

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
JUNE 25, 2001  
REGULAR MEETING  
Town Hall - Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

**I. CALL TO ORDER**

The regular meeting of June 25, 2001 was opened by Mayor Daniel Hughes on Monday, June 25, 2001, at 12:06 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**

Mayor Daniel Hughes gave the invocation.

**IV. PUBLIC COMMENT ON AGENDA ITEMS**

Bill Van Duzer came forward to discuss the Comprehensive Land Use Plan. He is concerned with an issue that is in regards to density. There has been some effort put forth to change density to square footage. He is opposed to this and he does not feel that this is the proper way of defining density. He feels very strongly toward the Comprehensive Land Use Plan that has had a lot of time and effort put into it. The Comprehensive Plan refers to units as density and he thinks that should continue. If it is going to be changed or defined, as to the definition of density, he feels that it should go back to committee and be defined correctly. He believes that they need to protect the citizens of Fort Myers Beach and they need to protect the personal property rights of owners. He asked the Council to be very cautious and considerate of the Comprehensive Land Use Plan, because they spent a long time working to develop it.

**V. CONSENT AGENDA**

- A. Request for 4<sup>th</sup> of July Fireworks funds
- B. Review of Financial Reports: May 2001
- C. Request to hire Cunningham and Associates for Old San Carlos
- D. Approval of Spikowski Planning Associates contract addendum
- E. Approval of Diamondhead variance Resolution from 6/4 meeting
- F. Approval of Metro Paving contract for North Estero Boulevard
- G. Resolution: Approval of HUD fiscal years 2002, 2003 and 2004 joint agreement

- H.** Review of Public Safety Task Force Resolution 01-01; Courtesy Busing
- I.** Resolution: Statewide Simplified Communications Tax Act (intended to be a revenue neutral adjustment)
- J.** Temporary parking lot proposed schedule adjustment

Deputy Town Manager John Gucciardo has a draft resolution submitted by Vice Mayor Murphy. This is a resolution of the Town of Fort Myers Beach regarding the potential for oil, gas, leasing and drilling off the west coast. It indicates support for the United States House Bill 273, which places a

moratorium on drilling projects in the Gulf Coast. He would like to include this as part of the consent packet. Mayor Hughes found no objections and included this on the Consent Agenda as item K.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Vice Mayor Murphy to approve the Consent Agenda subject to those that were pulled by Councilman Reynolds. Motion passes unanimously.

**Discussion:** Councilman Garr Reynolds requests items C, E, F, G, H, I, J, and K be pulled.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve Consent Agenda item C. Motion passes unanimously.

**MOTION:** Made by Councilman Garr Reynolds to reconsider Consent Agenda item E. Motion fails for lack of second.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve Consent Agenda item E. Motion passes unanimously.

**Discussion:** Councilman Garr Reynolds expressed his concern regarding the enforcement and the issue of following through. He commented that if they comply with Item #4, he believes that the Diamondhead establishment will have happy neighbors.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve Consent Agenda item F. Motion passes unanimously.

**Discussion:** Councilman Garr Reynolds commented that the contract is limited and does not make much sense. He asked for clarification regarding the

classification included in the total \$5,000.00. that they are.

indicating the hourly rates, and if these were Town Manager Segal-George replied

**MOTION:** Made by Councilwoman Terry Cain and seconded by Councilman Howard Rynearson to approve Consent Agenda item G. **Motion is approved with a 4 to 1 vote. Councilman Garr Reynolds dissenting.**

**Discussion:** Councilman Reynolds is concerned about the Town losing their identity in the \_\_\_\_\_ program. He feels if money is received from HUD they will have to do with it \_\_\_\_\_ as they see fit. Deputy Town Manager Gucciardo responded that this is the same \_\_\_\_\_ agreement the Council unanimously approved two meetings ago. It is just in a \_\_\_\_\_ different form. It allows them to participate in a County wide program along with \_\_\_\_\_ the City of Sanibel and possibly Bonita Springs. They would be entitled to approximately \$30,000.00 for use within the Town, and this would not be for housing. They have been targeting delivery of utilities within the Town.

George if \_\_\_\_\_ Mayor Hughes commented that in speaking with Town Manager Segal- with Lee County there \_\_\_\_\_ they were not to include themselves in the joint program obtaining any grants. \_\_\_\_\_ would be virtually no possibility of

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

**Discussion:** Councilman Reynolds feels that the Task Force has done a great job and they should be complimented.

**MOTION:** Made by Vice Mayor Murphy and seconded by Councilman Howard Rynearson to approve Consent Agenda item I. Motion passes unanimously.

**Discussion:** Councilman Reynolds feels that it is not simplified. He does not understand if they have a choice of putting this on different utilities or do they have the choice of indicating how much to be put on each one? Town Manager Segal-George replied that this only deals with communications, which includes cable. They are trying to do this so they can keep the franchise fee on cable and nothing else.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to approve item J. Motion passes unanimously.

**Discussion:** Councilman Reynolds wonders what the advantage is of someone having permanent parking lot vs. temporary? It is the advantage to have a

temporary parking lot. Town Manager Segal-George responded that they had a very busy summer last year. The bottom line is if they cannot be parked they will be on the boulevard driving up and down. If they can be parked quickly it help with regards to traffic. The temporary parking lots will eventually go by the way side, but now they are available. It is presently an issue of supply and demand.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Vice Mayor Ray Murphy to approve item K. Motion passes unanimously.

**Discussion:** Vice Mayor Murphy commented that he felt they had passed similar resolutions in the past in support to banning the drilling off of their coast. Marge Ward, President of CAB, has been after him for several months to have this resolution passed by the Town. In support of their friends at CAB and also the other municipalities he felt that they should pass this resolution and forward it on.

Councilman Reynolds commented that this is establishing their will to help Porter Goss, Ed Graham and other elected officials to encourage them to fight for this continued ban.

## **VI. ADMINISTRATIVE AGENDA**

**A. Public Hearing: Burandt variance.** VAR2000-00076. This property is located at 457 & 441 Estero Blvd.. Three variances in the residential Two Family Conservation TFC-2 district from LDC Section 34-695:

1. which requires a minimum lot width of 75 feet to permit lot widths of 45 feet and 50 feet to allow the recombination of two existing lots
2. from the minimum side setback of 7.5 feet to allow a side setback of 4 feet for an existing single family residence and;
3. from the required 25 foot waterbody setback to allow a waterbody setback of 13 feet for the relocation and addition to a single family residence.

Mayor Hughes asked if there had been any ex parte communications in regard to this matter. Councilwoman Cain commented that she had looked at the area, but did not speak to anyone. Vice Mayor Murphy had spoken to Mr. Burandt. Councilman Rynearson had also spoken to Mr. Burandt. Both Mayor Hughes and Councilman Reynolds had not spoken with anyone.

Bob Burandt commented that when he had bought the house he realized that the pilings needed to be replaced. The person he spoke with to replace the pilings suggested that it would be easier and a lot less expensive if he could just put new pilings out in back and push the house back. They proceeded ahead with some plans to move this house and build another or try to get a variance to be within so many feet of the canal. He pointed out on the plans his intentions.

He is proposing to move the house down and make his porch even with Mrs. Fenwick's porch, and his house would then be almost the same size as hers. He pointed out that one of the

homes would have a reduction in view. He indicated that the LPA wanted him to move the house all the way to one direction in order to be 7 1/2 feet. His original plan was to be 13 feet from the water and this would have brought the house almost straight down. The LPA would like him to bring the house straight down and as close to Mrs. Fenwick's as possible. He does not have a problem with this. The LPA denied his 20 foot deck, instead of a 10 foot deck. He really does not have a problem with this either.

Councilman Reynolds commented that he felt the home at the end of the canal would have a strong objection, because when he moves his home that far ahead it will obstruct his view. He asked if

he had any complaints from this homeowner? Mr. Burandt responded that he is present today. He pointed out that if they look at the ariel picture he would be looking at the side of his home. He will have the same view that he will have of Mrs. Fenwick's home. He will not lose that much more. He feels that he will lose 15% to 20%. If he builds the new house down to 25 feet away from the bay he will have an even more restricted view.

Dan Folke reviewed the request and prepared the staff report. The item includes three variances. Variance A & B relate to the recombination of the two lots. Item C relates to the desire to relocate and place an addition on to the single family home. Staff has recommended approval of Items A & B and denial of item C. He has prepared, since the LPA recommendation, a memorandum dated June 11. He included the two conditions, which were in the staff report and relate to requests A & B. He has included conditions 3 & 4, which are meant to represent the recommendations of the LPA. Mr. Burandt has submitted a site plan and this has been attached as Exhibit C-1 to the memo. This exhibit reflects the recommendation of the 7 1/2 set back along Mrs. Fenwick's property line.

They are recommending approval of the first two variances with the two conditions. The lot widths are not changing. In the transaction there was a strip that was conveyed over to the Burandt's without the necessary lot recombination. Approval of this will allow them to pursue this lot recombination. Because of the change of the 5 feet it brings the Fenwick's residence in violation of the required 7 1/2 foot setback, and would bring it to a 4 foot setback. They are recommending approval with these conditions.

In relation to the request for the waterbody setback staff has recognized some extraordinary conditions to the property. Application of the requirement does not impose an unreasonable burden upon the applicant nor does the request the minimum variance would relieve the applicant of a presumed burden. Staff believes that the applicant could build the addition that they desire on the existing home and this would bring them within 25 feet of the corner of the seawall. It is the combination of the relocation and the addition that makes the variance required. If the home was not relocated as much or the addition was not as large or some combination the need for the variance could be minimized.

On attachment C-1 the applicant is indicating that the addition will be a two story addition. The approval of the variance will have an impact on some of the surrounding property owners, primarily the lot at the end of canal. A possible condition that would limit the variance is instead of a two story addition they could have a one story addition. It could be done in a way that would not require so much of a variance.

He clarified condition 3, which he has included and has come from the LPA recommendation. The LPA resolution stated a setback of 19.3. Exhibit C-1 shows that the setback is actually 18.5 feet. He cannot recall where the 19.3 came out of the LPA recommendation, but he does believe that the 18.5 feet certainly meets the intent of the LPA

recommendation.

The optional porch would not be permissible under the LPA recommendation. The home should align with the Fenwick residence.

Harriet Thomas who lives at 503 Carlos Circle has a home that faces where they will be building. Her concern is that their addition of 25 feet over base flood will be about 37 feet high and will block part of their view that they have had since 1962. She is also concerned that the canal, that her family and surrounding neighbors put in, in 1970 will be compromised by the building process. She has concerns regarding the wildlife that inhabits the canal with the building process. She is most concerned that her neighbors will be effected the most by losing a great part of their enhancing view. She has no objections to them leaving the original home where it is and building on to it and she feels that they seem like a very nice family.

Mark Heimlich and his wife Sharon are in attendance. They live at the end of the canal at 475. He presented a picture to the Council to give them an idea of how their view will be hurt, if the variance is allowed. They purchased their home in January and have another home on the market. They had planned to move to this location, but since have put plans on hold. Prior to buying the home he had conversation with Mr. Burandt, and it was his understanding that he had planned on adding on to his home approximately 20 feet. He did not have a problem with this and he did not feel that this would hurt their view much. Later he found out that he not only had plans of adding on, but moving up closer to the bay. He came away from the LPA meeting with a lot of confusion. He was surprised that they had ruled in favor of the variance against staffs recommendations that they do not allow these variances. He would encourage that someone go down and look at the property to understand what is going on. Allowing this type of variance to go forward goes against the original developers plans to create an esthetically pleasing neighborhood. They agree with the original staff report that the desired addition could be built on the existing area. He would still have a great view and it would not infringe on their view. He questions whether or not the LPA was clear on the vote. They were trying to compromise. The other neighbor, on his other side, that was present for the LPA meeting lives in Michigan and could not attend today. He is adversely opposed as well.

Mr. Burandt came forward and indicated that the two downstairs units will not be impaired. While standing on the back porch on the second story they will be looking out and will see his home. They will lose approximately 15% to 20% and it is already obstructed by the trees on his property. The only other option will be this house going down and another home will be built, and it will be taken to 25 feet of the bay. He does not need a variance for this.

Councilman Rynearson was out to the property, walked it and looked at all the neighbors homes. He feels that it would be better to move the home straight rather than moving it the 7.5 foot. This would put it on top of his neighbor. He feels that it would look better.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Vice Mayor Ray Murphy to adopt the sample resolution that has been presented. The conditions that were taken from the LPA should be replaced with the Conditions from the memorandum of Dan Folke dated June 11, 2001. Have a 13 foot setback rather than an 18.5 foot setback. Motion amended by Councilman Garr Reynolds and seconded by Mayor Daniel Hughes to go back to the 18.5 feet. Motion passes unanimously

**Discussion:** Councilwoman Cain asked Dan Folke why was the 19.3 foot or 18.5 foot condition was implemented at the LPA meeting? Dan Folke responded they were trying to get the home as far back from the canal as possible, which would be that it would have the minimum setback.

bay  
Councilman Reynolds asked when going toward the bay how far from the will this house be? Dan Folke responded over 100 feet.  
would  
Councilman Reynolds feels that if this is moved closer to the canal they be closing off more views. Mayor Hughes agrees, but did not feel that it would be as significant visually.

A. **Public Hearing: Boykin Hotel Properties, L.P. in ref. To White Sand Villas Portion of PUD.** This property is located at 275 Estero Blvd.. An amendment to the approved PUD and CPD zoning:

1. to change the orientation of the 9-story building; and
2. to revise the size of the project units from the approved 77 units at 1000 sq feet each, and from the approved 15 units at 550 sq feet each, to allow 46 two-bedroom units at 1246 sq feet each, and 46 one-bedroom units at 761 sq

- feet each; and
3. a deviation from LDC 34-2017(a) which requires parking lot aisles and spaces have a paved, dust free, all weather surface, to allow a shell surface (no parking stripes or bumpers) on the parking lots

Mayor Hughes asked if there had been any ex parte communications. Councilwoman Cain had met with everyone from the Boykin group at the Pink Shell. Vice Mayor Murphy met with the representatives of Boykin at the property. Councilman Howard Rynearson had met with representatives of the Boykin group. Councilman Reynolds and Mayor Hughes had met with John Nadler. Mayor Hughes indicated that he had also met with Beverly Grady at Town Hall.

Beverly Grady from Roetzel & Andress was present representing Boykin to amend the PUD/CPD for White Sands. In January of 2000, the Town Council approved a plan for the PUD/CPD that consolidated the approved 92 units in two six story buildings. The Town Council approved 92 units to be into one structure instead of two structures, a height of 92 feet over FEMA as determined by the DEP and a plan that opened a vista to the bay that had not been seen for 20 years. Today they are requesting approval for a 92 unit, 92 feet in height and 210 width building that would have the same separation between the structures.

In January of 2000, the Town Council approved 77 two-bedroom units at 1000 square feet and 15 one-bedroom units at 550 square feet. Today the plan they are proposing reduces this mix. They would like to reduce the 77 two-bedroom to 46 two-bedroom. The total beds will be reduced by 62 beds, which is a 25% reduction from the original approval of January 2000. The total bathrooms will be reduced from 169 to 138. This results in a reduction in the infrastructure. The water consumption and sewer consumption will be reduced. No change in traffic, but there

is a change in occupancy. There will be a reduction of 12% when they reduce the bedrooms.

The request that has been presented before the Council does increase the living area square footage from 85,250 to 91,150. This is an increase of 5,900 square feet. They have received correspondence from Rick McCormick. He took each of the unit types and marked how the living area could be reduced. He attached each of the floor plans to the letter and calculated the total. This reflects that if in fact the change were made this would be a reduction of 2,555 square feet.

Without today's approval they will build the 92 units as approved with the additional bedrooms, bathrooms and more people. By showing this exhibit they are not saying that they would desire this, but they are saying that it is possible to do this by eliminating square footage and creating vestibules or alcoves. They do not feel that this is best for security, because they will have alcoves it will not be as easy to see when entering a unit.

Since the LPA meeting a few changes have taken place. They have added more detail to the water amenity recreation pavilion area. Note #7 recommends a view corridor. They have looked at both Captiva Useppa and White Sands to provide for a view corridor, which extends from Estero Blvd. to the gulf. It fills the 36 foot separation between the two buildings. This will be inviting for people to use and provide an openness between the two structures that does not exist today. Another addition to the plan was to clarify the service level. All of the uses that have been proposed have been approved. They have 20 feet of wasted space in between, so they would like to provide a sliver of the width of the building for the kitchen, storage and recreational activity office center. There has been no issue over the uses, but they should clarify what this level is. They have added to the plan Note#5, which clarifies the uses on the ground level and service corridor level. The Council has received the revised memo from staff that recognizes and approves the clarification.

There is nothing in this case that precludes the approval today. There is not an interpretation of the Comprehensive Plan that is required as there is in the next case. The information that they are proposing is permitted within the PUD. They are offering Condition 12, and it is up to the Council if they wish to accept it. They have three units in two structures and they would eliminate their use as dwelling or rental units. The effect would be to reduce the density within the Pink Shell Resort. They would like to keep them, because they feel that they are historically significant. With the elimination of the three units it would reduce the traffic count.

Carron Day with Florida Land Planning was introduced by Beverly Grady, and it was asked that she be recognized as an expert Land Planner. Carron went on to comment that she has been working as

a professional planner in Lee County since 1974. She wrote the basis for the current Lee County Zoning Regulations. She has been asked to review a few of the issues that were raised by the staff. Lee County has always measured resort units and hotel units by the number of units and not by size. They looked for guidance from other places that have 4 star resort communities, to see if they follow the type of recommendations that staff has suggested. They looked at many surrounding areas and wanted to see if they had a definition of resort, and in many they do. In each of the regulations they looked to see if they had a definition of intensity and most of them do. They also found that the intensity has been applied to commercial use. Intensity in floor area measured is only applied to uses that do not involve people living in the space. Density is

applied where there are people living in there. She referred to Hilton Head, South Carolina, and they measure units just as Pink Shell does by the number of units and density. She called them and asked them specifically if they approve the size of the units or the size of the buildings. The response was that they approve the number of units. They also volunteered that over time the units are getting bigger and they are getting nicer. Some jurisdictions have a very high standard for the size of the units.

She has reviewed the previous approval for White Sands Villas. The size of the unit was not discussed, but the information discussed was the height of the building and the number of units. She did not find any place in the minutes which indicated a limitation to the square footage of the building.

Carron went on to indicate that the Council may in the future decide to change the regulations and start regulating the floor area of apartments, condominiums or hotels. Some areas presently do this and it works out to their benefit. She has worked within this community for 27 years and Lee County has never limited the size of apartments, condominiums or hotel units. They have dealt with the uses by looking at the number of units over the acres involved and looked at density. Intensity and square footage limits have been imposed and applied only to retail, restaurants and office uses.

She referred to the staff proposal on Page 4 of 6, which indicates that they should measure the development by the square footage dedicated to the units. She has not seen anywhere else this style for regulating a resort. As a professional planner it is her recommendation that they continue to do what Lee County and the Town has already done, and this is to measure the units by the density. The number of units over the acres. It is a better project and she feels that there is no reason it should not be approved. Mayor Hughes commented that Carron referred to density as a number of units and should be the relevant criteria they apply in this case, and not the intensity which deals with size. However, is there not also an aspect as to intensity, not necessarily the impact on the infrastructure, but the esthetics that size does impact? Carron replied that she did not see a question of the size in the earlier approval. The number of units, height of the building, width of the building and the density of the building was the considerations. If the Town Council should decide that they would like to regulate the esthetics of the building than they should adopt the regulations. It was not done in the earlier approval, so it is a little difficult to judge.

Councilman Reynolds commented that the approval was made through the County. All they did was allow a transfer. The 92 units and the square footage was not approved by the Council. He feels that some items are out of line with what has been done. Carron replied that when she referred to their approval she is talking simply of the transfer approval and 92 units and 92 feet.

Councilman Reynolds questioned the number of stories? Beverly Grady responded that there is no change in the height from what was approved by the Town Council in January 2000. This is 92 feet above FEMA as the DEP determines it.

Dan Folke has reviewed the request before the Council and has provided the staff report dated May 8, 2001. He provided before the hearing some revised conditions, which now number to 11. Those conditions are primarily based on changes that the applicant has made since the LPA hearing. The three requests are to change the orientation of the building, size of the units and deviation of an alternative parking surface. He has added a fourth item directly related to the view corridor to allow 9x16 foot parking spaces. The code requires 9x18, so they have asked for a deviation to allow for a space that is 2 feet shorter. It would apply to eight parking spaces.

This deviation, in staff's opinion, does not have any external impact, so he does believe that it is appropriate to consider it at this time. This is the only change between the denial language and approval language.

Staff is recommending denial of the request to change the size of units as the applicant has requested. Staff has recommended approval of the ability to change the orientation of the building.

They have recommended approval of the alternative parking surface and the deviation in the size of the parking spaces.

Condition 1 deals with the shape of the footprint of the building. He left it open to resubmit a new Master Concept Plan. If the Town Council approves the applicants request they could incorporate the Master Concept Plan in their packet. He left it open in case it is not approved as requested and they may want to see the footprint changed.

Condition 2 deals with the size of the units. Staff has recommended denial as requested. As an alternative, staff is recognizing the need for the change in market conditions and Condition 2 would allow for some flexibility.

Conditions 3, 4 & 5 are related to the alternative parking surface. These conditions are consistent with proposed changes to the Land Development Code, which would allow alternative parking surfaces. Staff believes that these conditions are going to ensure a dust free, properly drained and stabilized surface.

Condition 6 relates to the number of stories. Last year it was approved as 9-stories over recreation area. It indicated in the staff report that the site plan that has been submitted is inconsistent with the approval from January of last year. Staff feels that the service level can be a useful function. He has written the Condition that the building may have 9-stories over one ground level and one service level. The structure may not exceed 92 feet above base flood elevation. The applicant has requested that it read 92 feet above required flood as determined by DEP.

Condition 7, 8 & 9 are standard language. Floor plans have been submitted, and they wanted to be sure that it was clear the floor plans were not tied to the zoning. They are approving a Master Concept Plan, not the floor plans. All previous approval would apply, except as modified by the conditions.

Condition 10 is new. This deals with the deviation on the size of the parking space. Staff is recommending approval of this and should be limited to the eight spaces located adjacent to the proposed view corridor.

Condition 11 is linked to the view corridor. This condition is subject to the approval of MPD rezoning on the adjacent property. A dedicated 36 foot view corridor should be established as depicted on the Master Concept Plan. Use of the corridor within the PUD portion must be consistent with all approvals and conditions in Case DCI2000-00071.

Last week he had met with the applicants representatives and they discussed the possibility of the three dwelling units. Staff has not incorporated this into a condition, because he does not feel that what has been proposed really directly relates to the request, in terms of the measuring of intensity.

A lot of discussion has been held regarding intensity. Clearly density is the units per acre. There is no one way to look at intensity. Staff is not recommending you chose one way to look at intensity. You need to consider density, impact of traffic, impact of public services, bulk

of the building and shape. The size of units is looked at. Staff's concern is that this will change the shape of the building. It will bring it closer to the Gulf of Mexico and closer to Estero Blvd.. This will have a visual impact on the project.

He has heard over and over that it is a much better building. The changes that are being made are making it better. Every time he hears this he wonders compared to what? They have not seen a building within the perimeters of what was approved. The applicant could have designed a wonderful building with the same architectural features within the perimeters that were previously approved.

Bill Spikowski commented that the 85,000 square feet that is being requested to be increased did not come out of nowhere. It was on the applicants plan, in a very difficult zoning case, 1 ½ years ago. It is obvious that this project is much more dense than they would normally allow.

### **BREAK - Flag Presentation**

Bill Spikowski continued that once a year the Town has a process for amending the Comprehensive Plan. Tonight is the first of two public hearings. The process is that the applications are filed in December, the Local Planning Agency has a least one public hearing and they are required by law to give a formal recommendation and then the Council has its first public hearing this evening. The 85,000 is in the zoning approval and they have the ability to make a judgement call to change this. He is

basically suggesting that they should do this and commented that this is not all that much. Why are they bothering to spend a couple hours on this case? Many of the communities that Carron Day described do not have limits and they would be delighted to have people build the units bigger. There is no reason to have maximum square footage in many of these instances. A different situation exists on Fort Myers Beach. The economy will support a great deal more construction and sales than the island can support. This is why the Comprehensive Plan contains restrictions that were already placed by Lee County in the mid-80's, added a number of new ones and made a few relaxations here and there. He discourages them to consider things such as water flow and traffic counts. What they can do is regulate the building size.

In this case they have some of the types of reductions on the number of bedrooms and beds. The bottom line is that they have an increase of about 6000 square feet of building area. This is an increase beyond the obligations of the Town to honor. He submits that no further increases in the building bulk are justified. If the Pink Shell wishes to change the building mix he would be in support of this. He would like to stay away from these details and regulate the building envelope and the general resort use.

He receives many calls from residents wanting to know why they cannot do things with their property they feel they should be able to. It gets back to traffic and the ability to handle more on the island. It is difficult for him to explain to the property owners why they have to live with the situation and others with more rights are allowed to increase just for the asking. He feels that if they made a deal and approved 85,000 square feet they should stick to this. There is no reason to increase the size further.

Councilman Rynearson asked for Bill Spikowski's feelings on the mezzanine floor? He responded that the testimony is that the space must be created anyway to elevate the units as

height as the state requires. He feels that this is an increase of the square footage of the building. If they would like to take some of the 85,000 square feet and put it into the service level he would not have an objection to it. It does not change the bulk of the building in anyway.

Councilman Reynolds wanted to thank Bill Spikowski and commented that he appreciated the hard work he had done to bring this out as clearly as he had. He is pleased that he had taken the time to give the presentation that he did.

Dr. John Rinaldo came forward for public comment. He lives at 500 Estero Blvd., Gateway Villas #896 with his wife Judy. He is proud to say that the Pink Shell has done a lot to the north end of the island to enhance their real estate values. The island is concerned about traffic and what does this particular property due to their traffic and flow. Since they are willing to reduce the amount of bedrooms and occupants this makes him very happy. The esthetics are going to be superior to anything that they had originally planned. The views will be more magnificent than what they presently have. The property values will be impacted up and down the whole island. He would like the Council to think about the esthetics and what can be done for everyone on the island with the extra space they are asking for.

Beverly Grady thinks that it is important to note when the Pink Shell received the approval from the Town Council in January of 2000, as well as through this application, there has not been any member of the public that has appeared in opposition. They have always had support at the hearings. The proposal before them will be to create the first 4 Star Resort on the beach. The sizes that are proposed are those that qualify with a 4 Star Resort. The origin of the limitation was not a debate with the Town Council.

She went on to comment that they concur with Dan Folke's condition on the service level. They have three options. One would be to build a building with 31 more bedrooms, 31 more bathrooms and have more people. Another option was that they did submit an exhibit to show how to reduce the size of the living area. It is presently a proposed increase of 5,900, and they have submitted an exhibit that would reduce this by 2,555 and reduce the total living area square footage to 88,595 square feet. This is an increase of 3.9%. This does raise a safety issue. The third option would be to approve the request for the 5,900 square feet of living area. This is an increase of 64 square feet per unit. They have also provided an offer, which they believe is directly related to evaluating intensity and density, to eliminate three of their resort units from the PUD that will result in less people, water, sewer and traffic.

In closing she commented that if anyone has questions regarding this matter, if approved, they have reduced density by three units in the Pink Shell PUD. They have reduced traffic, people, water and sewer. The number of bedrooms and construction are regulated by the building permit system. They

believe that they have shown something that will be an asset to the north end, has received letters and statements of approval from people of the north end and will be an asset to Fort Myers Beach to have a 4 Star Resort. They respectfully request an opportunity to hear what is thought of the alternatives, but that they would approve Dan Folke's memorandum with a change to Condition 1 & 2. Condition 1 would approve the plan within their packet and Condition 2 that they would approve the square footage, just for living area, larger than the 85,250 square feet. With the approval of the 91,250 they have offered Condition 12 to eliminate the three units.

Councilman Reynolds commented that the planner has indicated the footprint of the building is being increased and the square footage within the building would follow this with an

increase. The one plus would be not to have the nooks and crannies along the hallways. This would account somewhat for the increased square footage. He asked if the building could be kept as it was approved to follow the same footprints as of the January 2000 approval? Could the service level be included, as Mr. Spikowski has suggested, in the 85,250 square feet? Beverly Grady responded that the 85,250 square feet was always the air conditioned living area. In addition to this was the approval and recognition of the other support uses by the Council. The only note on the plan was the computation of the unit number with the square footage, and only applied to the living areas of the units. It would not be fair now to take away living area by including the other support uses that were also approved and recognized.

Councilman Reynolds asked if a traffic impact study had been completed? Just because you reduce the number of units does not mean you will have fewer people? Beverly Grady replied that the calculations indicated there would be no increase in the traffic count by the reduction of the 31 bedrooms. However, if they remove the three permanent units from the PUD this would be a reduction of the traffic count.

Councilwoman Cain referred to the letter from the McCormick Architect. She asked where the 3,345 square feet is? Beverly Grady responded that it is within the 92 units.

Vice Mayor Murphy wanted to comment and point out how they have gotten to where they are today. In January of 2000 they approved the transfer of units from one side of the street to the other. This was a project that they inherited from Lee County. A public purpose was determined. He agrees with the staff. They had approved a certain size building and a certain amount of square feet. They approved a building that was 92 feet above the flood level, and this is still what they have today. From today's testimony the width of building has not changed, but what has changed is the number of bedrooms and bathrooms within the building. This to him is a decrease in addition to the other three units that are being offered. The increase in the square footage for the mezzanine level, in his mind, has very little impact to the community at large. He does not recall anyone coming out to complain of the view and height. They have received several letters from residents in the immediate area supporting this project. It is his opinion that he can support the changes here today. He does not see that this will have an adverse impact on the community. It will help their development.

Councilman Rynearson agrees with Bill Van Duzer and Bill Spikowski. He feels that there is a 9-story approved with the units of 92. He feels that they should take care of the landowner and also the people of the beach. They have cried loud and clear that they do not want anymore high rises. If they can make the units they want fit in this building that has been approved he has no problem. If they cannot then they need to drop the amount of their units, so that it will comply with the staff recommendations. He would go along with the mezzanine outside of the 85,000 and this would be a special case.

Councilwoman Cain agrees with some of what Councilman Rynearson has stated. She desires not to see a square box on the property. She agrees with Councilman Rynearson regarding the mezzanine. She likes that Dan Folke left some leeway in Condition 2.

Councilman Reynolds has not changed his view. He likes Councilman Rynearson's comments. He believes that the mezzanine should be figured in the 85,250 square feet and he would like to see this happen. The basic footprints should remain the same with variations only that they can make the wings if they like. It has been expanded quite a lot.

Mayor Hughes is in agreement with Councilman Rynearson and Councilwoman Cain. He would like to stay with the 85,250 square feet. He prefers not to involve himself in the number of beds and bedrooms, and leave the square footage as the criteria. He takes a different

position regarding the mezzanine, although he appreciates Bill Spikowski's view on this. He feels that he could go with the Dan

Folke view, which would dedicate the 85,250 to living units. The mezzanine/alcove area need not be included. He is in favor of the revised recommendation of the staff.

**MOTION:** Made by Mayor Daniel Hughes and seconded by Councilman Howard Rynearson to approve the resolution prepared by staff with the findings of the Local Planning Agency, and incorporate the conditions in the revised recommendations of the staff dated June 25, 2001. **Motion is approved on a vote of 3 to 2. Vice Mayor Ray Murphy and Councilman Garr Reynolds dissenting.**

**Discussion:** Councilman Rynearson commented for the record that this is a case by case situation in regards to the mezzanine. This is a one time deal and this should be addressed.

Mayor Hughes supports Vice Mayor Murphy and agrees with him in terms of the

Mezzanine. He does not feel that this issue has any material impact on the community or neighborhood.

Councilman Reynolds does not feel that the building is feasible the way it is being discussed. The building is not designed properly, according to the maps that they have. It is not a functional plan.

**C. Public Hearing: Boykin Hotel Properties, L.P. in ref. To Captiva Useppa Property.** This property is located at 257 Estero Boulevard. A request to rezone from Residential Multiple Family (RM-2) to Mixed Planned Development (MPD) to permit a maximum of 43 hotel/time share units, accessory units and limited consumption on premises, not to exceed 72 feet in height above base flood elevation on 1.84± total acres of land.

Mayor Hughes asked if anyone had any ex parte communications that differed from the information provided from the previous case. The same will stand in this matter.

Beverly Grady is present on behalf of Boykin Lodging. This is a request for a zoning for a parcel of land that is 1.84± acres from RM-2 to Mixed Planned Development (MPD). The subject property is part of the Pink Shell Resort. It is designated by the Comprehensive Plan as mixed residential and recreational. The mixed residential permits non-residential uses to include motels, which now comprise 7.9%. The parcel has existing development, which consist of a resort building known as Useppa constructed in 1968 with 26 units, and a resort building known as Captiva consisting of 17 units, which was constructed in 1973. There are a total of 43 units on the subject property. Captiva and Useppa have always been part of the Pink Shell Resort, but since the parcel was already developed it was not part of the Pink Shell PUD zoning. The category of PUD zoning was created in 1978 and it became no longer available with the adoption

of new zoning regulations in the County in 1986. Although, the property on either side of Captiva/Useppa is zoned PUD it impossible to request this designation. The closest designation to PUD would be the MPD. The proposal is that those existing structures extend seaward of the original coastal construction lines. The existing structures are very close to Estero Blvd.. The concept will be to eliminate the two buildings and redevelop the site with a single structure in compliance with the flood elevation regulation and current building codes. The revised plan proposes a single 7-story structure consisting of 42 units, not the 43 that the property owner has the right to. They are eliminating a unit and reducing the density to 42.

There are two issues with the case, if the staff report has been reviewed. The two issues are in regards to height and size of the building. The Comprehensive Plan allows for height requirements, under Policy 4-C-4, to balance certain criteria. The criteria include looking where an individual parcel is so surrounded by tall buildings and lots that are contiguous that the 2-story limitation would be unreasonable. They speak this by filing for a Planned Developed Rezoning, which they are doing. This requires a public hearing and the Town will evaluate the level of unfairness and agree that the specific

proposal conforms with all aspects of the plan, look at the design policies, pedestrian orientation and natural resource criteria. In addition, they are to look at permanent view corridors and they are to balance the public benefits of the height limits against other public benefits that result from the proposal. The existing height is 40 feet above grade for 4-story Captiva and half of Useppa. The proposed height is the 72 feet above the base flood elevation, as determined by the DEP. It is consistent and visually compatible with the surrounding structures in Pink Shell.

There was an issue before the LPA regarding a debate of the height. Since that time they have worked very closely with the staff and have submitted, an addition to the Master Concept Plan, which creates a view corridor. The view corridor is 36 feet in width. A 20 foot area will be landscaped. She quoted from the staff report dated June 18, 2001 “the relocated beach access easement within the view corridor will create an attractive inviting pathway from Estero Blvd. to the Gulf of Mexico. The feature will be a substantial improvement from the existing easement, which is located through the gravel parking lot between the existing Captiva and Useppa buildings. The Comprehensive Plan Policy 4-C-4 building heights states that particular attention will be given to any permanent view corridors to the Gulf, which can be provided in exchange for allowing additional height.” Staff also believes that the public access within the landscaped corridor will create an inviting pathway, which contributes to both the pedestrian orientation and the public realm aspects of the projects. These improvements combined with the consistency of the approved surrounding height make the request consistent with the Policy 4-C-4. They believe that with the description of the view corridor the staff’s recommendation is for approval provided they meet the Comprehensive Plan Policy.

In the staff report they agree with the staff’s recommendation and the conditions, except for one modification. The modification is the discussion of the size of the building. The size of the building and the numbers being discussed are the maximum size for the total building. The limitation would be 47,000 square feet. They are requesting 49,000 square feet, and they can justify that this square footage is an adequate number.

The Comprehensive Plan has a pre-disaster build back policy. It permits that landowners may request this option and may rebuild to the existing density or intensity. They are actually reducing the density by one unit. They would like to establish that what has been requested is a

replacement number. Dan McGahey, Architect, began by stating that the 49,000 square foot number was a lot larger in the beginning. Dan Folke and Pam were quick to point out the intensity issue. He commented on an exhibit that has been created and passed it out to the Council members. The codes and regulations governing building have been changing over the past 28 years he has been practicing. There have been many changes taking place that require items such as stairways and elevators be made a larger size. The Fair Housing Act and The Americans with Disabilities Act very specifically impact the unit sizes with significant increases in bathroom size, access ways, accessibility and kitchen areas. It is difficult to quantify this or put a percentage on the size. He has suggested that the impact should be evaluated on a case by cases basis. With the build back policy there needs to some recognition in the changes in the codes that have occurred. The Lee County Code Officials have stated that the code changes that have occurred have had a significant impact. The impact could be as much or even exceed 10%.

The 49,000 square feet they are asking for reflect a 5.92% increase over the existing square footage. He submits to the Council based on testimony that he has given as an expert and affirmation by the Lee County Building Dept. and City of Fort Myers Building Official that the 49,000 is a reasonable minimum square footage to be allowed to replace the existing facility. The density has been reduced by one unit in exchange for an increase in square footage of less than 4,000 square feet. The reason for the increase in square footage is a direct result of the code requirements being imposed.

Dan Folke has reviewed the request and has prepared the staff report, as well a memorandum dated June 18, 2001. Two outstanding issues were regarding the intensity of the project and square footage of the rebuild. He provided numbers in his memo with a total of 45, 756 for the existing square footage. Since this time they have looked at different exhibits and they have come up with, and staff is in agreement with, the 46, 260 square feet presented in today's exhibit. This includes the existing Captive/Useppa buildings, walkways, 28, 002 ground patio, 602 square feet of CBS building and 577 square feet of trash area. They have agreed to take out the 16,068 of parking.

Staff does recognize that building codes have changed and different requirements for the units do exist. Staff acknowledges that there needs to be a reasonable increase. The conditions that he and

staff have recommended would lead him to feel comfortable with the final number. His main concern is that they have some rationale as to how they arrive at the final number. If the Town Council does approve the 49,000 this does not necessarily mean that the next time around they automatically do a 5.9% increase. He feels that this needs to be looked at case by case.

The second issue was regarding the height. Staff had recommended that it be limited to 4-stories. They found that the request, as it was presented to the LPA, was not consistent with the Comprehensive Plan (Policy 4-C-4). The policy has some specific criteria, to which the Town may consider deviations from the height limitation. Staff has agreed that the requested height would be consistent with surrounding heights. Staff was not able to recommend approval in two areas. The first was that the Policy 4-C-4 deals specifically with view corridors. Another issue was that there would be public benefit in exchange for a height deviation. As it was proposed in the original plan, the building was going to over an existing 6 foot easement, which currently runs through the parking lot between the existing Captiva/Useppa buildings. In staff's view the taking away of an existing view corridor, although it is through an unpaved parking lot, did

provide a view down to the gulf. Staff did not feel there was a public benefit. Staff encouraged the applicant to do the view corridor. He feels that the proposed view corridor will be a big improvement over what is presently there in several ways. Staff has recommended that no structures be permitted in the corridor and they do provide some landscaping with ground cover. Staff does believe with the addition of the corridor that this will provide enough of a public benefit to recommend approval of the height deviation. The Council will need to decide if this enough of a public benefit to approve the height deviation.

Dan reviewed the conditions and deviations and pointed out the ones of importance. Condition 3 deals with a maximum of 42 hotel units to be constructed within 7-stories over one ground floor of parking only with a maximum building area of 47,000 square feet.

He feels that the following is extremely key to staff's recommendation. The approved 47,000 square feet includes all hotel units, hallways, stairwells, elevators, balconies, laundry, trash facility, storage, pool pavilion and all remaining portions of the principle and accessory structures. Any approval should measure everything as well. This will leave no question as to what is being counted.

The 47,000 square feet will be constructed within a footprint shown on the Master Concept Plan. When you look at the Master Concept Plan you will see a footprint. The footprint, if measured, is about 9,000 square feet. If this is approved as staff has recommended it you could not have a 7-story building that would fill up the entire footprint. Approval of the recommendation does not mean that they will have a building completely within the footprint 7-stories up.

Condition 4 deals with the beach access easement. This needs to be recorded in the public records. Prior to it being recorded the Town shall have the opportunity to review. No structures should be within the corridor. They are showing a spa in the corridor and this would be inconsistent with staff's recommendation. If it is going to be a view corridor it should be dedicated to this. No structures should be allowed. Condition 5 & 6 deals with landscaping. Condition 7 deals with a consumption on premises and this has been limited to the in room self service bar and the outside pool deck. Condition 8 deals with the dune restoration. This was taken directly from the approval next door regarding the transfer of density case at the White Sands. They will be required to do a dune restoration to the specifications listed.

There are 5 deviations that staff is recommending approval of. Deviation 2 deals with the building separation, which ties in with the height of the building. Because this building is internal to the Pink Shell Resort he feels that it is appropriate that there will be no harm, and the Fort Myers Beach Fire District did receive a copy of this many months ago. He did not receive any comments or concerns from them regarding the deviations. Deviation 4 deals with height and he has tried to be very specific that it will be 7 floors over one ground floor. Deviation 5 is similar to the last one. This is seeking an alternative parking surface and those conditions mirror the ones in the last case.

He feels that staff has been consistent in these two cases. They are separate, but staff has been consistent regarding how the intensity is being viewed. He will be happy to answer questions.

Mayor Hughes questioned Condition 3. They are having a maximum building area. In the last case he raised the question of having a maximum square footage area for just the units, but they did not have a maximum building area. The attorney indicated that the structure itself will control this. He asked if they should be consistent in both cases? Dan Folke replied that he is recommending a total

square footage for the entire building. The reason this was not handled in the same manner for the previous case was due to the way it was approved previously.

Bill Spikowski responded that the terminology of the Master Concept Plan is used in this case, because this is the terminology that the code says should be used for the site plan that comes to them with the planned development zoning. Dan Folke had mentioned why the square footage consistency is different between the two cases, because the previous approval uses a different method. In the new Land Development Code he is proposing to the Council a very specific methodology for counting square footage and heights. He hopes when they are done they will agree to use the new methodology.

This policy hinges on the pre-disaster build back policy. Without that policy this could not even be scheduled to come before the Council. He provided some history and explanation of the pre-disaster build back policy. This is the first application of this policy. He does not want the community to lose faith in this policy by feeling that it is not being enforced properly. He feels that they should do the absolute best they can for the future of this policy.

The application has several problems with one being the increase in intensity. A problem exists as to how they will treat this in the future and are they setting a precedence they will later regret. The second deals with configuration of the building being proposed. They are dealing with a building configuration that blocks the view of the gulf and a building increased in size.

He is unable to give specific conditions. They are not dealing merely with the square footage issue, but with the building configuration shape. He is suggesting as it is proposed that it should not be approved, but it would be good to agree to make clear what they would like to see. He would like to see this building rebuilt and get the units off the ground level. The criteria would be no increase in square footage, except for nominal increase to account for building code changes and a change in the configuration, so it does not eliminate the view between the buildings.

Councilwoman Cain commented that she felt what is done now needs to be done cautiously, because it will set a precedence.

Mayor Hughes made reference that this particular parcels right-of-way is 50 feet on Estero Blvd. and it is 60 feet all along the rest of the PUD to the south. Why would they not ask as a condition of approval that they vacate another 5 feet? They should seek to get the area dedicated to make it as wide as they can make it. Bill Spikowski responded that it would not have a significant impact on this plan.

Town Attorney Dick Russo replied to Mayor Hughes that they need to avoid the appearance of contract zoning. If they would like to acquire the right-of-way there is a method, but it should not be part of a rezoning.

Dr. John Rinaldo stepped forward for public comment and commented that he is a neighbor of Pink Shell on the north and south side. He commented that they should look to see the view they presently see while looking at the beach from Estero Blvd.. What they have proposed to do is so much more beautiful than what exists there today. He feels that the square footage they are asking for is not significant.

Dan McGahey pointed out that the opening up of the parking area will allow for you to see through and will give a greater presentation. He knows that it will improve the view down the beach. In terms of intensity they have reduced the density of this project by a full unit.

Beverly Grady commented that the Town Council will define what the replacement of

intensity is. They feel that they are meeting the narrow and strict construction of this. They will set the future path for the future redevelopment on Fort Myers Beach. They submit that the figure used by their architect of 5.92% is very conservative. They have had letters of approval, speaker in favor and no opposition. They request that they approve their application with the 49,000 square feet recognizing that the staff and applicant agree on the numbers, and it is a conservative number to meet the code. She mentioned that the applicant would be willing to volunteer to work through some type of easement or retaining of an easement, and conveying to the Town for joint uses the 5 foot of right-of-way.

**MOTION:** Made by Councilwoman Terry Cain and seconded by Councilman Howard Rynearson to have a continuance due to lack of information and provide further information in the near future regarding the easement of the 5 foot right-of-way. **Councilwoman Terry Cain withdrew the motion and Councilman Howard Rynearson withdrew his second to the motion.**

**MOTION:** Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to deny. **Motion fails. Mayor Daniel Hughes, Vice Mayor Ray Murphy and Councilman Garr Reynolds dissenting.**

**MOTION:** Made by Mayor Daniel Hughes and seconded by Vice Mayor Ray Murphy to approve the application, subject to the conditions of approval and deviations set forth in the memorandum from the Department of Community Development Services dated June 18, 2001 - Pages 2 thru 5. All these should be incorporated into the conditions of approval. **Motion fails. Councilman Howard Rynearson, Councilwoman Cain and Councilman Garr Reynolds dissenting.**

**MOTION:** Made by Mayor Daniel Hughes and seconded by Vice Mayor Ray Murphy to continue this matter until August 27, 2001. Motion passes unanimously.

**6:15 PM: RECESS - DINNER BREAK**

**6:45 PM: RECONVENE**

**D. Public Hearing: Comprehensive Plan Amendment Application 2001-1**  
**TEXT.** Annual updating of the five-year schedule of capital improvements (Table 11-7, page 11-22). Requested by the Town of Fort Myers Beach.

Bill Spikowski commented that they are required by law every year to amend the capital improvements element. The decision is made to decide what will be done for the next five years during the budget process. This is a formality and they will adopt a schedule, which exactly reflects the information put the in the budget last fall. No decisions will be made.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to transmit the Comprehensive Plan Amendment 2001-1 to DCA. Motion passes unanimously.

**E. Public Hearing: Comprehensive Plan Amendment 2001-2 TEXT.**  
Consideration of the amending Comprehensive Plan Policy 4-C-6 to encourage landowners along both sides of Old San Carlos Blvd (see insert map) to build second and third stories over their storefronts without being limited by the current hotel-room equivalency factor. Requested by the Town of Fort Myers Beach.

Bill Spikowski began by indicating that this is also initiated by the Town of Fort Myers Beach. It is the considering of amending Comprehensive Plan 4-C-6. This is the policy, which limits the number of motel rooms and establishes the concept of an equivalency factor, so a landowner may determine how many hotel/motel units they could build on their property. The current plan states that the Land Development Code will contain those factors, but in no case will it be higher than 3 hotel rooms per one dwelling unit. This is a good ratio for the Town. The LPA suggested that the hotel rooms must be at least 250 square feet. The language, after discussions and modifications, is what is recommended to the Council by the Local Planning Agency. They recommend that it be transmitted to DCA and the minutes of their first meeting are attached.

Councilman Reynolds asked for clarification regarding the limit? Bill Spikowski responded that the new Land Development Code will have several types of ways that the buildings along Old San Carlos will be limited. The number of parking spaces will always be a major limit. They are also proposing a 3-story height limit, including the ground level. The only exception would be the one part of Rusty's that is approved at 4-stories. They would also be limited by a floor-area-ratio. This is currently not in the Land

Development Code, but it is a way of computing the building bulk. By setting these numbers to accomplish the amount of development they would like and no more the people will then know exactly what can be done.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to transmit the Comprehensive Plan Amendment 2001-2 to the DCA. **Motion passes 4 to 1. Councilman Gar Reynolds dissenting.**

**Discussion:** Councilman Reynolds informed Council that the people are strongly against this change. Several people had concerns at the LPA meeting and Mr. Spikowski was questioned extensively. He hopes that Council will think seriously before considering this change in the Comprehensive Plan.

Vice Mayor Murphy commented that the previous and present Council have given a lot of consideration to this matter. In order to redevelop the area of Old San Carlos this was the best way to go. He plans to support this.

Mayor Hughes is aware that there will always be people for and against matters that come before Council. He has not had anyone contact him specifically concerned about this. He is aware that there is some concern in the community.

Mayor Hughes asked Bill Spikowski if he was comfortable with this matter, in terms of his experience as a Land Planner? Does it fit in with their concept for Old San Carlos Boulevard? He responded that it very much does. He commented that he is a little embarrassed that it had to come to amending the Comprehensive Plan to do this. If the timing would have been different this hearing could have been avoided.

**F. Public Hearing: Comprehensive Plan Amendment 2001-3 TEXT & MAP.**

Consideration of amending Comprehensive Plan Policy 4-C-2, 4-C-5, 4-C-6, and/or the Future Land Use Map to increase the number of hotel rooms that can be built on the second and third stories of the properties near Times Square known as Seafarer's Village and Helmerich Plaza as shown in the insert map. Requested by Seafarer's 2000, Inc. and Seafarer's 1997, Inc.

Bill Spikowski commented that when the first hearings were held on this at the Local Planning Agency the zoning case and this Amendment have been coming through at about the same time. They have heard the zoning case and it had been continued until the fall. He has been working with Dan Folke and the applicant to try and bring back an acceptable proposal. The property owner has expanded the property to include the existing McDonald's building. The building would be rebuilt at some point, restaurant to remain on the ground floor and there would be a second floor. By adding in the acreage of the McDonald's parcel the parcel would be now larger. Using the standard methodology, if approved, would be allowed all but one of the hotel rooms he wanted in the first place. The LPA's public hearing was before this fact was known. They voted to recommend that the Council not adopt this amendment with one member dissenting. He is recommending that they deny the Amendment, because it is essentially unnecessary.

Jorge Weibe, the applicant, came forward and asked the Council to withdraw the application based on the information that was just provided from Bill Spikowski.

**G. Receipt of Budget message and Public Hearing to set tentative millage: In** past years the Town's millage rate has been set at 1.0961. We are recommending that the Town Council maintain the current rate in order to preserve all options in regards to the current millage. However, staff will be recommending a rollback

on the millage in the public hearings.

Town Manager Marsha Segal-George indicated that the Council has the budget message and the draft budget. This is normally received by the Council and not much discussion is made at this time. From this point forward every meeting will have the budget on the meeting agenda, so anyone can comment. Tonight they need to accomplish setting the tentative millage. It is being asked that it be set to the same figure as last year. She is recommending a rollback millage in the budget message, but they wanted to set the millage exactly as was done last year to preserve all of the options as they go through the budget hearing. If it is decided to rollback the millage they can take it down. It is very difficult to raise the amount, but easier to lower at a later date. Over the summer they will receive better numbers from the property appraisers office and know what the appreciation amounts are.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Garr Reynolds to set the tentative millage at 1.0961. Motion passes unanimously.

**Discussion:** Councilman Reynolds commented on Page 21 and made reference to Land Acquisition of a Gulf Park. He noticed that there was no money listed and does this mean they have given up the idea of another park? Mayor Hughes replied that he did not believe so. They never give up completely on anything.

Deputy Town Manager John Gucciardo reiterated Town Manager Segal-George's comment of this being a continuing agenda item. As always they are invited to contact the staff with questions, comments, changes or suggestions before the meetings.

#### **H. Request for authorization to bid and award: Old San Carlos**

Town Manager Segal-George referred to a memorandum in the Council's packet. She had a meeting last week with most of the property owners on Old San Carlos, utility operators and consultants to have a free form conversation on a number of issues. She summarized the three major issues raised at the meeting. She has received a better estimate from FPL. She originally had \$400,000.00 and the binding estimate at this point is \$426,000.00. This is the increase that needs to be added to the opinion of the probable of cost with regards to this project. The funding issues will have to be dealt with this fall. Recommendations will be brought to the Council regarding the manner in which the project should be divided up between the CRA money, road money and assessments. A time crunch exists and FPL has to have so much lead time to order equipment for under grounding. She needs to give them the OK tomorrow to start ordering the boxes and things for under grounding. This project will begin in September. It is believed if they move now the project will be completed before season. If they do not proceed now she feels it would be best to go next spring.

Mayor Hughes commented that this ties in with the earlier approval of the hiring of Cunningham and Associates.

Richard Woodruff, Wilson Miller, came forward and commented that it has been their privilege to work with the Town, property owners and merchants regarding Old San Carlos.

They apologize and accept full responsibility for the delay in standing before the Council. This should have been done 60 days ago, and if they would have done this they would not be in the time bind they are currently in.

Their best estimate, not including the FPL estimate, is at \$899,836.00. They believe that once a bid has been awarded and a notice to proceed has been given the project will take approximately 150 construction days, not calendar days. It is an aggressive time period and they believe that it is a program that can be met. If they make the decision tonight to move forward with the project, and if they see through permitting that they are not able to get the bids out in an acceptable time they can always

come back and pull the throttle back on the project. The last thing they would like to see is a negative impact on the folks who are making a living on Old San Carlos. This is intended to be a positive element. He encouraged them to take the following step: This would be to authorize FPL to proceed with their portion of the work. Most of their work will occur in the sidewalk area and not in the roadway system. The recommendation would be to authorize Wilson-Miller to proceed to advertise this and take it to bid. If they find that they are not getting acceptable bids or that they are not able to meet a schedule, which is acceptable they will meet with the Town Manager and come back to the Council when they reconvene. They can decide at that time to postpone a portion of the project until after spring.

Vice Mayor Murphy asked if the discussions were still taking place regarding FPL and TECO being tied in together? Dr. Woodruff responded that it has been discussed with both. Town Manager Segal-George responded that they have them together. She commented that TECO is on hold for Old San Carlos waiting for their project. She is not sure if there will be a cost savings..

Councilman Reynolds asked if the project covers 10 foot sidewalks on each side of the road? Dr. Woodruff replied that they should have had delivered to them a set of construction plans. He asked Matt Horton to come forward and explain further.

Matt Horton described the following: The west end will have 12 to 15 foot sidewalks. The east end is narrowed down to 63 foot sidewalks, 15 foot on the south and 12 foot on the north. Travel lanes are 10 feet. There will be 8 foot parallel parking along the entire lane.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to provide authority to Town Manager Marsha Segal-George to go to bid and authority to award prior to the Council coming back from vacation. Motion passes unanimously.

**\*\*\*\*\*The Council will recess as the Town Council and reconvene as the Fort Myers Beach Public Works Agency Board - All members are present and a quorum exists.**

1. Resolution: Relating to the Purchase of Lee County's Water Facilities located within the Town.

Deputy Town Manager Gucciardo began the discussion and commented that since the last meeting, at which time there were some contingencies to try to resolve, they have made a great deal of progress. They have obtained a final report on the engineering analysis, which is favorable. They have obtained a final version of the numbers that were presented to the Council

by Burton & Associates. They presented two scenarios A & B. Scenario B was the financial feasibility study that included use of the connection fees as a part of the debit service formulation. This information has been transmitted to Sun Trust and they have appeared to accept this scenario by providing a commitment letter. Progress has been made in dealing with some of logistical contingencies, such as working out the final details of transfer and the transition with Lee County. The main concern at the last meeting had to do with the location of the master meters. He is happy to report as a result of a meeting with Lee County Utilities they have determined that they do not to resolve this prior to closing. The agreement and understanding will be that until such a time as the master meters are located and in place the County will be paid for whatever the Town bills out, in terms of water service. He feels that this is an acceptable compromise until such a time as they are able to locate the master meters.

The only other contingency that has not been addressed in the actual obtaining of the final closing documents for review. Mr. Russo has been working closely with the County attorneys office. This is just a few weeks away. From staff's point of view, they feel that there is no reason not to go ahead with the determination of the purchase of the utility.

Mayor Hughes had some questions regarding the grammar contained within the resolution. He reviewed with Mr. Russo and the changes will be made.

Mr. Russo submitted into evidence a copy of the tangible taxes for the year 1998 for Florida Cities Water Company. This covers all the pipelines and pipe systems in the Town of Fort Myers Beach. This was valued at \$6,436, 880.00. Also, off of the tax rolls the north booster station is valued at \$151, 760.00 on the tax rolls. The south water tank and booster station is valued at \$483, 980.00. This totals \$7,074, 450.00 that they had paid taxes on. The Town will be buying it for \$3,000,000.00.

**MOTION:** Made by Board Member Ray Murphy and seconded by Board Member Terry Cain to move approval of Resolution 01-01 with the revisions made by Mayor Hughes. Motion passes unanimously.

**\*\*\*\*\*The Council will recess as the Fort Myers Beach Public Works Agency Board and reconvene as the Fort Myers Beach Public Works Services, Inc. Board**

1. Resolution: Election of Officers
2. Resolution: Authorization to Sign Checks, Borrow Money or deal with a Bank
3. Resolution: To Borrow on Behalf of the Corporation
4. Approving purchase with contingency and direction of Board Member to sign

**MOTION:** Made by Board Member Murphy and seconded by Board Member Cain to nominate Dan Hughes as President, Ray Murphy as Vice President, Howard Rynearson as Vice President, Terry Cain as Vice President, Garr Reynolds as Vice President/Treasurer and John Gucciardo as Vice President/Secretary. Motion passes unanimously.

**MOTION:** Made by Board Member Rynearson and seconded by Board Member Cain to approve the resolution of approving purchase with contingency and

direction of Board Member to sign. Motion passes unanimously.

**MOTION:** Made by Board Member Murphy and seconded by Board Member Howard Rynearson to approve the resolution to borrow on behalf of the Corporation. **Motion is approved with a 4-0 vote.**

**\*\*\*\*\*The Board will recess as the Fort Myers Beach Public Works Services, Inc. Board and reconvene as the Town Council**

**A. Accepting the terms of commitment from SunTrust**

**MOTION:** Made by Vice Mayor Murphy and seconded by Councilman Howard Rynearson to accept the purchase from Lee County. Motion passes unanimously.

**A. Resolution: Water Utility Rates**

Mr. Russo commented that the rates listed in the resolution are the existing rates. They have adopted a resolution on the connection fees, but this has to do with the water consumption rates.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to adopt the resolution with the same rates that are presently in effect with the County. Motion passes unanimously.

**A. Request to hire Hans Wilson for preliminary canal work and update on current projects**

Town Manager Segal-George commented that this is a request to hire Hans Wilson for some preliminary canal work. He is going to give an update on the three projects that he is working on. The next big project of MRTF is to try to come up with a Comprehensive Plan with regards to canals on the island. The recommendation has been to try and match the canal work to the streets that they are retro fitting drainage on, as the starting point. This is to begin the work and this would be the canals attached to Primo, Santos, Lanark and Lauder.

Hans Wilson came forward and commended Town Manager Segal-George for her holistic approach to dealing with water quality on the island and the quality of life aspect from storm water management including improvements to the road system. They are going to help the Town bring this together with the present work being done on the storm water utility.

He will be going in to look at a number of different aspects of the canals. They will be focusing on the water quality and the navigation. Making some determinations of how they can make improvements with the canal system as a part of the storm water discharges that are taking place. They will also give some thought to educational processes to help residents understand the necessity of maintaining the canals as part of their backyard and also looking at the navigational issues. This will be put together as a package.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to authorize the execution of the contract with Hans Wilson and Associates for the storm water improvements in canals. Motion passes unanimously.

Hans Wilson provided an update of the projects to the Council. He began with Carlos Point. They are approximately 30% complete with the construction specifications to allow placement of fill both above and below mean high water, as part of the dredging projects from Marina Towers and an offsite project located in Bonita Beach. This project will piggyback on to the permitting that is taking place for the beach restoration project. They are also working with the Carlos Point Condominium to get them the fill needed in the corner of their building. They are almost complete with the feasibility study for Laguna Shores. He has met with the aquatic preserves in regards to Marina Towers. The DEP has requested that Marina Towers place the dredge area outside the limits of their submerged land lease. The State has required that they place additional area into a submerged land lease for their dredging. Every person along the shoreline, whether a single family residence or condominium, would have to place that additional area into some form of a private easement. The outcome of the meeting was to look at the feasibility of actually defining an easement area along the east side of the island 60 foot wide in the Town's name, Town of Fort Myers Beach Channel. This would then solve Marina Towers problem and the Town would come in and act as a participant in the permitting for work taking place within the Town's easement. Marina Towers could then move forward with doing their dredging within their submerged land lease area. If you have an easement dedicated along the shoreline that runs in front of all the docking facilities it will allow each applicant to perform maintenance dredging and improve their access within that easement consistent with what the State would authorize as a public works channel. Whether the Town elects to pursue any formal dredging within this easement in the future to tie the parcels together it would then function as a Town managed and regulated channel. It does not require the Town to make an effort at this point in time. It just allows the Town to partner with those property owners along the shoreline.

He feels that they will need some type of resolution from the Town authorizing to proceed with the easement in order to finalize the Marina Towers permit. He will get with Deputy Town Manager Gucciardo on this. There is no rush on this, because the Marina Towers project can not take place economically until they get through turtle nesting season.

A. **Request to bid and award for Times Square paver cleaning and sealing**

Town Manager Segal-George reported that with the paver cleaner they are unable to remove a lot of the stains. It is going to require some heavy duty chemicals and will need to be sealed two or three times. A test spot was done a few weeks back and it makes it look a whole lot better. She commented that a lot of time is spent to keep the area clean and picked up. She has one proposal to come in and do the work and it is for \$50,000.00. She would like to go to bid and see what other type of prices are out there. The alternative is to pick the pavers up and lay down some kind of brick that will not stain.

Mayor Hughes asked if anyone had thought of possibly painting or coating the pavers? Town Manager Segal-George replied that she did not know if this could be done.

Councilman Reynolds wondered why the \$30,000.00 machine that was purchased is not used more frequently? Town Manager Segal-George responded that Ed does use it quite a bit. It requires

chemicals that machine does not handle.

**MOTION:** Made by Vice Mayor Murphy and seconded by Councilman Howard Rynearson to authorize the Manager and staff to get competitive bids on this process and bring them back to a future meeting. A determination will be made at that time if it financially feasible. She should inquire whether the pavers can be painted or stained. Motion passes unanimously.

**\*\*At this point in the meeting (8:42 p.m.) Councilman Reynolds is not feeling well and has asked to be excused from the meeting. A quorum is still present.\*\***

#### **M. Approval of Harbor Plan change order**

Town Manager Segal-George has announced that Coastal Engineering and Michael Steven is present to address the Council. This has gone to MRTF. The Harbor Plan is the first project they have had to deal with the difficulties of the permitting agencies.

Michael Steven, President of Coastal Engineering, came forward and announced that they had the pleasure of participating with the public several years ago, and working with the Council to come up with the Harbor Master Plan. The Master Plan was coordinated with virtually every environmental permitting agency in the area. It was a very appropriate and positive approach on the part of the Town to take responsibility for management of the harbor facility. They have made application for 70 moorings beginning in January of 2000. The original project was comprised of several phases. Phase I was the preliminary design and permit approvals. This was completed in a matter of a few months. They assisted the Town and submitted an initial permit. The DEP decided that they needed to also permit the planned upland facilities. In July 2000, they were granted a change order for architectural and civil engineering design for the upland facilities. The design took place and they came back to the Town and the Town provided them a check, and they completed the total application to the DEP in February. They now stand before Council with a change order request to address four primary issues.

These issues deal with the DEP storm water questions for the upland facility, questions regarding the harbor mooring and marine operations of the facility itself offshore, DEP submerged land issues and questions by the Core of Engineers. At the time all of this started the original multi-phased project had been reviewed with the County, DEP and Department of Natural Resources. It was the original intent that they would use the Management Plan to formulate and negotiate a Management Agreement with the DEP. This was the most cost effective way to proceed. They have changed their posture and now request that they do a formal submerged land lease for the areas located out in the harbor facilities.

The second major component is the Army Core of Engineers with the manatee issues. They have completed three sets of drawings and the Core has asked for a completely different set of drawings. Normally, their drawings meet all of the applicable DEP standards, but they believe

them to be complicated and they want a separate set.

Michael referred to the second page of the request for additional information. He feels that the reason Town Manager Segal-George provided these questions to Council is so that they would have an idea of what is being dealt with. He commented that they needed to respond and respect their concerns and negotiate. This is what the cost entails. It is their intent to get through this as quickly as they can. The comprehensive time plan is attached.

Mayor Hughes asked if it would be helpful to have the elected officials provide assistance in expediting this matter? Michael Stevens responded that they are representatives of the community and public. He feels that in situations such as this it is very beneficial to have them both in writing or by telephone participate in expressing their interest, opinion and support to the project. He can through the Town Manager give them the names, phone numbers and addresses of the people that are involved. He would be glad to do this. If they talk to the legislatures and administration of the DEP, for example, this can be helpful. He encourages them to do this in a positive and supportive manner.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve the change order, which was unanimously recommended by the Marine Resource Task Force. **Motion passes unanimously 4-0.**

#### **N. Update on Sheriff's substation options**

Town Manager Segal-George began the discussion and stated that this was a project Councilman Rynearson was working on to find alternatives with regards to the trailer substation in Lynn Hall Park. One item they wanted to explore would be the bathhouse in Lynn Hall Park. Could it be expanded or modified in anyway to house the Sheriff and a small area for an EMS tech? They discussed this with the County and the plans were pulled. They went to the original designer of the bathhouse and they were not interested. The County wanted them to use Parker/Mudgett, who had worked on the pool. They were asked to give a proposal or feasibility study to see what can be done in regards to modifying the bathhouse. In this proposal it states 3,000 square feet and they would like to change it to 2,000 square feet. They would like to modify it with an addition right next to it on the same grade, as the existing bathhouse, so they would not have to have an elevator. This is basically to see if it can be done. It will be the Town's cost and the County is not willing to share in the cost. Once the study is done there will be a number of places that they can look for funding.

**MOTION:** Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to approve \$7,600 to retain Parker/Mudgett/Smith Architects. **Motion passes unanimously 4-0.**

Town Manager Segal-George and Councilwoman Cain discussed leaving the square footage at 3,000 square feet. Councilwoman Cain had an idea of having an office included for Parks and Recreation. If this were to take place they could possibly be eligible for TDC money.

**O. Review of three proposals from Morris DePew: drainage and signs**

**MOTION:** Made by Vice Mayor Murphy and seconded by Councilman Howard Rynearson to move approval all three proposals. **Motion passes unanimously 4-0.**

Town Manager Segal-George commented that they have two big drainage projects that have come up that she has petitions on and she wanted to get moving on them. She feels that their prices are very reasonable and this would get both projects moving this summer. The other proposal is regarding the signage at Crescent. The other part is dealing with the problem at Old San Carlos and Times Square with the delivery vehicles. She talked informally with Parks and Recreation about taking some space off the edge of Lynn Hall to try and get a delivery lane. She feels that they need something a little more comprehensive than this. Everything has been tried and someone else needs to take a look at this issue.

Bill Morris came forward to hit the highlights for the three proposals. He referred to the roads Gulfview, Bayview and Strandview. They have learned that a wall has been constructed and borders the south property line between the subdivision and a neighboring condominium. This impedes the historical drainage patterns between those two developments. They will examine the situation and recommend options to the Town to correct the items. The residents are in favor of finding a corrective solution that can be implemented as quickly as possible. They will be happy to pursue whatever alternative the Town would direct them to.

The second item is the Mid Island Dr. drainage improvements. This location appears to have maintenance neglect over a period of years. They will look for a corrective solution for this as well.

The third item would be the signing improvements for the Crescent St. area and at Fifth and Old San Carlos intersection. They will look and make a recommendation for some sort of solution.

**VII. COUNCIL MEMBER ITEMS AND REPORTS**

**Councilwoman Terry Cain** - Commented back on the Consent Agenda in regards to the July

4<sup>th</sup>. She would like to give the Town Manager permission to buy an ad next year and include it in the price that is donated to the fireworks, so they get more recognition. Something along the lines of “ Have a Safe and Happy 4<sup>th</sup> of July”.

A MRTF meeting had taken place on June 6. A lot of exciting things are coming up with trying to create a canal program for the island. A lot has to do with education.

A tea took place at the Mound House on June 16<sup>th</sup> with some neighbors, Rebecca Harris, herself and Ceel Spuhler. She felt that they were impressed with Rebecca and wanted to discuss the future plans.

On the 12<sup>th</sup> she was at an Estero Bay Buddies Meeting. When the budget is considered for this year she has a request. The Estero Bay Buddies is going to request that Phil Buchanan come before them and speak. She would like to possibly consider a land trust for the Town of Fort Myers Beach.

She had a wonderful time at the Taste of The Beach. The food and presentation was wonderful.

**Vice Mayor Ray Murphy** - On Thursday, the 14<sup>th</sup> he attended a Conservation 20/20 meeting, Lee County regarding the aquisition of Bunch Beach. He went on behalf of the Town and it looks as if they are moving forward on purchasing this piece of property.

On the 15<sup>th</sup> he attended the Horizon Council Executive Committee Meeting.

On the 16<sup>th</sup> he represented the Council in the Bay Beach 4<sup>th</sup> of July Shotgun.

On Tues., the 19<sup>th</sup> he was at Lover's Key and they had a few state representatives there. They were given a tour of Lover's Key by land and boat. They were very impressed and he is sure that the funding will continue for the state park system.

He attended the Southwest Florida Regional Planning Council Meeting on Thurs., 21<sup>st</sup>.

On Friday, 22<sup>nd</sup> they had the MPO Meeting and they were on the agenda for the endorsement of the federal funding grant. It was a unanimous endorsement by the MPO, which was very favorable.

He also attended the Taste of The Beach and had a great time. He wished everyone a wonderful summer.

**Councilman Howard Rynearson** - Thanked Vice Mayor Murphy for moving things along at the MPO. He was at the Taste of The Town and ate too much. It was good. He expressed that everyone should have a good summer.

**Mayor Daniel Hughes** - Had a meeting with the merchants at Times Square regarding their unhappiness with the assessments for garbage and maintenance. A meeting date will be set to see if they can come up with a better proposal that is more acceptable to the Time Square merchants.

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

**Deputy Town Manager John Gucciardo** - He received an e-mail from John Davis, Lee DOT and they are going to be doing the experiment that they have been asking for at Buttonwood and Prescott with the alternating lane lights. They will be doing this from June 29 thru July 4.

## **IX. TOWN ATTORNEY'S ITEMS**

### **A. Primeau/Lee County**

Town Attorney Dick Roosa commented that they were provided with a copy of a motion to open and modify a judgement. It was initiated by a letter from Tom Wright, Assistant County Attorney, and he demanded that the Town pay \$40,000.00 or they were going to tear down the Trolley stop. They are taking the position that they are authorized by court order to tear down the Trolley stop. The only way he feels to resolve this would be to file a motion with the court and have the judge decide the issue. He intends to file it, serve it on the County attorney and if they will hold a meeting with the County Commission he will hold off the hearing until such time as the County Commission has had a chance to rule on the motion. It needs to be filed and the timing of the hearing will depend on the action of the County Commission.

**MOTION:** Made by Mayor Daniel Hughes and seconded by Councilwoman Terry Cain to give the Town Council authority to file a motion in the Primeau case vs. Lee County to open and modify the judgement. **Motion passes unanimously 4-0.**

**X. APPROVAL OF MINUTES: APRIL 9, 2001, MAY 21, 2001 AND JUNE 4, 2001**

**MOTION:** Made by Councilman Howard Rynearson and seconded by Vice Mayor Ray Murphy to approve the minutes of April 9, 2001, May 21, 2001 and June 4, 2001. **Motion passes unanimously 4-0.**

**XI. PUBLIC COMMENT**

None.

**XII. ADJOURNMENT**

The meeting was adjourned at 9:30 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