

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JANUARY 25, 1999**

NationsBank Building, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

Mayor Ray Murphy opened the meeting on Monday, January 25, 1999 at 6:30 P.M. Present at the meeting were: Mayor Murphy; Vice-Mayor John Mulholland; Council Members Daniel Hughes, Garr Reynolds, and Anita Cereceda; Town Manager Marsha Segal-George; Deputy Town Manager John Gucciardo; Assistant Town Manager Ron Himmelmann; and Town Attorney Richard Roosa.

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III INVOCATION

The Council was led in prayer by The Reverend Jeanne Davis of Beach United Methodist.

IV. PROCLAMATION: 100th Birthday of the VFW

Mayor Murphy read a proclamation recognizing the VFW on their 100th year of service, sacrifice, dedication and patriotism. Mr. Bill McCarthy, commander of the VFW, received the proclamation.

V. PUBLIC COMMENT ON AGENDA ITEMS

A TOM MYERS

Mr. Myers spoke about the possible purchase of Florida Cities Water by Lee County. This is a big concern at the Red Coconut because the county has been saying that if private enterprise can do a better job of it, they should. He does not believe the county has proved they can do a better job. He has been trying to find out what it will mean in rate increases. Larry Johnson couldn't give exact figures. As close as he can figure his increase will be about 63%. He thinks that will also go for condos, businesses and residences. There will be a hearing tomorrow at Lee County where they will decide whether to purchase it. He thinks we need to get them to hold off on this decision. It would be helpful if someone from the council or town could go.

B KITTY TAYLOR

Ms. Taylor said it is impossible to confirm the dollar effect on businesses that the FCW purchase will have based on the most recent information from Lee County Utilities. Their figures are "adjusted" and do not match with any figures she has. She strongly believes in local control, however if one of the results is that the Public Service Commission no longer has any input, she is leery.

C CARLETON RYFFEL

Mr. Ryffel said he reviewed the draft sign ordinance. He understands the maximum height would be 8' or 10', and he has a problem with that height. That will block the views of the businesses and stores. You need to get them off the ground to a certain extent. He said he doesn't understand what a high rise sign is on page 7. On page 11, garage sale signs, it says you can put them up 24 hours before. He suggested 48 hours ahead so people can have some advance notice as to where the sales will be. On the bottom of page 13C, it talks about any sign exceeding 14 feet, and that seems to conflict with the rest of the heights. Mrs. Segal-George said that is one of the things she already has on her list of needed corrections. Mr. Ryffel said he would hold the rest of his comments until after the council had heard Mrs. Segal-George's list.

D LARRY JOHNSON

Mr. Johnson, Director of the Environmental Services Department for Lee County, who is in charge of the utilities system, said he has provided some information about the potential purchase and rates. In addition they are proposing that there will be an additional public hearing on February 9 regarding the potential rates. They are trying to have as small an impact as possible on the residents of south Lee County. They are trying to make the rates consistent across the county. The council should be aware that because of the reduction of the sewer cap, they are estimating that the people on Fort Myers Beach would see a reduction in their sewer bill. He provided a copy of a table they prepared regarding RV and condo

rates. Mr. Hughes said he wished they could have had more advance knowledge on this and he wondered if there was anything the town could do about this situation. Mrs. Segal-George said she prepared a memo this afternoon because that is the first she had the information. She feels the council definitely can do something about this.

VI. CONSENT AGENDA

- A. Items to be pulled for discussion by the Council – Mr. Reynolds said he is not sure the consent agenda is a good idea if they pass things without any mention of them, because then a lot of the public will not know what is going on. Mr. Hughes asked why the revenues were not listed on the income statement. There were no items pulled for discussion.
- B. Motion to approve balance of items

Motion: Mr. Hughes moved and Mr. Mulholland seconded that the consent agenda be approved. The following items passed unanimously:

1. Minutes of December 14 and December 21, 1998
2. Financial Reports for December

VII. ADMINISTRATIVE AGENDA

A. FIRST READING: SIGN ORDINANCE

Mrs. Segal-George said she worked on this ordinance with the LPA and then Mr. Roosa put it in this form. She highlighted some things that need attention. There is no provision for a movie marquee and we do have a movie theater being built. Also coke machines that are out in front of businesses may be considered illuminated signs. On page 7 the words “does not include high rise signs” needs to be deleted. On page 8, section 30-3, the word should be “repainting” not "replanting." On page 18 at the top it should say "requiring a sign permit" not "sign construction." On page 19 F, she pointed out that it still needs to be resolved how to keep track of the signs. On page 20, real estate signs are in the section for temporary signs, and the LPA had discussed one year instead of 90 days. On page 25, the section on sign identification and marking will have to be reworded

Mr. Hughes said the LPA agonized over this ordinance. He asked if they can include an index for this ordinance since it is so lengthy. Mr. Roosa said he could do that. Mr. Hughes asked about the missing numbers between sections. Mr. Roosa said that was the way it was codified by the county; the printer left sections vacant so that if there were amendments, there would be room to add them. Mr. Hughes asked if they should say they are reserved. Mr. Roosa said when it comes into the Land Development Code it will be that way, but in this ordinance, it would have to be in the titles if they were reserved. Mr. Hughes said most amortization is related to the cost of the sign and the life of the sign, not just a flat eight years. Mrs. Segal-George said that the ordinances she looked at from other cities were 5 to 10 years. Mr. Mulholland thanked Ron Kidder of the LPA and his group of volunteers for their hard work on this ordinance. Mr. Reynolds asked Mrs. Segal-George to clarify that all nonconforming signs will be completely gone after 8 years and everything will be in compliance. She said yes.

Mr. Murphy read the titles. The ordinance was set for public hearing on February 1 at 6:30 PM.

B. FIRST READING: ORDINANCE AMENDING THE VESSEL CONTROL AND WATER SAFETY ORDINANCE (TO PROHIBIT AIR BOATS IN THE BACK BAY)

Mr. Hughes said that in section 6.1, in defining the area of prohibited activity, he has a problem with the definition at the south end. No one knows where the waters meet. He would define it by actual linear boundaries instead. It looks like they could not go under the bridge because they would be in our waters. Mr. Roosa will clarify that. Ms. Cereceda restated for the record that she thinks this ordinance is a huge mistake. Particular types of automobiles are not banned from the roadways, but there are restrictions on the operational maintenance, safety, noise, etc. To ban one particular type of boat from the back bay just because it has a propeller that moves air is a mistake. If you want to preserve the back bay, there are other ways of doing that. It is discriminatory and she sees someone challenging it. Mr. Mulholland said the analogy between cars and airboats is not good. The airboats disturb the rookeries. We cannot keep them from going into the rest of the back bay because we don't have the jurisdiction. But we can protect our territory. They are very noisy and people will be upset when they hear the noise. Ms. Cereceda said she is just as much interested in protecting the back bay. But there is a huge power boat behind her condo and she can hear it start up even when she is in the shower. Are we going to ban it because it is loud? If we are going to ban airboats because of the damage they do, then we should ban everything except human-

powered craft. Mr. Mulholland said the airboats have very little draft and can go places no other boat has gone. They do damage. Ms. Cereceda asked the council to look at the bigger picture. If only airboats do the damage and disturb birds, then ban them. But every craft does. Mr. Hughes says he recognizes what Ms. Cereceda says, but he does not conceive of this as the end of our looking at all motorized vehicles, especially those that operate outside of the channels. He believes this is only a start. Mr. Mulholland said we will not be able to ban air boats in the back bay. They can launch from San Carlos Island and go in the back bay without going through our waters and they can get to the gulf. He thinks it is a losing battle to ban them, but we can ban them from our waters. Mr. Reynolds said the Everglades has found them more than a nuisance. They have caused considerable damage, and they sound like a sea plane taking off. We have to protect the back bay and the people who live there. Mr. Murphy said the federal government has banned them in the national park, so he does not think the town will be setting a precedent.

Mr. Murphy read the titles. It was set for public hearing on February 1 at 6:30 PM.

C. DRAFT ORDINANCE: LOITERING

Mr. Roosa said this is based on the Lee County ordinance and was requested by the sheriff's office and the PSTF. Mr. Hughes pointed out that in Section 1 it says "loaf or loiter". In Section 2 it says "loiter or prowl". In Section 3 it says "loiter, stand, sit or lie". In Section 4 it just says "loiter". He has a problem with different words in each section and no definition other than customary usage, unless there is some case law definition. In Section 3 it talks about public areas and in Section 4 it gives a different list of public places. How can you be loitering in a moving automobile? Can you be loitering in your own driveway? Mr. Roosa said you could be if you were in someone else's driveway. Mr. Hughes said it says public places are driveways and automobiles and he does not think either of them are public. Mr. Gucciardo noted that that is in the section for soliciting in the act of prostitution. Mr. Roosa suggested that Section 1 is not necessary because the school board already has the right to stop loitering on school property. Mrs. Segal-George said we have a problem there and we do need it. Mr. Gucciardo said he assumes the school board would be calling the sheriff's office to enforce a loitering ordinance. Mr. Roosa agreed it would be better to have consistency of definitions and he will work on it. Mr. Hughes said the penalty is prison or \$500 fine or both. Is that the maximum we can levy? Is this a misdemeanor or quasi-criminal? Mr. Roosa said he is not involved in the process, but it is treated through the county courts as ordinance violations. Mr. Hughes asked what is the maximum fine or sentence we can impose. Mr. Roosa said he will look up the statute. Mr. Mulholland stated his support for this ordinance. He was against the curfew, but he thinks this would be helpful for the town. The sheriff said this is a tool they need. Mr. Murphy said at the workshop with the task force, they came to the conclusion that the deputies need this. It will be set for first reading on February 22.

D. AWARD ENGINEERING CONTRACT FOR PALMETTO STREET MSBU

Motion: Mr. Mulholland moved and Mr. Hughes seconded that the engineering contract be awarded

Discussion: Mr. Reynolds asked if, once the repairs are done, these streets will be accepted by the town. Mr. Himmelmann said yes unless they want to go private. Mr. Reynolds said some of these people have asked if they could pay the impact fee that they should have been charged, and then make them an official part of the town. He said he is not just concerned about this street--there are some others. Are we going to put an MSBU on all these sections just because the county was negligent? Mrs. Segal-George said that until the road is brought up to standard, we can't accept it and maintain it. It would be no different than any other private road in the town. If any of those people want us to take them, it has to be at a certain standard first. She does not believe there is any legal way to go back and make them pay the impact fees, and it probably wouldn't be enough to pay for the engineering and the work. Mr. Reynolds said they have been paying full taxes for all these years. It seems we should accept the responsibility for all our streets. Mr. Himmelmann said that 100% of the owners have now agreed to this MSBU. Mr. Hughes asked if these are the owners of record. There is only one signature on the petition, but he is sure that there are some that are joint tenants. Mr. Roosa said we can rely on the tax records to identify the owners. We do not have to do title work. Mr. Hughes said the council must decide at some point if this is to be added to their tax bill or if it will be a town assessment. Mr. Himmelmann said that Mrs. Segal-George has indicated that we will do the assessments ourselves. Mr. Hughes said the petition says it will be carried over 20 years and he thinks that is a long time for the town to carry that. He said that is an administrative burden on the town, and then if we have others around town, it will be even more burdensome. Mrs. Segal-George said she is not sure there are any

others on the island. Mr. Himmelmann said there is a fee by going through the county for the assessment and we were trying to help the homeowners. Mr. Roosa said he did not believe the town is bound to the 20 years just because they signed the petition. Ms. Cereceda said that after we get a quote on the cost it could be decided how much it will be and how it will be paid out. Mr. Himmelmann said we still have to go back to the homeowners anyway. Mr. Reynolds asked if all those people are still there and are still owners. He knows of one situation of a person whose husband has died, and the widow's signature is not on the petition. Mr. Himmelmann said we are clearly above the 51% that is required anyway. **Action:** The motion carried unanimously.

E. REVIEW OF ESTERO BOULEVARD STREETScape RFQ

Mrs. Segal-George said that this is in the capital budget already, but she wanted to see if this description is what the council is looking for. She set out two alternates: looking at it as a county road and looking at it with those restrictions removed. Ms. Cereceda said there was a discussion of whether the sidewalk should be decorative or functional, and whether it can be a bike path like in Sanibel. Mrs. Segal-George said she will add bike paths to the list. When she says decorative, she is not talking about pavers. Mr. Reynolds said the bike path with blacktop should be on the gulf side. Ms. Cereceda asked about trolley pullouts. Mrs. Segal-George said she would add that. Mr. Hughes said that the lighting on Estero, particularly at dusk, is inadequate. That should be addressed as well as the decorative lighting. You cannot see the crosswalks on the road. Mrs. Segal-George said the problem is our turtles ordinance, which restricts the lumens allowed. She said Mr. Gucciardo is looking at some alternatives to lighting the crosswalks. The council agreed that they liked the description.

F. COUNCIL MEMBER SUBJECT MATTER RESPONSIBILITIES

Mrs. Segal-George said this list was done three years ago. As people took on seats, they took on the responsibilities. She wanted to know if they wanted changes, or if something is left out. Ms. Cereceda said the reason they did this was because when they began it was only the 5 council members plus Mr. Roosa plus a borrowed town manager. Mayor Murphy said he feels that in the beginning the definition was needed, but since then, they have all fallen into their own areas. He does not feel it has to be defined any more. Mr. Hughes asked if he is responsible for public safety, does that mean he needs to attend those meetings? Mrs. Segal-George said that if a council member is interested, they will handle it, but if not, they don't. Ms. Cereceda said it has been a point of reference or guide, but it is not that formal. Mr. Reynolds said he does utilities now, but he is no longer doing the Chamber traffic committee because he does not feel he is needed there or that a council member needs to be there. Ms. Cereceda said that she feels that perhaps there should be a council member on that committee because it is the only committee that deals with traffic on the beach. If no one else will do it, she will, but then she feels she should then have the whole category of transportation.

Nomination: Mr. Reynolds nominated Ms. Cereceda to be on the Chamber Traffic Committee. She was elected unanimously.

G. INTERPRETATION OF MAINTENANCE ON DRAINAGE SYSTEMS

Mr. Himmelmann said that at one time the county took responsibility for maintenance of non-specified drainage systems. The county has changed their interpretation of the maintenance. At one time the county would fix them and now they are not working on them. Most of our subdivisions date before 1960, and they had no vision of what the beach would be like as far as drainage systems. Should we take responsibility and fix them or not? Mr. Reynolds said he used to work with the volunteer committee who would check those out. The biggest problem was sand filling up the drains. The county charged us a very reasonable rate to continue to do what they used to do. They have a machine to do it and a person to operate it properly. Mr. Himmelmann said some of the concrete is not holding up and some of the walls are starting to deteriorate and we could be responsible for some big projects. Mr. Reynolds said he is not talking about seawalls. He does not think the county maintained them. Mr. Himmelmann said there are a lot of instances where the county patched the seawalls. Mr. Reynolds thinks they will do it only if they are breaking down because of the placement of the pipe. Mr. Mulholland said on the north side of his property there is a pipe. The county did come out and did not charge him. However they told him he could not plant anything there because it was not his land. Mr. Himmelmann said they are drainage easements. Mrs. Segal-George said this a policy question. Prior to 1997 the county was maintaining things that they no longer maintain around the whole unincorporated county. We need a policy. There are about 30 instances,

some simple and some complicated. She would like to continue to do the maintenance that the county used to do, but she needs the council to review and see if that is appropriate. Mr. Hughes said we could maintain them unless the plat has accepted the drainage system. Mrs. Segal-George said that for the most part that does not apply on our island because the plats are old. She said many streets have no drainage plan at all. We can get retrofitting, which is in the Comp Plan and that will be in the capital budget. But this is talking about smaller projects, probably under \$5000. Mr. Reynolds said this is clearly the responsibility of the town. We cannot expect a homeowner, just because he has an easement across his property, to maintain the drainage.

Motion: Mr. Reynolds moved that the town take on the responsibility of the drainage systems of the island. Mr. Hughes seconded for purpose of discussion. **Discussion:** Mr. Hughes said you have to define drainage systems. There may be some that would only drain a private property and some which may drain the whole street. Just because a drain exits through someone's property on an easement and damages his seawall, that should not be the responsibility of the homeowner if it serves other properties than his own. Mr. Roosa said that recently they have come up with the concept of storm water as a utility. In the past utility only referred to electricity, water, cable, etc. Stormwater is a public responsibility just like providing drinking water. Most communities have established a utility and then they come up with a plan to address it. The town might consider acknowledging the existence of the obligation and establishing a utility. It doesn't have to be out of ad valorem taxes. You can establish a utility and tax for it and use those funds to run the utility. Mr. Mulholland said that there is a section in the Comp Plan that addresses storm water management and it is part of the requirements. Ms. Cereceda asked if there was some way to establish what the county would have done before. Mr. Himmelmann said he has a pretty good idea after meeting with Mr. Goerner of the county. Mrs. Segal-George said she believes they are all ones the county would have done before, but in addition there are needs in areas that have none and they need to be established through a capital program. Mr. Himmelmann noted that sometimes the problems are caused by people filling in their swales. Mr. Reynolds said any future drainage on this island must be through swales, because you cannot add any extra drainage through the canals. **Amended motion:** Mr. Hughes moved that we add that the town accept the responsibility if the drainage serves more than one property. Ms. Cereceda seconded the motion. **Action:** The amended motion passed unanimously. **Action on the original motion:** The motion passed unanimously.

VIII. COUNCIL MEMBER ITEMS AND REPORTS

A ANITA CERECEDA

Ms. Cereceda had no items to bring before the Council.

B GARR REYNOLDS

Mr. Reynolds said that he thinks it is good that the town is doing an investigation of the parasail accident. He likes the way Mrs. Segal-George has followed up on it.

He does not think that the Sanbar should be torn down. The owner should be given time to build a proper structure within the guidelines.

The Shrimp Parade is March 6 and the bridge will be closed at 9 AM. In the past he has taken care of the registration and getting cars for the council members. Does the council want him to continue? There was no objection.

He said that Mayor Murphy has registered a complaint against him with the Commission on Ethics because of his sitting on the council on the Sanbar Motel case. He does not stand to win or lose financially from the Sanbar. He has every right to show concern about what happens there. He thinks it is a cheap political shot. He is insulted that he would issue such a complaint. The council has been advised by Mr. Roosa from the beginning that there is no reason he should not vote on this issue. He asked that Mr. Murphy withdraw the complaint.

He complimented Mr. Spikowski on the memo on vacation of streets. We will have this come up from time to time. He proposes we do not give away any of our streets.

He was pleased to read in the News Press that others are showing concern about all the cut-ins on Summerlin. The travel time is increasing so much. He urged people to talk to their commissioners. This is our evacuation route.

Mr. Reynolds noted that he is planning to go to the beach technology meeting in St. Petersburg. He asked if there was any objection from the council. There was no objection.

C JOHN MULHOLLAND

Mr. Mulholland said he is embarrassed that the parasail ordinance they worked on on June 29 fell through the cracks. He asked staff that when the minutes are typed, all action of the council be pulled out in a list, and that a list of everything the town attorney is working on be given to the council.

He thanked Mr. Gucciardo for his work on the hurricane management plan.

He also thanked Mr. Spikowski for his report on the possible vacation of Fourth Street.

D DAN HUGHES

Mr. Hughes said the vacation of 4th Street will be addressed at a public hearing. He is not for a blanket prohibition on vacation of streets. There could be times when there is no adverse affect and there may be a public benefit.

He also thanked Mr. Gucciardo for the excellent memo on hurricane preparedness and also the memo to the condo associations asking whether they have any facilities available for housing in case of a disaster.

E RAY MURPHY

Mr. Murphy reported that when he was in Tallahassee for the Florida Regional Planning Councils, there was a pamphlet about legislation to come before the state legislature. Some are pertinent to us. As a sign of support, he asked if staff could prepare a resolution of endorsement for the FLC legislative agenda. There was no objection.

He went to the commissioning for the new Coast Guard cutter. It was a special and exciting event.

IX. TOWN APPOINTMENTS

A. Marine Resources Task Force (to fill a vacancy created by the resignation of Ben Polk)

Nominations: Mr. Mulholland nominated Mr. Cameron. Ms. Cereceda nominated Bob Beasley. Mr. Hughes nominated Mr. Doane. The nominations were closed.

Motion: Mr. Mulholland moved and Mr. Reynolds seconded that Mr. Cameron be appointed to fill the vacancy. Mr. Mulholland, Mr. Reynolds and Mr. Murphy voted in favor. Mayor Cereceda and Mr. Hughes were opposed. The motion carried.

B. Technical Advisory Committee of the Metropolitan Planning Organization

Mr. Hughes said that in January no one had applied for this position. We made a pitch to Mr. Van Horn and he has talked with him, and he is willing to serve.

Nomination: Mr. Hughes nominated Mr. Van Horn. Ms. Cereceda seconded the motion. Mr. Van Horn was elected unanimously.

X. TOWN MANAGER'S ITEMS

A. Council Retreat: Mrs. Segal-George said she is trying to plan a retreat for the council to look at big picture items, perhaps March 24. She would like to bring in Gary Price if he is willing. It would help if she could just sit and talk rather than running the retreat. She would like to talk about Estero, the bridge, meters and the beach accesses, etc. She would like to have it at the Homewood Suites or Holiday Inn at Bell Tower. It will have to be advertised as a public workshop. This would be for strategic planning, not an executive session. It would help her in preparing the budget message and the capital budget. The council agreed it was a good idea.

B. Water Safety Enforcement: Mrs. Segal-George said that she has talked with Captain Montecino and that within about 2 weeks, we should have 40 hours of patrol on the water. We have VOICE volunteers who would like to patrol, but we can't get the VOICE boat. Maybe someone would donate or purchase or lease a boat for the town. We have people that will staff it and the sheriff does not have the funding. The kind of boat needed would cost about \$10,000. Perhaps the Observer will run an article asking for a donation of a boat at least 20' long with an inboard motor and a top.

C. Update on Purchase of Florida Cities Water by Lee County

Mrs. Segal-George said that the memo is a memo of frustration and anger. We have a small staff and limited expertise. In a short time she and Mr. Gucciardo have tried to become knowledgeable on utilities. She believes we have a number of people on this island who are in danger of significant increases in rates. She doesn't know who they are or how much it will be. We can't get to the bottom of how it will affect the island. People have not been noticed. She recommends we hire a lawyer with particular experience with

utilities and also that the mayor appear before the BOCC and ask them to delay this decision and give everyone an opportunity to see how it affects us. Mr. Mulholland agreed that action is important. Mr. Reynolds is appalled someone is purchasing something for such a price and doesn't know what the cost will be after they purchase it. We are paying high rates already. Mr. Hughes agreed with Mrs. Segal-George's recommendation.

Motion: Mr. Hughes moved that we accept the recommendation in the memo of Jan 25 to retain Woodward Pires and Lombardy to represent the town in this matter (or other counsel with expertise in utilities, at the discretion of the town manager.) Mr. Reynolds seconded the motion. **Discussion:** Mr. Johnson clarified that they have been trying to provide information to the town and that they met with the staff last week. They recognize this has been at a fast pace. Regarding the cost for multi family and RV parks, they are suggesting that the average change for water service will be \$1-2 dollars per unit per month. But there will be a substantial number who will see a reduction in their sewer rate. Mr. Reynolds asked now that the Iona area has been transferred to the Fort Myers Beach sewage treatment plant, if the county have plans to build another treatment plant to take the pressure off our plant that is overused. Mr. Johnson said they have hired an engineer to look at the maximum expected capacity at the sewer plant including all the areas it is now serving and to study the eventual capacity at buildout. Based on that they will make the capital improvements that are necessary. Mr. Mulholland said he has some problems with why the town wasn't notified last summer or told we might get a rate increase. It looks like we are being hit at the last minute. It doesn't look like it is in the town's best interests. Also he has been campaigning about how the sewer plant is mismanaged. We have had three spills and then they tell us the truck couldn't get here to clean it up. Mr. Johnson said they want to provide good customer service and they have worked to improve the service at the sewer plant and will continue to do so. Regarding the purchase of FCW, they were asked to begin the investigation in the summer, but the purchase and negotiation did not occur until Dec. 18 then they started bringing the information to their commission. They apologize for not bringing it to the town sooner. Mr. Hughes shared the remarks of Mr. Mulholland. He lives in a condo and there is one meter for each building. Now they will be paying per unit in addition to the gallons used. Mr. Johnson said a condo is charged a certain number of assumed units based on the size of the unit. They plan to now start charging on actual usage. Mr. Hughes said he thinks it will be quite different. There are times in the summer when only 3 units out of 85 are occupied. Yet they will be paying a monthly fee on the unoccupied units. Mr. Johnson said you are already paying a monthly fee based on the size of the unit. **Action:** The motion carried unanimously.

XI. TOWN ATTORNEY'S ITEMS

A. Report on pending litigation

Mr. Roosa said he provided a memo on current litigation. There was a hearing on the Mound House litigation and the court struck all the pleadings of the defendant. The deed will be considered void. The date has not been set yet for hearing.

On the Bay Beach issue, Mr. Ebelini said a permit has been filed and is being reviewed. Mr. Mulholland said it was reported that they are pumping directly into the bay again.

Ms. Cerededa asked about the Ganim Tarick case. There is a sign on the property that says the owner would build a 200-seat restaurant. Mr. Roosa said all the papers have been filed.

XII. PUBLIC COMMENT

A BILL PERRY

Mr. Perry asked the council to adopt the changes to the parasail ordinance that he asked them to adopt on June 29.

B AL VAN HORN.

Mr. Van Horn thanked the council for the appointment to the TAC. He would be remiss if he did not mention the council representation on the Chamber traffic committee. It sounded like there was some misunderstanding. He strongly takes exception to Mr. Reynolds' appraisal of this role. He reminded the council that shortly after the first council, the traffic committee brought to the council what they were doing. They said they hoped that in light of the years of effort they had put in and the rapport with the many agencies, that the town would not move to establish its own transportation committee because that would be duplicating effort. They wanted to set up a joint committee to cement relations between the many segments of the town that were opposed to incorporation. That was accomplished with

Mr. Reynolds as the representative from the Council. Mr. Gucciardo is the staff liaison and although he is not a voting member, he has been a valuable participant. He feels they need the representation of the council as well as the staff.

C CARLETON RYFFEL

Mr. Ryffel said that on page 20 of the sign ordinance, it says that any change of use or ownership will mean losing your non conforming sign. What if you keep your business but just change your name? On the amortization of signs, he agrees that the time should have to do with the value of the sign. An 8 x 8 illuminated sign costs about \$5-6000. But on page 21 it talks about the inexpensive nature of signs, yet it is talking about illuminated signs. Mr. Murphy asked if that meant those temporary ones you haul in or any illuminated signs. Mrs. Segal-George said that they are talking about unlawfully erected signs. Mr. Ryffel said on page 31, it talks about 24 sq. foot signs. Mrs. Segal-George said that is an identification sign. Mr. Ryffel asked how tall it could be. Mrs. Segal-George said that there seems to be inconsistencies on the height of 8 or 10 feet. Mr. Ryffel said if you think about a sign that is 8 or 10 feet high and you are sitting in a car at 4 feet, the signs will be blocked. You will be creating a series of small walls. People will be behind them and that is a safety issue. Mrs. Segal-George said the intent of the LPA is that they thought they wanted to go toward monument signs and not signs up on poles. If you drive down Highway 41, the merchants have to go to greater lengths to make people notice their business. We don't have the same type of issue. The idea was to make them more unobtrusive. Mr. Ryffel said he doesn't like what he sees on Estero either, but he thinks this is working with a chain saw. He can't believe the merchants aren't here to object. On page 38 it talks about a commercial building with multiple owners in the building. You would be allowed one 24 sq. foot sign and one wall mounted sign on the building. How big could that be? Mrs. Segal-George said that sign would also be 24 feet. Mr. Ryffel said if you want to get away from pole signs, you might trade off by allowing them a larger wall-mounted sign. After reading this ordinance he believes about 80-90% of our signs will be non-conforming.

D TOM MYERS

Mr. Myers echoed the comments on the traffic committee. He thanked Ms. Cereceda for taking the appointment. The PSTF survey showed that traffic was the #1 concern. They have a lot of expertise on that committee from all over the county, but it seems like there is a lack of interest on the part of the town. He also talked about the concern about Summerlin. He thinks Estero is just as important, and there doesn't seem to be the same concern.

When the council re-appointed the Public Safety Task Force, there were three people who asked for appointment but did not get it. He suggested they be treated like the alternates on the LPA. Perhaps they could expand the committee by three and it would be good for the town to have them.

He thought they were going to hear about the defibrillators tonight. It was passed unanimously by the PSTF to come to the council. He thinks they are important. The sooner they can get implemented, the better the town will be. The sheriff agrees.

They have the same problem with the purchase of FCW at Red Coconut as the condominiums.

E JOE CROKER

Dr. Croker thanked the council for hearing the concerns and considering the ordinance on loitering. It will become a tool for the deputies to be able to enforce and break up a lot of the problems we see on the beach. If first reading is not scheduled until the 22nd, we are coming into the time when Spring Break starts. He asked the council to do whatever they can to speed this along.

F DAN PARKER

Mr. Parker said he gave the council a letter about an enforcement officer. It does not discuss training for that position. He would suggest it could be taken care of by Collier County and Naples. He also talked about extending committees. If they do it for one committee, they had better do it for all. There were two other people that wanted on the MRTF also and they didn't get on.

XIII. ADJOURNMENT

Motion: Mr. Hughes moved and Mr. Reynolds seconded that the meeting be adjourned. The meeting adjourned at 9:47 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary