

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JANUARY 6, 1997**
Nations Bank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

The meeting was opened on Monday, January 6, 1997 at 6:30 P.M. by Anita T. Cereceda, Mayor. Present at the meeting were: Anita T. Cereceda, Mayor and Council Member; Ted FitzSimons, Vice Mayor and Council Member; Council Members Rusty Isler, Ray Murphy, and Garr Reynolds; Marsha Segal-George, Town Manager; and 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 Pastor Bob Stuckey of First Baptist Church of Fort Myers Beach.

IV PUBLIC COMMENTS AND INQUIRIES

Mayor Cereceda gave special thanks to the committee that planned the first birthday celebration in Times Square on December 31.

A JACK MARKHAM

Mr. Markham thanked the Council for all they have done, including the Times Square improvements. He stated that Bowditch Point could be developed into the kind of place that will attract people. The convention center has been taken care of in the courts. The key issue now is that there is no more beach left, and it should all be available for the people. It belongs to taxpayers and should be retained for the residents of Lee County.

B HAROLD KOPENHAVER

Mr. Kopenhaver thanked the Council for a job well done. He agreed with Mr. Markham about Bowditch Point. He also thanked them for trying to do something about the jet skis.

C FRANCES HODOSH

Mrs. Hodosh stated that she has already written to the Council about the land swap. It should not happen. How this issue is handled will be an indication of whether incorporation was a good idea. She quoted from a newspaper article that said that both pieces of land should be preserved.

D GRETCHEN JOHNSON

Mrs. Johnson thanked the Council for a wonderful year. The County already gave away the road rights to Sunstream. They should not now give away Bowditch too. She would be willing to have a special assessment to buy the Virginia Avenue property. How about using Conservation 2020 funds to purchase and preserve that property?

E STAN JOHNSON

Mr. Johnson read from a letter that he wrote to the Mayor. He feels that the County, the Town or both should buy the Virginia Street property, because the Town can borrow for three years and then sell bonds. Even though taxes would increase to buy the property, it is needed for the future of the Town. The Town should have a referendum to see how the voters feel.

F ROBERT KEENE

Mr. Keene hopes that the Council will move slowly with regards to the Bowditch land swap and will keep the citizens informed of all details as they unfold.

V REVIEW OF MINUTES FROM DECEMBER 16, 1996

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

VI REVIEW OF EXPENDITURES

Motion: Mr. Reynolds moved and Mr. FitzSimons seconded to accept the report of expenditures. The motion passed unanimously.

VII UPDATE ON THE LPA

Lena Heyman spoke on the topics which the LPA has discussed during the month of December. They have talked about FEMA regulations and about a sign went on a boat tour of the back bay to see the sensitive land issues there. They talked about home-based businesses and have talked about stormwater runoff. Dan Hughes has agreed to serve on the TAC of the MPO. They talked about public participation in the process of developing a comp plan. To that end, the LPA has invited 55 different organizations to be part of a progressive dinner. Trolleys will take people from the Methodist Church for appetizers, to the Church of the Ascension for the main course, then back to Bay Oaks for dessert and coffee. The following day, there will be a follow-up at Church of the Ascension. In addition they are making a brochure to tell people about the vision for the Town.

VIII UPDATE BY THE POOL COMMITTEE

Jennifer Kaestner reported that the Fort Myers Beach Build The Pool Committee is now a non-profit organization so they can begin to raise funds. They are having a brick sale, they are having a pro-am tennis tournament on Valentines weekend, they are working with the Beach PTA on a Swim-A-Thon, and they are soliciting pledges from the businesses on the beach. She thanked the Council for their support during the past year. John Gucciardo passed out a sheet about land acquisition from the County.

IX COUNCIL MEMBERS' ITEMS AND REPORTS

A TED FITZSIMONS

Mr. FitzSimons mentioned that there is no council member assigned to beautification. He recommended that Mayor Cereceda take on that responsibility and she agreed. He hopes that the Council will get a lot of input on ideas for beautification, including refoiliation of Estero Boulevard.

B RUSTY ISLER

Mr. Isler had no items to bring before the Council.

C GARR REYNOLDS

Mr. Reynolds reported that he went to Mote Laboratories last Friday and took a tour for elected government officials. They are studying the red tide problem and all kinds of marine animals.

He also reported on the MPO and the members who have been appointed to the various committees.

He thanked the committee that worked on the birthday celebration.

He spoke about signs at Times Square. There should not be an entrance to Times Square for northbound traffic and apparently the sheriff agreed and that sign has been removed. But he questioned why there is a sign for southbound traffic that advertises parking since the Town does not allow other signs for other parking lots. Mr. Gucciardo explained that that sign was put there to indicate to people that that parking lot is still open during construction. It is temporary.

He also reported that he saw two semi-trucks parked in Times Square and it was a shock.

D RAY MURPHY

Mr. Murphy had no items to bring before the Council.

E ANITA CERECEDA

Mayor Cereceda publicly thanked Brittany Wallman and Larry Ihnen for their fair coverage in the press during the year.

She mentioned the caroling program at Times Square and thanked the participants for their hard work during adverse weather conditions. She thanked Rusty Isler and Peggy Salfen for their help in setting up the program.

She mentioned that the art association wants to have an art show in Times Square. There was no objection by the Council.

X FIRST READING OF AN ORDINANCE TO AMEND THE VESSEL CONTROL ORDINANCE

Mayor Cereceda read the titles. Public Hearing was set for January 21, 1997.

Mr. FitzSimons recommended that the last phrase of the underlined section in paragraph one should be changed to "north" of Big Carlos Bridge since the bridge runs approximately east-west. The ordinance should also

mention that this slow speed zone excludes the marked channels. Mr. Isler also suggested that the words "Back Bay" be added for clarification.

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that these changes be incorporated. The motion passed unanimously.

XI FIRST READING OF PARASAIL ORDINANCE (PUBLIC HEARING)

Mayor Cereceda read the titles and opened the meeting for public comment.

A BILL PERRY

Mr. Perry of Aqua Sports Unlimited supports the ordinance. It was a joint effort of all the parasailers on the island and they all feel that it has merit for safety.

The public hearing was closed. The final public hearing was set for January 21, 1997.

XI PUBLIC HEARING OF PUBLIC SERVICE TAX ORDINANCE

Mayor Cereceda read the titles and opened the meeting for public comment. Mr. Roosa explained that this is an ordinance that establishes the right of the Town to impose these taxes but sets the rate at zero percent. If at a future time, the Town decides to impose it, they will have to pass another ordinance. Since there was no comment, the public hearing was closed.

Motion: Mr. Reynolds moved and Mr. FitzSimons seconded that the ordinance be adopted. The motion passed unanimously.

XIII FIRST READING OF HAZARDOUS MATERIAL INCIDENT COST RECOVERY ORDINANCE

Mayor Cereceda read the titles. The public hearing was set for January 21, 1997.

XIV GRANT FOR STORMWATER RETROFIT

Marsha Segal-George spoke about a memo from Bill Spikowski. Eileen Barnett, a resident of the Town who is with the DEP, has let the Town know that some of the stormwater issues might be eligible for some grant money. Marsha Segal-George asked for the authority to proceed with the grant.

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the Town Manager be authorized to proceed with pursuing this grant money. The motion passed unanimously.

XV PUBLIC PARTICIPATION FOR THE COMPREHENSIVE PLANNING PROCESS

Marsha Segal-George stated that the LPA has already approved this procedure policy and the Council also needs to approve it. Since the Council had no further suggestions, it will be brought back to them in the proper form at a future meeting.

XVI PRELIMINARY DISCUSSION BY COUNCIL OF PROPOSED MARINER/SUNSTREAM LAND SWAP

Mayor Cereceda said that she thought it would be irresponsible and inappropriate of the Council to discuss something that has not been brought to them officially. The Council is not involved in any kind of deal with either party. Eventually it will be a land use issue and will need to go the LPA first, and she fears that it would prejudice their future hearings when it does come to the Council if they discuss it now. Mr. Roosa said that he doesn't know that it would be illegal, but that all they could discuss now would be what was written in the News Press. Thinks they should wait until there is an official proposal and it is reviewed by the staff and properly presented to them with staff input. So far the only people who know what is going on are the two private parties and perhaps the Commissioners.

Mr. Reynolds stated that he talked with Marsha Segal-George when the story first came out. He stated that there were Council members involved in the discussions, and the paper reported that the Council was in favor of the land swap four-to-one. Mayor Cereceda said that she understood that Council members were able to discuss this individually but not as a group. Mr. Reynolds felt that they had a responsibility to their constituents to discuss it. Mr. Roosa said that the Council should not consider a proposal that has not been defined. Mayor Cereceda asked the other Council members if they wished to proceed with the discussion or not. Mr. Isler said he is concerned about Bowditch but does not have further things to discuss at this time. Mr. FitzSimons said that he felt that what was in

the News Press was accurate at the time but may or may not have been based on any documentation and is very general. Since the County Commissioners talked about this subject today, he asked what they decided. Mr. Gucciardo reported that the county administrator simply asked the Commissioners if they wanted him to continue discussions. They directed him to gather more information to see what the proposal will be. The Commissioners were not in a position to talk about a specific proposal. Mr. FitzSimons said therefore he is hesitant to go further on the discussions. Mr. Murphy said that it is a hot topic but he thinks it is premature for the Council to address the issue now since it is currently between a private landowner and the County. Mayor Cereceda decided to pull the item from the agenda. However Mr. Reynolds objected to not being heard because he would have brought this up during the Council Members Items and Reports if he had known that it wouldn't be discussed at this agenda time. Mayor Cereceda allowed him to speak but cautioned him that he might be prejudicing himself on future votes. He gave several options: 1) no land swap at any price 2) accept no change in Sunstream's current permits 3) allow Sunstream to sell on the open market without interference by Town or county 4) mind our own business and not show preference to private investors.

XVII TOWN MANAGER'S ITEMS AND REPORTS

A INNOVATION IN AMERICAN GOVERNMENT GRANT

Marsha Segal-George reported that the Town will be submitting this grant to Harvard University. It is very prestigious and the Town probably has little chance, but she is submitting the town government as an innovation. She will give copies to the Council as soon as they are available.

B TROLLEY UPDATE

Mr. Gucciardo reported that the staff offered to pay the county 25% less than their original proposal for extra trolleys. The County is now recommending an 18% savings instead, or about \$12,000 per season. He also reported that the Beach Chamber of Commerce is sending out a letter to their members recommending that they donate money directly for that purpose. The TDC has set up a subcommittee to study the issue, but he is not sure that this will result in dollars but should help the communication for future years. The third and fourth trolley should be on the road by the end of January or early February and go through most of April. The trolleys will now cover the entire island instead of stopping at Santini. Since there is not a turnaround point at the south end, the trolley will probably go to the Grandview resort and meet up with the Bonita trolley. The Grandview people may help because it will be a benefit to them. Mr. Reynolds said he thought that people who are going to Carl Johnson park would appreciate not having to change trolleys since they will be carrying chairs and coolers. Mr. Gucciardo said he was relying on Mr. Fetzer's recommendation, but he will bring it back up again with Mr. Fetzer. Maybe they can use both points as turnarounds.

C LOAN REFINANCING UPDATE

Mr. Gucciardo reported that at the Council meeting on January 21, they will get a resolution to approve. Last year's loan was a tax anticipation note because the Council signed a paper that they anticipated that some of those funds would be needed during the first three months. This year that is not the case so the bank's attorneys are working on a couple of different options. The Town will still be able to borrow the money at an interest rate that, when invested, will result in no cost to the Town.

He also mentioned that at the December 16th meeting he reported on a letter he had written to the CRA regarding Times Square issues. The Town received a response on December 27th. He asked the Council to review the response and get back to him.

Mr. Reynolds asked about the rumors of a theater at Estero between Egret and Curlew. Marsha Segal-George replied that an investor informally approached the LPA about the idea. They responded favorably to the idea of a theater on the island but expressed concern about the location. If the party decides to proceed, it will go to the LPA and then to the Council.

XVIII TOWN ATTORNEY'S ITEMS

Mr. Roosa handed out a memo showing the status of pending cases. He reported that there was a hearing today on the Figuerado case. Oral arguments were heard and it will probably take a few months before a response will be handed down by the judge.

XIX PUBLIC COMMENT AND INQUIRY

A ROSE MONSERRATE

Dr. Monserrate complimented the Council on the way they conduct business and thanked Marsha Segal-George and John Gucciardo for their help in assisting her in trying to open her office.

B JENNIFER KAESTNER

Ms. Kaestner urged everyone not get pulled into the land swap story and wait until the facts are presented. She thinks the private parties are just trying to get a feel for public opinion through the media.

C HAROLD KOPENHAVER

Mr. Kopenhaver spoke about the tables that are in the way of pedestrians in Times Square and about the cars that are parked on the beautiful tiles. He saw a truck pull between the first store and second store and he questions if that should be allowed. He also wondered if the Town gets any portion of all the tickets being written by the sheriff.

Mr. FitzSimons replied that when the County set up the easements, some of the easements are on private property. The owner allowed the County to pave their parking place.

D BILL SHENKO

Mr. Shenko was on the original CRA, and it looks better than what he expected. However there is a problem with noise. Last night there was a battle of the bands in the middle of the road. The sheriff was called and gave a warning. He would like the Town's direction on whether the bands should be allowed to continue. In addition, the Town should not be condoning or permitting outdoor consumption of alcohol on public property because this would be a great liability to the Town.

Mayor Cereceda said that the CRA project has been a hassle from day one. The noise and tables and alcohol are all out of the Town's hands other than to tell the county how we feel. Until it is turned over to the Town, the County can permit whatever they want.

Mr. Reynolds suggested that members of the public call the Commissioners to let they know how they feel about the land swap.

XX ADJOURNMENT

The meeting was adjourned at 8:15 P.M.

Respectfully submitted,

Peggy Salfen
Recording Secretary