

**TOWN COUNCIL MEETING
JUNE 7, 1999
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

Mayor Ray Murphy opened the meeting on Monday, June 7, 1999, at 6:30 P.M.

Present at the meeting were: Mayor Ray Murphy, Vice-Mayor John Mulholland; Council members Daniel Hughes, Garr Reynolds and Anita Cereceda. Town Staff present were Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Assistant Town Manager Ron Himmelmann and Town Attorney Richard Roosa. Also present were: Fire Chief Steve Markus, Shirley Semmer, Bill Spikowski and Terri Cain.

Excused absences from the meeting: None.

II. PLEDGE OF ALLEGIANCE

All assembled at the meeting recited the Pledge of Allegiance.

III. INVOCATION

The invocation was given by Deacon Kiesel of the Church of the Ascension.

IV. PROCLAMATION: ELEANOR FORDE NEWTON DAY

Mayor Murphy read the proclamation for the record:

This is the Town of Fort Myers Beach proclamation:

WHEREAS, Eleanor Forde Newton and her husband Jim have been longtime and active residents of Fort Myers Beach, and

WHEREAS, Ellie Newton has dedicated her life to the service of others nationally, internationally and here in our community, and

WHEREAS, Ellie Newton has inspired so many by her lifelong acts of peacemaking, commitment, courage, adventure, faith and love, and

WHEREAS, it is deemed appropriate, proper and altogether good form that all the good townspeople of Fort Myers Beach join together in wishing Ellie Newton a wonderful and happy 100th birthday and cheer her on to her 101st so that she will have graced us for three separate centuries and two millennia.

NOW, THEREFORE, I, Ray Murphy, Mayor of the Town of Fort Myers Beach, do hereby proclaim Friday, May 28, 1999, Eleanor Forde Newton Day in the Town of Fort Myers Beach, and I urge that the citizens of this community heed the words of Ellie Newton herself, who once said "You never need to grow old and I decided I never would."

V. PUBLIC COMMENTS ON AGENDA ITEMS

A. CHIEF STEVE MARKUS

Chief Markus stated that the Fire Department has taken studies over the last few days regarding a left turn restriction at Fifth Street and they feel that if the left turn is eliminated, one to two minutes will be added to their response time north of the Island. They are against any type of restriction. They already have many obstacles that they have to handle during the course of a response, including traffic and pedestrians. Another restriction would delay their response time even more. He would ask us not to allow the left turn restriction.

B. JOHN LALLO

Mr. Lallo addressed the Times Square garbage issue. He advised that from 1991-1995 they fought to not have the street closed in Times Square, but they lost. They asked what about garbage but received no answer.

In 1996 before construction began, the Town of Fort Myers Beach had to guarantee the County that it would maintain Times Square improvements to keep the project going. Because of this construction, they almost lost their business due to a lack of customers. They were still asking about the garbage and receiving no answer.

In 1997 construction is almost completed. They fight to have tables in the street and were promised them at no charge because they had lost business due to the loss of access to their business place. They eventually get the tables but they paid for them, and they were still asking what about the garbage and receiving no answer. He also gets thrown in jail because of an oversight by the Town during this year.

In 1998 their gross revenues increase, but their expenses skyrocket more than sales. It is costing them more than they make with the additional tables, but they like the opportunity to have them and keep plugging away. Their trash dumpster gets moved so far away that they can't insure their employees to take the trash to it. Still they ask, what about the garbage and receive no answer.

It's now 1999. What about the garbage? Here's the answer: We're going to charge you \$2,700 for us to take your garbage a quarter mile down the road. This is the same amount they have been paying to rent a dumpster and to have the trash removed to the incinerator, which is probably at least 25 miles down the road -- a 100% increase in trash removal. This is for a service that has been taken away.

Maintenance fee: Charges for something that benefits everyone in the Town and the County by bringing in more tourists. Plus they are already paying a rental fee for part of that area that they maintain themselves. There's an old saying that persistence pays off. Mr. Lallo said he's not so sure. He's been asking what about the garbage for five years and the answer that we are trying to give them is just downright not acceptable.

C. JOHN NAYLOR

Addressing the Times Square trash issue, Mr. Naylor said he hopes that the Council does not consider going back to the original scenario where Fifth Street was lined every morning with overflowing garbage dumpsters and cans. Also, he hasn't heard any consideration being given to recycling. A way of reducing the accumulated glass, plastic and cardboard that has to be hauled away is to sort out recyclable that can be a source of revenue. They did this about five years ago at the Pink Shell and dramatically reduced pick up costs and it paid for all the recycling containers. He believes that recycling should be a major focus of our Beach community in line with our environmental concerns.

With respect to the left turn restriction on Fifth Street, Mr. Naylor asked us to envision a visitor to the Island who is trying to get to the north end. He gets to that point and then can't go anywhere. He stops in the middle of the street and the traffic stops behind him because now there's no place to go. What happens to that car? It has to proceed over the bridge. When he gets to the other side of the bridge, does he turn right and then try to turn left across the traffic and try to merge back in? Imagine the opportunities for traffic accidents, not considering the frustration that a winter resident or a visitor is going to feel. He thinks we're trying to solve a non problem with solutions that have congestion and accidents written all over them.

C. BILL WHITAKER

Mr. Whitaker of the Dairy Queen advised that he represented no other restaurants or businesses here other than his own, but that his trash represents 57% of the garbage that is picked up. The costs should concern us all, because we're splitting the costs of the merchants and the Town 50-50. Savings on labor and garbage pick up that go to the merchants go equally to the Town.

Waste Management is not a viable option for garbage. Their estimate for seven-day pick up and disposal of the garbage for a year is \$96,980 versus the Town's estimate of \$31,730 for the pick up and Waste Management's estimate of \$24,000 for disposal, for a total of \$55,730, or \$41,250 more than the option that the Town was considering or that was recommended.

They have been making one pick up each morning, with total time running between 4-1/2 - 6 hours. This includes all the time required to pick up and return the truck in Gator. Recommended to us would be to find storage near the new trash compactor site for these vehicles for a minimum savings of close to \$4,000 per year.

Currently there are mass inefficiencies and confusion on how our garbage is billed versus services received. The Town currently is a victim of this as well as the merchants. There are between 7 and 8 pick ups of individual dumpsters a week and the Town and merchants are being billed for 12. Merchants are being billed as though they have individual dumpsters assigned to them, when in reality all their common garbage is dumped into one dumpster until it starts spilling

out, and then onto the next.

Recommendation two would be to put Ed in charge of total pick up and that common billing of garbage be channeled through the Town and charged based on the percentage of garbage picked up. The savings are hard to estimate, but they would be substantial.

Mr. Naylor further recommends: (1) That the restrooms be eliminated as there are public restrooms already available less than 150 yards away. (2) That provisions be made for a box dumpster. There is no disposal fee on cardboard. (3) As per John Naylor's suggestion, please consider recycling cans and bottles. (4) That the Town makes sure that pick up equipment is compatible with the actual dumpster selected.

With respect to the left-hand turn, Mr. Whitaker said that he was opposed to it and gave his reasons.

D. JOHANNA CAMPBELL

Mrs. Campbell spoke with respect to the planned New Year's Eve celebration for 1999 in Times Square. In these past few years since our incorporation, a community group has gotten together in the afternoon for cupcakes and little gifts to hand out and she wanted to make sure that they would still be included in the New Year's afternoon celebration in Times Square.

She also urged that we approve the Mainstreet concert funding, as she has found the ones at Santini to be outstanding.

E. NORM PRIMO

Mr. Primo addressed maintenance at Times Square with respect to his store called Novel Toys. The store is only 290 square feet and he would like to see some relief for its maintenance charges, which are the same as for bigger stores.

F. GRETCHEN JOHNSON

Mrs. Johnson stated that the members of the Town Party Committee had not been able to participate in our Mainstreet workshop. They were asked by Shawn Holiday in 1997 to be a part of the Mainstreet New Year's Eve planning. She doesn't think they were given money that year, but they asked for and were given the afternoon from 12:00 p.m. to 3:00 p.m. The first Town birthday party was a collaboration of many people and organizations. They gave away about 1000 cupcakes and small mementos and door prizes. It was an exciting time for all. Last year's party was again a collaboration of many people who made a fun time for tourists and locals alike. They've had a lot of input from people who have come back a second and a third year, and the children love to enter into this. They would ask that they be given Mainstreet funds to help with this project in December.

G. LOUISE CANASIC

Mrs. Canasic stated that no one seems to know what's happening with the pool or if there is to be a set fee. From what she has read in the paper, a lot of people were against the pool in the beginning and now we seem to be having problems with it. It doesn't make sense to her that we don't know where we're going or what we're doing with the pool. She would not like to see her taxes or everybody else's taxes go up because of that. She advocates charging a fee.

H. LEE CONGER

Mrs. Conger advised that she had been out of Town when meetings were held regarding the Mound House. She hopes that we'll consider certain questions tonight, such as it's ability to exist in a residential neighborhood and if there is a charge and where the money would go if there is. She'd like to know the length of time that people will visit in the Mound House, if there will be restrooms, if people will be eating there. The house has no fire sprinklers. She thinks extended activity at the House would take it away from a residential setting and put it on a whole other level. A better understanding of its use is needed at this time.

I. TOM MYERS

Mr. Myers said that he was opposed to having a restriction on the left turn at Fifth Street even though he no longer does business in that area. He doesn't see where the left turn creates a problem as it is a two-way street. When he was a member of the old CRA, part of the deal made with the merchants was that the left turn would be left open.

VI. REQUEST FOR FUNDS FOR NEW YEAR'S EVE CELEBRATION

The New Year's Eve celebration is sponsored by the Special Events Committee of the Fort Myers Beach Chamber of Commerce, and advised was that there has been an added sense of

urgency to make this year's a very special one. Hoteliers and business owners, as well as the Chamber itself, have already received requests for information regarding the nature of the celebration this year, and it's only June. The vendors who provide services relevant to the production of such events are already taking deposits on equipment and products and are in many cases doubling and tripling the costs of these goods and services. Many are at the mercy of their employees who really don't want to work that night and are asking for much higher wages. A special checking account has already been set up for the Special Events Committee. All books and accounting will be kept by the Fort Myers Beach Chamber of Commerce. Their total budget is about \$40,000. Thus far they have received pledges or funds in the amount of \$17,000. The entertainment, engineers, sound equipment and lighting have already been secured. Money for the event is anticipated to be made from the sale of T-shirts, hats, cups, champagne glasses, as well as beer, wine and champagne sales. Nonprofit groups wishing to participate will sell their wares or promote themselves by renting booths. There are still things to be paid for, including a fireworks display second only to a Fourth of July extravaganza.

They would like to do something extra special this New Year's eve. Fireworks designed by Mr. Bill Semmer and costing \$10,000 will go off at midnight and last for about 15 minutes. The barge from which they will be set off will cost approximately \$5,000. They are here today to ask the Council to donate the funds for this event. This will put the Town to the level of title sponsor and put its name at the top of all the publicity. The Town will be refunded any money not used for the display.

They have plans to include the Beach school in afternoon activities. The Kiwanis may fund a curriculum program to teach the kids how to do marionettes so that they can do a history of Fort Myers Beach in marionette form all afternoon.

Councilwoman Cereceda made a motion that the Council approve the expenditure of \$15,000 for the New Year's Eve celebration.

Discussion:

Anita Cereceda stated that the New Year's Eve celebration is a multi-faceted event, but first and foremost the title sponsor of the event is the Town of Fort Myers Beach no matter how much money is given by other sponsors. The inaugural day for the Town of Fort Myers Beach happens to fall on New Year's Eve, which she believes is of paramount importance to this community. She is very leery of any entity other than the Town of Fort Myers Beach taking control of that celebration. She would not support the celebration if it became a Chamber of Commerce event. Part of the reason for the celebration is that it's a commercial deal, but if we only look at that aspect of the event, we're missing the whole point of New Year's Eve in the Town. We have done this now for three years without a single incident. It isn't a commercial enterprise. It is a fun time and the Town of Fort Myers Beach is not only celebrating the new year, but celebrating the birth of this town. She would in no way do anything to diminish the flash and excitement of the day, but she personally does not like it moving outside of this Town.

Anita Cereceda does think that this is something that the Town should look at funding annually and also funding the Civic Association's group that has funded the Town's birthday party, as well as the evening's activities. The groups working on that should be working together so that it is a cohesive planned day-to-night event.

Vice Mayor Mulholland said that he shared some of Councilwoman Cereceda's fears. He praised all the parties that have been held. He attended last year's New Year's Eve party and it was so crowded that he was concerned with safety. It's a recipe for disaster if something goes wrong and we get somebody in there who has a problem. He would like to see some involvement of our Public Safety Task Force on this and would also like to get more information on how to approach the safety aspect.

Jo said that people told her what they wanted and she tried to go get it and then found out that there's all these other strings. She told Mr. Mulholland that everyone in the Committee is concerned about the safety factor as well. They don't want to encourage day trippers to come over and flood the Beach. They have been in touch with the Sheriff's Department and have plans to put in place many extra deputies on foot and in cruisers all over the Beach. She feels that when you put a lot of people together with a lot of alcohol, you create a volatile situation. But unfortunately she doesn't feel that we'll be able to keep the alcohol from flowing. She feels that

involving the Public Safety Task Force is a great idea. They plan to put in the Beach papers that they're looking for more participation from various segments of the townspeople. They're having meetings on a fairly regular basis now and can announce them in the paper so that people can attend. They do not intend to make this event a commercial nightmare, but she has been going after sponsorship. John Naylor gave the first sponsorship and it was a huge amount of money. He really set a great example and hasn't asked for any sort of recognition.

Dan Hughes stated that he would agree with much of what Vice Mayor Mulholland and Councilwoman Cereceda have said, but he doesn't really react to the Chamber's sponsorship as being an act of commercialism. He would rather look at it as being a civic endeavor on their part. He sees no reason why the Chamber cannot be a major participant in this event, along with the Town Party Committee and the service clubs. He thinks the Town should appreciate and welcome this as he does. But as Anita has pointed out, it has to be a coordinate, cohesive event. And there should be an umbrella committee here that organizes this thing, as Anita has said, from the beginning of the day until the end of the day. As far as the safety problem, we're going to have it no matter what we do and we're going to have to deal with it.

With respect to funding, Mr. Hughes stated, tonight we're going to be asked for funding for the Fourth of July fireworks, Mainstreet is going to ask for funding and we'll be asked for a contribution for the Industry Appreciation Week. We have to look at the total picture here and what we've got in the budget before we make contributions. John Gucciardo said that this funding is something he believes we could build into our next fiscal year budget after October 1. Mr. Hughes said that nevertheless we have to look at how much we're spending on these events.

Councilman Reynolds said that he had some concerns about off-islands sponsoring activities in our town. He feels we are allowing somebody else to do things that we should be doing. We have some very hardworking people who want to do work for their community with no kind of monetary input at all. We do need to work on our safety factor. He would like to see more deputies this year than what he saw last year. Funding is something we need to look into, and maybe, as John as indicated, we will participate with a regular budget each year because it's something that's not going to go away. He's glad that it was indicated that the people who originally started this will still have a part in it. The fact that the Chamber is willing to help is great, but he believes that we can get people from our town who would continue the organization of this event. He would hope that the Chamber would respect this wish of the Town, to let us do our own celebrating.

Anita Cereceda advised that she was not saying that the Chamber of Commerce should not be a part of this, nor is she saying that only the Town should do this. What she is saying is that New Year's Eve belongs to the Town of Fort Myers Beach and she would like to see it kept as a Town event. Other organizations are welcome to participate, but she wants the Town to maintain ultimate control over what does or doesn't happen.

Jo advised that she doesn't work for the Chamber of Commerce, she doesn't work for the Town of Fort Myers Beach, she doesn't work for John Naylor, she doesn't work for Budweiser or any of the people who are involved in this whole thing. She is a singer and was asked very kindly by Jean Matthew in January if she would get the entertainment sorted out for New Year's because she is sort of plugged into that area, and she had said yes. She talked the band they hired into playing here even though they were offered twice the money elsewhere. She also helped Jean Matthew find a good sound company. All she wants is to make sure that we have a really nice celebration on New Year's Eve.

Mayor Murphy told Jo that he wanted to thank her for all her efforts and for coming forward today. He asked her if the celebration itself would be spread out and into Lynn Hall Park. She advised that it would all be set up in Lynn Hall Park, because the merchants at Times Square objected to having it right in the Square and actually the foot traffic was completely clogged there. And the sound is actually going to be pointed away from Times Square because the merchants were very disturbed by it last year. We're still going to have the Beach ball, because that's somewhat charming and people in the Town look forward to seeing it fall down.

Mayor Murphy said he agreed with Councilwoman Cereceda about the ownership of the affair. He was thrilled that the Chamber of Commerce was stepping forward to participate in this as far as their help in running it. He thinks they recognize that our being a five-Council and five-

staff member operation here means we need all the help that we can get. As far as sponsorships go, you can't really do these kinds of affairs without sponsorship and he understands the reality of that, but the main sponsorship should be the Town of Fort Myers Beach and everyone else should get their credit too. He asked Anita Cereceda to amend her motion to indicate that funding would not exceed \$15,000 and that we get a copy of the financial statements after the event is concluded.

Anita Cereceda said she would suggest that when we talk about the budget that we need to talk about how much money we're going to allocate towards this event annually and whatever it is, we're going to allocate it toward the afternoon Birthday Party celebration at that point.

Mayor Murphy said there was discussion about this funding coming out of next year's fiscal budget, but he presumes we're going to need some of this money before then for deposits, etc.

John Mulholland would like for the motion to show that the Public Safety Task Force is to be included in the planning meetings of the Committee.

Councilman Reynolds said he'd like to know when the New Year's Committee was discussed and why Council didn't have a say in what was going to happen on New Year's. This is the first time that we've even heard anything about this. Mr. Reynolds was told by Councilwoman Cereceda that this was exactly what we did last year. It is Mainstreet, which is under the auspices of the Chamber of Commerce. Mr. Reynolds said that he hasn't heard anything either about all the other organizations in the Town and their chance to participate. We should have had them come to a Council meeting and discuss their participation rather than have one group say that they were going to do this for us. Mayor Murphy said that now with the ownership being under the Town, he is sure that the committees will be sending recommendations on to the Town. Mr. Reynolds then asked if we had to do this tonight. Why not on October 1 since it's going to come out of next year's budget. Mayor Murphy said he would guess that the Committee needed funds prior to that. Mr. Reynolds said that we should start thinking about allotting a line item to funding between now and October.

Dan Hughes brought up the fact that the motion does not take into account that the Town has ownership of the event. Town Manager Segal-George advised that we do not have ownership of this. Staff is not involved in it nor is it going to be involved as it doesn't have the time. It is her understanding that this Committee is running out of the Chamber, that the funds will be going to the Chamber and expended from the Chamber.

MOTION: Made by Anita Cereceda and seconded by John Mulholland that an expenditure not to exceed the amount of \$15,000 for fireworks for the Town of Fort Myers Beach's New Year's Eve celebration be allocated to the New Year's Eve Committee; that the Public Safety Task Force be a part of the planning process for the event, and that full financial disclosure is made.

Anita Cereceda said that she would like to withdraw her motion and make a motion to table this until our next meeting.

Discussion:

Dan Hughes suggested that the contribution on behalf of the municipality be made subject to our being presented at some point prior to the payment of these funds with what the plans are and our approval of what they're doing. We are going to need permits.

Anita Cereceda asked Marsha Segal-George if she was saying that this was outside the realm of what any other Mainstreet event has been. Mrs. Segal-George said it was her understanding that Mainstreet was not involved in this. The reason is that Mainstreet is a program that's being run by the Town. In the past, all the money came in and out through the Town -- all the contributions and all the expenditures -- and so she had an audit trail. This year the Chamber set up its own account and Mr. Naylor's contribution was to this account. Money was being deposited and then expended from the Chamber, not through our accounting system. Her position was that if they wanted to do that, then it had to be outside of the Town; otherwise, she has to go and audit all these revenues coming in and expenditures, and we can't really do

that if the program is being run by the Chamber. If Mainstreet is involved the way it's set up right now, that pulls us into it from an accounting and a bookkeeping standpoint.

Dan Hughes stated to Mr. Semmer that when he gets his permit to set this up, he will have to demonstrate that there's liability insurance in effect. Who does he name as the insured? Anita Cereceda wished to know who the money would be going to, how it is going to be tracked and, ultimately, who has control over how that money is going to be spent. Mrs. Segal-George explained that the Town has insurance coverage with respect to the fireworks display, and that to her, therefore, is a separate issue. Who is going to be running the New Year's Committee is another issue.

MOTION: Made by Anita Cereceda and seconded by Garr Reynolds that this matter be tabled until our next meeting. Passed unanimously.

VII. PRESENTATION BY SEMMER ELECTRIC ON FOURTH OF JULY FIREWORKS

Introducing themselves were Bill Semmer, Ike Semmer, Cindy Shepherd and Shirley Semmer. Shirley Semmer of the Fort Myers Beach Fireworks Committee stated that the fireworks that they do they do for the Town of Fort Myers Beach. She displayed their new poster and asked that we notice that it is Fort Myers Beach. She noted that last year when they came before us and asked for funds for their fireworks, the Council members asked for a budget. This year, which is their 11th year doing fireworks, they are prepared with this year's budget. The residents, merchants and townspeople support them. They do not bring in outside vendors whether they donate or not. They do not sell anything except T-shirts on the beach. We have a list of what events they do to help support and fund this event. They do not use TDC funds nor have they applied for them. They do not advertise nor do they need to advertise. All of the hotels, motels and restaurants generally are filled and they put on whatever specials they plan for that night. That helps them keep themselves alive during the summer. It's a very difficult six months until the residents and the tourists come back to Fort Myers Beach.

The Fireworks Committee enjoys doing the fireworks and feel that they do them fairly well. They have not had any incidences of injuries nor incidences where police have had to break up a disturbance. They advertise it as a family event and for that reason hold it in the park. They want everyone to enjoy it however they choose to enjoy it. They realize that parking is a problem and they hire the Sheriff's Department. They have insurance and bonding. The Fire Department used to volunteer their services, but last year and this year as well they were added to their budget. Their expenses are pretty much the same as they were last year, but they did up John McDougall \$100 and added \$500 for the Fire Department.

The kids' fishing tournament is something they continue to sponsor. They feed the kids and give them prizes and trophies and it costs them nothing to come. The golf tournament is a big fund raiser. The fun cruise this year was a little light on attendance due to the storms and the rain, but Ms. Semmer feels that they'll be okay.

Budget-wise, this year they are currently \$13,000 in the hole. Last year they asked us for \$12,500, which we granted. When they did the final budget they found that they only needed a check for \$8,000, which we funded. This year they will ask for \$12,500. If they find that they don't need all of it, they will only submit a request for what they do need.

MOTION: Made by Ray Murphy and seconded by Dave Smith that we make our contribution to the Fireworks Committee the same as last year, or not to exceed \$12,500, with any unused balances coming back to the Town. Passed unanimously.

VIII. CONSENT AGENDA

A. Approval of Minutes: May 3, 1999, May 6, 1999, May 10, 1999 and May 17, 1999
Garr Reynolds asked to pull the approval of Minutes of May 3 and May 6, 1999.

Corrections and Changes to Minutes of May 3, 1999

1. On page 4 it should be shown that the motion that all changes to minutes be put in writing failed with 3 nay votes and 2 yea votes.
2. On page 8, paragraph 3, line 1, eliminate "told Bill Spikowski" and show instead "Councilman Reynolds stated that..."
3. On page 11, paragraph 2, line 1, change "temporarily" to "contemporary."

Corrections and Changes to Minutes of May 6, 1999

1. On page 3, paragraph 6, after the first sentence show that this was part of the CPD that had recently been approved.
2. On page 7, paragraph 5, change "Ms. Murphy" to read "Ms. Matthew."

MOTION: Made by Garr Reynolds and seconded by Dan Hughes to approve the minutes of May 3 and May 6, 1999 with the changes and corrections noted. Passed unanimously.

Anita Cereceda said that she would like to thank Councilman Hughes for the resolution presented in Item B and for the work of the Estero Bay Buddies. Dan Hughes stated that he could only take part of the credit as our Town Attorney had drafted the resolution. He noted that Terry Cain of the Estero Bay Buddies was here tonight and that she has furnished him with a list of Cabinet members and Aides. If any of us would like to have that list to make some direct contact in addition to the resolution that we're about to adopt, he thinks that might be helpful.

Mayor Murphy also congratulated Mr. Hughes for his efforts in that behalf.

MOTION: Made by Anita Cereceda and seconded by John Mulholland to approve the balance of the Consent Agenda. Passed unanimously.

IX. PUBLIC INPUT ON THE OPERATION OF THE FORT MYERS BEACH POOL, INCLUDING DAYS, HOURS, TYPES OF PROGRAMS, ETC.

John Gucciardo advised that the Build-A-Pool Foundation has undertaken an effort to try and gather ideas from the community as to how the pool actually operates, and along those lines they have set up a voice mail system here at Town Hall on Extension 108. They also had a public workshop that was advertised in the paper and had a turnout here at Town Hall. One of the other things that they thought would be helpful was to just have the public come up tonight. It's an opportunity to gauge the opinions of the community rather than for the Council to voice their opinions.

Mayor Murphy advised that tonight we are seeking public input, but no one came forward.

X. ADMINISTRATIVE AGENDA

A. Public Hearing: Littering Ordinance

Mayor Murphy said that this was an ordinance of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach anti-litter ordinance providing authority, definitions, litter in public places, placement of litter in receptacles, sweeping litter in gutters, litter thrown by persons in vehicles, truckloads causing litter, commercial and noncommercial handbills on vehicles, commercial and noncommercial handbills on uninhabited or vacant premises, distributing commercial and noncommercial handbills at inhabited private premises, litter on occupied private property, enforcement penalties, severability, conflicts and effective date.

Dan Hughes noted that this ordinance was the same as the drafts that had been discussed

John Gucciardo advised that the ordinance in its original form came with a section that had to do with public input and feedback, and that was eliminated by recommendation of the Public Safety Task Force before it came to us and he believes we went along with that recommendation. He just wants to report that the Board of County Commissioners also went along with that recommendation.

There was no public comment on this ordinance.
Councilman Hughes made a motion for adoption of the ordinance.

MOTION: Made by Dan Hughes and seconded by Garr Reynolds to adopt the ordinance as described by Mayor Murphy on anti-littering as presented in our agenda. Passed unanimously.

B. Draft: Ordinance to establish uniformity in enforcement

Attorney Roosa advised that the Town has adopted several ordinances which were mandatory, but which included no penalty, and it's not unusual for a code of ordinance to have a general penalty. In fact, some town charters have a general penalty that if you adopt an ordinance, it would be along these guidelines. And so the purpose of this ordinance would be to provide a general penalty for those ordinances which require mandatory compliance. Upon failure to comply, a person would be subject to this penalty unless there was a more severe penalty in the ordinance.

Mayor Murphy asked if anyone on the Council had questions or comments regarding this draft. Councilwoman Cereceda asked why we needed this ordinance. Dan Hughes stated we needed it as a catchall in the event we adopt an ordinance that doesn't have a specific penal provision, and our attorney has just indicated that we have several. One, for instance, had to do with body piercing. Town Manager Segal-George explained that the sheriff had wanted to make an arrest in body piercing, but because the ordinance was the way it was, he was unable to.

Dan Hughes said he assumed that in Section 2 under the Florida statutes that the penalty of \$500 or 60 days imprisonment is the maximum permitted by state law. He was told yes.

Mrs. Segal-George said that this ordinance could be set for first reading on June 21, and Mayor Murphy said that we would do that.

C. Draft: MSBU Maintenance Ordinance

Mrs. Segal-George said that this is exactly what we all agreed at our last meeting to put into ordinance form. Attorney Roosa added that there is a provision, Chapter 13 of our Town code, which permits the Town to adopt this type of ordinance. This ordinance would establish an advisory committee, and many of the issues that are of concern right now with regards to solid waste collection and the assessment process itself could be filtered through this advisory committee and might change some of our thinking with regards to those issues now. The advisory committee is to review the budget and the assessment process and submit it to the Town Council. This committee can also cover garbage.

Mrs. Segal-George said her concern is that we are pretty much getting maxed out on the advisory committees that we can handle. We just can't handle any more.

Dan Hughes asked if this was a statutory requirement and was told yes. If you want to levy an assessment you have to have an advisory committee. The advisory committee is made up of five property owners.

Dan Hughes asked Attorney Roosa if the statute set forth the term of the advisory committee, the requirements for their eligibility and our right to terminate them? Attorney Roosa said only that they're property owners.

Marsha Segal-George stated that there was no reference to maintenance, it just talks about Phase One. She doesn't understand how all this is going to fit together. As the rest of that area gets redeveloped, will that area then be added to this one in maintenance? Attorney Roosa said that they would have to have a separate one and a separate advisory committee. Mrs. Segal-George said that she couldn't understand why there couldn't be just one advisory group for that whole area. Dan Hughes said that he didn't either. It says "to support district services." It does not specifically say garbage or maintenance. All advisory groups, Mrs. Segal-George said require notices, agendas, minutes. We have six committee meetings scheduled for next week requiring notices, agendas, minutes.

Garr Reynolds asked if it was possible that there can be an enabling ordinance for the establishment of other MSBUs. Attorney Roosa said that we could create an MSBU for the entire Times Square area as was originally proposed. If the five members of the original advisory board owned property within Phase One, then they would also automatically own property within Phase

Two, because that would just be an expansion of Phase One. This would limit it down to one advisory board.

Anita Cereceda asked if that meant that those five people could never discuss anything under the Sunshine Law having to do with the maintenance, rehabilitation, redevelopment, etc., of that district. Attorney Roosa said, yes, except at a public meeting. Councilwoman Cereceda felt that this would be impossible.

Garr Reynolds asked if businesses that lease their property could serve on the advisory committee. Attorney Roosa said that the statute says that they should be property owners.

Attorney Roosa said that he could put in this ordinance the same language that we have in our other ordinances with regards to terms of office, etc.

Town Manager Segal-George asked about enforcement. If we have these assessments and then people don't wish to pay, what is the enforcement? Attorney Roosa referred us to Section 3, Boundaries and Size. The initial assessment would be levied against the business operator, but in the event of the default of payment by the business operator, then that assessment would be a lien against the property owner. Indicated was that we could foreclose on the lien if the property owner did not pay it. The businesses would be enumerated by the name of the business itself, the parcel numbers and the description of the unit. Discussed was whether or not to add "or their successors or assigns" after "business operator." Attorney Roosa said that we are going after the business operator as an accommodation to the property owner. And it would be up to the owner to go after whoever takes over the lease from the business operator.

Attorney Roosa said that we need to establish a budget and have assurance that the funds will be available to meet those expenses. We've got to be able to tie it down. The property owner will pay because the value is there. It will be up to the property owner to notify us of a change of business so that we would then identify the business.

Mayor Murphy said that we will see that draft come back on June 21.

D. Discussion of MSBU for garbage

Town Manager Segal-George said that this item is back in front of us. She thinks that Bill Whitaker's suggestions are things that we could look at and she'd like him to supply her with a list of them. It's the same plan that was in front of us previously. We are moving forward very quickly on the compactor and trying to get that ready. We have great concern on whether or not this plan works well during season. With regards to what Mr. Naylor said about recycling, cardboard is separated out and does not contribute to the huge amount of garbage that we already have to pick up. Most of what we pick up is paper. As far as consolidating all the bills as Mr. Whitaker suggested, once we get the compactor in place we can easily do that with Kimmins. There would then be just one fee that they would pay for the Town, and then the Town would take care of the pick up from the compactor.

Questions from Council

From Anita Cereceda:

Q. This solution is just temporary?

A. Yes.

Q. What is the time frame or the time schedule for the compactor?

A. We're shooting for November.

Q. Is there any estimate of the difference in cost of what the temporary solution is going to be and what the permanent situation will be when the compactor is in place?

A. I don't think we're ready to give those figures.

From Garr Reynolds:

Q. As I recall, initially the Town was willing to do 30% and then someone on the Council suggested 60%, which I felt was a pretty hefty share for the Town since there really aren't any businesses there. I would suggest that maybe the merchants could see if they could do something themselves with these companies and perhaps get a better deal than us offering 60%. It seems to me that this is a pretty generous thing that the Town is willing to do for the merchants in that area.

A. The merchants did try to take another route by getting the bid from Kimmins, and that proved to be much more cost prohibitive from their point of view.

From Ray Murphy:

Q. Mayor Murphy stated that the way the MSBU is set up now is temporary. But once the compactor goes on line, does the MSBU still stay in effect?

A. What will happen then is that it will be adjusted depending on what the costs are. We will have to decide how to handle what it is going to cost to do this whole incinerator. Will moving the garbage cans from the Square and across the street to where the compactor is going to be something that the merchants are going to do or something that they want us to do? Then there are questions of do you want people dragging garbage across the street or do you want it done in a more systematic way? We haven't really gotten to those kinds of issues yet. As we get closer to a long-term solution, we'll know a little better what that is going to cost and how it should be allocated.

Q. So basically we're talking about this temporary situation being five or six months?

A. We hope.

From John Mulholland:

Q. If this compactor does reduce costs, would those cost savings be reflected in an MSBU?

A. Yes. And costs would go down in the same percentages. If the Town's contributing 60% and the merchants 40%, then those contributions will be reduced accordingly.

Mayor Murphy asked if Town Manager Segal-George was looking for direction for going forward with the creation of the MSBU for the garbage. She advised that if we wished, she would ask Dick

Roosa to prepare a draft ordinance to go to our next meeting on the garbage.

John Mulholland made a motion to proceed with an MSBU draft ordinance.

Discussion:

Dan Hughes stated that this wouldn't preclude doing things like recycling.

Ron Himmelmann advised that they had looked at recycling, but when you're doing the garbage and the cardboard, it's all a matter of steps. Adding another step into the whole process for each business, you're going to put another couple of hours on to a day. Sure you're going to have a little less trash, but you have to consider if it's going to be worth \$5.00 to save \$3.00.

Dan Hughes stated that there were an awful lot of bottles and aluminum cans in the Times Square trash, more than in any other place in our community. Couldn't we have a little recycling area? Ron Himmelmann stated that cardboard is supposed to be prebundled and whoever empties the garbage oftentimes has to break down a couple of boxes. According to Marsha Segal-George, all the merchants have very limited staging areas and that's why a little area to hold cans had to be added. They can't even hold enough garbage cans on their property. Getting recyclables out only adds to a situation over there that is already difficult.

Ray Murphy felt that in the design of the facility for the compactor, provisions could be made for an area where there could be bins for recyclables. Garr Reynolds said he'd like to see this pursued further.

MOTION: Made by John Mulholland and seconded by Garr Reynolds to go forward with an MSBU for garbage collection in the Times Square area in light of the fact that there has been no other proposal brought forward. Passed unanimously.

E. Times Square issues: fountain, extension of perimeter railings and paver cleaning

Town Manager Segal-George advised that about two years ago they received a tourist grant of \$200,000 and there's still \$170,000 left. It can only be spent in the Square and only for capital items. They've been looking at things that the Square could use or need and one of those is drinking fountains, as it is a hot area in there. A fountain could be located toward Top O the Mast and people could sit around it, as the merchants complain that people don't walk down that way. Mrs. Segal-George also displayed pictures that showed an extension of ballards or

perimeter railings that go around the back of West Coast Surf Shop and Deuces, which used to be Sea Dreams. The railings should help with our safety problem there. The pavers, Mrs. Segal-George noted are very hard to keep clean. Ed has found a machine that could be used to clean pavers on a daily basis without being intrusive. She would like some direction with regards to some of these ideas, as we could get moving on them this summer if they are things we might want to do.

Vice Mayor John Mulholland made a motion that we proceed to approve a fountain and the perimeter railings.

Discussion:

Dan Hughes asked if by proceeding we mean not finalization but to get bids, etc., and was told yes. He would like to see drinking fountains added to the motion.

Garr Reynolds asked if the \$170,000 would cover that project. Mrs. Segal-George advised that she believed the \$170,000 would cover everything on the list. It would cover the paver cleaner if we purchased it, but she would rather lease it.

Garr Reynolds also asked how Mr. Primo would feel about ballards as they look as though they might block his ingress to his parking lot. He was told that Mr. Primo didn't feel very good about them. It does stop the parking in the back and where they are there's no room for legal parking back there without using our right-of-way. That is one of the most dangerous spots right there with people trying to walk around and cars swinging in.

Ray Murphy asked with the fountain being down by Top O the Mast if that would prohibit entry of emergency vehicles, and was told no. It would be off to the side.

MOTION: Made by John Mulholland and seconded by Dan Hughes to go forward with approving a fountain, drinking fountains and an extension of perimeter railings as outlined by Town Manager Segal-George. We should look at leasing paving cleaning equipment. Passed unanimously.

F. Mainstreet request for concert funding

Jean Matthew, Mainstreet Program Manager, thanked everyone for the support given to Mainstreet and its activities during the last year. She is here to request funding for upcoming concerts and events during the summer and into the fall. According to the memo before us, the first event will be in July, the new Arts Festival which is held each year by the Alliance for the Arts in Lee County. In the memo she asks for \$1,245 for each of these events. She is hoping to raise community money to reimburse us for some of these funds. She is also hoping that the cost of these events will not be as much as she has requested.

The amount of \$1,245 includes the cost to rent the stage from the Town; \$120 is for cleaning up after an event in Times Square. The \$1,245 which she has requested for the ice cream social for the historic cottage will pay for a tent there and ice cream and miscellaneous items. It will pay for renting the stage but not for cleaning up afterwards.

She is requesting funds for the months of July, August, September and October.

Questions from the Council:

Vice Mayor Mulholland told Ms. Matthew that he has praised her work with the concerts so much that people are beginning to talk. He has also asked her on numerous occasions to account for the taxpayers' money that she is receiving, but has not seen a single report. He stated that he cannot in good conscience approve giving her money until she has given some accounting. Ms. Matthew said that when she did the workshop she accounted for the money that had been spent for the concerts. John Mulholland reminded her that he had told her he needed something in writing and would even help her with a report. According to Ms. Matthew, her report had been in writing at the workshop. They do have detailed records for each concert: how much was paid for chairs, the cost of the band and the sound system. She will get that to him by the end of this week.

Garr Reynolds asked if he was reading correctly that the June concert has been canceled. Ms. Matthew explained that she had run into a problem with the band, some of whose members

had gone to better paying jobs. She doesn't feel she has enough time to put together another concert for June.

Garr Reynolds felt that a July concert would be during a pretty slow time. Ms. Matthews said that the reason she had a concert during July last year was to bring out the residents and not the visitors. A lot of the times when the Historic Society has these events, they target the visitors on the Island. It was a good time for residents to visit the cottage when traffic was slow. But she's not locked into having a concert in July. If the Council feels she should do it in another month, she's amenable to that.

Garr Reynolds asked if it were possible to have the tent in the shelter on the school grounds, the new pavilion. Ms. Matthew said she guessed the reason why they held it at the historic cottage was because they wanted people to come and go through the cottage. About 300 people attended. Many people said that they had not been there before and how much they appreciated it. It was a kind of multiple event where they had three or four things going on. Using the pavilion might be a deterrent to people going through the cottage.

Dan Hughes ascertained that the memo we received tonight replaces the May 11 memo and that if we were to approve her request tonight, the programs would be extended from August to October. He also stated that her April 9 memo showed that she spent more than the \$1,245 last year. Also, the concerts mentioned in her memo are to be held at Times Square, whereas the ones that were held last year at Santini Plaza were, with the exception of one concert, subsidized by Santini Plaza. Is it correct that we wouldn't have that subsidy if the concert were held in Times Square? Ms. Matthew said that was correct. She advised that it cost more last year for the ice cream social because she hadn't realized that she could rent a refrigerated truck and hand out ice cream from the back of the truck. Instead she had rented a huge freezer from Taylor's Rentals and bought the ice cream from Topps. This year she can do it for less expense.

Dan Hughes wished to know why she would be using Times Square for the concerts when the merchants wouldn't be supporting them. Ms. Matthew said they would be doing concerts at Villa Santini again at the end of October. She noted that it was difficult to raise funds in Times Square, but she does intend to ask the merchants for funds. The concert that she had in Times Square for the offshore boat races was not paid for by the Town but by the merchants.

Anita Cereceda asked what the budget implications were for setting something to go into October. John Gucciardo advised that we have a line item under cultural events that could support the entire request. Ms. Cereceda said that the Council needs to set a policy on how we will distribute funds for requests like this. In the case of Times Square versus Villa Santini, Dan's comments are very valid. Why would the Town spend money for a public event in a place where it's not subsidized as opposed to spending it in another place where the merchants are willing to pay half the costs? The caliber of the events are going to be far better at Villa Santini than at Times Square. A policy should be set that whatever amount of money the Town is going to distribute must be matched by the surrounding area merchants. Garr Reynolds said he'd say amen to that all the way and John Mulholland also agreed with her.

Ray Murphy said that at this point a two-thirds' share of the concerts held at Villa Santini are being picked up by them and that he agreed with Anita's comments. He asked for suggestions: He was told 50-50 and reduce Villa's Santini's share.

Anita Cereceda said she is embarrassed by the fact that Jean Matthew has trouble getting funds from the Times Square merchants. She also noted that the July event, the New Arts Festival, is promoted by the Alliance of the Arts and that the TDC gives some money for this event. She was contacted by Carl Hollander, the Director of the Alliance of the Arts, and she had put him in touch with Jean Matthew. Every year the City of Fort Myers historically has had the kick-off event for this New Arts Festival and Mr. Hollander felt that if he could get someone else to do something, that he would spread the wealth. He asked Anita if we had anything that we were already doing that could just hop onto the New Arts Festival bandwagon, and she suggested the concert series that Mainstreet has been doing. They will be doing all the promotion for that particular concert and it will be the premier event for the New Arts Festival for Lee County.

Dan Hughes said he totally agreed that there should be a policy. His only concern is that we say it should be 50-50 and Times Square has not indicated any willingness to participate at all. So we're still not going to get participation from Times Square and we'll get a reduced contribution from Villa Santini. Anita Cereceda stated that we may have participation from Sea

Grape or Key Estero, or some place else. Garr Reynolds felt that if Times Square didn't want the concert, then they shouldn't have it. Anita said that we could also make it an agenda item for the next meeting to go into effect after this approval is made.

Jean Matthew said she would just like to have the funding for the New Arts Festival, because that is already on the road. If she can't get the 50%, that's going to let down Lee County.

Vice Mayor Mulholland said that he knows that he initiated the 50-50, but after listening to his colleagues he doesn't know about the wisdom of this. We're going to give up an extra 16% to allow others to participate who have not come forward to date.

Dan Hughes suggested deleting the percentage and just say that we will establish a policy effective at the beginning of the next fiscal year.

MOTION: Made by Anita Cereceda and seconded by Garr Reynolds that for fiscal year 1999-2000 the Town Council will establish a policy for funding cultural events. Passed unanimously.

Jean Matthew advised that the total cost for this year's upcoming concerts is \$4,980. Anita Cereceda made a motion for approval of this amount.

Discussion:

John Mulholland said that as he has commented he would like an audit or an accounting for these funds and he would like for the motion to read on receipt of the accounting reports for each event.

Mayor Murphy said that he would like to comment that Times Square has picked up three concerts at zero participation. Jean Matthews said that she hopes she can reimburse these funds. Mr. Murphy said that he can't in good faith vote for something where there is no participation. Ms. Matthew can try as she may but the track record so far is not very promising. He doesn't think it's fair to the other shopping areas on the Island who do participate. We would need at least some pledged participation.

Dan Hughes asked if it would be feasible at all to say that we authorize this money but that it is to only be utilized at such locations as participate. If Ms. Matthew cannot get participation, then she can go to the Villa Santini with these concerts.

Garr Reynolds asked Anita Cereceda if she would amend her motion further to include not having a concert or an event unless there was participation forthcoming from that area. Ms. Cereceda advised, no, because we didn't do that for Key Estero or others. If this is going to be a policy, we need to set it and then enact it.

Mayor Murphy advised Jean Matthew that his vote in no way reflects on the Historic Society.

MOTION: Made by Anita Cereceda and seconded by Garr Reynolds that the Council approve the expenditure of \$4,980, as outlined by the Mainstreet Director, Jean Matthews, on receipt of the accounting reports for each event. Passed with one nay vote from Mayor Ray Murphy.

G. Request for rehearing on the vacation of Fourth Street

Town Manager Segal-George advised that this was a request for a hearing that would allow us to rehear this case on July 1, our last meeting before taking our break. It is her understanding that there have been some significant discussions among Mr. Spikowski, Mr. Kolar and Mr. Van Duzer with regards to what possibilities could be presented to us at that meeting. It is also her understanding that Mr. Kolar has some very tight time restraints and needs to know what is going to happen so that he can move forward over the summer.

Vice Mayor Mulholland asked Mayor Murphy if we could hear from the applicant, Mr. Kolar. Mayor Murphy said that he would rather not this evening if we're going to hear from him at the hearing. Town Manager Segal-George suggested that Bill Spikowski, who his here tonight, could talk about the discussions that they have been having.

Vice Mayor Mulholland said he would then make a motion to grant a rehearing.

Discussion:

Anita Cereceda said she would like to hear from Mr. Spikowski that there's a reason for this rehearing that would satisfy the concerns that were raised by this Council in the previous hearing.

Garr Reynolds said he thought this was too early to consider a rehearing and that it should be delayed until late fall, that there is nothing urgent about this as far as the community is concerned and he thinks we've heard everything that possibly could be heard on May 17.

Bill Spikowski was asked to speak. He advised that on May 17 we voted against the vacation because there was a public purpose to be served by this right-of-way for public parking. The applicant contacted him immediately following that decision and asked what it would take to provide equivalent parking. The memo before us tonight provides three ways to provide roughly 18 parking spaces that would be displaced if we vacate the street, and Bill Spikowski detailed these. The applicants rejected options one and two and indicated that they are thinking about option three, which is ten spaces along the bridge embankment and the remaining spaces along Fifth Street using diagonal parking. If it looks like there's one option we might be able to agree to, there is no reason to have this hearing. John Mulholland said he would withdraw his motion and Dan Hughes said he would make a motion.

MOTION: Made by John Mulholland and seconded by Dan Hughes that the Council grant a rehearing of the case regarding the vacation of Fourth Street on July 1 at 6:30 p.m. Motion withdrawn.

Discussion:

Anita Cereceda said she would second Dan's motion provided that we hear from Mr. Kolar as to whether or not these are acceptable provisions. She needs to know whether there is some discussion about these alternatives.

Bill Van Duzer spoke and explained why option 3 had been selected as the best alternative to vacating the property. He advised that part of that parking would still be in the right-of-way. Anita Cereceda ascertained that alternative 3 was the basis for the rehearing. Mr. Van Duzer feels that alternative 3 is in the best interests of the Town.

Garr Reynolds reiterated that he saw no reason for a rehearing, but certainly not at this immediate time. He sees no urgency in this and hopes that the Council would delay this, if they have to be heard again, until later in the year.

MOTION: Made by Dan Hughes and seconded by Anita Cereceda that the Council grant a rehearing of the case regarding the vacation of Fourth Street on July 1 at 6:30 p.m. Motion passes with two nay votes from Anita Cereceda and Garr Reynolds.

H. Request to use the Mound House for a portion of the Treasure of the Sea grant program.

At the recent CELCAB meeting, the members voted to recommend that the Council allow this use with the proviso that the program only operates between 10 A.M. and 4 P.M., Monday through Friday, three times per week with a maximum of 20 people in the program. The CELCAB identified this request as low impact education.

Terry Cain advised that in our packets was enclosed an outline of what the program will entail. There are trips in the field -- Sequence A and Sequence B. One will be on the beach and one will be in the mangrove forest. The third hour of the boat trip would need to be held under cover with an electrical outlet for a video, and she is requesting that this third hour be held at the Mound House. Mrs. Cain would like to hold the program in the morning hours from 9:00 a.m. to 11:00 a.m. with the third hour from 11:00 a.m. to 12:00 p.m. with video and questions and answers. These sessions would be no more than three a week.

Parking is available at the Mound House. These education programs will be by reservation only. Participants would be limited to 20 people and would be encouraged to use the trolley or

bikes or to walk. It will be a walking field trip anyway.

The Treasure of the Sea grant was brought before us almost a year ago and was approved by the Charlotte Harbor NEP this past February. And because the Town has provided a match for this grant and the Charlotte Harbor NEP is providing this grant, there is no cost to the public, residents and visitors alike.

Vice Mayor Mulholland praised Terry Cain for her efforts in getting this grant, the contents of which he feels are tremendous. He would also like to point out to the Council that the Town is spending approximately \$3,500 average a month on this property and so far we are getting nothing in return. The impact on the neighborhood is going to be very very low and Terry Cain is emphasizing ways to get there without using traffic. He applauds her efforts and he hopes the Council will see fit to approve this request.

Town Manager Segal-George advised that there was one other issue that was raised, and that was zoning and we have all previously received a memo that included a memo from Bill Spikowski on the zoning issues with regards to the Mound House. She believes that all the residents on Connecticut Street also received that memo. As long as a government is in possession of a property, it allows us even in the residential zoning to do these kinds of programs and they do not violate the zoning.

Questions from the Council:

Garr Reynolds asked what the Town's matching amount is. Mrs. Cain said that the grant needed a 25% match and Mrs. Segal-George noted that it was an in-kind match and not a money match. It's our handling of reservations and those kinds of things. Mrs. Cain said it was like 2% of Janeen's pay and within a total of \$4,040. The grant, which is actually the cash that is being put up by the Charlotte Harbor National Estuaries Program, is \$5,613.08. The last two pages she has put in our packets is an accounting of how some of the money has already been spent.

Councilwoman Cereceda asked Terry Cain if she could do the video portion of the field trip at the Town Hall, or is it the exposure to the Mound House that she's actually looking for. Mrs. Cain said that since the Mound House is called a cultural and environmental learning center that this would be a nice way to start it. Anita Cereceda said she couldn't agree with her more, but she attended the CELCAB meeting and reported to them the meeting that she had had with the Connecticut Street residents. After much discussion, CELCAB did support unanimously Terry's request to go ahead with this because it was low impact. However, there was also discussion about CELCAB making policy decisions to recommend to the Council about interim uses for the Mound House until the Council formulated some policy about what would or would not happen there. The Council is still working on this. She told CELCAB that she would ask at this meeting whether or not we were still going to have a workshop with them on the 17th, what we would discuss, or would it be better to let the CELCAB work on coming up with some policies for interim use and then let the Town Council discuss policies when we come back from vacation and after the closing of the property. She is concerned about the Council taking any action that might stifle future progress with this property.

Councilman Reynolds noted he has already expressed his feelings against approving something without the knowledge of the community. Also, we haven't met with the community as we've been promised by the committee. We have people here tonight who can't even give public input on this and yet we're discussing something that's going to happen in their community. He thinks they have every right to express their views. The Council should give some thought to meeting with these folks.

Councilwoman Cereceda said that she doesn't know any group of people that have been more listened to than the Connecticut Street residents. That community has been heard loud and clear by the CELCAB, whose last meeting centered on their concerns. And CELCAB heeded the directions given to her by the Council, which was to move slowly.

Vice Mayor Mulholland said he would like to make a motion.

Discussion:

A member of the community wished to speak at this juncture, but he was told that public input was only allowed at the end of the meeting.

Garr Reynolds said that whether he approves this program or not is immaterial. He indicated that he wasn't pleased that we wouldn't let a member of the community speak at this time because of the rules.

Mayor Murphy asked Councilwoman Cereceda if the public had been invited to the recent CELCAB meeting. She answered yes, but that only Ollie Curran and her husband had been there that night. The meetings had been noticed, although they may not have been individually noticed. But at the meeting she had held there had been discussion about the next CELCAB meeting.

Dan Hughes asked if we were going to have a public hearing every time we want to have an event at the Mound House and said that he didn't anticipate that. The Town Council is here to make decisions once in a while and quit deferring things all the time. We're elected to make decisions and to bite the bullet on these things. And every time we bite the bullet there are going to be unhappy people as well as happy people.

Vice Mayor Mulholland said he'd like to say that he thinks Mayor Murphy has conducted the meetings fairly and has done a good job. He thinks we should try to stick to Roberts Rules of Order and that the Mayor has done that 95% of the time if not more. Also, the Town is paying \$3,500 a month for the use of the Mound House and we have not used it. The suggested use before us tonight is low impact and he has the idea that nothing is going to be happily met with enthusiasm by some of the residents. He cannot see turning this down, because this has been talked and talked about by these residents. He talked to some of these people months ago.

Garr Reynolds told Mayor Murphy that he also thinks that he runs a good meeting. He asked Anita Cereceda if this use of the Mound House was actually discussed at her meeting or at any of the CELCAB meetings. Anita replied, yes, and that expressed in the agenda is that at the recent CELCAB meeting the members voted to recommend that the Council allow this use and gave the proviso for the use of the Mound House. We do need to make a policy. CELCAB had not made interim policy recommendations to us yet, but they are working on it realizing that this is something that is going to come up over and over again. It's a volatile situation. If there's a way to keep the volatility at a reasonable level until the real decisions are made about the Mound House, she thinks that would be the favorable approach. Garr Reynolds thanked Anita for her information.

Dan Hughes said that he agreed to the extent that ultimately we're going to have to establish some policies. He would say, however, that whatever policy we do establish, if it includes this specific activity it would be okay by him. He can't imagine us adopting a policy that would exclude something less obnoxious, less intrusive and with less interference to the area than this activity. If this is not going to be within our policy, he doesn't know what we're going to be doing over there. Also, if we do this and it does not have an adverse consequence, the Connecticut Street community might find it to be an acceptable rather than an objectionable event.

Garr Reynolds advised that he hadn't known that this had been spoken about at CELCAB meetings and therefore his objections have been removed.

MOTION: Made by John Mulholland and seconded by Dan Hughes that the Council grant the request to use the Mound House for a portion of the Treasure of the Sea grant program. Passed unanimously.

Terry Cain was wished good luck with the program by the Mayor, and she said she would like to invite all of us to the first program.

I. Request for left turn restriction at Fifth Street

Asked for the genesis of this request, John Gucciardo advised that the Public Safety Task Force was attempting to respond to a letter advertisement or a notice that went out to the MPO asking about traffic congestion. Since traffic congestion was the number one concern shown in the survey, PSTF members felt that it was incumbent upon them to take a position relating to it. A vote was taken to recommend the elimination of the left turn lane.

John Mulholland made a motion to approve the restriction.

Discussion:

Dan Hughes said he would like to amend the motion to add the phrase in Section 1 to make an exception so that it would be passable for emergency vehicles and not have a permanent barricade. And this would address Chief Markus who spoke to this issue earlier tonight. John Mulholland said that he thinks that emergency vehicles are designed to go over the sticks that would be used with no damage to their equipment. Garr Reynolds told him this was correct.

Anita Cereceda felt that we should never make the left turn barricade permanent if it would hinder emergency vehicles. And if we have no intention of permanently closing the left turn lane, then what is the point in doing so. Garr Reynolds felt that if we're going to do a test, we should do it in January, February and March rather than in September, October and November. John Mulholland said he was fearful that with that volume of traffic, if this was a bad idea it might have an adverse impact on traffic. He prefers to test it first on low traffic to get an idea of whether it's working or not.

Mayor Murphy said he hadn't seen any technical data that would support the closing of the lane from any real professionals. He also agrees with some of the statements that were made earlier as to the potential impact upon some of the businesses in that area at this time of year. When they need the business the most, we'd be closing one more route to their businesses. He thinks that it's ill-planned, ill-timed and he cannot support it. Vice Mayor Mulholland said he hoped the Mayor wasn't including the Public Safety Task Force in those remarks.

John Gucciardo said that, again, he thinks there may be some confusion here about what the Public Safety Task Force was attempting to do. He doesn't believe that it was an attempt to create policy or create a decision towards policy for action by this Council. It came up in the context of responding to a request for information by the MPO about congested areas. So it was a very limited focus in terms of what they looked to respond to. The resolution was voted on by the PSTF and passed, but it wasn't unanimous. It had not been an agenda item. He knows for a fact that the same consideration was taken up by the Chamber Traffic Committee, which was not in support of it, and by the Fire Department, which was not in support of it. He thinks that the Chamber also took a position against it. He thinks that in the analysis done by Bill Spikowski and Victor Dover about the circulation patterns in that area and what it could be for Old San Carlos that they were not in support of it either.

Garr Reynolds stated that he had been at that meeting of the Chamber of Commerce Traffic Committee and that there were only two people who spoke against it. Up until that point everyone at that meeting thought it was a good idea and that it should be tried. When this suggestion came up, he thinks that someone suggested that this not be approved or disapproved by the Chamber and he doesn't think they came out for or against it. Anita Cereceda said that at the last meeting there was clear discussion that they did not support closing the left turn. The only debate was whether MPO or FDOT was going to study it. She has to go on record as saying that she can't support this at all. The only reason she would say test it would be to satisfy the curiosity of people who believe it will satisfy the traffic problem.

Mayor Murphy said he forgot to mention in his remarks that he trusts the opinions of the Fire Chief and his Assistant Chief who is here tonight as well.

MOTION: Made by John Mulholland and seconded by Garr Reynolds to approve the restriction of the left turn as stated in the resolution but to approve the passage of emergency vehicles. Passed with 3 yeas and two nays.

Town Manager Segal-George asked who is supposed to do this, because we don't control that part of the road. We would have to go through FDOT. Asked if we could approach them, Marsha Segal-George said yes.

Garr Reynolds said that he hoped that John Gucciardo since he is on the Traffic Committee could call and find out what we need to do in order to act on this.

Anita Cereceda said that this is going to trigger a study by FDOT as to whether or not that

left turn should be closed. If FDOT decides something that's contrary to the Town Council, they have jurisdiction.

Garr Reynolds said he believes that FDOT will go along with what the Town suggests if they possibly can.

J. Request for contribution for Industry Appreciation Week

Mayor Murphy said that he was the one who asked for this to be put on the agenda. He is a member of the Horizon Council that each year honors industry throughout Lee County with a big luncheon and has all different levels of sponsorship. The other municipalities within the County in recent years have been donating the sum of what they call the major sponsor, a \$2,500 donation for a reserved table of eight, special name recognition on the invitation; special name recognition on the program; logo recognition, and computer audio-visual presentation. When the people approached him about this, they said they understood that this would be the first year they would be coming to the Town and that it wouldn't be totally necessary for him to go the full major sponsorship, but if he could, to bring it to the Council for some donation.

Mayor Murphy said that his take on this is that the advertising and the luring of all the fine businesses that the Horizon Council and the Economic Development Organization attract to this area benefits us, sometimes directly, mostly indirectly.

Asked by Garr Reynolds if the contribution would go to the Horizon Council, Mayor Murphy said yes and that we could make any contribution we wanted to. The other municipalities give \$2,500. Garr Reynolds felt that there were organizations on the Beach that could use that money. Mayor Reynolds advised that it wasn't a charitable contribution.

Mayor Murphy said that he would recommend that we take some sort of sponsorship and suggested giving \$1,500.

Dan Hughes made a motion that \$1,500 be contributed to Industry Appreciation Week.

Councilman Reynolds was against making the contribution.

Anita Cereceda said she would support the motion solely to participate in the greater community that we are a part of.

MOTION: Made by Dan Hughes and seconded by Ray Murphy that \$1,500 be contributed to Industry Appreciation Week. Motion passes with four year votes and one nay vote from Garr Reynolds

K. Possible Charter referendum questions

Town Manager Segal-George explained that these are in front of us because it appears that the County may be going to run a special election. If they do so in November, then we have an election that we can put these referendum questions on that would allow us to have them handled before our next election. We would have to submit those questions before the end of this month.

Anita Cereceda advised that she was real uncomfortable with how this was worded and gave her reasons. Attorney Roosa explained that if you have multiple candidates and you want to have the provision that a candidate must receive a majority vote, you're going to have to have a run off. If you eliminate the majority, you don't need a run off. You could have multiple candidates and just say whoever gets the most votes.

Anita Cereceda asked that we give some thought to whether or not our community wants to see candidates voted into office in September as opposed to in November.

Marsha Segal-George asked if we could have a first reading of this ordinance on June 21. Mayor Murphy felt that we could.

Asked why Section 5.01 was changed in the proposed amendment, Attorney Roosa said that was an oversight. Garr Reynolds said he believed that was dealt with in 5.07.

XI. COUNCIL MEMBERS ITEMS AND REPORTS

Anita Cereceda asked whether we would be having a workshop with CELCAB. Town Manager Segal-George said that it was up to us. It could be set right now for the 17th. Garr Reynolds felt that a workshop would have a calming effect by allowing people to express their

views, ask questions and get answers. Anita Cereceda stated that the workshop would be to discuss direction with CELCAB. Historically, workshops are not for public input. They are to work with a group or entity as to what kind of direction the Council is going to take unless you want to make it a public opinion workshop. Ms. Cereceda said that the CELCAB is not prepared to have a workshop because the historical evaluations have not been done nor have the archaeological evaluations been done. They do not have any great information to impart to the Council. She doesn't know if the Council has policies they would like to impart to the CELCAB. The discussion with CELCAB ended up that the reason to have a workshop if desired would be to discuss what policy we would like to initiate for interim use of the Mound House. Town Manager Segal-George advised that the CELCAB has a subcommittee that is to take its findings back to the full committee for discussion and then report to the Council, but none of that has happened. Mayor Murphy declared that we were in agreement that the workshop would be rescheduled to some future date.

Councilwoman Cereceda said that she would make an effort to attend planning meetings more frequently to bring back better information to the Council so that when we discuss funding requests we can have some resolution.

Anita Cereceda referred to copies of the presentation she made to the Charter Review Commission. She feels that it is a dynamic group and that they were earnestly concerned with the relationship that exists between County government and municipal government. They are looking for direction from the Town as to what kind of language could be inserted into the Charter that would promote a healthier relationship between County and municipal government. They asked her if in our current relationship with the County, if the Sheriff were an appointed versus an elected Sheriff, would she feel that our service would be threatened at this particular moment in time. Those kinds of issues are important issues for the Town to address and she thinks it is important for us if not to participate, to definitely monitor the progress of this group and the recommendations that they will make to the County Commission as far as the Charter is concerned. It is definitely something that will impact us for years and years to come. Mayor Murphy asked if we were on their list to be notified of any language that comes forward, and was told yes. Anita advised that she had expressed the opinion at the meeting that she didn't know if language was going to do anything just like policy itself isn't going to do anything. It's the people who are implementing the policies that will make those changes.

Garr Reynolds asked Town Manager Segal-George what was happening with the SandBar situation and was told nothing. He inquired about the Bodanski situation of Attorney Roosa. Attorney Roosa said he thought we were provided with a copy of the court's order that denied the petition, which means they must bring her unit into compliance as a duplex. Mrs. Segal-George said that they have. Garr Reynolds said he was told that they had the house totally rented out over the weekend.

Garr Reynolds also wished to know what happened with Bay Beach in court. Attorney Roosa advised that the judge ruled in favor of the Town to allow for us to go ahead and hold the hearing. The plaintiff wanted to have the judge enjoin us from having the hearing and the judge would not do that.

Also questioned by Garr Reynolds was if Marsha Segal-George had any word on the ten or eleven beach accesses that need work. He was told that work has started.

Dan Hughes congratulated the Council for a favorable ruling on the Bodanski case and also a favorable ruling this morning which will enable us to have a real fun meeting next Monday on Bay Beach. He also told Councilwoman Cereceda that it was an excellent letter that she had sent to the Charter Review Committee. Referring to the letter we got from Joseph Beasley in which he's concerned about not only the Matanzas Harbor Action Plan but also our attempts to change the existing Estero Bay Aquatic Preserve boundaries, Dan Hughes said we're not trying to change the boundaries. Marsha Segal-George said that there was a disagreement on the boundaries. There is a discrepancy with the legal description. The Council has asked for an accurate map from DEP that shows the boundaries and they have yet to give us one. That is viewed by some people as us trying to mess with the boundaries of the Aquatic Preserve.

John Mulholland congratulated Town Attorney Roosa for this morning and also Special Attorney LeCroix. He felt that they both did a great job. He referred to the workshop the Council had with Marine Resources where the B.A.I.L. were very negative about the Harbor Action Plan.

Subsequent to that they had a productive meeting with B.A.I.L. and the Southwest Florida Regional Harbor Board, which he had reported to us. He has a letter from Will White, the Chair of B.A.I.L., giving him several excellent leads. They also have formed a constructive working relationship with the Southwest Florida Regional Harbor Board.

Mr. Mulholland advised of a book he had received as a member of the Policy Board of Charlotte Harbor National Estuaries Program, which is a synthesis of existing information and chock full of statistics and which would be very boring except that chapter 8 is about Estero Bay. He is going to ask the staff to keep it on file at Town Hall. This is volume land another volume is coming out.

Mayor's Report:

Mayor Murphy advised he would not be giving a report tonight.

XII. TOWN APPOINTMENTS

A. Lee County Domestic Violence Committee

Anita Cereceda advised that she had requested that this be put on the agenda. The Lee County Domestic Violence Committee gave the Town of Fort Myers Beach a seat on that committee at our incorporation. Lena Heyman said at the time that she was interested in that and Anita said that she appointed her. She has never talked to her about it however. Someone on the committee asked her if she had changed the appointee. Mayor Murphy said he thought she had resigned. Ms. Cereceda said she feels that we should appoint someone to this committee, as a substantial amount of the arrests on Fort Myers Beach are domestic violence cases. We can advertise for a representative for the Town and she also has someone in mind that she would like to recommend, her sister Becky.

MOTION: Made by Garr Reynolds and seconded by John Mulholland that we appoint Becky Cereceda as our representative to The Lee County Domestic Violence Committee. Passed unanimously.

Suggested was having Becky Cereceda report back to us at her own discretion if she feels that there is something that would be significant or of interest to us.

XIII. TOWN MANAGER'S ITEMS

Marsha Segal-George reminded us that the meeting on June 21 is going to be at 3:30 p.m. July 1 also looks like it might be at 3:30 p.m. The meeting of the 14th starts at 9:00 a.m.

The LPA is handling three land use cases tomorrow and they have to come in front of us before we take our break. Garr Reynolds said he would like to see a limitation on the presentations during these cases.

A. Update on discussion with Sheriff's Office on substation

Deputy Town Manager John Gucciardo referred to a memo on the meeting that he and Town Manager Segal-George had with representatives of the Sheriff's Office. He is looking for direction. They made an assumption that the Council would be interested in keeping some kind of presence here on the Island in the form of a Sheriff's substation. Whether or not that's the Lynn Hall substation or some other substation is an open question, but it looks like the County is moving ahead pretty aggressively on plans to redo how the district offices look and then eliminate the smaller substations in all the current districts. If that's the case, they would no longer fund the Lynn Hall substation. If we want to keep a presence here on the Island, do we want them to keep pursuing either looking at different locations or alternate locations or the Lynn Hall location for a substation?

Dan Hughes said it had occurred to him that a possible location might be that intersection at Fourth and Fifth. Also suggested was just moving the substation trailer. Marsha Segal-George said that the problem we have with the trailer is that whenever we have an event, that trailer goes off the island. So that even before we get a hurricane evacuation call, the trailer is gone. The deal is that whatever we're going to provide for the Sheriff we're going to have to pay the full freight on. Dan Hughes said that he would like for us to continue to have a physical presence of

the Sheriff's Office on this island and he believes that our citizens would also. Vice Mayor Mulholland said that he agreed with Councilman Hughes and thinks there are some benefits to the residents of the Town to have a permanent presence of the Sheriff here. And people could go to this office or whatever it is going to be rather than to the substation that we have now.

John Gucciardo said that one of the things they had discussed at their meeting was that if it was a location other than the trailer, what they would be looking for is not only a civilian employee to be there but to have it be an operating point for the deputies also, so that a person having a complaint or a question or a concern could interact with the deputy also on occasion. It doesn't mean that he would be here permanently, because they need to be mobile, but it would at least be a place where the deputies work. The trailer really isn't designed for that. Different business owners have indicated that they would be willing to try and work out something because they would appreciate the presence also.

Garr Reynolds felt that the Lynn Hall location was the best one. Ray Murphy said that the Sheriff wants his trailer there. Anita Cereceda asked if it would be the Council's direction to pay to maintain the trailer. She sees the trailer as a false presence that serves no purpose. If you call there, your call is transferred to the West District. If the Town is going to spend dollars for Sheriff's services, are we going to have some input as to what that level of service is?

John Gucciardo said that if the substation was at a location other than the Lynn Hall trailer, we would increase the space; because then the Sheriff would be able to have deputies operate out of the new space, which is something they can't do at the trailer.

Ms. Cereceda advised that the trailer has to leave before we hit any kind of crisis level during a hurricane otherwise they cannot take it over the bridge. Therefore, it doesn't serve any purpose for us during the most threatening situation that the Town could ever face.

Dan Hughes stated the fact that the substation on Summerlin is going to be closed makes it more important than ever that we have one on our Island.

XIV. TOWN ATTORNEY'S ITEMS

Attorney Roosa stated he has provided copies to the Council of a proposed settlement agreement in the Florida Governmental Utility Association lawsuit. We finally received a calculation from our engineer who determined that the appropriate bulk rate for the acquisition is changed from \$2.18 to \$2.26 and it eliminates the provision requiring them to transfer Estero Boulevard. It is set down for June 21.

Secondly, he has received a letter from the County Attorney that they have filed a bond validation for the purchase of the Town of Fort Myers Beach Utility System. We are not a party defendant to that lawsuit. In their complaint they boldly assert that permission from the Town of Fort Myers Beach is not required. Attorney Roosa said that he will be coming back to us at a later date and before the hearing that is set for September 7 to discuss any action, if necessary, depending on whether or not we can settle the suit with the first letter.

XV. PUBLIC COMMENT

A. BILL WHITAKER

Mr. Whitaker referred to the merchants' participation in the concerts down at Times Square sponsored by Mainstreet. He advised that the Pier Peddler has never turned down a donation to the concerts there. The Beach Pierside Grill is contributing to concerts as well as Wings. He will guarantee that his property will pay and sponsor 50% of their contribution and be willing to go to the bat to help further if the other half is not forthcoming from the merchants in Times Square. They are players. They are interested in the community and they think that what we're doing down there is beneficial and will do their share. Mayor Murphy felt he had been a little rash in the way he had broadbrushed the Times Square participation earlier and he apologized for it.

B. PAUL ABRAHAM

Mr. Abraham of Connecticut Street felt that there had to be a better way of communicating with the residents of his street. He said that 60% of the people don't know what's going on or aren't here. The majority of the ones who are here are against activity at the Mound House. He asked that we don't forget the activities are supposed to be about the Calusa Indians and that we're kind of sneaking in the back door commercially. The Treasure of the Sea grant has nothing

to do with Indians. He feels that security and traffic are problems. If they find out about the Indians and have a little museum, that's great. If there is any change in zoning, he will go up and down this Island and get 1000 votes to go against it. Get back to the Indians or shut the Mound House down he urged.

John Mulholland would like for CELCAB to have a meeting with the Connecticut Street residents.

XVI. ADJOURNMENT

The meeting was adjourned at 11:10 P.M.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for action from the meeting of June 7, 1999

1. Tabled for consideration at our next meeting is that an expenditure not to exceed the amount of \$15,000 for fireworks for the Town of Fort Myers Beach's New Year's Eve celebration be allocated to the New Year's Eve Committee; that the Public Safety Task Force be a part of the planning process for the event, and that full financial disclosure is made.
2. We will make our contribution to the Fireworks Committee the same as last year, or not to exceed \$12,500, with any unused balances coming back to the Town.
3. The anti-littering ordinance will be set for first reading on June 21
4. The MSBU Maintenance Ordinance draft will come back on June 21
5. We will go forward with an MSBU for garbage collection in the Times Square area.
6. A motion was passed that the Council approve the expenditure of \$4,980, as outlined by the
7. A motion was passed to approve the restriction of the left turn on Fifth Street as stated in the
8. With respect to the Charter referendum, there will be a first reading of the ordinance on June 21.
9. Mayor Murphy declared that we were in agreement that a workshop with CELCAB would be
10. Attorney Roosa said there is a proposed settlement agreement in the Florida Governmental Utility Association lawsuit. It is set down for June 21.

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MEMO

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Hours of Minutes of Town Council 6/7/99

12:05	-	12:35	:30	:30
1:40	-	2:30	:50	1:20
4:00	-	4:40	:40	2:00
9:55	-	10:35	:40	2:40
10:05	-	11:45	:40	3:20
12:00	-	1:45	1:45	5:05
11:10	-	12:50	1:40	6:45
12:00	-	12:25	:25	7:10
12:30	-	12:55	:25	7:35
1:30	-	1:50	:20	7:55
2:00	-	2:20	:20	8:15
8:40	-	9:00	:20	8:35
10:20	-	11:00	:40	9:15
6:05	-	6:40	:35	9:50
2:10	-	4:00	1:50	11:40
4:50	-	5:30	:40	12:20
7:20	-	8:45	1:25	13:45
9:05	-	10:35	1:30	15:15
7:20	-	10:00	2:40	17:55 (18:00)