

**FORT MYERS BEACH
TOWN COUNCIL MEETING
MARCH 2, 1998**
NationsBank Building, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

Mayor Anita T. Cereceda opened the meeting on Monday, February 2, 1998 at 6:30 P.M. Present at the meeting were: Mayor Cereceda; Vice-Mayor Ted FitzSimons; Council Members Ray Murphy, Garr Reynolds, and John Mulholland; Town Manager Marsha Segal-George; Deputy Town Manager John Gucciardo; and Town Attorney Richard Roosa.

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III INVOCATION

Deacon Scoop Kiesel of Church of the Ascension led the Council in prayer.

IV PUBLIC COMMENT ON AGENDA ITEMS

A CEIL SPUHLER

Ms. Spuhler thanked the council for the workshop on public safety. At that meeting she spoke about two suggestions. One was for heavy fines for cruising closer than 500 feet off shore. The one she wanted to emphasize tonight was to ask if it would be possible to ask Steve Boutelle if the buoys in the gulf could be replaced with ones similar in height to the channel markers so they would be more visible. Even an inexperienced boater would recognize them. This would be especially helpful at the south end where the sheriff's boat does not get, and where there are a lot of personal watercraft from Big Carlos Pass.

B DIRK ELVER

Col. Elver said that he is representing Sheriff McDougall, who is out of town. The sheriff looks forward to working with the town in the area of public safety. He has trained and educated people in planning and research for police business, and if we choose not to hire a consultant, he would be happy to help. He does not feel that having a consultant between the sheriff's office and the town would serve a benefit. He looks forward to working with officials of Fort Myers Beach.

V APPROVAL OF MINUTES: FEBRUARY 23, 1998

Motion: Mr. Reynolds moved and Mr. Murphy seconded that the minutes be approved as submitted. The motion passed unanimously.

VI PROCLAMATION HONORING HEATHER STAFFORD

Mr. Mulholland said he met Ms. Stafford 1 ½ years ago and has worked with her on the Marine Resources Task Force. He read the proclamation recognizing her for her work in environmental protection and on being named Coastal Manager of the Year by the State Department of Community Affairs. Ms. Stafford said it should be a team award because she works with a great group and everyone has worked very hard. She also said they have a citizen's support organization for the Estero Bay Aquatic Preserve if anyone is interested in serving.

VII PRESENTATION ON STORM DRAINAGE STENCILING

Terry Cain, a member of the Marine Resources Task Force, stated that she is here to request permission to stencil storm drains on Fort Myers Beach as part of Earth Day Beach Bash on April 25. The MRTF and volunteers will be using stencils provided by the Center for Marine Conservation as part of their campaign "A Million Points of Blight." It will remind people of the importance of not putting pollution into the estuary. Keep Lee County Beautiful will help pay for the paint. The stencil will say "Dump No Waste, Protect Your Water." Volunteers may sign up by calling Town Hall.

VIII COUNCIL MEMBER ITEMS AND REPORT

A JOHN MULHOLLAND

Mr. Mulholland said recent events have underscored the need for public safety, and he feels that the Council needs to act quickly. There is also a need for quick action on sewerage problems. Not only should the town have a say in the operations, but he asked the staff to look into whether the Town could collect part of the franchise tax. He supports funding for the pedestrian overpass, but he asked the staff to investigate whether TDC will help in the cost. Curfews have been talked about but he thinks it will be covered well enough in the public safety element. He does not think curfews are the answer to a youth problem. Regarding water safety, we need education, and he is expecting a presentation at the next MRTF meeting regarding a solution for education of people riding jet skis.

B GARR REYNOLDS

Mr. Reynolds said he thinks we should utilize the sheriff's department to the fullest extent before we go into an extensive public safety program. He also mentioned that at the last meeting he asked for as much notice as possible when there is going to be a change of zoning, especially from residential to CPD. He feels the community should find out immediately when someone applies for a change from residential to CPD. He doesn't want to wait until complete plans are made.

C RAY MURPHY

Mr. Murphy asked if we could prepare a resolution to our legislators supporting a dedicated fund for beach renourishment. He also informed the council that he has just been elected to the board of directors of FOLK (Friends of Lovers Key).

D TED FITZSIMONS

Mr. FitzSimons asked if staff could look into getting our own building inspector, who would be independent of the county. In the past few years, the inspections have been something less than what we would like them to be. Perhaps we could contract with Sanibel or someone else.

E ANITA CERECEDA

Ms. Cereceda would like Mr. Roosa to look into the legalities of annexing Mound Key. She also reported that she met with Kevin Lewis, director of Southwest Florida Addiction Services. From April 10-19 (local spring break) they are going to do a promotion at Lani Kai to promote no drinking and safe habits. It will include a beach monopoly game, and they will give away prizes, etc.

IX OLD BUSINESS

A PEDESTRIAN OVERPASS AT TIMES SQUARE

Mrs. Segal-George said that the agreement is for permitting and design, and it is proposing a public/private partnership with the town and Seafarer's Inc. of 50/50. After the study is complete, the plan would come back to the Council to decide whether to complete the project. Dave McKee said this will probably cross the right of way on the state portion of the road. One end will probably be on private property and the other end on Town property. Rob Fowler said he does not have an answer yet on the cost of constructing the project because there are still too many unknowns, but he will know after the end of the feasibility study. Mr. Reynolds asked why the same contractor who is going to build the overpass is also doing the feasibility study. Mr. Fowler said that he is acting as a professional consultant, not as a general contractor, and this is just a study for his client and the town. There is no guarantee that his company will build it. Mayor Cereceda clarified that Mr. Fowler approached the town because his client asked him to see about the possibility. Mr. Fowler said he thinks a feasibility study is necessary because there are so many different parties involved. He said the whole project can be done in about 15-16 months. The feasibility study will take about 60 days. Mr. FitzSimons asked about the benefit of the computer animation. Mr. Fowler said it is not necessary for the feasibility, but it is more for the salability of the idea. Mr. Reynolds said he doesn't think we will have to sell this program because the public is so willing to try anything to help the traffic problem. Mayor Cereceda thought it would be helpful to sell TDC on helping with the cost. Mr. Reynolds said he thought the normal drawings would be OK and the animation would be a little extravagant. Mr. Roosa asked if the work project will be owned by the Town. Mr. Fowler said he thinks that both parties would own it. Mr. Roosa said since we are spending town funds, perhaps we should ask for the right to exclusive ownership. He does not want issues later about ownership. Both parties can have copies, but our copy will be owned by the Town.

Motion: Mr. Mulholland moved that the contract be approved for the feasibility study only (\$9100 to be shared with Seafarer's) and that the contract should be amended so that the town will own the final

product of the study. Mr. Murphy seconded the motion. **Discussion:** It was clarified that the animation could be added later. Funds would come out of transportation funds. **Action:** The motion passed unanimously.

B AIRPORT UPDATE

Mrs. Segal-George said that she has met with representatives from the airport and the FAA. They are working on a report that will answer all the questions that have been asked. She feels that it is important that they are listening and that we are also talking with the FAA. They are talking about a “keep them high” program over the beach. We have parasail boats that can fly people pretty high, so anything lower than 1500 feet can be a problem. We also attract other aircraft that are not regulated by the FAA.

X NEW BUSINESS

A CONTRACT WITH DONNA HANSEN

Donna Hansen said the task list was created from issues mentioned at the workshop. A Public Safety Action Team would be created, and they would consult with the organizations in town and also have open meetings for people who are not part of an organized group. Mr. Mulholland stressed that this would not hold up our comp plan. It will not be part of the comprehensive plan but will be in the same format. It will not be submitted to the state. Mrs. Segal-George said a cost has not been determined. First you must form the committee and see how much of the work they can handle and how much must be done by Ms. Hansen. Also the council must decide how many tasks from the list that they want done. Ms. Hansen said she estimates that if she did all the work it could take as much as 17 weeks x 40 hours. Mayor Cereceda said that she has gotten good comments about the workshop, but the last couple of days she has gotten questions from the deputies on the street. She wanted to emphasize that we are not trying to question the job the deputies are doing. She believes they are doing a good job. This project encompasses much more than just the sheriff’s department. Mr. Mulholland said this would be a tremendous help for the town. Mrs. Segal-George said that the first step would be to ask people to volunteer for the committee (which would be appointed by the council), and that she would come to the next meeting with a contract. Mr. Murphy said he originally came forward with the idea of consulting with Ms. Hansen about community policing, but it has gone much further than his original idea. Ms. Hansen agreed that originally they had talked about community policing, but when people started talking in the workshop, she started adding ideas. She didn’t want to make a shorter list and have people feel that their concerns weren’t heard. This is a very comprehensive list, and it gives the council the flexibility to decide which pieces to go forward with. Mr. Reynolds said he feels we are going in an overkill direction. He does not remember hearing anything at the workshop that was of great urgency. He feels we are better off and safer than the other neighboring communities. He thinks the cost is astronomical compared to the need. He would like to explore with the sheriff’s department what more we can get from them.

Motion: Mr. Reynolds moved that this item be tabled indefinitely. There was no second. The motion failed.

Mr. Murphy said he would like to see the contract before they decided. Mrs. Segal-George said she needs to know what they want in the contract first.

Motion: Mr. Murphy moved and Mr. FitzSimons seconded that this item be tabled until the March 16 meeting. **Discussion:** Mr. Gucciardo suggested they may be able to come up with a generic contract and the council will decide the scope and scale they want to achieve. Mayor Cereceda said our first meeting with the sheriff was pointed, and they asked what level of service do we have , and for two years we have gotten no answers and that distresses her. She feels it is irresponsible to leave it that way. She would like us to move forward into forming some sort of public safety council and some sort of plan for the future of public safety that is not dictated by the fire department or the sheriff’s department. Mr. Reynolds said we need to give the sheriff’s department a chance. **Amended motion:** Mr. FitzSimons moved that the town go forward with forming the public safety team regardless of whether we go with the plan. Mr. Murphy agreed to the amendment. **Action on the motion to amend:** The motion passed unanimously. **Action on the original motion:** Mr. Murphy, Mr. FitzSimons and Mayor Cereceda voted for the motion. Mr. Mulholland and Mr. Reynolds were opposed. The motion carried.

The council took a break at 8:18 PM and reconvened at 8:32 PM.

B RESOLUTION FROM THE LOCAL PLANNING AGENCY

1. MOUND KEY

Mrs. Segal-George said that the LPA is just asking the council to do whatever they can to protect Mound Key.

2. SEA TURTLES

Mrs. Segal-George said that the LPA has had a public hearing and that these amendments pretty closely match the amendments from the county. The LPA would like the council to direct Mr. Roosa to put it in ordinance form. It was clarified that the attachments are not part of the resolution but that the LPA wanted them attached. It is not supposed to be part of the ordinance. Mr. Reynolds said he feared this would hold a contractor to something that hasn't been adopted yet (comp plan). He also said he has a problem on page 4 (administrative exemptions) because he thinks it allows the whole ordinance to be killed by the action of one person. Mrs. Segal-George said it was placed there just in case there was some specific event, so you would have the flexibility. The exemption would have to be approved and monitored by Turtle Time anyway. Eve Haverfield said an example of an exemption would be the Sons of Norway who have fires on the beach. Through the exemption they are allowed to have them at a specified place at a specified time, and Turtle Time would be there to oversee it. He said this ordinance will need two public hearings because it is land use. The first public hearing will be on March 16.

Motion: Mr. Murphy moved and Mr. Mulholland seconded that Mr. Roosa be instructed to put these changes into an ordinance. The motion passed unanimously.

C PROPOSED RESOLUTION OF THE TOWN COUNCIL ON MOUND KEY

Motion: Mr. FitzSimons moved and Mr. Mulholland seconded that the resolution be adopted.

Discussion: Mr. Murphy asked if we would be entering into a purchase agreement or partnership. Mr. Roosa said this resolution does not authorize the expenditure of any money. **Action:** The motion passed unanimously.

XI TOWN APPOINTMENTS

A APPOINTMENT TO CHARLOTTE HARBOR NATIONAL ESTUARY PROGRAM

Mrs. Segal-George explained that at an earlier meeting, the Council had appointed Terry Cain to this position. However the Town has since found out that the appointment was to a policy committee which is usually filled by an elected official. Mr. Mulholland has agreed to be the appointment from the Council. Ms. Kane will still be on the citizen's advisory committee.

Motion: Mr. Murphy moved and Mr. FitzSimons seconded that Mr. Mulholland be appointed. The motion passed unanimously.

Mrs. Segal-George said that she had received a call from Lee Conger, who is interested in the one remaining position on the Bay Oaks advisory council. No one else has expressed interest to date.

Motion: Mr. Murphy moved and Mr. FitzSimons seconded that Ms. Conger be appointed. The motion passed unanimously.

XII TOWN MANAGER'S ITEMS AND REPORTS

The Town Manager had no further items.

XIII TOWN ATTORNEY'S ITEMS

Mr. Roosa stated that the hearing on the Big M boat was continued to allow time for Mr. Freeland to prepare for the occupational license issue. The hearing will now be on the 25th. They have also filed an appeal of the ruling of the court. Usually if you have won a case, you don't appeal, but now they are. He thinks it is because Mr. Freeland does not have the proper zoning and he would have to apply for industrial zoning.

He also filed a request for rehearing on the Lemon Twist case, and he filed a response to the writ of certiorari on the personal watercraft issue. He said he has gotten a copy of the county charter so he can research Mr. Mulholland's question about consolidation.

XIV PUBLIC COMMENT

A JOE CROKER

Dr. Croker thanked the Council for their decision to table the public safety issue. He thinks it is important to take time for this issue. The format is excellent. He thinks maybe now the sheriff's department is concerned enough to be more cooperative. He thinks there are many segments that already have had many studies, and if we just contact them, a lot of the work has been done for us.

B TOM WELLER

Mr. Weller stated that he operates two Sun 'n Fun locations that have just lost their jet ski licenses. He is still operating the third. The intent of our ordinance was for more safety on the beach. But it is not working that way. It is just like the county one we had before, except that it tries to limit the number of competitors on the beach. Eight skis per location is a good idea, but it didn't eliminate the multitude of operators in the same area. He is primarily a sailor and wind surfer, so he wasn't doing much on jet ski rentals, which was fine with him. He had a perfect safety record, but the city said he was not operating enough jet skis on the beach, so his license was not renewed even though he was at the beach every day. The laws don't end up working the same as the original intent.

C BILL PATTERSON

Mr. Patterson lives on north Estero. When he came here he was assured that all the high rises were completed. But every time he turns around something is going up. The guy behind him put a 70' cover over his boat and took away his view. Now someone is building a motel across the street. They are working until 11, 12 or 1:00 in the morning cutting steel and there is lots of noise. The Sheriff says they can't help because they don't have a meter to read the noise level. Now the motel is in operation even though they don't have a license. They have a two big signs in front, one of which is lit up with a big arrow. They have been caught because their inside construction does not match their blueprints. As soon as they are open, they intend to put up another wall and make more rooms. We need a building inspector of our own who cares about our island.

D DAN PARKER

Mr. Parker said the drawing from Mr. Fowler may be pie in the sky. Realistically it is not going to look like that. He doesn't think FDOT will approve an overpass without chain link so cinder blocks can't be thrown off of it. Be sure to get a final drawing, because he is sure it won't be this aesthetic.

XV ADJOURNMENT

The meeting adjourned at 9:00 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary