

**FORT MYERS BEACH
TOWN COUNCIL JOINT MEETING WITH
LEE COUNTY BOARD OF COMMISSIONERS
APRIL 6, 2000
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

Mayor John Mulholland opened the meeting on Thursday, April 6, 2000, at 9:00 a.m.

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

County Commission members present: County Manager Don Stilwell, John Albion, Doug St. Cerney, Andy Coy, Ray Judah and John Manning.

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

Also present: Janet Watermeier, Roxie Smith.

II. PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance.

III. PUBLIC COMMENT ON AGENDA ITEMS

None.

IV. PUBLIC MEETING: CONFLICT RESOLUTION PROCEDURE REGARDING FLORIDA CITIES WATER. This dispute revolves around the Town's position that the Town has the first right of purchase of the Florida Cities Water Company's Fort Myers Beach facility rather than Lee County.

Mayor Mulholland asked the Town Attorney, Richard Roosa, to comment on something he had just received from Lee County.

Attorney Roosa advised that Chapter 164 had been amended to establish a procedure for resolving disputes between local governments and avoiding the court system. This reduces the cost to the taxpayers, saving them from paying legal fees on one side and legal fees on the other side, and it allows for decisions to be made by the officials of the local government rather than by a judge who might make a decision based on the law, which really is awkward to apply to the specific facts. As evidence of the value of this amended system of 164, the staff and consultants of both the county and the Town have met and together have worked out all of the major points with regards to the acquisition of the utility system by the Town. There are some minor points that need to be resolved and the staff have agreed to stay after this meeting today to get started working on those, after which it will be brought to each of the separate governing boards for our decision.

Attorney Roosa said that at this time it was not necessary to discuss the utility system and that we would have that opportunity when the agreement is obtained and presented to each of the governing boards.

Comments by County Staff:

A. Larry Johnson, Director of the Environmental Services Department, which includes utilities, said they appreciated the opportunity to again try to come to a settlement agreement with the Town concerning this matter. As they understand it, their letter dated March 30, 2000, that was provided to all of us essentially forms the basis for their understanding of that potential settlement. He thinks that we would agree that using this as the basis resolves all the major points

of the agreement, and they are certainly willing to continue working with the Town staff to resolve any minor issues and bring back a settlement agreement based on this letter.

Mayor Mulholland said he would like to applaud the efforts of the staff from the county and the staff from the Town on their efforts to work toward a settlement. He appreciates the positive direction that we're going in.

Vice Mayor Hughes wondered if it might be appropriate to continue this public meeting to a day certain with the hope that this will be finalized in the meantime.

Attorney Roosa explained that at the time we set the hearing for the issue of the CRA, we had not fully resolved the issue with regard to the utility acquisition. So, in an abundance of caution, joined them together just in case we couldn't resolve it. Since we are still at the staff level, it's not appropriate to schedule a hearing, because we must first reach a deadlock where we can't resolve it. If the staff can't resolve it, then we bring it to the Council.

Jim Yeager, County Attorney, noted that this was added because we were working together and we knew we were getting close. He asked that we look at Dick Roosa's March 27 memorandum to him. That came to the county who looked at that and had their consultants look at it, and then they came back with the March 30, 2000, memo we have in front of us. After the meeting we want to sit down and see if we can define some of the language on one of the issues. He'll leave it to this Council how we want to handle it, but they feel very confident that when the two documents are looked at that we're very close. As Dick Roosa mentioned earlier, under the 164 process this is a meeting for the elected officials to discuss these types of issues, but it does state that any final resolution has to go to each body for final approval anyway. It's not like this deal is going to get struck here today and signed, sealed and delivered. The idea is to negotiate the disputes and see if we can get them resolved and then it goes to the lawyers and staff and consultants to actually hammer out the language.

Mayor Mulholland said that unless there were objections from the county commission and from the Council, he would like to abide by the suggestion that the attorneys from both the county and the Town be allowed negotiations to continue on this matter.

V. PUBLIC MEETING: CONFLICT RESOLUTION PROCEDURE REGARDING CRA FUNDS. This dispute concerns the Town of Fort Myers Beach Community Redevelopment Agency's position that Lee County is required to turn over the funds remaining after completion of Phase One of the Times Square Project and to fund the CRA under the terms of Lee County Ordinance 91-17 commencing with 1996.

Mayor Mulholland explained that the county established the CRA in '98. The Times Square CRA project went on for almost five years and it changed dramatically from what was on the drawing board to what was finally accomplished. What was accomplished was less than what some of the residents thought we would accomplish. Today we would like to be treated the same as other cities regarding the county's contribution of TIF funds. We are trying to complete the work that was started on the original Times Square CRA project. We are anxious to continue and feel we have justification in asking for these funds.

Town Attorney Roosa said the purpose of this hearing is not to get into the legal issues. The issue here is the willingness of the county commission to recognize and consent to the CRA as it has been reduced in size from the entire Estero Island to the Times Square area. The initial Times Square project did not have adequate funds to complete the entire proposal, and so it was agreed at that time to go forward with what could be done with the funds that were available. Upon completion of the project, there were funds remaining. In addition, there were funds that were generated during the period of time since then and it's the Town's position that they would like to have those monies to complete the remainder of the project as it has been modified by the Town and the Town Council.

Commissioner Judah stated that inasmuch as there appears to be a sentiment that perhaps the project was not completed as designed, maybe we could hear from Janet Watermeier as to the

scope of the work that has been identified and agreed upon and carried out.

Mrs. Watermeier advised that the way their CRA was set up, it was the Lee County CRA and there were five areas they were working with. In December 1997 they actually went through all the different projects and got them all approved. And at that point in time, the CRA project in Estero had been completed. They spent about 3.1 million dollars in completing that project according to the plans that were in place at that time. They actually conversed with the Town of Fort Myers Beach asking if there was anything else that needed to be done prior to that December 17 meeting and nothing occurred. So it is their position that that project was totally completed at that time.

Mrs. Watermeier was asked if the Estero CRA had voted unanimously to the completion of the project. Mrs. Watermeier responded that as far as she knew from the records that she was able to investigate during that period of time there was a particular amount of funding there. And they scaled back that project in not doing Lynn Hall Park. South Estero was not to be done, some of the utilities were pulled out and that entire project was approved in that reduced scope and completed. When finished, the funds that had been accumulating in the fund did accumulate some interest, and that interest was returned to the Lee County general fund.

Councilwoman Cereceda advised Mrs. Watermeier that when the Town Council came into being and the project itself was in jeopardy because of our incorporation, a group of people came to lobby the county commission and plead before them in a public meeting not to abolish our CRA but to allow the Town Council to enter into an interlocal agreement in order to complete the project. The principal that the CRA was founded on, which was to give local communities the ability to define themselves and move forward with projects that were of the utmost importance to that particular community, was still in place. When the Town Council, our local CRA and the county commission came to an agreement on the project, it was scaled down to the Times Square area because of limited funds. With the help of Commissioner Judah we were able to put ourselves in line to receive ISTER funds to complete the south end sidewalks. The sentiment in our community, Ms. Cereceda said, has been that an incredible amount of money has been spent on essentially our commercial hub. When the Town Council originally agreed to scale down the project to that area, the idea was, as it had been stated in the Estero Island CRA plan, that that was in fact our gate to the community and it was essentially the most blighted area in the community. But the Mayor's sentiments express something that still exists in our Town, and that is that there was a bigger picture at work when the CRA was working, and that was to improve the entire community, not just that commercial district but also the residential areas that are also attached to it. So when we have created our CRA, we have limited the area to the overlay district which includes many neighborhoods. What we are trying to focus on here is improving the residents' quality of life. In short, the basic principals that existed when our CRA was created still exist. Our intent now is to continue the spirit of that work and complete the project on a larger scale.

Janet Watermeier said she thinks that's wonderful and that she thinks that we as a town have the right to do that. However, the residential activities that we're talking about would not even fall within the guidelines of their CRA, because it was only to be in commercial areas. It sounds to her like it's a different project, a new project, but she doesn't see what it has to do with the projects that were occurring under the original CRA plans that at this point in time have been completed, are terminated.

Councilman Reynolds referred to the fact that we had scaled down our original project thinking we did not have enough money to do all the things we wanted to. But since then we have found we have more money and can do more.

Janet Watermeier said it seemed to her that the goal hadn't been to spend all the money that was in the TIF fund but to complete a project. But in any case the project as it was approved by the Board of County Commissioners, the CRA Board and the Local Planning Commission was completed. But at the conclusion of any project, the goal is that the funds would be returned to

the general fund. The Town of Fort Myers Beach was treated no differently from any of the other CRA projects that have been completed.

Asked by Vice Mayor Hughes what her position with the county is, Mrs. Watermeier explained that she is Director of Economic Development for Lee County. She was then asked what documentation there was to show that a project has been completed. Mrs. Watermeier advised that in reality the Town of Fort Myers Beach was completed before the projects even moved into her office in August 1997. She did not take on this project. There is no particular document saying this project has been completed, but all of the work that had been outlined was completed.

According to Town Manager Segal-George, in reality there was one CRA for Lee County and there were five neighborhoods they were working in. Each neighborhood had a local planning committee and they really did not have the authority to make decisions. Those decisions were made by the CRA Board. But they made recommendations to the Board. And when they made recommendations on the scaled back project to the Board, the Board then approved the funding for that project and based on that, that project was completed. The county took the position that the CRA TIF money ceased to accumulate in the pot for the Estero Island CRA. At that point there were X amount of dollars in the pot and this project was being planned. The county then said they would build whatever they could based on the dollars we had in the pot. The project had to be cut back, and the ultimate decision on what that project was going to turn out to be was made by the county. The Town Council at the time made some recommendations that were then not picked up, and the county decided that that was the project. When we found out there were dollars left in the pot, we then asked for those funds and were told by Janet Watermeier that that was not appropriate. She told us we were treated the way everyone else was treated with regards to the other CRAs, but we weren't like the others because we were a town whose TIF stopped because we incorporated and supposedly those dollars were then frozen. So our argument was then that whatever was in that pot should have inured to us because no other CRA funds were being frozen at the time. We were told we couldn't have those funds and that they had been transferred to the general fund. We believe that because we were not treated at the beginning like everyone else, that it isn't fair at the end now to say we're being treated like everyone else. The only number we have for the amount of those funds is the number we received from Mr. Yeager in the letter in our packets.

The other issue, according to Marsha Segal-George, is that we have now taken the county's CRA and we have scaled it back and made it smaller. And we are asking the county to participate and make the county's share of the TIF contribution to our CRA in the same manner that they made that contribution to Cape Coral and to Fort Myers. It really has nothing to do with the Times Square projects or what projects they think we should build, but has more to do with the fairness argument of we're not asking to be treated any differently than Fort Myers and Cape Coral are treated.

Jim Yeager said it was his understanding that the county commission did not take action to nullify the county's CRA here on Estero Island. On December 31, 1995, they were mandated by state law that it no longer became a county CRA.

Mr. Yeager feels that Marsha Segal-George is correct in that one issue is the surplus at the end of the Times Square project and the other is the continuing issue of payment for the TIF from 1996 forward.

Another explanation offered is that the county felt that there needed to be a partnership with the residents and business people on Estero Island prior to incorporation to revitalize a blighted area. It was a tremendous benefit to Estero Island. It was a commitment the county should have made and did make. He would agree that the additional dollars -- about \$200,000 -- in reserves that remained after the project was completed as approved by the Estero Island local planning committee, the CRA advisory board and the Board of County Commissioners should be available to the Town of Fort Myers Beach. But he has real difficulty in acquiescing that there is

a continuation of the county CRA. There is not. But he does believe out of fairness that yes, we did make a commitment to complete a project. There are dollars left over that the Town of Fort Myers Beach could continue to utilize to augment what was done in the core area of Times Square. He thinks that's the fair approach to take.

Town Manager Segal-George said that we believe we reformed that county CRA of 1996 into our own and have prepared the appropriate documents, ordinances and notices to make it so.

Jim Yeager said he feels that the Town of Fort Myers Beach should be treated the same as Cape Coral and Fort Myers. But his position is that in 1996 the Town could have created its own CRA, done its own trust fund ordinance and the county would be funding that and would not be here today. That was not done. There was never an Estero Island CRA. In 1996 when the Town started operating and sent a resolution saying they were going to be the exclusive CRA authority, the county took the position that they were going to do just as Fort Myers and Cape Coral had done by creating their agency and doing their own TIF fund ordinance. There are a lot of legal issues and legal arguments on both sides, but it really comes down to the surplus left in the Times Square or Estero Boulevard project and the issue of the trust fund payments allegedly due from the county starting in 1996 using a 1991 base unit. Mr. Yeager said he believes the surplus revenues in the Times Square project was \$286,000. The additional increment revenues that are in dispute are values that he believes the Town gave them, which amount to about \$750,000.

Jim Yeager answered questions put to him by the Council members. Asked if the TIF funds had continued to be collected, he replied not for the redevelopment area of the Town of Fort Myers Beach. And the surplus revenues were returned to the general fund of the county. The county CRA ordinance which they use to fund all of the county's CRA redevelopment areas was not terminated.

The interlocal agreement applies to the original project and also applies to the additional funds. In 1996 after they had our resolution, they entered into a interlocal agreement which they understood was going to be a codification of the county's final efforts in the Fort Myers Beach CRA. It does not say anything about the surplus funds. The county also takes the position that this also addresses the other issues, because it said there would be no further exercise of powers within the Town by the CRA without amendment to this agreement.

According to Councilwoman Cereceda, the county's bottom line is enhanced every time Fort Myers Beach is enhanced because of the revenues it brings to the county. She'd like to know what the county's position is. Mr. Yeager said it comes down to a money issue as far as the lawyers are concerned and finding a point to move forward on those money issues. His personal opinion is that the Town needs to create its own trust fund ordinance and move forward. He strongly objects to a court order that orders the county to go back to 1995 and pay money when they weren't served a personal service as part of that proceeding.

Councilman Murphy said he agreed with Mr. Yeager that this all boils down to dollars. He thinks philosophically that we should all be on the same page as far as the improvements to the Town which enhance the county and he thinks we should work on that. He thinks we should try to get some consensus here on the remaining funds from the initial project. He agrees with Commissioner Judah that these funds were to be committed to that project. We had to scale back the project. He doesn't think any of us can sit here and say that those funds shouldn't be returned and reinvested in that project. If we can get past this remainder issue, we should then be able to move forward on the TIF issue.

Advised was that there are some outstanding issues in regards to any of the court matters that still remain, and Chairman Albion asked how the Town expected the county to make a commitment at this time if they don't even know what the bottom line of those commitments are going to be, commitments which they would not have incurred if they had never started the CRA process. He also wished to know the justification for it being a total county responsibility with at this point the Town having no financial commitment because it would come out of the unincorporated taxing unit to pay for it with the remainder of the county taking on that burden.

Chairman Albion felt that any legal fees should come out of the potential remaining amount as it would have if the CRA had continued.

Commissioner Judah said the reason he was supporting the redirection of the reserves back to the Town of Fort Myers Beach was because as he understood it, the size of the project, the monies to complete that project, were predicated on the fact that the Town was going to be incorporated and they were not going to have the anticipated flow of dollars that had been envisioned. We purposely down scaled because we were not going to get the flow of dollars after January 1, 1996. But there were additional dollars through savings of the completion of that core work that was agreed upon, and that's why he feels that the reserves should be expended on augmenting that that was done in the Times Square area. He agrees also with Commissioner Albion that there are outstanding legal fees. He would submit that we should put this in the taxpayers' relief fund and the Town of Fort Myers Beach would well know who is involved in the legal action that's being taken against the county. This is because all the business people benefited in the Times Square area and they are the ones taking money away from the Town of Fort Myers Beach where dollars can be spent on augmenting that that was done in the CRA program.

Mr. County Manager Don Stilwell said he had not heard the subject of the outstanding legal fees. His first advice to the board would be that they are setting a new precedent if they decide this morning to say that if they finish a project under fund then by all means spend it on something else. We have other CRAs that are not going to spend all their money and it is fully anticipated that that money will come back to the general fund. That's where the money came from and when the project is completed, the fund dollars will return back to the place it came from -- the county general fund. That's what we do in all CRAs and any other projects we have.

Councilwoman Cereceda argued that we're talking about money that was collected from the community to enhance and create a better community. The logistics of the project itself are almost irrelevant at this point. The bottom line is that we had collected X amount of dollars and the county froze it and said this is all the dollars you have to spend. Left over was \$286,000 that we could continue the project with. In our minds the project isn't complete but is an ongoing kind of project. Ms. Cereceda was told that the counterbalancing argument is that that's one of the idiosyncrasies in the tax increment financing approach. That's one of the things that the board has cleaned up since the project was initially started. The board now says we're going to do a project certain, a time certain and a dollar certain. It no longer implies we're going to collect money as long as we can and then you all spend it. If we talk about adopting another policy here today saying we're going to go back and collect all we can for as long as we can and then if we have any left over after we finish the project we talked about we'll do another, that's a whole new policy of the county.

Councilwoman Cereceda asked how the county can determine how to pay for those things that are lingering out there and then take it away from that \$286,000. She was told by Mr. Stilwell that it wouldn't. That money has lost its identity. That money is back in the county's general fund now. That money will have to come out of legal expenses but it won't come out of Fort Myers Beach legal expenses. We could set a new policy telling people not to have a fund balance but to spend all the money they can.

Also advised by Mr. Stilwell was that the county was not sitting here with a big pile of money to give back to anyone. The county is going to be very pressed to balance its own budget, let alone to be generous and fund projects that have not even been budgeted. If the board decides to give us the money, it's going to come from all the taxpayers in Lee County, where it came from initially.

Vice Mayor Hughes said that the \$286,000 that came from our CRA went to the general fund, so how are we taking money away from the taxpayers. Plus the fact that they've had use of the money for 3-1/2 years. He was told that the county did not use that money for 3-1/2 years and that part of

the \$286,000 is interest.

Town Manager Segal-George noted that this is step two in the conflict resolution process. The first step was a meeting amongst the staff where these items were discussed and none of this was ever conveyed to the Town or that there were potential claims against this money. If that had been raised at that point, it may well have been determined that this was not appropriate to bring in front of this group yet, because these items were not clearly delineated. We have no information that we can offer with regards to any of this. Councilman Murphy said that regardless of that, if we can agree in principle on something this morning, that would be a step in the right direction.

Mayor Mulholland asked what the legal expenses would be. Town Manager Segal-George felt that we would be paying for them twice since we're already contributing to the general fund. Mr. Stilwell said that these projects were set up based on TIF funding which creates a special funding source. If the legal matters exceeded the pot, obviously they still have the responsibility.

Jim Yeager was asked to shed some light on the outstanding legal expenses and he said he'd have to look into it.

Commissioner Coy asked Janet Watermeier if we were expecting to have dollars left over from the other four CRAs and was told yes. Mr. Coy felt that then if the Board of County Commissioners does it for Fort Myers Beach, it would be hard not to say to North Fort Myers, to Bonita Springs, to Lehigh Acres, to San Carlos to spend all the dollars.

Commissioner St. Cerney asked Ms. Watermeier how much money was returned to the general fund from the other CRAs. Ms. Watermeier said they didn't have the final bills from all of them so she didn't know. But in some cases it would be as much as \$500,000 to \$1,000,000 being returned. The only CRA that will not have money returned to the general fund will be San Carlos Island, because it was a very small amount to begin with and they needed every penny to make that work.

Roxie Smith was asked to come forward by Commissioner St. Cerney. She was told that when her board under her guidance decided to scale back the project in conjunction with the county's CRA staff, he assumes there was a consensus of her board to do so. Mrs. Smith replied yes, they did indeed have an extensive plan for the entire island. Then they prioritized that plan, and what was finally implemented was their priority #1, the Times Square area. They did scale that back and put some of the things on hold to do at another time. As they got closer to the time of implementation, incorporation was pretty much a foregone conclusion and they scaled back further. Her opinion is that it's a little different from just ending a project and having some funds left over and saying okay, you can have that and go spend it. The way she looks at it, the excess was created because we were more or less told that we would have to scale it back because there wasn't enough to do what we wanted to do. One of the big things they scaled back on were the sidewalks on the opposite side of the street in the Times Square area, Lynn Hall Park and some other things. The overage was created by our prudence. Mrs. Smith was then asked if it was ever her opinion when the project was first brought to the board's attention that there might be residual and was it clearly understood by her board that it went back to the county's general fund? Mrs. Smith's reply was that she had also served as chairman of the county's CRA, and at the county's CRA level they were aware of the fact that at the end of a fiscal year if the funds had not been committed to a project, they would go back to the general fund. At the local level, they weren't thinking about what would happen with an overage because they thought they would end up short.

Commissioner St. Cerney advised that this was a county initiated program that did exactly 100% what it had set out to do and did it very well. The policy at the time was to return all residual funds back into the general fund and none of that was changed. To ask for the funds back is precedent setting.

Councilwoman Cereceda argued that all of the funds were committed to that project and should not have been returned to the general fund. There was enough money left to truly have

finished the project instead of having to cut things out of it.

Commissioner Manning said that Councilwoman Cereceda makes a good point. However, if we remember the initial boundaries of the City of Cape Coral's CRA, they were overly excessive so to speak, and that project as well as cut back. Chapter 163 is very explicit from a structural point of view and from a procedural point of view and boringly from a legal standpoint that once a project is completed and an incorporated town wishes to pick up the CRA, they are the ones who vote for the enabling legislation locally to start that CRA. The TIF monies are frozen at a certain point in time and then you move forward. That was not done by the Town Council until 1998. So the argument prevails in his view that that's what should have happened. Town Manager Segal-George said she did not agree. Commissioner Manning stated this may be an issue that's ripe for litigation and may set some new ground rules, but 163 is pretty explicit when you look at CRAs.

Councilman Murphy reiterated he'd like to see us resolve something today instead of going through all these legal fees. Regarding precedent setting, he said he didn't see where accomplishing fairness and equity was setting any kind of precedent. That is ongoing all the time. He would say that the precedent was set when the project was started, then scaled back and money was left over. That had never been done in a CRA before. He said that if the News-Press had on its front page that the county gives back to Fort Myers Beach the money that was Fort Myers Beach's, he didn't think anyone would get too upset about that. Where that money came from whether we were a town or whether we were unincorporated at the time to him is irrelevant. The money came from here, it was our money and is still our money.

Vice Mayor Hughes said that since he's been on the Town Council we've been asking for this money and he has never considered the matter completed. It's the perception of this community that we've never completed our project. And as Roxie Smith pointed out, we're being prejudiced by the prudence of the original committee. He also feels that from a legal and a political standpoint, this is clearly a distinguishable situation from the other projects that have in fact been completed, with the exception perhaps of Cape Coral. He does not think that this establishes a precedent.

Mayor Mulholland acknowledged his agreement with Councilman Murphy's and Vice Mayor Hughes' remarks.

Don Stilwell as a point of clarification stated that the monies were not generated specifically for these projects. These monies are collected as part of the regular routine of the collection of taxes. They were set aside to create CRAs because the tax base was frozen. People would have paid the same money whether a CRA existed or not into the tax revenue pot. The second issue concerns whether other areas will be asking for the money, to which the answer is absolutely. Lehigh Acres is already asking for their remaining money. He stated that if the county had been less frugal with the money, we wouldn't be having this discussion because there wouldn't be \$286,000 left. When he attended the ribbon cutting for the Times Square project, he assumed that was for the completion of the project with regards to the CRA.

Councilman Reynolds said he sees the Council looking at this as an unfinished project and he hears all the commissioners saying that it's a completed project. He asked the commission when they drive to town today to notice on the east side that it is not a completed project. We're not asking for any extra money. We're saying let us use the money that was committed to finish the project. Chairman Albion's rebuttal to Mr. Reynolds was that the question was where does the county responsibility end and where does the Town responsibility begin. If we determine that we want to expand on the project regardless of how far we want to go, that is certainly our privilege. But it was his belief that when the ribbon cutting was done, the county would not be expending further funds on that project. Councilman Reynolds did not feel that the ribbon cutting marked the end of the project.

Town Attorney Roosa advised that the issue of the remaining funds is a difficult issue in terms of granting equity with the Town of Fort Myers Beach, and certainly on behalf of the

county commissioners for equity for all of the CRAs involved. This however is unrelated to the second issue which has to do with the TIF funds, the base year, and the funds collected from subsequent years -- years since the completion of the project. Jim Yeager sent a letter to him back in September 1999 addressing this. In the last paragraph he said that the potential resolution of this issue could be for the Town to waive any claims for past county TIF and for the county to agree to the Town's CRA proceeding prospectively. In that regard, the only real issue is the Town using the 1991 base year for TIF calculations.

Town Attorney Roosa went on to say that it was the Town's position that because we're a municipality that we should be treated differently from Morse Shores and Lehigh Acres, but we should be treated the same as Cape Coral and Fort Myers would be treated. Both Cape Coral and Fort Myers do have CRAs and the county is contributing TIF to those CRAs. It may be that if we can come to an agreement on that issue that we could still ... resolve this today. Could we agree to the base year of 1991 and could we agree to a prospective application of that? Could we pick a date?

Don Stilwell questioned Jim Yeager regarding the 1991 date and Mr. Yeager explained why this base year was used.

Councilman Murphy said if we could get a dollar number in mind for the remainder amount and we can settle on a base year for the TIF, then he thinks we can make it appear to the county and to the Town that two boards can get together and resolve these issues without going to court. When talking about precedent, that's the precedent we should be portraying to the county - that we can sit down and resolve these issues and keep it out of the courts. The money that we're talking about is nickels compared to Lee County's budget.

Town Manager Segal-George said that by staff's estimates, the prospective TIF contribution we're talking about from Lee County would be a little under \$150,000 a year. This CRA is a very small one at this point.

Don Stilwell said the number of \$900,000 that he used is a 1996 number and the amount of dollars coming from the island was \$876,000.

Mr. Stilwell noted that he wished Lee County could treat everyone the same, but in fact it treats everyone differently because we've all got these different agreements at different times and there are different circumstances. When Lee County entered some of these sweetheart agreements years ago, their revenues were increasing up to 17% a year. Now with the save-our-homes limitation, the maximum it can increase up to is 3% a year. Lee County's hands are tied. It does not have money to give to anyone. The reality is not that it's only nickels, only this, only that. They saw what happened in Bonita Springs, and that's going to happen in other areas. They want to be fair with everyone, but they also have to protect all the taxpayers in the county. It's not like the county's sitting there with a big bucket of money. The minute that this Board of County Commissioners gives relief to Estero for the Town of Fort Myers Beach that we're asking for, four other CRAs will be saying how about me, and it's going to be millions of dollars. The issue is what does the Town of Fort Myers Beach want to do with the CRA. He doesn't think this Board of County Commissioners is willing to agree to anyone having a CRA if they don't know what the project is, what the time is and what the cost is, because the board has said they're not signing any more 30-year blank checks. And if the board agreed to the CRA today, that's exactly what they would do. The CRA would stay in existence under state law for 30 years.

Town Manager Segal-George advised that we have redrawn the CRA. It has new boundaries. We had to do all new calculations which we have shared with the board. The numbers that Mr. Stilwell is talking about are for the CRA that no longer exists. We are talking about a different CRA and have given him the documents, the county attorney's office has the documents.

Mr. Stilwell said this was the first time he had heard the \$150,000 figure. Town Manager Segal-George then advised him that a letter from Jim Yeager dated August 19, 1999, and addressed to Dick Roosa acknowledged receipt of our calculations and that all of these numbers

are in there with regards to the county's contribution.

Bruce Loucks of the Lee County Government said they were aware that the new CRA was smaller than the original CRA, but they were told the numbers were still being calculated. Marsha Segal George said she totally disagreed with that statement. Mr. Loucks said they had the dollar amount but haven't assessed the valuations or the boundaries. Mrs. Segal-George reiterated that all of this information had been sent to Jim Yeager's office.

Don Stilwell said he never voted to change the boundaries. They have shown a willingness to be up front by being here but they didn't have a commonality of facts, much less of opinion, and are not prepared to meet again until they have a commonality of facts.

Vice Mayor Hughes stated he has a memo of a meeting on February 11 between the two staffs in which the dollar amounts are specifically articulated and numerated, starting with \$28,205 to a total of \$653,000. The \$286,000 must have been based on certain underlying facts and boundaries that were discussed at that meeting or we wouldn't have those figures. We called the meeting today because we thought we had the commonality of facts on those issues.

Chairman Albion advised his board that they should schedule this for their May management planning, because these issues seem to him to be easily researched and put together. And they should determine based on these facts perhaps a position as to where they are at this point that would allow the Town Council the opportunity over the next month to hopefully be able to reach the same conclusion. He would ask that the facts that are given to them be identical to the facts that are given to the Town Council. In other words, the staffs should be able to reach agreement on just that which is factual. Then, hopefully, we can determine what is the most practical approach, whether we need to have another meeting, whether we actually have agreement and create the approach from there. He is not adverse to having another meeting with this Town Council, who he thinks has been very hospitable today. But he does think we have to get to a point where the time spent by both sides is worthy.

Councilman Murphy said what he would like to see done today is that the Council and the commission direct their respective staffs to cooperate in an unadulterated way to move forward and get the facts that they're after before bringing this back again for a resolution.

Town Attorney Roosa asked for the date of the proposed May meeting and if the Town would have an opportunity for input at that meeting. He was told that it was a management planning meeting that was held on the first Monday of every month. Mr. Roosa asked Mr. Yeager if he felt we needed to set a date certain for the continuance of this hearing. Mr. Yeager said he felt that after May 4 would be consistent with people's calendars.

Mayor Mulholland said that this meeting would be continued at a date to be specified. He thanked the commissioners for their participation at this meeting.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for action from the meeting of April 6, 2000

1. Attorney Roosa said that at this time it was not necessary to discuss the utility system and that we would have that opportunity when the agreement is obtained and presented to each of the governing boards.
2. This meeting will be continued at a date to be specified.