

**FORT MYERS BEACH
TOWN COUNCIL MEETING
SEPTEMBER 24, 2001
REGULAR MEETING
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The regular meeting of September 24, 2001 was opened by Mayor Daniel Hughes on Monday, September 24, 2001, at 6:33 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, Damon Grant, Dick Roosa (Town Attorney), Dan Folke and Bill Spikowski

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

III. INVOCATION BY FATHER ROBERT MURPHY, CHURCH OF THE ASCENSION

Father Robert Murphy gave the invocation.

IV. PUBLIC COMMENT ON AGENDA ITEMS

Carl Conley - 2801 Estero Blvd., FMB came forward and approached the Council with a handout. He has put together a group of citizens to form a non-profit corporation. The purpose is to conceive, promote and produce artist events for islanders to enjoy with friends and families. They are also planning to actively help young people financially, if they are actively pursuing their interest in the arts. Where will the events be held? They need a reliable location. A piece of property exists that may do the job. It is across the street from Lynn Hall Park. Town Manager Segal-George had invited him to look at this property for the purposes he has discussed. He feels that perhaps it will or not will not work. He would like the Council to consider putting this property or any other suitable site on their plate for further consideration. He feels the beach needs something uniquely theirs. On behalf of the Island Arts Foundation and himself he thanked the Council for their time.

Bill Whitacre - 1000 Estero Blvd., FMB came forward and offered a word of praise from the businessmen of the Times Square area. He indicated that Ed Lawler did a fantastic job cleaning up the Square after Gabrielle. (Applause was given) Mayor Murphy spoke on behalf of the Council, who also appreciates the work he has done.

Tom Merrill - 21581 Indian Bayou, FMB came forward and indicated some things have come to his attention and need to be shared with the Council. His concern is nerve gas agents within the mosquito control district. (A discussion was held among the Council members due to this topic not being on the agenda. It was decided among all Council members that it is OK for him to speak at this time vs. waiting until Public Comment at the end of the meeting.) He came across a thought over the weekend regarding terrorism, and feels that nerve gas could be distributed in this area very easily. He indicated that he sent Mayor Hughes a memo on Sunday morning. He also sent e-mail to John and has not yet received a response from either person. He has received a response from Lee County. He went to the local mosquito control area

regarding security. He has received a response from the FBI. He read the memo sent to Mayor Hughes and John. He indicated that they have a lacks system. Some services could use a little more sophistication. The back bay is insecure to them. The Town of Fort Myers Beach is venerable at any time. Items need to be addressed very, very quickly on this beach. Deputy Town Manager John Gucciardo responded that he has received no e-mail from Tom Merrill. He did receive a copy of the fax sent to Mayor Hughes. He received this at 6:25 p.m. this evening.

V. PRESENTATION: CROSSWALK LIGHTING BY JOHN DAVIS - POSTPONED

VI. CONSENT ON AGENDA

- A. Review of Financial Reports: August 2001
- B. Proclamation: FMB American Business Women's Assn. Day
- C. Proclamation: Congressional Redistricting

Councilman Rynearson would like to pull Item C. Mayor Hughes commented that this Proclamation is relating to their supporting the citizens for fair redistricting. That they will remain aligned and try to retain a contiguous seat on the west coast. He drafted this resolution at the suggestion of the Board of Collier County Commissioners. He feels that it is simplistic. He indicated that there will be a hearing tomorrow at Florida Gulf Coast University. He will attend and express his personal views.

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

MOTION: Made by Councilman Howard Rynearson and seconded by Councilwoman Terry Cain to approve Consent Agenda Item A and B. **Motion passes unanimously.**

VII. ADMINISTRATIVE AGENDA

A. FINAL PUBLIC HEARING: Budget 2001/2002

Deputy Town Manager Gucciardo indicated that he attempted to make some modifications and changes to the drafted budget based on the conversations that were held at the last Council meeting on September 10, 2001.

Bill Thomas - 8402 Estero Blvd., FMB came forward to address the Council regarding an item on the budget. The Town has kept the millage rate the same since its inception. The taxes they all pay increase each year. He feels that a millage roll back this year is appropriate. The Town expects 15% more appreciation in property values that would result in over \$250,000.00 in additional tax revenue for the Town. The residents and businesses need the tax relief now. He supports and endorses a millage roll back immediately.

Dave Easterbrook - 123 Bayview Ave, FMB came forward and discussed the allocation of the \$800,000.00 for 2001/2002 Beach Renourishment. He indicated that there is no beach. Islands shape shift. The sand will go where it will go naturally. He feels that trying to pay for this is not necessary and feels this money can be put to better use in other parts of the island.

Deputy Town Manager Gucciardo replied that the evidence they have received from testimony on beach renourishment will minimize the effect of storm damage. He explained that the \$800,000.00 would be the Town's share of an approximate 10 million dollar beach restoration project. This will be funded both with Federal, TDC and other local dollars. The \$40,000 that appears for subsequent years is broken down approx. \$10,000.00 per year and would be the Town's share of a monitoring effort to measure the success of the project. The point of the project is not just to have more beach, but to have a storm protection effort on

behalf of the Town. He asked the engineers to quantify for them what this enhanced beach would have done for them in this last go around with Tropical Storm Gabriel. They tell him that the approx. 100 foot of extra beach would have probably reduced the storm surge by ½. No guarantees exist, but the intent is to offer both private and public infrastructure.

Mayor Hughes replied on his own personal experience from Smugglers Cove. This was the worst damage they have had since Smugglers Cove was built in 1977. They no longer have a beach at high tide and have not in some time. He is confident that if they had, had the beach renourishment prior to this storm the damage would have been significantly less.

Charlie Shoemaker - 8088 Estero Blvd., FMB came forward and indicated that they have an island outside of them that can be seen about 4 feet above the water. This last storm came across this by 4 to 6 foot waves. He indicated the island did not stop the storm.

Councilman Rynearson indicated that the shelf outside in the water is what stops the surge. The island will not help. The water will just go over the top of the island.

Bill Whitacre - 1000 Estero Blvd., FMB came forward and indicated that he has the Dairy Queen on the beach. They were fortunate last year to have had sand put in front of their business when the Pass was dredged. In the past when he had no beach there were two Tropical Storms that did over \$50,000.00 worth of damage each time. This time they had minimal damage. A few shutters needed to be replaced and minor flooding. He cannot accept that some people believe the beach does not help.

Councilman Reynolds commented on his views of the beach renourishment. He does not feel that this is the answer to the problem. He indicated that 2 feet of sand will not make a difference. Mayor Hughes questioned if he is now opposed to beach renourishment. Councilman Reynolds indicated that he has voted against it in the past.

Anita Cereceda - 7307 Estero Blvd., came forward and expressed that she is very proud to be a citizen of Fort Myers Beach. She feels that the budget, once again, fulfills the promise of incorporation. Fort Myers Beach is the envy of other municipalities. Staff has done an awesome job of preparing another very good budget. She feels that this will allow them to move forward into the future with creative projects, improvements that will increase the quality of life and something that is fiscally responsible so is not to in debit its citizens. She really appreciates their work.

Tom Merrill - 21581 Indian Bayou, FMB, came forward to discuss beach renourishment. He expressed that the area by Outrigger has 400 to 800 feet of sand. It still went over Estero Blvd.. The issue with beach renourishment is elevation. He is opposed to having this as a budget item. Security has not been addressed. They need to protect themselves and protection does not necessarily have to cost that much. They need to change their mind set. An overview person, department or consultant needs to be thought about. Water and mosquito needs to be looked into, along with a coordinative effort with Lee County and other parts of the enforcement communities.

Mayor Hughes asked Deputy Town Manager Gucciardo if there is a reason in light of recent events to modify any provision in the budget for security. A reserve does exist where at anytime during the year they can transfer funds from one department to another. This would be done by action by the Town Council or the Manager can do so.

Deputy Town Manager Gucciardo expressed that the discussion at staff level did not indicate a need at this time. He referred to Tom Merrill's comments on water, mosquito and an entity to be responsible for the overall security issues. The water plant does not exist within the Town of Fort Myers Beach. The mosquito control district is a separate taxing authority. He does not feel that they should add these line items, because of concerns of appropriateness. The third suggestion of an overall authority would be up to the Council. He indicated that Mayor Hughes had already mentioned that there are sufficient reserves that could be moved to fund this type of position.

George Barber - 259 Ohio Ave., FMB came forward and supported the roll back and

millage to stimulate the economy for the businesses on this island. The government is considering doing tax relief and he feels that they should consider the same.

Dave Easterbrook - 123 Bayview Ave., FMB came forward for a second time. He recognizes that they have a lot of drainage problems in certain areas. He ran some quick numbers, and indicated that maybe they should place some of this money where needed. Possibly remove some seawalls that create and cause sand to be gathered and taken away. He feels that they should possibly take \$600,000.00 to put toward beach renourishment, and this would allow 28 more streets to receive storm drainage.

Councilman Reynolds expressed that in the future he would like to see them allow the audience to speak without having rebuttals from Council or personnel, unless they need an answer to a question to be addressed immediately.

1. Resolution 01-29: Establishing ad valorem tax

MOTION: Made by Vice Mayor Ray Murphy and seconded by Mayor Daniel Hughes to adopt the Resolution 01-29: Establishing ad valorem tax with the following change. Change rollback rate to .9742 throughout the resolution. **Motion withdrawn by Vice Mayor Ray Murphy. Second withdrawn by Mayor Daniel Hughes.**

MOTION: Made by Mayor Daniel Hughes and seconded by Vice Mayor Ray Murphy to adopt Resolution 01-29: Establishing ad valorem tax and amend the resolution to read 1.04 mills. **Role call vote taken. Mayor Daniel Hughes, aye, Vice Mayor Ray Murphy, aye, Councilwoman Terry Cain, aye, Councilman Howard Rynearson, aye and Councilman Garr Reynolds, aye. Motion passes unanimously.**

Discussion: Mayor Hughes expressed to the public a millage rate of 1.0961 mills translates to \$109.00 for each \$100,000.00 in assessed valuation. If you had a home valued at \$225,000.00 with the Homestead Exemption it would then reduce to \$200,000.00. The tax to the Town would be \$218.00 and under the motion by Vice Mayor Murphy it would be a little under \$200.00. The Town of Fort Myers Beach only receives 5 ½ % of the tax. Almost three times this amount goes to the Fire District and the bulk goes to the County and School District.

Councilman Reynolds feels that if the above is not done the appreciation on property will bring in another \$250,000.00 this coming year. The last time he spoke against this. Councilwoman Cain mentioned putting this in a land purchase fund. He indicated that they have over 3 million dollars in contingency and two line item reserves. His concern is if they keep collecting money they will find a way to spend it. He would like to create another security line item. If they cannot roll it back they will need to obligate it into a fund that will not allow them to dribble away at the money.

Councilwoman Cain mentioned at the last meeting that they do not roll back, and the amount that they receive would be put into a land trust type of fund. If you have a \$200,000.00 it would come out to approx. \$21.00 per household. Her priorities have changed since September 11. She can see uses for this money in other areas. This community has done an outstanding job of

keeping taxes the same for five years. She is more concerned with the economy and feels that the roll back is not appropriate at this time. She will continue to hope for a land trust. Her priorities are to keep a very healthy reserve.

Councilman Ryneason commented that he would like to echo Councilwoman Cain. He indicated that after September 11 they may not get the usual tourism or taxes. He is not for a roll back. He would like to see what the economy and country will do.

Councilman Reynolds feels that it may be the time to give relief. He indicated that they could cancel other line items, if necessary. They have plenty of money if they should decide to purchase land. He feels that it is a good opportunity to let the community know they are thinking as opposed to piling up money.

Mayor Hughes commented that when the roll back was proposed by Town Manager Segal-George last spring he felt it was a really great idea. It does not have much of a dollar effect on individual property owners, unless they own a multi-million dollar property. He felt there is a perception issue. If they do not need the money then why levy for it. He is convinced that they will be suffering a loss for gas tax and sales tax.

Vice Mayor Murphy has his reasons for believing that the roll back is justifiable. If it is the will of the Council that this would not be a good time to roll back he supports this, and withdrew his motion.

Councilman Reynolds believes that the staff has done a lot of work on the budget. He would like to keep at the rate as stated and give the full rollback recommended. For this reason he does not go for a partial split.

Councilwoman Cain does not feel that the average homeowner will receive a significant enough amount to justify the roll back.

Councilman Reynolds does not feel that this money they need.

2. Resolution 01-30: Adopting the 2001/2002 budget

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Ryneason to approve Resolution 01-30: Adopting the 2001/2002 budget. **Motion passes unanimously.**

Deputy Town Manager Gucciardo indicated that the budget resolution before Council will be modified based on the changes of the ad valorem by showing increased revenue on the revenue line item, and an increased reserve. This is subject to any other changes made.

Discussion: Councilman Reynolds referred to page 19. There are two line items, which read Gulf Park Land Aquisition and the other is Land Acquisition. He discussed this with Deputy Town Manager Gucciardo today and he has no difficulty in combining the two. He feels that they have a dead line item.

Deputy Town Manager Gucciardo replied that it would not be a problem to combine the two. The intent was to keep gulf front property separate and apart from the Newton Property.

Aquisition Councilwoman Terry Cain would like to see a Land line as it presently reads.

- B. FINAL PUBLIC HEARING: Ordinance 01-07:**
- updating of
- 1. Comprehensive Plan Amendment. Application 2001-1 TEXT.** Annual the five-year schedule of capital improvements.
 - 2. Comprehensive Plan Amendment: Application 2001-2 TEXT.** Consideration of amending Comprehensive Plan Policy 4-C-6 to encourage landowners along both sides of Old San Carlos Blvd to build second and third stories over their storefronts without being limited by the current hotel-room equivalency factor.

Bill Spikowski, Planning consultant for the Town, came forward with updates since the last Council meeting. He indicated that they have two different amendments advertised separately, but both amend the Comprehensive Plan and are both contained in a single ordinance. The first is 2001-1 TEXT, which takes the five year schedule of improvements from last years budget and puts them into the Comprehensive Plan. It is a state requirement and state law. This must be done each year.

The second is 2001-2 TEXT and has been controversial. It is in regards to the Old San Carlos Blvd. redevelopment plan. An unintentional conflict exists between the two. As part of the Old San Carlos Master Plan it was clear that they would like two and three story buildings. The upstairs could be restaurants, apartments or hotel rooms. The intent is to correct the anomaly between the two different plans. At the last meeting he submitted a chart and it was discussed quite extensively the evolution of the redevelopment regulations. At the same time this Comprehensive Plan Amendment is being processed a new Land Development Code is being adopted. This will be significantly more restrictive along San Carlos on several other aspects of development. A basic limit of three stories in height would exist. This would be three stories including the ground level. The buildings on Old San Carlos would match the building height cap for the whole island as said in the Comprehensive Plan.

The last meeting there was extensive discussion regarding that the Land Development Code is proposed to say three stories and no higher. This would encourage someone to build a second and third story. The Comprehensive Plan did not have this limit. There was a sense that although the code would have this, through deviations and code changes they might end up with buildings much taller than this. He referred to a comment made by Councilman Reynolds regarding a height limitation. He has added one extra clause which states " under no circumstances shall buildings exceed four stories with the ground level counted as the first story". This is an absolute limit. In order to change this they would have to go through the five hearings with state review and citizen challenges. He suggests that the code itself keep the three story limit. The difference being that the Town Council could go to four without violating its plan. The next long discussion was in regards to the various uses on the second and third floors, and how you would measure intensity when you are dealing with non-residential units. Mayor Hughes had asked if there was a way to give a general idea of the relative impacts of hotel on public services. Bill has created a chart. He indicated that restaurants would have the highest impact on parking, traffic, water and sewer. Hotels fall in between at the lower end of parking and traffic, and the higher end of water and sewer. This would not be higher than restaurants. He has the background information used to develop this information.

The Council has before them an ordinance that would adopt these two amendments. It would be adding two new sentences to policy 4-C-6, which would apply only to Old San Carlos. The second would be adopting the new table 11-7.

Mayor Hughes read the amendment at this point. He opened the meeting to public hearing.

George Barber - 259 Ohio Ave., FMB came forward to discuss the future of the development on their island, and the need for the Council to listen to the will of the people. They can build a better island and the Town founders envision, but not at the expense of the residents and small business owners of the island. The fragile infrastructure cannot support uncontrolled growth. Traffic is only one major issue of concern for future development. The impact on water, sewer, utilities and the way of life is of great concern to all. When will the Council, as a body, realize that they were elected by the people to represent the people and not just a few developers. The Comprehensive Plan amendment does not reflect the interest in the community at large. Building more is not the answer, but building better is. He is asking that the Council turn down this proposed change to the Comprehensive Plan and address the concerns of the residents and small business owners. This change is not in keeping with the vision of the Town founders. Let the people of the island decide their future, instead of the developers the Council is representing.

Bill Thomas - 8402 Estero Blvd., FMB came forward and indicated that this is the second time he has spoken regarding changes to the Comprehensive Plan. He is surprised that the Town is even considering a change to the Comprehensive Plan, when so many people put in so many hours making the original plan. Changing the Comprehensive Plan is a big issue and a serious one. The changes being brought forward will only benefit a few developers and contractors on the island to the detriment of small businesses and residents. The proposed changes will increase density or intensity by more than 3 to 1. He indicated that they do not have the infrastructure to support this. This will effect the community in many adverse ways. The Council must stop catering to the special interest groups and represent the entire island.

Larry Yax - 830 Estero Blvd., FMB came forward and indicated that he is opposed to hotel development in the Times Square area not because he owns the Edison Beach House. Hotels off the shore do not compete with him. The Times Square area was on the right track when originally thought out to be the shopping, eating, entertainment and gathering place for visitors and residents of Fort Myers Beach. It can still be this and provide satisfactory financial returns to the owners of the property. He indicated that due to the state of the travel industry now the hotels would probably be almost impossible to finance and would delay the development of the Times Square area. He encourages the Council to vote against rental units in this area and give the visitors and residents of this wonderful island a fine and interesting retail area to frequent and enjoy. He thanked the Council for allowing him to speak and understands the difficult decisions they have to make.

Anita Cereceda - 7307 Estero Blvd., FMB came forward and indicated that she has had approximately 100 phone calls on this project, since she returned from vacation. She expressed that this is not a question about big developers. No one on the Council presently nor in the past has ever promoted developers. It is a question of what you want to define as the vision of your community in the core commercial district of this island. They have spent five years discussing this matter as a community. A creation of a Main Street was discussed. The Comprehensive Plan diminished potential density in this commercial district, and no one seems to be paying attention to this. It is a good plan and an amendment worth adopting providing that they all go back and look at the meeting minutes where she pleaded not to have mandatory design guidelines. The community needs to look at what they want to create on this street. If it is the old time Main Street they are looking to create it will consist of mixed use, and will give the small business owners the opportunity to create this opportunity for them.

Rusty Davison - 908 North Street, FMB came forward and indicated that in 1983 he

moved to Old San Carlos Blvd. and bought a tacky little motel. He was surrounded by other tacky little motels. He feels what is being done is terrific and a great improvement to the whole area. He has lived there for 15 years and to see this type of growth is tremendous. He feels that they are creating a beautiful little village.

Jane Plummer - 340 Fairweather, FMB came forward and complimented the Old San Carlos Plan. She has studied it and feels it is a great plan. The changes that have been made make sense. If you were to come to more meetings then you would be more educated. Everyone is afraid of change. Times Square and the pool had a lot of opposition in the beginning. They have done great things for this community. Do they want to have their core area become obsolete because the properties are not worth improving, and because they do not have good uses for these properties? It does not make sense to improve something if it cannot function as what it is improved. Competition brings better things to those around us. She feels that it is a great opportunity to have something wonderful happen on this island at the expense of someone else.

Michael Lund - 300 Bahia Via, FMB came forward and expressed that as a previous Vice-Chairman of the old CRA it was envisioned back then an improvement along the San Carlos road. They have been looking for it for a long time. He feels that it is great to make it a pedestrian friendly shopping area. He feels that it is wise to do everything possible to encourage the local business people to develop this area. His opinion is that the Council should amend the Comprehensive Plan and encourage business people to go ahead with these improvements.

Bill Whitacre - 1000 Estero Blvd., FMB came forward and indicated that for a short time he served on the original CRA. He is a small business man. The people who are willing to develop the Old San Carlos Blvd. are small business men also. He finds it very difficult to find a valid reason why this is hurting the rest of the island. He supports this change in the ordinance and feels they should move forward.

Deborah Drake - 7925 Estero Blvd., FMB came forward and indicated that she had moved here three years ago from the outskirts of Detroit, Michigan. Any amendment that will support the people who will invest, clean it up and improve the island she feels they should pass.

Martin York - 1130 First Street, FMB came forward and indicated that he has seen the change in the Times Square area and feels that it has done a lot for the community. He feels that they ought to go further ahead and change the word blight to bright!

Keith Persky - 219 Carolina, FMB came forward and expressed that he has not heard a hard and fast limit on density of the hotel rooms per acre. He indicated that the traffic has been steadily getting worse. He does not see the people coming on vacation and parking their car for the whole stay. He does not see how this will benefit the island to sit in traffic longer. As elected officials the Town Council has the responsibility to benefit the constituents. There is only one way on and off the island. He indicated that they would not be doing the constituents any favors by making the traffic worse.

Bill Freeman - 340 Old San Carlos, FMB came forward and indicated as a small business owner in the area he recommends that the amendment gets passed to help beautify the area.

John Richard came forward and congratulated the Town for the plan on Old San Carlos. He indicated that the Town was smart to hire Victor Dover. In the beginning he did not buy into the plan, but after studying it he realized that it was a great plan. Just as re-doing Times Square and the pool were also great ideas. Now is the time to move forward.

Tom Merrill came forward and indicated that he feels the plan makes sense. He feels that the concerns are what the cost will be for the give away's that are being given. He believes that there has been a change in the parking situation. He indicated that in the future not to come back to the residents and indicate that a parking garage needs to be built. He also looks at

the water situation. If they end up building a bigger capacity for water and sewage - Who will pay for this? As long as they have it under control that there are no more costs to the residents for sewage and water this would make more sense. It would be a great plan as long as it does not burden the residents. He feels that this is not the original plan. They started out by considering that people would be living above the storefronts, and now they are in a situation with hotel rooms with transient people staying above.

Lucinda Keller came forward and expressed - Why do people come to islands? She feels that they come to islands as tourists and residents because they are different from where they came from. She feels that this island is beginning to lose its quaintness. Why do they need to have building three stories high all in a row with window configurations all alike? She feels that it is too much of a manufactured look. She is opposed to this amendment. Her prediction is that the beach is turning into a city. People will not come to the area and business will drop off.

Mark Levikson - 501 Palermo, FMB came forward and indicated the beach has come along way. He feels that Times Square looks great. He feels very comfortable about letting his children go to the Times Square area. The Town is being built for their children. Change must take place. He feels the traffic has gotten better, but does not want to see it get worse.

Bill Spikowski addressed the concerns of parking. When they were working on the Old San Carlos/Crescent Street Master Plan two alternate re-development plans were brought to the Council and the LPA. One was concerning how much development could take place without parking garages and the other was what could happen if you were willing to build parking garages. Three locations for parking garages were looked at. It was the unanimous direction of the Town Council that the non-parking garage scenario was the one of choice for the community. Parking would be provided behind these buildings. He indicated that these buildings will be very shallow. They are not planning to come back to the community to build a parking garage at public expense.

He referred to height. The new regulations will reduce the maximum height that is now allowed. Buildings can now be four stories. If the regulation is adopted it will be three stories. It will put a absolute cap at four and the Council may consider under special cases. The standard limit will be three stories. The second and third stories are not being given away to people. The Main Street theme allows people to want to walk along and gives them the sense of enclosure.

He mentioned that they had discussed apartments above the shop fronts, instead of hotel rooms. This is allowed and encouraged. One of the problems with this is due to the restriction of density across the island that the number of apartments a landowner is allowed to build would barely fill one floor. They are trying to provide a variety of options that include office space, hotel rooms and restaurants if they have a lot of parking. It will be the mixed use Main Street they are trying to create.

Councilman Reynolds questioned Bill Spikowski's chart regarding the impact of water, sewer and parking on the different scenarios of use for the second or third stories. Bill Spikowski reviewed and clarified his concerns.

Councilman Reynolds asked Bill Spikowski how he would explain a back up to people sitting 1 ½ hours to get on and off the island? Bill Spikowski replied that the back up is coming onto the island in the morning, peaks and can hold during the day. If they are going opposite the direction of everyone else it is a whole lot easier, and the impact will not be the same.

Councilman Reynolds indicated that the units restricted by Council 1 to1 was done for a reason. This reason was so this area would not become overdeveloped. He referred to the plan indicating mixed uses. Any can be turned into hotel rooms. He is concerned because this would be a high use if turned into hotel units. What will happen to the intersection? He asked Bill if he saw any excessive square footage/density? Bill Spikowski replied that if you have a building you will have more vehicles than if you have no building. The Town has been so careful to make it clear that overdevelopment has been the problem and caution has been part

of the plan. There are two areas in the Town's Comprehensive Plan that they may have relaxed things a bit. This would be to create a Main Street and to help people with obsolete buildings. Both will result in new construction. The Old San Carlos area is only a total of 10 acres of land. Currently they have two buildings that owners want to put hotel units upstairs. The others have no interest in hotel rooms. They are unsure that even the two will go ahead with the number of hotel rooms they are allowed.

Councilman Reynolds asked Bill for his feelings on the increase in traffic? Bill Spikowski replied that they are still operating under the old code. These studies will over state the amount of trips to come. He does not know how reliable these would be at this point.

Councilman Reynolds is concerned with losing the ambiance and asked for Bill Spikowski's opinion? Bill Spikowski replied that he can not think of a better way to create the small town feel than to build the town center. This will allow people to be out on foot and not driving up and down the street. This is the essence of the small town feel.

Councilman Reynolds indicated that Bill Spikowski has done a nice job preparing his documentation. He does not agree with the intensity of where they are going. He thanked him for his patience.

Mayor Hughes asked Bill Spikowski to summarize what the Comprehensive Plan does to reduce density on this island? He would like this clarification to hopefully straighten out some people present this evening with open minds.

Bill Spikowski replied that two of the biggest changes made in 1999 by the Comprehensive Plan were the reduction of the beach front development potential and lowering of density from 6 units per acre to 4 units per acre over a large part of the island. The effect of these two were tremendous. When the state reviewed the plan they were very favorable. They realize how difficult it is to roll back development densities on popular islands.

Mayor Hughes indicated that he is very proud of what has been done by the community. All council members have been concerned with density.

Councilman Reynolds would like to know if it is possible to specify a specific number of allowable hotel units? Must they leave it open ended? Bill Spikowski replied that they may be able to. He does not know that they will have a need for this. Most do not want to do hotels. He feels that a numerical limit will be confusing and is not sure if it is worth the trouble.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Ryneerson to adopt Ordinance 01-07 - Comprehensive Plan Amendment, Application 2001-1-TEXT and Application 2001-2-TEXT. **Role Call Vote. Vice Mayor Ray Murphy, aye, Councilwoman Terry Cain, aye, Councilman Howard Ryneerson, aye, Councilman Garr Reynolds, no, Mayor Daniel Hughes, aye. Motion passes 4 to 1. Councilman Garr Reynolds dissenting.**

MOTION: Made by Councilman Garr Reynolds and seconded by to table the Amendment.
Motion fails for lack of second.

Discussion: Councilwoman Cain indicated that when she came here this was the Main Street. A couple bars, hotels and real estate offices existed. This was a very busy area 20 years ago. The traffic is coming from Lee County. It is the day trippers coming over and the big developments in Lee County that are creating a great deal of their traffic problems.

Councilman Ryneerson feels that what will be done to the infrastructure is

so small that it will not even be counted. They have a supply of unlimited water. They have a capacity of 6 million for sewer. Today they are using \$4,415,000.00 gallons. They have \$1,900,000.00 gallons per day before they even come close to worrying about the infrastructure. This is not an issue. This is a perfect place for the Main Street. The vision is still there and he feels that they will not be over burdening the traffic.

Vice Mayor Murphy felt that when this process started many years they brought in the best possible consultants that money could buy. He feels that they have done pretty well. A vision was created and he feels that this has not changed. He expressed his vision of the Town atmosphere created by bringing the residents together. It all boils down to traffic. He does not enjoy sitting traffic. The Council is concerned with a potential drop in revenue. He hopes to be sitting in traffic this year, because a drop in traffic indicates a serious problem. The traffic is what fuels their economy, and keeps them going. When the cars are not out on the Boulevard it is going to be a sad day for Fort Myers Beach.

Councilman Reynolds read several lines from letters he has received.

Mayor Hughes responded to the motion to table brought forward by Councilman Reynolds. This has been before the Council 5 times. He feels that they have had a wonderful cross section of opinions from the community. He makes his decision based on the merits said by each member from the community. He is delighted that they have the local business people who are willing to spend the time and money to bring the concept they have dreamt of and hoped for. He does not believe that the change in uses on the second and third floor really has that much of a material effect on infrastructure. The impact on water and sewer would be minimal. He does not have a great concern for negative impacts. He does see a lot of positive impacts.

Councilman Reynolds asked Mayor Hughes when the last time was that he received 100 letters on one topic? Mayor Hughes replied that the last time was 2 years ago when they had an election.

Councilman Reynolds went on to add that they were against tolls and this project. Mayor Hughes replied that he received the letters and they were on tolls. He expressed that for Councilman Reynolds to characterize those 100 letters on tolls as being against this plan is really a very improper characterization. The letters were addressed to himself and Councilman Reynolds, and he has responded to them.

C. FINAL PUBLIC HEARING: Ordinance 01-05: Jetski/Parasail

Vice Mayor Murphy began by reading the ordinance. Mayor Hughes expressed that this has been up before the Council and is now the final hearing. Bill Spikowski has made some changes as a result of concerns and comments from previous meetings.

Bill Spikowski came forward and stated that items 1,2 & 4 are straight forward and implement their direction from the last meeting. He indicated that issue 3 is the only one unresolved. Discussion was held at the last meeting regarding the 24 square foot allowance for signs on the booths on the beach. His original proposal to the LPA was to allow signs no larger than 8 square feet, and to allow up to two of these signs. The total sign area would have been 16 square feet. The 24 square feet in the draft came from the LPA after they heard testimony from one of the operators who had asked for more flexibility. A decision would need to be made this evening which way they would like to go.

Councilwoman Cain indicated that the booth size is 4 x 6, and if the signs stayed at 24 square feet the booth could be all sign? Bill Spikowski replied that this would depend. 4 x 6 is the horizontal size and it does not indicate how high it will be. Some situations exist where a large sign is not necessary, and in other large locations the need for larger signage exists. He indicated that this would be a judgement call for the Council.

Mayor Hughes would like to keep the sign at 8 square feet, but they would be able to have up to three signs. None of the three signs could exceed 8 square feet in size.

Councilman Reynolds does not agree and does not understand why they would need a sign larger than what is allowed for real estate establishments. He does not understand the reasoning behind such a large sign. He feels that they should restrict them the same as real estate signs.

Councilman Reynolds referred to #9 of Section 4 - Item B, it states that the associated equipment must be moved to the adjacent permanent structure. He indicated that this is nebulous. He would like it to read "to the land based business location". He indicated that this is more specific.

Bill Spikowski replied that the adjacent permanent structure language is just verbatim from the Beach & Dune Ordinance. He does like the land based language better and is clearer.

Mayor Hughes asked for public comment at this time.

Richard Ramaden - 16429 Edgemont Dr., Ft. Myers, came forward and indicated that he has a few items to bring to Council's attention. He referred to 27-50 #3, which states that all business transactions such as the exchange of consideration or remuneration or any type of transactions between the PAL and the customer shall occur on the land based site, for which the occupational license is issued. He expressed that they may sign up four parasailers on land and two observes may come out with doubts. Once they are out on the boat they want to go for a parasail ride. He feels a little language change needs to be made allowing someone who changes their mind once they have boarded the boat to do so.

Mayor Hughes indicated that this is not a new provision that Mr. Ramaden is speaking of. This is the existing provision. He clarified that he is looking for Council to add it to be amended. Mr. Ramaden replied that this is correct.

Town Manager Segal-George replied that all of this goes back to the original ordinance. She wrote the original. It was done as a collaboration of the parasailers and jetski operators that were on the island at the time. One of the reasons this provision exists is to prevent soliciting and payment outside of the land based operation. It must be paid for at the business location. A lot of these problems existed in the past where people would walk up and down the street selling rides or in other stores or operations. This was the rationale for this provision when it was created.

Richard Ramaden discussed the signs. He asked if they would be able to fasten or lean a sign up against their table or will they be required to have a fixed booth? Mayor Hughes replied that the ordinance states that it must be painted on or mounted against the structure.

This would not allow for leaning a sign up against something. He asked for Bill Spikowski to reply.

Bill Spikowski responded that under this revision a person would be allowed to use a table instead of a booth. The requirement is that the sign be mounted flat against it. If they were to have a table the sign would need to be connected to the table. He feels that this could be easily accomplished.

Richard Ramaden asked if the Council would be willing to allow a small A-sign on the beach, if they were to use a table? Mayor Hughes replied that this is permitted in another section, but not on the beach.

Richard Ramaden questioned 27-58 and feels that the following information should be considered for adding to the ordinance. All operators of the personal water craft are responsible for their damages. A discussion was held among Council and Town Manager Segal-George. This information should be already included in the contract for the business operators. Richard Ramaden replied that it is, but felt that it should be included in the ordinance also. Town Manager Segal-George commented that the Town should not be getting involved in agreements between renters and business owners. This is not the Town's business.

Richard Ramaden went to 27-49 on page 4 of 11. He asked if this meant they can move their operation off the land, which they lease or own, out onto the public beach or must they keep this booth and conduct business on the land that is leased or owned by them? Bill Spikowski replied that in order to operate as a business they must have a land based site that meets the zoning criteria. They are also allowed to set up a booth on the beach adjoining the land based site. A little spot out on the sand cannot be the only thing they have. This will not meet the requirements.

Councilman Reynolds referred to item D and felt this would answer the question of Mr. Ramaden. Mr. Ramaden replied that this does not answer his question. He went on to further explain to the Council his question.

Town Manager Segal-George replied that all operators have been able to have their equipment down on the beach. The only way to determine where the property ownership starts and stops would be to have surveys done up and down the beach. This has not been done. She knows that there has been an issue regarding the Lani Kai, but it has been allowed up and down the beach for any of the operators to bring their equipment down to the water line.

Councilman Reynolds indicated the practice that has existed for the past six years has been that the operator can go out to the water's edge, as long as they stay within the confines of those straight lines of the business. They have had no problems with this.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to adopt Ordinance 01-05: Jetski/Parasail with the incorporation of all recommendations set forth in Bill Spikowski's memo. The sign should be amended to read a maximum of three signs permitted, not to exceed 8 square feet in size per sign. Section 4, #9 - Item B to be amended to read to be moved to the adjacent permanent structure and landward of any seawall. **Role Call Vote. Vice Mayor Ray Murphy, aye, Councilwoman Terry Cain, aye, Councilman Howard Rynearson, aye, Councilman Garr Reynolds, aye and Mayor Daniel Hughes, aye. Motion passes unanimously.**

D. RESOLUTION 01-31: Amending legal description of Resolution 97-25

Attorney Dick Roosa indicated that there was an error in the legal description of the first resolution. In order to correct this error the proper legal description is identified in Exhibit A. It was prepared by S & H Land Survey Company. He feels that the legal description is correct.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to approve Resolution 01-31: Amending legal description of Resolution 97-25. **Motion passes unanimously.**

E. DISCUSSION OF LAWLER'S MAINTENANCE CONTRACTS

- 1. Skybridge**
- 2. Mound House**
- 3. Garbage**

Town Manager Segal-George expressed that the Council has a memo in their packet and they have three contracts for Lawler Maintenance. The fourth contract will come in October. She indicated that they have had some of these contracts for over four years. She believes that Ed has done an excellent job. He has had no increase in his contracts during any of this time. He is asking for a 10% increase in each contract. The 10% is reflected in the contracts before Council. In regards to the Mound House, it was originally bid and Ed was the low bid at that time. At that time it was \$185.00 a cut for the lawn at the Mound House, and this contract indicates \$200.00. The Skybridge also went to bid and Ed was the low bid. There have been two different times when the merchants have tried to determine whether they could do the garage pick-up cheaper than what Ed has been doing it for. Either time they have not been successful in coming anywhere close to the price in this contract. Ed is present in the audience for questions.

Vice Mayor Murphy wanted to second the statements made by the merchants down in Times Square regarding his work. He commented that they appreciate his efforts. He was out early to help begin the clean-up process after Gabrielle.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve the Lawler's Maintenance Contracts. **Motion passes unanimously.**

F. COMMITTEE APPOINTMENTS:

- 1. Bay Oaks Advisory Committee**
- 2. MPO: Citizen Advisory Committee**

Town Manager Segal-George commented that two people are requesting to be appointed for Bay Oaks and they have one appointment.

MOTION: Made by Vice Mayor Murphy and seconded by Councilman Howard Rynearson to appoint David Upton for the vacancy at the Bay Oaks Advisory Committee. **Motion passes unanimously.**

Discussion: Vice Mayor Murphy expressed that he knows David Upton, he has been here a long time and is very active at Bay Oaks. He feels that he will take a keen interest in the operation. He does not know Beth Wright and indicated that this does mean she is not as qualified.

Mayor Hughes asked that staff notify the above and express to Beth Wright their appreciation for volunteering and they hope she will submit her name in for future vacancies.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to appoint Mr. Bagley for the vacancy on MPO: Citizen Advisory Committee. **Motion passes unanimously.**

Discussion: Councilman Reynolds expressed that he is very happy Mr. Bagley has put in for this position. He does not understand why they cannot have a representative from the Town.

Mayor Hughes replied that he has a residence on the island.

G. RESOLUTION: 01-32: Impact Fees for School Districts

MOTION: Made Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to approve Resolution 01-32: Impact Fees for School Districts. **Motion passes unanimously.**

H. INQUIRY TO POSSIBLE LAND ACQUISITION

MOTION: Made by Councilman Howard Rynearson and seconded by Vice Mayor Murphy to deny request. **Motion passes 3-2. Mayor Daniel Hughes and Councilwoman Terry Cain dissenting.**

Discussion: Vice Mayor Murphy agrees with Councilman Rynearson. He expressed that if there is need for this property Mr. Yax should sell to them for \$1.00. He does not feel that there is a need at this time.

Councilman Reynolds agrees. If it does not go anywhere he would like to stick by what has been said that it will be established as a public parking lot with him using it as needed. He believes that this is what has been approved.

Councilwoman Cain understands and if it were acquired she would like to see a park. She feels that they need to make a criteria list of what they want to acquire as far as land, and what they would like to have as far as parks.

Mayor Hughes agrees with Councilwoman Cain. He recalls earlier hearings when Mr. Yax offered to give them the property. He feels that it would probably be below fair market value. An appraisal would need to be done. He would like to look into this further.

Councilman Reynolds would not want Mr. Yax to feel they are closing off on this. He feels if Town Manager Segal-George or Deputy Town Manager Gucciardo have the opportunity to discuss with him his direction, and see if he would be willing to work with the Town to make this a park. Town Manager Segal-George replied that she has been told by Mr. Yax that he has another buyer. She understands that he will not be

keeping the property.

VIII. COUNCIL MEMBER ITEMS AND REPORTS

Councilman Howard Rynearson - Would like to take the opportunity to thank staff for all of their work during the storm. Also, the Fire Dept. and Police Dept.. He was at the command center and they worked very hard and everything went very well.

He indicated that they were at the League of Cities. It was a very good meeting.

Ground breaking took place for the pool sidewalk. He feels that it is great they are moving forward with the projects in the Town.

He mentioned that they all went to the Horizon Council meeting. He felt that it was very good. He commended Mayor Hughes for the great speech that he gave.

Councilman Garr Reynolds - He indicated that a campaign is coming up and they will be displaying signs. He hopes that Town Hall and Code Enforcement will keep in mind that the signs can only be up for 30 days. Sometimes because of vegetation it is impossible to get all the way back beyond the right of way line. He indicated that last year the Code Enforcement officer collected signs from his yard and his neighbors yard, and these were clearly out of the right of way. Code Enforcement was told to take everything out of the right of way by the Town Manager. Also, all the signs were not removed. He referred to situations at Smuggler's Cove and the Red Coconut. Further north signs were not even touched.

One candidate presently feels he is being harassed, because he is running for Council. Somebody called the Town Manger and indicated that a candidate had a sign in a store. When the gentleman was called about it he explained that he had checked the statutes and it was OK. The informer was not revealed. He feels that this is a shady way to have the Town run, and he would like to see it stopped. He asked for council members to support this idea. The Town Manager has called this candidates boss twice complaining of the petty problems regarding this Council candidate. Councilman Reynolds has gotten to know this man and he assured Council that he is a gentleman. Neither the Town Manager nor anyone else had complaints about this man before he became a Council candidate.

At the last election businesses would not allow signs in front of their properties for candidates, unless the candidate let them know that they would be sympathetic to the business and their problems if elected. He feels that this is not fair. All candidates are for local business and do not always get recognition. These are his views only.

He discussed the world disaster and indicated that it is a shame for the people who have lost their lives. They were not the enemy to anyone. He feels that Bin Laden is a beast, sub-human, maniac and mass murderer. He and his name should be erased from this earth. God bless our country.

He discussed the new pool walk and feels that it will be helpful.

The Town employees salaries packet that he requested at the last meeting has not been fulfilled. He only received base salaries. His request still stands to please supply all council members with a complete salary package and benefits for each employee.

The Comp Plan brief history was sent to everyone, and he felt that they needed a little background on it.

Mr. Russo was going to prepare an amendment regarding the Minimum Use Development Ordinance that would allow Council to view and individualize cases and situations in accordance with the different circumstances related to full sized building lots that may have an encroachment. He asked if he will have this soon? Mr. Russo replied that he would.

He discussed a letter from Mr. Wiebe and he mentioned that he was in the stage of renovating some of his business property. He is wanting to build a 10 foot sidewalk extending into his property, which was discussed when he came in earlier. He feels that this is an excellent idea. He feels that they should go along with this and no strings should be attached. The request is reasonable.

He feels that Tom Merrill has good ideas from time to time. He thanked Mayor Hughes for allowing him to speak when he did at tonight's meeting.

Mayor Hughes commented on the right of being able to put a candidate sign in a business. He indicated that by not being able to do this it would be a violation of the constitutional right of free speech. You cannot restrict a business from doing this.

Town Manager Segal-George responded to Councilman Reynolds comment on the gentleman running for Council. She recalls the information that Councilman Reynolds has stated. She indicated that she is very sad, and it is unfortunate that she has sat here for the past 5 ½ years and listened to Councilman Reynolds make different accusations against her. The latest is in regards to Mr. Barber. She expressed that the information he has provided in regards to Mr. Barber's sign and her involvement along with the contacting of his employment is absolutely false. Any of the Council members can call his employer to see if she has contacted them. She does not know the man and she does not know what he does. She has no desire to find out anything about him. She feels tonight's comments are in a long line of distressing accusations. It seems easy to always state that the Town Manager is doing these things, even though it is stated that it is not personal. She does not know how it can be interpreted anyway but personal. She had nothing to do with the sign issue. An anonymous sign complaint came in and she is unaware of who made it. She had not one thing to do with it. As far as she knows Ginny Ross treated him very fairly, and treated him the same as any candidate with a sign issue. She discussed the issue with him, it was determined that it was not a violation and this was the end of it. She is sorry and continually perplexed by this constant desire to accuse her of doing these type of things that she has not done.

Councilman Reynolds responded that he is not giving a personal accusation. He is reporting information that was brought to him.

Mayor Hughes commented that one should be careful about criticizing somebody in public, unless they are absolutely sure of their facts.

Councilwoman Terry Cain - Had a great luncheon with the gentleman at the Southwest Florida League of Cities honoring Jane Parker. It was an update of the local cities. It was very interesting to hear the good and bad.

Ground breaking for the pool was a lot of fun.

Coastal Clean-up was a great success. More trash was brought in than anywhere in Lee County. This could be a good or bad thing.

She attended a class on Saturday morning at the Mound House by Rebecca Harris for children in regards to archaeology. It was a lot of fun.

National Estuaries Day is coming up this Saturday. She is suppose to be doing a tour in the Matanzas Pass Preserve. Due to the storm a large tree is down and some of the boards are up on the boardwalk. They will try to do the best they can to get it fixed up, but by Wednesday she will regroup and try to figure out what may be done in place of this tour.

Monofilament Madness is Sunday, October 28.

Vice Mayor Ray Murphy - Went to the opening of the new Hyatt today. The Mayor was present along with others from the Town. It was very nice.

He indicated that he has been very critical in the past regarding the minutes, and feels that it is only fair to now state that they are great. He commented that the new transcriber is doing a great job. He expressed his thanks.

Mayor Daniel Hughes - Indicated that most have touched on the items he was going to comment on. They have had a traumatic two week period between the terrible situation, which occurred the day after the last meeting on the national level.

Mother nature hit them later on in the week on a local level. Staff performed marvelously. He commended staff for their efforts.

Tomorrow is the hearing on the redistricting and he plans to attend this. Anyone else has the right to attend and express their concerns.

IX. TOWN MANAGER'S ITEMS

Town Manager Marsha Segal-George - Needs Council to lift their declaration of emergency.

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to lift the state of emergency. **Motion passes unanimously.**

She went on to remind them of the ground breaking on Wednesday at 10:00 a.m. on Lenell for the sidewalks.

X. TOWN ATTORNEY'S ITEMS

None.

XI. APPROVAL OF MINUTES: AUGUST 27, 2001 AND SEPTEMBER 10, 2001

MOTION: Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to approve the minutes of August 27, 2001 and September 10, 2001. **Motion passes unanimously.**

Changes and Corrections to minutes of August 27, 2001

1. Mayor Hughes, page 8 & 9 - Should read Jake Slote, strike Slatte.
2. Mayor Hughes, Under Member Items and Reports, page 12 - Add last name Young to follow Philinda. Also, add after date: regarding change in election dates.
3. Councilman Reynolds - Page 5, under discussion - Sentence to read Public accesses will be marked and a gulf view will be enhanced. Strike " he does not see where".

XII. PUBLIC COMMENT

None.

XIII. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.

Respectfully Submitted,

Shannon Miller
Transcribing Secretary