

**FORT MYERS BEACH
TOWN COUNCIL MEETING
MARCH 6, 2000
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

Mayor John Mulholland opened the meeting on Monday, March 6 2000, at 6:35 p.m.

Council members present at the meeting: Anita Cereceda, Daniel Hughes, John Mulholland, Ray Murphy and Garr Reynolds.

Town Staff present: Town Manager Marsha Segal-George, Pam Houck, Attorney Richard Roosa.

II. PLEDGE OF ALLEGIANCE

Everyone recited the pledge of allegiance.

III. INVOCATION

The invocation was given by the Reverend David Pierce, Chapel by the Sea.

IV. PRESENTATION BY BUILD-A-POOL FOUNDATION

Kitty Taylor and Debra McIntyre presented a check in the amount of \$50,000 that had been raised by the pool foundation.

V. PUBLIC COMMENT

A. JOHANNA CAMPBELL

Mrs. Campbell advised she is against an extension of the noise waiver for the Beach Pub. She has seen no abatement of the noise level and is afraid of opening up a Pandora's box of similar requests.

B. MITCH CRONE

Mr. Crone owns the property adjacent to the Beach Pub and advised that since the Beach Pub was granted a waiver for the noise level on Sunday, the situation down there has become unbelievable with wet T-shirt contests and attracting hundreds of teen agers. Music is played seven days a week, not just on Sunday.

C. AL BLOOMQUIST

Mr. Bloomquist echoed the sentiments of Mitch Crone that the noise level at the Beach Pub was too high and a lot of disturbance was being created there.

VI. CONSENT AGENDA

A. Review of Financial Reports: January 2000

B. Beach Project Funding Assistance Letter

MOTION: Moved by Ray Murphy and seconded by Anita Cereceda to approve the consent agenda. Passed unanimously.

Discussion:

Vice Mayor Dan Hughes commented on item B, stating that John Gucciardo had prepared an excellent letter. He would suggest, however, that in the very last paragraph where it says "Please help us remove reimbursement caps ..." we should change this to read "Please help us by voting to remove reimbursement caps ..."

VII. ADMINISTRATIVE AGENDA

A. Request from Beach Pub to extend noise waiver

Mr. O’Gilvie outlined the improvements that have been made since the Pub was granted a waiver: the sound system has been redirected; there is a barrier to control sound; comments from those in the area have been favorable; no complaints from police.

In answer to a question from Mayor Mulholland, Mr. O’Gilvie advised that the type of speakers they have channel the sound greatly. In fact, when they elevate the speakers, the possibility of there being any kind of vibration through the ground is reduced. Sound is projected straight out onto the ocean. They have also built 8-foot tall plywood and 2x4 barriers so that deflection of the noise is away from the neighborhood.

Attorney Roosa said the first threshold question is whether the Council wishes to hold a hearing to determine whether or not they would extend the variance. His recollection of this variance is that it was an attempt to allow for the time necessary for certain corrective measures to be performed, and he thinks the property owner has performed those corrective measures in order to bring it into compliance. And so it would be expected that if all the improvements are done, then there should no longer be a need for a variance to the ordinance. But if that's not the case, then the Council should set it for a public hearing.

Mayor Mulholland said that he's not aware that what was done does bring it into compliance. It might be fine, but it might be lacking. Attorney Roosa said the test would be when the sheriff comes out there with his decibel meter and makes a determination as to whether or not it violates the statute.

Town Manager Segal-George said what she recalls is that the Council was giving a waiver of 90 days so that the parties would have an opportunity to try and work out the difficulties. She doesn't believe anything was specified in the letter with regards to exactly what had to be done. It was more of an attempt for the parties to work something out so that they could peaceably coexist together. From Mr. Crone's comments, she doesn't believe they have gotten to that point. Vice Mayor Hughes agreed with this and said he also recalls that the ordinance provided that the waiver could have been for six months but we limited it to 90 days.

MOTION: Moved by Dan Hughes and seconded by Anita Cereceda to table this matter and ask that the staff request the sheriff to check the decibel level at the next Sunday concert and, perhaps, have someone from the staff present to observe the situation and report back to us at the next meeting. In the meantime the matter would be held in abeyance.

Discussion:

Councilwoman Cereceda said she would second this for discussion. She said she was uncomfortable with saying that it would be next Sunday, because that may then

make that Sunday an exception to the rule. She would change the motion to ask that the sheriff randomly monitor the area. Vice Mayor Hughes felt that this was a good point and said he would amend his motion. But he would ask the Town Manager when she would suggest that this come back as we do have a time frame here.

Councilman Murphy asked when the 90 days were up, to which Town Manager Segal-George stated she believed they were up yesterday or today.

Mayor Mulholland asked shouldn't it be demonstrated to the Council that things have been worked out, that the neighbors find the situation acceptable? He would prefer to set this for a public hearing rather than continually extending it.

Town Manager Segal-George pointed out that there are two issues here. One is whether the sounds are being moderated sufficiently so that a waiver is no longer necessary. The other issue is that the neighbors feel there are activities at the Beach Pub which they believe is not making the owner a good neighbor. We can test whether the noise level is satisfactory. But there needs to be discussion between Mr. O'Gilvie and the neighbors regarding the activities at the Pub.

Councilman Reynolds asked if a temporary structure satisfied the permit requirement for building a structure. Town Manager Segal-George said she didn't believe that would trigger a permit. Mr. Reynolds feels that a loose structure would be a concern in a hurricane.

Vice Mayor Hughes said he would withdraw his original motion and make a new motion.

MOTION: Moved by Dan Hughes and seconded by Anita Cereceda that this matter be continued to the first meeting in April. In the interim period, the Council would request the sheriff to have the random test and report back to us at that April meeting. If at that April meeting the test shows that they're no longer in violation, then that's the end of that. But we should set a public hearing in the event that they are not in compliance for the April 3 date so that we then won't have to have another meeting to set a public hearing.

Councilwoman Cereceda withdrew her second of the first motion and seconded this motion.

Motion passes 4-1. Councilman Reynolds gave a nay vote.

B. Wilson Miller presentation on Estero Boulevard

A screen was set up. Bruce Rankin asked us to step five years into the future when Estero Boulevard has begun to take shape as the identifying element of the Town of Fort Myers Beach. It's tree-lined, it's shaded, it's a safe and attractive place for people to walk and bicycle. The trolleys run freely the length of the island.

Mr. Rankin explained Estero Boulevard as the key route on the island. Presently the south end is open and hot. Further north are driveways and buildings that are close to the street. The greatest demand for the use of the right-of-way occurs on the narrowest right-of-way. We see congestion here and people, bicycles and cars jockeying for position. As we look at the master plan, what's going to happen is that the width of the right-of-way as well as the activity that goes on along that right-of-way is going to have a

lot to do with how we put the components together to make up the Streetscape and what it will look like and feel like.

Mr. Rankin referred to the charettes where the community gave input on what they would like to see in the Streetscape. Several components are going to make up our Streetscape: trees, grass, the pedestrian system, lighting, bikeway, medians, roundabouts, trolleys and emergency lights. Wherever we go on Estero Boulevard in 2005 and beyond, most of these components should be present in most locations.

The pedestrian system is one of the most important elements. There should be continuous sidewalks on both sides of Estero Boulevard with defined edges so people know where they belong, where the cars belong; shade; safe traffic; driving speeds, refuge islands and well-marked, well-placed cross walks; visibility and street furniture.

Benches should combine wood and iron in some of the traditional forms. Trash containers want to go with the benches.

Lighting is probably one of the most important man-made elements pulling the Streetscape together. A hidden light source is particularly important because of the turtles on the beach. Placement of the fixtures respond to the change in character of the boulevard as it moves along. Above all else, get the utilities underground.

Bikeways should be well marked and easily identified.

Medians where appropriate can help us add trees and landscape to the street corridor. They provide pedestrian refuges for people crossing the street and turning pockets for people making left turns.

Roundabouts when well designed improve traffic flow by as much as 30% and reduce crashes by as much as 60%. They also create focal points along the island. They are a big help in managing cross walks, the absolute safest points where someone can cross the road.

The dedicated trolleyway is an important element because it can also double as an emergency access. If we can provide a free flowing trolleyway, we can attract more people to use it and still maintain and maybe even enhance emergency access throughout the island. It could run right down the middle of the road, even in the narrowest cross section if there is no median. Or a dedicated trolley lane could be put on the beach side of the corridor. Next to it could be a two-way bikeway.

On the map, Mr. Rankin pointed out the six segments of Estero Boulevard that are described in our comprehensive plan and advised that we are looking at the design of the boulevard in terms of those segments.

Sections were identified at the charettes that should be investigated for roundabouts. Two or three intersections in the area around Times Square could accommodate roundabouts. There are opportunities for roundabouts in the area around the library. One could be placed at the new Publix, at the high rise resort area both north and south of the Santini Plaza area, and then at the south end where it can particularly serve as a gateway and a traffic calming feature.

Mr. Rankin talked about the plan segment by segment. In conclusion he said that tonight they have summarized the concepts that we had talked about in the charrette and were here to confirm that these really do reflect what we want. If they don't, they can get the input and the adjustments and things that need to be made so that we can then go back and look at how much it's going to cost to do this, break that down into enough detail so that they can establish the building blocks to create the phasing to move on to the first

steps of implementation. At that point, the Council will take action to adopt the plan as it is finally resolved and initiate the first one or two phases of the construction.

Mr. Rankin was asked to show us again the dedicated trolley lane and how the trolleys can pass each other and how a fire truck can work through there with that traffic, which he proceeded to do. He advised that in the event of an emergency, the trolley could pull off into the bikeway enabling an emergency vehicle to go into the trolley lane. The trolley, emergency vehicles and bicycles could all operate very safely outside of the travel lanes of the automobiles.

Questions from public:

A. Al Van Horn

Mr. Van Horn stated that he thought that the diagrammatic overview had captured very well what was discussed at prior sessions. He asked if there was enough room at Times Square to accommodate a roundabout. Where does the traffic go inside of the roundabout to get out of the way of the vehicles and are the areas where they seem to be proposed wide enough to accommodate them? Mr. Rankin said the Council has asked them to come back on March 20 and dedicate the presentation just to that issue. They have detailed specifications for all the fire equipment that the Beach has and they have some good base mapping. So when they come back they can answer all of the questions. It's important enough to be given its own presentation. It does work he emphasized.

B. Chief Steven Markus

Chief Markus noted that they have been in communication with Wilson Miller and our staff. Their concern is making sure that they provide adequate services with reference to their emergency vehicles and have access in driveways and medians and roundabouts. The board is not opposed to anything in reference to beautifications, they would just like to have some input on the project. Mayor Mulholland told Chief Markus that he has assured him publicly and privately that we would not do anything to slow his response time or endanger the life and welfare of anyone on this island. They would rather have it ugly but safe. He would like him to feel comfortable with what is being done. He apologized for not having more information about the roundabouts tonight. Chief Markus promised to be here on March 20.

C. Bill Whitaker

Mr. Whitaker said that what they saw was beautiful but that it didn't show the fragmentation of all the side streets, all the driveways and the practical side of all this. He noticed little raised areas on either side of the driving lanes and asked if this was to discourage left hand turns across the other lane of traffic. He also asked where all the delivery trucks are going to go, how the mail was going to be delivered. Mr. Rankin said they showed two sections: one with a little raised hump between the lanes which would tend to discourage left turns. One of the things that will be an important part of the design development phase is the traffic management and access management plan that will help them to detail a number of these things. There will be places where the access management plan probably will suggest limiting left turn movements and other places where that won't be practical, so they'll need to be able to design it both ways. There are certain parts of the island where delivery vehicles are not as much of a problem as other parts. The way they would have to work with the dedicated trolley lane and the bikeway is that the separation between that and the street would be a mountable-type curb. It

would discourage the average motorist from driving up there, but they will have to find a way to accommodate the mail service.

Mr. Rankin was told by a speaker that he didn't see where expediting the traffic on and off the island was covered at all. Left turn lanes, which are one of the godsend now to keep us moving to some degree, seem to be omitted. Mr. Rankin said their scope is primarily to solve the Streetscape of Estero Boulevard itself. It is not a traffic enhancement plan as much as it is a beautification plan. That would be silly to do without doing something to improve the traffic conditions. But the off-island at each end is getting outside of the range of the beautification itself. One of the major problems down at the base of the bridge is the left turn movement. They are looking at a couple of alternatives, including the roundabout, and will be talking about them on March 20. And the Times Square area is one of the points that seems to be backing up the traffic in both directions. So if they can do some things to improve left turn movements in that zone, they should be able to help the traffic flow. The other aspect of the left turn movements is certain key points on the island where we need the left turns. They've identified potential roundabout locations which tend to facilitate left turns and actually improve traffic flow. This is the main device that they're looking at to keep those left turns moving more freely.

D. Flip Harby

Mr. Harby said that obviously from what we've seen tonight, if this goes we are in fact eliminating the center turn lane. Mr. Rankin added: in a lot of areas. Mr. Harby wished to know when we eliminate the center turn lane and have the dedicated trolley lane on the beach side, when our fire and rescue equipment has to go out on a call, where is the traffic going to go for us to get by? Mr. Rankin said that their assessment at this point is that if we have the dedicated trolley lane, they are assuming that the equipment can be run in that lane freely. Mr. Harby said he didn't know if that was a good idea. Mr. Rankin said that the concern that he would see is getting across two lanes of traffic to get to the dedicated trolley lane. But once we're in it, we should be free to use it. The trolley can get out of our way using the bikeway. They will be working on this in the next few weeks.

Mr. Rankin was asked if his firm was involved in the new roundabout at Clearwater Beach and he replied they were not. He was told that the roundabout at Clearwater Beach had 33 crashes in 27 days, each one shutting down the island, and no one at Clearwater is happy with the situation. Mr. Rankin said he was glad that they weren't involved. That is really a traffic circle and not a roundabout and there are some significant differences. That is a two-lane circle that takes up six acres as opposed to maybe an acre as a roundabout does. It is particularly confusing.

F. Al Bloomquist

Mr. Bloomquist asked Mr. Rankin if they had come up with an anticipated project cost for this whole thing and have tried the methods for which they would provide funding. Mr. Rankin said they don't have final numbers on that yet. That's one of the next steps they'll be taking up between now and the first week in April when this comes back to the Council. They have a lot of that cost basis right now but it's not compiled yet.

Vice Mayor Hughes noted that the traffic situation at Publix had been discussed at great length. He asked if it was conceivable that a roundabout might be considered as an ingress and egress. Mr. Rankin said that was one place they had considered as an

appropriate place for a roundabout. Vice Mayor Hughes said that if a roundabout were feasible in that location, it would be a shame to first spend a lot of money on a new entrance and then tear it up for a roundabout.

C. Public Hearing: Resolution 00-04, Palmetto/Easy Street Assessments

Public Comments:

A. Mrs. Norris recounted being on the bike path when a big truck came out of Mid-Island Laundry and struck her. They did not stop. She suffered no broken bones but her legs were ripped.

Mrs. Norris advised she lives on Dakota Avenue and has 2-1/2 lots there. She's been on the Beach for 34 years and remembers when Palmetto Street was opened. She objects to being assessed the amount of money she's being assessed on her property. She's 87 years old, living on a limited income, and finds her assessment a burden. She wonders why Palmetto Street has to be paved again when it is already paved past her house. She's already paid for it once in county taxes.

Attorney Roosa advised that this is a new resolution but that all the provisions in the old resolution have been carried forward except for Section II, which is the final assessment.

Councilman Reynolds noted that Palmetto Road has been paved for many years and Mrs. Norris is wondering why she is being asked to pay for it again. The four houses from Dakota back have been paying taxes for years. The county decided that they should have sewer and water through there and then they blacktopped the roads. Now, suddenly, the other end near Lazy Way needs to be improved and those folks just bought recently. He believes that the folks who have lived here these many years have paid their dues and he doesn't see in good conscience why they should pay for something that will not benefit them when they do not go out that way. For 4-1/2 years we've been collecting gas taxes which could be used for improving roads.

Councilwoman Cerededa wondered why the Norrises and another gentlemen who is disabled and appealing to the Council is on the list. Pam Houck stated that the reason why they're included is because the improvements go from Dakota to Easy and a portion of that pavement is going to be removed and drainage systems are going to be improved in that area. Asked how many properties were on the list, Pam Houck responded 25. How many properties that were paved are now being repaved? Pam Houck said she thought approximately eight. Anita Cerededa said she sympathized with Mrs. Norris and the people who are on the paved portion of that road.

Mayor Mulholland stated that Palmetto and Easy were private roads originally.

Vice Mayor Hughes explained the nature of a special assessment. The fact that you have a paved road already doesn't preclude the county or the town deciding that that's not an adequate road and doesn't have proper drainage. When a special assessment is concluded, the value of that property has been enhanced. And it certainly will be with a new road and proper drainage. And so in actuality the theory of a special assessment is that the property owners while having to come up with some money, which incidentally is very minimal -- in this case \$97 a year -- their property will at least be enhanced by that amount. A special assessment means that your property is being improved, it's a

local improvement, and the Town is paying half of that. But keeping that in mind, he would like to be totally convinced here that the Norris property, and in fact the total eight properties that Pam has referred to, are in the same situation and will have the same enhancement as do the other 17. The letter from the gentleman says he faces Dakota but has a Palmetto address. The question in Mr. Hughes' mind is whether or not the other 8 properties will receive the same benefit as the 17 properties.

Pam Houck said she thinks they are all going to receive great benefit. She doesn't know if we could allocate specifics on how much each person is going to receive. Certainly the people who are on the unpaved area are going to receive a greater benefit, but she doesn't know if there's a way to allocate dollars lot by lot. Mr. Hughes asked Pam Houck if the present road was going to be totally torn up and redone. It sounds to him like she's saying that they aren't going to benefit as much as the properties that are totally unpaved, in which case he would think that they would have a legitimate argument that their assessment, while not eliminated, should be less than the others.

The absolute start date for construction was determined to be April 3.

Town Manager Segal-George noted that this has been going on for a long time. In the beginning when the engineering plan was done for the road, the recommendation was that part of that pavement would have to be reengineered and that new drainage was going to be placed for the entire road; that it couldn't be done piecemeal; that it would not be as efficient if just the unpaved portion of the road were done. Also decided in the process was that the assessment would be divided among the properties that were affected and that we would not go into any other type of assessment methodology.

Councilman Reynolds stated that approximately 2-1/2 years ago the ditches were redone and the drains were pretty well taken care of because homes had been flooded out for many years. So that ditch does not have to be improved because it has already been done. They will tie into it and take it on out the other way, which would improve the drains in the whole area all the way back to Dakota on Palmetto also. But he agrees they are not going to benefit very much by this. The folks who have appealed to Council felt very strongly about this and he thinks it would be a legitimate thing for Council to accept this responsibility.

MOTION: Moved by Garr Reynolds and seconded by John Mulholland that the Norrises and Pettininis whose pavements have been complete for many years be removed from the list and that Council would approve their removal.

Discussion:

Mayor Mulholland stated we have an assessment of \$97 each on 25 homes. If we take two out, who's going to pay their assessments? Councilman Reynolds felt they had already paid that amount into the Town and he would like to see the Town pay that extra amount for these people and let the project go forward rather than delay it.

Vice Mayor Hughes said he has sympathy with these two people, but the fact that they are disabled is totally irrelevant. The fact of the matter is that all of the people who are subject to assessment have been paying taxes for years, including the people on Palmetto who don't have a road at all. The issue here is are they benefiting or are they not benefiting. This is a special assessment. If we give relief to the two people who have

asked for it, we have to give relief to the eight people that Pam was talking about. We can't just pick out somebody because they wrote a letter. There needs to be some logic to this, and the logic is what's fair, what's equitable and what is the effect on my property. Was my property enhanced or was it in fact not enhanced? Was it enhanced to the extent of the other properties or was it not? He's not prepared to vote for this motion in that way. Unless you totally restructure the assessment roll and add that cost to the other properties, then the Town has to eat it.

Councilman Reynolds said that the subject properties were not being enhanced. He's not asking for relief because they wrote a letter. He's doing it because circumstances have indicated they have paid this over and over and over again.

Mayor Mulholland, while in sympathy with the folks that Councilman Reynolds has identified, said that he reluctantly withdraws his second of the motion.

Councilwoman Cereceda said that she doesn't believe the Norrises should be on the list, but she doesn't know how we can remove the Norrises and leave everybody else in place.

Attorney Roosa said that one of the factors that must be considered by the Council is the increase in benefits. You can never levy an assessment against a property where the assessment is greater than the benefit to that property. One measure of benefit is that the Council has already paid half of the cost. But if we feel that there is a property that is not being benefited in the amount of the assessment, then we should adjust the assessments. Any adjustment we made has to balance out, so you can't have a motion to reduce without a motion to fund. Either we reassess everybody or provide the funds from general revenue.

The motion dies for lack of a second.

MOTION: Moved by Garr Reynolds and seconded by Anita Cereceda that we drop the Norris property from this assessment since it is facing on Dakota with a Dakota address and he doesn't believe that they will receive any appreciable benefit from whatever happens in that area.

Discussion:

Councilwoman Cereceda said she would second this motion and ask Mr. Reynolds to amend his motion to increase the Town's payment of \$97 annually to make up the difference.

Vice Mayor Hughes asked to be told if the Norris property is totally unique from all the other properties and can be distinguished from the property immediately adjacent to it. Pam Houck said she couldn't say it was totally unique, but it was more unique in that there will be less work done on that side and corner than on the southerly side. Vice Mayor Hughes also asked Ms. Houck about what benefit might accrue to the gentleman who wrote the letter, and she stated she thought he would benefit much more.

Attorney Roosa said that we should have a roll call on the amendment as we will have one on the resolution.

Motion carries 3-2 with Councilman Murphy and Vice Mayor Hughes dissenting.

Vice Mayor Hughes explained his dissent, saying that while he feels the Norrises are entitled to an adjustment, that they are not the only ones who are entitled to one and he doesn't find this fair. Councilman Murphy said he agreed with Vice Mayor Hughes that where you do it for one you must do it for others, and the Norrises won't be the last ones we'll hear about over this.

Councilman Reynolds said this is the night when people were to appeal and that anything that happens beyond this is almost immaterial.

Councilman Reynolds next referred to the letter received from Mr. Pattanini.

MOTION: Moved by Garr Reynolds and seconded by that we drop Thomas Pattanini's property from the assessment for the same reason as given before.

Motion fails for lack of a second.

MOTION: Moved by Anita Cereceda and seconded by John Mulholland to accept the Fort Myers Beach Resolution 00-04 as amended. Motion passes 3-2 with Ray Murphy and Dan Hughes dissenting.

D. Public Hearing: Amending Chapter 15: LPA

An ordinance amending the Town of Fort Myers Beach Code of Ordinances, Chapter 15, Town of Fort Myers Beach Local Planning Agency Ordinance, Section 12, Rules and Procedures providing authority, amendment to Chapter 15, Section 12, Rules and Procedures providing severability and effective date.

Public Comments:

None.

MOTION: Moved by Ray Murphy and seconded by Anita Cereceda to approve the Local Planning Agency change. Motion passes unanimously.

E. Public Hearing: Amending Chapter 16: MRTF

An ordinance amending the Town of Fort Myers Beach Code of Ordinances, Chapter 16, Town of Fort Myers Beach Marine Resources Task Force Ordinance, Section 12, Rules and Procedures providing authority, amendment to Chapter 16, Section 12, Rules and Procedures providing severability and effective date.

Public Comments:

None.

MOTION: Moved by Anita Cereceda and seconded by Ray Murphy to approve the Marine Resource Task Force change. Motion passes unanimously.

Mayor Mulholland explained that what we are doing is amending the meeting times

required by these advisory groups from monthly to a minimum of eight times a year. Some groups have difficulty getting a quorum in the summer.

F. Public Hearing: Amending Chapter 17: PSTF

An ordinance amending the Town of Fort Myers Beach Code of Ordinances, Chapter 17, Town of Fort Myers Beach Public Safety Task Force Ordinance, Section 12, Rules and Procedures providing authority, amendment to Chapter 17, Section 12, Rules and Procedures providing severability and effective date.

Public Comments:

None.

MOTION: Moved by Anita Cereceda and seconded by Ray Murphy to approve the Public Safety Task Force change. Motion passes unanimously.

G. Public Hearing: Amending Chapter 18: CELCAB

An ordinance amending the Town of Fort Myers Beach Code of Ordinances, Chapter 18, Town of Fort Myers Beach Cultural and Environmental Learning Center Advisory Board Ordinance, Section 12, Rules and Procedures providing authority, amendment to Chapter 18, Section 12, Rules and Procedures providing severability and effective date.

Public Comments:

None.

MOTION: Moved by Ray Murphy and seconded by Anita Cereceda to approve the Cultural and Environmental Learning Center Advisory Board change. Motion passes unanimously.

VIII. COUNCIL MEMBER ITEMS AND REPORTS

Mayor Mulholland reported that on Estero Bay he met with special agent Andrew Emerson who works for the National Marine Fishery Service which is part of the Department of Commerce. It was a positive meeting and Mr. Emerson wants to solve any problems we have concerning dolphins, manatees and any kind of abuse of wildlife in the bay or the gulf. He wants to do it through education and Mayor Mulholland pledged him the use of the Town meeting rooms. He will get the operators together and inform them of the rules and laws that he is enforcing. Mr. Mulholland met with four of the operators and found them to be eager to cooperate and start working with federal agent Emerson. Mr. Emerson will be at the Marine Resources meeting on Wednesday night to address the group.

Also reported by Mayor Mulholland was problems with walking on the beach from Bowditch to Big Carlos Pass. One property had a fence up temporarily, which has been taken down. The explanation given for the fence was that while they allow people to walk on their property, they have been subjected to a constant stream of abuse and harassment by people who also camped on their lawns with coolers, etc. They would be

liable if someone falls while walking across their property. Mr. Mulholland will get word out to the Town that the four concerned property owners have liability concerns and if they want to keep people off their property they can.

Mayor Mulholland would like for Anita Cereceda, our Chamber liaison with the Traffic Committee, to track his request to ban the left turn at Times Square. FDOT has told him they hadn't started yet.

The Council will be on retreat on March 15 and Mayor Mulholland has requested that we discuss bridges as one of the topics at that meeting.

At our next meeting, Mayor Mulholland will talk to us about the comprehensive conservation plan passed by the Charlotte Harbor National Estuaries program.

Mayor Mulholland received a letter from Ceel Spuhler regarding the number of people who have gone through the Mound House. The docents are doing a magnificent job and working very hard, and the interest by the people in the Town in the House is very strong.

Councilman Reynolds also congratulated Ceel Spuhler for doing a marvelous job at the Mound House. Her responses to her advertisement for docents seem to be a little on the down side and he is hoping the community will help out.

There will be a meeting of the FTUC this week and reservations must be made.

Councilman Reynolds said he is still working on acquiring autos for the parade.

Councilwoman Cereceda stated she had attended the TDC meeting on Friday and there was what they decided was premature discussion about Bowditch Point. However, it turned into a very productive session with the county looking forward to continued discussions with us about the park and the TDC also looking forward to participating in those discussions. She's not sure that this meeting would have been as productive as it was if we had not been there.

Councilwoman Cereceda requested Mayor Mulholland to place on an agenda some time soon a review and audit of the Town Manager as we do every year.

A pet peeve of Councilwoman Cereceda are our microphones, which she would like to see discarded. She requested that we have somebody come out here and give us a price on completely redoing our system and bringing it before the Council.

A growth management public hearing was held by the secretary of the Department of Community Affairs this week, and Anita Cereceda attended it. The most interesting part of it she feels was seeing people from Sarasota, Charlotte, Hendry, Glade and Collier all expressing the same concerns that we're expressing in Lee County. Lee County had the lowest amount of people in that room which was filled with a couple of hundred people. Most of those who spoke were from Sarasota and Collier counties. It was a very good meeting and she was very impressed with Mr. Siebert.

Regarding the letter from Mr. Bloomquist about his meeting with Mr. Ehlert from the MPO, Anita Cereceda said she had met with Mr. Ehlert on Friday. She advised that the letter is misleading and so are the other correspondences. Mr. Ehlert's comments to her was that he was trying to be very polite to Mr. Bloomquist, but that this would not be something that would be recommended that the MPO put on the agenda, unless it was something that the Town of Fort Myers Beach seriously wanted to request that they look at. And it certainly didn't seem to generate any enthusiasm for Mr. Ehlert.

Councilman Murphy said he would be interested in finding out if there is any warranty on the original sound system that was put in here and also getting some

estimates on replacing it.

Councilman Murphy referred to an article in the paper regarding violent robberies in front of the Lani Kai. He was disheartened to read about these things but was glad it wasn't people from the Beach who were committing these crimes. The nice ending to the story was that the perpetrators were both caught on the other side of the bridge, apparently drinking up their ill-gotten gains. He would thank the deputies or whoever were involved for the quick results.

Jim Gibson from Lover's Key Recreational Area called Mr. Murphy this afternoon. Apparently they will have an archaeological fair going on at the park March 20-25 and wondered if they would be able to put a banner down by Times Square where banners for upcoming events are traditionally hung. Ray Murphy said he had checked with the Town Manager, and the policy thus far has been that if it's a Town function then it's okay. If it's not, then it has to be brought before the Council. In his humble opinion, Lover's Key has always been a good neighbor to us and he would like to know if we would be interested in helping them out by allowing them to put the banner up for a couple of days. He asked if there were any objections to this. Councilman Reynolds said he'd rather see the banner put up at South Point, because that's the area where people would be most likely to notice it. They could also put one down at the other end of the island. Councilman Murphy said that people traditionally look for banners at Times Square and feels that's where they get the most exposure and traffic is slower. The request was okayed by the Council.

Councilman Murphy said that people are starting to get more excited about the St. Patrick's Day parade since the articles have appeared in the papers. He reminded us that it will be on Friday, March 17 beginning promptly at 10:00 a.m. The boulevard will be closed at 9:45 a.m. between the Church of the Ascension and Santini Plaza and will open back up at about 11:00 a.m.

Vice Mayor Hughes said he had read the briefs that had been filed in the case of Murphy v. Lee County and thinks our counsel has done an excellent job and they're very readable, clear and concise. He is hoping that justices of the Supreme Court will see the obvious merits of our position. The case is set for oral argument in early May.

Vice Mayor Hughes asked if there was anything new on the conflict resolution. Town Manager Segal-George will refer to this when she speaks.

Vice Mayor Hughes referred to a memo by Deputy Town Manager Gucciardo summarizing the recent actions of the Public Safety Task Force and asking the Council to take action on a proposed letter they wanted written to the Superintendent of Schools regarding the existence of certain ordinances, which hopefully would be disseminated to the people coming for Spring Break. Mr. Hughes wondered if this is something that should be on the agenda and he would be in favor of writing a letter along those lines. Mayor Mulholland asked if there were any objections and a reply was made that was inaudible on tape.

A letter was received by Vice Mayor Hughes from the North Beach Residents Association on Bowditch authored by Larry Raimondi. They are requesting specific action by the Town to revoke the existing development order or rezone the park. Mr. Hughes asked Marsha Segal-George for input, but her remarks were inaudible on tape.

IX. TOWN MANAGER'S ITEMS

Town Manager Marsha Segal-George noted that Vice Mayor Hughes had talked

about the conflict resolution process that we have going on with the county. We have two different issues going. One is the CRA. The staffs met and it was clear that we couldn't even develop any "terms of surrender" so to speak, so that one definitely needs to go to the Council and the board of county commissioners. The other one has to do with the utility and we were copied in the letter that she had sent to the county. We have not had a response from them. Also, at that meeting they talked about setting the future meeting between the Town Council and the board of county commissioners, and the county suggested the date of April 6, a date they said that the county commissioners would be available. But they made it pretty clear that the county commissioners don't want to come here for the meeting and that they would like a neutral site.

Mrs. Segal-George said that she has taken a very hard line and believes that the county commissioners should come here for a couple of reasons. One is that the only times that the Council and the board of county commissioners have ever met, we have gone downtown to meet with them. Two, the utility issue and the CRA issue affect the residents of Fort Myers Beach and really don't affect anybody else, and so the people who would be interested in attending the meeting would be our residents. And she thinks that for a town that has existed now for four years, it's not too much to ask the county commissioners to come visit us in our own chambers. For all of those reasons, she has consistently said no. Dick Roosa was also there and the county attorney made it real clear that they really don't want to come here and they would like a neutral location like Edison Community College to hold a joint meeting. Mrs. Segal-George said she explained that we did not have the kind of staff that could prepare alternate locations for public meetings, and they volunteered to do that also. Maybe we don't really care and would have no problem with meeting with them at Edison Community College. We should tell her whether to back off or to stay on the course she is on right now.

Councilwoman Cereceda said that she cared absolutely and that we are following the process that is required for us to follow. When the county commission has asked us to come and meet them, we have gone to meet them. And Marsha is absolutely right. It concerns this community, and this community shouldn't have to travel off site for the convenience of the county commissioners and they need to realize that they are the ones who are serving and not the public. We have requested that the meeting be held in our chambers and they either accept or decline the meeting.

Councilman Reynolds said he was disappointed that the commissioners don't want to reach out a little bit and come and talk with us here. But he has no real argument with it if that's the way they feel. He has no problem with going to Edison if that's what we need to do.

Vice Mayor Hughes said he agreed with Councilwoman Cereceda and that this is just an aggravating tactic here. And he also feels that the statute requires that the Town arrange a location and he would interpret that to mean that whoever instituted the conflict resolution procedure has the right to arrange the location. If they had instituted the conflict resolution with us and asked us to go to their chambers, he would not hesitate to do so. He would feel that would be the appropriate thing to do. He feels we should stick to our guns.

Marsha Segal-George asked if it didn't say "a mutually agreeable location" when setting a meeting. She doesn't think that the burden is totally on us. Attorney Roosa said he thinks it should be mutually agreeable, but one of the problems of us going to Fort

Myers is that once we're out of the Town of Fort Myers Beach, we can't have a binding vote. We can only vote as a council when we're in the jurisdiction of the Town boundaries. So to really have a meaningful meeting where both parties could be legally bound, we need to be here on Fort Myers Beach. This is within their jurisdiction and it's within our jurisdiction.

Councilman Murphy said he agreed with all the statements made by Councilwoman Cereceda, Vice Mayor Hughes and also the Town Attorney. And he thinks in fairness to our people, they should be able to attend a public meeting between the two bodies and come here and voice their opinions. And for the life of him he can't understand why they wouldn't want to come down to the Beach on a beautiful day in April. So let them come down here.

Councilwoman Cereceda asked if this required a vote and was told no.

X. TOWN ATTORNEY'S ITEMS

Town Attorney Dick Roosa advised that the Star Dial litigation starts Wednesday morning. He has been kept abreast about what's been going on by Mike Cicerone and is very enthusiastic about our chances. He has done a real fine job for the Town.

Mayor Mulholland relayed a complaint by a resident of Bay Beach regarding the meeting room of Judge Rosman saying it was very small. Mr. Mulholland said he told him that the judge calls the shots.

XI. APPROVAL OF MINUTES: FEBRUARY 7, 2000

Corrections and changes to minutes:

1. On page 3, line 1, "APA" should probably read "EPA."
2. On page 5, under VII. "Seven different tapes" should probably read "Several different tapes."
3. On page 8, line 5, strike "not".

Vice Mayor Hughes expressed his pleasure with the way the minutes are now being presented.

MOTION: Moved by Ray Murphy and seconded by Dan Hughes to approve the minutes of February 7, 2000, as amended.

XII. PUBLIC COMMENT

A. DAN PARKER

With respect to Bowditch Point, Mr. Parker expressed his feelings that the 70 spaces on 17 acres would not take up much space. He took it upon himself to count the spaces available at the movie theater just to get an idea. The movie theater has 63 spaces available, some for handicapped and wider. It seemed to him that the theater didn't really use that space as efficiently as somebody else could who has all the open spaces. We could put something in the park that is arranged more efficiently.

He has finally found two residents who have taken their coolers on the trolley to go to Bowditch Point.

There is the possibility, Mr. Parker said, of somebody coming to this Town Council and asking for 20 spaces down at the Mound House, which is 2.7 or 2.9 acres, and he's

thinking of the equality of people's rights. He does not live on Connecticut, which is a single-family residential area and understands that 1211 people visited the Mound House. It would be nicer if we put 70 spaces up on Bowditch Point for the rest of the island where we would have much more than 1211 take advantage of those parking spaces.

Mr. Parker asked if the Town would like a letter from the Civic Association assisting in getting a meeting here for the Town and the county commissioners on our conflict resolution. He was told that he would offer.

B. DON HARRIS

Mr. Harris said he thinks we are crazy to think about landscaping until we at least own the street. He's acquainted with roundabouts and thinks they're a good idea in some places, but that guy isn't bringing them out at all. But we're not going to get this across to the 48% of the people who came through here last year. Most of us live in the middle of the island and it's hell getting through here. The traffic has got to be fixed, but we should forget the landscaping. He's been here since 1960 and he doesn't think traffic's any worse at Times Square today than it was then. It just backs up a little further. He thinks we're trying to have jurisdiction where we don't have any. The state or the county or somebody has got to get that open. Mr. Harris stated he'd love to see another bridge. He's been hearing about one for 30 years.

XIII. ADJOURNMENT

MOTION: Moved by Dan Hughes and seconded by Anita Cereceda to adjourn the meeting at 10:05 p.m. Passed.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for action from the meeting of March 6, 2000

1. Regarding the noise level at the Beach Pub, a motion was passed that this matter be continued to the first meeting in April. In the interim period, the Council would request the sheriff to have the random test and report back to us at that April meeting. If at that April meeting the test shows that they're no longer in violation, then that's the end of that. But we should set a public hearing in the event that they're not in compliance for the April 3 date so that we then won't have to have another meeting to set a public hearing.
2. Where does the traffic go inside of the roundabout to get out of the way of the vehicles, and are the areas where they seem to be proposed wide enough to accommodate them? Mr. Rankin said the Council has asked them to come back on March 20 and dedicate the presentation just to that issue.
3. Asked if they had come up with an anticipated project cost for this whole thing and have tried the methods for which they would provide funding, Mr. Rankin said they don't have final numbers on that yet. That's one of the next steps they'll be taking up between now and the first week in April when this comes back to the Council.
4. The absolute start date for construction on Palmetto and Easy Streets was determined to be April 3.
5. Mayor Mulholland reported problems with people walking on the beach from Bowditch to Big Carlos Pass. Property owners complained they have been subjected to a constant stream of abuse and harassment by people who also camped on their lawns with coolers, etc. They would be liable if someone falls while walking across their property. Mr. Mulholland will get word out to the Town that the four concerned property owners have liability concerns and if they want to keep people off their property they can.
6. Mayor Mulholland would like for Anita Cereceda, our Chamber liaison with the Traffic Committee, to track his request to ban the left turn at Times Square. FDOT has told him they hadn't started yet.
7. The Council will be on retreat on March 15 and Mayor Mulholland has requested that we discuss bridges as one of the topics at that meeting.
8. At our next meeting, Mayor Mulholland will talk to us about the comprehensive conservation plan passed by the Charlotte Harbor National Estuaries program.
9. There will be a meeting of the FTUC this week and reservations must be made.
10. Councilman Reynolds said he is still working on acquiring autos for the parade.

11. Councilwoman Cereceda requested Mayor Mulholland to place on an agenda some time soon a review and audit of the Town Manager as we do every year.
12. Councilwoman Cereceda would like to see our microphones discarded. She requested that we have somebody come out here and give us a price on completely redoing our system and bringing it before the Council. Councilman Murphy said he would be interested in finding out if there is any warranty on the original sound system that was put in here and in getting estimates.
13. Jim Gibson from Lover's Key Recreational Area advised that they will have an archaeological fair going on at the park March 20-25 and wondered if they would be able to put a banner down by Times Square where banners for upcoming events are traditionally hung. The request was okayed by the Council.
14. The St. Patrick's Day parade will be on Friday, March 17 beginning promptly at 10:00 a.m. The boulevard will be closed at 9:45 a.m. between the Church of the Ascension and Santini Plaza and will open back up at about 11:00 a.m.
15. The case of Murphy v. Lee County is set for oral argument in early May.