

**TOWN COUNCIL MEETING
AUGUST 30, 1999
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

Mayor Ray Murphy opened the meeting on Monday, August 30, 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 and Town Attorney Richard Roosa.

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 the Reverend Dick Tafel.

IV. PUBLIC COMMENT ON AGENDA ITEMS

A. MARTY HARTUNG

Mrs. Hartung advised that Villa Santini and Fish Tale Marina will be having concerts again this year and she asked for monetary support from the Council. Six concerts are already under contract.

B. JOHN GEROLA

Mr. Gerola asked for an extension of time for the parking lots that he has had for nine years. He noted that the demand for parking space is no longer seasonal but is needed year round now. Bill Spikowski has advised that we ought to utilize existing parking spaces that are allocated for other kinds of businesses, as parking is critical. He can probably add 100 parking spaces in season by utilizing the Matanzas property and the adjacent Hessmart property.

C. DAVID OWEN

Mr. Owen is with the Lee County Attorney's Office and came tonight to speak about the settlement agreement with GUA. He has been in touch with Attorney Roosa throughout the summer as well as the Avatar Corporation. Mr. Roosa presented a draft settlement agreement to his office a week ago, which he reviewed with his staff. They will take this draft after discussion tonight to their Board of County Commissioners tomorrow morning whatever the resolution may be. His hope is that we continue to dialogue, that we continue to pass documents and discuss the issues until we can find some common ground where we can resolve the issues between us.

As we stand right now, Mr. Owen advised, the document cannot be recommended to the Board of County Commissioners. In the alternative, he has also provided to Mr. Roosa a proposed draft of a settlement agreement that would be acceptable to the County. He hopes that we will consider it and that possibly between the poles of the two documents we can reach a common ground. He noted that Larry Johnson from the County was also here tonight to participate in the discussion.

Attorney Roosa stated that since this item is the next to the last item on the agenda, perhaps we need not require the attorneys to sit through two or three hours. He would suggest that we move the item up on the agenda. Anita Cereceda agreed with this statement. Mayor Murphy said we could hold the discussion after the Consent Agenda.

C. JENNIFER KAESTNER

Mrs. Kaestner spoke regarding the memo on pool operations. She stated that there were facts

missing regarding program fees. She doesn't know if the fees will be a management or a staff decision. The programs are referenced at \$45.00 for 8 sessions, and that is a 50% increase for the same 8 sessions offered through the county pools. Classes would be about \$5.00 per class, a 25% - 60% increase over what the same classes would cost on a punch card system through the county system. These are significantly higher prices by contracting out through this private corporation. If there is any way to still discuss those fees, she would ask us to look into it.

The county is offering an unlimited number of water exercise classes for seniors over 55 for \$50 a year. Nothing similar to that is being offered to the Beach seniors. She feels that these programs should be included in this aquatic facility.

Mrs. Kaestner feels that there are a couple of things that were left off the capital equipment budget list -- dive blocks and lane dividers. These are important for a youth aquatic swim athletic program. Dive blocks are in the neighborhood of \$1,200 each and we need six of them. Lane dividers cost around \$600 each and five are needed. She would like us to take a serious look at these items for capital expenditures.

D. LARRY JOHNSON

Mr. Johnson advised that a bulk potable water rate of \$2.71 per 1000 gallons has been negotiated. He explained the difference between the two separate water systems. The bulk potable water service rate is based on the total cost of providing potable water from the Green Meadows and College Parkway water treatment plants, which were the same water treatment plants that have always provided that system. The water transmission system is separate from those two plants than it is from the other Lee County Utilities water plants. So it is not a matter of where we can combine those two systems, because the pressures in the two systems are not the same. We are not able right now to interconnect those systems other than for emergency purposes. Mr. Johnson presented the Council with a memo that he has sent to the Board of County Commissioners containing this information.

V. PUBLIC COMMENT ON THE DRAFT 1999-2000 BUDGET

A. CHRIS PATTON

Mrs. Patton said she lived on Primo Drive where severe flooding has occurred lately. Residents have had almost knee deep water. She would like for us to consider putting this on the budget under the capital improvement project.

Town Manager Marsha Segal-George advised that on September 13 Staff is planning on bringing to the Council a number of drainage issues that they have been working on all summer. There will be a prioritizing of streets that should be done in this fiscal year with a recommendation that we tackle so many streets a year until the entire island has been retrofitted with storm drainage.

B. JOHANNA CAMPBELL

Mrs. Campbell spoke in support of the telecommunications utility tax proposal in the proposed budget. Suggested is that we should raise our millage rate if more money is needed, but Mrs. Campbell said that this would only affect property owners and in her opinion the utility tax would affect non property owners as well. She feels that residents who do not own property on the Beach should have a financial interest in the Beach. Businesses here say that they cannot afford a utility tax although businesses in other parts of Lee County can. Yet business in the Times Square area has increased 300%. The money for improvements in the Times Square area came mostly from residential property tax money. Now it is time for something to be done for the rest of the island besides Times Square.

Mrs. Campbell said she voted for the utility tax to buy beach property at the last referendum and for this tax proposal also. She believes the Town Manager has come up with a ten-year plan with a cut off time to accomplish both these big projects. She asked that we please support this tax.

Dan Hughes asked what the results were of the total assessed valuation of the island. He was told that the final figures shown in the Property Appraiser's office shows a little under an 8% increase in the property values. The major part of that is attributable to increases in existing property.

VI. PROCLAMATION: CHILDHOOD CANCER AND BLOOD DISORDER AWARENESS MONTH

The proclamation was read aloud by Mayor Murphy. In part, it advised that "included in this proclamation are those children with special needs who suffer from childhood cancer and blood related disease."

"NOW, THEREFORE, I, RAY MURPHY, Mayor of the Town of Fort Myers Beach, do hereby proclaim September of 1999, as Childhood Cancer and Blood Disorder Awareness Month in the Town of Fort Myers Beach, and do commend this observance to all of our citizens."

Mayor Murphy advised that he has had the pleasure of being involved with the Candlelighters for the past few years and that they are one tremendous group of people, a lot of whose own children have cancer. They do a lot of wonderful things.

VII. PROCLAMATION: PROCLAIMING SEPTEMBER 11 AS LIBRARY CARD SIGN-UP DAY

This proclamation was read aloud by Mayor Murphy. It stressed the importance of libraries in the community for school age children and as a lifetime resource.

"WHEREAS, September is both National Library Card Sign Up Month and Literacy Month, I, RAY MURPHY, Mayor of the Town of Fort Myers Beach, proclaim September 11, 1999, as Sign Up Saturday in the Town of Fort Myers Beach in honor of the outstanding library facility that has served this Town since 1955 and urge all our parents to make sure their children obtain a library card and that they encourage its use for both school work and leisure enjoyment."

A representative of the library was asked to stand up and was applauded.

VIII. CONSENT AGENDA

A. Approval of Minutes: June 21, 1999 and July 1, 1999

Dan Hughes advised that reference had been made in the July 1 minutes on page 5 to the June 21 minutes, although these minutes were not shown in the agenda. He therefore asked that both the June 21 minutes and the July 1 minutes be pulled.

Corrections and changes to the minutes of June 21, 1999:

1. Page 1, III., paragraph 2, line 1, change "bringing brought up" to read "being brought up."
2. Page 9, C., paragraph 4, line 1, change "Attorney Roosa" to read "Dan Hughes."
3. Page 13, H., last paragraph, change the sentence reading "Dan Hughes will research this matter" to read "Dan Hughes requested that Attorney Roosa research this matter."
4. Page 15, the nay vote in the first motion was by John Mulholland.
5. Page 17, the nay vote in the first motion was by Ray Murphy.

MOTION: Made by Dan Hughes and seconded by Anita Cereceda to approve the minutes of June 21, 1999, with the corrections noted. Passed unanimously.

Corrections and changes to the minutes of July 1, 1999:

1. Page 5. Garr Reynolds does not believe he seconded the first motion and will look into the matter. Upon review of the tapes, Garr Reynolds did second the first motion.
2. Page 5, IX., paragraph 2, line 6, change "Dan Hughes requests a power of attorney to research this matter" to read "Dan Hughes requests that the Town Attorney research this matter."
3. Page 12, paragraph 1, line 2, change \$225,000 to \$325,000."

B. Review of June and July Financial Reports

Garr Reynolds expressed the view that the budget should be very carefully considered. Town Manager Marsha Segal-George advised that we had a workshop scheduled just on the budget on September 16 at 6:30 p.m. and there will be two public hearings on the budget. Copies of the budget are available for anyone who would like to pick one up.

IX. TOWN ATTORNEY'S ITEMS

A. Settlement agreement with GUA

Town Attorney Dick Roosa advised us that we had in our packets the same resolution that was provided to the County with a proposed settlement agreement attached to it. The County has made amendments to that settlement agreement. Attorney Roosa said he found some of these amendments to be acceptable and has made changes to the agreement and he passed these changes around. He suggested that we also make these changes. One change had to do with the time limit of 30 days, which we believe we could make. Another change had to do with the billing system, which apparently the County did not want done. This language, therefore, was taken out. The County wished the 1000-gallon rate to remain \$2.71 rather than our rate of \$2.26. Another change was that we would have a 20-year agreement and that the County would be the exclusive provider of order during that period of time.

Mr. Roosa noted that Mr. Johnson had given the background for our position. If you raise the purchase price of the water, you lower the purchase price of the facility. We felt all along that the proposed purchase price of the facility was artificially low. He advised that it is our position from a legal point of view that we are not bound by the calculations that were made between the County and Florida Cities Water and, therefore, we take the position that their philosophy of the purchase was that there would be no increase in utilities rates, but in fact there was an increase. We're willing to meet all of their requirements except for two: the 1,000 gallon rate and the exclusivity of Lee County. We do not want to be limited to purchasing water only from Lee County.

Mr. Roosa further explained that after the GUA assigned the facilities to Lee County, then there was an addendum to that agreement between Florida Cities Water and Lee County for which GUA was not a party. It was modified in order to sever the Town of Fort Myers Beach.

Attorney Roosa felt that the County paid too much for what they bought, probably by \$2,000,000 - \$3,000,000.

Attorney Roosa explained how our figure of \$2.26 was arrived at.

Councilwoman Anita Cereceda wished to know what position the Town of Fort Myers would be in if the County Commission does not accept our terms of settlement. Attorney Roosa advised that we're still in litigation. We might be able to come out with a better deal after all the litigation involved in this, but he would be surprised. He thinks that this is fair and he's comfortable with the numbers that Mr. Burton, an expert engineer, came up with. Mr. Burton has also asked why in the world we wanted to get into the water business.

Town Manager Segal-George advised that there is a very serious question at stake, and that is increased rates for the residents of the Beach unless we step forward and try and purchase the utility and in such a way that we can stabilize rates.

Councilman Garr Reynolds stated that this sale was contingent upon the \$2.71 rate from the beginning and it was not contingent upon the 20-year obligation of holding those rates. It would bother him if those two things were put into the contract.

Attorney Roosa advised that we would be at the mercy of the County to charge whatever they wanted to charge if we allow them to have exclusivity for 20 years. However, 20 years go by quickly in the utility business. And as long as the County gave the same percentage increase to the Town of Fort Myers Beach that they gave to everybody else in the County, he would have no problem with it. That's an area that we may want to give in on because we should remember that they have a high mortgage

payment and whatever we give them will help them to make their mortgage payment.

Public Comments:
None.

MOTION: Made by Anita Cereceda and seconded by Dan Hughes to approve the resolution as presented and amended by Attorney Roosa. Passed unanimously.

X. CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

A. Compactor Garage

Bill Spikowski advised that the architectural plans are almost complete to build a small facility to handle trash from the general Times Square area. The facility will have a large central garage that will house the removable trash compactor, a smaller adjoining garage for the Town's maintenance vehicle and room for two public restrooms. We have a front elevation and a floor plan of the facility showing how it would sit on the site, which is on the old right-of-way of Center Street where it now dead ends because of the new Sky Bridge.

There is an urgency to get this facility operational before the tourist season. Because of this, they are trying to anticipate what all the problems are. One of the uncertainties was the flood plain regulations. We're still operating under the County's flood plain regulations. Elevation would not work because there would have to be a ramp large enough to handle a semi-truck going up 7-1/2 feet and it would take up the entire right-of-way. Dry flood-proofing could be done, but it's tremendously expensive. The building has to be so strong that it won't collapse or raise up. In this case, however, there is no reason to go to that tremendous expense because nothing will be in this building that needs to be protected from flooding. The compactor unit is a \$20,000 unit and will be moved off the island in the event of a hurricane.

Mr. Spikowski advised that they have chosen wet flood-proofing, which means that the building itself will be built with openings in it so that flood waters can come in and there won't be any unequal pressures that would cause the building to collapse inward, and the contents are made that so that it can be flooded and not be damaged. Wet flood-proofing is approved already for garages and limited storage. Bob Stewart, the County Flood Insurance Coordinator, said that the simplest thing to do to avoid any questions is to ask for a variance to specifically allow wet flood-proofing of the bathrooms and the compactor garage. Bill Spikowski said he has already gone ahead and filed this variance. He explained the conditions that must be met for the variance, which include raising all electrical equipment. It is his professional opinion that all of these conditions have been met.

In answer to questioning by Councilman Garr Reynolds, Bill Spikowski advised that there will be two floor drains in the compactor room and a pressure washer. Anything that falls under there will be cleaned once a week.

Attorney Roosa explained that the Town Council was acting as the construction board, because we have none in the Town. Anything by default that is assigned under the Land Use and Development Regulations to a committee that doesn't exist drops back to the Council by our charter.

Councilman Dan Hughes said he thought the drawings should be incorporated by reference in the resolution.

Public Comments:
None.

Dan Hughes made a motion to accept the resolution as presented with additional language regarding the drawings.

Discussion:
Councilwoman Anita Cereceda said she would be remiss if she didn't advise us that the gentleman

who owns Wings is in an absolute state of turmoil over this project. His position is that the one person in that Times Square area who takes care of his own trash, his own business and his own property is the person that is going to be burdened with everyone else's. He wanted this building to be scaled down and to be non permanent in nature. His fear of what is going to come to pass with this is that it is going to be basically a garbage dump at the entrance of the town. There are no words to assure him or anyone else that that is not going to happen and only time will tell. He is also concerned that visibility will be blocked as one comes over the bridge. Ms. Cereceda said that she understands his concerns and she sympathizes with him.

Ms. Cereceda also advised that we need to realize that as we continue to make attempts to resolve problems and change things within the Town, we're going to be taking and using property perhaps that other people have been in the habit of using and considered their own, such as public right-of-ways.

Vice Mayor John Mulholland stated that there has been an ongoing problem with garbage and he thinks that the solution we have come up with is the best of a bad situation. Councilman Garr Reynolds agreed with Mr. Mulholland and he said he wished the Wings owner had come to Council with his concerns early on.

MOTION: Made by Dan Hughes and seconded by Garr Reynolds for adoption of the resolution as presented and that the phrase "in accordance with the exhibit as attached" be added in the Now, Therefore, Be It Resolved clause. Passed unanimously.

XI. ADMINISTRATIVE AGENDA

A. First Public Hearing: Sign Ordinance

Ordinance 99-11. An ordinance repealing the Town of Fort Myers Beach Land Development Code, Chapter 30, Signs, and establishing the sign regulations for the Town. Mayor Murphy read all the sections of the ordinance.

Public Comments:

A. Roxie Smith

Mrs. Smith said she is speaking to us from her position as Chair of the LPA, and she recounted the work the LPA had done on the sign ordinance. They thoroughly went over 44 different issues that the business community had problems with and the Town Manager very deftly redrafted the sign ordinance in its entirety. They feel that the sign ordinance is fair and hopefully workable by the business community.

B. Betty Simpson

Mrs. Simpson stated that she would like to go on record as thanking our Town Manager for her constant updating of this redraft, which she hopes Council will approve.

Town Manager Marsha Segal-George advised that we will have a second public hearing on this ordinance on September 13 at 6:30 p.m.

John Mulholland said he would like to thank the LPA for both versions of the sign ordinance. A lot of effort has gone into it and it's up to the Council now to have the hearings and to finalize this needed sign ordinance.

Garr Reynolds said he would also like to compliment all the people who have been working on this ordinance for almost two years. He know that, as Roxie Smith has said, not everyone is going to be totally satisfied no matter what we do, but the LPA deserves credit for the good job they have done.

Mayor Murphy echoed the comments made.

Dan Hughes thanked the LPA as well. He considers the lack of attendance by persons critical of the sign ordinance to be a sign of implicit approval.

Mayor Murphy advised that he had been contacted by Mr. Hoffman, the owner of the new theater that is going up. The way the ordinance reads now is that he would be allowed a 6'x4' sign for the movie

theater. He is requesting a little bit more space in order to put his titles and times up. He would like a 10'x12' sign. Ray Murphy was told that Mr. Hoffman would have the option of applying for a variance to the ordinance. Dan Hughes felt that we could modify this at the public hearing and stated that he had no objection to it as long as the change was strictly limited to that use. Councilwoman Anita Cereceda stated that she had a huge objection to it. A lot of businesses on the Island have recently spent upwards of \$20,000-30,000 on their signs and will have to replace them. He can apply for a variance, she feels, but for us to make an exception for any business would be defeating the whole purpose of our ordinance. Garr Reynolds said that he wholeheartedly agreed with Anita Cereceda on that point. This should be handled with a variance and should go back to the LPA. John Mulholland also agreed. Dan Hughes said that he felt that a theater marquee is a unique type of situation and that it could be reasonably dealt with on an individual basis under the general language of the ordinance, as distinguished from requiring a variance procedure. And this public hearing could serve as the forum for determining what the right size should be.

Town Manager Marsha Segal-George noted that signage had been changed from 24 sq. ft. by the LPA to 32 sq. ft. Also, in the small shopping centers sign size went from 48 sq. ft. to 64 sq. ft. She stated that if the Council wanted to look at some kind of situation with regards to a theater marquee as a specific kind of sign, we could fit it somewhere in that category.

Councilwoman Anita Cereceda said that we need to follow the procedure of deciding what the law is going to be and then have provisions to make exceptions to it should a person so choose. But to circumvent at this point what the recommendations are to us by making an exception for one particular individual would not set a good precedent. Mayor Murphy said that the idea was not for one particular individual but for one particular use and that we should not confuse the two.

Dan Hughes asked Roxie Smith, Chairman of the LPA, if marquee signs had been discussed at the LPA. She told him they had discussed them as well as every kind of sign there was to discuss.

B. Request to set vacation of Fourth Street: September 20, 1999.

A motion was made by Dan Hughes to set this vacation.

MOTION: Made by Dan Hughes and seconded by
to set vacation of Fourth Street: September 20, 1999, at 9:00 a.m.
Passed with 4 aye votes and one nay vote from Garr Reynolds.

Asked by Dan Hughes if he was dissenting because he didn't like the date, Garr Reynolds replied that he didn't like the idea of vacating town property.

C. Discussion of the extension of time for temporary parking lots

Town Manager Marsha Segal-George noted that we had in our packets a memorandum she wrote in July. As Mr. Gerola related to us at the beginning of this meeting, a number of temporary parking lot owners had come to see her stating they were having a very strong summer season and asked if she could extend the shut off of the temporary parking lots on July 15 for a month, which she did. She has also since August 15 allowed temporary parking lots to stay open until tonight's meeting. Her concern was that there was a lot of demand for parking at that time.

Mrs. Segal-George advised that she had put all the owners on notice last year that when they came to renew for this year, which would normally be in November, that she was going to require buffering and landscaping prior to issuing temporary parking lot permits. However, they had very little specificity as to what the landscaping was going to require. With temporary parking lots we are kind of in a no-man's land. In the past they have not been required to have buffering like the permanent parking lots. If she starts requiring landscaping and buffering, Mrs. Segal-George feels that we are then getting very little differentiation between permanent and temporary parking lots. She would like to know our opinions as to how to proceed with the temporary parking lots situation.

John Mulholland felt that there is a need for more parking lots through the summer.

Garr Reynolds said he had a concern regarding her extending the time for temporary parking lots to

stay open without coming back to Council. If the lots want a further extension of time to stay open, we should make them all permanent parking lots.

Dan Hughes asked at what point does a temporary parking lot become a permanent parking lot? If it's a quasi-permanent parking lot, he feels that they should also be required to meet the criteria for parking lots in the land development code. John Mulholland agreed.

Town Manager Segal-George asked what we wanted to do with the temporary parking lots right now. We probably have a need on the weekends right now but she doesn't know if we have a need during the week.

Public Comments:

A. John Gerola

Mr. Gerola has operated a seasonal parking lot on the Beach for nine years. He said that there are only four of such lots left here. He only leases his lot and would not be able to operate if he has to landscape and buffer the property nor would at least one lot owner that he knows. They should certainly be allowed to operate on Labor Day weekend.

Councilwoman Cereceda stated that there should be a clear delineation of what is a temporary parking lot and what is a regular parking lot. If you want to have a temporary lot, you get to operate between November and July. If you want to have a permanent lot and be open any day of the year, then these are the restrictions you have to abide by.

Town Manager Segal-George advised that when the temporary lot legislation was done language was added for the ability of the Town Manager to require landscaping and buffering for temporary lots.

This is one of the areas where she needs direction, as her plan was to require this for all temporary parking lots on the Island when their permits came up for renewal on November 15.

Councilwoman Cereceda made a motion to allow the extension of the temporary lots through Labor Day of this year.

Discussion:

Garr Reynolds voiced his concerns regarding an extension of time for the temporary lots to stay open through Labor Day of this year. He does not see any urgency for doing so.

Mayor Murphy asked if an owner could petition the Town Manager for an exception beyond Labor Day, and was told no.

Dan Hughes established that the Town Manager was granted the discretion to give a permit for a temporary parking lot by the interim land use ordinance.

MOTION: Made by Anita Cereceda and seconded by to allow the extension of the temporary lots through Labor Day of this year. We should then bring back to the Council a clear definition of temporary versus non temporary permanent parking lots so that the operators have the ability to choose which category they wish to fall in. We should support the Town Manager's decision to require landscaping and buffering of temporary lots for the coming year with some definition of what that would be. Passed with 4 yea votes and one nay vote from Garr Reynolds.

D. A request for funding for concerts at Villa Santini/Fish Tale Marina

Councilwoman Cereceda said she'd like to see us table this until after our budget workshop. At some point she will make a motion to allocate funds for a concert series, but she believes that until we discuss what our policy is going to be with regards to public activities or community activities, we will be stepping on our own toes.

Discussion:

John Mulholland asked if this request is tabled, would it hamper the contract, and he was told no by Marty Hartung of the Fish Tale Marina.

Anita Cereceda and Garr Reynolds praised the spirit shown by Villa Santini.

MOTION: Made by Anita Cereceda and seconded by John Mulholland for discussion to table the request for funding for concerts at Villa Santini/
Fish Tale Marina. Passed unanimously.

E. Pool update and discussion of pool operations and land ownership turnover procedure:

Included in the packet is a memo outlining the various recommendations made by the Pool Foundation and Town Staff relative to a variety of pool issues.

We were advised of an update memo in our packets by Deputy Town Manager John Gucciardo. It looks like we're in pretty good shape. The projected opening date is probably going to be after September 22, the last date of construction activity, probably October 1.

Mr. Gucciardo proceeded to shed some light on issues brought up by Jennifer Kaestner. In the memo under the capital improvements items, he makes reference to a list of things that we will be buying and are not included in the construction package. Another list that the management company has been working on focuses more on issues of health and safety.

Items that do not show on either of these lists that were mentioned by Mrs. Kaestner, such as dive platforms and lane markings, were run past the Pool Foundation, and they were in agreement that those items don't go to the main operation of the pool. If funds are available they will certainly be obtained, but if funds are not available other items will not be sacrificed for them. At this point it looks like the funds will be there. Councilwoman Cereceda said that she would like to see the dive platforms and lane markings added to the list. John Mulholland said he would have trouble spending the amount of money that's required without knowing how many people would be participating in competitive swimming.

Also suggested was that senior citizens be allowed a discounted pass and it sounds like a reasonable one to pursue. John said he will bring this up at the next meeting of the Pool Foundation, which he thinks is around the 13th or 15th of September. Programming costs had also been brought up by Mrs. Kaestner. The recommendation under item C. in the memo is that we really don't need to get into any specifics on programming at this point. Programming is something that we think the community will define for us. We have a very extensive list of programs that can be offered at suggested prices. The intent is not to make any kind of huge money making out of these programs but to make them available to the community so that we can make the most use out of the facility.

The only reason we tried to lock in the membership fees, John said, was so that the Foundation could go out and presell passes and have some idea of what to work around. But none of them are written in stone and can all be adjusted. Anita Cereceda would not want the fees to be significantly higher than those of other facilities in the County.

Mr. Gucciardo advised that Staff had written to the County indicating that it seemed appropriate that we do one of two things: either formalize the turnover of the land from the County to the Town, or in the alternative enter into an agreement to be able to occupy and run the facility on County property. Dick Roosa stated that the County has requested that the Council adopt a resolution accepting the property and he has prepared a resolution that he will bring to the next Council meeting. The acceptance is subject to the County recording the deed.

Regarding the parameters of the property being conveyed, John Gucciardo advised that they're going to be using the legal descriptions that relate to the property that the County purchased.

Councilwoman Cereceda referred to companies that John Gucciardo had indicated had

promotional umbrellas and vending supplies. She wondered if in exchange for a vending machine of their product, one of them would supply us with the necessary umbrellas for the pool. Also asked by Ms. Cereceda was if a decision had been reached as to how many days per week the pool would be in operation. She was told by John Gucciardo that unless the Council said otherwise, Staff recommends five days a week initially, with the pool closed on Tuesdays and Thursdays. However, as we get into warmer weather we could stay open seven days a week.

In the next day or two, John Gucciardo advised, we should see the pool slide going up.

Anita Cereceda remarked on the tremendous water near Casey's Alley and wished to know if there were any plans for landscaping that side. Mr. Gucciardo said he's been told that the landscaping that we'll be getting is much more mature and extensive than what one would normally see in a county project.

F. Channel Dredge and Beach Renourishment Project Updates

John Gucciardo said he would be attending a conference of the FSBPA, the Florida Shore and Beach Preservation Association, on Wednesday, Thursday and Friday of this week over in Fort Lauderdale.

The beach renourishment project seems to be on a fairly steady track right now. We've got the interlocal agreement with the County going forward. We've gone through the negotiations with the contractors to take us through the design and permitting stage. We're starting to lock up with more specificity the funding elements. The economic analysis that we're waiting on should be done by mid-October. The channel dredge, on the other hand, had some slippage but that has changed dramatically. As advised in his August 24 memo, John hopes to meet with the representatives from the Corps of Engineers who are doing this project, with the consultants that we've hired and also with the County staff from Natural Resources at Fort Lauderdale. It does look now like we'll be cutting back the extent of that project, doing away with the hydrocyclone. It will just be a dredge of the outer channel at Bowditch Point and may happen this November-December.

Councilman Garr Reynolds asked that Mr. Gucciardo explain at the seminar that we have no beach in the middle of the island at certain times of the year and that we desperately need something in the mid-island area. John noted that we've actually pushed up the beach renourishment project almost three full fiscal years from the original projections. With the efforts that Council directed be put into the project, we're in much better shape in terms of getting sand in the central part of the island than we had been before. He hopes to discuss with the Corps of Engineers people the benefit, if any, of maybe throwing some Town money into the pot when this channel dredge is completed in November to move the sand to the central part of the island rather than plus or minus a half mile to the pier. Dan Hughes stated that it would take more than just putting sand there because of the migratory drift of the sand to the south. Mr. Gucciardo advised that we will be paying the engineers considerable dollars to monitor what the wave action does and putting a fresh source of sand there may be valuable to them.

XII. COUNCIL MEMBER ITEMS AND REPORTS

Councilwoman Cereceda advised that she had brought the agenda from the last MPO meeting, which contains the report on the traffic study for the barrier islands. It also has a schedule of the projects and how they were ranked. She expressed her dissatisfaction with the MPO.

By the end of September there will be a presentation made to the Council regarding events on New Year's Day. Little interest has been shown to date regarding fund raising in the park and this may be dropped.

Our extra code enforcement person is doing a great job.

Ms. Cereceda advocates an awning in front of the Town Hall building as a shelter during the rain.

On September 8 will be the joint workshop with CELCAB and the Council. Ms. Cereceda will be working with the Chairperson, Fran Myers, on the agenda for that meeting, and she will have it prepared for us by the end of the week. She would ask us to be prepared to address the issue of the management

plan and what items we feel should be eliminated from or added to that plan. CELCAB may also submit a plan for amending the management plan. Discussed will be the current status of the Mound House closing, as well as recommendations for interim and temporary uses of the property. There should also be discussion from the Council to the CELCAB on what we envision the intensity of the usage of that property is. She would suggest that we allow public input at the workshop.

John Mulholland said he would like to see more emphasis placed on the neighbors of the Mound House and get their input on how they would fit into whatever activities are put or not put there. This feeling was echoed by Garr Reynolds.

Councilman Garr Reynolds thanked Deputy Town Manager John Gucciardo for getting the repairs done on Estero.

He advised that the people on Primo have reported some noise problems coming from the tavern on San Carlos and Third Street. He would suggest that someone check this out.

Referring to the Town Manager's memo regarding the organizational chart and the research of similar cities, towns and employees, Councilman Reynolds suggested to Marsha Segal-George that she include councils. He noted that other towns include their firemen, policemen and all the different departments that we contract out and that we should consider this when we look at salaries in order to get an accurate comparison.

He has noted that the titles of positions at Town Hall have been changed. He would like to see people hired for those positions rather than shift personnel around by changing titles.

Councilman Reynolds advised Town Manager Segal-George that he had read her memo and was glad to learn that she had talked with Arden Arrington and he is removing the phone numbers of the Mound House from his brochures.

Mr. Reynolds referred to the recent break taken by the Council. He felt that if anybody on the island had a problem with that, they should relay it to us.

Councilman Dan Hughes reported that he had attended the Florida League of Cities Conference in Orlando along with Mayor Murphy. They got a lot of information and materials to bring back. Some excellent speakers were there. He wasn't too impressed with the workshops excepting for the attorney's session where there was a very enlightening discussion on the First Amendment as it relates to municipalities.

Mr. Hughes advised that he is getting a lot of inquiries regarding what is going on with Publix and he would like some answers. Town Manager Marsha Segal-George advised that basically the delay has been caused by a problem among the parties on the property. They have to split off the Publix parcel from the rest of the property, and there seems to be some kind of controversy regarding how they can configure that property and whether or not Mid-Island Marina can retain all the uses on the remainder that they would like to have. The most recent issues had to do with drainage and who was going to provide what drainage on which property, and particularly how it would affect Ocean Harbor.

Dan Hughes asked if we had had any response from the County regarding our most recent communication about reimbursement of the CRA funds. He was advised by Dick Roosa that the latest letter from the County Attorney's office identified the money that was involved, and the bottom line was that none of it comes to the CRA. Mrs. Segal-George stated that she thought that Yeager was only addressing the money that was left in the CRA construction project. He wasn't addressing the issues with regards to the actual TIF. Attorney Roosa told her that she was correct because that was provided by information he had sent to him. We're still waiting for Yeager's position on the TIF, Mrs. Segal-George stated.

Dan Hughes said he would like to commend Deputy Town Manager John Gucciardo and the Pool Foundation for the progress they have made over the summer.

Vice Mayor John Mulholland advised that today he had taken the highly symbolic act of canceling his home delivery of the News-Press. He is protesting in this way the treatment that the Town and the Council received in the article by Mr. Melsek. And after discussing it with the Town Attorney and the

Town Manager, it just reaffirms that there's no jeopardy to the taxpayers' money. There is really no problem with anything that we have done. Mr. Mulholland admitted to not noting that the Town's telephone number was listed on Mr. Arrington's letterhead, but he doesn't feel that this justified the headlines and the treatment we received. He feels that the Town has made terrific progress and that we're doing very well. If this is our biggest sin, then that's okay. The support that he has for the Town Manager and the job that she has done to date is without reservation. He also has praise for Arden Arrington whom he has known for three years and who has worked very hard for the Marine Resources Task Force, and he feels he is the person for the job of director.

Town Mayor Updates:

Mayor Ray Murphy advised he had again attended the Florida League of Cities Convention this year and enjoyed it very much. The Y2K session made an especial impression on him. He has been assured by the Staff that we're Y2K compliant for the auditors. But addressed at the convention was getting letters from all of our suppliers and service providers that they are in fact Y2K compliant as well, and he would encourage Staff to do so.

Mayor Ray Murphy has received an invitation from the Horizon Council for Town Council and committee members to attend their luncheon on Friday, September 17 at 11:30 a.m.

XIII. TOWN APPOINTMENTS

A. MSBU Advisory Committee

Three persons have volunteered for the committee: Debra Lallo, John Richard and Doug Speirn-Smith. Dan Hughes stated that all three are entrepreneurs with capital invested in the community and that he would nominate them to serve on the committee.

MOTION: Made by Dan Hughes and seconded by Anita Cereceda to nominate Debra Lallo, John Richard and Doug Speirn-Smith to serve on the MSBU Advisory committee. Passed unanimously.

Five persons are desired for the committee but the Mayor suggested moving forward with the three nominated, which makes a quorum. This may encourage others to join. Councilman Reynolds said he would have no problem with this.

XIV. TOWN MANAGER ITEMS

Mrs. Segal-George said she had just learned that the permits are in hand to begin construction of the parking lot for Bowditch Park. Jim Lavender is waiting to hear what's going to happen on the dredge project with regards to putting fill in the park, and that's the only thing that's standing in his way to moving forward and beginning construction. The North End residents had told the Council that they were going to go to court and prevent that parking lot from being built, but as of right now that has not happened. Carleton Ryffel has again requested to address the Council about parking at Bowditch.

A. Times Square kiosk issues. In our packets is a letter from Town Hall asking the kiosk owner to pay rent or vacate the premises. There is also a response from the kiosk owner outlining why he believes that he shouldn't have to pay rent. The kiosk owner would like to address the Council on this issue.

Town Manager Segal-George stated that she had offered Mr. Cristensen, the kiosk owner, the opportunity to address the Council. This afternoon she received a fax from another entity that has come forward and offered to pay the rent and take Mr. Cristensen's place in the Square.

Mr. Cristensen said he is making an appeal to have a permanent waiver of the lease that he has

with the Town of Fort Myers Beach wherein it states that he should be paying \$150 a month rent for the booth in Times Square. One reason he requests the waiver is that the business does not bring in enough for an individual to live on comfortably. Eighty percent of what they do there is to assist the visitors of Fort Myers Beach by answering their questions. These information services are free and he feels they are of benefit to the Town and they should, therefore, be subsidized for them.

Garr Reynolds told Mr. Cristensen that he hadn't known the extent of his operation until he explained it. He said he thinks he is probably the best ambassador that we have on the island and that he sees and talks to more people on the island than anyone else. He would hope that the Town Council would see a real value in what he is doing too.

John Mulholland stated he appreciated what Mr. Cristensen was doing as well. But he is taking up space and restaurants are being charged rent for the space they take up. Mr. Cristensen's reply was that restaurants get paid by the people that use their space but that no one who walks up to his booth pays him.

Anita Cereceda stated that politeness and respect are services given by every business on this island, which is the reason that Fort Myers Beach has the kind of tourism that it has. In her opinion this is not something that the Town should subsidize any business for. Moreover, if Mr. Cristensen collects any money from anybody, there has got to be a fee paid for that space just like other businesses.

Mr. Cristensen indicated that he had lost \$1,600 in August. Dan Hughes said that he sympathized with Mr. Cristensen but it sounded to him that this was an operation that was not successful and that perhaps he'd be better off not involved in it.

Anita Cereceda made a motion to waive whatever rent was due but to demand the payment of rent starting September 1.

Discussion:

Dan Hughes noted that the original lease agreement had been for one year and that no rent has been paid to date. There are only four months left to pay rent.

Garr Reynolds stated that he had no problem with the motion.

MOTION: Made by Anita Cereceda and seconded by Garr Reynolds that the Town Council extend to Mr. Cristenson a waiver of rent owed but demand that payment of rent begin as of September 1 and that rent be paid for every month thereafter. Should the rent not be paid as agreed to in the original agreement, the agreement should be terminated and the space eliminated. Passed with three yea votes and two nay votes from Ray Murphy and Dan Hughes.

John Gucciardo wished to remind us that we had all gotten a copy of the press release on the Public Safety Task Force Hurricane Seminar and that they would appreciate our attendance.

XV. PUBLIC COMMENT

None.

XVI. ADJOURNMENT

The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for action from the meeting of August 30, 1999

1. Town Manager Marsha Segal-George advised that on September 13 Staff is planning on bringing to the Council a number of drainage issues that they have been working on all summer. There will be a prioritizing of streets.
2. Town Manager Marsha Segal-George advised that we will have a second public hearing on the sign ordinance on September 13.
3. Town Manager Segal-George advised that we had a workshop scheduled just on the budget on September 16 at 6:30 p.m., and there will be two public hearings on the budget.
4. Set vacation of Fourth Street for September 20, 1999, at 9:00 a.m.
5. On September 8 will be the joint workshop with CELCAP and the Council. Ms. Cereceda will be working with the Chairperson, Fran Myers, on the agenda for that meeting, and she will have it prepared for us by the end of the week.

