

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JANUARY 8, 2001
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The meeting of January 8, 2001, was opened by Mayor Daniel Hughes at 6:30 p.m.

Council members present at the meeting: Terry Cain, Daniel Hughes, Ray Murphy and Garr Reynolds and Howard Rynearson.

Members absent from meeting: None.

Town Staff present: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo and Attorney Richard Roosa.

II. PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance.

III. INVOCATION

by Reverend William Dodd, St. Raphael Episcopal Church

IV. PUBLIC COMMENT ON AGENDA ITEMS

A. RONALD POWELL

A representative of the Carlos Pointe Beach Club, Mr. Powell has been an owner for 17 years, has been on the board off and on for over 12 years serving in different capacities. He outlined some of the problems they have at Carlos Pointe. There is a seawall problem at Castle Beach. They refurbished their beach three different times over a 10-year period at about a \$25,000 cost to their unit owners, but there seems to be a swirl that prevents them from keeping sand at the north end of their beach club. In the last 10 days they've lost a lot more sand from the foundation of their building on the north end through cold weather and winds. They would like for this Council to consider helping them in some way.

Mr. Powell also commended the Town for the improvements they've made in the last five years.

B. LOU MARRONE

Mr. Marrone is president of the Laguna Shores Association representing about 175 homeowners. He was happy to see that there is a possibility of us hiring Hans Wilson to assist them in the problem concerning the waterways. He particularly wanted to thank Marsha Segal-George and John Gucciardo for planning several meetings for them to explain what their problem is. Sand is washing down from the north end and washing away from Carlos Pointe under the bridge and blocking off their only outlet from the Buccaneer inlet which surrounds all of Laguna Shores. They, too, have spent a lot of money in trying to clean things up and can't do it alone.

V. ADMINISTRATIVE AGENDA

A. Proclamation: Honoring Richard Kastner on his 100th birthday.

Mr. Kastner was asked to step forward and then was read the proclamation praising his services to the community and wishing him a happy 100th birthday. Saturday, January 13, 2001, was proclaimed as Richard D. Kastner Day in the Town of Fort Myers Beach. There was a round of applause following the proclamation. Mr. Kastner thanked all the Council members and all his friends for the honor. He noted he has been here for 50 years and how he had started praying at age 95 to live another year and then successive years.

B. Canal dredging presentation

Town Manager Segal-George introduced Kevin McGee of Cape Coral who heads up the canal dredging program for Cape Coral and who made a presentation to Marine Resources a number of months ago. He came back tonight so we could see how they do their program in Cape Coral. Mr. McGee showed an eight-minute tape of their dredging procedure. He noted that condominium owners would pay much more for this service than single family units because there is no percolation on that land. The building takes up more of the land and the rest of it is basically parking lots. This is in their ordinance. The dredging machines that they use can fit into their 80-ft. wide canals and are used year-long. They have six dredgers now and would probably look into contracting them out. In our case, however, there is a problem with finding vacant land to pop up on.

Town Manager Segal-George stated that we've identified the worst streets on the island and are systematically retrofitting storm water systems on streets. A number of those streets are on canals, so part of the storm water system that we're putting on those streets is cleaning that water before it gets into the canal. And since we've had no storm water system since the island began, this is part of the reason why we're silting up. We're trying to deal with this with our capital budget without charging any additional fees for it.

Mr. McGee noted that it takes about six months for them to do a canal.

The City of Cape Coral owns the dredging machines which cost about \$180,000 each. Mayor Hughes asked if the manufacturer also leased the machines and was told yes.

Mr. McGee was thanked for his presentation.

Town Manager Segal-George stated that if the Council feels that this is worthwhile to continue to look into, they could try and develop a plan that might be possible for Fort Myers Beach. Canal dredging in the areas where we're doing the storm water retrofit is something that would have to be discussed. MRTF will probably have an outline then have a joint meeting with the Council and bring their recommendations forward. This is going to take time. Mayor Hughes said he would certainly like to see MRTF proceed with this and nobody voiced an objection. Other than MRTF looking into this, we're not approving anything at this point.

C. First Reading: Franchise agreement with TECO

Mayor Hughes read the ordinance.

The hearing on this matter will be January 22.

Deputy Town Manager John Gucciardo advised that this was a non-exclusive agreement. If the ordinance goes through, TECO will be the only natural gas provider. TECO would like a 20-year agreement. This is not seen as a great revenue source, especially in the first couple of years. But they want to phase out the propane tanks on the island from a public safety point of view and they would not want to see a franchise fee as an obstacle to that going forward.

Don Mestas of People's Gas/TECO advised that the franchise fee would be collected from the customer and then passed back to the city. They would ask that we give them favorable consideration in terms of a 20-year franchise agreement and that our determination of a franchise fee is entirely up to the Council and the citizens of the community. There are no additional charges.

MOTION: Moved by Ray Murphy and seconded by Terry Cain to give TECO a 20-year agreement and base it initially with a franchise fee of 5% with the understanding that the ordinance could be changed in the future with regards to the franchise fee.

Discussion:

Councilman Reynolds said he thinks we should stick with the 15 years and amend the 20 years to 15 years and go with the 5%. Mayor Hughes said he was inclined to agree with that, that being the recommendation of our staff. He would recommend amending the motion.

MOTION: Moved by Garr Reynolds and seconded by Dan Hughes to amend the motion from 20 years to 15 years with the franchise fee remaining at 5%. Passed unanimously.

Mayor Hughes asked if there was any further discussion on the principal motion and he called for a vote on it.

Motion unanimously approved to insert in the agreement 15 years at 5%.

John Gucciardo advised that TECO has consistently indicated that they would be more comfortable with 20 years.

It was determined that TECO self insures and that they carry liability in excess of the amount that they self insure for, which is the first million dollars.

The size of the line would probably be in the neighborhood of 6 inches.

Mayor Hughes noted that the ordinance says that it's granting to Peoples Gas, which is a division of Tampa Electric or TECO, an agreement. He asked Attorney Roosa if the provisions in this ordinance would be incorporated into a separate document and agreement. Attorney Roosa advised that yes, there would be a separate agreement that they would sign but the terms would be as in the ordinance.

It was determined that the acceptance of the ordinance becomes the agreement. John Gucciardo said that we also have a provision that allows for future changes to be made outside of the ordinance process by separate agreement.

It was established that at the end of 15 years this franchise agreement shall be automatically renewed for six months.

D. Request to retain Hans Wilson, P.E., to assist Laguna Shores, Carlos Pointe and Marina Towers

Deputy Town Manager Gucciardo advised that the folks at Laguna Shores have not even begun a permit process, and after conversations with them staff is convinced that they may need some help in assessing whether or not a permit application is prudent. Recommendation has been made to Council that they direct staff to hire an independent engineer, Hans Wilson, who we've done work with in the past, to assist those three different groups in the three different issues regarding their permits: to expand one, to expedite another and to begin a process. We're analyzing whether or not they should begin a process for a third permit. Mr. Gucciardo said he has indicated in his memo that Council would need to find a public purpose to those issues. Staff thinks that there is one, but also thinks that it's open to debate. And what they are talking about here is only monies to be expended in assisting these homeowners in the permit process and not in the actual construction or development of whatever it is the permit allows eventually.

Vice Mayor Murphy stated he thinks these are three items that need to be addressed now and he'd like to assist these people in doing that. What we will have to decide is how we share the cost.

Town Manager Segal-George advised that on this particular contract staff's recommendation is that the Town pays Hans Wilson to help these three groups get to the point that they can determine what it's going to cost for their project. Each of these groups is having trouble handling this issue on their own and they need help. Also discussed was once it gets to that point and it's determined what has to be done, whether or not the Council would be willing to participate in the cost of the actual project. If they can get their permits and the scope of their project is determined, then there would have to be another session with the Council and these different groups regarding what would be determined as a public purpose. Vice Mayor Murphy added that they're looking for our help to expedite the whole process.

John Gucciardo explained that the issue we're talking about in Laguna Shores has to do with dredging a shoal that's been building up at the ingress and egress points. One of the things that they're proposing and that they had Hans Wilson cost out for them was the ability to do some core samples to see if the sand that is building up at the rear of Marina Towers is compatible with the beach sand at Carlos Pointe. If that's the case they would like to present to the agencies that issue the permits an application that would allow them to take the sand from one location where it's not needed and place it at the other location where it is needed. This would solve both problems and be a great cost savings.

MOTION: Moved by Ray Murphy and seconded by Dan Hughes to approve the proposal for the services of Mr. Wilson for Estero Island south end projects that have been discussed here.

Discussion:

Dan Hughes asked if we could expand the motion to say that we accept the proposal subject to it being incorporated into a contract. The motion was thus amended.

MOTION: Moved by Ray Murphy and seconded by Dan Hughes to approve the proposal and that it be incorporated into a contract with Mr. Wilson for professional services subject to approval by our Town Attorney. Passed unanimously.

E. Committee Appointments

1. PSTF

Eight of the nine members have asked for reappointment: Flip Harby, Joe Croker, Carolyn Van Duzer, Tim Linskey, Dan Parker, Dan Haggerty, Bob Gaydos and Tom Myers. Charlie Stiegler has been appointed to the fire district board and has asked that he not be reappointed because of possible conflict of interest since Flip Harby is also a member of that board and there could be a problem under the Florida Sunshine Law. It hasn't been advertised yet that there is an opening. Everybody is on a one-year term .

MOTION: Moved by Ray Murphy and seconded by Howard Rynearson to reappoint the eight members of the PSTF who have requested that they be reappointed.

Vice Mayor Murphy thanked all the members for their good service and said they had done a great job.

Motion passes unanimously.

2. LPA

There are currently two vacancies and the incumbents -- Jane Plummer and Roxie Smith -- have both requested that they be reappointed. There were no other nominations.

MOTION: Moved by Terry Cain and seconded by Ray Murphy to reappoint Jane Plummer and Roxie Smith for another 3-year term. Passed unanimously.

3. Bay Oaks Advisory Board

There is one vacancy and that has been advertised. Only Karen Swanbeck has submitted a request to fill the vacancy.

MOTION: Moved by Terry Cain and seconded by Garr Reynolds to appoint Karen Swanbeck to the vacancy on the Bay Oaks Advisory Committee. Passed unanimously.

4. Estero Bay Agency on Bay Management

Anita Cereceda has submitted her name for this along with the CAC for the Charlotte Harbor National Estuary Program. These have been vacant for six months.

MOTION: Moved by Ray Murphy and seconded by Terry Cain to appoint Anita Cereceda to fill the vacancy on the Estero Bay Agency on Bay Management. Passed unanimously.

5. CAC for the Charlotte Harbor National Estuary Program

MOTION: Moved by Terry Cain and seconded by Ray Murphy to appoint Anita Cereceda to fill the vacancy on the CAC for the Charlotte Harbor National Estuary Program. Passed unanimously.

6. CELCAB

Town Manager Segal-George said that not just the members of CELCAB but those of the CRAB, MRTF and Times Square have to be reappointed. No one has resigned from any of those committees and as far as she knows all the members want to stay on their committees. CELCAB and MRTF were asked to submit letters if they didn't want to be reappointed and no one responded. The only committee that she knows of that has not been asked is the Times Square Committee.

Councilman Reynolds expressed a desire to see the names of the committee members before we reappoint them because there might be other people interested. He was told no, because whenever we've had committees where the members are seeking to stay on we've not advertised them. Vice Mayor Murphy read off the names of the members of the CELCAB Committee.

MOTION: Moved by Howard Rynearson and seconded by Terry Cain to reappoint the entire CELCAB for the current year. Passed unanimously.

7. MRTF

MOTION: Moved by Ray Murphy and seconded by Howard Rynearson to reappoint all the members of MRTF. Passed unanimously by a 4-0 vote.

8. Times Square Advisory Committee

Members are Deborah Lallo, Doug Spearin-Smith, John Richard, Bill Whitaker and Martin York, all one-year appointments.

MOTION: Moved by Terry Cain and seconded by Howard Rynearson to reappoint the incumbent members of the Times Square Advisory Committee for another year. Passed unanimously.

Town Manager Segal-George said she could bring CRAB back on the 22nd. She also noted that we also have Council appointments: MPO, TDC and Coastal Advisory.

Mayor Hughes said he'd be happy to serve as an alternate on the MPO. He suggested Vice Mayor Murphy be the candidate.

MOTION: Moved by Howard Rynearson and seconded by Terry Cain to have Ray Murphy serve on the MPO and Dan Hughes to serve as an alternate. Passed unanimously.

9. Coastal Advisory Committee

Deputy Town Manager Gucciardo advised that at their next meeting on January 22 it's going to be affirmed that the primary member from the Town was Anita Cereceda and the alternate voting member would be Terry Cain. Unlike some of the other groups you do not have to be an elected official. We can keep it that way or make changes. He will continue to serve as staff liaison. Terry Cain said she would be happy to serve on the committee as long as there was no conflict with the Council meetings. Mayor Hughes said he could be put down as an alternate.

MOTION: Moved by Ray Murphy and seconded by Garr Reynolds to approve Terry Cain serving as the primary member of the Coastal Advisory Committee with Dan Hughes serving as the alternate. Passed unanimously.

10. TDC

There should be someone on the Council acting as a liaison, which means sometimes going to the TDC meetings or kind of monitoring what's going on. They meet once a month.

MOTION: Moved by Garr Reynolds and seconded by Ray Murphy to appoint Howard Rynearson as our liaison to the TDC. Passed unanimously.

VI. COUNCIL MEMBER ITEMS AND REPORTS

Terry Cain advised that the MRTF's regularly scheduled meeting has been changed this month from the 17th to the 24th. The radio station should be coming on line by the end of this month and she will keep us updated on the time and station. CELCAB has been reviewing the 14 resumes for the director of the Mound House and they are being put into a categorized, numbered grid for a short list on the 17th. By the end of the month they should be doing telephone interviews.

Vice Mayor Murphy noted that he is the representative for the Horizon Council that will be meeting on Friday and hopes we will have a table available for the them. Unfortunately he has a conflict that day as he will be going up to Tallahassee with Commissioner Albion and Wayne Daltry for a policy board meeting of the Regional Planning Council.

Councilman Reynolds is still concerned about a Town gulf front park. Also, in our minutes of October 8 it says that there was a draft about the Town Hall mil issue. It had been indicated that we had approved that type of thing and he had kept insisting that we had not approved it, just discussed it a couple of times. Now in the minutes it says there was a draft that we had discussed but there was no action on it, which he was glad to see. Councilman Reynolds felt that there were too many errors in the November 8 minutes. He felt the New Year's celebration was wonderful and everybody had fun.

Mayor Hughes felt the Town's birthday celebration was very nice. He and Vice Mayor Murphy attended the inauguration of Rod Shoap, sheriff, last week and it was quite a ceremony. The new sheriff indicated a willingness to come and appear before our Council. They also had a

chat with Capt. Erne. Mayor Hughes asked if we were going to have a workshop on beach renourishment as he is getting a lot of calls. Deputy Town Manager Gucciardo said that he planned to prepare a status memo for us at the next update of the CPE and outline issues that still remain. An option may or may not be a workshop. As far as he knows, easements are still coming in slowly. They haven't heard any outright objections to the easements except for three property owners. Mostly what they're hearing is concern about the easement language which is dictated by the court. Regarding the Elder Friendly woman, she has had scheduling conflicts. Any further progress on the acquisition of the water system? Deputy Town Manager Gucciardo said that he had talked to the consultants last week and then again this morning. The engineering firm is going to be putting together their final numbers and sending that up to Burton & Associations who need that information in terms of their projections for what we're going to need in terms of capital improvements down the line. Once they have that they can finalize their numbers. Sun Trust would then be able to advertise out over a 30-year period what our financing costs are going to be. They hope that this whole package comes together at about a week from Friday. At that point they will be setting up a working meeting with himself, Marsha Segal-George and Dick Roosa and see if they can put a package together for us. But they are moving along and are well within the time period.

VII. TOWN MANAGER'S ITEMS

Mrs. Segal-George reminded us that the meeting on the 22nd will start at 3:00 p.m. There are two land use cases. We will break about 5:30 p.m. and do the inauguration then do the rest of the meeting after that.

VIIa. TOWN DEPUTY MANAGER'S ITEMS

John Gucciardo advised that the beach patrols from animal services have been out a couple of times already both in the morning and in the evening. They have put together little flyers that they will be giving out for educational and informational purposes.

VIII. TOWN ATTORNEY'S ITEMS

None.

IX. APPROVAL OF MINUTES: OCTOBER 2, 2000 AND NOVEMBER 8, 2000

MOTION: Moved by Ray Murphy and seconded by Terry Cain to approve the minutes of October 2, 2000.

Corrections and changes to minutes:

1. On page 5, line 1, Grandby should read Grand View.

MOTION: Moved by Ray Murphy and seconded by Garr Reynolds to approve the minutes of October 2, 2000, with the correction noted. Passed unanimously.

MOTION: Moved by Ray Murphy and seconded by Howard Rynearson to approve the minutes of November 8, 2000.

Corrections and changes to minutes:

1. On page 2, paragraph 3, where it says "modify can mean an increase of three minutes or a reduction of three minutes," should read "modify can mean an increase of the three minutes or a reduction of the three minutes."
2. On page 1, paragraph 3, where it says that "Mayor Hughes noted that Robert's Rules

..." it should read "Councilman Reynolds noted that Robert's Rules says that no member shall speak twice on a subject until others have spoken."

3. On page 1, IV., paragraph 5, Councilman Reynold's response to Councilwoman Cereceda's remark, "Whoopy do, this is not true" should have been shown.

3. In several instances "is" is written instead of "is not."

MOTION: Moved by Ray Murphy and seconded by Howard Rynearson to approve the minutes of November 8, 2000, with the corrections noted. Approved unanimously.

X. PUBLIC COMMENT

A. DR. JOE CROKER

Felt that now that we are becoming a more involved municipality, government light needs to be a little heavier than it was first conceived as being. Maybe we need more personnel in the office so that we don't whip the good horses to death in order to get work that can be done by somebody else. We're paying a lot of money for expertise help and we don't need to be paying them to do clerical work.

XI. ADJOURNMENT

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for Action January 8, 2000

1. The hearing on the franchise agreement with TECO will be January 22.
2. Regarding committee reappointments, Town Manager Segal-George said she could bring CRAB back on the 22nd.
3. Councilwoman Cain advised that the MRTF's regularly scheduled meeting has been changed this month from the 17th to the 24th.
4. The radio station should be coming on line by the end of this month and Councilwoman Cain will keep us updated on the time and station.
5. CELCAB has been reviewing the 14 resumes for the director of the Mound House and they are being put into a categorized, numbered grid for a short list on the 17th. By the end of the month they should be doing telephone interviews.
6. The meeting on the 22nd will start at 3:00 p.m. There are two land use cases. We will break about 5:30 p.m. and do the inauguration then do the rest of the meeting after that.