

FORT MYERS BEACH
TOWN COUNCIL WORKSHOP ON MSTU/MSBU
MARCH 12, 1998
NationsBank Building, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

Mayor Anita T. Cereceda opened the meeting on Thursday, March 12, 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 PUBLIC COMMENT ON AGENDA

There was no public comment.

**IV DISCUSSION OF THE PROCESS FOR OKMPLEMENTATION OF POSSIBLE
MSTU/MSBU DISTRICTS**

Mrs. Segal-George explained that Peggy Freshour will be helping the Council look at how an MSTU/MSBU would be put together, looking at a particular piece of property. Then Mr. Roosa will put together an enabling ordinance that would allow the council to consider MSTU's and MSBU's as people come in and request one or if the Council wants to establish one. Then we would have a meeting with affected property owners and explain how it would work.

Ms. Freshour said she has put together a Phase I proposed MSTU for maintenance of Times Square. They are starting with this one because everyone knew when the area was constructed that there would be a district created for the maintenance. If they did a taxing unit, everyone in the whole phase would be charged the same, a millage level based on the assessed value of their property. That does not seem to be a fair way of structuring this, so they are only considering an assessment here. With an assessment, you can taper the areas and everyone does not have to be charged the same thing, but you have to keep it pretty uniform. She is working with the figure of \$130,000 for the annual maintenance cost. If the town paid 30% (\$39,000), that would leave 60% (\$78,000) in the Times Square area and 10% (\$13,000) for the frontage properties down to the Lani Kai. You have to be able to prove direct benefit, so it only includes the frontage properties. In the Times Square area, they broke it down by front footage and also by square footage. She allocated all the properties and showed a breakdown of their assessment. They range from about \$400 up to \$12,000, based on the direct benefit they are receiving and the size of their property. Mrs. Segal-George stated that this is only an example and the council can change it however they wish. Mr. Roosa said that benefit is the most important issue. In a capital assessment program such as curbs, gutter, sidewalks, sewers, etc. there must be a direct relationship between the capital item and the property ownership. When it comes to a maintenance assessment, there is a difference. We need some expert testimony by an appraiser to state the benefit. A municipality cannot charge an assessment greater than the increase in property value. Usually the cost of the assessment is less than the benefit to the property. But an assessment for maintenance is not as easy to identify. The cost of maintenance may well benefit other businesses even though they don't have the capital improvement. We will need an appraiser who can say that a property that doesn't have a sidewalk in front of it, clearly benefits from the improvements and proper maintenance anyway. In that case you can't use frontage footage, but you can use square footage of the property itself, or just of the building. Ms. Freshour emphasized the importance of using an appraiser not an engineer to evaluate the property. The Town will have public hearings and people will have the right to come in and bring their survey. Mayor Cereceda emphasized that this is an idea for discussion only and that the rates have not been set. Mr. Roosa pointed out that some of the properties on the frontage are condos and he thinks it will be more difficult to prove the benefit of Times Square improvements. In fact there might be a detriment because it means more commercial development in a residential situation. We might want to look at the assessments in terms of business categories. Those businesses that benefit from foot traffic would receive a greater benefit. Another question would be whether a restaurant with a parking

lot and a restaurant next door with no parking should be assessed the same. The one with no parking lot is more dependent on walk-in traffic. Mayor Cereceda pointed out that in some situations we have taken away parking from businesses. Ms. Freshour said it can be as creative and imaginative as we want to get. Mr. Reynolds expressed his opinion that it should be based on footage on the front by the sidewalk, whether there is a building or a parking lot.

Ms. Freshour said that Phase II includes everything in yellow on the map. She does not have a project cost, so she used a figure of \$3.5 million for discussion only. She based this on a front footage/square footage split of 50/50. This would assume that a property might have no frontage but still benefit from the improvements. In this case everyone would be receiving an equal benefit. She developed an assessment roll and an amortization schedule based on \$20,000 over 20 years at 6%. Mrs. Segal-George explained that Phase II would be for sidewalks, landscaping, storm drainage, possibly undergrounding utilities, etc. The scope of the project would be decided by the people in the area. It would allow improvements to go in, but allow for payment over time. Mr. Roosa pointed out that this example is based on the assumption that everyone would benefit equally, but once the scope of the project is decided, it may be discovered that they do not all benefit equally. Since there is a mix of residential and commercial, we will need some expert testimony to justify it. Mrs. Segal-George said that Crescent Street is planned for mixed use in the overlay, and the residential parts have the potential of becoming mixed use (store front on the ground floor and residential above.) Ms. Freshour also emphasized that Phase II is proposed as a voluntary MSBU, where the people would come to the Town after the project cost is developed and petition the council to create it. There are also some people in the Town who want their road paved, and it will be handled the same way. Mrs. Segal-George said that the property owners on Old San Carlos are pushing for the MSBU. Ms. Freshour said there is no limitation on how large or small the project can be. You can do a beach renourishment project or just a neighborhood for landscaping of common ground. It was questioned whether property owned by the County could be assessed, and Ms. Freshour said she is not sure a lesser entity can actually assess them, but there is room for negotiation since they do usually pay their own assessments, especially if you can prove benefit. Mr. Roosa said that Cape Coral assessed a church at a lower rate for a sewage assessment, but only as long as it remained at that use. When the use changed, the assessment changed to the higher rate. But Cape Coral had money to loan to the property owner and we do not have that luxury. So he thinks the assessment has to be based on the highest potential use of the land, not its current use. You almost have to look at each parcel separately and look at their benefit.

Mr. Roosa was directed to draft the enabling ordinance that would allow the council to create these districts by resolution. He will bring the draft at the meeting of March 16.

V PUBLIC COMMENT

There was no public comment.

Mayor Cereceda said that she had a meeting with the sheriff this afternoon to tell him about the comments that were made to her by Col. Elver that she felt were threatening toward the town. The Sheriff apologized for the comments that were made. But she found out there is a lot of misunderstanding about what the Sheriff thinks we are trying to do. He feels like our relationship with him has disintegrated and that he wasn't going to renew his contract with us. Apparently he was upset because we were going to give Donna Hansen \$50,000 to do something and we wouldn't give him \$50,000 last year for Spring Break. He recalls that we said we didn't have the money to give, but she told him that was not the reason. She also told him that we had not discussed a \$50,000 contract with Ms. Hansen or anyone else. She told him our intent began to discuss community policing and it evolved into a conversation about public safety and is far more than just dealing with the Sheriff's department. She said it was to provide a public safety plan for the future of the town, not a reaction to what is going on now. The Sheriff's department will be here Monday to make a presentation. She felt they left on good terms.

She also said she is very uncomfortable because she knows exactly how every other council member feels about this issue because the reporter has told her what everyone else said about it. She wondered if it was a good thing. She felt like she had violated the Sunshine Law. The reporter said it was not. She feels like there has been dissention created by an outside party. She asked Mr. Roosa if that was proper. He answered that the news media is not covered by government in the sunshine and they can go around and poll council members. As long as the council is willing to give their opinions, they will do it. It is OK to change your opinion after you have heard the discussion in council even if you have already

been labeled in the paper. The paper is only reporting how the members feel independently without the benefit of a discussion with the other council members. There is a difference between an opinion and a vote.

VI ADJOURNMENT

The meeting was adjourned at 7:05 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary