

**FORT MYERS BEACH
TOWN COUNCIL MEETING
FEBRUARY 3, 1997**
Nations Bank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

The meeting was opened on Monday, February 3, 1997, at 3:05 PM 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 the Reverend C. Thomas Snapp, pastor of St. Peter Lutheran Church.

IV PUBLIC COMMENTS

A DAN PARKER

Mr. Parker read a memo from the FMB Civic Association Directors supporting the extension of permits for Sunstream while alternates are being explored and favoring the Mariner/Sunstream exchange providing there would be a minimal loss of public land.

V APPROVAL OF MINUTES

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

VI EXPENDITURES

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the report of expenditures be accepted. The motion passed unanimously.

VII PUBLIC HEARINGS

A PRIMEAU/WEST COAST 96-10-095.05V

Nettie Gustison of Lee County Development Services was sworn in. She explained that the owner of 1035 Estero, in the Times Square area, is asking for 3 variances: parking (29 are required and they are requesting 0), side setback (from 15' to 0'), rear setback (from 25' to 0'). The parking variance is necessary because the owner lost parking due to construction and improvements in Times Square. The setback variances are necessary due to the addition of handicap restrooms and a wheel chair lift to the second floor necessitating relocation of the fire escape to the NW corner of the building. She recommended approval due to redevelopment which created an extraordinary condition not caused by the applicant. The LPA recommended approving the three variance requests with the condition that they are bound by Site Plan "D" which shows 8 parking spaces.

Marsha Segal-George pointed out that Mr. Primeau donated some of his land in order to get the redevelopment project started. Mr. Primeau and Joanne Semmer were sworn in and said that before the Times Square construction he had 23 parking spaces and now there is only room for 8. Some of them will be on the paver blocks but they will be on the road side of the bollards, not the pedestrian side. The Council expressed concern that there were too few spaces, that parking would be on the paver blocks, and whether there would be room for pedestrians to walk around the cars parked in the spaces off Center Street.

The public hearing was opened. There being no public comment, the public hearing was closed.

Motion: Mr. Murphy moved and Mayor Cereceda seconded that the variance be approved as conditioned by the LPA with the change that the compact car space shown on Exhibit "D" be moved from the Center Street side to the front of the building.

Amended Motion: Mr. Reynolds amended the motion to change the other two spots on Center Street to compact parking spots to allow more room for pedestrians. Mayor Cereceda agreed to the amendment. Mayor Cereceda, Mr. FitzSimons, and Mr. Murphy voted for the amended motion. Mr. Isler and Mr. Reynolds were opposed. The motion carried.

Discussion: Mr. Reynolds wanted to eliminate the parking in the variance requests with the condition that they are bound by Site Plan "D" which shows 8 parking spaces.

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Discussion: Mr. Reynolds wanted to eliminate the parking in the mall area altogether. Ms. Semmer answered that the original CRA project called for parking in that area.

B DELUCAS 96-10-023.05V 02.01

Ms. Gustison stated that the owner has requested a variance from the required 20 parking spaces to 10 spaces. The building is at the intersection of Fairweather and Estero. It is partially occupied by a dental office, but the part that was formerly leased to a bank is now empty and the owner would like to lease it as a medical office. The building only has ten spaces which are nonconforming since the building was built before zoning regulations. There was no problem with parking when it was used as a bank, and changing the use to a medical office will decrease the number of trips (a bank has 38 trips per peak hour and a medical office has 8.) The existing dental office will generate 7 trips per hour, for a total of 15 for the building. The applicant cannot provide more parking, and he is not changing the building. The fire department has said there would be no problem accessing the property for medical emergencies, and the owner has a parking agreement with neighboring property for staff parking, so all spaces will be available for customers. The County Staff recommends approval.

The Council members each divulged any ex parte communications they may have had in regards to this hearing.

Ms. Grady, attorney for Dr. DeLucas, was sworn in and reminded the Council that they have already approved a parking variance for retail use, the parking spaces required are the same, and the use as a medical office will have even less impact on traffic. The use will be an asset to the community and is a permitted use in the zoning area.

Dr. DeLucas was sworn in by Mr. Roosa. He said that he has owned the property since 1983. He read a letter regarding verbal arrangements to use adjacent parking areas for employee parking. He read a letter from the owner of the fruit stand, Larry Whittaker, allowing this parking. He also mentioned that there is 22 feet between the end of parked cars and where pedestrians walk in case an ambulance would need to pick up someone from the clinic. He also read a letter from the chief medical operations officers of the fire district stating that there would be no problem accessing the property.

Ms. Grady also mentioned that they hired Florida Transportation Engineering, Inc. to study the uses of retail vs. medical vs. bank use and it is consistent with the county staff report. She also mentioned that the LPA approved the variance on January 27 because there were extraordinary circumstances.

The public hearing was opened. Mr. Roosa swore in all persons who wished to speak at the public hearing.

A RUSSELL CARTER

Mr. Carter who lives on Pearl Street, spoke in support of the medical facility. He felt it was appropriate for the goals of the town. He did not want to give Columbia Healthcare a monopoly on the island.

B DANIEL AMORE

Mr. Amore stated that he is a patient of Dr. Milward, but with the increase in population and traffic, it takes up to 45 minutes to an hour to get there and Dr. Milward is very busy. The island is long overdue for another physician and that is a perfect spot. He feels the larger parking lot at the other medical office is necessary because it has more labs and clinics.

C PAUL HOFFMAN

Mr. Hoffman, a resident for 32 years, remembers when there were three doctors here. Now there are condos, more hotels, more visitors, and the Town needs another doctor, especially one with emergency credentials.

D BETTY HOFFMAN

Mrs. Hoffman stated that a medical facility on this end of the island will benefit the Town more than another T-shirt shop.

E KEVIN MULHEARN

Mr. Mulhearn participated in the Town workshop, and he felt that having a medical facility on the north end would be an advantage and be consistent with the goals of the Town. The parking problems will not disappear, but traffic will not be adversely affected. The Town does not need any more taverns, tattoo shops or T-shirt shops.

F NANCY WEAVER

Ms. Weaver is a resident and owner of three businesses. There are three businesses in the existing medical clinic, one of which is her business, and there are up to 20 employees so they need more parking there. She has seen the medical needs on the island and there is not enough medical assistance here. If the Council turns this down they will have to bear the responsibility.

G THOMAS SNAPP

Rev. Snapp, pastor of St. Peter Lutheran and a resident of the Town, said that he feels that the island needs another doctor. There needs to be somewhere to take people other than the emergency room.

H ANDY PRIEM

VII UPDATE ON THE LPA BY RON KIDDER

Mr. Kidder reported that during January, the LPA discussed the design workshop which was a great success. They studied sanitary sewer service and waste disposal and it appears that all services are sufficient for now. The goal for recycling is 55%. There is no recycling for motels or hotels, but the Town may want to set up stronger rules than the county. Regarding land use hearings, it has been initiated that notification will be sent to all property owners instead of just condo associations. The storm water grant application has been filed. The LPA is on schedule for the comp plan but may run out of money. On February 4 they will talk about a new sign ordinance.

The Council thanked the LPA for their great work on the design workshop.

The Council took a break at 5:15 PM and reconvened at 5:22 PM.

VIII COUNCIL MEMBERS ITEMS AND REPORTS

A RUSTY ISLER

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

B TED FITZSIMONS

Mr. FitzSimons thanked Andy Priem publicly for his help with drafting a manual of policies and procedures.

He reported that there have been many calls in reaction to Joe Workman's column in the weekend paper. The staff is collecting them on the voice mail system. He suggested that if any council member receives comments on the land swap on their personal voice mail, they may want to forward it to extension 100 so they will all be recorded together.

He passed out a memo proposing a land use task force in response to the proposed land swap, but it could be useful on other subjects. He suggested one council member, one LPA member and 5 citizens. This would not impact the staff or budget, except for office space, computer and telephones. It could be used for data analysis.

Motion: Mr. FitzSimons moved that such a task force be formed and Mayor Cereceda seconded the motion for discussion purposes.

Mr. Roosa expressed concern about a council member being on this committee, because it would be a monumental task for the council member as to disclosure. The task force would have to give public notice of meetings, maintain minutes, and follow all the government-in-the-sunshine rules. If it does not have the official sanction of the Town, it would not be under the same rules. Mr. FitzSimons withdrew the motion.

C GARR REYNOLDS

Mr. Reynolds asked if the Council wanted to participate in the Shrimp parade. The Council agreed to participate and Mr. Reynolds will contact the Lions Club to see what they would like the Council to do.

He expressed concern about all the requests for variances that the Council is receiving that will result in more density and intensity and reduced parking spaces. He feels they are being asked respond to individual needs instead of community needs.

He talked about the land swap. He feels that residents will be adversely affected because they will be losing bay and beach area. He likes the idea of a task force to look into various properties as they become available. He stated that he called the commissioners to ask them to put parking on Bowditch and was told that the property is too valuable to put parking on.

D RAY MURPHY

Mr. Murphy asked for clarification on what should be brought up during the Council Member's Items and Reports. The Mayor read from the recently passed policies and procedures. It was her understanding that it would be a report on things that the Council members were currently working on. It was discussed that perhaps that section should be looked at again.

Mr. Murphy stated that he felt that at all times the Council has the best interests of the Town at heart.

E ANITA CERECEDA

Mayor Cereceda wanted to publicly thank Lena Heyman for her efforts in organizing the design workshop the past weekend.

X APPOINTMENT OF CHARTER REVIEW COMMITTEE

Mr. Isler nominated Ilene Barnett, a resident of the island who works for the DEP. Mr. FitzSimons nominated David Smith, who was on the incorporation committee and transition team. Mayor Cereceda nominated Andy Priem. Mr. Reynolds nominated Dan Parker. Ray Murphy nominated Dr. Joe Croker, who was on the Chamber Charter Review Committee.

Motion: Mr. Reynolds moved and Mayor Cereceda seconded that the above five members be selected. The motion passed unanimously.

XI TOWN MANAGER'S ITEMS AND REPORTS

A REQUEST FROM CHAMBER FOR LETTER ON TROLLEY

The Chamber Board has asked for a letter from the Council to send to Chamber members asking for contributions toward the expense of the extra trolleys. The letter was originally supposed to come from the Chamber to their members. It was decided that it was inappropriate for that letter to come from the Town, and that it should come from the Chamber as originally planned.

B SHERIFF'S ENFORCEMENT OF JET SKIS

Marsha Segal-George reported that license applications have been prepared and distributed to all the PWVL vendors. The Town will start enforcing the ordinance on March 1. To get that kind of enforcement, the sheriff has worked up a schedule of 20 hours per week on the water in alternating shifts. She is asking for the Council to study it and she will put it on the next agenda. In addition, the Town is designing Town citation books.

C SANIBEL JOINT MEETING/PROPOSED AGENDA

Marsha Segal-George reported that the agenda was set by Gary Price. Sanibel's Council took out some items that the Town had originally suggested because they felt this was enough for one meeting. The staff will provide briefing papers for the Council Members before the meeting.

D SECURITY SYSTEM

Peggy Salfen reported that the alarm system will be activated as soon as she receives all the personal access codes from all the key holders.

E UPDATE FROM SHERIFF

Mr. Gucciardo reported that in response to the Council's concern over crosswalk safety, the sheriff's department has issued 22 citations and 19 warnings, in addition to numerous speeding violations.

F STORMWATER RETROFIT APPLICATION

Mr. Gucciardo reported that the Town is on the grant list, and that he will be going to West Palm Beach tomorrow to try to advance the Town's cause.

G ESTERO BAY MANAGEMENT

Marsha Segal-George reported that the Town has received a letter from the Southwest Florida Regional Planning Council informing the Town that, in response to the Arnold Committee, they will be establishing the Estero Bay Agency on Bay Management (ABM), and the Town will be getting a seat. The Council suggested that Mr. Isler be appointed and he agreed to serve.

XII TOWN ATTORNEY'S ITEMS

A DIAMONDHEAD

Mr. Roosa submitted a proposed motion concerning the extension of permits. Mayor Cereceda proposed a change in the first paragraph from "Mariner Properties" to "South Seas Resorts" and a change in the last sentence to "until 90 days following the 31st day of July, 1997" and omitting the rest of the sentence.

Motion: Mayor Cereceda moved and Mr. FitzSimons seconded that the policy be adopted with the above changes. Mayor Cereceda, Mr. FitzSimons and Mr. Murphy voted for the motion. Mr. Isler and Mr. Reynolds voted against it. The motion carried.

B FIGUERADO

Mr. Roosa reported that he received the final order from the judge which stated that there was substantial evidence that the Figuerado's application was consistent with the comp plan and ordering that it be remanded to Town Council with instructions to Council to approve the special permit. Mr. Roosa said that the Council could continue this to the next meeting since they had not had time to think about it, they could schedule it for the next land use hearing, or they could direct Mr. Roosa to appeal the legality of the judge's order.

Motion: Mr. FitzSimons moved and Mayor Cereceda seconded that it be continued to next meeting. The motion passed unanimously.

XIII PUBLIC COMMENT

A ANDY PRIEM

Mr. Priem thanked the Council for being appointed to Charter Review Committee. He also commented that he was dismayed that the Civic Association directors had taken a position on the land swap, since he is a member of the Civic Association and has not heard of the memo until this meeting, and he holds a different position. Park land is a critical resource and treasure, and anything that would diminish the acreage of park land in the town would be unacceptable. The proposal would reduce park land by 5-7 acres and substitute marginal property for magnificent property. He feels what they are offering as a bay-to-beach park is useless. He recommended that the Council take a stand that no diminution will be acceptable. It will be a litmus test for the Council and for the Town.

B BONNIE McLAUGHLIN

Ms. McLaughlin agreed that they shouldn't give away Bowditch. The Virginia Ave. property cannot be compared to it.

C DAN PARKER

Mr. Parker thanked the Council for being appointed to the Charter Review Committee. He also spoke about the traffic problem, and mentioned that another pedestrian had been hit in a crosswalk. He thinks all agencies should get involved in studying why all these accidents are happening. The Chamber Traffic Committee is not enough and the problem should go to professionals. He thinks part of the problem is the left turn onto Fifth Street.

D RAY MERTENS

Mr. Mertens said that since the Figuerado case wasn't on the agenda, he couldn't speak at the earlier time. Then it became an agenda item and he didn't have a chance to speak until after the Council had acted. Now 5 people will probably be laid off since the Council decided to continue the discussion until the next meeting. Otherwise it will cost him about \$8000 to carry the employees on his payroll until a decision is made.

E OLLIE CURRAN

Ms. Curran mentioned that the Town began because of Diamondhead and they are now talking about a swap. She thinks Bowditch should be kept and she no longer cares about the Virginia Ave. property.

XIX ADJOURNMENT

Mr. Murphy moved that the meeting be adjourned. The motion passed unanimously. The meeting was adjourned at 6:55 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary