

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
FEBRUARY 26, 2001  
REGULAR MEETING  
Town Hall - Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

**I. CALL TO ORDER**

The regular meeting of February 26, 2001 was opened by Mayor Daniel Hughes on Monday, February 26, 2001, at 6:30 p.m.

**Council members present at the meeting:** Mayor Daniel Hughes, Vice Mayor Ray Murphy, Howard Rynearson - Council, Garr Reynolds - Council, Terry Cain - Councilwoman

**Excused absence from meeting:** None

**Staff present at meeting:** Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Janeen Paulauskis, Pam Houck, Dick Roosa (Town Attorney) and Dan Folke (Lee County Planner)

**II. PLEDGE OF ALLEGIANCE**

All assembled and recited the Pledge of Allegiance.

**III. INVOCATION BY PASTOR BOB STUCKEY, FIRST BAPTIST CHURCH OF FMB**

Pastor Bob Stuckey gave the invocation.

**IV. PUBLIC COMMENT ON AGENDA ITEMS**

Al Vanhorn is a resident of Fort Myers Beach and a member of the Traffic Committee. A year ago the Traffic Committee, after considerable deliberation, voted not to recommend the left hand turn. Subsequently, there has been a great deal of discussion and controversy. The Florida DOT was asked to make a study. Two to three weeks ago they reported to the Public Safety Task Force Committee in regards to their findings. They were very reserved and did not see any advantage to the left hand turn. The Task Force has been reported in the press to have a 5 to 4 vote to go ahead with the "trial" period. Approximately a week after the Traffic Committee had its monthly meeting and discussed all the ramifications they reaffirmed their vote not to recommend the approval of the left hand turn. He reminds Council that sitting on the Committee are Law Enforcement representatives, Fire District representatives and members of the County and State DOT. Their vote not to recommend the turn was unanimous. A number of factors need consideration before a "trial" period can be established. If they are going to divert the north bound lane on to Crescent St. how far in advance are they going to need to set up signs, signals and warnings to alert the drivers coming down? Will they be lost among the signs? The Fire District was concerned if this area was to be cut off would they still be able to access it with their emergency vehicles. If they can access it so will the other drivers, and what kind of enforcement will we have to put this in place. Will the turn affect the Trolley Stop? The Traffic Committee is recommending that it not be approved.

John Naylor the General Manager of the Best Western Pink Shell spoke regarding the closing of the left hand turn lane on to Fifth. This area has been examined and studied for as long as he can remember. He remembers promises in the past if the Time Square merchants were to go along with the closing of this way it would always be left open as a left turn and two way street getting on and off the north end of the island. There is a perception that the left hand lane blocks traffic getting off the island and slows the traffic. It is a dangerous situation were southbound cars have to stop to allow cars to cross in front of them to go into the north end of the island. He wanted to ask how many accidents have

occurred involving the left hand turn? How many injuries have occurred? What happens to the cars that miss the right hand turn at Crescent St.? Are they not going to stop and slow down? There are far more accidents with injuries that occur at the bottom of the bridge on San Carlos Island than there are at the bottom of Estero Island. Closing the left hand turn will force many people into harms way. It is an accident waiting to happen. He is not sure why they need to solve a non-problem.

Bowditch parking did open today. About 2:00 p.m. this afternoon there were 12 cars there.

Dan Parker is for the no left hand turn. The Board now has the opportunity to keep continuous flow traffic going on. Continuous flow traffic means the quickest and safest way to move vehicles around. He spent 20 years in traffic as a police officer and feels that he knows what he is talking about. People coming from the area of the Pink Shell have learned to go under the bridge and have learned how to go with the flow of traffic. He has heard no complaints. Crossing in front of one another is a problem, especially on the weekends. The cruising on Friday and Saturday nights is horrendous. The Public Safety Task Force passed a law about cruising by taking this left turn out would assist the traffic and forcing the kids to go down Crescent and circle and come back into the flow of traffic at the base of the bridge. There is an advantage of taking the left hand turn out and tried. The Fire District has said that they would be happy to go through there with the flex stakes. The Fire Dept. spent hundreds of dollars to prepare their equipment to flow over the flex stakes without injuring their vehicles. Anyone who tries to go over these with their own vehicle will suffer the damage consequences. The left hand turn should be taken out and tried. The big question will be who will evaluate it.

Brian Scanlon, the owner of Mango Bay in Times Square, was present to speak regarding his disagreement with Mr. Parker. Facts are facts and this has been studied for eight or nine years. He has close to 70 hours of videotape and is prepared to turn this over to the Council for their review at anytime. The left hand turn lane going northbound does not impede the traffic going off this island. Closing the left hand turn lane will worsen the situation, which makes no sense. Marty from Beach Pierside Grill, John from Citrola's, Bill Whittaker and John Lallo all oppose closing the left hand turn lane. He is not only speaking for himself, but for the other merchants.

Anita Cereceda speaks on behalf of the left hand turn lane. It is that time of the year everyone will call day and night to express their concern about the traffic. Last year they spent a lot of time discussing building a bridge and this year they are spending a lot of time discussing closing turn lanes. Historically this issue has been discussed since the Sky Bridge was built. She urges the Council to re-address the Streetscape. Reinitiate discussion about pedestrian use in that area. Look at the big picture to elevate pedestrian activity in a high traffic area. It is not the cars that are stopping traffic it is the people that are walking in front of the cars that are stopping the traffic. People stopping to ask directions from the VOICE volunteers also impedes traffic. A decision to close the turns will not effect a positive action on traffic. Since day one it has never been discussed as to the negative effects that it will have on north end island residents, Time Square business and north end business.

Tim Anglin commented that he had gone to the Public Safety Task Force because he was concerned that this may happen. The problem to him is that they had asked at the Public Safety Task Force meeting the FDOT, who had done the study, if this would help. They indicated that it would not make any difference. It may help a little for people coming on the island, but nothing that the average driver will notice. His biggest fear is that they will not ever be able to judge the benefits of closing and they may never really know the harm caused by it. We need to make an easier environment for the tourist because we have created this area for them. The VOICE people keep things moving. He would like them to look at other alternatives.

Mayor Hughes commented on the VOICE volunteers. They cannot be paid because this would then cause them to be paid employees and raise a number of issues. Town Manger Segal-George attempted to get more VOICE volunteers and none of the volunteers are from our island. They had run ads in the paper and they still do not have a volunteer from the entire island to participate.

**V. CONSENT AGENDA**

- A.** Review of Financial Reports: January 2001
- B.** Proclamation: Children's Day

Mayor Hughes commented that the Town of Fort Myers Beach proclaims Tuesday, March 20, 2001 as Children's Day. The month of March 2001 is Childcare Awareness Month. There will be an event of the Courthouse steps on March 20 and the whole Council has been invited.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to approve the Consent Agenda. Motion passes unanimously.

**VI. ADMINISTRATIVE AGENDA**

**A. Recommendation from CELCAB on a Mound House director**

Town Manager Segal-George referred to a memo Mayor Hughes has received that reveals what had happened at the last CELCAB meeting in regards to a recommendation for a director. She has attached for the Council the resume of the number one recommended person and also number two. She has shown the grids and the questions that were asked in regards to the interview. The entire CELCAB as a group interviewed, screened and used grids to come down to the final six people. CELCAB directed that the Chairman Fran Myers come tonight, if they should have any questions. Also, Councilwoman Terry Cain sits on CELCAB. The vast majority of the group recommended Rebecca Harris as the number one choice. She has checked references and has spoken to her. She will take the job, if you offer it to her.

Mayor Hughes asked for clarification on the ranking due to the number one pick being ranked 3<sup>rd</sup> and the number two being ranked 8<sup>th</sup>. Town Manager Segal-George replied that the number one ranked candidate declined to interview. They asked 10 people to interview and 4 declined.

Fran Myers commented that this was very labor intensive. She feels that they had a good process and they worked very hard on it. It was a very difficult choice. Rebecca is a young woman who is very professional and has a lot of enthusiasm coming in. She has a lot of the things they were looking for when they advertised. Shawn Holiday was disappointed, but will work to provide a smooth transition.

Town Manager Segal-George commented that 12 people cast votes for CELCAB. 9 cast a number one vote for Rebecca Harris and 3 cast a number one vote for Shawn Holiday.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Garr Reynolds to move approval of the CELCAB recommendation to hire Ms. Rebecca Harris as the Director of the Mound House. Motion passes unanimously.

**B. Reverse 911 grant**

John Gucciardo announced that they have received notification from the State on the grant application. They were successful. If they proceed with this they will receive approximately \$25,000.00 for the reverse 911 system. It was brought to the attention of the Council for reaffirmation. The next step would be for John Gucciardo and a representative from the Fire Department to get together with the different available vendors and pick out a system. Some ongoing operational costs will be occurring beyond the acquisition of the system. He cannot give any specifics on the dollar amounts at this time. He hopes to have this information in approximately one month.

Mayor Hughes congratulated John Gucciardo for doing an excellent job. Everyone on the Council is in agreement for him to proceed with this project.

**C. Committee Appointment: CRAB**

Town Manager Segal-George commented that there is one vacancy and three people have submitted their names for the position. She distributed ballots and they need to put their name on it and vote for one person.

Mayor Hughes asked the Council how they would feel about broadening the number of members for CRAB. Vice Mayor Ray Murphy replied that he thought this to be a great idea. They have 3 great people willing to serve and it would be tough to let anyone go.

**MOTION:** Made by Mayor Daniel Hughes and seconded by Councilman Howard Rynearson to direct the Town Attorney to draft an amendment to the ordinance creating CRAB to expand the membership from 6 to 9 members. Motion passes unanimously.

A discussion was held regarding whether or not a vote of the three candidates should be completed. This cannot be done until the ordinance has been changed. Mayor Hughes would like the candidates to be notified that it is their intention to put all three on, but the ordinance must first be revised. In the interim, they are invited and requested to attend the CRAB meetings.

**MOTION:** Made by Hughes and seconded by Rynearson to close the nominations. Motion passes unanimously.

**D. Discussion of a settle agreement on Bay Beach**

Michael Ciccarone spoke to Council. He was hired by the Town to represent the Town's interest in the trial of the case filed against the Town by Star Dial Investments Company, for the purpose of determining the scope of Star Dial's rights to complete its developments in Bay Beach. He has in his possession signed duplicate original settlement offers from the plaintiff in this case. The decision for the Town Council to make this evening is whether to accept the settlement offer.

He provided some background for the benefit of the public. He pointed out that Mr. Roosa is standing next to the information Lee County approved in 1987 as the proposed Master Concept Plan for Bay Beach. Lee County issued permits pursuant to this plan up until the Town took over jurisdiction. At the tip of the land mass are (3) ten story buildings referred to as Waterside I,II & III. In the course of permitting Waterside III a major dispute arose between the owner and the Town regarding how this plan should be interpreted. The owner filed an action asking the Circuit Court to declare the extent of Star Dial's rights to this plan. He was hired to try this case about three months before the trial date, and they did not participate in the case up until that time. The matter is now up on appeal. It is important to understand what the Circuit Court has done in this case, so the Town can understand its options. A two-day bench trial took place and the Town was able to provide all of the evidence they wanted into the case. They only objected to one ruling the judge made in the entire two days. The Town has presented its position as thoroughly as could be done. The Circuit Court entered an order that is now on appeal.

The court order provides that on Parcel 8, which he believes is currently part of the golf course, in addition to it being used for recreational purposes it is also possible to construct a restaurant and lounge with consumption on premises permitted. On Parcel 10, which is by the entry way, this plan as interpreted by the court permits hotel, variety of retail and commercial uses, office, free standing restaurant and multi-family apartments(these buildings up to four stories in height) There is a question as to how much square footage could be accommodated on Parcel 10 and an argument could be made that the number would be limited only by the County's regulations as they applied in 1987. He feels that this is approximately 5 acres in size. Parcel 17, which sits opposite of Parcel 10, the plan as seen is interpreted by the court and provides for the same uses as in Parcel 10 with the addition of 140 dwelling units. Parcel 14 is also part of the recreational use. That plan as interpreted by the court, specifically, provides for up to 100 single family and/or multi-family dwelling units plus a hotel. Parcels 15 & 16 are earmarked for 463 dwelling units, either single family or multi-family and hotels. Currently there are (3) 10 story buildings, which consist of 58 dwelling units in each building. The plan would permit up to (8) 10 story buildings. The court order would permit up to 1,731 dwelling units within Bay Beach as a whole. It would permit on Parcels 10 and 17 anywhere between 80,000 to 100,000 square feet of hotel, office, commercial and restaurant.

As a result of negotiations that were conducted the week before last this is what Star Dial is willing to agree to do in return for them dropping the appeal and ending the litigation. They will agree to a maximum of 1,545 dwelling units, which represents a reduction of 186 dwelling units. On Parcel 8, which the current order would allow for a free standing restaurant and lounge, they have agreed to limit as part of the clubhouse use of a 50 seat food and beverage service that would be ancillary to the golf course, and would not be a free standing restaurant. On Parcel 10 they have agreed to limit development to a maximum of 71 multi-family dwelling units in buildings not to exceed 3 habitable stories. On Parcel 17 they have agreed to delete any right to use it for any hotel, retail, office, restaurant or 4 story multi-family apartments up to 140 dwelling units. Instead allow up to 12 of the 71 units that would be permitted on Parcel 10 to be transferred across the entryway road to be concentrated on the northern 1/3 of Parcel 17. The balance of Parcel 17 to remain open and landscaped to appear as part of the overall golf course design. With respect to Parcels 15 and 16 they propose to build (8) 10 story buildings and he believes that the recommendation is that this is a reasonable concession to make in return for elimination of all the commercial and hotel uses. It is what the court would have permitted anyway. They have specifically provided no dwelling units may be transferred from Parcels 15 and 16 to any other parcel. Parcel 14 would be kept as open space and recreation.

Each party has agreed to pay its own attorneys fees and costs. Development on these parcels will occur under the Town's current land use regulations. It is agreed upon completion of the dwelling units that would be specifically allowed under this plan any claim of vested rights to develop in Bay Beach will have expired. Any redevelopment in Bay Beach will occur in accordance with the Town's regulations as they then exist including build back rights. The end result is to provide a level of certainty that has been lacking. The trade off is to permit the residential in return for giving up all of the commercial and hotel. After public comment he will need a motion to approve or reject this settlement. If the settlement were approved he would propose that the Town Attorney arrange for it to be executed by the Mayor before he leaves tonight. He will forward a copy to Star Dial's attorneys. His understanding is that this will be a binding agreement contingent on the Town making sure that the pending permits for Waterside IV be issued. He did not participate in the Town's decision to engage in this litigation, but neither did the Town. It appears that a very worthwhile result has been achieved. He suggests that this is a better result than would have occurred if the appeal were to go forward and they were not to prevail.

### **Public Comment:**

Mr. Vanhorn asked for a question of clarification. How many story buildings will be built? He asked if it is (8) ten story buildings? He feels that any amount of additional multi-story buildings in Bay Beach will further complicate the infrastructure, deterioration of Estero Bay, increased traffic flow and hopes that they will not be going in this direction.

The response to Mr. Vanhorn's question is that the settlement consistent with the court order would permit a total of (8) ten story building on Parcel 15 and 16. There are currently 3 buildings built and the permits are in for the fourth. The end result would be 5 additional buildings.

Jerry Sawyer agrees with Mr. Vanhorn. The additional development seems horrific. With the existing traffic problems they already have and the impact on the bay. It is just unimaginable. On the other hand, he commented that they have private property rights that they must respect. If there is anyway to limit this development further they need to find a way to do it.

Bill Thomas commented that Sun Dial has never been a friend of the beach or Council and they have never wanted to cooperate. This is an outrageous proposal. The quality of life on the beach will go down with the increase in traffic. He does not see how this compromise can be accepted. It is not in good favor of the beach and he is totally against this outrageous proposal.

Mayor Hughes reminded the people commenting that they had lost the lawsuit. They have the right at this time to build the eight buildings and considerably more. He realizes that people are not happy, but the court has authorized them to do this. This settlement allows for less than what has been ruled by the court.

Ceel Spuhler asked, if in a case such as this, has a study been brought forth or do they have to prove that our sewer system could handle that many units? **Mr. Ciccarone** responded that Bay Beach was approved prior to the adoption of legislation that today would make this impossible. Lee County in 1985 determined that it had a vested right to continue that development notwithstanding any changes in the law. The 1987 plan was an unsuccessful attempt by Lee County to clarify the vested rights. There never has been any question that those rights are vested. Water quality was extensively considered at the trial. The Water Management System had to be redesigned. The developments built will have to maintain the water quality standards.

Anita **Cereceda** commented that having been involved with the Bay Beach controversy from day one she applauds the efforts to have continued the conversation with Star Dial. She applauds the efforts of the attorneys for having come up with the solution. She does not feel that it is in the best interest of the Town to proceed with any further litigation. She feels that it would be wise to accept the settlement.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to authorize the Mayor and Town Clerk to execute the settlement in the form presented to the meeting and as discussed in the executive session prior to this meeting, which would terminate the litigation with Bay Beach. The motion has been approved 4 to 1. Councilman Garr Reynolds dissenting.

Mayor Hughes commented that this has been worked on for over three years. It is unfortunate that some of the settlement negotiations that were made prior to this suit were not accepted by the Town Council. A good compromise is when both parties are not happy. He feels that Sun Dial has made a number of concessions, which they would not have had if they went to the next level and lost. He briefly touched on the items of benefit. They consist of the reduction of 186 units, no right to transfer units from Parcels 15 and 16, no commercial on Parcel 10 and no hotel. The Town will not have to pay their attorney's fees or the court costs they were directed to pay. The most significant item is that this will put it to rest. If you think this settlement is bad the consequences of losing the appeal are considerably worse. He feels that he can strongly support the motion.

**Mr. Ciccarone** thanked Mayor Hughes and the Council for their patience and support. He also thanked the Town Attorney and the Town Manager. He expressed a special thank you to Mr. Spikowski. He is without a doubt the finest local planner he has had the opportunity to work with in his 27 years of practicing law. He is a tremendous asset.

**E. Discussion of a left turn lane at Center and Fifth Streets**

John Gucciardo prepared a memo for the Council in lieu of the minutes from the volunteer committee. He explained as best he could the feelings and conversations prior to the vote. He laid out the order of the votes, including one of the motions that did not pass. It is the follow-up of an issue that is 11/2 to 2 years old. It is under consideration by both the Chamber's Traffic Committee and the Public Safety Committee. At this point, the Council can decide to take under consideration the recommendation for a trial period or not. He pointed out that if a trial period is going to be considered it is a time critical matter and they would need to have direction from Council to start immediately.

Councilwoman Cain has watched the corner herself a lot. She is a little apprehensive about closing off the turn completely, especially during season. She liked hearing the example of a possible compromise. Is there some possible way to have signage to direct traffic another direction?

Councilman Garr Reynolds had attended the Chamber Traffic Committee meeting last week. He came away from the meeting with a different impression than what he has heard this evening. The Traffic Committee was not unanimous. The Fire Chief did not take a stand on this. He does not object, but just would like to have the access to get through in the case of an emergency. The Director of Lee Tran had no problem with the Trolley going down Crescent. Another misconception is that if you miss Crescent you do not have to go across the bridge. You have not lost anything and have two chances to follow the signs that Councilwoman Cain suggested. The merchants down Crescent St. and Old San Carlos approve and like this idea. There are a lot of good reasons for trying it.

Councilman Howard Rynearson commented that if they do try the left lane to also close off the right lane coming from San Carlos. You will really confuse the people if you do one now and one later. Follow it up with a good study. He feels that something needs to be done and this is only 30 days. State money is available for this study, if they do decide to close it off.

Vice Mayor Ray Murphy cannot agree with the closure. He was opposed two years ago when this came up before Council. The data was taken and they have all concluded that any reduction in travel time as a result of closing the left turn is almost insignificant. The downside to this would be the confusion you will create at the worst time of the year, merchants depend on the 4 to 6 weeks to make their living and people on the north end of the island get confused and delayed. He cannot see the positive benefits of it. The biggest problem is the pedestrian traffic.

Mayor Hughes shares a lot of what was discussed from Vice Mayor Murphy. He thinks that the concept Councilwoman Cain mentioned and also Tim Anglin who suggested the signage alternative could be a good possible suggestion. The problem is to educate the public. The sign is something that could be looked into. The Public Safety Force voted 5 to 4 to recommend it and the Traffic Committee voted unanimously against it. He is most impressed that they spent all the time to get the report and the bottom line is it would have a minimal effect on the out flow of traffic off the island.

Councilwoman Cain commented that she did not feel that it would be a real good idea to do this during season. You would not get a good scientific basis for it, but she thinks that one-week would be sufficient.

Councilman Garr Reynolds commented on the Chamber vote on the traffic. Anyone who attends is welcome to vote. He prefers not to vote and expresses his opinions here and there.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to not close the left hand turn lane. They should continue to research the other options, such as looking into improving the situation, with an eye toward gaining control of Estero Blvd. as soon as possible. The motion passes with a 4 to 1 vote. Councilman Garr Reynolds dissenting.

**Discussion:** Councilman Garr Reynolds made comment that the Beach Farmers Market will begin on March 2 and will add to the situation. He feels that this would be the best time to try something such as this and see what the effect will be. He does not feel that a fair study will take place when there is no backup.

Councilman Howard Rynearson did not feel the signage could be complete by this time and there is no sense in starting something without having everything in order.

John Gucciardo reviewed that in the short term Staff should look to see what kind of additional signage can be placed on their own or with the cooperation of FDOT or Lee DOT in order to re-route traffic away from the turn at Fifth and down Crescent. In the long term, Council will be considering other options, including up to taking over Estero Blvd., either at the next meeting or the retreat.

**F. Discussion of TDC funds: Bowditch trees**

John Gucciardo provided a memo in everyone's packet and it is pretty self-explanatory. It brings everyone up to date with the recent conversations they have had with Lee County Parks and Recreation regarding the new parking facility at Bowditch. Originally when the County moved to go forward with the parking part of the representations from the County was that in addition to the parking facility there would be some drastic changes done to the vegetations. Some of the exotics would be taken down and they would be replacing them with native vegetation. Their understanding is that Parks & Rec will be approaching the TDC for a considerable amount of funding to help in the replanting. He has laid

these options out for the consideration of the Council. Council can decide to support that position or not take position on it.

Mayor Hughes replied that this has been brought to them for informational purposes and he certainly supports this.

Vice Mayor Ray Murphy was against the parking to begin with. The original plan was to put the trees in with the parking. It is now being said that the money is not there and they will go to the TDC, which they could be using for other projects. He asked if the signage issue has been addressed? John Gucciardo replied that he had no information on the signage. He is disappointed and feels that they did not have much input in the first decision and he does not know what good it will do now. In the spirit of cooperation he agrees that they should support the trees.

Councilman Garr Reynolds commented that he is not sure if they have any say so over what TDC does with their money.

John Gucciardo mentioned that they are under a slightly different understanding than they originally had with Parks & Rec as to where the funding would be coming from. While the TDC could be available for vegetation there is a question whether or not this is the appropriate source at this point.

Mayor Hughes reads the consensus of the Council that they prefer Parks & Rec live up to their original understanding and pay out of Park & Rec funds.

Town Manager Segal-George explained that not enough TDC money is spent on the beach. Too much TDC money comes off the beach. Right now there are no other requests in front of them, so if these TDC funds enable them to have bigger and more trees this benefits the island.

#### **G. CRAB recommendations: possible waterfront acquisition**

A memo was provided to the Council from Pam Houck. Town Manager Segal-George commented that there was a request from Marina Towers for vacation of a parcel. Tom Myers serves on the Waterway Advisory Committee. When it came in front of them he notified the Town. They started checking into it and found out the size and what it had looked at. It was taken to CRAB and they feel very strongly that the County should be approached and have this parcel turned over to the Town. She commented that it is a nice size parcel and has access. It would give them the ability to have a little water bayside park. Unofficially, she has heard that there is probably support from the County Commissioner to give the Town the property, if the Town wants it. CRAB wants it very badly. She explained to them that it would have to come to the Council and they would have to give her direction to proceed as to trying to acquire it.

Mayor Hughes asked that Marina Towers is looking to have ½ of the property vacated. He asked what they were planning to do with it? Town Manager Segal-George replied that part of the problem is that part of their parking lot sits on the property that they do not own. She feels that there was an attempt to legalize what people thought they had anyway.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Councilman Garr Reynolds to allow Town Manager Marsha Segal-George to proceed and let the Staff get some answers. We can go forward from that point. Motion passes unanimously.

### **VII. COUNCIL MEMBER ITEMS AND REPORTS**

**Councilwoman Terry Cain** - Made a comment that she goes over the bridge early in the morning and she is hoping that everyone is noticing how nice and clean the bridge is. Ed is doing a great job cleaning it up.

A couple of Saturday's ago she and Ray had the privilege of attending the Swim Florida first meet at the pool. It looked like a full house to her and the kids had a great time.

Everyone on Council received a letter from the Charlotte Harbor National Estuary Program to the South Florida Management District. They had a new rule change since February 12, 2001 and it is in regard to minimum flows coming out of Lake Okeechobee down the Caloosahatchee River. Please take

time to read it, because they are talking about a minimum flow of 0 CFS (Cubic Feet per Second) to 600 CFS per day. They are getting their minimum flows down to 0. They are considering these kinds of conditions for three consecutive years at a time. They have not addressed the maximum flows. They do not include the flows for April, May & June. It is a good letter containing history and a lot of good backup. She pointed out the issues of concerns and how they came from different areas. She was hoping that the Town of Fort Myers Beach would have issues of concerns with this letter.

**Vice Mayor Ray Murphy** - On Thursday the 8<sup>th</sup> he attended the Smart Growth Task Force meeting downtown. He sits on the Land Use Sub-Committee. On Friday the 9<sup>th</sup> he represented the Town at the Horizon Council meeting. Thursday the 15<sup>th</sup> they had the first Smart Growth Land Use Sub-Committee meeting. They have facilitators from Florida Gulfcoast University to start off the meetings. They are also looking for more members to join the Sub-Committees. The same day he was at the Regional Planning Council meeting for the Town and he is now the Vice-Chairman. On Tuesday the 20<sup>th</sup> he attended the Civic Association meeting on beach renourishment, which he thought was a very good meeting and very well attended. On Thursday the 22<sup>nd</sup> he attended the Lee County Child Watch. It is an annual program put on by the Department of Juvenile Justice and State Attorney's office. He tries to attend each year and is a very interesting program.

**Councilman Howard Rynearson** - He would like to ask the Council to ask Mr. Roosa to adopt some type of a draft to only allow stick buildings on the beach. The Pink Shell will be selling off their buildings. On Gulf Island a modular home is put up on stilts. If they were to adopt something like this the stick building must be built on site he feels that it would do a lot for the island.

Mr. Roosa replied that there is a state statue that prohibits adopting an ordinance that discriminates against construction on and off site. He will get a copy for everyone to look at. The legislature has already determined that modular housing is appropriate anywhere you can build a regular home. He will research further and get back to the Council.

He and his wife attended the meeting in town for the "Do The Right Thing". He feels that they do a lot of good and if anyone gets the chance in the future they should go.

**Councilman Garr Reynolds** - He mentioned the last circulated letter regarding Beach Renourishment by Mr. Tom Merrill. He presents some very strong points of view.

The Town has received the problems occurring at the Beach Pub. He is wondering if anything is being investigated. Town Manager Segal-George responded that this is a continual problem. The only way she knows to deal with this would be to see if they have enough evidence to hold a hearing for the Council to determine whether or not to revoke their permit. This is another business approved prior to the Town coming into being. They were given the ability to serve beer and wine in an area that today she does not feel the Council would approve. They are consistently dealing with this situation.

**Mayor Daniel Hughes** - Everyone has received a memo regarding the suggested solution to the paying of the attorney's fees. When he came back from being out of town there are several thousand more dollars in fees that have been submitted. The matter was taped and he would like to review it further. He just received the updated statement today.

**MOTION:** Made by Mayor Daniel Hughes and seconded by Vice Mayor Ray Murphy to take the issue of the Reynolds legal fees off the table and direct the Manager to place it on the agenda at the next Town Council meeting. We will deal with it at that time. Motion passes unanimously.

Mayor Hughes participated and rode in the Edison Festival of Lights parade. He received support from the audience for Fort Myers Beach.

Everyone received a copy of a letter from TECO Peoples Gas. They personally thanked the Town Council for their satisfactory completion of a joint commitment to a mutually acceptable franchise agreement, and recognizing the contributions by the Staff for their efficiency in expediting this process. They particularly noticed the efforts of Mr. John Gucciardo- Assistant Town Manger, Marsha Segal-George - Town Manager and Richard Roosa - Town Attorney. Their assistance was extremely helpful

and very much appreciated. This is a letter from the President of Peoples Gas System. He appreciates getting this letter.

The Public Safety Task Force Survey is in. He would like to thank the Public Safety Task force for the work they did with this.

A letter has been received from a concerned citizen regarding lighting on the beach and on Estero Blvd. in the road crossing, and made reference to another human being hit. This letter cannot be responded to due to it not being signed. Town Manager Segal-George responded that from Fairview down to Lenell it is being looked at because it is a heavy pedestrian walked and biked area.

He has a copy of the Tide Lines of the Voices of Fort Myers Beach Civic Association, wherein there is a letter to the editor. One of the frustrating problems with being an elected official is reading information in the newspaper that is inaccurate and paints the wrong picture of what is going on in the Town. He does not believe in this case it is intentional. He pointed out the discussion of development on Times Square for the benefit of Times Square businessman and the redevelopment of some buildings on Old San Carlos. He is permitted, among other things, for an 86-room hotel. Wrong - This is incorrect. He was not permitted for an 86-room hotel. The maximum permitted is 86, but this is subject to future hearings and discussions. It goes on to state that additional rooms for hotels, such as the Lighthouse Motel. Wrong - This is also untrue. Not one additional unit was approved at the Lighthouse Motel. The discussion in the article goes on to the developer building the sidewalk on Lenell. The residents on Lenell will be paying half of the cost of the sidewalks on top of the taxes. The rest of the property owners will be footing the bill and the developer pays nothing. Wrong — The policy of the Town is that 50% is paid by the taxpayers. What is being neglected is that the developer owns most of the property where the sidewalk is going. The developer will be paying. Lastly, a reference to the Beach Renourishment Project “ The Town is going to renourish the whole beach. Is it the objective of Town Council to renourish the whole beach to attract more tourists?” Wrong - The whole beach is not being renourished. Only the areas that are being eroded are being renourished. He feels that it is a disservice to the community when someone writes articles like this. It very disturbing to him.

The first Beach Farmers Market will be held on March 2<sup>nd</sup>.

He has a request that he write a letter to President Bush urging his administration to make sure that in the budget they take action to include funding for new beach renourishment projects. He would like to write this letter in favor of this, unless a Council member has any objection. He heard no objection and will proceed with the letter.

#### **VIII. TOWN MANAGER’S ITEMS**

Town Manager Segal-George would like the Council to cancel the meeting for next Monday night. There are no items for next Monday. She would like them to have Land Use on March 12, the Retreat on the 14<sup>th</sup> and the only Council meeting would be on the 19<sup>th</sup>.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to cancel the regular meeting for next Monday night. Motion passes unanimously.

#### **IX. TOWN ATTORNEY’S ITEMS**

Mr. Roosa has nothing to report at this time.

#### **X. APPROVAL OF MINUTES: NOVEMBER 20, 2000, DECEMBER 18, 2000 AND JANUARY 8, 2001**

Mayor Hughes would to make some adjustments to the format of the minutes from November 20, 2000. They will be sent to the transcriber for retyping and brought back for approval to the next meeting.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Vice Mayor Ray Murphy to approve the minutes of December 18, 2000. Motion passes unanimously.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve the minutes of January 8, 2001. Motion passes unanimously.

**XI. PUBLIC COMMENT**

Dr. Joe Croker had two thoughts regarding the alternative methods for the left turn lane. One was the University of Michigan Medical Center and the other was Alice in Wonderland. The University of Michigan Medical Center has different colored lines to guide you to your destination while visiting their facility for a procedure. If someplace prior to Crescent Street you could have a sign that reads “To go to follow” and put different colored blocks after the “to go to” to indicate different destinations. You could then paint a stripe on the road that would guide you to the direction you are going. Perhaps, TDC could provide the paint to paint the road. It would be less confusing.

Brian Scanlon commented that the merchants he had spoken to today did express an interest in further study regarding the traffic and left hand turns, and would be willing to take part in a workshop.

**XII. ADJOURNMENT**

The meeting was adjourned at 9:50 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

Janeen Paulauskis  
Transcribing Secretary