minutes of September 10 and September 23, 2002 with corrections.

VOTE: **Motion passes unanimously.**

VI. ADMINISTRATIVE AGENDA

A. First Public Hearing 02-29 increasing the number of CELCAB members.

Mayor Hughes began by reading the ordinance. He expressed that the only change will be from 12 members to 14 members.

He opened the public hearing and asked if anyone wished to address the Town Council. None was heard. Public hearing was closed.

Council member Rynearson explained that he has spoken to some of the CELCAB members and they would not have an objection to leaving the ordinance the way it presently is.

Discussion was held with regard to having an ad hoc member. Attorney Dick Roosa explained that an ad hoc member is a person who has the responsibility as a result of another appointment.

Town Manager Segal-George expressed that she would like everyone to have the same understanding. Attorney Dick Roosa added that there is no provision in the ordinance for an ad hoc member.

Deputy Town Manager John Gucciardo added if the idea is to have a non voting member he suggested dropping the change in the ordinance. If it is expected vacancies will exist after January 1, 2003, Mr. Reckwerdt or anyone has the right to attend the meetings and give input.

Council member Bill Thomas supports Ted Reckwerdt for this position, but a procedure must be followed.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Van Duzer to withdraw Ordinance 02-09.

VOTE: **Motion passes unanimously.**

B. Discussion of proposed FGCU marine lab in City of Bonita Springs

Mayor Hughes explained that he is looking for a motion to authorize him to send a letter to the City Council of Bonita Springs to express their position. He tried to reach Gary Price, City Manager, and was unable to make contact. He did speak with the Clerk who explained that this was removed from the schedule of Florida Gulf Coast. This has not been rescheduled before the City Council of Bonita Springs. He also discussed this matter with Audrey Vance on the issue referred to in the article with regard to the right of Bonita Springs to have jurisdiction over the zoning, and whether they are preempted by reason of state law or case law. He would like support from the Town Council of Fort Myers Beach to oppose this matter.

MOTION: Made by Council member Howard Rynearson and seconded by Vice Mayor Terry Cain to support the opposition of the proposed FGCU Marine Lab in the City of Bonita Springs at the Bonita Springs level, if this goes to a zoning hearing, and at the Board of County Commissioners level if determined by the County and attorneys that it will not need to go to a zoning hearing. **Motion amended to add the following:** This letter will be sent to the County with copies to the Bonita Springs City Council and the University.

Discussion: Vice Mayor Cain pointed out the two finalists - The south end of Black Island and the Estero River Scrub. She is very upset by the choices made out of a list of 26 options. She hopes that this Council will be able to support the objection to the Marine Lab on Black Island as well as being at the Estero Island Scrub. She does not object to a Marine Lab. A Marine Lab is needed in the area, but she feels other areas on the list would be more environmentally sensitive along with being more fiscally responsible.

Council member Rynearson suggested proceeding with the motion and following up with a letter from the Town to include her concerns.

Mayor Hughes agrees with Vice Mayor Cain. He would like to include that this Town Council is opposed to both the first and second choice.

Council member Bill Van Duzer suggested sending the primary letter to the County with copies to the Bonita Springs City Council and the University.

Attorney Dick Roosa suggested also sending this letter to the Governor. Mayor Hughes agreed.

MOTION: **Motion passes unanimously.**

C. Discussion of proposed Newsrack Ordinance

Council member Rynearson began by expressing that everyone's input is a necessity. Public hearings will be held to obtain the required information needed to create the ordinance. The ordinance at this point is just a rough draft, which will require additions and deletions. He has spoken to Commissioner Judah who feels some FEMA dollars may be available, if the Town should decide to purchase and maintain the machines.

Council member Van Duzer expressed that he would like to see some control over the racks within the Town. He feels this should go to the Public Safety Task Force for input and also the LPA. He recommends this procedure be followed.

Vice Mayor Cain would also like to see this go before the Public Safety Task Force and LPA. She feels a definition and picture of a pod should be provided. Council member Rynearson suggested getting pictures to Attorney Roosa and incorporate this directly into the ordinance.

Council member Thomas congratulated Council member Rynearson for bringing this forward in an effort to further the beautification of Fort Myers Beach.

Mayor Hughes added that this is an issue which needs to be addressed. This is a blight in the community as it presently is. He questioned the Newsracks on private property and commented that this information is not contained within the rough draft and will need to be addressed.

Deputy Town Manager Gucciardo questioned the scope of the involvement of the Public Safety Task Force? Council member Rynearson feels the safety value of the Newsrack ordinance should be kept with the Public Safety Task Force at this time. The location should be addressed by the LPA, because it does deal with land use. It can be opened up to anyone for ideas. All ideas are welcome.

Mayor Hughes urged that the Public Safety Task Force handle this as a priority item and move this as quickly as possible to the LPA.

D. Discussion of New Year's Eve 2003

Town Manager Segal-George explained that this is the time of the year to begin planning for the New Year's Eve event. Two possible situations exist. One is during the day to have the Town's birthday and funds have already been set aside in the budget for this portion. She provided history for the past two years within the memo. The Chamber acted on behalf of the Town, in the past, and put on the New Year's Eve celebration. Last year the Times Square Alliance handled the event. This event was held for a not to exceed figure of $11,000.00 and came in under budget. No fireworks were held last year. Many comments were made with regard to the lack of fireworks. The Alliance is willing to handle the celebration for a not to exceed figure of $12,000.00 and include fireworks. Commitments must be made to bands and for fireworks for this event.

Council member Van Duzer asked how much was budgeted for New Year's Eve? Town Manager Segal-George replied that she believes it is in for the same amount as last year ($11,000.00). The birthday party is a separate budget item.

Council member Van Duzer expressed that the Alliance is willing to contribute $7,500.00 along with the Town's funds to have this affair. Town Manager Segal-George added that the Alliance is willing to do the staffing and put the time into this event, which is very significant.

Council member Van Duzer feels this is a very important issue. This event benefits all the people on Fort Myers Beach. He would like to see the Town have a nice celebration. He is pleased the Times Square Alliance is willing to offer in this regard. He would be in support of raising Trolley fee costs that evening or any other suggestions to try and recover dollars spent.

MOTION: Made by Council member Bill Van Duzer and seconded by Vice Mayor Terry Cain to approve the request by the Times Square Alliance for a not to exceed figure of $12,000.00 to handle the New Year's Event to include the fireworks. In addition all the provisions for special permits including filing of a financial report would apply.

Discussion: Vice Mayor Cain expressed that she would not be in favor of raising Trolley fees during this event. The Trolley has been "free" in the past and due to safety she feels it is important people do not drive.

Council member Thomas does not agree with the spending of dollars for fireworks for New Year's Eve. He does not feel they should blow up

$2,000.00 of taxpayers money for others in Lee County to come and see this event. It is time to watch their dollars. A lot of money has been committed to the Times Square Alliance. He feels $10,000.00 without the fireworks would be sufficient.

Town Manager Segal-George added that many complaints were received both on and off of the island due to the lack of fireworks.

Discussion was held about individuals setting off their own fireworks. Town Manager Segal-George felt that this was not an issue on New Year's Eve. This does become an issue on the Fourth of July.

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

Mayor Hughes directed staff to look into possible sources of revenue.

E. Bay Oaks Advisory Committee Appointment

Mayor Hughes announced that a resignation from Brian Peterson has been obtained. Terry Cain has asked to be appointed to the committee.

MOTION: Made by Council member Bill Van Duzer and seconded by Mayor Daniel Hughes to appoint Terry Cain to the Bay Oaks Advisory Committee.

VOTE: **Motion passes unanimously.**

F. Update on enhanced seasonal trolley service

Deputy Town Manager Gucciardo explained that he and Michelle have been working on this item since last year. This is the time of the year negotiations begin to take place with LeeTran with regard to Trolley's for the upcoming year. A comparison has been provided. He expressed that there may be an increase in costs that were not anticipated. Slightly more was budgeted this year than last year, but the preliminary estimates are that the hourly rates for the Trolley have gone from $36.00 to $44.00 per hour. Direction is needed from the Town Council.

Council member Rynearson suggested waiting until the next meeting before a decision is made. This will allow for further negotiations with LeeTran. If a compromise cannot be made then a reduction of hours may need to be considered. He feels the bottom figure needs to be obtained.

Vice Mayor Cain would not be in favor of changing hours. She questioned if LeeTran will leave the fare at 25 cents? Deputy Town Manager Gucciardo replied that this fare will remain the same.

Deputy Town Manager Gucciardo expressed that he feels it is the intent of the Town Council to have as a last option the removal of hours per day or days service is running. The Town Council agreed.

Council member Thomas feels the businesses should emphasize the Trolley's. This is what brings people and money in on the island. He added that more money could be spent toward the Trolley vs. spending additional dollars on a one time event. He feels the wrong approach is being taken. The Trolley system must be supported for the residents and businesses.

VII. COUNCIL MEMBERS ITEMS AND REPORTS

Council member Bill Thomas - He has been working with Lee County trying to get somewhere with the bus benches on Fort Myers Beach. He spoke to Jeff Schuler today who provided an advertisement figure for last year in the amount of $33,000.00 for the bus benches. The Town and County must work together. Council member Thomas expressed that it is

unacceptable to the Town to have benches with advertisements half torn down and making the whole area unacceptable. He wants to get Estero Blvd. looking beautiful. It is seen by all residents and tourists alike. Bonita, Naples and Sanibel have all cleaned up their Towns. He is hopeful that the County will work with the Town. It would be beneficial for both parties to have better facilities for people to board the Trolley's.

Council member Howard Rynearson - TDC unanimously passed a motion Friday supporting the Town of Fort Myers Beach with their alternating lights. As soon as the staff receives the minutes this will be taken to the County to move forward.

MOTION: Made by Council member Howard Rynearson and seconded by Council member Bill Thomas to move the regularly scheduled times of the Town Council meetings to 5:00 p.m. or 5:30 p.m..

Discussion: Vice Mayor Cain would be most effected by this change. It would be very difficult for her to get to the meetings due to scheduling within her family.

Council member Van Duzer is not sure he would be comfortable with this change. He is accustomed to this time. He does not favor the change and would consider discussing at a future meeting.

Council member Thomas will not support this motion, if it causes difficulty for anyone to attend.

VOTE: **Motion fails. Mayor Daniel Hughes, Vice Mayor Terry Cain, Council member Bill Van Duzer and Council member Bill Thomas dissenting.**

Council member Bill Van Duzer - Discussed the column he presented the paper for the alternating light. He complimented the honorable Council member Rynearson for the support he received from TDC. A lot of help will be needed and he hopes that everyone will hang in with him until the issue is finally completed.

Short term rentals will be coming forward. On October 15, this will be the agenda of the Civic Association. He suggests the Council attend to hear what will be said.

He complimented the honorable Tom Myers. Tom Myers has 150 palm trees in his backyard that he has grown at his own expense. He has offered these trees for the use of this Town, if they wish to have them. He extended his personal thanks and the thanks of this Town Council for his offer.

Vice Mayor Terry Cain - She had the privilege of attending the award ceremony and was one of the judges for the "Leave the Scene Clean Calendar - For Keep Lee County Beautiful." Over 4,000 Lee County students were all winners in her opinion.

Monofilament Madness will be on October 20. A barbeque will be held at Fishtail Marina. Wonderful support was received from Fishtail Marina, Midisland Marina, Pink Shell and the Pilot Club, etc.. She hopes to see everyone picking up trash and monofilament.

VIII. TOWN MANAGER'S ITEMS

A. Reorganization of Town Council

Town Manager Segal-George explained that this topic came up due to two separate events in November the Mayor will need to attend in Tallahassee. She copied everyone of the Charter change, which states that in a year an election will not be held the Council will reorganize at the first meeting in November. She questioned if this could be delayed or must it be held at this time in November? Attorney Dick Roosa replied that this is not a requirement and could be

modified.

MOTION: Made by Council member Bill Thomas and seconded by Council member Howard Rynearson to delay the reorganization of the Town Council until January 2003. **(Motion withdrawn)**

Discussion: Council member Bill Thomas commented that Mayor Daniel Hughes has put in a lot of time for the visits to Tallahassee and also has done a lot of preparation to represent the Town. It is critical good results are received and he does not feel a change should take place at this time.

Council member Van Duzer questioned when the next elections would be held? Town Manager Segal-George replied in April 2004.

Discussions were held among the Town Council with regard to changing the date for the reorganization. Council member Van Duzer suggested changing the date to April.

MOTION: Made by Council member Bill Thomas and seconded by Council member Howard Rynearson to delay the reorganization of the Town Council until the first meeting following the statutory date of the election.

VOTE: **Motion passes unanimously.**

IX. TOWN ATTORNEY'S ITEMS

None.

X. PUBLIC COMMENT

Jerry Mitchell from 8100 Lagoon Rd. came forward. He commented that 6:30 p.m. is a very good time for the meetings. He is trying to get people to attend and feels the Council should be present to support the residents who would like to provide input. He also feels the Council should look into the right-of-ways for the Trolley's and magazine racks.

XI. ADJOURNMENT

The meeting was adjourned at 8:10 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