

**FORT MYERS BEACH
TOWN COUNCIL MEETING
NOVEMBER 1, 1999
NationsBank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. CALL TO ORDER

Mayor Ray Murphy opened the meeting on Monday, November 1, 1999, at 6:32 P.M.

Council members present at the meeting: Mayor Ray Murphy, Vice-Mayor John Mulholland, Anita Cereceda, Daniel Hughes and Garr Reynolds.

Town Staff present: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo and Attorney Richard Roosa.

Also present: Fire Chief Steve Markus, Fire Commissioner Betty Goodacre and Vicki Massey.

II. PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance.

III. INVOCATION

Pastor Bob Stuckey gave the invocation.

IV. PROCLAMATION: FIRE CONTROL DISTRICT APPRECIATION DAY

Mayor Murphy read the proclamation. November 13, 1999, was proclaimed as Fire Control District Appreciation Day in the Town of Fort Myers Beach, their 50th anniversary of service to the community.

Fire Commissioner Betty Goodacre invited everyone to come to their social on November 13, 1999.

V. PUBLIC COMMENT ON AGENDA ITEMS

A. ELLIE SULLIVAN

A member of the Bay Oaks Advisory Committee, Mrs. Sullivan stressed that she would like for the \$9,000 that is allotted in the budget this year to be used for the part-time position to be made into a full-time position. It would give them more stability in hiring a person to take over the team program, which, she states, is very important in this community. It keeps the teenagers off the streets and it gives them a great balance in life.

B. JENNIFER KAESTNER

Mrs. Kaestner said she is here as the sole speaker on behalf of a competitive swim team, a capacity she would hope to never again be in. She wanted to let Council know that they have formed an organization to provide a competitive swim club here on Fort Myers Beach. In September they had a parents organization meeting with eight parents in attendance. At that meeting they developed two priorities: 1) That their program be developmental based on instruction and really a beginning program for competitive swimmers; and 2) That the program be very low cost so that they can encourage the kids on Fort Myers Beach. They settled on a \$20 per month coaching fee, with \$15 for additional swimmers in the same family. In order to keep those fees, they are going to have to have volunteer coaches. They came up with four volunteers who are currently involved in a series of training and certification classes. The Beach Fire District has been kind enough to volunteer their services in giving them first aid and CPR classes, and they are also scheduled to take coaching certification classes from a certified USA swimming coach certification trainer. That training will involve not only swim and coach instruction, it will also involve water safety and water rescue. So there are individuals besides herself already in our town committed to providing this type of use for its program.

In October they held a team sign up. They had a little notice in the paper. They sent notices to the elementary school and they signed up 25 kids. They're just waiting for that program to start. They're all very excited about it.

Mrs. Kaestner expressed concern about the memo that was presented to us today. Items 1-7 seemed to indicate that other pools all over the place charged competitive swim teams additional fees. These are facts that were not researched by our Town Staff but were presented to our Town Staff by a disgruntled ex-employee of Lee County Parks and Rec and Swim Florida very much opposed to their not-for-profit competitive swim team using the pool for free. She went on to say that Lee County Parks and Rec, as well

as the Board of County Commissioners, has had a fifteen year commitment to Swim Florida. In our County, organizations that are formed to provide youth athletic experiences, such as Little League, Soccer Club, Pop Warner Football are not charged to use the facilities. The only concern she has is the sentence that reads "Could be assessed if the team opted to use the facility on days and hours when it would normally be closed if that resulted in additional operating costs. They've had many discussions with management indicating to them that they absolutely do plan to use the facility on the days that it's closed with no distractions to their program. If that results in additional operating costs, she does not understand why that "if" hasn't been cleared up by this point. Lee County does not charge additional fees or require additional lifeguards for Swim Florida, because the training that they take as certified coaches covers the same basic safety and instructional things that lifeguard certification does. They would, therefore, hope that they wouldn't be charged additional fees to use our community tax- supported pool.

C. CHARLIE WHITEHEAD

Mr. Whitehead said he is here representing the youth of Bay Oaks. He referred to the full-time position waiting to be filled and said they would like to provide benefits for it in order to keep whoever they hire for it. The County is not going to give a full-time position here because then they would have to do it for the other rec centers. The reason this town was formed was to provide a new level of service. The money is there and if we would appreciate it, they would appreciate it.

D. BRIAN PETERSON

Chairman of the Bay Oaks Advisory Committee, Mr. Peterson also spoke for the approval of the money for the senior Rec specialist. They have spoken recently with Barbara Manzo of Lee County Parks and Recreation and were told that the County could not help them. They are now going to the next level, to the community. They have a very active recreation center which services 3000-4000 people a month. The full time position is needed and stability in the position is even more critical. Stability comes through added benefits, health care.

VI. CONSENT AGENDA

A. Approval of Minutes: September 27, October 4 and October 11, 1999

Vice Mayor Mulholland felt that the minutes should be taken up just before the adjournment of the meeting so that people who were not interested in listening to corrections of the minutes would not have to sit through this.

Councilman Garr Reynolds said that he thought that the public has every right to hear just as the councilmen have every right to hear any corrections that need to be made, because they don't read this and they'll think that's what happened unless corrections are made. He stated that he didn't particularly care where we put it on the agenda, but he feels that where it is is a good location. He doesn't know why anybody would be concerned or afraid to hear corrections of something that hasn't been said. For example, in this correction here tonight it makes a statement that somebody says something about laws and the word was loss. He thinks that's pertinent, something to be corrected. He doesn't know why we want to shove it all around, but if that makes the Council happy it doesn't matter because if he sees corrections in there and if any other councilman sees corrections in there, he thinks they should not hesitate to call and bring that to the attention of the Council.

Mayor Murphy said he didn't think the question was to deny the public the opportunity to hear the changes. The question was to move it in the order of the agenda, because apparently some people have approached Vice Mayor Mulholland who don't care to stick around and listen to our debate about the minutes while anybody who is particularly interested can wait until they're on and listen to it.

Councilman Reynolds said he has had several good comments that we should make corrections, and not only that, but they wonder why things are written up so poorly. He's had lots of comments good and bad on that.

Vice Mayor Mulholland said he moved that approval of the minutes be moved from Item 6 to Item 12, just before the adjournment. Anita Cereceda said she would second the motion just for discussion.

Discussion:

Councilwoman Cereceda asked Vice Mayor Mulholland if he just wanted to move the minutes approval from the Consent Agenda and put it as a line item and did he want to do that as a continued policy so that the approval of minutes would never be in the Consent Agenda but would be somewhere towards the end of the meeting. Mr. Mulholland replied yes. But the Consent Agenda as an item would remain there and the other items would continue there? Yes.

Councilman Reynolds said he didn't have any real strong objections to it being moved anywhere we wanted to move it. But he thinks that if we put it after Public Comments, then we're putting little or no value on correctness.

Vice Mayor Mulholland suggested that then we could put it before Public Comments. Mayor Murphy said that's fine.

MOTION: Made by John Mulholland and seconded by Anita Cereceda that approval of the minutes be moved from Item VI. on today's agenda to Item XI. before Public Comments. Passed unanimously.

B. Proclamation: National Epilepsy Awareness Week

MOTION: Made by Anita Cereceda and seconded by John Mulholland that the proclamation for National Epilepsy Week be accepted. Passed unanimously.

VII. ADMINISTRATIVE AGENDA

A. Public Hearing: Sign Ordinance

Mayor Murphy read the sign ordinance: An ordinance amending the Town of Fort Myers Beach Land Development Code, Chapter 30, Sign Section 30-153, Permanent Signs in Commercial Areas providing authority; amendment to Section 30-153, Permanent Signs in Commercial Areas, severability and effective date.

Public hearing was opened for anyone caring to speak to this sign ordinance. No one requested to speak and the hearing was therefore closed.

Councilwoman Cereceda said she would like to publicly thank Councilman Reynolds for bringing this forward and revisiting the issue even though it became a lengthy way to get on here, and then to also thank Mr. Campo for being a darn good sport about it.

Town Manager Segal-George said that the sign ordinance will be on again on November 15 at the second public hearing.

Garr Reynolds said that he had a correction. Where it says 64 it should be 64 sq. ft.

In an unrelated matter, Mayor Murphy said, Mr. Hoffman had called him up and he wanted to know if there was any objection to the name Marco Theater and that he would be open to renaming it The Beach Theater. Mayor Murphy had told him he hadn't heard of anything, but that's probably what they'll end up calling it anyhow. But as far as putting the name up on the theater, if that's what he likes, that would be a nice gesture and that's in the works.

B. Public Hearing: Homestead Exemption for persons 65 and older

Mayor Murphy read the ordinance. An ordinance providing authority, definitions, additional homestead exemptions for persons 65 or older, household income adjusted annually, application only to Town taxes, taxpayer responsibilities, notice to the Property Appraiser, severability and effective date.

Mayor Murphy asked if there was anyone wishing to speak to this ordinance.

Town Manager Segal-George asked if everyone knew what it was. Dan Hughes said that after the article in the News-Press he thinks that the public is up to speed on this matter.

No one wished to speak to this ordinance and the public hearing was, therefore, closed.

Councilwoman Cereceda said she'd like to thank John Gucciardo, our Deputy Town Manager, for making us look so good. It was he who brought this to our attention as a matter of legislative policy that had been established. She wasn't aware that only three or four other cities in the state had gone to the effort to put this into place and like she said to Mike the other day, she thinks it will make little if any difference in the dollars that we actually have to spend in our community. But the main reason that we became a town in her mind was to serve the people of this Town. And if we can serve them by alleviating the financial burden in some way, she thinks that we need to do that. She is proud of us for taking these steps and she will most certainly support the measure.

Councilman Hughes remarked that as he said at an earlier meeting, he's in favor of this; but he thinks there's some very definite defects and problems inherent in the language, and he can't blame that on our attorney because he has to incorporate by reference the enabling statute adopted by the state legislature. But he predicts some serious administrative problems in interpreting the applicability of this ordinance. He

would add though that in that article Mr. Wilkinson, our County Appraiser, said he thinks he can handle it. Dan Hughes said he thinks he's going to have a handful when it comes through, how you establish eligibility and definition of who has equitable title, and so forth.

Mayor Murphy said that he, too, is proud that we are in a position to be able to do this. The fact of the matter is that about 70% of the voters in the State of Florida approved this by an amendment to the Constitution, thereby telling him that this is what the people wanted. He is happy that we have the ability to effectuate this legislation, albeit in a small way in our Town, and hopefully other communities in Southwest Florida will also join on the wagon here and do what they can to help too. He has spoken with other people in political positions since this and some of them were not in a mind to do this. He tried to convince them what is good about this and hoped that they'll take this under consideration and try to pass this in their own areas.

Vice Mayor Mulholland said he was totally for this exemption. If we can help people with this, we certainly should, and he is echoing the comments of his colleagues here.

Councilman Reynolds said that he must add the same good feeling. He is very pleased that we have this for the benefit of those who fall in this category. He is sure with the rising taxes as they keep going up this might offer some little bit of comfort to some people on the Island. He doesn't think it's going to be that widely needed, but to those who receive it he's real happy about it.

Councilwoman Cereceda said that as far as comments made by other officials and cities and in direct reference to comments that Commissioner Manning made, the bottom line is that there are more important things than money sometimes. And in improving your constituents' quality of life, whether it's one person or twenty people or maybe a thousand people should be a higher consideration than how many dollars it's going to take out of your pocket that you then have to spend.

Ms. Cereceda said she would like to make a motion to approve the homestead exemption.

MOTION: Made by Anita Cereceda and seconded by John Mulholland to approve the additional homestead exemption for persons of 65 or older. Passed unanimously.

C. Resolution: Establishing Palmetto-Easy Street Neighborhood Improvement

The resolution (attached) was read by Mayor Murphy.

In Section Two of the resolution under Assessments, it states "plus interest on the unpaid balance of 8% until paid in full." Town Manager Segal-George advised that there is not supposed to be interest in this. The agreement was to take the amount that was owing and divide it up and allow them to pay it over time, but there never was an agreement to pay interest on the balance. Mayor Murphy said that then we will strike that.

Councilman Reynolds made a motion to accept the resolution as corrected.

Discussion:

Councilman Hughes asked if the dollar amounts were our engineers' estimates. Town Manager Segal-George told him no, that's the actual construction bid plus the dollars that we have paid for engineering. Mr. Hughes asked what if we have an overrun. Doesn't the contract provide that if there's extras he can seek a change order and then you change the number? And if you change the number and there's an extra and there's an overrun and we've adopted a resolution that has specific numbers in it, how do you resolve that? Town Manager Segal-George said she guessed we could amend it. But the dilemma that she's in is that we're ready to go on construction but she can't proceed unless there had been a resolution with regards to assessments.

Mr. Hughes asked wasn't there a contingency in there, that's the actual bid? Mrs. Segal-George said yes, she didn't put any contingency in it. She figured that if there's an issue, they would come back and ask to amend the resolution. Dan Hughes asked if we could just simply then add any increased cost to the property owner's share of that. Mrs. Segal-George said that we've agreed to split it with them 50-50, so why would we just add it to the property owners. Mr. Hughes said because we say here that they will be responsible for the payment of assessments of \$2,540, payable \$127 a year. And if that doesn't turn out to be the actual cost... Mrs. Segal-George said if it doesn't, then she can bring an amended resolution back to the Council and we can amend the assessment, and she asked can't they Dick at that point? Dick Roosa said sure. Dan Hughes asked if we could do the amendment without the owners' consent. Dick Roosa said

that what they signed for gives us that authority. Dan Hughes asked if what they signed says they will pay 50% and not a specific dollar amount. Mr. Roosa said it is estimated to be the \$2,000 figure. Then why aren't we charging interest, Mr. Hughes asked. Mrs. Segal-George said this has gone through a number of meetings with the Council, and when it was originally discussed first it was how was it going to be divided up, and then the Council wanted to divide it 50-50, and then it was to allow them a number of years to pay it off. And there was never any discussion about interest. So it was that the Town is fronting the money and allowing those property owners to take a long period of time to pay it back.

Turning to Dick Roosa, Dan Hughes asked what if one or more of the property owners refuses to sign a receipt of lien that you refer to here. Mr. Roosa said that then we won't proceed with it. Dan Hughes asked if one person could block it if they don't sign it and he was told yes.

Vice Mayor Mulholland said he'd like to point out that he thinks there was a petition signed by many of the residents indicating that they were willing to do this before we even considered it.

Dan Hughes said that a petition saying it would be nice to pay this thing and they would pay 50% is one thing, but having them sign something that says we're going to put a lien on your property is another thing.

Councilman Reynolds asked Marsha Segal-George if this would be an MSBU or MSTU. She advised that we're doing voluntary assessments. No, it won't be on their tax bill. It won't come in as a millage. It will come in as a specific amount of money. They can choose to pay it in a lump sum if they want to, or they can pay it over a period of time and we'll just bill them on a yearly basis. It wouldn't be an MSTU in the more traditional sense where it comes out of an assessment on their property taxes. Garr Reynolds said that it seemed to him that we're going to have a hard time collecting that bill, because a lot of those people are seniors and those properties are going to be changing ownerships. Marsha Segal-George told him that we'll take a lien on the property so it will go with the property. Garr Reynolds said that it would be paid off then when it changes (ownership).

MOTION: Made by Garr Reynolds and seconded by John Mulholland that we accept the resolution. Passed unanimously.

D. Discussion of Paver Cleaner Contract

Town Manager Segal-George noted that this is the ubiquitous paver cleaner that has been in front of us a number of times. It's in front of us again. The last time she asked the Council, she was told to bring it forward. She has Ed here if we have any specific questions we want to ask about the paver cleaner. We'll see from the contract that it's an expensive piece of equipment to purchase and it's an expensive piece of equipment to lease. You can either purchase it at \$30,000 or lease it for \$873 a month. Garr Reynolds said that at the end of four or five years you can purchase it for a 10% -- I don't know what the 10% option means.

Councilman Hughes said that he notices under transaction terms of \$873.54 a month it says it includes tax of \$52.41, but we're not subject to tax. Town Manager Segal-George said it would be removed, because it says if no, please attach certificate of tax exemption. This was just a standard agreement that they sent to us. Councilman Hughes said, he knows, but it doesn't say no. It says there is \$52.41 included in the price every month. Mrs. Segal-George said she understood, but if we look right below it, it says if no please attach certificate of tax exemption. So if we wanted to proceed forward with this, we would not pay the \$52.41. Dan Hughes still felt that the form had to be changed and that it was not consistent with later things which we certified that we are in fact tax exempt and would not be required. So that would reduce the payment by \$52.41 and so it's \$820 some dollars a month for 36 months.

Dan Hughes then asked Town Attorney Roosa if there was any statutory limitation on the right of a municipality to enter into a lease agreement that extends beyond the current fiscal year for which you have budgeted and appropriated funds only for the current year. Mr. Roosa said that the restriction is on pledging of ad valorem taxes and, also, we have a restriction in our charter that prohibits leases for more than three years. Dan Hughes said that's the only restriction, so since the charter permits it we can ... the future Town Council to make these payments? Dick Roosa said yes. Dan Hughes stated that if this wasn't final at this point, if this was just a preliminary thing, then maybe he needn't go into that. But this is not an acceptable document to him in that the lease is going to be assigned by the tenant company to GE Acceptance or whomever, GE Capital Public Finances, affiliate of GE Acceptance, a large acceptance corporation. But directing your attention specifically to paragraph 15 of the assignment, the S&E, the lessee must pay the S&E all rents in amounts due under this lease without deduction or offset

notwithstanding any claim lessee may assert or may not assert against the S&E or any defense claim, counterclaim or set off on account of breach of warranty. That's something he would never allow a client to sign in that the equipment could be defective and we would have a claim against the tenant company, but it wouldn't absolve us of having to continue to pay GE Acceptance. So it is an assignment wherein we waive our defenses against the assignee, and that's not acceptable.

Town Manager Segal-George said she guesses what she is trying to find out is -- this is probably the third time that this item has been on the agenda -- she wants to know do we want it, do we want to buy it, do we want to lease it. And then she would suggest that Dick could work out the legal language of the document. She's trying to get to the substance of what we want to do.

Dan Hughes said, all right, all right, but we never had a document before. He thought that because he had a document maybe there was something he ought to review and check off.

Councilman Reynolds said he was confused by this too. It says over here this is a lease agreement. Then he comes over here on page 1 and there's three years and it starts out with what looks like ... approximately 27 but he assumes it's starting out around 30, and we're paying for three years and it brings it down to zero. That seems more like a purchase contract rather than a lease contract. And if it is, it's okay. I mean, I would rather go that way I think rather than lease it.

Town Manager Segal-George said that the last time she talked to the Council about this, she told us that there were two options. We could either pay for it over time or we could purchase it. And she was told to bring the documents forward, and so she did. Now she has not reviewed the document with regards to the terms and she doesn't know if Dick has or not. But she brought the documents forward as a means to get some kind of position from the Council. She said it was an expensive piece of equipment. Ed believes we really need it in the Square and Ed's here to address that issue. What she really wants to get to is do we want it and if we want it, how do we want to go about purchasing it. And then we can always bring back the document as far as making changes or whatever. Dick may have some suggestions. This was just the document that came from the paver cleaner people.

Councilman Reynolds asked what would be the complications of having the repairs done on this piece of equipment if we buy it. Or if we lease it, they would be obligated he would think to take care of it. Mrs. Segal-George said that's what Ed's suggestion was -- to lease it because of the repair questions and issues and that seems reasonable. Garr Reynolds said he was inclined to think that that was a better way to go too.

Vice Mayor Mulholland stated that Councilman Hughes asked about restrictions, and he does recall in the charter or he thought that the Council could not bind the Council or the Town for anything longer than three years. Mr. Mulholland was told that it was for three years. He then told the Town Manager that he was in favor of getting something to clean those pavers and he just wanted her to know his position on that.

Councilwoman Cereceda asked if the group for Times Square had met and was told no. She stated that we would be making another decision without their input and wished to know why they hadn't met. Because we still don't have five people? she asked. She was told no, we do not, by the Town Manager. Her other point, she said, is what is the possibility or probability that this machine would be used outside of Times Square. Are we looking at this just as something for maintenance of the Square or are we looking at this as something that would be used as maintenance for the entire island. Town Manager Segal-George advised that at this point all we would be using it for is maintenance of the Square and improvements on Estero down at the Lani Kai. But as improvements would be made on Old San Carlos or Crescent, or even when we get to the point of the Estero Boulevard streetscape, this is a piece of equipment that would be able to be used in all of those circumstances. Well, with that being the answer, Anita Cereceda said, she would propose to the Council that we consider acquiring this as a capital improvement purchase or a piece of machinery that the Town acquire. That's something that we're going to need for maintenance throughout the Town, not necessarily for maintenance only within Times Square. And if we're going to look at it that way, then we could move without that group meeting. If we don't look at it that way, she thinks that we should wait until they convene before we take any action on it.

Mayor Murphy asked if there was anything in the lease that would prevent us from subleasing that piece of machinery. Dick Roosa said it's not the lease; the Town can't sublease. Mr. Murphy said that his personal feeling about this is that he would hope in the future with all the big improvements that we're going to have is that we don't put any more sidewalks in that are this labor-intensive. They look great and everything, but he thinks they're way too much to maintain. He thinks we could probably have some terrific sidewalks in there that wouldn't cost so much of our money to take care of every year. But we have

what we have and we have to take care of them so the question today is whether we buy this machine, lease this machine or we do absolutely nothing with this machine. He asked if there was a motion for any of those options.

Anita Cereceda made a motion to acquire a machine. John Mulholland said he would second it for discussion.

Discussion:

Vice Mayor Mulholland said he thinks we should lease because a purchase means that if it works or doesn't work, if we have problems with the equipment. Secondly, he has trouble with this board that Councilwoman Cereceda is speaking about. He knows that it is an advisory board and he knows they will work to help us, but he doesn't want it to sound as if they are driving us, and he agrees with Mayor Murphy saying we sort of got stuck with these pavers and we're paying a pretty heavy price. And he would hope that someday the merchants start paying for maintaining that area.

Councilman Reynolds said he just wanted to mention that this is a special piece of equipment and if we owned it, we'd probably be paying out more if something goes wrong with it than if we were just leasing it over a period of time. That's why he really thinks we should go for a lease.

Councilman Hughes asked what was the cost of an outright purchase again. Town Manager Segal-George stated \$30,236.79. Dan Hughes said, no, that's the monthly rental times 36. The capitalized lease cost Mayor Murphy added. Dan Hughes said that's that 8.55%. Mrs. Segal-George said that's what she's always been told was the purchase price.

Dan Hughes asked what is the column on the amortization schedule which is the very last document in this whole package on this. This says take downs and it comes up with a figure of \$27,651.80. Actually none of these figures add up. Mrs. Segal-George said all she knows is that this is the document they sent us and she doesn't know the specifics with regards to it. She's sure we can find that out. Dan Hughes stated that when you're considering purchase versus leasing, you consider the interest rate, which is 8.55%, you consider the total payments over the period of time and if there's an option to purchase at the end of the lease, what it's going to cost to buy at that, and you relate that to what an outright purchase would be.

Anita Cereceda asked the Mayor if she could remove her motion from the floor and remake it. She wished to withdraw her motion. She was told no problem.

MOTION: Made by Anita Cereceda and seconded by John Mulholland that the Town of Fort Myers Beach acquire for general purposes this sweeper/scrubber on a lease agreement with details of said lease agreement to be finalized by the Town Attorney. Motion withdrawn.

The direction is clear, Councilwoman Cereceda said, that we're going to get it. How we're going to get it will depend on whether or not the lease agreement or an outright purchase agreement makes more sense. Because at this point, she said, she doesn't think we have that information.

Mayor Murphy noted that there was a motion on the floor.

Discussion:

Councilman Reynolds said it seemed to him that we had those figures.

Town Manager Segal-George said she believed that the last time we saw the amount for purchase and then the lease amount and she doesn't have that previous amount. Mayor Murphy told her he thinks she's right but he doesn't recall now what the numbers are. But that doesn't make it more difficult.

Councilman Reynolds said we could go with the motion and have Staff proceed to get this together again for us and then we can make a decision in short order.

MOTION: Made by Anita Cereceda and seconded by John Mulholland to tell the Town Manager that the direction of the Council is to acquire as a capital improvement to the Town this sweeper/scrubber for maintenance in the Town of Fort Myers Beach and to bring to the Council both lease and purchase options so that we might finalize the agreement one way or another. Passed unanimously.

E. Draft: Parks Ordinance

Councilwoman Cereceda explained that this came up with questions to Mr. Roosa about New Year's

Eve, the Shrimp Festival, the Boat Parade and other events that occur in public spaces in the Town, and the question always arises how do you handle the open container law at those events. So she asked Marsha and John and then Mr. Roosa came in on it. And with this exemption of "F," any person while in a designated area attending a town-sponsored event that would give the Town authority and leeway to provide for not waiving the law, but when there is a Town-sanctioned event in the designated area, alcohol consumption could occur outside of restaurants and establishments that are otherwise authorized to sell it.

Councilman Hughes said he had a question. This is a Section V. and it's referred to as a Parks Ordinance? So that the ordinance in its totality applies only to parks? Attorney Roosa said that the definition of a park is quite broad. It includes all roads and all publicly owned property. Mr. Hughes asked all publicly owned property? Then it wouldn't apply to Santini Plaza which is privately owned but the Town sponsors an event there. Mr. Roosa said he believed that to be correct, but he does not have that ordinance before him and he can't say for sure. But his recollection is that the only regulation on the prohibition of open containers was on public property. As long as you were on private property it was not restricted. Councilman Hughes asked who then does restrict it at Santini Plaza. He's not saying that he's for or against that, but it's restricted there. At the concert held last Sunday, there was a prohibition against alcohol in the outside area where the band was playing and there was a tent. That's private property. Deputy Town Manager John Gucciardo told him he believed that was by the property owner, that he imagined they had their own considerations with insurance, etc.

Addressing Anita Cereceda, Mayor Murphy stated the intent here is where there is one of these functions that she's talking about is so that we won't make criminals of all of our citizens if they want to imbibe with a beer on that festive occasion. She said, that's right. It's come up several times throughout the year -- any time there is something in the Town -- all of those events where you've got people on the sidewalks, you've got people at Lynn Hall Park. Essentially we have not asked the sheriff's department, but the sheriff has been rather lenient in that respect. And it's not fair to put them in that compromising situation. What she was looking for was some way to say, okay, this is an event and this is where the event is going to transpire and so it's okay within this particular area on this particular day at these particular times. Mayor Murphy said that he agreed, except that we know it would never happen on St. Patrick's Day, particularly at 10 o'clock in the morning. He asked if we should move this draft forward and was told yes.

F. Discussion of Bay Oaks Advisory Memo

Mayor Murphy said this had to do with the position we talked about earlier, which has not been filled because of lack of benefits.

Town Manager Segal-George advised that we paid whatever the net budget is for Bay Oaks, the Rec Center and the park.

Vicki Massey explained that when they asked for this part-time position to be created into a full-time position, they were asking for \$9,500. We turned it down saying that if the County didn't feel it was important enough to pay for half, we're not going to pay for the whole thing. The budget is about \$300,000 for Bay Oaks. The Town pays \$150,000 and the County pays roughly \$150,000. What they are asking for is \$9,500 over the \$150,000 that we're already paying.

Dan Hughes made a motion.

Discussion

Vice Mayor Mulholland stated that he was originally against this and thought that if the County didn't want to pay, we shouldn't be picking up the cost. But as pointed out earlier by Charlie Whitehead and others, this is something that benefits the Town all year long. He doesn't think he could sit here approving funds for fireworks for one night for \$15,000 and turn down \$9,500 for something for a whole year for this facility. So he's changed his position and is totally for this.

Anita Cereceda said that she is definitely going to support this and asks the Council to pay attention when she brings forward a discussion of a new draft ordinance that she will take her prerogative to ask Mr. Roosa to draft, and that is that she believes that the Town of Fort Myers Beach needs to institute a new committee. We have a committee for land planning -- the LPA. We have a committee for all of our environmental and marine resources. We have one for public safety and we need to have one for our most valuable asset, which is the park and recreation aspect of this community. It is the one item that we spend more money on than all the others combined, and we need to pay attention to it now and plan comprehensively for the future of that element in the community. So she is going to ask Attorney Roosa to draft an ordinance to establish the Town of Fort Myers Beach Parks and Recreation Committee.

Councilman Reynolds stated that this is an institution that has always supported this community by accounting, and when we became a town they still supported it for awhile, briefly for a year or maybe longer. And then they decided well, let the Town pay some, after all they're a town. So we did and they wanted us to pay it all, but we paid 50% and it worked out pretty good. Now \$9,500 is not a lot of money, but it's more than that. You're talking about a way of doing business here, and if you start picking up this, the County's going to back out a little more and a little more and pretty soon the Beach is going to be paying for this, which will serve the entire County, and we can't get out of that. So for that reason he doesn't believe we should start funding an employee down there. That's a County-staffed institution and he doesn't believe we should be putting local taxpayers' money into a County-operated staff. Now we're paying half of that, and if we can negotiate the County into keep sharing a half, he thinks that's in the right direction. But he would not like to see us start funding individuals in certain positions. He doesn't even know how many people are down there. He doesn't know how desperate this need is. He is sure

that person will be well used otherwise they wouldn't be asking. But he doesn't know how many employees are being employed there now.

Vicki Massey advised that they currently have, including herself, three full-time, this one part-time position that we're talking about and one and a half grant positions, as well as one part-time maintenance person. This person would definitely be used. They are an extremely busy facility, and this is year round. They used to have a low time. At an event they had Saturday, they had 1100 people there. They could cut back the programs and events and they try to do that trying to keep up. It's a balancing act. All they're doing is trying to keep balance, to keep offering the same amount of programs and activities and events that the community wants.

Councilman Reynolds ascertained that Ms. Massey said they had three full timers and three part timers. He asked if she tried to use volunteers in any of her works. She advised they had probably about 40-50 volunteers there Saturday night. They use teams. They have a lot of community service workers to keep the place maintained and clean. They're a blessing. They have a very strong volunteer program. The County will send us volunteers as well as the community. They jump right up every time you ask.

John Mulholland asked Vicki Massey aside from Halloween Night, which she has already explained, if she could give us a sense of her other programs, approximately how many people are going to them.

Vicki Massey advised that monthly they can average somewhere between three and during season as many as 5,000 people. Of special events held throughout the year, of course Halloween is their biggest one. But they have Christmas, Health Fair, their leagues: basketball, co-ed softball, football. All of their classes; the marine institute; a lot of their walk-ins -- those numbers are very high. Their teen programs: summer camps, after school - 40-50 kids are there every day.

Garr Reynolds said he appreciated this explanation. He comes in there sometimes, but he would like to learn more about the operation of what they're doing. There is no doubt that this is a good position and he guesses he won't make it unanimous because he does feel strong about it. He does have a problem with the principle involved here of going in the direction he has indicated because of the County. He thinks it should be a shared operation and should try to stay that way.

MOTION: Made by Dan Hughes and seconded by John Mulholland to pay an additional \$9,500 for a full-time employee with benefits for Bay Oaks. Passed unanimously.

VIII. COUNCIL MEMBER ITEMS AND REPORTS

Vice Mayor Mulholland said he wished to advise the Council that Marine Resources has been having trouble getting quorums at their meetings. In July and August they failed to have meetings. They have a lot of things that they want to bring to Council -- a beach plan, a bay plan, the anchorage and a lot of things going. He will be talking to the members at the upcoming meeting on November 10, asking people who are members that if they can't attend meetings on a very regular basis to drop out. He wants the Council to be aware of that.

His second item, Mr. Mulholland stated, is that he understands that the Southwest Florida Regional Board was reviewing our ordinance for the harbor, and when he complained to Wayne Daltry, he indicated that Mr. Roosa had received a copy of the ordinance and was advised that this review board was looking at it. Yet, nobody on Marine Resources knew it and he didn't know it, so he would ask that anything that involves Marine Resources to please let him know what is going on, because some of the members were

concerned.

Mr. Mulholland said that the big Cleanup was very successful. He had asked Terry Cain to give him a list of the people involved and he will give a memo to Council. About 2000 lbs. of debris was collected. One of the members of Council instead of working as the volunteers work, was swimming in the bay, which was the only downside.

Councilman Hughes said he reluctantly attended the last LPA meeting and presented two of his pet projects: the issue of the legal nonconforming lots was discussed at some length and he thinks met with some understanding and desire to deal with that issue and the driveways as well. Mr. Hughes asked Marsha Segal-George if we wouldn't be proceeding with that with Bill Spikowski drafting something addressing those two issues, and she confirmed this.

His third project, Mr. Hughes said, was parking vehicles in front lawns, "and frankly, that met with a groundswell of apathy." It was quite clear that there wasn't exactly an uproarious enthusiastic response to that proposal, but maybe we can draft something that going to address a number of problems that were raised. We were aware of these problems when we sent this to the LPA and he was hoping that they might come up with something brilliant; but it will need a lot further work before it progresses in terms of just specifically what the limitations would be and when and how and so forth. It's a lot more complex than he thought it would be at first.

Councilman Reynolds said it was interesting how far Council has come from the day we first started, because councilmembers we remember were not allowed to attend LPA meetings, were totally discouraged from attending those meetings. And now he notices that all the Council people are going in and presenting issues. Councilman Reynolds was told that there was never any prohibition against attending LPA meetings, to which he replied no, we were not allowed to sit in there because we might hear something that would come down to us and we might become prejudiced, is what he was told. Dan Hughes told him that this wasn't true, to which Mr. Reynolds replied it is true and you weren't on Council at the time, but it is true. But anyway, that's my comment on that.

Addressing Attorney Roosa, Councilman Reynolds referred to a memo regarding the Town's contract with the Town Manager, etc., and asked him if he would mind explaining what that's about. Attorney Roosa said this had to do with an issue the auditor had raised regarding compensation for the Town Manager, and he was asked to provide that information for the auditor. Mr. Reynolds ascertained that this doesn't have anything to do with changing the Manager's contract. Janeen gave all of us a reference letter kind of explaining what would happen if we got a court reporter in here, and he took a good look at it to see how we'd come out. And if we held our meeting, for example, from 6:30 - 10:30, that would cost us \$180 just for the stenographer. And then at \$6 a page, let's say we had 10 pages, that would cost us another \$60, so it would be \$240 for a 4-1/2 hour session. Now, if we went longer, of course, you add that accordingly. Never do we go more than 4-1/2 hours, which takes us up to 11:00 p.m. And if we did that, and of course the pages are going to be more pages involved -- he figures 20 pages and maybe more, but at 20 pages we could figure \$320. The big question though to him was would Council get the minutes by the next meeting, which is normally a two-week span. He would hope that we would.. If it would be within the time so that we could have those at the next Council meeting he thinks it would be really worth that expenditure. Like he said, 20 pages, then with the stenographer it would come to \$320 that evening, and if we could have those verbatim, that would be great.

Mayor Murphy asked if we were passing some sort of policy here without a vote. Garr Reynolds asked "What are you talking about, Mr. Chairman?" and Mayor Murphy said he was asking about what was going on here. Town Manager Segal-George explained that this was a request that was made, she believes, by Councilwoman Cereceda. Mayor Murphy said to research the cost of having a court reporter here as opposed to doing the minutes. Marsha Segal-George continued "as opposed to what we pay Lorraine for minutes. So Janeen gathered that information and put it in a memo and sent it to the Council." Mr. Reynolds said he was making comments on that.

Mr. Reynolds next remarked on a letter sent to the elementary school. He did not recall that the Town Council approved this item. He is not questioning its value or the check that was given to the Beach School Media Center. However, he is questioning who approved it and on what basis and on what authority. He guessed that the Town Manager would answer this. Mrs. Segal-George advised she didn't know what letter he was referring to. Mr. Reynolds explained it was the one that the teacher sent back thanking the Town for the money, the contribution to the Media Center. Mrs. Segal-George asked if he was talking about the gifts that were awarded to the kids that won the different awards for these drawings

and then the money that was sent to the school. Mr. Reynolds said he was talking about this letter right here, and Marsha said well, I don't have it in front of me. She said she didn't know exactly what it said but that she had authorized it. Mr. Reynolds asked if she knew how much the check was for. He was told \$100.

Mr. Reynolds said he believed that all the members of the Town Council received copies of the letter dated October 1, 1999, from Mr. and Mrs. Gerry Sawyer regarding the FEMA insurance rules and that they are not required to have flood insurance. We also read the Deputy Town Manager's reply ... that FEMA rules are not pertinent to this situation, and he's probably right. He realizes that this homeowner likely had unpermitted apartment units. He also knows, as he is sure all of us know, there are many many other identical situations on Fort Myers Beach. He does not feel good that the Town Manager and code enforcement officers act only when someone gets angry and squeals on their neighbor. He believes that the Town needs to take a hard look at its present enforcement policy and make an attempt to formulate a plan to deal with enforcement in a more professional way. The present policy, or lack of policy, does not contribute to our community harmony or make good neighbors.

Regarding the Florida Communities Trust, Mr. Reynolds advised Marsha Segal-George that he had received her memorandum dated October 29 regarding the letter that was sent out from Florida Trust and the letter there was dated September 14 and evidently was not received at Town Hall. He asked if there have been any other communications that may have been missing from Florida Communities Trust that she knows of. Mrs. Segal-George advised that they have in the past had some problems where they supposedly had sent them a document with one of the addendums on the extension of the grant where they had said that they had sent it and we had not received it and then basically had to figure out what had happened. But beyond that, she said, she did not know of any others. She explained in the memo what they were going to do with regards to it, and she copied to CELCAB. We hadn't received that memo but we have received it since. We called them that day and asked for the letter and they faxed us a copy of the letter. Mr. Reynolds said the letter had requested that Caloosa Outfitters be deleted as reference on pages 10 and 15 of the management plan as a concessionaire for the water-based environmental education tours. Further, regarding any revenue producing activities, as mentioned on pages 9 and 10 of that report, should include management contracts and all should be put out for bid. This is required by the IRS also. These concessionary contracts must also be approved by the Florida Communities Trust. Mr. Reynolds told Mrs. Segal-George she had answered his other question, which was had the CELCAB gotten one.

Councilman Reynolds referred to another memorandum from the Town Manager regarding the Town's six employees. As all councilmembers know, he opposes the hiring of more employees. He does not believe they are needed. He is not saying that they will not be kept busy, he is only saying that they are not needed. Nevertheless, so as not to blame the employees, he wishes to welcome that new administrator to the Town's staff and wish her every success. By the way, what is the base salary of this new employee? Mr. Reynolds asked. He was told \$22,000.

Regarding this memo for swimming pool fees, Mr. Reynolds said, he started that document and it was a little confusing. He said he noticed though in the pool fee collection rules that almost all users pay as they should. However, there is one group that is not being asked to pay and he wanted to know why and, of course, he received some of that information tonight. He would like to hear from the Pool Foundation as to why the Swim Florida Group is not scheduled to pay. His belief is that all users should pay. He knows that Jennifer Kaestner spoke about this tonight and someone else mentioned it too. So maybe we'll be hearing more about that. But he would ask Council to send this back to the Pool Foundation Committee and let them deal with it and then come back to us.

Mr. Reynolds next asked Attorney Roosa to comment on the ... CRA settlement with the County. Did they accept the \$130,000 they would pay us and let them keep the \$403,000? How did that turn out? Mr. Roosa said he received a letter today from the County Attorney, which he proceeded to read. In part it said "We are not in a position to acquiesce to the request. Very truly yours, James C. Yaeger, County Attorney." Mr. Roosa said he wasn't sure what that means, but he didn't think it was good. Mr. Reynolds stated that it sounded like they wanted to keep it all. Mr. Roosa said he had made a phone call but hadn't had chance to talk to him.

Councilwoman Cereceda said that first of all she would like to thank the Council and thank our Staff for sponsoring Environment Day for Leadership Lee County. The Vice Mayor was the host of the panel discussion and then Terry Cain from Marine Resource Task Force took them on a tour of the Back Bay, which was both productive and well received by members of that class. She thinks that the Town's participation with Leadership Lee County is a very good outreach for us to be involved in and she

appreciates our being a sponsor of that and hopes that we will continue to in the times ahead.

Addressing Mr. Roosa, Anita Cereceda told him that she was serious about wanting him to draft an ordinance to establish the Town of Fort Myers Beach Parks & Recreation Committee. She is not satisfied with actions coming from the Pool Foundation. She means no disrespect to the Pool Foundation or to Bay Oaks Advisory or to any other group involved with aspects of Parks & Recreation within the Town, but she thinks that the Town has basically four areas of concern. In talking with John Gucciardo about it today, he helped her sort of formulate this better in her mind. One of the areas of concern is public safety, and we have a group for that. Another is land use, and we have a group for that. Marine resources and all of our aquatic issues and environmental issues are handled by our Marine Resources Task Force. The fourth group is parks and recreation. Bay Oaks is a huge line item budget for us. We have the issue of Bowditch Point and parking. We have the future issue that will come to us over beach access and easements. We have the pool just like Garr kind of alluded to. We have the future responsibility potentially at Bay Oaks. She would like a group of 5-7 people that is assembled that will be governed by the Sunshine Law that will make monthly reports to the Town Council as to what they see as a future apart from recreation for the Town of Fort Myers Beach. This would be a group she would hope would in fact make a recommendation to the Town Council as to whether or not Swim Florida should pay dues; as to whether or not we should have parking at Bowditch Point; as to whether or not we should assume responsibility for the beach accesses; whether or not we should meter those accesses. But she wants a group in place that will answer those questions in a comprehensive manner, and she thinks it is essential for the future of the Town. It's an aspect that we've not paid much attention to, but it gets a lot of our fiscal attention. And she thinks we need to comprehensively plan what that future is going to be. And so after this draft comes back to us, she would hope that the Council would support that. She knows it will be taxing on our staff and she knows it will be taxing on the Council to have another thing to look at, but she thinks that it is of paramount importance for us. So she is taking that initiative and asking him to draft it.

Anita Cereceda said that her other issue is Bonita Springs' incorporation. The Town of Fort Myers Beach, she thinks, has gotten more press over Bonita's incorporation than maybe we got on our own. A lot of it has been misinformation about our Town Manager, about our Town Council and about our incorporation period. Their vote comes tomorrow, and she would like the Town of Fort Myers Beach, should they receive a vote in the affirmative, to be ready to assist the new city of Bonita Springs in any way we're capable of. She realizes that we won't be in a position to help them like the City of Sanibel helped us. We would have been lost without Sanibel's assistance. And Bonita Springs will have no one to turn to if it's not us. She doesn't believe that anyone else has reached out a hand. She guesses that we'll know tomorrow if that assistance will be needed.

Councilwoman Cereceda said her other issue is a little sensitive and has to do with New Year's Eve and money. She is in deep trouble over money because everyone is acting like thieves and highway robbers for New Year's. For example, people that we paid \$500 to last year now want \$5,000 this year to do the same job. She also has a problem with Sprint, our major benefactor, who has pledged us \$5,000. But with the MCI merger of Sprint, they cannot give her that money until the first week of January, which doesn't do her a heck of a lot of good. The money is allocated and it's one of those 100% categories and she would like to ask the Council to extend to the New Year's Eve balance in our account the amount of \$10,000, \$5,000 of which would be seed money for future New Year's eves and \$5,000, which would be repaid to the Town by January 15 when she receives the Sprint check.

Promises were made when someone else was handling all of this, Ms. Cereceda said, that she cannot fulfill. One was that we had a contract with the Juice Band, and part of that contract unbeknownst to her was hotel rooms for the band members. There is not a hotel on this island that is going to give her a hotel room for that one night, a Friday night, for six band members and their families. So we don't have the Juice. They said no hotel room, no band.

Everything actually is going all right, Ms. Cereceda declared, she just needs money. So she is asking the Town to front the money that's going to be necessary to get this off the ground to eliminate a little bit of anxiety; \$5,000 will stay there, \$5,000 will come back. Dan Hughes asked what the original budget was and was told nothing. The Town's dedicated from last year's budget when we took out \$15,000 for fireworks. That's a special thing for this year's millennium celebration. But what she is asking for is separate from that, and that is the Town's annual celebration of New Year's Eve that includes the Birthday celebration, that includes everything. She is asking the Town to seed that celebration with \$5,000. She has \$2,500 coming from Sunstream, \$2,500 coming from Best Western, \$5,000 coming from Pink Shell. Al Dorette at Fish Tail sent \$500. John Lallo today told her he'd give her \$250. Other donations are coming

in, but what she needs to be able to do on this big event is to fund next year's event too. So if we have this as a resource, we can continue to plan this year and then have money for next year.

Vice Mayor Mulholland told Councilwoman Cereceda that he didn't doubt her sincerity or her enthusiasm. He thinks that the emphasis that she placed on money should be thought over more carefully. She rattled off some benefactors, people who are contributing money. But he looks at this in a different way than she does, and she knows that. He looks at it as what does the Town get out of this. We get our name in the paper, he guesses, and a lot of people come and visit and use our roads and our restrooms and our beaches, etc., but does the Town make any money? No. It's a wonderful day, it's a millennium and he hopes to participate in the festivities, but the price tag looks very very high. He wonders if she would think about creating a group to help her on this, on some fundraising. He also wants to bring up an item he brought up back in February or March with that first lady who came. She was going to be the chair and then something happened. He asked her that night and she spoke to Public Safety and she assured him that she would. And he's been told by the Deputy Town Manager that Public Safety is aware of this and Captain Erne is aware of this, and so he assumes that Anita Cereceda has looked into the safety of having this gala celebration. He's just concerned with the amount of money that we're putting out. What she wants to do is good, but what is the Town getting for it? That's why he is having difficulty voting for the money.

Councilwoman Cereceda stated that New Year's Eve is the Town's Fourth of July and will be every single year. The fact that this is the Year 2000 celebration just jacks the price up, but it has nothing to do with next year or the year after or the year after where what the Town of Fort Myers Beach gets is a celebration of its incorporation. That's what it is. That's what it is in all of our press and everything. It is celebrate the millennium, celebrate Fort Myers Beach. That's what we're celebrating. As far as public safety is concerned and fundraising and all of that, Capt. Erne comes to the meetings that we have for this committee, so the public safety element is taken care of. We've done everything that we can do for that. But the fact is we need money, and she hates asking for it. But she can't continue to spend the amount of time that she's spending hoping that somebody is going to send her a donation. So quite honestly either she backs out of it and what happens happens, or she asks the Town Council to step up and put money in a place where she feels it needs to be in order to get this off the ground so that next year somebody else can step in and do something else with it. It's her only resort. She's asked everybody else.

Mayor Murphy told Anita Cereceda that he understood her predicament. It's always tough to come asking for money. But if he's hearing right, she has pledges or receipts so far somewhere in the neighborhood of \$15,000. She agreed, and said it was going towards the band, toward the sound system, towards the afternoon performer, the performer for the Town birthday party, the Town party itself, for trolley service until 2:00 a.m., for Port-A-Lets. She said she could provide us with an actual budget, and she probably should have done that and apologizes for not. The \$5,000 that would actually be the Town's contribution is going to be a drop in the bucket as to what this day actually ends up costing. The Port-A-Lets alone are \$1,500. The trolleys are close to \$2,000. And whatever we run short of on the trolley fund, Tim Englim has volunteered to pay for. So she's not even considering the trolleys as an expense at this point. But it's like T-shirts -- all the things that will actually generate money for next year -- she needs money for to buy to begin with.

Mayor Murphy asked if it was possible for Ms. Cereceda at this late date to get some sort of a budget back together and maybe a projection of these revenues. Did she say that the revenues we receive this year are to fund the celebration again next year? Ms. Cereceda stated that just to give an example, if she buys \$5,000 worth of T-shirts to sell, chances are she'll have \$10,000 for next year. If she buys one for \$1, she will make that dollar back and another dollar. But if she doesn't have that money to buy the T-shirts to begin with, she certainly can't sell them.

Councilman Hughes said that if he understands, this money that she is asking for is money that she thinks she is going to have to spend and it would be spent only when other monies are exhausted, or is it something that she knows she is going to spend? Anita Cereceda said she felt pretty certain that she was going to spend it.

Dan Hughes also advised that we don't have a New Year's Eve fund. It will go on a line item and it will be mixed in with everything else on that line item. Anita Cereceda said it goes in a line item that actually uses New Year's Eve as an explanation of what that pot is for, and she believes that's Special Events. And it's the line item that's designed to provide for up to 100% of the requested amount. She supposes she can ask in any other category, because there's going to be more than \$5,000 matched by other groups.

Dan Hughes said he would be willing to go along with that at this point. He thinks we would like in deference to what Vice Mayor Mulholland and our Mayor stated a budget, but that's a document that's going to change on a weekly basis between now and right up to New Year's Eve. But he would be willing to vote in favor of a motion if she presents a motion to give her the \$5,000, but with the provision that we are given a budget showing where we stand from time to time on this matter.

Councilman Reynolds advised Mayor Murphy that for the past five minutes he has not given him the floor. Dan Hughes said he had the floor, but Mr. Reynolds said that the Mayor had already recognized him before he began talking. Councilman Reynolds stated that when the Mayor recognizes someone, he would like very much for him to hold with that. It's the only way he knows how we can have a meeting.

Councilman Reynolds said that what he wanted to share was that we already have this in a line item. Addressing Councilwoman Cereceda, Mr. Reynolds said he thinks it was suggested that we have the items in her budget and he doesn't think we should squabble over \$5,000 to assist with this endeavor. This is New Year's Eve, and sure we're going to do it and we're not going to make any money, that's absolutely true. But somebody will make money. Those merchants in the area will make money. But be that as it may, he still thinks we should support this and we should not quibble over \$5,000 or \$10,000 to get this going. She's having a hard enough time without almost having to beg us for this money and he thinks we should support that effort. Mr. Reynolds thanked Mayor Murphy for giving him a chance to speak.

Councilwoman Cereceda said she sees there would be three votes for this money. She asked if we'd be more comfortable were she to bring us a budget at the next meeting and actually make this an agenda item or if we were comfortable enough for her to make a motion at this point. Mayor Murphy said he'd feel more comfortable with a budget in hand. What he is hearing is that she is asking for \$10,000 while the other councilmembers are saying they're going to give her \$5,000. Dan Hughes said \$10,000 with the understanding that \$5,000 will be reimbursed.

Councilwoman Cereceda made a motion.

Discussion:

Vice Mayor Mulholland said she had the \$15,000 for fireworks that he had voted against. She has asked for \$10,000, which makes \$25,000 but we'll get \$5,000 back. So net it's going to cost the Town \$20,000 for this celebration. Anita Cereceda said that for this particular celebration he is correct.

Councilman Reynolds said he'd like to follow through with the suggestion that has been made that we would have some kind of budgeted items that Ms. Cereceda is expecting to have expenditures on at the next Council meeting.

Mayor Murphy said that as far as reimbursement from Sprint, he knows the gentleman she's referring to, and he asked her if as far as she's concerned that's pretty solid. She said it was.

MOTION: Made by Anita Cereceda and seconded by Dan Hughes that the Town Council approve a \$10,000 allocation to the New Year's Eve expense budget, with \$5,000 to be reimbursed to the Town by January 15, 2000, provided that she provides the Council with a tentative budget by our next meeting and a final budget once all expenses have been incurred and paid. Passed unanimously.

Dan Hughes told Anita Cereceda that he just wanted her to remember the next time he tries to get an action item at this point in the agenda under Council Members Items that in the past when he has attempted this he has been soundly berated and told that this must be put on the next week's agenda. Just keep in mind that it sets a precedent. Councilwoman Cereceda told him that it falls under the time is of the essence proviso.

Mayor Murphy's Report

Mayor Murphy said he had received a letter in the mail from a lady down on the south end of the island regarding the Treasures of the Sea program. This program is handled by Terry Cain, a member of the Marine Resources Task Force, and funded by the Charlotte Harbor National Estuaries Program and also the Town of Fort Myers Beach. The letter reads: "Dear Ray, I have taken the Treasures of the Sea walk twice, along with a number of the residents at Island's End. I wanted to let you know how terrific this program is. Terry Cain is a super and dynamic person and extremely knowledgeable. It was a good choice for the Town to go fund. Try it some time. Thanks, Carol - Island's End Condominium, Fort Myers

Beach." Mayor Murphy said that this wasn't the only positive response he's received and he just wanted to commend the Task Force and certainly Terry Cain for a job well done.

Mayor Murphy said he was also there for the Back Bay Cleanup last week. It was a cold morning but it was certainly a worthwhile event as it always is every year. They picked up a lot of garbage and that sort of thing.

Dan Hughes asked to make a point of order. He noted that Councilman Reynolds has brought up at least four items that he thinks need to be discussed and he thinks there's merit in resolving them. One in particular was a court reporter and there were several other things. He just wondered how we're going to deal with that because they're not on the agenda. They are things that we need to address. John Mulholland said he would agree with Councilman Hughes. Asked if he would like them put on the next agenda, Councilman Hughes said he would just as soon discuss them now if nobody has an objection. He'd like to get rid of these things and move on.

Mayor Murphy said he didn't really have too much of an objection against that. As we know, he likes to expedite things himself, although he has a little concern that they weren't advertised on an agenda. Mayor Murphy asked for some of the other concerns that were raised. Councilman Hughes said that Mr. Reynolds had questioned his appearance before the LPA and it was his view that he was prohibited from attending an LPA. Mr. Hughes said that has never been his understanding. He was on the LPA and he can recall several Town Council members attending at various times their LPA meetings. On a number of occasions he has attended LPA meetings and he knows of no statutory or ordinance prohibition against doing so, and particularly when he's the person who brought up the particular matter and referred it to the LPA and was asked by the LPA to attend. So he thinks we should be very clear about that and he would like the Town Attorney to respond.

Attorney Roosa said that the caution against attendance at the LPA is particularly important when we're acting in a quasi-judicial capacity. When the LPA is hearing applications and then they make their decisions, it is better that the record itself come to the Council rather than the councilmembers listening to the testimony at the LPA and drawing their conclusions from that testimony. So that is why he discouraged attendance at LPA hearings. But when they're acting in their legislative capacity, the only caution he would have is that if we discuss something and take a position on that and there are other councilmembers present, that doesn't really qualify as a Sunshine meeting for the Council. We've not been noticed for the Council. So two councilmembers present getting into a discussion could be guilty of a Sunshine violation. So those were the circumstances that were of concern. Whenever we're acting in a quasi-judicial capacity, he would recommend that the Council not attend so that we make our decision on the evidence presented when we review their decision. And if we do attend, if more than two councilmembers are there, that we not get into a discussion or make a presentation. If we just observe during their legislative process, that would be no problem.

Councilman Reynolds said he wanted to make it clear that he was not speaking toward any particular council person up here, and he remembers very well, very vividly of all us council people being encouraged not to attend, and he thinks Mr. Roosa alluded to that. At the time he had checked very strongly and he had made several calls to Mr. Roosa regarding that. And he also made calls to every town in Lee County and talked to every mayor and several council people. He also called the local state attorney, and all of them were in agreement that not only should we attend, but it's a good idea because we can pick up additional information that we will not get here in Council. Because a lot of those people will not attend Council because they have burned themselves out with giving information before it gets to us several weeks later perhaps. So out of advisement of the Town Attorney, he did not go to those. He only went to one of them after that, and he was questioned here in Council whether he should vote or not because he happened to be there for about five or ten minutes. And all he did was hear the engineer talk and he wanted to know what the situation was in that respect, and then he got up and left. He heard nothing beyond that from the LPA people and all those types of things. So that was an issue, he told Dan Hughes, and he did not have anybody in mind on this. He was just giving an observation. Attorney Roosa said he would like to have it clarified. Mr. Reynolds said he thought it was pretty well clarified now. Everybody in the County does it. In fact, like he said, it's encouraged. Sanibel told him they had a representative attend their LPA meetings so that he could come back and give a full report to Council at the very time that we were discouraged from it. And he would also like for Council to get in the habit, like it says in Roberts Rules of Order, when you want to do something or don't do something that another councilman does or says or something, you agree or don't agree, he doesn't think you should pinpoint that council person -- it's always good if it's good, but a

lot of times it's negative. So what you want to do is say it came out that night, or some councilman said this or some councilman said that and he doesn't think you want to personalize it by calling out that council person's name. This should be a professional business meeting and not a personalized thing, and you do personalize it when you point out certain individuals.

Mayor Murphy asked Councilman Hughes if he wanted to wrap up his other items. Dan Hughes stated that an anonymous council person brought up the question of a court reporter, and in deference to Garr he won't tell us who it was. But he raised the question of a court reporter and he felt that he would be in favor of that. Mr. Hughes said that he was not in favor of that. He thinks you first have to have a clear understanding of what a court reporter does. A court reporter makes a verbatim transcript of the entire meeting, word for word. Now some of our meetings go to ten o'clock. That would mean that you would have about three and a half hours of type by a court reporter. A court reporter does not pick and choose what's included or not included in the minutes. The problem he thinks we have here is that people who prepare minutes pull from the verbatim discussion the essence of what took place and summarize the particular positions that were stated. But they also have to be specific when there's a motion or resolution that's adopted. That has to be verbatim. But other than that, it's a subjective thing. No two people would review these minutes and write the same minutes, because they're not verbatim. They're their interpretation of what's important. He advised Garr Reynolds that he was relating the cost of a court reporter to the number of pages we have in these minutes. But if you had a verbatim thing, it would be 100 pages long each meeting. Court reporters have a way of charging you by the page, and when they say by the page, they get about six lines and they triple space. And they charge you \$6.95 a page. And it would be about a fourth of what one of these pages has on it. He wondered if it might be helpful if Lorraine Calhoun, who just listens to this and then does it, could attend our meetings. If she were here and took a few notes along with the minutes, you'd get a better feeling in essence of what transpired. He thinks the problem is what she decides to put in the minutes, and sometimes the sentences aren't really coherent.

Town Manager Segal-George explained that Lorraine lives in Lehigh and this is the only way she'll do the minutes for us. And you have to understand that it's not just the Council, but because of all the committees that we have, we give her a lot of minutes. She charges \$10 an hour, which is very inexpensive. There is another issue here too, she stated, and she and Dick have talked about it at length. They have changed the minutes consistently in an attempt to please the Council as to what we want in the minutes. Dick believes the minutes should be much more abbreviated and be summary minutes with just the motions and the motion maker and the second and have the minutes much briefer, which would be a lot easier for them to produce. But what has happened as they continue to try and monkey with the minutes, to try and give us more and more information in them, they seem to be getting more and more complicated and it seems that the expectations are greater and greater as to what should be in that document. She doesn't know if Dick wants to say anything about it, but if we think back, our minutes used to be a lot shorter than they are now. They've been giving us more detail, thinking that's what the Council wants. Maybe they're just making it too complicated and not really giving us what we want and just creating a bigger problem.

Vice Mayor Mulholland stated that he's very disappointed that the Council would even consider going to the expense of having a reporter. When we have hearings and we have reporters here for Bay Beach and other things like that, the person's here pounding away and reporting everything. And it's been pointed out already it's a word for word transcription. That then becomes the minutes, the record of that meeting. Well, this Council has always said that the tapes were the record. Now, suddenly, it's important to change the minutes. Well, be that as it may, if the Council wants to change it, they'll change it. But as far as a court reporter, to him it's getting ludicrous. And he has trouble sitting through this because it's absurd. It's way too expensive. It's not a good idea.

Councilman Reynolds said he doesn't mean to be critical of Lorraine. He thinks she's doing a good job. The problem that he has with the minutes as they are now -- one of the councilmembers complained pretty strongly about corrections -- he feels that it would be a catastrophe if we could not suggest a correction, and that's why another councilmember suggested that we go with a court reporter. That's why he thought it would probably be a good idea. But he didn't realize, as has been pointed out, that would make 100 pages of four hours of work. That would be a little ridiculous if we had to come to that. If we could get her to cram her work together in a typical fashion, it might not be that expensive. But he thinks that the lady who is doing that is doing a good job for us, but he does think we should reserve the right to make suggestions on corrections.

Councilwoman Cereceda said her suggestion for a court reporter was only to end the length of time

we were spending on not only correcting the minutes but editorializing the minutes. Regardless of whether or not we would have a court reporter or we continue the minutes as they are, the tapes of the meeting would remain the official legal recording document of the Town Council meeting. So it would just simply increase our expense of the meeting. What she's not convinced it would eliminate either would be the discussion of those minutes. Her bringing up the court reporter was not to suggest that we should, but just to see if perhaps it would be an alternative to shortcut that process.

Councilman Hughes said he guessed we would be going on the way we have been. But to summarize his views, he hopes that when he suggests a correction that it is a correction and he's not trying to rewrite, to add something in the minutes. If we look back at his corrections, they've been specific regarding words, and so forth. He does feel there are some obvious things in the minutes that a review through them by whoever drafted them would catch. There are obvious errors, and that would eliminate a good percentage of what we bring up here. That's why he suggested that if the person were present at the meeting, she would know who made the second, for example, when we're trying to figure out who made the second and there's a blank, who made the motion, etc., and what the vote was. But if that's not practical or not feasible with the lady that's doing it, then it's not an alternative and he'll end with that.

Councilman Hughes said that the next thing he wanted to bring up was the letter from Florida Communities Trust, and he thinks the record should be clear that every item in that letter dated September 14, 1999, we had been aware of through communication. In fact, the guy he met down there was from the Florida League of Cities. We reviewed that and we addressed every concern in that letter and, notwithstanding that we didn't have the letter in front of us, we did properly respond. We had the workshop, which brought in the input from the adjacent neighborhood. We are requiring our bids. We deleted the reference to Caloosa Coast Outfitters as a specific concessionaire, in fact, went quite beyond that. He thinks it was Councilwoman Cereceda's motion. We deleted any reference to any specific concessionaires. And the last paragraph is that any management agreement must first be reviewed and approved by the Florida Communities Trust. We haven't presented them with any, but that's a matter of our agreement and a matter of law and we will certainly follow that. So he just wanted the record to show that we have complied with that.

The next item that was brought up, Mr. Hughes said, was the Sawyer letter, and the statement was made that because he doesn't have a mortgage and doesn't require federal flood insurance, he is exempt from the building construction guidelines. And apparently that was what Mr. Sawyer was told by someone in Washington, but it is not his understanding of the law and he thinks that's incorrect and they're wrong. If you are in an area that's subject to FEMA, which our entire island is, he thinks you're subject to their construction guidelines. He asked Mr. Roosa for confirmation of this. Mr. Roosa said that's correct, and if the municipality doesn't enforce those rules, they will lose their right to have flood insurance. Mr. Hughes said he thinks that's a matter that should be corrected for the record.

Vice Mayor Mulholland said that actually on the Pool Foundation and on the Sawyer letter he agrees with what Councilman Hughes has said. We are in compliance with FCT and he doesn't see a problem there. As far as Sawyer goes, he cannot see jeopardizing the entire island's flood insurance for one person who is not legal at this point.

Councilman Reynolds said that regarding the Sawyers, as he read their letter and as he read John's response, he doesn't believe that there is any question about they were all under FEMA. That's not it. They were saying that they simply are not required to have flood insurance. And that's all that their letter said. Councilman Hughes interjected here to say that it said that they're not expected to comply with the building construction guidelines. Councilman Reynolds said that he didn't agree with that statement either. They say they shouldn't be, but they certainly have to be under FEMA rules. There's no question about that. But as far as flood insurance, no, they don't have to have that. None of us have to have that unless our property is mortgaged. Flood insurance is for mortgaged property, because what financial institution is going to take chances if you don't have adequate coverage insurance-wise.

IX. TOWN MANAGER'S ITEMS

A. Discussion on Pool Policies

Deputy Town Manager John Gucciardo said he would just bring us up to date. As we know it's kind of been a moving target with when the pool will be turned over to us and we start operating it. But as of last Thursday, the final inspections were done at the pool and the CO was issued either Thursday or Friday, he's not sure of the exact date on it. The Board of County Commissioners have it scheduled on their consent agenda. Tomorrow they're turning over the property to the Town, so as of tomorrow it's ours to

start operating. The management company has been there part of last week and again today. We hope to have it set up in terms of operations: the office equipment, phone line, things like that that we haven't been able to put in yet. But we're shooting to try to get that done by this week and actually be open for business Friday or Saturday this week.

The following Saturday, the 13th, would be the ribbon-cutting ceremony, the one we spoke about, at 3:00 p.m. with the Board of County Commissioners. So that time line seems like it's manageable now that those procedural hurdles have been crossed and we get the keys. Because of that, Mr. Gucciardo said, he wants to bring to our attention tonight to one of those policy issues that's been out there that we haven't really come to any conclusions on, again because it looks like we'll be operational, and he knows that it was a concern of the competitive swim team that they wanted to get in there and start their program as soon as possible.

John Gucciardo advised that there were other policy decisions that were out there, for example, use of the facility by private people that want to rent it for birthday parties and things like that, but that didn't really go to a priority need that we need to open. He knows that the swim team wanted to have some closure on this and brought it to our attention, even though as he points out, the Pool Foundation has not taken a formal position on it. Just to remind us, the Pool Foundation is not a committee like the other committees. They're a private organization. We're a liaison to their meetings. We sit in on their meetings but we don't control their agendas or their timetable. He can tell us that having discussed this particular issue with some of the members, he can't tell us how they would vote if they took a vote on it today. There are some members who would support this recommendation that we're getting from staff and there are some who would not. But that aside, since it was something that would impact the swim team's ability to go in there as soon as possible and start operating, we decided to go forward with the recommendation.

Again, in as simple terms as possible, what we are trying to do and what staff is recommending is that the competitive swim team, as differentiated from any other nonprofit organization, because they are in the nature of an athletic organization is not charged an additional fee. Staff he thinks is comfortable with that. It is their understanding that the competitive swim team will be looking to use the facility on days when we are officially closed. Right now we're scheduled to be closed on Tuesdays and Thursdays. And, again, the recommendation is that as long as they can provide us with adequate documentation that they have insurance coverage and the proper certified people in place so that there wouldn't be any additional incurred cost, that they not be charged. In fact, the Town has not incurred any additional costs and there's nothing to pass along. If that does not work out, then that is something that we can decide to do one way or another. He will bring that to our attention as they get the documentation.

Councilwoman Cereceda said that she had a couple of questions. She asked what it was exactly that they would need in order not to incur these other costs. Who would make that decision? What he has been told, John Gucciardo said, is that the arrangement with other Lee County facilities is some proof of whatever insurance umbrella they have through Swim Florida and that they have people that will be running the training program that have a certain level of certification. Mr. Gucciardo said he was not familiar enough to know what that is, but assuming that he can provide us with that documentation, he will verify that is what the County relies on. He will get with Dick about it. Again, as long as we're covered and they're maintaining the liability and the responsibility for the pool -- just cleaning up after themselves basically -- if that's the case, he can't see any additional cost, so that would be their recommendation. So it's something technical? Ms. Cereceda asked. John Gucciardo said, not only technical, but it's something that he assumes from prior conversations will be very easy for them to be able to document. It sounds like it's what they do in other places, so he's confident they will be able to show us here.

Councilman Reynolds said he saw an inconsistency here in planning, especially when it comes to setting rules. He thought that we had a full committee, and he was of the understanding it was called the Pool Foundation Committee, that was supposed to be formulating the rules for operating this pool. John said that maybe he could try to correct that misunderstanding. We've never had a pool committee. From day one, the Buld-A-Pool Foundation was a separate, not-for-profit private organization that he has been the liaison to for this group. He sits in on their meetings and reports back. And they were formed with their primary function being fundraising, although as a practical matter, because they've been involved in the idea of a pool, it was the direction of the Council to ask them for input on numerous items: input on design, input on programming, input on policy decisions. Again, they set their own priorities. They come to these conclusions when they find it appropriate, and they have, frankly, been involved in other things lately, in fundraising, and perhaps that's why they haven't taken formal positions on some of these other things. But, no, it's not a Town committee and we do not set their agenda.

Councilman Reynolds indicated that what threw him was when John Gucciardo said this seems to be all right with the staff, because he thought there was a committee that was giving recommendations to the Council. But evidently staff is operating this directly without input from anyone. John Gucciardo said that's not true. The Foundation has given us input. They have not taken a formal vote on this particular issue, but we get input from the Foundation. We also have been getting input from our management company since they have been on board since about mid-July. Mr. Reynolds asked if this meant that the Foundation Committee has any say about the rules over there. John Gucciardo said that the Build-A-Pool Foundation as far as he knows has been asked to make whatever recommendations they feel are appropriate to the Council, and that might be on policy, on rule making. We have a whole list of issues that we have been dealing with, and they have made some recommendations and they may be making more. So we're going to be hearing from the Pool Foundation and we're also going to be hearing recommendations from staff? Mr. Reynolds wished to know. As we have for the last two years, was John Gucciardo's reply. So meanwhile what he is saying is that nothing is going to be initiated until it's approved by Council? Mr. Reynolds asked. Mr. Gucciardo advised that that's why he's bringing the recommendation to us tonight. He was told he hadn't brought anything from the Pool Foundation, to which he had replied they haven't given him anything. He has been asking for a recommendation on this for the last four meetings, but they have other priorities that they have been dealing with.

Councilman Hughes referred to Mr. Gucciardo's statement that staff has recommended that they not pay any additional fees. What fees? he asked. Mr. Gucciardo said that they'll be paying fees to Swim Florida. Councilman Hughes noted that they would be utilizing the pool on the days that it's closed and asked what about on the days that it's open. Mr. Gucciardo said that the only direction they've gotten from Council, and he thinks it's consistent on the level of the Pool Foundation's recommendation, is that the competitive swim team is allowed to use the lap pool during hours of operation when the pool is open, as long as it's not exclusive and not closed to the public. And we would not be requiring any additional fees from them.

Councilwoman Cereceda made a motion.

Deputy Town Manager Gucciardo said that before her motion is seconded, as a point of clarification he had tried specifically not to use the Swim Florida name. He fully expects that Swim Florida is going to be involved here, but the policy he was trying to communicate was competitive swim teams, and there may be more than one at some point. He doesn't want to eliminate the possibility of somebody other than Swim Florida coming forward. He doesn't know how likely that is. He knows that Swim Florida is the group that we've been dealing with now, but he thinks it's just a competitive swim team that he'd be asking about. Councilwoman Cereceda asked if that's how it is in the rest of the County. Mr. Gucciardo said that he thinks that Swim Florida is the only one that's involved here now, although he could be wrong about that.

Councilwoman Cereceda said that she is going to leave her motion as it is, and in the event that someone else approaches us, we certainly would accommodate them.

Discussion:

Dan Hughes said that he would second the motion for discussion purposes. He noted that this is just one of the policy issues and asked if we really needed a motion at this point. We haven't adopted a motion for every one of the policies that have been ascertained to this point. He asked if there wasn't going to be an overall policy at some point when we will adopt en masse.

John Gucciardo said he didn't see anything wrong with a motion, but he doesn't think it's necessary either.

Vice Mayor Mulholland said he agreed with Councilman Hughes. He doesn't think a resolution is required here. He thinks it's quite clear what the Deputy Town Manager has indicated. He doesn't see a problem or a conflict. He thinks that Mrs. Kaestner who wanted it (the pool) for use for a competitive swim team is getting just that and he doesn't think a resolution is necessary.

Councilman Reynolds said that he has trouble just going ahead and stamping this at this point until we hear from the people who have done an awful lot of money raising efforts, and he'd like to see their reaction to this. He'd like to refer this back to them and then let them come up and say something and then bring it back to us again. Councilwoman Cereceda said that she would normally agree with this particular thing except that the fact of the matter is that they have talked about this and talked about it and talked about it and they're not taking a position and she doesn't want to wait any longer. And the

reason that she made the motion was because this will be a clear policy and she felt like it deserved a

motion. She's not withdrawing it.

Mayor Murphy said he remembers the discussions back when they were talking about fundraising early on, teams coming down from the north in the winter time wanting to use the pool and we could charge them and that sort of thing. We could still do that. Are you saying that any one that comes in is gratis? John Gucciardo said, no, we were talking about a team that would come here to use the facility for training purposes, such as a college team. Mayor Murphy said that answered his question.

Dan Hughes said it's already been established that there wasn't going to be a charge. He asked if we were reconsidering this and was told no.

MOTION: Made by Anita Cereceda and seconded by Dan Hughes that we allow Swim Florida, Fort Myers Beach, use of the Fort Myers Beach pool on days that it is closed, provided that they are able to provide the Town with adequate documentation to eliminate any liability or complications for the Town and that they have suitable instructors and lifeguards there and that they not be charged any fees, which is agreeable and the same as Lee County provides that service for the rest of the County. Passed unanimously.

John Gucciardo said that again he apologies for not having a clear recommendation from the Foundation. They have discussed it but they haven't taken formal action. And while he will try to bring the rest of those issues to us with some direction from the Foundation, he wants to give us a little forewarning. For example, they have advertised for a maintenance contractor at the facility -- landscaping, mowing, that sort of thing. They have also advertised for a food and beverage vending contract. He will be talking to some of the bidders later on this week, and he hopes that at our meeting on the 15th he will be able to bring us contracts. The Foundation probably at that point will not have made a recommendation on those either, but, again, these are issues that have been out there and at this point have become critical to be able to operate.

Councilman Reynolds asked if the Foundation had seen this. Mr. Gucciardo said no, it was probably written after their last meeting although he has faxed it to their chairman. Mr. Reynolds then asked if he had discussed it with the management company that's taking care of that and was told yes. Mr. Reynolds said not just this but the days when it's closed. How does the management firm feel about groups using it when it's closed. John Gucciardo said, again, the documentation would have to be that the team coming in would be able to assume all responsibility and liability. And the management company he thinks is comfortable as long as they're not exposed when they're not there, obviously, if someone else is using the facility. We already talked about this with them.

Councilman Reynolds asked if the management people would pretty well keep the maintenance of the pool up. Mr. Gucciardo said yes, that's part of their contract, but not the landscaping part of it. Garr Reynolds said he was talking about the operation of the pool. If something happens on the days that it's closed, he wondered how management felt about that.

X TOWN ATTORNEY'S ITEMS

Attorney Dick Roosa said he received an order from the court to set for mediation the Star Dial Investments Company v. Town of Fort Myers Beach. That's set for Tuesday, December 21. In the meantime they have been negotiating mostly through Bill Spikowski on a possible settlement of this Star Dial case and he would like to ask the Council if we could meet at 5:00 p.m. at our next meeting on November 15 so that we could have an executive session to consider settlement of that case. Councilwoman Cereceda asked if that was information that we would have in advance, would we have to wait until that point. Town Manager Segal-George said that Bill Spikowski will be here and basically will be going through it. There is no settlement agreement that has been prepared. Attorney Roosa stated that we could be provided with a copy of the correspondence and maybe that would help. Mrs. Segal-George said, maybe, but some of it's kind of inflammatory. Mr. Roosa stated that it might be counter-productive. Mrs. Segal-George said that there is no settlement agreement and that's one of the reasons why we need this executive session to be able to discuss some of these issues, because to prepare a settlement agreement in this case will be very time consuming and we don't really want to go down any particular paths until we've heard what the Council has to say.

Vice Mayor asked for an explanation of executive session. Mr. Roosa said that means we'll be closed to the public and that the only ones present will be Marsha and himself. Mrs. Segal-George asked

and Bill Spikowski? She stated that if we can't have Bill then she doesn't know what we're doing it for. Mr. Roosa said it's very restricted when you're not in their Sunshine. His recollection is that it's only the attorney and the manager that's allowed, but he will check on it. Mrs. Segal-George said that we have a real problem going into an executive session without Bill, because we need Bill. She doesn't think that either one of them has the information to be able talk about this at an executive session and offer them what Bill has been discussing at Humphrey's.

Mayor Murphy said we could have the session right now as they're all gone (referring to the public). Councilman Hughes said he was surprised that they didn't want to wait and hear us go over the minutes.

Councilwoman Cereceda said that the scary thing to hear for them is that we're going to have a closed meeting to discuss a settlement with Bay Beach, but she hates the fact that they just left.

Dan Hughes said he would suggest that we have a meeting at 5:00 p.m. and have it not be an executive session, and then if we feel there's something that develops in the public meeting, we can adjourn and enter an executive session at 6:00 p.m. and go back into regular session at 6:30 p.m. He was told we can do that.

XI. Approval of Minutes: September 27, October 4 and October 11, 1999

Corrections and changes to minutes of September 27, 1999:

1. Show that Mayor Murphy opened the meeting and not Vice Mayor Mulholland.
2. On page 7, VII. E., paragraph 1, Councilman Reynolds said that the record should indicate that he heard from Mr. and Mrs. Sawyer, not met with them, because we will recall he hadn't met those folks until they came here in this hall.
3. On page 12, under Discussion, change the millage rate from 109.61 to 1.0961.
4. On page 13 under Discussion, line 2, change to show he was told no and not yes.
5. On page 15, paragraph 1 after the second motion, change to read "Councilman Reynolds advised he had stated to Mr. Eberle that he saw nothing wrong with Mr. Melsek's article that he had written regarding the Mound House."

Corrections and changes to minutes of October 4, 1999:

1. Show that Mayor Murphy opened the meeting and not Vice Mayor Mulholland.
2. On page 7, C., paragraph 4, change "our tax laws" to read "our tax loss."
3. On page 12, change "Coda" wherever it appears to read "Dakota."

Corrections and changes to minutes of October 11, 1999:

1. Show that Mayor Murphy opened the meeting and not Vice Mayor Mulholland.
2. On page 3, third paragraph under Discussion, line 3, change "Bark & Shark" to read "Barking Shark."

3. In the first resolution attached to the minutes, under Christian Dattwyler the phrase "disapproved" got lined out.

The same thing on the next resolution. On page 2 under Richard, in the phrase "Now Therefore, be it resolved." "denies" should be stricken.

In paragraph 7 on the next page of that resolution it says "within 24 months of the Town's adoption of landscape requirements for a commercial parking lot, the applicant shall install a landscape buffer." Mr. Hughes stated that if we go back to page 12 of the minutes under BREAK, in the 6th paragraph, and also in the motion on page 13, we will understand that the 24 months did not run from when we adopted their landscape requirements, but ran from the adoption of this resolution October 4. Dick Roosa was asked to change the resolution to comply with this change.

MOTION: Made by Dan Hughes and seconded by Anita Cereceda to approve the minutes of September 27, October 4 and October 11, 1999, as amended. Passed unanimously.

XII. PUBLIC COMMENT

None.

XIII. ADJOURNMENT

The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Lorraine Calhoun
Transcribing Secretary

Items for action from the meeting of November 1, 1999

1. Minutes will now be taken up just before the last public comments of the meeting so that people who are not interested in listening to corrections of the minutes will not have to sit through them.
2. Town Manager Segal-George said that the sign ordinance will be on again on November 15 at the second public hearing.
3. A motion was made and passed to tell the Town Manager that the direction of the Council is to acquire as a capital improvement to the Town the sweeper/scrubber for maintenance in the Town of Fort Myers Beach and to bring to the Council both lease and purchase options so that we might finalize the agreement one way or another.
4. The draft on the Parks Ordinance will be moved forward.
5. Councilwoman Cereceda asked that we put on our next agenda that she will bring a budget for New Year's Eve expenses to the meeting.
6. John Gucciardo stated that they have advertised for a maintenance contractor at the facility -- landscaping, mowing, that sort of thing. They have also advertised for a food and beverage vending contract. He will be talking to some of the bidders later on this week, and he hopes that at our meeting on the 15th he will be able to bring us contracts.
7. Attorney Dick Roosa said he received an order from the court to set for mediation the Star Dial Investments Company v. Town of Fort Myers Beach. That's set for Tuesday, December 21.
8. Our November 15 meeting will start at 5:00 p.m. and an executive session has been set for 6:00 p.m., after which we will go back into our regular session at 6:30 p.m.