

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JULY 21, 1997**
Nations Bank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

Mayor Anita T. Cereceda opened the meeting on Monday, July 21, 1997, at 1:00 P.M.
Present at the meeting were: Mayor Cereceda; Vice-Mayor Ted FitzSimons; Council Members Rusty Isler, Ray Murphy, and Garr Reynolds; Town Manager Marsha Segal-George; Deputy Town Manager John Gucciardo; 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 Dick Tafel of The New Church

IV PUBLIC COMMENT ON AGENDA ITEMS

A BOB GAYDOS

Mr. Gaydos congratulated the Town on not raising ad valorem taxes in the proposed budget, but he proposed a bold act of having no ad valorem taxes instead. There is a carryover fund of 1.7 million dollars. He realizes there needs to be reserves and contingencies, but there would still be a carryover of over \$600,000. We can borrow another \$500,000 and make money on the interest if we want more reserve. In essence the Town would be declaring a dividend of 5% to the taxpayers without having to cut a check. He is proud to be an American and resident of Fort Myers Beach and to pay his taxes, but he would be just as proud if he paid less tax.

B JOHANNA CAMPBELL

Ms. Campbell said she is impressed with the utility tax. Last year she was not in favor of it, but after being at the LPA workshops and hearing that citizens want to buy property for parks, she is in favor of it for that purpose. Everyone who participated in the workshops wanted this. She also wanted to talk about the height ordinance. This ordinance was difficult for the LPA, but this is their consensus, and she hopes the Council will approve it.

V COUNCIL DISCUSSION ON THE BUDGET

Mayor Cereceda said she is sending out copies of the budget to 30 clubs and organizations on the island, along with a letter saying that if they have any questions or would like a speaker to come to their meeting, don't hesitate to call. She is making an effort to make the budget available and to generate interest.

Mr. Isler asked if the utility tax shouldn't specify ahead of time what kind of property will be bought. Is it to keep land from being developed? Is it for a parking lot for Lee County tourists to park? Mr. FitzSimons talked about buying sensitive lands, such as the Preservation 2000 program. He feels that public lands could be a big tourist draw, and that hiking, cycling, nature study, bird watching, and eco-tourism is the future of our region. He wants to focus on preserving our natural environs and providing open space in a relaxing island family atmosphere. He thinks that putting a funding mechanism in our own jurisdiction will indicate to others that we are serious about preservation and quality of life. Taxpayers have indicated in the past that preservation is consistent with their idea of quality of life. In the recent 2020 referendum, over 60% of our voters were in favor. He thinks that would be even more true for preservation of land on our own island. He does not think that it is necessary to be specific at this time. Mr. Reynolds thinks designation would be nice, but we don't know what the properties are now. He thinks land along Estero would be a priority, but there are other parcels inland that should be considered too. He thinks the idea of using the tax for land acquisition is good, but he doesn't know how long lasting it should be. Would the tax always remain for that purpose, or could it change or get cancelled at some time? Perhaps it should be for a specific period of time, because once a tax is enacted, it seems to be forever. Mrs. Segal-George said the utility tax is up to the council year by year, whether to raise it, lower it, or keep it at all.

Mr. Isler clarified he does not want to specify particular properties. He wants to know if we want parks, parking lots, open space, or environmentally sensitive land, although he doesn't think we have any left. Mr. FitzSimons agreed that we don't have any environmentally sensitive land left, but the town can acquire property that is consistent with the objectives of the town. It could even be something with a facility already on it. It could be something that is not developed yet but it has a permit on it, which we would rather not see developed. We might want to put a tennis court on it. Mr. Isler asked if the money could be used to purchase development rights. He thinks that the taxpayers may be divided on how they would want the money used. He wondered about a referendum question on the ballot so we would be clear what the majority of the people really want. Mayor Cereceda said she wants to look at each piece of property as environmentally sensitive land. By acquiring land for public use, even if it is a parking lot, a park, or eliminating 100 units of development, you are improving the quality of life. Mr. FitzSimons feels the majority of our residents want this and the tax will only be about \$36 per year if your average utility bill is about \$100 per month. Mayor Cereceda thinks it will be a decision the council needs to make, not a referendum. She thinks the problem is that people will see the carryover figure, and wonder why we need the new tax. Mr. Murphy said he was against the tax last year, but he is not against the concept of the town purchasing property to preserve. Florida voters and Lee County voters have approved land acquisition and the voters of Fort Myers Beach could also vote for it through a referendum. He thinks we should let the voters vote on a tax on themselves. Mr. Roosa said the tax could be put in the budget, but if the referendum didn't pass, the tax would not be implemented. It also could be a charter amendment that addresses the issue of limiting the use of the utility tax to land acquisition. Mr. Gucciardo will look into the logistical questions of getting it on the ballot. Mr. Reynolds said since the money is not really needed at this time, he thinks it is a good idea to ask the people.

Mr. Reynolds talked about office space. He doesn't think we need extra space downstairs because we aren't using all we have now. If we get it, we will grow to use it though. The county people can stop in, but they already have offices at the county. Mr. Gucciardo clarified that the space issue was brought to us by the landlord, to see if we were interested. Space for county employees (code enforcement, signs, and sheriff) are issues which have only come up recently. It would allow better communication if they have space to report and document on the premises. Mr. Isler said we will need more space, and downstairs is better than down the block, but it is still somewhat inefficient. It would probably mean we would need another copy machine, etc. He thinks there is enough room here if it was used more efficiently. Perhaps the front conference room could be turned into offices. Mr. Gucciardo said the front room is used often for small meetings, and it is also used by the staff because their offices are too small. He thinks the current space can be reconfigured for 5 employees, but if the downstairs space is rented to someone else, it will no longer be available to us when we do need it. Mr. FitzSimons said that the way the Town is growing, even with things that don't cost the taxpayer (such as Mainstreet, the Mound House, etc.) there is and will be an increased need for space, especially since the expectations for the Town are growing. This building is secure and well-located.

Mayor Cereceda suggested having a budget workshop between the two public hearings. Mr. Gucciardo pointed out that there are new dates for the public hearings. They will now be Sept. 8 and 22.

Mr. Gucciardo said some numbers have changed. The proposed revenues were based on last year, and we have now received the new estimates from the state and county. All are increases and will be published on the first errata sheet.

Mr. Murphy said he supports parking meters on beach accesses. It is a fact of life that you have to pay to park, and this is a perfect way to raise revenues. If we want to, we can issue stickers for our town residents. Mr. FitzSimons supports it too. We don't charge admission to our main attraction, which is the beach, but we should charge for parking. Everybody who lives here and pays taxes has a place to park. Others should be charged to bring their vehicles here. Mr. Isler said a plus is that it makes legitimate parking spaces, because now people park in every direction and block the turnarounds. But to emphasize it as a revenue source is misleading, because there is an expense side of buying, maintaining, collecting revenues, etc. If we want to support the county in metering the accesses, that is one thing, but if the county deeds the accesses to us, that is another. Every two years the floods will mess up the beach accesses, and the county has been rebuilding them up to now. It is quite an expense and would be a big liability for us. It was clarified that tourist development money is what improves and maintains the beach accesses. Mrs. Segal-George said beach accesses are road right of way, which is already ours. Where it meets the sand, it becomes the county's. Mr. Reynolds said TDC does not maintain the beach accesses directly. They get parks and rec to do it. He also mentioned that there are not many parking spaces at these accesses. Some

only have about two. Mrs. Segal-George said she understands there will be 10 more accesses developed, and that there will be about 300 spaces.

Mr. Gucciardo reported that the verbal response from the Humane Society is that they cannot adjust downward this year, but they will discuss that possibility with us next year when it comes up county-wide. He thinks that during the next year we may want to look at a private service.

VI SETTING OF PROPOSED MILLAGE RATE

Mr. Gucciardo said that the staff is proposing that we stay at the same millage as last year (1.0604), and that we incorporate the street lighting district (.0537) and add them together. Unfortunately this must be advertised in the newspaper as a tax increase. We will be trying to educate the public that the notice has to appear as a tax increase even though we are just consolidating two figures into one line. Mr. Gucciardo will talk with the tax office and ask if we can include an informational notice with the TRIM notice. He is also concerned about confusion regarding the cash carryover, which makes our budget look large, and the perception that we will spend it. We need to make people understand that we have to show the carryover and reserves and cash, which makes the budget look large. The carryover is there because of the efficiency of the operation. The State requires us to advertise. It was suggested that perhaps we could put our own ad in that would supplement the information. It was noted that it would be less expensive to get free articles in the local papers.

Motion: Mr. Murphy moved and Mr. FitzSimons seconded that the millage of 1.0961 be adopted for the 1997/98 year. The motion passed unanimously.

VII APPROVAL OF MINUTES: JULY 7, 1997

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

VIII REVIEW OF FINANCIAL REPORTS FOR JUNE

There were no comments or questions regarding the financial reports.

IX COUNCIL MEMBER ITEMS AND REPORTS

A RAY MURPHY

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

B GARR REYNOLDS

Mr. Reynolds had no items to bring before the council.

C TED FITZSIMONS

Mr. FitzSimons referred to a letter from the Citizens Association of Bonita Beach and asked if the Council would like to send some form of endorsement of Porter Goss' house bill aimed at preventing off-shore oil drilling. The Council decided to send letters and copies of the Town resolution regarding off-shore drilling.

D RUSTY ISLER

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

E ANITA CERECEDA

Mayor Cereceda reported that she has been talking with several groups about New Years Eve on Times Square. It started out as a big festival, but turned into talk about our town's birthday and independence day, noting that New Years Eve is a significant holiday for Fort Myers Beach. The celebration may be incorporated with Mainstreet.

X PUBLIC HEARING ON ORDINANCE TO AMEND THE VESSEL CONTROL AND WATER SAFETY ORDINANCE (96-26)

Mayor Cereceda read the titles and opened the public hearing.

A MICHAEL CICCARONE

Mr. Ciccarone stated that he is the attorney for North American Water Sports (Linda Kane), who is concerned that this amendment will put them out of business. It appears that it is aimed at his client's business, and it is not clear what public harm the Council is trying to prevent. Perhaps his clients have not had effective communication with the Council in prior times, and he asked that the Council

not hold that against them. If it is something particular about this operation, perhaps it can be fixed. Perhaps it is a fear that having water taxis opens the door to future abuse. He suggested that perhaps his client could be grandfathered. His client believes this will put them out of business, and financial records to date clearly show reductions, even looking at seasonal adjustments. He does not want to go into battle with the Council, but is here to have a dialog in hopes that the Council can explain their purpose, and hopefully keep options open that are less drastic. Mayor Cereceda said the reason for the amendment is to clarify the speed in the channel, and to close a loophole. The council has worked for many months with everyone in the industry to try to create public safety. It is not being done out of anti-business sentiments. They have bent over backwards to dialog with the owners and spent much time on these ordinances, and this has been on the agenda several times. It needs to be done to eliminate a potential hazard, and the other parasail businesses are abiding by the ordinance, and they haven't complained that it has ruined their business. His client wants to be a water taxi and come ashore wherever they want, and then become a parasail operator. Mr. FitzSimons said people come here to use the beach and it is incumbent upon the council to make sure it is safe, and to control motorized access to that waterfront. It is a hazard to bring a boat that large into the shore where people are in the water. Mrs. Segal-George said we have six parasail operators on the island, and this is the only one who has attempted to use the water taxi and parasail in tandem. They have already asked for the ability to approach wherever they wanted to pick up clients. The rest of the industry wanted it where operators are land-based or at some other commercial location. This provision eliminates congestion, and provides for buoy lanes, so swimmers will know where it is safe to swim. The ordinance went through the LPA and the Council, and it was decided not to allow parasail boats to approach the beach wherever they wanted. Ms. Kane already has 5 licenses: one is a parasail license and the rest are PWVL. So they already have five places where they can operate their parasail business, plus they can make arrangements with anyone else in their location. The ordinance was brought forward again to plug a loophole in the speed zone in the channel, and this came up at the same time because of complaints. Mr. Ciccarone asked if they could pick up customers at a dock, but it was pointed out that there are no docks on the gulf side, and boats are not allowed to approach the public pier. Mr. Ciccarone asked to be kept informed if this ordinance is revisited.

Mr. FitzSimons said there is a lot more traffic on Estero of privately-owned jet skis, and they are using whatever access to the Gulf to launch their jet ski without knowing the rules. Renters of jet skis are doing a good job. He asked the Council members to be observant and see what can be done. Some hotels charge guests to launch jet skis. Marsha Segal-George said she has heard about legislation in California that supposedly requires a sticker that is purchased in convenience stores and is good for a week. At that time they are given rules and regulations. But it still comes back to the issue of enforcement: we need someone on the water. Mr. FitzSimons said if can't get a handle on it, he is afraid we will have to prohibit them within 500 feet of our beaches.

B KATHLEEN FISHER

Ms. Fisher of CRS Beach Services said that she thinks operators should be able to pick up anywhere in order to accommodate customers. People don't want to get out on the street or walk that far, and it contributes to the parking problem. As long as it does not cause a problem for the other companies, it should be allowed.

The public hearing was closed.

Motion: Mr. FitzSimons moved and Mr. Isler seconded that the amendments be adopted. The vote was as follows: Mr. Isler, yes; Mr. FitzSimons, yes; Mr. Reynolds, yes; Mr. Murphy, yes; Mayor Cereceda, yes. The motion carried.

The council took a break at 3:10 PM and reconvened at 3:37 PM.

**XI PUBLIC HEARING ON AMENDMENT TO THE LAND DEVELOPMENT CODE
CHAPTER 34-2175**

Mayor Cereceda read the titles and opened the public hearing. There being no comment, the public hearing was closed. It was clarified that this is a land use amendment. The second public hearing will be set for August 4. Mrs. Segal-George said that the height is to the top of the wall, not to the top of the roof, in order to discourage flat roofs. There was also a concern that the attic space created would become mother-in-law apartments, but that space created cannot be used as livable space.

XII FIRST READING OF AN ORDINANCE ESTABLISHING THE TOWN MARINE RESOURCES TASK FORCE

Mayor Cereceda read the titles. The public hearing was set for August 4.

XIII OLD BUSINESS

A TOWING ORDINANCE

Mayor Cereceda said that she has met with a group of people including Times Square merchants, Helmerich Plaza merchants, and Parks and Rec. They were not able to reach a consensus. Some people feel towing is a good thing and they will tow regardless. Others were just as adamant that towing should never be used. She asked the council for direction. Mr. Isler suggested when the county put a maximum on towing charges, the maximum turned into what is routinely charged, which is unreasonable. The Town should set a maximum that would be less extortionary. Mayor Cereceda said that towing companies ordinarily charge by the mile. This punitive towing doesn't consider mileage. People who are removing the cars say they are not doing it punitively, but because parking spaces need to be freed up. If this statement is true, then it seems reasonable for the town to set the price by the mile. We should also stipulate that if the car is towed at 10 PM, it should be able to be claimed at that hour. Now they charge \$85 plus \$30 if it is after 5:00 PM, then if they hold the car for more than 6 hours, it is an additional \$15. Mr. Murphy said that it is not only the money, but the letters all state that the treatment by the towing companies is very bad, and the whole town is suffering because of it. Mayor Cereceda said some people think it is the town's problem because there is not enough parking on the island. Mr. FitzSimons asked if we can regulate towing, such as saying that cars can only be towed after being cited by a police officer. Since this is all private property, can we regulate it? Marsha Segal-George asked if town could issue permits to certain towing companies, and they could only get the franchise if they agree to abide by certain rates and rules, including a code of conduct. Mr. Roosa was instructed to bring back to the next meeting what would be legal for the council to do as far as franchising the towing companies. Mr. Roosa asked if the town had a place where cars could be stored, because then you could eliminate the storage fee. The council expressed a fear that It might be a problem for the town to provide security for the stored vehicles.

XIV TOWN MANAGER'S ITEMS

Mr. Gucciardo reported that the Town has received a letter from Shaye Prather about the Waterfronts Florida grant that was received by San Carlos Island. This is much like the Mainstreet program. They are asking that the Council appoint a member to be part of the board. The Council suggested that someone from the Marine Resources Task Force be appointed. The appointment will be reconsidered on August 4 when the task force is created. Mayor Cereceda will write a letter thanking them for the opportunity for the Town to be represented on the board.

XV PRESENTATION BY LEE COUNTY STAFF ON BOWDITCH PARKING

John Yarborough and Jim Lavender showed a conceptual drawing by DOT showing 78 parking places. The location was chosen because it does not disturb the turtle habitat or require extensive vegetation removal. There will need to be some grading. It will cost about \$148,000 to construct, and they expect it will generate about \$90,000 per year in revenue. There would be a central machine rather than individual parking meters, and only the circulation road would be paved. The parking spaces would be geo web and shell. Mr. Lavender feels that this is all the parking that should be put on a park of this size, which is supposed to support about 300 people. Mr. Yarborough said they would be able to have concessions there when parking is available. They do not see this lot being filled most of the year, and they do not see it as a parking lot for people who want to go shopping. They could come up with some signage that says there is no more parking at Bowditch to help alleviate the traffic going down there looking for spaces, although there will always be some who try it anyway. They foresee having the lot open from sunrise to ½ hour after sunset. Nighttime security has not been addressed, but they can put on security or a gate if needed. Funds are available for a gate. It will probably take 6 weeks to complete the project. Mr. Yarborough stated that the council was last on record as supporting this and they wanted to make sure that was still the case.

Mr. Isler pointed out that this will give the residents of the island a place to park when they want to go there also. Mrs. Segal-George said there are impacts for the Town. Now people will know there is parking so more people will come, there will be more traffic on the bridge, and more traffic on the Town's

portion of Estero. The county gets the money, but the Town gets none of the money to help with the impacts. The county does not want to help us by putting more trolleys on the road. The problems that the two regional parks cause are our problem, and the county does not help with them. Our revenue streams are taxes paid by the taxpayers, not from other entities that are causing some of the problems. There are no revenue streams to deal with them. The new university is going to create more pressure on these two parks too, and that will create more impacts with no revenue stream to offset it.

Motion: Mr. Isler moved and Mr. Reynolds seconded that the county be encouraged to move forward with the plan to provide 78 parking spaces at Bowditch. **Discussion:** Mr. Murphy said it looked like a good plan and he thanked the county for coming before the council. But he is concerned that the residents did not get the whole picture. The agenda did not really say that it is going to be voted on. He does not see the residents here that were so adamantly opposed. It was clarified that the agenda stated that the county staff wanted a consensus from the Council to take back to the county. Mr. Reynolds said the council has already voted on it so it is a question of whether they have changed their mind. They have had plenty of time to comment at other meetings. **Motion:** Mr. Murphy moved that the decision be tabled. Since there did not seem to be support for the idea, Mr. Murphy withdrew his motion. **Amended Motion:** Mr. Isler amended that the Town Manager should be directed to negotiate with the county regarding the Town receiving part of the revenue from the parking fees to enhance the trolleys during the peak season. Mr. Reynolds agreed to the amendment. **Action:** The motion and amendment passed unanimously.

XVI UPDATE ON BUILD THE POOL FOUNDATION

Ellie Bunting thanked the council for their support. In November they became officially the Build the Pool Foundation, and they now have a bank account to keep the funds. In February they started going to all the civic organizations to get some monetary support. They had a float in the Shrimp Festival parade, and have sold T-shirts and bricks. In June the Commission voted to buy the three parcels that were under contract and to go into condemnation if necessary on the other parcels (7 total). Now all parcels are under contract except one. They are going to have a "virtual swim-a-thon." They have \$10,500 now and Sunstream has agreed to match up to \$10,000. Roxie Smith said that she and Fran Myers first started this when their children were the ages of their grandchildren now. They want to make sure the board includes all the demographics of Fort Myers Beach. They want it to be a community-wide, well-supported board. Fran Myers said the officers are: Ellie Bunting, chairman; Curt McIntyre, Vice President; Lee Conger, secretary; and Deborah McIntire, treasurer. Board members are: Kitty Taylor, Maryann Monsrud, Jennifer Kaestner, Andy Priem, Father Tom Goggin, Fran Myers, Roxie Smith and Eleanor Pearson. Eventually there will be 15 board members, and they welcomed suggestions of names to be nominated. Their goal is to raise \$350,00 by the time the pool is open. They estimate it will cost about \$80,000 per year for maintenance, and they hope to have 3 or 4 years cushion before they open. Concession and user fees will add to it. After acquisition of land, the next step is design, which they can probably begin in October. They hope to start construction 1999.

XVII TOWN ATTORNEY'S ITEMS

Mr. Roosa spoke about the correspondence he received from the county attorney. The county attorney said the Town incorporated partially so that they could enforce their own laws, and he suggested that the county and sheriff rethink their agreement with the Town. He said the sheriff would have to enforce Town ordinances out of general revenues, and he does not think that the county will want to agree to that. He recommended that the Town should take appropriate action to have sufficient funds available to pay for sheriff protection in the next budget year. Mr. Roosa said that he will be at the commissioners meeting on July 29th. Mayor Cereceda said that she has been getting complaints that people have called the sheriff for enforcement of some things such as noise, and they have been told that they cannot do it. Mr. Roosa said it is true that we do not have a signed agreement with the sheriff yet, but it is being held up by the county attorney, not the Town. Mr. Gucciardo said that there are state ordinances such as breach of peace, which the sheriff can enforce. Mr. Gucciardo said that if someone hears from a deputy that they can't provide service, the Town needs to know because Captain Erne has said that it is his understanding that they are enforcing laws on the island.

The council took a recess at 5:10 PM and reconvened at 6:30 PM.

XVIII PUBLIC HEARING FOR PETITION TO VACATE 97-06-230.03R

Pat Hunt, representing John Richard, noted that the petition is to vacate a lagoon right of way, because the petitioner needs the area in order to make repairs to a sea wall. There is a small parcel between the lot line and the sea wall. Mr. Roosa noted that these are very common in Lee County, and that in Cape Coral, they have authorized the city manager to sign them administratively.

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

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the petition to vacate be granted. The motion passed unanimously.

XIX PUBLIC COMMENT

A JOHANNA CAMPBELL

Ms. Campbell said she would like to have seen the Council address the issue that the county is putting additional burdens on the taxpayers. The county says they will realize \$80-90,000 per year, and she believes they are estimating low. She wants to see the town manager negotiate to get at least half of the revenue, and also negotiate to fix the road which they turned over to us in terrible shape.

B RAY MERTENS

Mr. Mertens spoke on the budget and said that only budgeting \$55,000 to hire new employees is too low. The Town has been lucky with the caliber of people they have hired so far, and he doesn't want to see it lowered. Give them more latitude to hire the right person. He suggested leaving the category of "Aid to private organizations" but change the name back to "Community Services." Under special events, he would like to see a separate line item for fireworks, perhaps \$30,000. We need the fireworks for tourists and also for the community. We should make Bill Semmer the honorary chairman for all the work he has done. On the Mound House, he noted that people bought on a dead end street, so the Town should provide them with sidewalks and proper lighting since we are adding to traffic on their street. Under Bay Oaks, he would like to see this amount go up. He wants the Town to take over Little League and soccer. He would like to see the Town work it out with the school board to get the back part of the playground area, and put up 4 tennis courts and a driving range to supplement the cost of running the park. We could hire a pro for private instruction. Bay Oaks could be a money maker. He congratulated the staff for a well-written budget which is easy to read and understand. Regarding towing, he asked the Council to please not forget that people with the lots are also victims. His restaurant has started towing more than they used to, and his sales have gone up \$2000 per week. There is a definite economic impact because the parking spots are available. They only tow when his lots are full.

Mr. Isler announced that he would not be seeking reelection this year.

XX ADJOURNMENT

The meeting was adjourned at 6:45 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary