

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
May 21, 2001  
NationsBank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FL 33931  
(941) 765-0202**

**I. CALL TO ORDER**

The regular Meeting of May 21, 2001, was opened by Mayor Daniel Hughes at 6:32 p.m.

**Council Members present at the meeting:** Terry Cain, Daniel Hughes, Ray Murphy, Garr Reynolds, Howard Rynearson

**Members absent from meeting:** None.

**Town Staff present at the meeting:** Town Manager Marsha Segal-George, Service Delivery Coordinator Pam Houck, Attorney Richard Roosa.

**II. PLEDGE OF ALLEGIANCE**

All assembled and recited Pledge of Allegiance.

**III. PUBLIC COMMENT ON AGENDA ITEMS**

None.

**IV. INVOCATION**

None.

**V. CONSENT AGENDA**

**A. Review of Financial Reports: April 2001**

**B. Request to advertise in Quality Cities Magazine: FLC Conference Edition**

**C. CDBG Partnership with Lee County**

**D. Approval of accounting technical assistance contact with Schultz, Chaipel & Co.**

**MOTION:** Moved by Ray Murphy and seconded by Howard Rynearson approving items A, C and D of the Consent Agenda. Passed unanimously

**Discussion:** Garr Reynolds discussed item B saying that he did not feel there was a necessity to advertise in the Quality Cities Magazine. Marsha-Segal George advised that it has been the practice to do so with an 1/4 page advertisement.

**MOTION:** Moved by Howard Rynearson and seconded by Ray Murphy to approve Consent Agenda item B. Passed unanimously.

**VI. ADMINISTRATIVE AGENDA**

**A. FINAL PUBLIC HEARING: RESOLUTION 01-09: Amending Resolution 00-04 (Palmetto/Easy Street assessments)**

This is a resolution declaring special assessments for the reconstruction of

Palmetto and Easy Street. Mayor Hughes advised that there had been a cost overrun when the costs came in necessitating a reevaluation of the total cost of the assessment. He advised there was a new assessment role setting forth the assessment role for the 24 property owners each being assessed the same amount payable over twenty (20) years with 8% interest. He advised that there were just a few grammatical changes that did not affect the resolution and asked if there was any member of the public that wished to make comments.

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to approve this resolution.

**Discussion:**

Garr Reynolds stated he felt that 8% interest was a little high for the payment. He was advised by Attorney Roosa that these monies are advanced by the Town and that there are administrative costs involved and as we are not a lender it costs that much for us to make these collections then a bank. Mr. Rynearson added that an individual could get a loan at a lower rate to pay us and therefore have smaller payments if they wished to do so.

This motion is passed unanimously.

**B. INTRODUCTION OF NEW MOUNT HOUSE DIRECTOR:  
REBECCA HARRIS**

Rebecca Harris greeted the council and thanked everyone for their welcome and advised how she was looking forward to working with the town adding there will be a lot of new programs. She stated the house would be closed for the summer to give her time to get acclimated.

**C. DISCUSSION OF ENHANCED STREET LIGHTING ON ESTERO  
BOULEVARD.**

Mayor Hughes advised of the memo from Deputy Town Manager John Gucciardo. Mr. Gucciardo spoke to this committee and advised that his memo was a follow-up on an item the council has been discussing for some time with regard to the amount of lighting and location of lighting on Estero Blvd. He advised there seemed to be a workable plan with FPL. The idea would be to have a more consistent level of lighting upping the wattage from 150 watts to 200 watts. In addition, the arms of the lamps would be extended on the southern point of the island. He wanted to go ahead with the plan and see how it works and then go into the second phase to change some of the locations of the lighting.

**MOTION:** Moved by Garr Reynolds and seconded by Terry Cain to authorize Town Manager John Gucciardo to request Florida Power and Light to make the modifications as set forth in his memo.

**Discussion:**

Terry Cain stated she liked the lights E & D and asked the possibility of looking into the cost and availability of J. She said the people involved in turtle time would like to have the light bulbs contained (like the J light). John advised that about 10 of the lights are recessed into the head and the rest protrude down and the light does go into different directions. He added that they do try to be sensitive to the turtle issues working with FPL. John advised that he would look into the J lights and if they are available and the costs involved.

Howard stated the \$500.00 cost was great and how did they come up with it. John advised that they negotiated it.

This motion is passed unanimously

#### **D. REQUEST FOR AUTHORIZATION TO BID THREE DRAINAGE PROJECTS (SANTOS, PRIMO, LAUDER)**

**MOTION:** Moved by Howard Rynearson and seconded by Ray Murphy giving the Staff the authority to accept the lowest responsible bidder for this project subject and go forward with it subject to review by Attorney Richard Roosa.

#### **Discussion:**

Marsha-Segal George advised these are the three worst streets for flooding on the island. They are the first three that are ready to go to bid. She advised she provided in the packets the design for the retrofit. She also stated that there would be no further assessment to these streets for this project. She stated that Ron Edenfield was in the audience today if an update was required. She also advised that she had three more streets to be added making a total of 14.

Garr Reynolds stated that in 1996 while he was actively working on the road committee that a county man working with them at that location advised he could have done this in a few days and would have charged between \$2500.00 and \$3500.00. He stated it would probably cost us a lot more now to do this.

Terry Cain stated how glad she was about this project with the retrofit included even though it will cost a more. She stated it would be the best way to do it to keep everything clean. Garr Reynolds states that he too is happy to see this project go forward.

Garr Reynolds questioned part of the diagram, which appeared to be reversed. Mr. Eddenfield advised that the order was not reversed adding there were a number of lots on the left hand side from lot 4 to lot 9. He stated that essentially they did not show lots 10 through 18 and that they continued up from 19 through to the north end of the block. He stated the numbers were reversed going north to south on the right hand side. It was platted as two different blocks as Block A and Block B. Garr asked which side on the diagram was the canal on? He was advised it was the north side on the diagram. He continued to give an explanation for the Council.

This motion is passed unanimously.

**Discussion:**

Ron Edenfield spoke stating how excited he was to go forward with this project. He stated that Santos had been bid in the fall of \$27,000.00, which he thought was excessive therefore they held off at that time and instead do them all together and get a better price for the job. He spoke a little with regard to the balance of the project, advising the county would be involved in it. He mentioned some of the streets that would be included.

Mayor Hughes asked if the projects would be included in some type of plat book that would show the drainage system? He advised that to the present no time had been taken to do this. He stated that to stay with the same surveyor would be a good idea to have continuity to tie everything together and therefore have adequate records on file.

**E. REQUEST FOR APPROVAL OF CRPSE CONTRACT.**

Marsha-Segal George advised they had the Contract as previously described. She asked if there were any questions at this time.

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to approve the CRPSE Contract.

**Discussion:**

It was noted that there were going to be three groups: Ft. Myers Beach residents selected by the town; Ft. Myers Beach businesses selected by the Ft. Myers Beach Chamber and residents of Lee County not living in Ft. Myers Beach. The Mayor asked how many people would be in those groups.

Chris Swenson with CRSPE stated if it were done in a standard manner there would be 8 to 12 persons, he added it should not go over 15, as it would cause problems.

Garr Reynolds stated he was getting strong feedback of disapproval with regard to tolling the bridge. The question arose of whether there would be free passage to home? He added he has reservations about continuing something that we do not know how the people will feel about it.

The Mayor stated this was the reason for the contract to start to get some type of format to get public input and also to analyze the situation. He stated people go either one way or the other - no middle ground.

Garr Reynolds stated his concern that he would not have an opportunity after this to come back and vote against or for this in the future. He added he would hate to vote for something that he was hearing negatively about.

This Motion passed 4 to 1 with Garr Reynolds dissenting.

**F. REQUEST FOR APPROVAL OF CONTRACT WITH METRO FOR SHOULDER PAVING.**

Marsha Segal-George advised that their representative was not present. She advised this was for the paving on Estero Blvd. She added there was a tight timeline and that it has to be at the Board of County Commissioners by June 1, 2001. She stated that the Council was provided a letter that was prepared for the Mayor's signature going into detail with regard to this. She read the letter to the Council.

**MOTION:** Moved by Howard Rynearson and seconded by Ray Murphy approving the Metro Contract.

**Discussion:**

Terry Cain thanked Howard Rynearson for his work on this project. She wanted to add something to the motion as presented. Howard advised that it would not be wise to make it too complicated adding that we own the boulevard at the north end. Marsha added what she thinks Terry wanted was for an estimate done at that time for us and Howard agreed that would fine. Garr Reynolds doesn't think it should be added to the motion. He was advised that it was just for the estimate part of it.

**MOTION:** Moved by Howard Rynearson and seconded by Dan Hughes to amend motion made by Howard Rynearson to expand the scope to include north Estero Blvd. giving separate figures for each project. Motion withdrawn by Howard Rynearson.

**Discussion:**

Ray Murphy asked that hadn't the work already been done in the north area and hadn't there been a report done. Marsha advised there had been one with regard to defects on the boulevard and who had provided it. He added that this was a not to exceed \$25,000.00 at a maximum rate of \$150.00 per hour. He asked can they spend that much money between now and June 1st? His concern is they would go that far or close to that amount. He was advised that they had already been working on this for two weeks. Howard advised this had to get to the county or we would not get funding this year.

Chris Swensen with CRSPE who had knowledge of these types of contracts spoke to the Council giving insight into this type of contract. He added he did know they had a senior engineer working full time on this contract and would be until the June 1st deadline. He stated if he were in this position he would look at the invoices as they were provided and make sure the hours were reasonable for the work done and if they were it would be reasonable to authorize it. He stated figures do sometimes go to the "not to

exceed amount” but added there would be needed follow-up work and suggested that be included in the contract.

Garr Reynolds suggested that it be mentioned to this firm of our concerns with regard to this.

**MOTION:** Moved by Howard Rynearson and seconded by Ray Murphy to approve the Metro Contract and include a study of north end of Estero Boulevard as to the Engineering phase and not to exceed \$25,000.00, provided the additional study would be included in this figure.

Attorney Richard Roosa stated this motion could complicate things with regard to deadline. He recommended just doing Estero Blvd. and that after June 1st, add on the north end. Marsha Segal-George advised that the north end would not be included in the June 1st deadline.

**MOTION:** Moved by Howard Rynearson and seconded by Ray Murphy to approve the Metro Contract as presented. Passed unanimously.

Mayor Hughes advised Ms. Segal-George that staff would ask them to prepare an addendum to add the additional scope of the north end of Estero Blvd. The Mayor also advised Ms. George that they left the nature of the business bland and needed to include that.

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

Howard Rynearson stated how good the boat races were and all the entertainment involved.

Garr Reynolds commented on the Film Festival and the price of \$8.00. He did not think the films were up to par to compete for entertainment. He wasn't happy with the winning film.

Garr also discussed how over crowded Summerlin was with regard to the entrances. He stated that originally 39 entrances could be built he feels there are more. He continued by advising of his conversations with the MPO. He stated that their chairman did suggest that a study be done and a report be provided to the MPO. This was done and interest was shown and he was pleased.

Mr. Reynolds advised he received a disappointing copy of a letter addressed to Mr. Roosa from the attorney representing him in connection with the sexual harassment complaint in connection with the balance of his billing for services rendered. He asked Mr. Roosa if he received the letter and if anything was done with regard to payment of this balance. Mr. Roosa advised he did not receive the letter.

Mr. Reynolds asked Ms. Segal George about the DiamondHead Hotel enlargement project. Marsha advised there was a case in front of the LPA with regard to construction of a deck and has to do with consumption around the pool and deck and entertainment issues. She advised there had been administrative approval for them to expand their kitchen and their meeting room. At this point

the Mayor stated these matters should not be discussed at this time. Mr. Roosa agreed with the Mayor. The Mayor advised Mr. Reynolds he was out of order in his discussion.

Terry stated that on Saturday, the Estero Bay Buddies and the friends of Lovers Key had a clean up. Stating it was a small group but a good group, which included Ray Murphy. She added there had been a display and information with regard to keeping the bay clean. She said they probably picked up at least 400 to 500 pounds of litter including everything including a kitchen sink. Mr. Muphy added how neglected it was and was very disheartening.

Mr. Murphy stated he attended the MPO meeting and that nothing of any real importance was discussed. He attended the Regional Planning Council Meeting and noting earth shattering discussed.

He wanted to comment on an article in the newspaper Sunday, and brought a copy, it headlined "Developers Skew Panel's Balance" written by Leroy Melsek from Ft. Myers Beach. In the article he tried to discredit the smart growth movement that has started. He stated he was not thrilled with this article. He stated that he was listed in the article as a developer. He stated he should fall under the category as a representative of the town that he stated he is happy to do. He disclosed he has no real estate developing going on at all.

Mayor Dan Hughes stated that he too enjoyed the boat races and stated that on WINK TV had interviews regarding economic impact of the boat races here on Ft. Myers Beach. He said we should get a tape as it included the bartender from the Beached Whale, "Big Jim" saying that their normal sales were up 25%. Also someone from the Days Inn stating their rentals was up 20%.

Mayor Hughes stated that the Community Pool update by Janice was well done.

Dan Hughes advised he received a letter from the Southwest Florida Regional Planning Council asking staff to obtain resolutions for a request for a US Army Corp. of Engineers cumulative environment impact statement on phosphate mining and requesting the municipalities in this area. He asked if anyone on this council thought this was a resolution that we wanted to address. He was advised this was brought up at the Regional Planning Council meeting by county commissioners of Charlotte County, as it is a big concern there. He was advised that we did vote to support their resolution. The Mayor stated he would direct the staff to add this to the agenda for the next meeting.

He thanked everyone who participated in the clean up at Lovers Key. He added that Councilman Wagner of Bonita Springs is proposing extensive improvements in that area. He also stated that he hoped that Florida Gulf Coast University does not put a research lab there and go instead to San Carlos Island.

He advised that the Dept. of Community Affairs has an agreement for a grant for \$23,880.00 for the Emergency Management Trust Fund.

### **VIII. TOWN MANAGER'S ITEMS**

None.

**IX. ATTORNEY’S ITEMS**

Attorney Roosa brought up the fact that the county had asked him to investigate a 70 ft. wide parcel at the south end of the island that used to be part of the bridge that was abandoned. He advised he had been in communication with Beverly Grady who is attempting to acquire that parcel on behalf of the nearby condo. She provided me with the title commitment and a copy of the deed. He said the property was conveyed in 1953 by Leonard Santini and Nellie Santini with a provision in it stating ...”subject to the restriction that said strip of land shall be used for public road purposes”. He stated that the statute expressly excludes deeds to governmental agencies. The title company was not bothered by that restriction advising that all the county had to do was have a public hearing to vacate the road and then a deed to convey title to whomever. Marsha asked whether it would be the county or the town’s jurisdiction with regard to vacation of the parcel. She was advised that he thought the county could give a deed. Mr. Roosa added it is no longer being used as a road and it seems to him it would revert back to the grantor. The Mayor asked if there was in fact a reverter clause. Marsha added that CRAB is interested in this issue and they want a legal opinion from Mr. Roosa.

**X. PUBLIC COMMENT**

Rev. Matthew J. Lee, stated he was from Texas and was visiting. He also stated he was an artist. He said he stopped here to see the boat races. He said it was great that he could bring dogs on the beach. He added he ran into a security guard on the beach at Lani Kai who was rude and told him to get off the property and even when he was talking to some people the guard continued to bother him, pushing him in the chest, even after showing his drivers’ license. Rev. Lee asked if these people owned the beach to the water line? He advised he tells people not to come here. He said this ruined his experience here. He did add that Eric from the Beach Pub offered me a space to do my sand sculpture which the kids love.

The Mayor advised him that the property line was the mean high tide. The Mayor clarified this with attorney Roosa. Mr. Roosa added that the Rev. Lee might have a grievance with Lani Kai and would be a civil issue not a municipal issue to discuss here at this meeting. Rev. Lee was advised to consult his attorney.

Garr Reynolds advised Rev. Lee that there had been similar complaints and he thought the matter should be addressed by this council.

**XI. ADJOURNMENT**

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Eileen Scofield  
Transcribing Secretary