

**FORT MYERS BEACH
TOWN COUNCIL MEETING
March 19, 2001
Bank of America, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The meeting of March 19, 2001 was opened by Mayor Daniel Hughes at 6:30 p.m.

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

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

II. PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance.

III. INVOCATION

By Reverend Dick Tafel, The New Church of Southwest Florida

IV. PUBLIC COMMENT ON AGENDA ITEMS

None

V. ADMINISTRATIVE AGENDA

A. Proclamation: Honoring 50th Anniversary of the founding of St. Raphael's Church

Mayor Hughes announced that the Town of Fort Myers Beach would be extending greetings and best wishes in observance of the 50th Anniversary of the founding of St. Raphael's Church, on Sunday. There will be a celebration of the Lord's Day Service at 1:00 p.m., followed by a reception at 2:00 p.m.

B. First Reading: Amending CRAB ordinance

Mayor Hughes read the ordinance. The purpose of said amendment is to change the composition of the board from seven (7) members to nine (9) members in order to accommodate the people requesting to be on that board.

The hearing on this matter will be held on April 2, 2001 at 6:30 p.m.

C. Request for support: Southwest Florida Archeological Fair

Town Manager Marsha Segal-George advised that a request was made for the use of a banner for the fair and in addition for a donation to the fair. She advised that last year a banner was permitted for this event.

Mayor Hughes commented that the request for a donation came via a letter from Mark Perez from the Florida EPA on behalf of the Friends of Lovers Key.

Town Manager Segal-George explained that the donation would actually be made to Southwest Florida Archeological Fair, which is put on by the Friends of Lovers Key State Park and Creation Unity Alliance and is held at Lovers Key State Park.

MOTION: Moved by Garr Reynolds to donate \$250 fails for lack of second.

MOTION: Moved by Terry Cain and seconded by Mayor Daniel Hughes to donate \$500 to the Southwest Florida Archeological Fair and that the Town of Fort Myers Beach be listed as a sponsor for the fair.

D. Bowditch Parking – Electric Sign

Mayor Hughes brought up the subject of a communication from the county in connection with Bowditch Parking.

Town Manager Segal-George advised that she received a telephone call from Jim Lavendar, advising that the parking lot was completed and questioned whether we definitely wanted the electronic sign, as they would rather not put it there. She advised him that she could not make that decision and would bring it before council. She explained that the electronic sign would violate the code that in order to do it a variance would be required. It also violates the county's sign code as well. The county feels that such a sign would not accomplish anything significant.

Dan Hughes inquired as to where the sign was actually to be placed and Ms. Segal-George advised that there was initially talk that it would be placed on the San Carlos Island side and there was also talk about putting it on the base of the bridge on the island as well as talk about putting it near Lynn Hall, so it would not show a statement that Lynn Hall was full or not full and whether Bowditch was full or not. At no time was it ever specified exactly where it would be placed.

Councilwoman Cain asked if this issue could be revisited as she feels that the general population is probably unaware of parking in that area. She feels that by installing the sign it would invite more parking, which may or may not be a good idea. She questioned the possibility of being able to come back to the county at a later date regarding this issue.

Mayor Hughes also expressed the question as to whether the issue could be raised again. And since this matter can be addressed at a later date, Mayor Hughes stated that he would prefer at this point to go ahead without the sign. All members were unanimous to this decision and Ms. Segal-George advised that a motion was not necessary. Mayor Hughes directed her to convey to Jim Lavendar, that we would not be pursue the sign at this time, but that we are reserving our right to come back on this issue should it appear manifest from the activity that a sign would be beneficial.

E. Televised Town Council Meetings

John Gucciardo advised that both he and Janeen Paulauskis have been working on the project of televising the Town Council meetings. John explained that at this point in the negotiations with the cable provider we are not requesting our own channel as some local governments have. He advised that we would either provide the county with tapes of the meetings or direct live feed. He stated that they would work with us on getting the meetings aired at convenient times and that we then could broadcast and/or publicize to the residents these times so they could tune it. We have an estimate for the cost of getting the equipment here from a company in Tampa that the county has been doing business with for some time. He commented that the only question remaining was whether we wanted to pursue the live feed medium. John inquired whether he should continue making the arrangements for the televised

meetings. He advised that on Monday nights when they have the lead TV News wrap show, we would preempt it and go live or otherwise we would just pick out convenient blocks of time.

Mayor Hughes asked if the meetings went longer than the blocked time what would happen, and John advised we would just preempt the time slot. John advised that the company was flexible. Mayor Hughes inquired as to the attached TV schedule included with the memo referred to Media One as the cable provider. Mayor Hughes advised that there was a letter stating that AT&T acquired Media One and that Comcast entered into an exchange agreement with AT&T so that this point Comcast would be the party. Mayor Hughes had a question regarding the agreement. John advised that the company transferred four or five times and that the current agreement terminates on December 31, 2001. John advised that we are currently negotiating a new agreement with Comcast for a new agreement for a timetable agreed upon.

Mayor Hughes inquired if it could be included in the new contract that the Town has a channel of its own. John advised that we certainly could, further advising that the county has two channels, as does Cape Coral. The question was how we would fill up to 24 hours of airtime. It was agreed by everyone that it might be difficult to do so.

Councilwoman Cain inquired as to the fee difference between lived or taped. John advised the only difference would be the cost of the equipment. John stated that the estimate at this point is \$10,000 to set up the cameras and that probably an additional \$5000 for the live feed. He further advised that these figures are not firm numbers at this juncture. Mayor Hughes noted that a lot of condos do not have cable. John advised this would only reach cable customers. He further spoke with the condominium association regarding the new franchise agreement and to submit any issues if they had any. It seems that a deal is being negotiated regarding a flat rate for the service.

Garr Reynolds stated he heard fee mentioned and further questioned if this isn't a part of the community public access channel system that the cable companies give to towns as part of an agreement when they come into an area. John responded that it is a little different than the public access channels that we have been reading about in the papers. He stated that that is separate channel, for example the county could make available to individuals that want to broadcast a particular show, where that they provide the studio equipment and produce their own show. He advised that there would be no fee required. Councilman Reynolds indicated he was leaning towards the live presentation where we would be in touch with the community.

Mayor Hughes advised John that he would like the staff to continue getting information on both the live and taped options for the broadcast. Councilman Rynearson stated he prefers the live program and Councilwoman Cain advised she would also agree to the live. It was unanimously agreed upon that this should be pursued further.

F. Attorney fee payment for Councilman Garr Reynolds

Mayor Hughes advised that this matter came up in February but deferred at that time as it was assumed we had the final bill. Councilman Reynolds advised that Mr. Roosa received a copy on March 15th and that he received a copy as well. Councilman Reynolds advised that it was a little different in that the current total is \$3773.25, the difference being amount for photocopying, faxing and receiving a fax.

Dan Hughes referred to his memo of February 26th with regard to this issue.

MOTION: Moved by Dan Hughes and seconded by Terry Cain to pay the sum of \$3000 towards attorney fees for Councilman Garr Reynolds

Discussion:

Garr Reynolds stated to Dan Hughes that he had his Conflict of Interest Form 8 for this and the past four council meetings when he thought it was planned that the fees were going to be paid. He further stated that the matter was brought up on December 18, 2000, February 5th, February 26th and tonight. Garr Reynolds advised he did read Dan Hughes' memo of February 26th. He stated he did not feel there should be a question as to full or partial payment. He stated that this was not the time to try the merits of the case; he stated this was the time each person should vote individually as a council member. He added he felt only two points should be considered. One, was I, Councilman Reynolds in the capacity of an elected official, and secondly, was I there on official business. Councilwoman Cain questioned the total bill and was advised again that the total was \$3773.25 Councilman Rynearson stated he felt that due to the fact there was no policy to cover such fees, and the fact that it could have been either of the council members, he feels the whole bill should be paid and be put to rest. Dan Hughes stated again that the payment has nothing to do with the merit of the case. He stated again that he had some reservations with regard to the bill as being reasonable. For this reason, he stated paying a modification of the total bill. Councilman Rynearson stated that if the bill was not reasonable the matter should be brought up with outside counsel as to the charges. Councilman Rynearson said he would support the foregoing motion if included would be the fact that we would advise the outside counsel that we feel the \$3000 is adequate. Dan Hughes asked Dick Roosa for his input as to a way to solve the problem. Mr. Roosa suggested that the \$3000 be paid as full payment of all legal fees as to Garr Reynolds.

MOTION: Moved by Dan Hughes to pay \$3000 assuming outside counsel would accept said sum as paid in full for services rendered as to Councilman Garr Reynolds outstanding legal bill. Passed unanimously with Council member Reynolds having abstained and submitted his written abstention.

G. Sheriff's Office Substation Options

Councilman Rynearson advised that he sat at a meeting where it was suggested that we build a building over the top of the bathhouses at Lynn Hall and that we include the Sheriff and EMS there, which I thought was a very good idea. I have taken the liberty call TDC and asked them about funding it and Town Manager Marsha Segal-George has called Jim Lavendar about doing it and in addition spoken with attorneys and we are still in negotiation. He advised he spoke with the Sheriff and Captain and they also liked the idea. He advised that by June everything could be finalized and about one and a half years built. John Gucciardo agreed that this should be investigated and would be a good idea. His only concern was what should be done in the near future due to the trailer situation especially during the hurricane season?

Councilwoman Cain explained that the original plans for the building did include a second floor, but at the time the Sheriff was not interested. Councilman Rynearson advised that in any of his discussions with the Sheriff that a desire was shown for a building.

Dan Hughes asked if this matter could be held over until a later meeting waiting for more research. He further stated that this solution seemed to be the best and that assuming the Sheriff

could manage with the trailer with some repairs for the time being, or in the alternative rent a trailer. He further stated that Helmrich would be his last choice for the substation.

VII. Council Member Items and Reports

Terry Cain advised that she had a great time at the St. Patrick's Day Parade and hoped everyone did. She said she was overwhelmed by the amount of people that attended, especially at the southend. She also said it was a great retreat on Wednesday and that the future of Fort Myers Beach was discussed.

Howard Rynearson agreed that the parade was a success. In addition, he said that this was his first retreat and that he found it interesting and educational. He advised he had the opportunity to ride with the Sheriff's Department for a shift and found it to be informative and saw first hand how hard they work.

Garr Reynolds advised that the statement he received at the January 8, 2001 meeting regarding correction of the minutes of November 8, 2000 was incorrect and advised that the minutes be amended to reflect the following quote "Councilman Reynolds stated to council that he does not any of his mail opened by Town Hall staff". He also stated that all council members are aware of his stance regarding opening of council members' mail "do not open it". Councilman Reynolds continued in saying that this was not in the original manual.

Garr Reynolds brought up the item of correction of the council minutes of the council meetings. It was revealed at the Council meeting of January 8, 2001 that at the meeting when the Town Manager state, "staff does not edit the minutes before distribution". I believe the correction of this oversight is long overdue; that it is the responsibility of the Town Manager to do the editing or see that it is done.

Mr. Reynolds also brought up the item of Council Policies and Procedures of the manual that was amended. Council is now being asked to make the US Mail opening issue by the town manager to become part of the Council Policies and Procedures Manual. He reiterated that he could not support this and requested that all council members not approve that this be included in the manual on page 2, Section VI, paragraph 6. He requested this item be brought back to council for reconsideration and that there be a revocation of this issue. He further stated that item 4b, on page 11, paragraph 6, regarding someone else making a response to council members mail, quote from the new manual "Any council mail that is received at town hall that need a prompt and detailed answer is pulled, copied and draft response is prepared for review usually by the Mayor." He advised that he feels that he feels and hopes that all members feel it should be each individual's responsibility to respond to their own mail.

Councilman Reynolds next brought up the item of Chamber minutes and advised that the Chamber has asked John Davis for alternating red and green signal lights at Buttonwood and Prescott and San Carlos. That there would be something resembling an arrow at that location and be hidden somehow so it won't be seen very easily from both lanes alternating red and green and it would let the people merge. The Chamber feels a regular merge lane might be too confusing to the people.

Regarding the left turn at 5th street, as you probably know, the PSTF voted 5 to 0 to close that temporarily. The Chamber reported unanimous vote to keep it open. The Town Council voted 4 to 1 also to keep it open, so there will be no change at this time.

As a final note, Councilman Reynolds added that he also enjoyed walking in the St. Patrick's Day Parade and that he felt it was a great success.

Dan Hughes advised that the Retreat was very beneficial and everyone had an opportunity to discuss issues in a less formal atmosphere than at regular meetings.

He also advised that a meeting was held on Friday, March 16th with Marsha, Dick Roosa and the Ericksons and their legal representatives and things are moving ahead with the contracting and that Marsha will continue to be contacting Florida Community Trust and Trust for Public Lands. He added that when the appraisals are in, this issue would come back to town council for review.

Dan Hughes stated that the St. Patrick's Day Parade was, as quoted by other council members, a good event, but, that he wanted to correct a few things about the Grand Marshal. He stated that when Ray called about being the Marshal, he did so after making considerable efforts to find a prominent Irishman, and so he then asked me to serve in that capacity. Dan also corrected the Observer and Sand Paper for incorrect information.

Dan Hughes stated that he wanted the staff and council members to be aware that he received a letter from Commissioner Judah appointing him as a member of the Coastal Advisory Council, and that a letter was written to Terry Cain appointing her as a member of the Council. Along with the letter, he received a copy of the Resolution with regard to appointment. Dan feels that the Town Council should be making the appointment and this matter should be looked into.

VII. TOWN MANAGER'S ITEMS

Waterway Advisory Committee Vacancy

Town Manager Marsha Segal-George advised that it is believed that there will be a vacancy on the Waterway Advisory Committee. She stated this was put on the agenda asking that if anyone on the council wanted to serve on this committee, advising it was a County Commissioner appointment. That it was an entity where the council has appeared for grant dollars for the harbor plan, docks, water patrol and the like. She further stated name of the interested would be given to the Commissioner. Another possibility is we could ask them to amend their Ordinance to add a seat for a town representative. Marsha stated that we have Tom Myers on the Committee and that he had done a great job and supportive of our issues.

Dan Hughes agrees that the Town should have representation the Waterway Advisory Committee and asked if anyone was interested in serving.

Terry Cain asked if it was a quarterly meeting and Marsha advised that it was quarterly. Terry advised she would consider it.

VIII. TOWN ATTORNEY'S ITEMS

Richard Roosa stated that he distributed a copy of a publication put out by the *National Conference for Communities and Justice*. The area of concern is the issue of public prayer. The purpose of public prayer is to unify the community rather than promote any particular faith. He stated these guidelines adopted by the Florida Legislature for their chaplains for their meetings and in addition other local governments. He recommended to council that a chaplain be asked to say a prayer at the meeting. He stated that any prayer said should be all inclusive as possible. He stated that some clergymen feel this is not appropriate to be all-inclusive, and he stated he feels in those instances they should excuse themselves from prayer. He stated that there are fundamental doctrines that most faiths believe in, and he stated that in public prayer the purpose would be to unify the community. That even though a faith perceives God, the creator, differently, we could all pray to our own perception of God not establishing any specific religion.

Dan asked Janeen if the letter mentioned anything with regard to a person not being comfortable with public prayer.

Janeen Paulauskis advised she just sent the letter with the attachment regarding public prayer advising them to review it.

Dan advised Janeen that they should be informed that they will be expected to conform with the guidelines and that if they cannot they should let us know.

Mr. Roosa brought up the matter of council members in need of attorney representation in connection with a confidential matter. Dick stated he feels it would be wise to have representation in connection with a confidential matter. Dick stated he feels it would be wise to have a copy of the filed Complaint reviewed by the attorney for the Town, continuing to maintain confidentiality, and after confirm that there was a public official need of counsel Mr. Roosa would assist in finding that official an attorney upon authorization to obtain such counsel. Mayor Hughes stated that all council members present expressed agreement as to that policy and Mr. Roosa is authorized to proceed to assist that party in retaining an attorney.

IX. APPROVAL OF MINUTES: September 11, 2000

Corrections and changes to minutes:

1. On page 3, the next to last sentence of that first paragraph, drop the bottom line.
2. On the same page 3, two lines down, change Mayor Murphy to Mayor Hughes
3. Page 7, the two resolutions should be attached to the minutes, it should state see attached resolutions.
4. Page 6, last paragraph deleted.
5. Page 7, last paragraph where it states Councilman Reynolds felt that a few people had come here to try and deprive a county of voters of the privilege of being able to visit a county public park, the park was not bought by TDC money or bought by taxpayers money. Garr Reynolds stated to make it like it should have been. It was not purchased by TDC money but was bought by taxpayer's money or taxpayer's money. Strike "or" bought by taxpayers money to but was bought by taxpayers money.
6. Page 9, Council Member Items and Reports where it states also it was reported to Councilman Reynolds that maybe a letter was sent to local ministers suggesting how they should give invocations to town meetings. This evidently grew out of a letter that the Sawyers wrote wanting public prayer to be more inter-religious. Who is suggesting that I did all this? Garr stated that what he said was "Councilman Reynolds asked Segal-George if a letter had been sent from Town Hall explaining how invocations should be given at council meetings". If you recall, I asked her a number of times and she did not answer and finally said, no, no letters came out of here. Gar states that is all that was said. Garr says it was totally erroneous.
7. Page 10, Garr Reynolds advised it states "Councilman Reynolds advised he had never been in a group before where there has been so much hostility", he said that is only part of the statement the rest of the statement should have stated "because certain Council Members have been so rude tonight, namely Hughes"

MOTION: Moved by Rynearson and seconded by Hughes that this will be deferred until the next meeting of Town Council.

Discussion:

Councilman Reynolds stated we are setting a new precedent here just because you don't agree with my corrections.

Motion passes 3 to 1 with Reynolds dissenting.

X. PUBLIC COMMENT

A. Bill Thomas

Mr. Thomas commented on the matter regarding Councilman Reynolds attorneys' fees, stating that Councilman Reynolds has served on Fort Myers Beach Council for the past five years, elected twice by the public. He also said he would like to congratulate Howard Rynearson for his comments that it was common decency to pay a fellow council member's fees. He said this has festered since last November over \$700. He felt that if the matter were settled sooner the cost would have been less, as the fee goes up each month. He felt this might have been settled sooner if it was different council member. He feels the public will be watching closely. He hopes all council members will support their fellow councilman.

Dan Hughes stated that this was the first meeting that we had the final billing advising that there will bills dated January and February 2001.

XI. ADJOURNMENT

The meeting was adjourned at p.m.
Respectfully submitted,

Eileen Scofield
Transcribing Secretary