

**FORT MYERS BEACH
TOWN COUNCIL MEETING
OCTOBER 2, 2000
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

The meeting of October 2, 2000, was opened by Mayor Daniel Hughes at 6:33 p.m.

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

Members absent from meeting: None.

Town Staff present: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Town Attorney Richard Roosa.

II. PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance.

III. INVOCATION

The invocation was given by Reverend Bob Stuckey, First Baptist Church of Fort Myers Beach

IV. PUBLIC COMMENT

None.

V. PUBLIC COMMENT ON AGENDA ITEMS

None.

VI. ADMINISTRATIVE AGENDA

A. Resolution: Elder Friendly Community

(Continued to 10/10/2000)

B. Resolution: Suntrust Bank

A resolution of the Town of Fort Myers Beach designating Suntrust Bank of Southwest Florida as a depository of the Town authorizing the Mayor, the Vice Mayor, the Town Manager and the Town Attorney to execute a corporate resolution and providing an effective date.

MOTION: Moved by Ray Murphy and seconded by Anita Cereceda to accept the above resolution.

Discussion:

Mayor Hughes determined that just one signatory is required on any given check. We should strike the additional signer designation.

Motion passes unanimously.

C. First Reading: Ordinance on the Regulation of Live Shellfish

An ordinance of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach Regulation of Live Shellfish Ordinance providing authority, regulation of live shellfish, revocation of a licensed severability conflict and effective date.

Mayor Hughes noted that this matter came out of the Marine Resources Task Force. The Florida statutes have now been amended to set forth in the regulations on live shellfish that there is a ban in the Town of Fort Myers Beach.

There will be a public hearing on October 16.

In answer to an inquiry by Councilman Reynolds, Attorney Roosa explained that the Town of Fort Myers Beach does not have the authority to adopt a regulation restricting shellfishing. But they can take that regulation that the state has adopted and make it an ordinance violation.

D. Draft: Water Utility Settlement

Town Manager Marsha Segal-George noted that last week we voted to approve and send this matter forward. Three issues came to the forefront that staff felt hadn't been addressed sufficiently and that's why it's in front of us again. We have a new settlement agreement from Dick Roosa with changes in it, which the Town Manager feels respond to the changes in the memorandum. The issues primarily were how the utilities would be acquired and in what name; a better description on what the countywide bulk water rate would be; a question on one section regarding the mechanics of billing, and then the definition on the buy out.

Attorney Roosa advised that he and Deputy Town Manager Gucciardo met with the county and staff who went over this. This was prepared by David Owen in the county attorney's office and Attorney Roosa said that he reviewed it and believes that it complies with our concerns. He recommends that we accept the settlement.

MOTION: Moved by Dan Hughes and seconded by Ray Murphy to approve the stipulated settlement agreement between the Town of Fort Myers Beach, Lee County, Florida and the Florida Utility Authority and a corollary agreement for the sale and purchase of treated potable water by and between Lee County and the Town as revised and submitted to the Town Council at this meeting.

Discussion:

Councilman Reynolds advised that our charter says that we cannot finance things beyond three years and asked how we are getting around that. Mayor Hughes said that we are not going to finance it for more than three years but that sometime within the three year period it would be refinanced.

Vice Mayor Murphy noted that in 6E it says that the county will provide actual notice. He was told that actual notice is when you send a letter with evidence of delivery and receipt.

Motion passed unanimously.

Deputy Town Manager Gucciardo advised that we will have to prepare not only for a public hearing that we'll have to hold here before we move ahead with an actual purchase, but we also have to prepare this documentation for the lending institution, which at this point looks like it's going to be Suntrust.

Mayor Hughes explained that John Gucciardo is referring to two proposals: one is to prepare the financial feasibility report by Burton & Associates for a total sum of \$9,488.00, which is on an estimated basis. The second proposal is for engineering services by Kimley Horn & Associates to provide the engineering evaluation of the existing potable water supply and equipment distribution transmission system on the island and to assess that and to see that the assets that are being acquired are in fact identified and whatever remedial improvements may be required. That's on a fixed fee basis of \$9,000.00, with the contingency for excavating buried piping, which they recommend at an additional \$7,500.00.

MOTION: Moved by Ray Murphy and seconded by Terry Cain to ask the staff to proceed to implement and finalize the contract proposals.

Discussion:

Ascertained for Vice Mayor Murphy was that the rates given by Burton were pretty much in line with the work they've done for us in the past. According to Deputy Town Manager Gucciardo, this is the first time we've had a relationship with Kimley Horn. One of the things we're going to be asking Kimley Horn to take a look at for us is to give us a cost estimate and feasibility on linking the water system with the water system in Bonita. This would give us another access to a water system.

Motion passes unanimously.

E. County's Bowditch Plans

Town Manager Segal-George said she had copied for us a memo from Commissioner Judah's office to Jim Lavender and also a corresponding memo from Carleton Ryffel on Bowditch with regards to what happened at the Board of County Commissioner's meeting.

Mayor Hughes said it was encouraging that we're having some cooperation with regards to a digital sign.

Deputy Town Manager Gucciardo advised we had asked the public works folks at the county to keep us informed about the timing on their efforts to take down some of the exotics at the park. We'd like to know at least a few weeks in advance if possible so that with the help of the Observer we can maybe get an article or two out explaining what the county has in mind in terms of the trees and in terms of revegetating the area once the exotics come down.

Councilman Reynolds said it seemed to him that a lot of land has been graded away and brought almost down to water level. We should ask the county to please not take any dirt away if they will not spread it totally out. There's very few natural vegetation up there, but that doesn't mean that we need to take all those Australian pines out. He was told that the county is going to take all the Australian pines down.

Mayor Hughes said he agreed with Councilman Reynolds regarding the Australian pines and so does Councilwoman Cereceda. He'd be glad to write a letter supporting that position and with the request that not all of the pines be removed.

Councilwoman Cain said she's been told that all of the trees are coming down except possibly for the three tallest after they have been killed. They will be posts for the osprey.

MOTION: Moved by Garr Reynolds and seconded by Terry Cain that Mayor Hughes write a letter to the effect that the county leave as many large Australian pines and other large trees as they possibly can.

Discussion:

Attorney Roosa stated that if the county is of a mind to remove the Australian pine, perhaps we could ask them that they schedule it over a longer period of time. Because if they remove them all today, there will be a bare spot; but in five years whatever they plant there will take over and it will begin to look like a different area. Vegetation grows very fast here in Florida.

Mayor Hughes asked Councilman Reynolds if he had any objection to incorporating that into the transmittal letter and was told it was a good idea.

MOTION: Moved by Garr Reynolds and seconded by Terry Cain that Mayor Hughes write a letter to the effect that the county leave as many large Australian pines and other large trees as they possibly can. If, in fact they do insist on proceeding with removal of all of the Australian pines that they do it on a phasing out basis over a time period of years. Passed unanimously.

VI. COUNCIL MEMBER ITEMS AND REPORTS

Councilwoman Cerededa advised she heard there are some problems in Lynn Hall Park at 3:00 a.m. -- 4:00 a.m. She was told there were probably 40-50 kids there at that time. She wondered if the notion of locking the gate had been abandoned.

Councilman Reynolds spoke of a letter received from Bob Beasley requesting Council to consider him for appointment to the vacancy coming up on November 14.

Councilman Reynolds felt that the purchasing of the water utilities was a good deal because the cost would be much more than 3.5 million in a competitive market. It will give this Town the opportunity to control their future a little bit more.

Councilman Reynolds also stated that the Town Manager had written a very strong letter about him and that Charlie Loucks of the Observer had received a copy. He would like to meet with the Town Manager on Thursday.

Mayor Hughes reported he had a communication from the Office of the Controller that gives the citizen's report for the fiscal conditions of the state for the current year. Another communication is from the Department of Community Affairs that gives a lot of material on the new statewide mutual aid agreement. A third communication is from the Office of the Attorney General, which is a 1999 annual report on hate crimes in Florida.

Tomorrow, Mayor Hughes advised, there are three elections that will impact the municipality: the county commissioner race; the sheriff's office and the state representative race. We should get out and vote.

Mayor Hughes said he'd like to comment favorably on the new waste removal. All our ugly old dumpsters were taken away. The county negotiated a very good deal on the rate for that.

Mayor Hughes mentioned the letter from the City of Bonita Springs complaining about our welcome sign. Town Manager Segal-George said it seems like it's changing. Today she

received a communication from a reporter in Bonita Springs and we also got copied on a letter from Scott Gilbertson. The county went to measure on our side to see whether the sign would fit on our right-of-way on our side of the bridge. The communication from Scott Gilbertson to Commissioner Judah was yes, it fits on our side, and then she was told that they would remove that sign and put it on the island whether we liked it or not. But our sign ordinance would not allow that sign to be placed on this island. Whether the county likes it or not, they are bound by the Town's sign ordinance. Mrs. Segal-George has communicated this to all the affected parties. She is taking the position that they cannot put that sign on this island unless we say we want it here. She understands that Granby is willing to give the county space to put the sign, but Bonita Springs is refusing to issue a sign permit for it.

Mayor Hughes said he had received a call from an employee at the Mid-Island Marina who lives on San Carlos near where the new development is planned. They're concerned about the tidal mangrove wetlands adjacent over there and indicated that the City of Sanibel has filed an objection to cutting the mangroves in connection with that development. He feels that we should look into that and express our concerns. Councilwoman Cain said she could do that if he'd like. They would have had to have a DEP permit to do it. Mayor Hughes said they'd have to have an Army Corps of Engineers permit too. He would ask the staff to look into that and bring back a report to our next meeting if it's still timely.

Vice Mayor Murphy referred to the memo that Councilman Reynolds mentioned earlier. There are some very serious allegations made in this memo and he just wanted to be clear in his mind how this was going to be addressed. Mayor Hughes said he was not aware the meeting had been scheduled. The Town Manager said that she wasn't either but that she has no problem with it. Councilman Reynolds said that he absolutely will address each item. No definite meeting time had been set. Attorney Roosa said he thinks we ought to schedule this for the agenda for the next meeting and perhaps we can prepare a resolution for adoption of the Council as a result of the meeting. He would be glad to meet with Town Manager Segal-George and Councilman Reynolds to work on that. Councilman Reynolds said that since there is some pretty strong stuff in the letter, he thinks it would be to his benefit to have an unbiased individual present. Mayor Hughes said he'd have no objection to Councilman Reynolds bringing anybody he wanted to to the meeting other than a council member.

Councilman Reynolds advised that he had written an article regarding his unhappiness with the way the meeting on the 25th had gone and had suggested that we at least study some new procedures for a possible adoption. He got thumbs down on that but the Chairman had suggested that we bring forth the procedure manual that we presently have and that maybe we could get that on the agenda for discussion. Mayor Hughes felt we had to take a fresh look at the manual in terms of Mr. Reynold's current criticisms and be specific. Councilman Reynolds said he and Attorney Roosa agree that there are some things that should be included in the manual. He would hope that it would allow time for Attorney Roosa to go over this and possibly bring some inserts updating this. Attorney Roosa said he would have time to do it but he's not so sure it would be helpful for him to go through it. But he thinks that as the council members read it, if they would just sketch out their proposals on a piece of paper and provide them to him, then he could prepare an outline that could come before the Council and we could discuss just those specific proposals that the council members bring to his attention.

Councilwoman Cereceda said she thought the purpose was to schedule a workshop for policies and procedures. What Janeen distributed was the policies and procedures that was put together by Andy Priem and herself over the course of a year and a half and that the Council

adopted. There was a lot of input from the first council on it and it was meant to be amended as time passed on. This is probably as good a time as any and it might be a good idea to schedule it soon. A workshop was therefore scheduled for Thursday, November 9 at 9:00 a.m.

VII. TOWN MANAGER'S ITEMS

None.

VIII. TOWN ATTORNEY'S ITEMS

Attorney Roosa advised that the county was having a little difficulty with the company that they're using to operate their utilities. They are putting out bids and there's a bid contest that was scheduled to be heard tomorrow. David Owen has requested the county commissioners continue that because there will only be three commissioners present. The county is thinking about having county employees take over the operation and management of the system, which Mr. Roosa doesn't think would have any impact on the Town.

IX. PUBLIC COMMENT

A. CARLETON RYFFEL

Regarding the mangrove clearing on San Carlos Island, Mr. Ryffel said he understands that that is going to be part of the mitigation bank that's been approved. The mangroves are similar to what's there.

With respect to the sign, Mr. Ryffel felt we're going to have to make a change to our sign ordinance anyway for electronic signs and we might as well do them both at the same time. It's something that he would call governmental directional signs and he thinks we could exempt those from the sign ordinance whether they be digital or fixed. We need to coordinate with Jim Lavender about these signs. Mr. Ryffel said he'd be glad to help at no charge.

Mr. Ryffel felt that we could save some of the Australian pines for educational purposes.

B. JOE CROKER

Mr. Croker congratulated us for our new public address system.

C. DAN PARKER

Mr. Parker advised that there were two beach accesses that were still not marked. One was Lover's Lane and the other was the property adjacent to Mr. Newman's house. Town Manager Segal-George advised that the county has refused to do either one of those two. They have specific criteria that they developed as to the requirements that they believe have to be met and they said that neither of the accesses meet the necessary criteria.

Mr. Parker also advised that the access at Lenark is in need of refurbishing.

X. ADJOURNMENT

The meeting was adjourned at 7:47 p.m.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for Action October 2, 2000

1. There will be a public hearing on October 16 regarding the amended regulations on live shellfish for a ban in the Town of Fort Myers Beach.
2. A workshop for policies and procedures was scheduled for Thursday, November 9 at 9:00 a.m.