

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
JUNE 16, 1997  
NationsBank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

**I CALL TO ORDER**

The meeting was opened on Monday, June 16, 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 Ray Murphy and Rusty Isler; Marsha Segal-George, Town Manager; John Gucciardo, Deputy Town Manager, and Attorney Richard Roosa.

Excused absence from meeting: Garr Reynolds.

**II PLEDGE OF ALLEGIANCE AND INVOCATION**

All assembled recited the Pledge of Allegiance to the flag and the invocation was given by Deacon Kiesel.

**III PUBLIC COMMENTS AND INQUIRIES ON THE AGENDA**

**A. JOHN MULHOLLAND**

Mr. Mulholland, Chairman of the LPA Committee, referred to the proposed heights ordinance. He advised that they had had the support of the Spikowski Planning Associates when working on this ordinance, which translated into time and money. The LPA members feel that they have proposed something that is workable and reasonable. It is scheduled for September, but everyone can look at it at any time. The LPA hopes that in tonight's deliberations, the council will look at what has been done.

**B. FLIP HARBY**

Mr. Harby stated that upon looking at the packet that he had received last week regarding the State Tourist Development Council Grant of \$200,000, he would implore the council that if it made a final decision tonight, that they know all the answers. The letter dated May 9 from Dennis W. Harmon to Marsha Segal-George says that the \$2.3 million CRA project is not credit enough. Do we have \$800,000 laying around? he asked. Do we need a band shell?

Secondly, a letter dated June 6 to Catherine Morrison, Tourist Coordinator, clarifies the processing of the application. The council members should look at the last paragraph of this letter in which Marsha Segal-George asks that any future concerns or comments about our applications be directed to the Town Hall office before appearing in the media. To Mr. Harby, this sounds like a gag order and totally out of line and should be addressed. It would mean that he couldn't call Tallahassee and find out about a \$200,000 grant or what the council is doing before they clear that phone call with the Town Manager, and it should be noted and addressed.

**C. BOB BOCHMAN**

Directing his comments to Sheriff McDougall, Mr. Bochman said that he has been here for a good ten or twelve years and has been very disappointed with the results gotten from the Sheriff's Department. He doesn't see why the sheriff is requesting more money just because we're a town now. In his opinion and that of others, they hadn't done their job here even when we were under the county's auspices. Why, then, should we expect them to assume their responsibilities after we become a town?

**D. BILL VAN DUZER**

An LPA member, Mr. Van Duzer said that he would also like for us to give consideration to the work done by the LPA on the heights ordinance. He feels that what has been done is reasonable. If the council is trying to speed the process up, he can understand that, but they should take careful consideration of what's been offered. He does not understand why this ordinance should be speeded up. He would implore the council to consider that the LPA

has done a lot of work on it and have done it well.

#### **E. JOHANNA CAMPBELL**

Also an LPA member, Mrs. Campbell said she too would like to comment on our upcoming discussion with the sheriff concerning the additional money that he will be asking for to provide more services on the Beach. She would like to remind us that before we were incorporated we did have a noise ordinance, we did have a jet ski ordinance under Lee County and the sheriff was supposedly enforcing those ordinances as well as others at the time. We should keep that in mind when he asks for more money.

### **IV APPROVAL OF MINUTES FOR JUNE 2, 1997**

**MOTION:** Made by Ted FitzSimons and seconded by Ray Murphy to approve the minutes of June 2, 1997. Passed unanimously.

### **V REVIEW OF FINANCIAL REPORTS FOR MAY**

#### **Questions:**

1. Is everything in place now to begin the next budget cycle so that we can use our history of the past year even though it's sporadic as a tool?

Answer: Yes, at this point we've got the chart of accounts where each numbered item is tied in with the budget numbers. As we go forward in the new budget cycle, one will see cross-references from the chart of accounts to the budget items.

2. We also recognized the additional income that we received during the year that was not originally budgeted. Do those budget-to-date numbers include that additional or are they the original budget-to-date numbers?

Answer: No, it includes the amended amounts pursuant to that last amendment.

3. A check was cut to Gladding, Jackson, Kircher in the amount of \$3,505.00. Were those the closing costs on a loan?

Answer: It may be for the traffic consultant.

4. Is our electricity included in our rent?

Answer: Yes.

What are the FPL bills for?

Answer: Times Square.

### **VI DISCUSSION WITH SHERIFF McDUGALL**

Sheriff McDougall introduced his deputies: Captain Kenny Erne of the West District, Scott Hamilton, Director of Planning and Research, and Dean Kaestner, Budget Director.

Sheriff McDougall noted that he is one person represented by over 800 deputies and that it is his deputies that carry out the policies of the Sheriff's Department. He would ask anyone who says that they have not done their jobs to walk over to the county park and look at the memorial in honor of Deputy Lynn Hall who gave up his life for the people here on Fort Myers Beach. That bespeaks of the dedication and the commitment of the deputies to Fort Myers Beach.

Right now Fort Myers Beach is at the same service level as the unincorporated areas of the county. As a legislative body the town can enact as many ordinances as it wants, but the ordinances are sometimes labor intensive and more deputies are needed than are immediately available. Deputies then must be brought in from other areas.

Sheriff McDougall said he has had his research and planning people look at the proposal we have sent the Sheriff's Department and he read aloud our contract, part of which reads: "It is understood and agreed that the sheriff cannot guarantee a specific level of service in the absence of sufficient consideration to cover the cost of deputies who would be assigned exclusively to the town."

Prevalent on the east coast of Florida, Sheriff McDougall stated, are many small cities electing to negotiate what is called a law-enforcement service contract with the sheriff of that particular county, thereby saving themselves the expense of all of the infrastructural needs of an agency of that size.

From time to time we are going to have an event on the Beach that will require an

additional seven or eight deputies for one to three days and we will not be charged for this. But if extra deputies are permanently needed on the Beach, then the terms of the contract must be renegotiated. Regarding patrolling the jet skis, Sheriff McDougall said that from what he understands those moneys are not coming out of town funds but from a special WCIND of \$20,000 for the deputies that will work that detail full time.

Attorney Roosa said that the contract certainly carries out the spirit and intent of the proposal that we submitted. He has no objection to it and recommends its adoption. It meets the needs of the town and is legally sufficient to meet our obligations to the people of the town.

Asked was whether the Board of County Commissioners would have to approve any item that we negotiate between the town and the Sheriff's Department before receiving additional services. Attorney Roosa answered that the statute authorizes the County Commission to contract with the town. The County Attorney's office has said whatever we agree to, he will recommend to the County Commission. So the County Commission will approve whatever the sheriff and town agree to. There are really two documents. There will be a resolution adopted by this Town Council that will transfer the authority to the sheriff to act for law enforcement services.

Sheriff McDougall noted that our contract only goes from year to year and can be dissolved within 90 days written notice of either party. We can start our own police agency any time we desire to.

Rusty Isler stated that he agreed with Attorney Roosa that the contract meets the spirit of what we're looking for. He would like to know the costs ahead of time before asking for additional help from the Sheriff's Department.

Ted FitzSimons asked the sheriff if he foresaw any potential problems with interfacing with any other security type element that we might choose to hire on a short-term basis for a special event. Sheriff McDougall said that we should check with our legal staff on that, because any time we have any kind of security where people's rights are being impinged upon, they could file a civil rights violation against the town.

Ray Murphy said that he felt this was a very reasonable agreement for the town to enter into with the sheriff. He commended the Sheriff's Department for handling his case well when his car was recently broken into on the beach.

Mayor Cereceda questioned Sheriff McDougall about several paragraphs in the contract, and then asked what the policy would be on spring break. Sheriff McDougall stated that he is required by law to submit his budget before the Board of County Commissioners before May 1 of each year. Not knowing whether we were going to be incorporated or not last year, he decided to provide for spring break, and if we became incorporated, then we would be getting a free ride. We became incorporated and the Sheriff's Department paid for spring break. They sent over 14 people at a cost of about \$50,000, according to Dean Kaestner, the budget director, but now we will have to pay for spring break ourselves unless there is sufficient money in the sheriff's budget to take care of it. We should budget for all contingencies. If we don't utilize those reserves for contingency, they go back to the General Fund at the end of the year.

Mr. Kaestner advised that when the sheriff says he will provide what he can within his budget, he is very sincere about that, but that means for the entire county, including Fort Myers Beach. When activity on the Beach means they need twice as many people as they did the year before, this becomes a problem spot. The sheriff cannot guarantee any specific level of service.

The county, Sheriff McDougall stated, is negotiating right now to build an additional 400-man jail. This last fiscal year all of their overtime was usurped by the jail and he had to go back to the County Commissioners and ask for a budget amendment to make it to the end of the fiscal year. Eighty percent of the monies he receives each month has to go for salaries, FICA, insurance, etc. What little dollars are left are used for emergency situations. The sheriff named some of the situations where they had to act hastily. He has mutual aid with every sheriff in the state of Florida and in the event of a disaster, natural or otherwise, hundreds of deputies may be called in from around the state.

In some instances the sheriff has provided community service by using nonviolent prisoners to help with tree planting or for such things as cleaning up the dead fish on the beaches, a job the townspeople didn't want.

If he is over budget at the end of the fiscal year, Sheriff McDougall said, he has to personally pay the extra expenses.

The Sheriff's Department is funded from General Fund, not from property taxes, Gene Kaestner advised. This means that the funding of law enforcement is borne equally throughout the county.

We should be able to use some of the Tourist Development tax dollars in the protection of the people who come here.

**MOTION:** Made by Ray Murphy and seconded by Ted FitzSimons to enter into this agreement this evening between the town of Fort Myers Beach and the Lee County Sheriff's Office. Passed unanimously.

The contract was signed before the sheriff and his deputies left so that they could take it to the County Commission.

The Council took a five-minute break.

## **VII PRESENTATION ON LEE COUNTY'S SOLID WASTE FACILITIES ASSESSMENT**

Lindsey Sampson, Director of the Solid Waste Department for Lee County, advised that he is here to present to us the status of the Solid Waste Management System for Lee County and to provide their proposed solid waste rates and solid waste assessment before it comes to the Lee County Board of County Commissioners. Their anticipated meeting date is July 22 and they wish to provide us with the opportunity to review their proposed rates for the next fiscal year. A short summary sheet of what the department is doing was distributed.

In their interlocal agreement with the town, they will provide the management of the solid waste collection, disposal and recycling systems for the citizens of the town. They feel that with this agreement, everything is going along well.

They have completed the construction of a new landfill to be used in the event of an emergency. Their intent at this time is to complete disposal into the Gulf Coast landfill until it reaches its permitted height in from three to five years.

With regard to the waste energy facility, they have now been operating just under three years. This year they received an environmental citizen award from the Florida Department of Environmental

Protection. Also this year they have crossed the one million tons of garbage burned at the facility and the energy created translates into two billion pounds.

They propose to increase the facility rate fee by 3% for next year. Half of this is due to the reduction in state grants.

The solid waste assessment will remain the same at \$27.29 per ton.

Mr. Sampson continued to discuss the items of the agreement, giving the assessment fees for both residential buildings and professional units.

Billing costs go to the Tax Collector for providing the billing and keeping track of funds received.

An outline of the flow of funds is on page 10 of the agreement.

Buildings are put into categories and some are assessed higher than others depending on how much garbage they generate. The actual amount of assessment of \$27.29 is still the same, however, assessments can be adjusted.

Mr. Sampson advised how they will deal with solid wastes in the event of a hurricane;

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## **VIII FUTURE PARKING AT BOWDITCH PARK**

No comments were forthcoming.

## **IX COUNCIL MEMBERS ITEMS AND REPORTS**

Rusty Isler expressed his fear that the town was interested in taking over the administration of everything in the town, even things that the county was handling well, such as recreational facilities like Bay Oaks and tourist facilities like Lynn Hall Park and the beach easements and Bowditch. He feels that we should only take over things at which the county is

not doing a very good job. The things that the county does well are run in a professional manner and the county has the expertise, the resources, the experience and the funding. We haven't addressed what it would cost us if we took everything over. What the county does worst are land use issues, because their concept of land use issues doesn't always fit ours. We incorporated to address those things they did worst from our perspective, not to run everything. People just wanted a say in things.

The Boulevard, Mr. Isler feels, is a huge liability and expense. He wouldn't see any advantage to our taking it over.

Mayor Cereceda advised Mr. Isler that the comments made in the News-Press after last week's council meeting were misleading in speaking of a takeover of public facilities. At some point in time perhaps the town would look at taking those properties over, but the direction at this point is simply to involve ourselves in the discussion as to what decisions are being made with regard to those public facilities and how the town is going to be affected and what input the town can give to the county in order for those impacts to be as minimal as possible. Mr. FitzSimons gave the issue of parking at Bowditch as an example of why we would want to be involved in county decisions. Mayor Cereceda said that the real bottom line of all of it is that whether it's this council or a council ten years from now, it should be actively involved in any decisions that are made that are going to affect the town of Fort Myers Beach.

Ray Murphy discussed sidewalks on the island. Right now there is a contractor on the Beach that is doing sidewalk repair work for the county DOT. The staff has come up with a plan that they're proposing to Commissioner Judah whereby we would keep this contractor on the island and have him go down to the south end and do sidewalks there ahead of time before we get the ISTEAs that are supposed to come in a couple of years. Estimates from the CRA are in the \$100,000 - \$150,000 range. We would put up \$75,000 of that money. Some sizable savings were realized in the project that the contractor is doing right now and that would be thrown into the mix. Mr. Murphy said he would encourage the council to give this their blessing.

Mayor Cereceda said she had a request from William West, a paratrooper of the Airborne Division. There will be a National Airborne Day festival on August 16, and they would like to discuss with the town the possibility of using the island as a fly over. The Rollie Duff Chapter wants to fly through our space and possibly do something in Times Square promoting the paratroopers and National Airborne Day. They have already contacted the parasailers asking if they would do an exhibition and have evidently got some kind of cooperation from them. The mayor was told that as long as they were 1000 feet off shore it would be okay for them to fly over.

Mayor Cereceda also advised that she has been asked to participate in Leadership Lee County with the Chamber of Southwest Florida for 13 consecutive Thursdays from 8:30 A.M. until 5:00 P.M., and she would like to do so. Ray Murphy was also asked to participate, but his schedule doesn't allow him to do it. They have a class every year and every year they invite particular people to participate. It encompasses all aspects of Lee County government. The cost will be \$1,200. It has been the practice for a municipality to bear the expense when a government official participates. It was determined that there was still \$2,666 left in the Council Member Training and Education item under Expenses.

**MOTION:** Made by Ted FitzSimons and seconded by Ray Murphy that \$1,200 be paid for Anita Cereceda to attend classes given by Leadership Lee County. Passed unanimously.

The mayor has also been asked to request from the council \$200 for Crosswalk Awareness Day for Bay Oaks. This is sponsored every year with Bay Oaks' summer campers and this year it will be Crosswalk Awareness Week from July 14-18. It is in conjunction with the Sheriff's Department. The \$200 would feed the kids and would come from Community Services.

**MOTION:** Made by Rusty Isler and seconded by Anita Cereceda that a \$200 donation be made to Bay Oaks for Crosswalk Awareness Day. Passed unanimously.

Do we need council approval whenever a member wishes to participate in an event? the mayor wished to know. She was told, yes. Do we need to make it an agenda item? No.

**X FIRST READING OF ORDINANCE AMENDING THE VESSEL CONTROL AND WATER SAFETY ORDINANCE**

Town Manager Segal-George advised we'd find two things in our packets: A change that Dick Roosa included on Section 4, Area Enforcement, and strike throughs made by herself to the original ordinance. In the original ordinance it stated that this ordinance does not apply to the Florida Intercoastal Waterway and West Coast Inland Navigation District Waterway.

A question had been asked about intent. In going through all the drafts, it was clear that the intent of the change was to specify that a channel with speed limit markings was exempt from the ordinance, that the speed limit on the channel would take precedence. Dick Roosa has tried to fix that change.

The ordinance currently exempts vessels used for hire. The problem that we're having right now is that when a parasail operator uses this exemption and picks up clients anywhere on the beach, which parasail operators are not allowed to do, he says he's a water taxi, but once out on the water, he says he's a parasail boat.

The ordinance will be set for another first reading after Mr. Roosa makes changes to show that a person cannot be a parasailer while functioning as a water taxi.

**XI COUNTY RESOLUTION APPOINTING THE ROTATING MUNICIPAL MEMBER TO THE TOURIST DEVELOPMENT COUNCIL**

This, of course, would have to be approved by the County Commission, Mayor Cereceda explained. Mrs. Segal-George advised that the council had already approved this once. When Sanibel entertained this particular resolution, they made some changes in it and those changes are reflected in this resolution.

This is a resolution to be adopted by the County Commission and not by the town, the council was told. What is needed is the name of the third alternate.

**MOTION:** Made by Ted FitzSimons and seconded by Ray Murphy to approve the wording of the resolution with the exception that the name of Mayor Anita Cereceda be inserted as the representative of the town of Fort Myers Beach. Passed unanimously.

**XII APPROVAL OF THE STATE TOURISM GRANT**

Discussion was on the letter sent to the state on the matching grant requirement. According to Mr. Gucciardo, we applied for this grant with the understanding that they were looking for a match of \$4 on our part to \$1 on their part..

John Gucciardo asked everyone to refer to their copies of the letter sent on June 6 to Katherine Morrison, Tourism Coordinator, and to the copies of the grant agreement that was sent by the Tourism office. What is being suggested here tonight is that the council see if there is a consensus to enter into the agreement. If so, the agreement will be sent back to the Governor's office. We have had phone conversations with them, and they are very comfortable now with the approach that we took in our application. They do need some further information and we have agreed to provide it, in particular the scope of the additional work for the project and information regarding prior funding on the ongoing CRA project.

If it turns out that we are tax exempt, we don't have to put up additional moneys as a match. If we are not tax exempt, it would come back to the council and we may decide at that point that we can't afford to accept the match. In any case there is no obligation on the part of the council at this point of a 4 to 1 match. We've already agreed with them to provide them information about the details on the spending and the details on the current funding and signing this agreement will not obligate us in any way along those lines.

Ted FitzSimons said he would like to congratulate staff on this particular effort, and he thinks that under the circumstances that we should take advantage of any opportunity like this that comes to us. Mr. Murphy sees absolutely no risk, no down side whatsoever to the town in this grant application. The worst that can happen to us is that we're denied or don't take it. The

up side is \$200,000 and he says go for it. Rusty Isler said that he agreed.

**MOTION:** Made by Mr. Murphy and seconded by Mr. FitzSimons to approve the agreement. Passed unanimously.

**XIII PROPOSED ORDINANCE PROVIDING FOR AN AMENDMENT TO SECTION 34-2174 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE TO PROHIBIT USE OF SETBACKS TO ALLOW AN INCREASE IN HEIGHT.**

Mayor Cereceda stated that this was requested by Councilman Isler.

**MOTION:** Made by Rusty Isler and seconded by Ray Murphy (for discussion purposes) to request staff to prepare and schedule the public hearings for an ordinance eliminating Section 34-2174, which allows increased heights on Estero Island above the 35 foot maximum limit in return for increased setbacks.

**Discussion:**

Mr. Isler explained that the exception to the height limitation says that if you move the property back, you can go higher than 35 feet. It is a very liberal tradeoff and you can do this without getting a variance. The exception encourages buildings on the Gulf to be closer to the Gulf, threatens public life and safety in times of emergencies and evacuations and in times of fires, threatens life and safety due to the pedestrian and road traffic that the concentration of units causes.

Mr. Isler stated that the LPA addressed the height issue back in 1996. We need to begin this long process on the height exception now and we need it to stand alone, he feels. This item is the most important land use issue that faces our community and was, in fact, the reason for incorporation. Eliminating this exception will eliminate the automatic approval of buildings over 35 feet without going through the variance process, which would still be available. Mr. Isler see this matter as more important than those that will be discussed at tomorrow's joint meeting with the LPA.

Mr. FitzSimons stated that he believes that paragraph 34-2175 includes the statement relative to Estero Island and says that the height of a structure on Estero Island shall not exceed 35 feet above grade except as provided in 34-2174. Attorney Roosa advised that the county attorney has interpreted grade level to mean flood level.

Asked was if there were any negatives on scheduling an ordinance eliminating Section 34-2174, the fact that the LPA has had this in the works for a reasonably substantial period of time was given by Ted FitzSimons. It has been in the Goal 18 portion of the county and, therefore, the town's comprehensive land use plan since 1990 when Goal 18 was adopted by the Lee County commission. Marsha Segal-George noted that this was going to be an amendment to the Land Development Code in September and then come to the council in October.

Mr. FitzSimons said he would vote against the motion.

Mayor Cereceda said she did not understand the urgency for scheduling heights limitation.

**ACTION:** The motion did not pass.

The suggestion was made that heights limitation be added to tomorrow's joint meeting agenda. John Mulholland advised that he would have no objection to adding it to the other three elements plus the mother-in-law apartments, but he would rather it be heard last.

**XIV NEW BUSINESS PRESENTATION BY FRAN MYERS OF THE MAIN STREET PROGRAM**

Ms. Myers advised that four weeks ago she, Mayor Cereceda and Town Manager Marsha Segal-George simultaneously got calls from the State Main Street program. They would like for us to get started and the state is enthusiastic about helping us. This is a joint venture between the Chamber Foundation and the town of Fort Myers Beach. She, the mayor and Marsha interviewed Shawn Holliday and the Chamber Foundation hired him as manager of the

Main Street project through December. Mr. Holliday was editor of the Beach Bulletin for a number of years, has been very active in the Alliance of the Arts, and he's done numerous things around town. He will be located at the Chamber of Commerce and they have gotten office equipment for him.

On June 27, from 8:00 A.M. to 4:00 P.M. the consultant will be here with us. One thing that was made clear was that we need to be in sync with the state program.

Shawn Holliday, who has agreed to come on board initially for six months, was now introduced. Addressing the council, he explained how he had come to be involved in the project and gave his background. He said he is very excited about working on the project and he thinks he can be a diplomat between the varied interests on the Beach and really bring together goals that would incorporate the entire island.

#### **XV FOURTH OF JULY MEMO**

John Gucciardo said this memo was distributed at the last meeting but discussion had been deferred to tonight's meeting. The council has given directions to staff regarding things they can do for the 4th of July celebration weekend. They wish to relax parking lot restrictions, send a letter to the Times Square Merchants Association indicating a zero tolerance for fireworks being set off in the pedestrian mall area, hire an additional deputy for that night for the pedestrian mall. Mayor Cereceda recalled that the sheriff had said we would not be charged for an extra deputy at special events. John said that here's a case where we've identified a need to have more coverage than what we've had in the past and we're willing to pay for it. Mayor Cereceda expressed her wish that the Times Square merchants would pay the extra coverage rather than the town.

#### **XVI EMERGENCY OPERATIONS**

According to John Gucciardo, there are indications that we may be spending some more funds on capital equipment, such as hand-held radios.

#### **XVII SIDEWALKS ON THE SOUTH END**

Town Manager Segal-George advised that the county had promised that they would repair sidewalks on the Beach and they are now in the process of doing so. The amount of \$200,000 had originally been budgeted for that project but the bid came in substantially less than that. She and John approached county staff about whether or not they could capitalize on some of those dollars that were left with regards to the repair and also capitalize on the fact that the contractors are on the island right now doing work. If the council were willing to put up some additional dollars, we could just go do the project. We are slated for ISTEAs for those south end sidewalks but the state is unwilling to accept the design that was done by the CRA. They would have to design it and then start construction. The price range we are looking at is \$150,000.

One of the problems with the sidewalks on the south end are the swales. They have considered going to private homeowners along that stretch to get easements should they have to move the sidewalk away from the swales. Tonight they are asking if this approach is of interest to the council, as Commissioner Judah is willing to bring it up before the County Commission tomorrow. We would tell the county that we would go up to the top end of what the original estimate is, which would be a 50-50 match between the county and the town. The maximum it could cost the town would be \$75,000. The \$75,000 would come out of our transportation fund and the ISTEAs would no longer be available.

Asked was if everyone would be comfortable having the same narrow sidewalks, Mrs. Segal-George indicated that just getting sidewalks was the first priority and that they could be upgraded later.

**MOTION:** Made by Ray Murphy and seconded by Ted FitzSimons to send a letter to Commissioner Judah to make their proposal to the Board of County Commissioners tomorrow. Passed unanimously.

## **XVIII TOWN MANAGERS' ITEMS AND REPORTS**

Mr. Gucciardo advised that the Board of County Commissioners on their agenda for tomorrow has a blue sheet for the pool land acquisition and condemnation. This will allow them to move on purchasing land for the pool from three of the five owners, who are willing sellers, and move towards condemnation on the other two.

## **XIX TOWN ATTORNEY'S ITEMS**

Attorney Roosa talked about government in the Sunshine. It is important to realize that we have only one government in the Sunshine law in the state of Florida and it applies whether you're a small town or a large city. When councils, committees and subcommittees are formed, notice of meetings should go out and minutes should be taken. When an LPA committee forms a subcommittee, even if only one LPA committee member is on the subcommittee, this does not necessarily preclude the application of government in Sunshine. Some members of the LPA did fact finding and were erroneously called a subcommittee and there has been some concern that their conduct constituted an unlawful act that would amount to a misdemeanor and be charged by the State Attorney's office.

Mr. Roosa stated that he had been called by one of the deputy state attorneys and was told that they have done a preliminary investigation and found no probable cause: no need for further investigation and no criminal violation of the government Sunshine law.

Rusty Isler asked Mr. Roosa to recite again the relationship between the individual members on the Town Council and the individual members on the LPA. Would it be all right for him to go to an LPA member and ask what they had decided or what they were working on? Mr. Roosa felt that what he could do is attend one of their meetings with no other council member present and then ask them about their progress or else he could inquire in the form of a memo. The problem occurs when either two council members or two LPA members meet with the other board. He could even go to lunch with one LPA member and discuss things, but not with two LPA members. We must keep this process pure in preparing for our comprehensive plan because somebody will always try to challenge it.

## **XX PUBLIC COMMENTS**

### **A. JOHN MULHOLLAND**

The chairman of the LPA thanked Mr. Roosa for his remarks. He advised that recently the LPA was called lawbreakers and they would like the Town Council to know that they are not violating the Sunshine law in the sign ordinance nor in any other project they have undertaken. At each meeting the member responsible gives a status report, even if it's "no progress" or "no meeting." They believe the accusation is unfounded and do not accept it. There will be hearings by the LPA in September on the sign ordinance and hearings when the resolution goes to the council, so there is no effort to eliminate public input.

## **XXI ADJOURNMENT**

Mayor Anita T. Cereceda adjourned the meeting at 10:10 P.M.

Respectfully submitted,

Lorraine Calhoun  
Recording Secretary

**Please check spellings**

**Page 1**

Deacon Kiesel  
Dennis W. Harmon  
Catherine Morrison, Tourist Coordinator  
Bob Barkman

**Page 2**

Captain Kenny Erne

**Page 2, 3, 4**

Gene Kessler, budget director. (The correct name is Dean Kaestner  
and I have changed it in the minutes too)

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Rollie Duff Chapter