

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

**I. CALL TO ORDER**

The meeting of November 6, 2000, was opened by Mayor Daniel Hughes at 6:30 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 Dick Tafel, The New Church of SW Florida

**IV. PRESENTATION BY BEACH ELEMENTARY STUDENTS: Political speeches for former presidential candidates, written by the students.**

Teacher Sara Keller brought a classroom of gifted students whose political speeches she felt were probably far better than any we've heard in the last month. They each researched a president and also researched the United States during the time that president lived. They made political buttons and banners themselves. Each child spoke for two minutes and the presidents they spoke for were John Adams, Andrew Jackson, John Tyler, James Buchanan, Abraham Lincoln, James Garfield, Benjamin Harrison, Theodore Roosevelt, Herbert Hoover, John F. Kennedy and Gerald R. Ford.

The children were thanked for their speeches.

**V. PUBLIC COMMENT ON AGENDA ITEMS**

None.

**VI. CONSENT AGENDA**

**A. Proclamation: To Declare the Month of November as National Epilepsy Awareness Month**

**B. Review of Financial Reports -- September 2000**

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to approve the Consent Agenda. Passed unanimously.

## **VII. ADMINISTRATIVE AGENDA**

### **A. Presentation by Coastal Planning and Engineering on the Beach Restoration Project**

A presentation was made today at 5:00 p.m. to people who were informed that their easements would be needed. Four easements were obtained.

The project was explained by Steve Boutelle and the design dimensions given. There will be a small groin built in North Estero to hold the sand on the beach.

Lover's Key has been included in the project.

Over 300 million cubic yds. of beach compatible sand has been found in the center portion of the island and about one million cubic yds. is needed for Estero Island.

The state requires a mean high water contour for any community to put sand under their beach as a beach restoration project. And an erosion control line will go in not only in North Estero, but also South Estero and Lover's Key. There will be a separate public meeting to discuss the erosion control line in the near future.

All agencies are familiar with the project already. The project will be bid as soon as possible.

Cost estimate: North Estero Island might be almost cut in half price-wise standing alone. They think the unit cost is going to be about \$5 a cubic yard. For South Estero Island and Lover's Key, the price is going to be between \$5 and \$10 a cubic yard for the sand.

The Army Corps of Engineers is recommending a 3-year renourishment interval. But since we've brought the areas in, we can optimize that renourishment for 8 years or longer.

Mayor Hughes noted that the Town of Fort Myers Beach will not be participating whatsoever in the funding of the Lover's Key portion.

#### **Public Comment:**

##### **1. Dan Schultz**

Mr. Schultz asked if our taxes would be affected by this. Deputy Town Manager John Gucciardo advised that the project costs are being split out into two main benefit categories: the recreational benefit and the storm protection benefit. At this point, the recreational benefit will be approximately 85% of the total cost and the Town will be responsible for the storm protection benefit, whatever that figure is. It will be the responsibility of the Town Council to identify the fundings for us. We may already have enough money in Reserves to take care of the Town's portion. Before that final decision is made, of course, the Council will have to as a matter of policy have a public hearing and make a determination as to whether or not those funds should all be directed towards that.

##### **2. Mike Klein**

Questions were asked regarding the jetty -- where it would be located, what the dimensions would be and if it would have recreational value. Would it interfere with boating? Steve Boutelle advised that it would be at the north end of Estero Island, just outside of the easement area for the federal navigation project. There is no provision for building some sort of fishing platform on it. It won't necessarily be designed for human traffic. It will go from the mean high water line where it is right now: approximately 140 ft. from the shoreline or 2-1/2 to 3 ft. in depth from the mean tide level. It will be approximately 10 ft. wide and slant down a fairly steep slope on the side. It is outside the navigational channel. There are no plans to put any other structures in at this time.

Councilman Reynolds asked if it would help to put a groin in the middle of the island. He was told that they were planning to put extra fill in that particular area and a groin would not be needed.

**3. Pasqual Loffreno**

Mr. Loffreno noted that no one can use their boats on the south end of the island anymore unless there's an extremely high tide. He feels that two jetties are needed -- one on the south end of the island to protect the condominiums and one on Lover's Key.

**4. Ed Cancel**

Mr. Cancel was told that chances of getting a groin in his area, the south end, were slim, unless it could be shown there was a critical need for it.

**5. Don Harris**

Mr. Harris agreed with Mr. Loffreno that the sand on the south end has gotten pretty bad.

Steve Boutelle gave a summation. He advised that the chances of the Army Corps of Engineers ever designating a federal channel on the south end of the island are about zero. They depend strictly on commerce as their requirement. They stay involved in Matanzas largely because of the shrimp boats.

**B. Times Square Advisory Committee Resolution, Ordinance 0016: Farmer's Market**

Pam Houck advised that the Times Square Advisory Board voted on the resolution at their last meeting requesting that we revisit the Farmer's Market proposal presented to us last June. At that time it was recommended that we move forward with it but it was tabled. Ms. Houck is in possession of memos from Town Manager Segal-George, the Times Square Advisory Board and from Shawn Holiday.

Terry Cain said that from Shawn Holiday's memorandum she thought the market would be under the Sky Bridge and that now it's going to be in the Square. Pam Houck stated that it's actually proposed for under the bridge or possibly on John Richard's property. It will not be in the Square itself.

Mayor Hughes had a concern regarding what type of vendors would be allowed. He doesn't want to see something akin to a flea market. Shawn Holiday said they would initially start off as a farmer's market with fresh produce and fish. Craft products would have to be made on the spot.

Councilwoman Cereceda said she doesn't understand why the Town Council would fund this other than we think it's a good idea to promote a community event, and then we will need to establish a policy. Vice Mayor Murphy said that all the efforts made in the Times Square area are to spur and encourage the redevelopment of that area. We already have a DRA set up down there.

Town Manager Segal-George noted that we don't have staff available to coordinate efforts and have to look to some other resource to do this.

Mayor Hughes felt that if we charged a fee to the vendors, there wouldn't be any significant cost to the Town. Town Manager Segal-George added that there are potential funds in the CRA to assist in the cost. But this year we have pretty much maxed out those dollars to do the Old San Carlos project.

Bill Whitaker, a member of the Times Square Advisory Board, stated that he thought that Ray Murphy pretty much summed up their goal, their mission of enhancing the area.

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to act on the resolution from the Times Square Advisory Council which supports a farmer's market in the Times Square area with the proviso that any initial seed money fronted by the Town of Fort Myers Beach is to be reimbursed at some point by CRA funds. This will start out initially as a farmer's market and what you would expect to find at a farmer's market and not anything that even vaguely resembles a flea market.

**Discussion:**

Councilwoman Cereceda wished to know how long it would take to get the market off the ground.

Mayor Hughes said it could be terminated by the Council at any time.

Councilwoman Cereceda suggested taking it through season.

Shawn Holiday will determine what vendors will be acceptable.

Vice Mayor Murphy said his motion would be to move ahead conceptually with the idea and then Shawn can come back with any further feedback at a future meeting and let us know how it's going with the particulars.

Councilman Reynolds asked Mr. Holiday where he anticipated his customers coming from. Mr. Holiday said he thinks it will be a definite asset for residents and certainly visitors. He doesn't know if anyone is going to make a special trip to the Beach to come to the farmer's market. It will add to the cosy feeling of the Beach. Councilman Reynolds advised that the population is really down by Villa Santini. Mr. Reynolds would also like to see our activities spread more over the island. Mr. Holiday said he'd be happy to talk about other things they can do outside of the Times Square district.

Councilwoman Cereceda said she wondered if whoever is sitting on the Council three or four years from now would prioritize a farmer's market for \$10,000. She felt that we need to have a policy in place.

Vice Mayor Murphy felt that once that whole area starts to develop, a farmer's market may not be needed anymore, that there will be all kinds of things going on down there. But this is one of the things that they need right now to bring people in there. And he doesn't know if one could make a long-range policy for something like this. To him this is one that requires an ad hoc decision.

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to implement the resolution from the Times Square Advisory Council who recommended that a farmer's market be established in the Times Square area with the proviso that the seed money advanced to Shawn Holiday under his proposed memorandum be reimbursable out of CRA funds. A second condition is that it be a farmer's market and not have anything that would not be typically found in a farmer's market. The third condition is that the whole farmer's market concept would come back in front of the Council for review in September of next year. Passed 4-1 with a dissenting vote from Councilman Reynolds.

**C. Public Hearing:** Amending Ordinance 98-1 -- Special Events

This is the final hearing on this ordinance. It grew out of Staff's recommendation to limit permits for special events to no more than six in a calendar year and that a permit should be obtained prior to holding an event. Application must be filed prior to January 1 if an event is held during the season.

Mayor Hughes asked if a farmer's market was a special event and was told no.

**Public Comment:**

1. George Farmer, a Beach resident, felt that a farmer's market could be a special event. He would like for us to reconsider our motion, feeling that we made a big mistake. We should say what should be allowed to be sold there.

2. Sharon Webb lives on Bay Beach Lane said Mayor Hughes had said we had a specific request but she didn't hear anything specific in the request at all: how many days, what days, what hours, how many people, how the traffic is going to be handled that's coming across the bridge from the market? She's also outraged because part of the pride in this Town is that we support the businesses here, and one thing that the CRA did and Times Square did is bring the residents from the south end to shop at Topps and Fiddlers. These are people in our community who are paying taxes and now we're opening up on a gamble. She doesn't care if it's CRA money, it's still money.

We have asked what's typical of a farmer's market, and Mrs. Webb said all kinds of crafts, all kinds of stuff is sold at the Bonita Springs farmer's market on Terry Lane run by a social organization and that it's fabulous, it's wonderful. Everything is typical and accepted at a farmer's market. The hours of most of the markets are 7:00 - 12:00 , 8:00 - 12:00. We should have heard from the public before making a motion. We are asking them to buy now from people who are not the businesses on this island and take business away from those that are already here. Prove that a farmer's market is good and then fund it.

3. Judy Stetter stated that she does believe we were not given enough information prior to the motion being made. She believes in supporting our local merchants first of all.

The definition of a special event was reviewed. A special event is an event where one would not normally expect a large population of people. The area proposed for the farmer's market does not fit that description.

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to approve the ordinance amending the ordinance dealing with special events.

**Discussion:**

Adopting this or not adopting this will have no bearing on whether we're going to have a farmer's market or not.

Motion passes unanimously.

**MOTION:** Moved by Anita Cereceda and seconded by Dan Hughes that we readdress the question of the farmer's market.

**Discussion:**

Councilwoman Cerededa said we'd like to reconsider it not to eliminate the idea or squash the farmer's market, but to answer the questions that have been asked already here tonight and that will be asked again: How often? What are the specifics? What criteria is this Council going to use when granting or denying the request made by anyone in the community for financial participation from this Town?

Vice Mayor Murphy said he would support that reconsideration, but that in the motion he said that he was supporting this in concept and that Shawn Holiday was going to come back and report to us with these specifics. Mayor Hughes said that was his understanding too.

Councilwoman Cerededa said there would be a year of something happening before there's any review by the Council.

Vice Mayor Murphy said that all the Advisory Committee wanted of us this evening was a show of support and that's what he was trying to do. But if we wish to reconsider, we can reconsider.

Councilwoman Cerededa said that she was under the impression that this was going to go forward for a year until September and then in September with those stipulations that the CRA would repay the seed money, it would strictly be a farmer's market, and then in September it would come back to us.

Councilwoman Cerededa said she would withdraw her motion.

Mayor Hughes asked to have Vice Mayor Murphy's motion restated.

**MOTION:** Moved by Ray Murphy and seconded by Terry Cain to support in concept the resolution that's been brought forward by the Times Square Advisory Council for the implementation of a farmer's market down in the Times Square area. This is the second time that they've come to us with this request. Have Mr. Holiday come back with the specifics for the Council that at a future meeting we can have more specifics in front of us to move forward on any of the recommendations at that time. This will go back not only to Shawn Holiday but also to the Times Square Advisory Board.

**Discussion:**

Attorney Roosa said that this motion will supercede the original motion.

Councilman Reynolds noted that the money hasn't been mentioned. Mr. Holiday's cost is going to be \$450 for 18 hours and \$400 for 16 hours and this will be pretty much the monthly cost. That totals up to about \$4,800 per year. He asked if we were trying to avoid the money factor for now.

Vice Mayor Ray Murphy said what we just said is that we're going to bring this back to the Advisory Committee that is going to bring forward more recommendations along with Mr. Holiday.

Motion passes unanimously.

Town Manager Segal-George advised that the next Times Square Advisory Committee meeting will be on November 21 at 9:00 a.m. If anybody in this audience is interested in addressing this item they should attend.

**D. Public Hearing: Ordinance Regulation of Live Shellfish**

This is the final reading of the ordinance that bans live shelling on our beach. If someone is seen with a bucketful of shells we can call Town Hall and a code enforcement officer can be sent.

To get the word out, Town Manager Segal-George said they would be posting signs at the beach accesses, distributing brochures to hotels and other locations and also put a script on the radio station.

**MOTION:** Moved by Terry Cain and seconded by Garr Reynolds to that the ordinance for the regulation on live shelling be passed.  
Passed unanimously.

**VIII. COUNCIL MEMBER ITEMS AND REPORTS**

Councilwoman Cereceda said she is looking forward to our workshop on policies and procedures. She'd also like to suggest that we have some kind of workshop that involves Laguna Shores. She also noted that MRTF had a whole presentation on canals and dredging and we plan to schedule that in front of the Council. The MPO needs a representative from Fort Myers Beach for the CAC. She was told that this has been advertised.

Councilwoman Cereceda noted that business is booming down here right now.

Councilman Reynolds praised the children who gave their presentations earlier.

Mr. Reynolds said that he hoped that if people walked their big dogs on the beach they would pick up after them.

Councilwoman Cain thanked everyone from Fort Myers Beach involved in Monofilament Madness. There were about 150 from the Beach and a few from the other side of Estero. They picked up from 1500-2000 lbs. of trash out in the Back Bay.

Mayor Hughes said that Terry Cain modestly failed to say that she was the coordinator of Monofilament Madness. She did a wonderful job and there was a nice barbecue afterwards and band music. We had the 5K Swim a week ago Wednesday and brought swimmers in from all over the country and some international ones. Our children and grandchildren had a very memorable evening on Halloween night. The next day, which was also Monofilament Madness, was the first concert that the Town sponsors with Villa Santini, now Marina Santini. It was a great concert and very well attended. The name of the leader of the band was Jake Murphy, the son of Ray Murphy.

Mayor Hughes said we will continue to express ourselves regarding the park.

The resolution under the Town Attorney's items regarding harassment in the work place was moved at Councilman Reynolds' request. Attorney Roosa advised that the resolution addresses a policy statement that will be distributed to all employees, contractors and those elected and appointed officials of the Town to establish our policy with regard to harassment. Councilman Reynolds wished to add sensitivity training to the resolution. Town Attorney Roosa said this was a separate issue.

**MOTION:** Moved by Garr Reynolds and seconded by Ray Murphy to address a policy statement for all the Town's employees and contractors and those who contact our employees, including those

elected and appointed officials of the Town, to establish our policy with regard to harassment.

Councilwoman Cereceda said she found the motion offensive and could not support it in any way, shape or form.

Attorney Roosa felt that it was meant as a controlling device so that a person would conduct himself as though his mother was standing right there.

Councilwoman Cereceda said there are laws in place greater than the Town of Fort Myers Beach will ever put into place to assist and help prevent situations, and a person who has a grievance has those laws to abide by. This particular resolution to her is in response to a particular situation and she finds the response embarrassing.

Attorney Roosa advised that the resolution itself implements Title VII. policy and does not directly relate to the memo. Its purpose is to establish a Town policy of how we all will conduct ourselves with each other. He thinks it conveys to the average person an idea of what we expect. There are some places where there's a level of conversation that is inappropriate.

Vice Mayor Murphy said maybe this is a topic that could be discussed further at a policies and procedures workshop as suggested by Councilwoman Cereceda. He said he would remove his second to the motion. Attorney Roosa said that in the meantime we could discuss some modifications that would accomplish the same goal and be more acceptable.

Councilman Reynolds explained why he didn't put a lot in his motion and that he felt that everyone was familiar with sensitivity training. He sees no problem in signing something that everyone should be doing. Attorney Roosa felt that we could put this on the agenda for the workshop.

Garr Reynolds' motion was withdrawn since there was no longer a second to it.

Attorney Roosa felt that the statement that this work place harassment policy must be signed by all contractors and those who contact their employees was very broad.

Mayor Hughes said he does feel that those people who are taking Town money ought to be considered Town employees, and certainly those people who have volunteered and are appointed to official positions with the Town ought to be willing to sign. And if a delivery person makes (an inappropriate) comment, he thinks it would be appropriate for an employee to ask him to read the statement and sign it. And he thinks that's a way of resolving quickly what might otherwise develop into an incident. But he does not think it should be incumbent upon the Town Manager to get everybody who walks in the front door to sign it.

Councilwoman Cain felt that any large company would have a policy in place as well and therefore it wouldn't be necessary for us to have one of their employees sign ours.

Mayor Hughes noted that there was no second to the motion and so hearing no further objection said that the Town Council will have to deal with this matter.

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

### **A. Suggestions for use of voice volunteers and enhanced trolley service during upcoming season**

Deputy Town Manager Gucciardo said that this is just a reminder that we ask for the VOICE volunteers from about 10:00 a.m. until 4:00 p.m. depending on availability, and then auxiliary deputies from about 8:00 p.m. He believes the cost of the deputies has gone up from

previous years.

After January 1 they try to arrange for an extra trolley to be added on the island and they also supplemented the service from Summerlin to Bowditch by making that a free service, thereby encouraging more people to leave their cars at Summerlin. And take the trolleys. We can give our suggestions and they will bring a proposal back to us in December for implementation.

Vice Mayor Murphy said that since we're a contracting partner with the sheriff's office, maybe we can schedule a meeting with the new sheriff to come down and talk about some new items. Also, he's finding that traffic has already substantially increased this early in the season and is backing up. Perhaps we should ask the voice guys to come down now. John Gucciardo explained that they usually don't become available until further on in the season. But he has been given material for a training program and they will see if they can get some volunteers from the Beach to go through the program. We could consider higher auxiliary deputies for the weekend at some expenditure.

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

### **A. Resolution: Harassment in the workplace**

As above.

Attorney Roosa reported that the county commission did approve in the GUA case and that they forwarded it on to GUA, which means that the Town of Fort Myers Beach will be able to purchase the water utility system.

Also, in the case with Star Dial Investments there has been a request for another extension and the Second District Court of Appeals has approved the request for an extension to allow for the brief to be filed on November 21. And Star Dial Investments has filed a motion to vacate the stay requiring the posting of a bond. That's set for a hearing on December 11, which is an exception to the general law.

Attorney Roosa said that there is a possibility that this may be his last Town Council meeting and it's been a distinct pleasure working with us charming people over the last few years and with the LPA and the staff. He knows from working with all of us that although we may have had disagreements from time to time, we all have acted in what we feel was in the best interest of the community on each and every issue presented. No matter what happens in the election, he hopes we will continue to grow and survive.

## **XI. PUBLIC COMMENT**

A. Bill Whitaker, a member of the Times Square Advisory Committee. He said he was proud of what happened here tonight and he thinks we saw a small town government at its best.

B. JOE CROKER had a hypothetical question regarding what to do if we see a little kid with a bucket full of shells.

C. Ann Henneber, a resident of Fort Myers Beach, found this her first Council meeting very interesting. She remarked that she had received a notice regarding the Diamond Head and Town Manager Segal-George said that that case will be in front of the LPA on November 14 and Council will hear the case in December. Mrs. Henneber read the notice to the Council.

**XII. ADJOURNMENT**

The meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Lorraine Calhoun  
Transcribing Secretary

### **Items for Action November 6, 2000**

1. The next Times Square Advisory Committee meeting will be on November 21 at 9:00 a.m.
2. Attorney Roosa reported that the county commission did approve in the GUA case and that they forwarded it on to GUA, which means that the Town of Fort Myers Beach will be able to purchase the water utility system.
3. In the case with Star Dial Investments, there has been a request for another extension and the Second District Court of Appeals has approved the request for an extension to allow for the brief to be filed on November 21. Also, Star Dial Investments has filed a motion to vacate the stay requiring the posting of a bond. That's set for a hearing on December 11,
4. The Diamond Head case will be in front of the LPA on November 14 and Council will hear the case in December.

**Time of Minutes of 11/6/00**

10:45	11:45	1:00	1:00
12:00	12:15	:15	1:15
4:40	5:00	:20	1:35
6:00	6:50	:50	2:25
10:10	11:10	1:00	3:25
1:20	2:30	1:10	4:35
3:30	3:50	:20	4:55
4:15	4:50	:35	5:30
11:20	12:35	1:15	6:45
2:00	2:15	:15	7:00
3:15	3:45	:30	7:30
3:45	4:30	:45	8:15
7:40	8:10	:30	8:45