

TOWN COUNCIL MEETING  
JUNE 21, 1999  
NationsBank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER i

Mayor Ray Murphy opened the meeting on Monday, June 21, 1999, at 3:30 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 and Town Attorney Richard Roosa. Also present were: Beverly Grady, Nettie Richardson, Pam Houck, Bill Spikowski & Fire Chief Markus.A

Excused absences from the meeting:  
None.

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II. PLEDGE OF ALLEGIANCEV

All assembled at the meeting recited the Pledge of Allegiance.

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III. INVOCATION M

The invocation was given by the Revered Bob Stuckey.

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Mayor Murphy advised that something had been brought to his attention this afternoon by the Town Manager. There is a meeting tomorrow in Tallahassee by the Governor and the Cabinet regarding the famed Sahdev property on the eastern side of Estero Bay, which certainly has a huge impact on us here in Fort Myers Beach. There are members on the Council who have expressed an interest in going to that meeting tomorrow to speak with the Governor and his Cabinet. Mayor Murphy said that trip probably could have been arranged administratively, but he and the Town Manager felt that it was in everyone's interest to have a short discussion here with the Council.É

Dan Hughes stated he was glad that the matter is bringing brought up at this meeting. He understands that there was a preliminary meeting last week in Tallahassee with some lesser Cabinet people. Heather Stafford will be attending tomorrow's meeting. Councilman Hughes feels that it is conceivably one of the most significant situations in terms of its potential impact on us environmentally and ecologically, particularly for Estero Bay.8

Vice Mayor Mulholland stated that he agreed with Councilman Hughes that this is very important for us. Estero Bay is our jewel and what happens on the other shores directly impacts the Town. He intends to go to Tallahassee and address the Governor with his concerns if arrangements can be made.•

Garr Reynolds stated that he is just now learning about this, but he thinks it's a good idea for someone to go.Ò

Councilmembers who have expressed an interest in going to the meeting were Anita Cereceda and John Mulholland. Town Manager Segal-George advised the time schedule for the flight to Tallahassee.6

Councilman Reynolds felt that background information was needed before anyone made the trip. Town Manager Segal-George advised that there was no background information for anyone other than what has been in the public records.h

Mayor Murphy said that he may also want to attend, and asked to be included tentatively.

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IV. PUBLIC COMMENT3

A. BOB GAYDOS

Mr. Gaydos stated that he hoped we would reconsider the proposed plan chaos of a New Year's Eve party. The inauguration of our Town was a solemn occasion and in previous years the volunteers felt that a little birthday party was a nice gesture, a back to basic small town affair. Now we seem to feel the need to go bonkers and instead of cake and punch spend lots of tax money. This has to be an ultimate waste: noise pollution, air pollution and litter. Remember that government should provide health, safety and welfare. Spending \$15,000 on 15 minutes of fireworks comes to \$1,000 a minute. The acronym KISS means keep it keep it simple sir, squire or stupid, depending on whom you're talking to. Please keep our town to remain as a small, quiet hamlet.

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V. PROCLAMATION: Coast Guard Auxiliary 60th Anniversary»

Mayor Murphy said that today we had with us Mr. Daniel Hoggett, who is a retired Special Agent in Charge, and he will receive the following proclamation.C 8

The Town of Fort Myers Beach Proclamation: 9

On June 21, 1939, the United States Congress created the United Statesd  
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Coast Guard Auxiliary for the purpose of assisting the United States Coast m  
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Guard in promoting boating safety on the waterways of our country and territories.

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Still the only boating organization in the country so authorized, the United Statesj  
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Coast Guard Auxiliary today, an all-volunteer organization, consists of more than 8

1300 flotillas throughout all 50 states, Puerto Rico, the Virgin Islands, American Samoa, Guam in a membership exceeding 35,000 men and women. In the

Town of Fort Myers Beach Flotilla 9-10 has served the boating community and fulfilled the United States Coast Guard mission by promoting boating safety through education and courtesy vessel safety exams. Moreover, through the

years the volunteer members of Flotilla 9-10 in their operational activities have helped thousands of recreational boaters who find themselves in trouble through search and rescue missions, safety patrols and regatta patrols, resulting in the savings of hundreds of lives and millions of dollars in property.

WHEREAS, the United States Coast Guard Auxiliary Flotilla 9-10 is an asset to our community and provides a valuable service in its boating safety efforts,

WHEREAS, this year on June 23 the the United States Coast Guard Auxiliary ]

will reach its 60th anniversary of service to the boating community,^

NOW, THEREFORE, I, Ray Murphy, Mayor of the Town of Fort Myers Beach  
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do hereby proclaim June 23, 1999, as United States Coast Guard Auxiliary  
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in the Town of Fort Myers Beach and do commend this observance to all of&  
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our citizens.d „ 8

IN WITNESS THEREOF I congratulate and salute all current and former  
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of the United States Coast Guard Auxiliary Flotilla 9-10 who have played a role  
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the 60 years of successful assistance to the United States Coast Guard missionD  
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of promoting safe boating in our community. „ 8

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Mayor Murphy offered his congratulations and he thanked  
Mr. Hoggett and all his members for all they have done for Fort Myers Beach. He advised that we  
certainly appreciate all the service they provide us and wishes them continued luck in the  
future.( „ 8

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Vice Mayor John Mulholland advised that before the meeting he had stated the Auxiliary  
was a fine organization that do very good work. He commends them and wishes they would  
continue in the future.

VI. PUBLIC HEARING: Raymond  
Proffitt . A variance request in the MH-2 district located at 203 Driftwood  
Lane from the minimum waterbody setback of 25 feet to allow a 19-foot, 9-inch setback  
for a wood deck addition.€

Raymond Proffitt brought photographs to show why he wanted a deck in that particular location,

as well as letters from six of his closest neighbors, all saying that they have no objection to an extension of his deck.G

There were no questions from Council members.

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#### Lee County Staff Input:

Nettie Richardson of Lee County Development Services advised that the subject property is Lot 9 in the southerly 10 feet of Lot 10 of Block C of the Flamingo Park Subdivision. Subject property is 75 feet in width and 100 feet in depth. On the property is a one-family home built in 1968. It is a T-shaped house sitting at an angle on the property, as shown on Exhibit B of the Staff Report. Mrs. Richardson described the deck that wraps the house. The applicant is seeking a variance to allow an addition onto the deck, which would also wrap around the existing deck. The variance necessary today is the encroachment into the water body setback of 4 feet.<

Mrs. Richardson described the zones in the neighborhood and she said that the property was located in the low density land use category. Flamingo Park is an older park developed with single-family homes and the subject property does not comply with the density requirements of the 4 units per acre. However, prior to the incorporation of Fort Myers Beach, this property did receive a favorable single-family determination from Lee County in 1989 and was, therefore, consistent with the density requirements of the Lee County comprehensive plan.9

Recommendation :K

Staff has recommended approval of the request for variance. Because of the shape and the location of the existing single-family home, this creates an extraordinary condition for the applicants. The applicants acquired the house in 1998 and therefore did not build it at that location, and the variance requested today is not the result of the actions of the applicants. Allowing them to do the addition will provide them additional comfort and adequate area to move about on their deck freely, and it will allow them the same rights as other property owners.F

Recommendation of approval is limited with a condition: that the variance is limited to the 19-foot, 9-inch setback as shown on Exhibit B of the Staff Report. The Local Planning Agency heard the request for a variance as well, and they recommended approval of this variance with the same condition.

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Questions from the Council :

Dan Hughes referred to page 3 of the Staff Report where reference is made to Exhibit C, which refers to Lot 10, not Lot 9. Councilman Hughes pointed out that it was Lot 10 less the southwesterly 10 feet. Mrs. Richardson agreed and said that therefore Lot 9 would have to come in and get a favorable single-family or minimum use determination from the Town of Fort Myers Beach. Mrs. Richardson described what would have to be done to get this determination and stated the fee would be \$135.

Mayor Murphy asked Attorney Roosa if we could go ahead with this resolution today assuming that it's going to be in the affirmative and handle this other matter after the fact. His reply was yes.

Raymond Proffitt said that his understanding is that he lives on Lot 9 and his copy of the site plan shows that 10 feet of Lot 10 have been added to Lot 9. He thinks there's a mistake in the site plan that Nettie Richardson has. Attorney Roosa told him that the administrative interpretation, however, excluded that 10 feet. Exhibit C refers to Lot 10 less the 10 feet that is on his lot.

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Nettie Richardson advised that they have two processes for a minimum use interpretation: an administrative one that can be submitted when obtaining a permit and one for first time builders. There will be no additional fee for Mr. Proffitt and she can handle all the paperwork that's required in the office. We can assume that the interpretation will be the same as it was for Lot 10.

Councilman Reynolds praised Mr. Proffitt's presentation, saying he had done his homework.

There was no public input.

Mayor Murphy asked for a motion. Dan Hughes asked if it shouldn't be a motion to adopt the motion that has been presented, striking "not" in A and C and deleting Ted FitzSimons on the next page and inserting Daniel L. Hughes. He was told yes.

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Discussion :è

Dan Hughes felt that it wouldn't be necessary to include "19-foot, 9-inch setback" and Town Manager Segal-George explained that this was done for clarity. Councilman Hughes then suggested that on the second page of the resolution, therefore, should be added "Now, therefore, be it resolved that the variation is approved for a 19-foot, 9-inch setback as shown on Exhibit B of the Staff Report. Then you don't need to have "subject to the following condition."

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MOTION : Made by Dan Hughes and seconded by Garr Reynolds that  
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the resolution be approved and that the variance is limited to the 19-foot, Z  
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9-inch setback as shown on Exhibit B of the Staff Report. Passed%  
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unanimously. „ 8

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VII. PUBLIC HEARING: Murray Carslake . A rezoning  
request for development of a parking lot and development of a commercial building.  
The property is located at 1999 Virginia Avenue.Ú

Beverly Grady introduced herself as representing the applicant. She advised that the existing planned development is being amended to do two things: 1) to approve Phase I of the parking lot and that a new plan has been submitted, and 2) the original planned approval has been updated with modern co-references and would now be referred to as Phase II. The property at 1999 Virginia Avenue and Estero Boulevard is designated on the land use plan as boulevard and they would submit that it is consistent with our land use plan, as the property lies within the boulevard land use category described in Policy 4B5, a mixed use district along portions of Estero Boulevard. In that district are nonresidential uses including motels and churches that now comprise 46.9% of the land in the category, and this percentage is not to exceed 70%. This request is also

consistent with 4C2 commercial intensity. It is also consistent with Policies 4C3 and 4C3B.

Mrs. Grady briefly reviewed with us the surrounding uses at the site. She advised that the additional use of parking would have no impact on the infrastructure of the Town. Additional use will not cause any additional demand for water or solid waste or traffic. Mrs. Grady submitted three pictures to show the surrounding uses. She asked us to look at the two-page master concept plan, which shows that the ingress and egress would be from the alley. On the site plan that we have for Phase I is proposed a 6-foot wooden fence and buffering. The Staff Report is requiring an 8-foot wooden fence but it was thought that the 6-foot fence would provide sufficient visual protection and protection from any car lights. They want to stress that there is existing commercial use on both sides that is more intense than what is being proposed, it is compatible with the boulevard designation and compatible to the surrounding land use.

The Staff Report finds consistency with the Town plan and the code that this request meets or exceeds performance standards and location standards; that the request is consistent with the densities and intensities and general uses in the Town plan and compatible with existing and planned uses. The LPA with one absence found unanimous approval of the request with the Staff condition. Requested is that the Town Council approve the zoning request.

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Questions from the

Vice Mayor Mulholland referred to Phase I on the site plan and ingress and egress from an alley. He asked who owned the alley. Mrs. Grady advised that the alley is reflected on the plat in the plat book. It was not dedicated to the public and the neighbor to the west was here and testified before the LPA as to the history of that alley. The neighbor had purchased it in 1984 and stated that after discussion with the County at that time, pipes had been put in the ground at the end of the alley before it hits the residential streets, which stopped cruising through the residential portion to the rear. That was in lieu of their discussion about vacating the alley. So the alleyway has been used as ingress and egress to the properties on either side of it. What we would find is that it is to be used by the adjoining property owners. Mr. Mulholland wondered if we approved this, what would happen if sometime later use of the alley is denied use for ingress and egress. Mrs. Grady stated that this property is surrounded on three sides by streets, and if you look at Phase II, our ingress and egress will be from Virginia and a right out only on Estero Boulevard. Sometimes there's a problem with interpretation of these old plats. Staff thinks it's fine to keep the alley, but if what he suggests happens then administratively she thinks that what they would do is just use Phase II, which we're already approving, and then there could be ingress and egress from Virginia Avenue.

Mr. Mulholland asked about the black line in the middle of the parking site plan. Mrs.

Grady said that we will see parking all the way along the top and all the way along the bottom of that line. Will there be room to do that? Mrs. Grady answered yes, they will have room to do that. They are also required in the condition to get a limited development order that will actually show and outline the number of parking spaces to make sure that they're the right size and design.<sup>6</sup>

Councilman Reynolds asked if this parking will have bumpers. Mrs. Grady said she didn't think it was anticipated to have to put bumpers in because the main use is a lease to the employees, people who are used to pulling into the lot. It's not going to be available to public rental.<sup>ì</sup>

Garr Reynolds wondered if the parking would be helter skelter, and Mrs. Grady advised that there would be orderly parking along the two perimeters and then angled parking in the center as reflected on the plan.<sup>y</sup>

Mr. Reynolds said that mention was made of a gravel base rather than asphalt. What kind of surface are they exactly going to have? Mrs. Grady said they are required by the condition as well as by the code to have a dust-free surface. It is recognized as a low-turnover parking lot and so they will still be required to have a dust-free type surface.<sup>Ô</sup>

Councilman Hughes said that he'd had a serious concern about the very same issue as John Mulholland had. He referred to Mrs. Richardson's statement to the LPA that they owned half of the easement, which seemed odd to him. Looking at Exhibit A of the Staff Report, it does show just to the west of the subject property that it's not part of a subdivided lot and it goes back to an area behind it. So who does own that property? Town Manager Segal-George said that on the original plat, that was shown as a walkway, but it was never publicly dedicated as some folks in the neighborhood thought. As far as she knows it has no status whatsoever. Mr. Roosa asked if perhaps we could require a dedication to see that we do preserve that as a right-of-way. Mrs. Segal-George said that it was never a right-of-way, it's just a footpath. Mr. Roosa said that if it was never dedicated, then private parties must have title to it. Mrs. Segal-George pointed out that it was left out of the public dedication language on the plat. Attorney Roosa felt that may have been an oversight, because it looks to him that it was intended to have been dedicated to the public. Mayor Murphy suggested that he research this.

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John Mulholland asked if the Council decides to grant this and we say ingress, egress on the alley at some other time, are we shutting whoever owns this out? To him it's very cloudy. Mr. Roosa said he thinks the first thing is that this plat was dedicated in 1941, so over the years he thinks the public has been driving on this and we could establish that the public has an easement of passage for motor vehicles. Mrs. Grady stated that if we look today, there are pipes at the end acting as bollards that won't let you take this alley into the subdivision. Attorney Roosa asked if the abutting property owners had been using it for motor vehicle access and was told yes. He said that then he thought that it would be an easement and that's not inconsistent with it being also a footpath. But the footpath would belong to all the owners in the subdivision in common. He

doesn't think that a 25-foot footpath is inconsistent with an access easement for motor vehicles and especially over the usage of time. He doesn't think we'd be granting them something that they wouldn't be entitled to. They have become entitled by use. Z

Mrs. Grady advised that there were two access points in Phase II.

Attorney Roosa referred to Exhibit B and the resolution in '93 which sets forth a number of permitted uses, but not the parking lot. Was this in fact operated illegally from '93 on? Mrs. Grady said, no, that the owners did not recognize the parking lot was not something that would be permitted under the CPD zoning that they received. It was relatively recent that improvements were made that then triggered Code Enforcement to realize that it was going to be used not for commercial parking where you come on the hour and pay, but with this limitation. The prior zoning permitted a package store and that use has been removed from Phase II.H

Mrs. Grady explained the time frame for a CPD.u

Councilman Reynolds ascertained that Mrs. Grady was also asking for approval on Phase II.  
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Dan Hughes ascertained that the conditions that have been suggested by the Staff would supersede the conditions in the scheduled deviations that Mrs. Grady has on the master plan and that they were acceptable to her.'

John Mulholland asked if there was a crosswalk on Virginia where ingress and egress was permitted. The response was no.

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County Input :Ú

Pam Houck , Principal Planner with the Division of Development Services, stated that planned development speaks to redevelopment of two phases. Phase I would be the parking lot and Phase II would be a small commercial building with a very limited number of uses. She recommended approval of the planned development. She believes that it is consistent with the comprehensive plan. It's in the boulevard land use category. The intensity of the development is limited by the number of uses that they have recommended approval for. She has revisited the uses that were previously approved and has eliminated a couple of those: the package store and a massage parlor. The uses that are permitted should have minimal impact on the infrastructure and on the residential neighborhood to the north. It is also consistent with Policies 4C3 and 4C3B. Also it is consistent in that it has been reflected through the commercial planned development process.:

Mrs. Houck has recommended approval with a number of conditions and deviations. They have brought the original master concept plan into compliance with today's planned development code. The old plan cited a number of citations that were a very early version of the County's code. The parking lot would be limited to employee parking or leased parking. She is recommending a condition that prohibits hourly parking. The parking lot is to be developed as a low turnover parking lot, which would permit it to be developed with a gravel surface as long as it is continuously maintained in a dust-free manner. She has recommended conditions that would provide buffering adjacent to the residential to the north. She

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believes that with the recommended conditions of approval it is consistent with the comprehensive plan and meets the intent of the land development code.

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Referring to condition 13, John Mulholland said that gravel wasn't mentioned. Mrs. Houck said that by definition in the land development code a low-turnover parking lot can be developed as a gravel or similar surface as long as it's maintained in a dust-free manner. And generally the materials are designated at the time of the development order review..

Dan Hughes said he had a concern with the words "adequately drained and continuously maintained." Mrs. Houck referred him to the terminology in Chapter 34 of the zoning regulations. Chapter 10 of the local development order sets forth standards with which they will have to comply for drainage and surfacing. Mr. Hughes then referred to the preceding page of Mrs. Houck's recommendation and advised that paragraph A1 should show the Town of Fort Myers Beach land development code rather than Lee County. He also asked if the different standards in paragraph 9 were taken from the land development code provisions. Mrs. Houck said they were but that she has enhanced the buffering requirements and the trees and shrubs. Mr. Hughes referred to the minutes of the LPA meeting and a discussion regarding paragraph 14 and an 8-foot fence. He asked if we were changing that to a 6-foot fence. Mrs. Houck advised that the applicant would like to put up a 6-foot fence but the LPA recommended an 8-foot fence and her recommendation is the same.Ī

Dan Hughes noted that in Phases I and II there were some deviations and conditions that were inconsistent with some of those in her staff report. Would that require that they come in with another master plan? Pam Houck said that they didn't. Dan Hughes felt that this might lead to some problems at a later time. Pam Houck said that they certainly had no problem with placing on the plan the conditions and deviations from the staff.

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Public Input:Ü

Mike Pine stated that he is a resident who rides up and down the Island on his bicycle every day. He'd like to know how the concrete blocks will work to stop the cars. Also, if the fence is on the Estero side, he cannot see cars coming out onto Estero Boulevard. He hopes we will work on making a clear view to the right of drivers coming out whether onto Virginia or onto Estero so that bikers and pedestrians won't be at risk.ç

Pam Houck said that in the picture we will see that there is a definite separation like a bollard and that a bumper is already in place.•

Backing into the parking lot was also a concern. Town Manager Segal-George suggested making a condition for straight-in parking only. Ray Murphy said that since it is a parking lot for Diamondhead employees, he has every confidence that they will maintain that lot in a proper manner and that it will also be appealing to the eye and safe for pedestrians.3

Dan Hughes made a motion.

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„ 8 MOTION : Made by Dan Hughes and seconded by  
Garr Reynolds that ^ „ 8

we adopt the resolution that has been prepared by the Staff with the a  
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following conditions or modifications and revisions: On the second pagec  
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strike "denied" and leave approved and insert where it says "see attached"f  
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"all of the conditions set forth on pages 2, 3 and 4 of the Staff Report withc  
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the change in A1 to delete "Lee County" and insert "the Town of Fort Myersa  
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Beach." And add a condition that these conditions that are incorporatedd  
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by reference into this resolution be specified on the minor CPD master plan  
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 and a new plan be presented and made part of the record and be incorporated`  
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 by reference so that there's not an inconsistency between what's in thee  
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 archive as a resolution and what's on the face of the plan itself. And thatd  
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 would include the deletion on page 1 of the sentence "Phase II is set forthf  
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 in Resolution Z93065," which remains in full force and effect as to Phase II.\_  
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 Also incorporate the deviations on page 4 of the Staff Report. Passed%  
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 unanimously.

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Garr Reynolds said he wanted to compliment the simplicity of the presentation. He thinks we all understand what we're talking about for a change. He also wants to compliment Mrs. Grady for presenting a project here that seems to fall very much within our LDC and he thinks the Staff has come along those lines too, which to him is very significant. And no one asked for the moon today.<sup>1</sup>

Mayor Murphy said he'd like to add that from what he can gather here today that everyone is on the same page with the one exception of the height of the fence.

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- VIII. CONSENT AGENDA@
  - A. Review of May Financial Reportsu
  - B. Resolution approving an interlocal agreement for emergency planning with Lee County.

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Mulholland] „ 8 MOTION : Made by Anita Cereceda and seconded by John  
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that nothing be pulled from the Consent Agenda. Passed unanimously.

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## IX. ADMINISTRATIVE AGENDAa

### A. First Reading: Ordinance to establish uniformity in enforcementU

This is Ordinance 99, an ordinance of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach Violations Ordinance, providing authority, general penalty, public nuisance, revocation of a license, civil relief, severability, conflicts and effective date. This is set for July 1 at 3:30 p.m.K

### B. First Reading: MSBU maintenance ordinance

This is Ordinance 99, an ordinance of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach Times Square MSBU, providing district name, boundaries and size, authorization of the use of special assessments, designation of the Board, Advisory Council, members' term and vacancies, forfeiture of office, compensation of members, election of officers, duties of officers, clerk, rules and procedures, severability, conflicts and effective date. This is set for July 1 at "

3:30 p.m.ä

Asked was since this ordinance requires an advisory council if it would be all right if advertisement began for people who would be interested in serving on the advisory council. No objection was made.,

Councilwoman Cereceda asked if the garbage ordinance MSBU was going to require the same thing. Town Manager Segal-George advised that this ordinance is forming the special district that is going to be dealing with maintenance and garbage and so we need an advisory council or group that will deal with the maintenance and the garbage. One group will do both.

Dan Hughes stated that he had a general question. In Section 5, the Town Council sits as the Board of Directors. In Section 4 where it says that assessments are determined by resolution of the Town Council, should that be the Board of Directors or the Town Council? Is that done in our capacity as the Town Council, or as the Board of Directors of the MSBU? Attorney Roosa said that that came from the statute, and so it's going to have to be as the Town Council, but he guesses

its as the Town Council

sitting as the Board of Directors. Dan Hughes said that's what he thinks it meant, otherwise why have the intermediation of the Board of Directors if it's the Town Council anyway.

Dan Hughes asked Attorney Roosa to consider from Section 6, Advisory Council, and reading down through 13, Rules and Regulations -- those were all the added things that relate to the procedural aspects of the advisory council. But it could be confusing whether when you're talking about the advisory council or the board of directors. Mrs. Segal-George said we could put everything into a sub-section under advisory council. Dan Hughes felt it should be delineated so that those terms and vacancies and so forth are not purporting to regulate the Town Council but to regulate the Advisory Council.

Dan Hughes asked how this advisory group would communicate with the Council. Marsha Segal-George said in the same way all the other groups do. We don't specify that with regards to any of the committees. Basically this group is going to be dealing with budgetary issues. She is going to have to sit with them at their meetings just as she does with the other groups. They'll have their minutes and the Council will get their recommendations. And, if we want to at that point, we can even have a joint meeting with them before doing the assessment.

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C. First Reading: Charter amendments

An ordinance of the Town of Fort Myers Beach proposing amendments to the Charter, subject to referendum, providing authority, proposed amendment elections, proposed amendment commencement of term, proposed amendment local candidates, severability, repealing clause of referendum and effective date. This is set for July 1 at 3:30 p.m.

Dan Hughes asked what the election was called that was held in October of this last year. September was the primary, then there was the run off for primaries and then the general election was November. You cannot assume, however, that there would be an election in October, can you? And if we said it would be in October, just one month before this instead of September, it is conceivable that we would have to pay for that if we were the only thing going in the County at the time. He is concerned that September is a very early date. Anita Cereceda told him that next year it probably won't make any difference because everyone is going to be so election oriented that there will be a high focus on voting. But the following year when there will be three seats on the Town Council up, nothing else will be going on, and that's what concerns her. Dan Hughes asked why we did three years in the first place.

John Mulholland said he shared the concern about the early timing in September, because so many people are not back or are not here. And to hold an election then instead of at the usual time in November may give us a problem; what Councilman Hughes is saying is that it would

facilitate or be possibly cheaper for the Town if we could work it this way.

Attorney Roosa said he thought that in most years in general elections they do have an October run off election. When he had asked that this be drafted, one reason was to eliminate the December election because nobody else has a run off in December and we would always be paying for that if we had multiple candidates. The other reason was to shorten the whole length of the campaign process and not have it drag on so long. This accomplishes both but at the cost of having the initial voting procedure at a very early date, and he wonders if that shouldn't be the first Tuesday in October, notwithstanding the fact that we may have to pay for that election.

Garr Reynolds also felt that elections should be held the first Tuesday in October and have the run off in November. Having the primary in September is not going to solve anything.

Dan Hughes said that even though this was his idea, he thinks that September would be too early now that he has given it further thought.

Attorney Roosa said he will modify that for the public hearing.

Mayor Murphy stated that if he is going to change that, what he is effectively doing is reducing the term of the elected official that is set out in the charter where the term for all Council seats shall be for three years except during the transition period. So if you're going to change 502, you'd have to change 503 as well. Attorney Roosa said that it would reduce only the present terms by two months.

#### D. Discussion of Estero Blvd. median at Times Square

Town Manager Segal-George advised that Bill Spikowski is working on this for us. We're getting close to the place where we have to start spending money on this project.

According to Bill Spikowski, the basic concern of the Fire Department is that by replacing the center turn lane with a median, it is going to make it difficult if a car pulls over for an emergency vehicle to get around. In fact, it would be better if a car would pull forward, but we're ingrained with the idea of pulling over. In talking with Chief Markus, Bill Spikowski said it became clear that the main problem is for the Fire Department in the northbound direction. This made some solutions possible.

One possibility is to reduce the medians. Instead of the three medians, eliminate two of them down near Crescent Street where everything is so tight. The third median near Times Square where the crosswalk is should be made narrower. This wouldn't be good for pedestrians, however. Another alternative, which has a lot more merit, would require five extra feet of right-of-way which

we may be able to get donated by the landowners and we may not. If these extra feet are obtained, we could move the sidewalk five feet toward the bay side and use the extra five feet for a striped bike lane in the northbound direction. Cars could pull over into the bike lane and allow emergency vehicles to go around.o

Ray Murphy asked where the bike path went. Mr. Spikowski said it would go from Crescent Street past McDonald's and lead to the bridge. There is a triangular island where Fifth Avenue meets the base of the Sky Bridge that would also have to be modified to provide this bike lane, and it would go right on to the breakdown lane of the bridge.â

Mrs. Segal-George said that she and Bill have talked about having Wilson-Miller do the engineering work for this median and trying to pick up this kind of bike path style for the rest of the streetscape.ß

Dan Hughes said that Wilson-Miller also seemed dedicated to the concept that there be a dedicated lane for a trolley. Bill Spikowski told him that there's no room for it here. Right now the trolleys go up Crescent and down under the bridge, which is about the best that can happen. If they made this wide enough for a trolley, cars would use it. On down the island you have a lot more options. This end of the island is where it's really difficult.±

Garr Reynolds asked about the median treatment. Bill Spikowski said that the County was concerned that we might be putting landscaping on the median that blocked one's ability to see. The key to putting landscaping on the median is to have it about 2-1/2 feet so that everybody can see pedestrians or cars. Any trees need to be thin and high. Bill said he'd really like to see landscaping on the median.F

John Mulholland asked for a time schedule. Bill Spikowski said he had spoken to two people about donating 5 five feet of right of way. One said he would and the other was uncertain. He said that if two out of three people were agreeable and the other wasn't, we might have to go to eminent domain.k

Anita Cereceda said that she thinks that the property owners will be cooperative.3

Chief Markus said that he would like to echo Bill Spikowski's statements in reference to the bike lane. If we don't have that, there will be grid lock and emergency vehicles cannot pass through. Medians are important, but we need to have a means of egress for emergency vehicles.ó

Garr Reynolds said that he had related to Council that the Fire Department had done something to be able to come into contact with flex stakes, and asked Chief Markus if that was correct. Mr. Markus said it was true.H

Dan Hughes questioned Chief Markus regarding his views on the eliminating the left turn at Fifth Street. Chief Markus said that their concern is response time, and if we can assure them that they can make that left turn over by Wings and will only have flex stakes to deal with, then it would be okay.

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Anita Cereceda made a motion.

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Discussion :Â

Ray Murphy said that we haven't talked about the economics of this project yet. Town Manager Segal-George said that she understood it would be funded by the gas money.

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„ 8 MOTION : Made by Anita Cereceda and seconded by John MulhollandW „ 8

that we move ahead with Spikowski & Associates' recommendation^ „ 8 of alternative B for the median at Times Square. Passed unanimously. „ 8

É

Dan Hughes remarked that Mr. Spikowski had mentioned that the distinction between property owners giving us the five feet and just giving us an easement is that they can still count the easement area for density purposes in the event that they should ever wish to utilize their property for multi-family residential purposes. But if that's what the code says, he thinks we ought to change it. What's important is the use.õ

Garr Reynolds felt that this could serve as an incentive to property owners, but Mr. Hughes felt that a perpetual easement would have the same effect. Attorney Roosa said that a perpetual easement would still be taxed.Š

Anita Cereceda thanked Bill Spikowski for always finding a solution for us or an alternative as the case may be.ê

Bill Spikowski said that none of the owners have mentioned easements nor has he. But it could be the difference between donating or not. If we're willing to pay for it, then there's no reason to mention it.

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E. Interlocal with Lee County on the Beach Renourishment Project

Deputy Town Manager John Gucciardo remarked that we had a copy of a memo and a draft agreement at this point. The memo indicates that there are still some problems with the draft agreement. It is brought to us today because it is anticipated that we won't be able to resolve some of these issues before the July 1 meeting, our last meeting for a while. One of the two issues that the interlocal addresses is the ability to go forward with the permitting and design portion of the beach renourishment project. If that goes forward it will be in conjunction with the County and the TVC. Hopefully by this time next year we'll have the project defined.Ø

The second issue that the interlocal attempts to address is the financial responsibilities, not only as to the design and permitting portion, but also the construction of the project itself.M

John said he has tried to lay out in the memo some of the different options that we can offer to the County; but what it comes down to in its simplest terms is that right now the proportion of payment as between the different parties has not been resolved. We hope to have those issues resolved before the beginning of the next fiscal year. The County anticipates that it is going to be in a very good position to pay its proportionate share of the local share by a November 2000 anticipated start date for the project, which is a very ambitious start date but one that we're trying to shoot for. The problem comes in the sense that we anticipate that the federal share of the project itself will not be available at the beginning of construction, but rather will be a reimbursable figure; and it could take up to three years to get reimbursed by the federal government. So the question is who lays out and to what extent do they lay out that federal share? It is approximately a 12 million dollar total package. The federal share would be 65%, or 7.8 million dollars. The bottom line is a willingness to go forward with us on this and the basis of the agreement in terms of going ahead with the permitting if the design portion if agreeable. Direction is needed from the Council as to how to proceed with the other issues.

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Vice Mayor Mulholland asked if we could pull out after giving permission to go ahead with the design phase. Mr. Gucciardo said that his understanding is that the design and permitting stage would be necessary anyway whether or not we go ahead with the project independent of the federal government.2

Dan Hughes said he didn't have a problem with the recommendations and felt we should

accept in principle this agreement and authorize the appropriate parties to execute it. In section 3, three alternatives have been set forth. Alternative A is his least desirable one. B is his most preferable one in which we proceed and try to get the County to put the federal share up front with the binding agreement by us to pay our percentage. C would be used as a fall back. Ray Murphy said we were all in agreement to choose alternative B.s

Dan Hughes referred us to the next to last Whereas clause, which he said doesn't say anything about sharing the cost. He asked if that would be the 65% and John replied no. The 65% would be the federal share. The state share, based on the information we have now through our latest reevaluation, is between 40% and 45% of the remaining share.n

Dan Hughes also questioned I, which said that the County is to establish a project construction account, and he related that with Section 3G. John Gucciardo gave him a detailed explanation regarding this and he also said that Section G as they revised it is not necessarily a position that we're accepting. Attorney Roosa also gave input.f

Another concern of Dan Hughes was Section 4 where some lines can be deleted.Y

Mr. Hughes also said that a mutual indemnification was lacking.À

Section 8 deals with cancellation, and this too was discussed by Dan Hughes. He felt that the clause stating that either party could cancel after giving 60 days notice after the economic apportionment study has started was a dangerous clause. If that provision remains, it could be a provision for refunding the undisbursed monies in the construction escrow. Attorney Roosa said he didn't think that would be a problem.

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„ 8 MOTION : Made by Dan Hughes and seconded by  
Anita CerecedaT „ 8

that we approve the interlocal with Lee County on the BeachU  
„ 8

Renourishment project subject to the issues addressed at the>  
„ 8  
Council meeting. Passed unanimously.

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F. PSTF memo on crosswalks\$

John Gucciardo noted that the PSTF over time has gotten suggestions from folks about additions of pedestrian crosswalks on Estero. We have forwarded two recommendations to LeeDOT for their action and the one at Gull Wing actually got built. They recently received another one from the Homeowners Association at Laguna Shores for a crosswalk at Buccaneer and Estero, and after review they voted to support the request. This is being brought to us to find out how involved we want to get in these recommendations.Ø

John Mulholland said he would suggest that the PSTF gather all the information that they can and then come to the Council and say this is what we found and this is what we recommend and why.€

Mayor Murphy said he would say pass the law and see what DOT says. Dan Hughes said that he would too.Š

Dan Hughes asked if before we vote on the issue, would it be possible to get the Fire Department, the Sheriff's Department and the County DOT to give their input. The Council should have as much information as it can get before taking a position. Anita Cereceda said that all these people are members of the Chamber Traffic Committee and she could bring it up there.

Dan Hughes feels that recommendations for cross walks should come to the Council only if support for them is evidenced. Other Council members agreed to this.

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B R E A K

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G. Discussion of actions and options on the pool operation

John Gucciardo referred us to a memo with copies of the minutes from the Pool Foundation meeting. We will be bringing forward a recommendation at the July 1 meeting as to the direction we think we should be going in terms of hiring somebody to run the pool. In the meantime, the Foundation has made a lot of progress on different options and how that translates into labor costs.ë

The labor cost numbers come out to be very close to the numbers that we received from Lee County Park & Rec in their proposal, as well as the numbers that John was able to estimate for a 5-day week operation.â

We have the option of hiring someone to be the facility's supervisor, but the preferred option is to hire an outside agency to take over and run the operation. Mr. Gucciardo advised that they've had very fruitful meetings with a group out of Savannah, Georgia, on both Thursday and Friday of last week, and they're supposed to be getting John proposals with numbers by the end of this week. They've had experience with start up operations of municipalities.

§

- H. Proposed change in the parking ordinance eliminating cars parked outside of driveways -- discussion requested by Councilman Hughes`

Dan Hughes said he finds vehicles parked in front yards to be unseemly and detrimental to property values. He is suggesting an ordinance that requires vehicles to be on a delineated driveway if it's in the front yard. This would be an amendment to Chapter 93, the Town of Fort Myers Beach Parking Vehicles Ordinance.Ü

Dan Hughes was reminded that some houses have no delineated driveways. He suggested parking on a designated pad not to exceed a certain size rather than parking willy nilly in one's front yard.ž

Town Manger Segal-George said that she would put this into the bigger category of some of what she calls property maintenance codes.Ê

Attorney Roosa said that when you're regulating parking on private property, that's land use. He might be able to draft something for the LPA and see what they can do with it. }

Dan Hughes asked if we could impose a requirement that there should be a paved area or even gravel.i

John Mulholland said that the concept is good but that's as far as he would go.{

Garr Reynolds felt that all we need to do is call this to the attention of most of the offenders.Ö

Dan Hughes will research this matter to determine if it would be construed as a matter that would have to be in the land development code and only adopted after public hearings by the LPA.

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## I. Discussion of New Year's Eve Celebration

Anita Cereceda reported that she and Marsha Segal-George had met with Jean Matthew and others on the New Year's Eve Committee. Everyone left this meeting knowing very clearly what they wanted to move ahead with, as follows:÷

a) That the New Year's Eve productions for the Town of Fort Myers Beach will fall under the Mainstreet Program, a joint venture of the Town and the Chamber. It will primarily be a celebration of the Town's independence.

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b) Using Lynn Hall Park and selling spaces to vendors in the park. It was made very clear that all sales will be made by nonprofit Fort Myers Beach organizations. Spaces will not be leased to anyone for this event.±

Anita Cereceda said that they came to a great resolution at the meeting. They would move ahead with the planning, and when the Town comes back into session in September, or in October, the committee will present a plan as to what exactly the programs for the day will include. Additional funding will also be requested at that time if needed. They will go with the fireworks for the midnight celebration.{

Town Manager Segal-George said that the dollars will pass through the Town just as in years past.^

Ms. Cereceda referred to the request made at our last meeting by Jo List for \$15,000. The amount of \$5,000 is for a barge to shoot the fireworks from and \$10,000 is for fireworks. Bill Semmer will be handling all of that just as he does for the Fourth of July. It is possible that the final expense would be less than that, but this amount is what is anticipated.Ü

Vice Mayor Mulholland advised he had talked to Jo List about the Public Safety Task Force and she had been willing to go and talk to them about what the Town needed to do from a safety standpoint. Marsha Segal-George said they had talked about safety as well at the committee meeting, and that Capt. Erne has been involved with this committee already. He will continue to be involved, but that may end up being an additional cost for the event. This New Year's Eve is going to be so big throughout the County that if we want additional patrol, or if the PSTF makes a recommendation that additional deputies will be necessary, they would state a number and the committee would put that into their budget.f

Asked who would chair the event, Mrs. Segal-George said that currently it's John Naylor,

with the collective hope that Jo List would come back and be involved with it throughout. That will all fall under the Mainstreet program and so it will have Jean Matthew heading the committee with John and hopefully Jo being the co-chairs. t

John Mulholland asked if there would be any attempt to limit the number of attendees, and +

Anita Cereceda said not at all. There has been discussion about the Town birthday party as well, including the whole day's event. When it comes down to funding, that portion of the day's activities are included in any funding that the Town might provide to that committee.~

Also asked by John Mulholland was who is responsible for an accounting of how the funds are expended? He was told Mainstreet.I

John Mulholland referred to the eloquent plea by Bob Gaydos during public comments that we not fund the \$15,000 for fireworks at this event, and a discussion ensued about what kind of celebration was really wanted. Anita Cereceda was for fireworks to celebrate our anniversary as well as the Year 2000.>

The motion made at last week's meeting to table the issue of the expenditure of \$15,000 for fireworks will be taken off the table.

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„ 8 MOTION : Made by Anita Cereceda and seconded by Dan Hughes[ „ 8

to take the issue of fireworks off the table. Passed unanimously.

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Discussion :h

Councilman Reynolds asked how the Town' birthday would be funded. Anita Cereceda advised that other monies will come through private donations. The discussion that took place at the meeting she had attended last week was to regroup and take into consideration morning to night events. Funds will be put into the budget for the day.Ý

Mr. Reynolds expressed his liking for the plan not to advertise the New Year's Eve events

and that vendors would be from nonprofit organizations. He said that this is bringing out town spirit.

Dan Hughes said that he thinks we spent \$15,000 for the July Fourth fireworks, but he has trouble with spending \$15,000 for the New Year's Eve fireworks. He wonders if we couldn't get along spending a little less money on fireworks.

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„ 8 MOTION : Made by Anita Cereceda and seconded by  
Ray Murphy.X  
„ 8  
that the Town Council approve an expenditure to the Mainstreet W  
„ 8  
New Year's Eve Committee of \$15,000 to be used solely for the R  
„ 8  
barge and fireworks marking our independence day and the Z  
„ 8  
millennium. The motion passes with 4 yea votes and one nay vote.  
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S „ 8

X. RENEWAL OF BILL SPIKOWSKI'S

CONTRACTb

Town Manager Segal-George said she was adding this to the agenda items today because Bill Spikowski will be out of town when we hold our next meeting. His contract technically expires and we have to renew it. The amounts all stay the same, it's the same work, and it's still within our budget parameters for this year.

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„ 8 MOTION : Made by Anita Cereceda and seconded by  
Dan Hughes^ „ 8  
to approve the third supplemental agreement for professional servicesU  
„ 8

of Spikowski & Associates through December 31, 1999. Passed%

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unanimously.

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## X. COUNCIL MEMBER ITEMS AND REPORTS

John Mulholland said he had received three communications regarding the proposed barricading of the left turn from Fifth Street: from Tom Myers, Anita Cereceda and John Gucciardo. Anita Cereceda's letter quoted Mr. John DeBerry of FDOT who had advised the Traffic Committee that it was virtually impossible for them to have resources in line by September to conduct this study. They would want to do it in season and would require no more than one week to do it.

Mr. Mulholland said he was in agreement with all the information he received. If FDOT and the Council decide to do the study, they will hold public hearings.

Mr. Mulholland thanked Jean Matthew, Director of the Mainstreet Program for a detailed breakdown of the costs associated with all concerts and socials. Unfortunately, though, it did not break down the Town's contribution and he will be sending a letter to her asking for this breakdown.

Last week, Mr. Mulholland advised, our Town was visited by an award-winning reporter from the News-Press. His demands for instant data for years of activity disrupted the Town staff. Mr. Mulholland would like to see instituted a 24-hour wait period to allow the staff to obtain the services of a resident of the Town or a temp to help in such endeavors. Attorney Roosa said that we as public officials have an obligation to provide records to the public and usually they get instant service unless it was for a particularly large document, and that in such instance they would have to come back and pick it up later. He will see if there is a way of delaying that. Ray Murphy said he had discussed the matter with the reporter and had told him he didn't think it would be unreasonable for him to call ahead of time for records in the future, to which he agreed. We should discuss this in the very near future to set up some kind of policy along those lines.

Asked if we had an ordinance now for such procedures, Mr. Roosa said only that we can charge for copies. Other municipalities might have one consistent with state law that we could use.

Advised was that in the Sahdev matter, the public is being asked to reject the Collier plan and back the DCA plan on this matter.

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Dan Hughes asked if there was anything new in Mr. Wiebe's plans for parking for Seafarer's Village. He was told that Mr. Wiebe was still working on an agreement with Mr. Helmrich and that everything else is still proceeding. He also asked about the status of the suit regarding Bowditch by the property owners at the north end of the Island and the interrelationship of that with the Seafarer potentiality for parking. Mrs. Segal-George said she'd had a meeting with the Community Development staff. The County is not moving forward on the development order. They are supposed to get back to her on this.<

The Marco Island Theater Corporation is asking us to fund some roadwork on Estero Boulevard that they had not anticipated. The amount is about \$45,000. Mrs. Segal-George said that we believe we may be able to help them as far as understanding what the County is requiring and what in effect that's costing them. As far as having a duty to contribute financially, she is not aware of any such duty or requirement. Dan Hughes said he is not in favor of contributing Town funds, but he would agree that Staff could give them what help they can with the County. All the other councilmembers were also in agreement with this.“

Anita Cereceda reported that it was the desire of the Traffic Committee that Council revisit the question of the left turn lane. There was also discussion about the sub-station remaining at Lynn Hall Park. Capt. Erne spoke on the importance of it being there and Ms. Cereceda asked that they make a presentation to us regarding the benefits of it remaining in Lynn Hall Park.‘

The MPO meeting, Ms. Cereceda advised, was on Friday. Most of the discussion was on the potential four-laning of 41 through Bonita Springs and trying to move that up on the agenda. There was also discussion regarding the four-laning of San Carlos Boulevard north of Summerlin. That is on the slate for the year 2010. She finds the meetings to be tremendously educational.Æ

The Bicycle/Pedestrian Coordinating Committee motion came to the Traffic Committee asking for a volunteer and Anita Cereceda said she either volunteered or got volunteered.●

Dan Hughes asked if there were any reason why we can't move to reconsider the left hand turn situation.

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Discussion :=

Anita Cereceda said that she didn't know if there would be an urgency to put the left hand turn situation on our July 1 meeting agenda, but if we're willing to revisit it at some future date,

information could be gathered and brought back to the Council at our first meeting after our break.

Garr Reynolds said that the only reason he would second the motion and he thinks we should revisit this is because we do not have a direction right now from the people we requested one from. FDOT says that they can't do this in September.

John Mulholland said that it looked like the only agenda we can get on is the one at the end of August. Dan Hughes said not necessarily even then. What he wanted to do was to rescind what we did and state that the Council wishes to proceed with the experiment of closing the left turn at some time in the future subject to the things set forth in John's memorandum. The date and the length of time will be conditioned upon the recommendation of the DOT.

Mayor Murphy said that he was against it last time, before he even knew that FDOT was going to be involved in it, and he's still against it.

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8 MOTION : Made by Dan Hughes and seconded by  
 Garr Reynolds to \  
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 rescind the motion made and that we adopted on June 7, and in lieu a  
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 thereof direct staff to advise FDOT that we wish to close the left turn a  
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 onto Fifth Street for the purpose of determining the effect it may have ^  
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 on traffic flow and request them to let us know what they feel would W  
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 be an appropriate time to do so and for how long a period the \_  
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 experiment should be. Motion carries with 4 yea votes and 1 nay vote.

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Report from Mayor Murphy-

Mayor Murphy reported that this morning he went to the opening of the fifth Third Bank on McGregor Boulevard. Greg Gardiner of the Southwest Florida Marine Institute on San Carlos Island was there. He runs the programs for the kids over there and he volunteered the services of the kids any time we want them for any projects. Mayor Murphy feels that we should take advantage of this.

Also reported was that seven months ago Mr. Murphy got a call from his friend Jim Bidro down at Jay's Homesetter, the Beach hardware store. He has a long wall just south of Key Estero Boulevard and south of the Tropical Grill and he offered it to the Town to draw on. The Mayor thought we could pass this on to the Art Association and see if they might be interested in something like this.a

Last week Jim Bidro called the Mayor again. He has a particularly unique problem at the hardware store. The sidewalk in front of the Tropical Grill ends at the hardware store and becomes asphalt and continues to be asphalt until you get to the intersection at Miramar Street. Cars are cutting across the asphalt and there have been a few accidents there already and several near misses of pedestrians. We really have a terrible safety problem at that particular location. It's something we need to address with Mr. Bidro. Mr. Murphy read Mr. Bidro's statement to the Council.  
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Town Manager Segal-George advised that this is a County sidewalk. But we have this problem all up and down that part of Estero. It's as though they made these big parking spaces for these businesses with no sidewalks or curbs. If it was ours to control and we wanted a sidewalk, we would have to have some kind of curb cut and create a driveway. Dan suggested a big boulder there. Mrs. Segal-George said that as we do the design for the streetscape and we look at continuous sidewalks on both sides of Estero Boulevard, these are the kinds of issues we will have to address. Marsha said at this point she's sure that the County won't do it. Once we get the project designed and we know how it's going to be done, and if the Council wanted to put in the sidewalk, we certainly could. But we're just getting ready to start the design and they have to plan how all of this is going to work for them. Ray Murphy said that an option of Mr. Bidro is that he can just put in his own sidewalk. He wouldn't need the County's permission if he does it on his own property, Marsha advised.H

Ray Murphy said he had received a letter from Gretchen Johnson from the Town Birthday Committee that described what they were planning, and he read it to the Council. They stated the monies they would like to receive. Mr. Murphy said that this will come under the committee that's handling the party.

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## XI.TOWN APPOINTMENTSM

Mayor Murphy stated that there will be an appointment to the Lee County Bicycle/Pedestrian Coordinating Committee. Dan Hughes said that he moves that we appoint Anita Cereceda. Asked by the Mayor if she would like to sit on this committee, Anita said yes, as she thinks it's important to the Town.

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John Mulhollandl „ 8 MOTION : Made by Dan Hughes and seconded by „ 8

E „ 8 that we appoint Anita Cereceda to the Lee County Bicycle/Pedestrian  
Coordinating Committee. Passed unanimously. „ 8

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XII. TOWN MANAGER'S ITEMS,

No report.

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XIII. TOWN ATTORNEY'S ITEMS/

A. GUA SETTLEMENT

Attorney Roosa said that we have been provided with a proposal for settlement on the GUA bond litigation. He sent a similar copy to the County Attorney's office by taking the previous one and putting in strike outs and underlining all new words. •

We will note that in this proposal there is no mention of taking over Estero Boulevard. By taking assignment there would be no acquisition cost; so that was another objection that the County Commission had -- that we weren't absorbing the acquisition cost. And we completely eliminated the franchise fee because there would be no franchise fee involved. ð

The County Attorney's office said that there are so many changes in this that they would need to consult with Avatar. They're going to set up a meeting with the Town, the County and Avatar regarding the assignment. They interpreted that assignment that we would purchase Avatar's property under a different condition than they had. But as he understands it, we would have only those rights that they would have had and only those obligations that they would have had.b

But in either event, Mr. Roosa said, they're not prepared to approve this, and he thinks it's a step in the right direction to meet with Avatar. He would ask for the Council not to take action at this time, and he will report back to us on the first as to their progress towards setting up a meeting with Avatar and the County.R

Questions on the agreement were asked of Attorney Roosa.

Dan Hughes asked Attorney Roosa if on Lee County vs. the State of Florida, et. al., it was

his intention to file an appearance in the bond validation proceeding that they have now chosen to go ahead with, and Attorney Roosa responded yes, he is considering that.

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XIV. PUBLIC COMMENT,

A. SANDI SUTER«

The matter of the parking of automobiles in residential neighborhoods, Mrs. Suter said, is a situation that really needs to be addressed.O

Regarding painting and doing murals and drawings on buildings, she would like to caution the Council as to what direction we really want to go with this and what kind of quality we really want to portray on these buildings. We already have several buildings that are less than desirable the way they've been decorated. She sees this as being just a baby step away from being an advertisement in the future. She envisions a hippo in a T-shirt or an elephant wearing rings on its toes and a large belly button. There's got to be a stopping point somewhere here.

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XV. ADJOURNMENT>

The meeting was adjourned at

P.M.

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# Respectfully submitted,

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# Lorraine Calhoun%

# Transcribing Secretary

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Items for action from the meeting of June 21, 1999

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1. There is a meeting tomorrow in Tallahassee by the Governor and the Cabinet regarding the famed Sahdev property on the eastern side of Estero Bay, which certainly has a huge impact on us here in Fort Myers Beach. There are members on the Council who have expressed an interest in going to that meeting tomorrow to speak with the Governor and his Cabinet. # \$

2. Asked was since Ordinance 99, an ordinance of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach Times Square MSBU, requires an advisory council if it would be all right if advertisement began for people who would be interested in serving on the advisory council. No objection was made.

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3. Ordinance 99 is an ordinance to establish uniformity in enforcement of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach Violations Ordinance. This is set for July 1 at 3:30 p.m.

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4. This is Ordinance 99, an ordinance of the Town of Fort Myers Beach to be known as the Town of Fort Myers Beach Times Square MSBU. This is set for July 1 at 3:30 p.m.;

Asked was since this ordinance requires an advisory council if it would be all right if advertisement began for people who would be interested in serving on the advisory council. No objection was made.;

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5. A charter amendments ordinance of the Town of Fort Myers Beach proposing amendments to the Charter This is set for July 1 at 3:30 p.m.

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6. A Motion was made by Anita Cereceda and seconded by John Mulholland that we move ahead with Spikowski & Associates' recommendation of alternative B for the median at Times Square. Passed unanimously.

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7. Regarding the interlocal with Lee County on the Beach Renourishment Project, direction is needed from the Council as to how to proceed with some of the issues.@

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Dan Hughes said he didn't have a problem with the recommendations and felt we should accept in principle this agreement and authorize the appropriate parties to execute it. In section 3, three alternatives have been set forth. Alternative A is his least desirable one. B is his most preferable one in which we proceed and try to get the County to put up

the federal share up front with the binding agreement by us to pay our percentage. C would be used as a fall back. Ray Murphy said we were all in agreement to choose alternative B.

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8. Discussion of actions and options on the pool operation. We will be bringing forward a recommendation at the July 1 meeting as to the direction we think we should be going in terms of hiring somebody to run the pool. L ;

Mr. Gucciardo advised that they've had very fruitful meetings with a group out of Savannah, Georgia, on both Thursday and Friday of last week, and they're supposed to be getting John proposals with numbers by the end of this week. They've had experience with start up operations of municipalities. ;

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9. Proposed change in the parking ordinance eliminating cars parked outside of driveways Dan Hughes will research this matter to determine if it would construed as a matter that would have to be in the land development code and only adopted after public hearings by the LPA. ;

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10. Attorney Roosa said that he will report back to us on the first as to their progress towards setting up a meeting with Avatar and the County. ;

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