

NOTE: Mayor Cereceda announced that she had received two cards for public comment on Councilman Reynolds' request to add something to the agenda, which she was not going to do. The reason she was not going to do it was because she had just seen the request and there was no public notice. The item was brought up by Councilman Mulholland in his comments in the previous two meetings. Councilman Reynolds was asked to address it during council member items and reports. Public comment on this matter will be at the end of the meeting.

**FORT MYERS BEACH
TOWN COUNCIL MEETING
October 19, 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, October 19, 1998, at 6:34 P.M. Present at the meeting were: Mayor Cereceda; Vice-Mayor Ray Murphy; Council Members Garr Reynolds, John Mulholland and Dan Hughes; 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

The Council was led in prayer by Father Thomas Goggin of the Church of the Ascension.

IV PUBLIC COMMENT ON AGENDA ITEMS

Mayor Cereceda opened the floor to public comment. There being none, public comment was closed.

V APPROVAL OF MINUTES: OCTOBER 5, 1998 AND OCTOBER 6, 1998

Minutes of October 5, 1998

Motion: Made by Mr. Mulholland and seconded by Mr. Murphy. Motion passed unanimously.

Discussion: Mr. Hughes stated that on page one, his correction was that the word causative should read cause of action.

Minutes of October 6, 1998

Motion: Made by Mr. Murphy, seconded by Mr. Reynolds. Motion passed unanimously.

VI REVIEW OF FINANCIAL REPORTS FOR SEPTEMBER

There were no comments on the financial reports for September. Mr. Gucciardo stated that he had met with Nations Bank representatives. As noted on the asset ledger, currently the funds available in the operating account are almost \$2 million. Staff has been comfortable leaving it there because of current rate of return. Because of changes in the federal policy and interest rates being lowered, staff is anticipating that rate of return won't be quite as attractive as it has been in the past. He is looking into other investment options such as CD's into federal agency monies. Mr. Gucciardo asked Nations Bank to put together information explaining the options and he will then pass the information on to Council.

VII COUNCIL MEMBER ITEMS AND REPORTS

A. GARR REYNOLDS

Mr. Reynolds stated that he did discuss having this item put on the agenda when it came to him regarding Councilman Mulholland's letter. Mrs. Segal-George was asked to add it to agenda, but not necessarily to the one that already had printed. The Chairman has stated that it cannot be put on the

agenda. He asked council if they could consider having this on the agenda tonight so that people who came tonight can speak. Mayor Cereceda stated that the request was done late in the day on Friday and the agenda had already been published and posted. Mayor Cereceda asked Mr. Reynolds at the beginning of the meeting if there was something that needed a vote to put it on the agenda and Mr. Reynolds responded that she was missing the point. Mayor Cereceda assumed that he did not require any vote on the issue and that he wanted it to be discussed. She is not shutting out any public comment; the public is welcome to comment to any items on the agenda, including her comments, at the end of the meeting. Mr. Reynolds discussed the memorandum from a prepared statement to Mr. Mulholland. He was not in favor of sending the letter on the Town's stationery without the whole council's consent. This stationery is designed for town business. He doubted that Mr. Mulholland's letter could be described as town business. There was nothing detectable that would cause it to be a town problem. The letter seems to be a personal dissatisfaction with the Civic Association's "Tidelines." He noticed that Mr. Mulholland showed no concern or addressed the "Silent Majority's" unsigned newsletters that were dispensed through town hall during the summer months with the knowledge of staff and a perhaps a council member or two. Mr. Reynolds stated that those letters were removed when objected to, as they should have been. However, the "Silent Majority" is still being mailed throughout the community. These letters could probably be described as hate letters or close to that description, yet Mr. Mulholland had not registered one complaint with staff or council. Mr. Reynolds felt that it was a personal vendetta against a civic group. He felt that Mr. Mulholland had brought the staff and council into his vendetta because he has chosen a conflicting path with that civic group. Mr. Reynolds stated that the Fort Myers Beach Civic Association is a legitimate, registered group representing a rather large number of citizens of the Fort Myers Beach community. He felt it was a political power point during elections. He felt what Mr. Mulholland had done was outside of the role of a councilman. Mr. Reynolds stated that this issue gives the impression of being something of his making. He had heard that Mr. Mulholland was happy with the group's support when he was running for office. Some of the members contributed to Mr. Mulholland's campaign expenses. He questioned whether Mr. Mulholland had changed or the civic association? It was Mr. Reynolds' opinion that no one else should be involved in this self-created problem. He questioned what made Mr. Mulholland an expert over all of the many contributors. He suggested that those contributors would say that their articles are more accurate than Mr. Mulholland's letter. If Mr. Mulholland chose to be a disbeliever, that is his choice, but he believes that Mr. Mulholland is wrong in his attempt to slander this group and the candidates they believe in. Mr. Reynolds classified it as bad politics. According to a letter dated October 9th, Mr. Mulholland expected taxpayers to pay for this personal mailing. He felt that using Mr. Mulholland's salary was not acceptable. He should have approached council with this issue before taking action. He felt that Mr. Mulholland and his wife, Nancy, along with Mr. Hughes, Bill and Carolyn Van Duzer and Trudy Harby all had knowledge of the proceedings and had assisted in some manner in the preparation of the letter in the upstairs lunchroom of town hall. Mr. Reynolds questioned whether other citizens, candidates or council members have this option of assistance with their mass mailings. Mr. Reynolds also questioned whether it was a sunshine violation with two council members and an LPA member? Mr. Reynolds stated that he is not an expert in that area and asked Mr. Roosa regarding his legal views on this matter. He felt that an unfavorable appearance was created since it was not an advertised public meeting. He very much resents and is embarrassed that his name has appeared on the letter. Many citizens were upset, although he was able to clear up some misunderstandings. He felt it was a misuse of power, by an elected official. He believes the situation should have been handled as a private citizen. He takes no pride in the reading and writing of this letter. He asked the council to give it some thought because it was a blemish on all council members if they do this at will. Mr. Roosa stated that it is not a sunshine violation for any number of council members to meet unless they discuss a matter upon which they will be voting at the council meeting at some future date. Mr. Roosa stated that the mere presence of council members does not constitute a violation of government in the sunshine.

Mr. Reynolds also asked the status of the San Bar motel. Mr. Roosa stated that he understands that the parties have come to an agreement to a settlement and the settlement agreement has been sent to the civic association's attorney for his signature. When that is signed, it will be presented to council when it is received.

Mr. Reynolds' next item was the house moving in Fairview Isles. He asked Mrs. Segal-George if the moving procedures were being looked into. Mr. Reynolds asked the status of the house move. Mrs.

Segal-George stated that the basic repairs had been taken care of , and pictures have been taken of any damage. Mr. Workman has given everyone a personal promise that he will replace everything that was damaged or trees that were chopped down.

Mr. Reynolds's last item was the non-renewal of Tom Albright's jetski license. Mrs. Segal-George stated that a detailed report was given by Mr. Crabtree and statements from neighbors in the area that Mr. Albright didn't operate under the ordinance appropriately. Mrs. Segal-George stated that a meeting was scheduled for later in the week and information would be forwarded to council after the meeting.

B. JOHN MULHOLLAND

Mr. Mulholland stated that it has been well documented and it is in the minutes that the citizens had received his letter. It is not something that he took lightly. Mr. Mulholland stated that he is a member of the civic association. It was a good source of information; he was proud of and had gotten neighbors and friends to join. Mr. Mulholland felt the recent issues this summer and fall contained many untruths. His letter addressed those untruths. What he felt had happened is that a large group of 600 members are taking these facts as true. Mr. Mulholland felt that if no one challenges false statements, they become law. He started by replying to a memo from the civic association that went to the town manager complaining that someone had given copies of Tidelines to the council members. Mr. Mulholland didn't want the town manager to be attacked by yet another member of the civic association, so he stated that he was the one who forwarded the copies of Tidelines to council, letting them know that they are under attack, and had been for awhile. He felt that council had a right to know what was going on. Mr. Mulholland asked the civic association for a copy of their membership list so that he could send a letter out. The civic association would not release the list. Mr. Mulholland abided by their wishes. From 600, he had to mail out 4654 letters to clarify the issues, at his expense. It was a monstrous job. He asked for help when he realized that his wife and he couldn't handle it. They asked for volunteers. He apologizes for asking people, because they are now being dragged into this. Names can be given if required because he knows that they are not ashamed of what they did. He asked all to read the letter before they volunteered. If they disagreed, he asked them not to help. No one disagreed. It took him a little over a week to do this. He will address the silent majority. He received four issues a few months ago, and he doesn't care for them either, but they are not the subject at question, the Tidelines is. Mr. Mulholland doesn't have a personal vendetta. He stated that some of the civic association had previously helped him. Some of them were nasty in their telephone calls and letters. Mr. Mulholland will not carry a favor from someone who contributed to his campaign. When he ran for office, he was asked to join a slate and he refused. He now had to question what was going on. Mr. Mulholland felt that it was unfair treatment given to candidates in the Tidelines by mentioning only four candidates. He is proud of his manifesto, and stands by the facts that are in there. Mr. Mulholland stated that the costs will be paid for by him. The total costs for his mailing was \$1848.12. 4654 letters were mailed and approximately 200 were returned. The copies were made according to the finance ordinance at the cost of .05 per page. Mr. Mulholland had three calls regarding the use of the town letterhead. He explained to them that as a councilman he has the right to use town letterhead. He has a right to keep his constituents informed. There is nothing immoral or unethical about it. Mr. Mulholland stated that he could have done it at the town's expense, but he did not want cost to become an issue. The response so far has been positive. The voters needed the truth to make their decisions and that is only what he asks for.

Mr. Mulholland also referred to the Observer's October 14th article titled "Proposed San Bar settlement satisfies Civic Association." Mr. Mulholland quoted from Mr. Ciccerone "throughout the whole affair, we always felt that the town council was acting in good faith. We simply disagreed with their interpretation of Comp Plan." Mr. Mulholland stated that this is the lawyer for the plaintiff that is suing the taxpayers. He understands that the council is not lawbreakers, he understands that the council interpreted the Comp Plan that some people did not like. He thanked Mr. Ciccerone for stating what the council has been stating all along.

Mr. Mulholland also stated that since Sandy Suter addressed him at the last minute, he addressed her. The minutes of the October 5th Town Council meeting indicate that Ms. Suter, director of the Civic Association and the editor of the Tidelines, said that the civic association will endorse Lena Heyman,

Cherie Smith, Garr Reynolds and Lorrie Wolf. This public endorsement of candidates makes the civic association a political action committee and subject to PAC regulations. Mr. Mulholland respectively requested that the civic association fulfill the legal requirements of Florida Statutes 106.44. The civic association has allowed its endorsement of candidates to become public knowledge and therefore should make public information required under Florida law.

C. RAY MURPHY

Mr. Murphy stated that he was disgusted that this conversation came up, as the Council voted at the last meeting that political issues would not come up in the meetings. Mr. Murphy stated that the only issue that should have been addressed in Mr. Reynolds items was the fact of the reimbursement of expenses or how that was going to happen as far as Mr. Mulholland's letter went. The rest of it was all political.

Mr. Murphy also commented on the article in the Observer regarding the San Bar. Mr. Murphy recalled in the article that Mr. Cicerone stated that they felt totally vindicated. Mr. Murphy was used to reading in cases of law that usually the defendant is vindicated and not the plaintiff.

D. DAN HUGHES

Mr. Hughes agreed with Mr. Reynolds' statement that none of council should be brought into this problem. However, if it hadn't been for the acts of the civic association and their misrepresentations and misstatements, which have attacked motives of the entire council, he felt that it is totally unfair. He has kept quiet. He thinks they need to take a look at the facts as Mr. Mulholland has properly pointed out. Mr. Hughes did review the letter before it was mailed. He concluded that Mr. Mulholland made accurate responses to the misstatements and misallegations, and rather outrageous statements, in the Tidelines. Mr. Hughes and his wife did help in mailing. He vehemently denies any violation of the sunshine act. They didn't discuss anything that was pending or which could become an issue before the Town Council. No abuse of power was used in light of the allegations that were made. Mr. Hughes stated that the irony of it is that he didn't vote for Publix or San Bar and the council appointed him knowing that he voted against them on these issues and they are all blanketed together as being bad guys. It simply is not fair. The civic association created these problems by getting carried away with their statements and their political agenda. In summary, Mr. Hughes stated in terms of an allegation that there was slander, that there is an absolute defense in law to slander, and that is truth. Truth is an absolute defense to slander or libel.

Mr. Hughes commented that the council had received a draft of a stipulation of the parties for a judgement in favor of the plaintiffs in the San Bar case. Mr. Hughes finds this to be outrageous that the council is being presented a document that purports in a settlement to restore certain commercial activities. Mr. Hughes questioned the civic associations calling it a victory when they are the ones who are complaining about intrusion into a residential neighborhoods. Mr. Hughes stated that he will never vote in favor of any stipulation that finds a judgement in favor of the plaintiffs. Mr. Hughes stated that this was done ex parte in this case and the town is the defendant in the case. If there is a settlement in this case let the settlement simply recite that all matters and controversies have been resolved. A draft of the document was given that wasn't even submitted to the town council or the town attorney, and yet there were articles in the paper claiming a victory. He stated that if there was to be any settlement of this case, let there be a settlement that either dismisses the case or finds in favor of the town. This wasn't a matter of the town council voting illegally or unlawfully, it was a matter of the town council making a decision on the facts where there wasn't a clear black or white situation. They did what they thought was in the best interest of the community. Mr. Hughes didn't happen to agree with it at the LPA level, but the council felt differently and he respects the decision of the council.

Mr. Hughes also questioned the location of Mr. Albright's jetski operation and Mrs. Segal-George informed him that the location was on I Street.

Mr. Hughes commented on the house-moving situation. He asked whether the council could adopt an ordinance that a permit to move a house also has to require a permit from the town in addition to a permit from the Department of Transportation so that the town will be on notice. Mrs. Segal-George said that one of the problems was that when the right-of-way permit was issued, they looked at Estero Boulevard, but did not look at the side street. The other problem was that we are still working with county

regulations that don't necessarily work for the town. This will be corrected in the new land development code.

Regarding Mr. Gucciardo's memo regarding the investment funds, Mr. Hughes inquired as to what funds the town was in at the moment. Mr. Gucciardo stated that the funds were currently in the Florida Municipal Investment Trust, which is doing well. Mr. Gucciardo stated that the point of his memo is to see at what level of extent the council would like to be involved. Currently the staff presents them to the council with recommendations. He stated that the FLC bond investment fund has a very attractive rate of return, but it worries him. He is very comfortable with the FLC, they have very conservative reputation and the staff is kept up to date as to where their investment money is going and who participates. However, that type of investment does have some risk and what the staff will be doing in the upcoming is re-looking at the investment folio with the current economic situation. The staff may bring back a recommendation to move some of the money out of the fund, even though it is attractive because there is risk involved as opposed to where we have the other money. Mr. Hughes requested to review the information when it was received.

E ANITA CERECEDA

Mayor Cereceda apologized to Mr. Murphy for bringing the political tone to the meeting. She felt the need to allow the conversation to continue because she felt that it needed to be vented and Mr. Reynolds was in his right to bring it forward. Mayor Cereceda stated that she shares the frustration of Mr. Mulholland and Mr. Hughes. Mayor Cereceda challenged the council to move on. If in fact the civic has 600 members, there are more than ten times that many people in the community that rely on the council to lead the way. The other citizens seem to be very pleased with what the council has done. Mayor Cereceda felt that the council had the right and entitlement to celebrate their successes. It has been three incredible years. She has been very proud to serve with all of the council members. It has been an incredible journey and the town is all the better for taking the leap of faith in incorporation. She stated that most people are not complaining and if the council could direct their sights to the future and to what they need to be doing and stop getting bogged down in a political season and the negativity it seems to create.

VIII PUBLIC HEARING: ORDINANCE AMENDING THE PARKS AND RECREATION ORDINANCE

Mayor Cereceda read the titles. The public hearing was opened. There being no public comment, the hearing was closed. Mr. Roosa stated that the ordinance deals with the definition of parks and includes the beaches and the coastal area between the property held in private ownership and the territorial bounds of the town as public parks.

Motion: Made by Mr. Murphy, seconded by Mr. Reynolds. Motion passed unanimously.

IV PUBLIC HEARING: ORDINANCE AMENDING THE LAND DEVELOPMENT CODE ON MOBILE VENDORS

Mayor Cereceda read the titles. Mr. Roosa stated that the ordinance is an addition to the existing land use development regulation and it prohibits mobile vendors within the town. Mobile vendors include a person who sells food or product of service to the public from a mobile dispensing vehicle which is self-propelled or otherwise movable from place to place, either operated from a base facility or not operated from a base facility. No mobile vendor shall be permitted to make sales from a vehicle while stopped in the right-of-way, or other public property within the limits of the town.

A. Cheryl Barnhardt

Ms. Barnhardt inquired whether this ordinance would affect special events. Mayor Cereceda stated that this would not affect special events since the town already has a special event permit.

B. Ray Jesta

Mr. Jesta questioned whether the ice cream vendor was allowable. Mayor Cereceda stated that those two vendors have been grandfathered in.

Motion: Mr. Mulholland, seconded by Mr. Murphy. The motion passed unanimously.

X FIRST READING: AMENDING THE OPEN ALCOHOLIC BEVERAGE CONTAINER ORDINANCE

Mayor Cereceda read the titles. The public hearing was set for November 2nd at 6:30 PM.

XI INTERLOCAL WITH SHERIFF'S DEPARTMENT

Mr. Gucciardo stated that the staff realized that the interlocal agreement with the sheriff expired on September 30th, 1998. He has spoken with the sheriff's department and there is no problem extending the agreement. The only change in the agreement is the yearly termination and Mr. Roosa has worked out the language on new termination.

Motion: Made by Mr. Reynolds, seconded by Mr. Mulholland. Motion carried unanimously.

Discussion: Mr. Hughes inquired as to how the fines and forfeitures are distributed. Mr. Roosa stated that the violations (fines) go to the municipality. If it is a violation of state law, the money is broken down with some going to the state and county. Mrs. Segal-George stated that the practical matter is that the town has been unable to collect the funds. Mr. Roosa stated that the problem has to do with the indexing of the violations. They are not able to identify the citations as being picked up within a municipality when the citations are being issued. It is not being picked up by the clerk's office. Mr. Hughes asked if the town will be able to go back and receive revenue. Mrs. Segal-George stated that they will review this with the clerk and sheriff's office to receive the funds. Mr. Gucciardo stated that one of things that has been done is that the deputies carry cards with our ordinance number and the applicable county similar ordinance to make it easier for them. Mr. Mulholland asked if this agreement has been brought to the Public Safety Task Force. Mr. Gucciardo stated that it hadn't been because there was no problem with the agreement. Mr. Roosa stated that he wasn't sure why it is not being processed. Mr. Reynolds asked if there had been any calls regarding lack of patrol cars on Estero Boulevard. Mr. Gucciardo stated that it was his opinion that that was not a problem any longer. Mr. Gucciardo asked that any questions or comments be directed to him or the Public Safety Task Force.

XII TOWN MANAGER'S ITEMS AND REPORTS

A. REQUEST FOR LOITERING ORDINANCE

Mrs. Segal-George stated that the Sheriff has asked us to put a loitering ordinance on our books. The county currently has one. Mayor Cereceda requested Mr. Roosa to prepare the ordinance. Mr. Gucciardo stated that those types of ordinances frequently have enforcement problems in the courts and he asked that if there is any input that the county attorneys can give us about how we want to modify it and then we can bring it to the PSTF and perhaps add suggestions.

B. SCHULTZ CHAIPEL

Mr. Gucciardo stated that the staff has an engagement letter with the auditors and they will begin the audit in the next week.

XIV TOWN ATTORNEY'S ITEMS

A. PRIMEAU vs. LEE COUNTY

Mr. Roosa stated that he had prepared a letter to the county commissioners and the county attorney. The council also was given a response from the county attorney. Mr. Roosa stated that it was his understanding that the town's position was that this is a lawsuit that was filed in inverse condemnation. That is the reverse of eminent domain. The proper remedy for that type of lawsuit is a judgement for damages. Mr. Primeau has made certain demands, converting the action into an injunction rather than one for damages with regards to moving the trolley stop and also the provision for parking spaces on public property. The county commission is set to hear this on October 20th and it is his opinion that the county should settle this in its proper stature and that would be for whatever is appropriate in monetary damages and that no consideration should be given to modification of that existing layout. Most of the citizens and residents are satisfied, except for him. Mr. Mulholland questioned what would happen if the settlement is not accepted. Mr. Roosa stated that it would have to go to litigation and there are defenses. The county has prepared defenses and it will continue as an action for monetary damages. Mr. Roosa recommended that the town council never join a lawsuit in which they may subject themselves to monetary damages. Mr. Mulholland asked what would happen if we don't join in, and Mr. Primeau prevails and the trolley stop is removed. Mr. Roosa stated that the complaint doesn't mention the trolley stop that was part of the settlement. If he prevails, the trolley stop stays where it is and he gets a check. Mrs. Segal-George stated

that there is a proposed settlement that does have the trolley stop being moved and what would happen if the county and Primeau settle this lawsuit under those terms? Mr. Roosa stated that then there would be an issue of the court's jurisdiction. The town is in control and not the county, and can't do what they don't have the authority to do and they recognize that. The county has a different attitude regarding the trolley stop and not the parking spaces. The action is for damages, not for mandatory injunction. Mr. Reynolds asked Mr. Roosa to identify the loss of the three existing off-site parking spaces. Mr. Roosa stated that they are on the outside of the bollards and partially on town property and partially on private property. Mr. Hughes stated that that is the area that the LPA granted additional parking spaces. Mr. Hughes is still uncomfortable with the situation. He felt it would be better to be involved before an order is entered. Mr. Roosa stated that the town would intervene before the order was signed. Mrs. Segal-George stated that county attorney's office is recommending approval of the settlement agreement as it stands with moving the trolley stop. Mr. Roosa stated that after it has been approved, it must go to the court. Mr. Hughes inquired as to the time frame and Mr. Roosa stated that he has been directed to intervene at the meeting if it was approved. Mayor Cereceda asked for clarification from the council that they were not in favor of the settlement and the council agreed.

XV PUBLIC COMMENT

A. Frances Hodash

Ms. Hodash stated that she disagreed with Mr. Mulholland's letter. She had no objection to the letter and he had the right to express his opinion. It bothered her that it was on official town stationery. She felt that in receiving the letter, it was the opinion of the entire council. She was upset that costs were to be taken out of Mr. Mulholland's future salary, and that the town was advancing him the money. She felt it was an abuse of power. Mayor Cereceda stated that it was town official mail. There are many times that letters go out that she has to sign that she has been on the opposite side of a vote and does not endorse what has been written on the piece of paper, but in fact she needs to sign it. Mr. Mulholland was acting in his capacity as councilman and was 100% entitled to do so. Mr. Reynolds stated that he didn't agree with Mayor Cereceda.

B. Lena Heyman

Mrs. Heyman stated that it was in violation of political law during a campaign to send out mailing on an issue and if you spend more than \$500, you have to register.

C. Bob Campbell/Kalvin Kagle

Mr. Campbell stated that he lives next to the Lani Kai. He complained about the music and it is hard to sleep. He also complained about the noise at the Cottage at the Gulfshore. He complained about the dumpster that has been placed on his property by the Lani Kai. He would like someone to look at this to remedy the smell. Mr. Campbell stated that they have had many problems there and Mr. Kagle had even been attacked there. Mr. Kagle inquired to whether a building permit was issued from the town or the county. Mayor Cereceda stated that it is the town, but the county works for us. Mayor Cereceda stated that she would have code enforcement visit the site. Mr. Hughes questioned about the noise ordinance. Mr. Gucciardo stated that the Sheriff's department and the Public Safety Task Force are working closely on the noise problem.

D. Sandi Suter

Ms. Suter stated that the civic association has been on the beach for many years and that the Tidelines had been written for many years. The writers from the membership are conscientious. She clarified their position at the last meeting endorsing four candidates. She addressed Mr. Mulholland's statements that they couldn't endorse candidates. Ms. Suter stated that as a private organization they can do that and by doing that, they do not have to become a PAC. She referred to Mr. Hughes' comments about the Tiki bar and jetski in the San Bar litigation, and she doesn't believe that they were part of the civic association's litigation. She believes that the whole situation has been a political situation.

E. Tom Merrill

Mr. Merrill stated that several months ago, they perceived that over a long period of time the airlines are coming in over the beach more. He brought the matter before council. The airport consistently told them that they were flying under 3000 feet coming in over the beach. In fact, they have been coming in as low as 1400 – 1500 feet, and have changed their routing to come over the beach. The airport has decided to have airplanes come in at 3000 feet. There is a voluntary noise abatement program. Mr. Merrill thanked Mrs. Segal-George and Dave Smith. They have accomplished something, but they need to keep in mind that these people in the airport are the same ones who want to build a second runway.

F. Jack Henricksen

Mr. Henricksen had comments regarding the San Bar. He made a clarification on the matter. The stipulation of the parties for judgement in favor of the plaintiff is just in draft form. This was prepared by Mr. Pasev's attorney. Mr. Pasev's attorney said that the purpose of the stipulation is to end the current litigation and enter a judgement in favor of the plaintiffs and declare that the rezoning resolution issued by the town is void and subject to terms and conditions. The property would revert to the zoning and land use classification which was recognized prior to the adoption of the resolution. There are other stipulations in the letter, all non-conforming uses on the subject property. These issues will enjoy the same status they had prior to adoption of the resolution. Mr. Henricksen thought when someone surrenders, the other was a victor. The judgement required the civic association's attorney and Mr. Pasev's attorney's signature. He was under the impression that Mr. Roosa stated that the town would go along with anything that Mr. Pasev wanted, but he must have misunderstood that. The two issues that the council seems to be putting a spin on are the Tiki bar and the jetski. Mr. Henricksen stated that when the council has the ability to write ordinances and have, he can't understand how the town can continue to keep spending money on it this. The property owner is ready to back down. He also questioned why the town has standing, when the property owner is ready to accept. The Tiki bar and jetskis were not part of the lawsuit. The lawsuit was about the comprehensive plan.

G. Robert King

Mr. King stated that when the staff is presenting information on investment options, he would like more specifics available to the public.

H. Reverend Dick Tafel

Mr. Tafel spoke about the Kids Vision and Intervention Program, which is set to begin on November 2nd. He hopes to hear from the school district regarding the distribution of information. They are currently working with the Ostego Bay Foundation leasing space for the after school program. An open house is scheduled for November 1st at the Ostego Bay Foundation. They would like their advisory board to include council members, staff or a member of the Public Safety Task Force.

H. Carolyn Van Duzer

Mrs. Van Duzer stated that since Mr. Reynolds brought her name into his comments she felt the need to say something regarding Mr. Mulholland's letter. She is proud to have done the work on the letter and she has received many calls. What was done was right and just. Her husband has been on the bad receiving line of the civic association's Tidelines and it is about time that someone stood up and did what is right.

I. Flip Harby

Mr. Harby announced that on November 3rd the PSTF will be passing out surveys at each of the polling places. It is the citizen's survey to tell the town what is important to them. It is important that these surveys get filled out and returned. It is a good tool to tell the town what the citizens want and need.

XVI ADJOURNMENT

The meeting adjourned at 8:24 p.m.

Respectfully submitted,

Janeen Paulauskis
Recording Secretary