

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
SEPTEMBER 22, 1997**  
NationsBank Building, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA

**I CALL TO ORDER**

Mayor Anita T. Cereceda opened the meeting on Monday, September 23, 1997 at 6:30 P.M. Present at the meeting were: Mayor Cereceda; Council Members Rusty Isler, Ray Murphy, and Garr Reynolds; Town Manager Marsha Segal-George; Deputy Town Manager John Gucciardo; Assistant Town Manager Terry Dillon; and Town Attorney Richard Roosa.

Excused from the meeting: Vice Mayor Ted FitzSimons

**II PLEDGE OF ALLEGIANCE**

All assembled recited the Pledge of Allegiance to the flag.

**III INVOCATION**

Jim Overhulser of Vineyard Christian Fellowship led the Council in prayer.

**IV PUBLIC COMMENT ON AGENDA ITEMS**

**A JOHN MULHOLLAND**

Mr. Mulholland asked that no more members be added to Marine Resources Task Force. He felt that 13 members was a large enough number.

**B BOB GAYDOS**

Mr. Gaydos thanked the Town Manager for her letter responding to his questions on the budget.

**V APPROVAL OF MINUTES: SEPTEMBER 8, 1997**

Mr. Reynolds said that on page 5, item B under New Business, the minutes show that the same person made and seconded the motion. (After reviewing the tapes of the meeting, the recording secretary determined that the motion was made by Mr. Reynolds and seconded by Mr. Murphy.)

**Motion:** Mr. Reynolds moved and Mr. Murphy seconded that the minutes be accepted as amended. The motion passed unanimously.

**VI REVIEW OF FINANCIAL REPORTS FOR AUGUST**

Mr. Isler asked if keeping that much cash in the same account was a good idea, or whether it should be diversified. Mr. Gucciardo said he has a list of people he will contact after Oct. 1. The interest rate we receive now at the bank is very favorable, but he will probably bring information to the Council in October about future options.

**VII COUNCIL MEMBER ITEMS AND REPORTS**

**A RAY MURPHY**

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

**B GARR REYNOLDS**

Mr. Reynolds reported that he met with Mr. Gucciardo and Mrs. Segal-George to talk about the budget, but he still had a few concerns that he thinks need to be looked into further. The health care plan went up considerably and he would like some experienced people from the island to look at the plan and see if it can be improved. He also thinks we should look at dues and educational costs for the Town Manager because they seem too high. He also said that the cost for office cleaning went up and that any contracts should be bid out.

**C RUSTY ISLER**

Mr. Isler suggested that health insurance should be handled by looking at it every year about two months before the policy is due to be renewed. That way it would be rationally looked at every year.

He also talked about the traffic situation. He wanted to see projections of where we are today and where we will be 5 years from today. He said that if there is a way to measure gridlock, it should be done. At what point would the island be shut down? Mrs. Segal-George said that much of that information will be in the transportation element of the comp plan. It will deal with the bridge, mass transit, etc.

**D ANITA CERECEDA**

Mayor Cereceda had no items to bring before the Council.

**VIII PRESENTATION BY RONNY GLISSON, PARK RANGER, LOVERS KEY STATE RECREATION AREA**

Mr. Glisson said that there is still no beach access, but that the new bridge will open on October 15. You can still reach the park by parking at Carl Johnson and taking the tram. He encouraged everyone to buy annual parking passes, which are good for almost all state parks. The new road is in and they will be opening another 200 parking spaces in the next few weeks. Carl Johnson's old entrance will be closed off and they will reforest the whole area. They will be able to hold 300 cars when the project is complete. They will have canoe and kayak rentals and there will be a mobile concession. They are trying to get a package of eco tours including Koreshan and Mound Key. They will have interpretive programs and hopefully a small visitors center. They have been removing exotics, but they will be leaving the Australian pines at the beach for shade. They expect to be complete in April 1998. The park will be advertised at exit 18 on I-75, but the only sign on our road will be the one that is there now that says the park is two miles away. They had over 58,000 visitors in the last year. They had 26 turtle nests this year. Dogs are welcome as long as they are on a 6-foot leash, they are not on the beach and not in the water. He encouraged people to volunteer and to join Friends of Lovers Key.

**IX PUBLIC HEARING: ORDINANCE ADOPTING THE OPERATING BUDGET FOR 1998**

Mayor Cereceda read the titles and opened the public hearing.

**A MIKE KLEIN**

Mr. Klein asked about contingency and reserves and asked why there is so much money and if that is the objective of the town to amass so much. Mr. Gucciardo explained the spread sheet. Mayor Cereceda said that when the town started it had no money and had to borrow \$500,000. Now it is trying to build reserves. We haven't done anything major yet, but the comprehensive plan will require some capital improvements. Until then, the money sits in contingency.

The public hearing was closed.

Mr. Reynolds asked why the Mound House acquisition was higher. Mr. Gucciardo explained that the difference is intended to cover costs of closing, paying the Trust for Public Lands for their services, etc.

Mr. Murphy said it is not his intention that the Town keep accumulating money and not spending it. After about three years, if that is still the case, we can lower the millage rate. But after next year when the comp plan is approved we will have a better handle on how the budget will go.

Mr. Isler said last year we budgeted \$30,000 and only spent \$5,000 for the Mound House operation, and now we are rolling the difference over and budgeting \$55,000. He does not think you can roll over an O & M expense. Mrs. Segal-George said we had hoped to be further along with the Mound House by now, but because of the latest difficulties, the time schedule has been pushed back. It will take a certain amount of money to get the house up and running. We have to do an historical and archeological assessment on the house regarding what can be done in remodeling, etc. She had planned to ask the council before this meeting for money for that purpose, but the project did not get that far yet. Mr. Isler asked about the intended use of the property. Some people want a low impact park for local residents. Others want a gift shop, archeological site at the pool, visitor center, and advertising for tourists. Who will decide what level of activity will happen? Mrs. Segal-George answered that the grant stated that it would be a learning center, not a passive park. It was planned to be an archeological and historical park. It is possible that the pool group will be able to use the pool for swimming lessons until such time as we have funding to do something archeological with the pool.

Mr. Isler asked about the new cost of \$115,000 in the LPA budget. Mrs. Segal-George replied that this is not a part of the comp plan. It is something you have to do after the comp plan. You have to go

through the land development code and see what needs to be removed, what needs to be kept, and what needs to be added. The task will be just as daunting as the comp plan. If we had more staff, it could be done in-house, but we have no planning department. She believes it is more cost effective to contract out this job than to hire new employees. Mr. Isler questioned whether there will be capital improvements in the comp plan. She explained that that is one of the state-required elements in the comp plan.

Mr. Murphy congratulated the staff on putting together a fine budget.

**Motion:** Mr. Murphy moved and Mr. Reynolds seconded that the budget be adopted. Mr. Isler, aye; Mr. Murphy, aye; Mr. Reynolds, aye; Mayor Cereceda, aye. The motion passed unanimously.

## **X PUBLIC HEARING: ORDINANCE TO ESTABLISH AND LEVY AD VALOREM TAXES**

Mayor Cereceda read the titles and opened the public hearing. There being no comments, the public hearing was closed.

**Motion:** Mr. Murphy moved and Mr. Isler seconded that the ordinance be adopted. Mr. Isler, aye; Mr. Murphy, aye; Mr. Reynolds, aye; Mayor Cereceda, aye. The motion passed unanimously.

## **XI PUBLIC HEARING: TOWING ORDINANCE**

Mayor Cereceda read the titles. Mr. Dillon spoke about the new rates, which were agreed upon at his meeting with the towing companies. The basic rate is now \$75, and they have agreed to have no charge for the first 24 hours of storage. They will agree to change business hours to 8 AM to 12 PM. The after-hours redemption will remain at \$40. He said the towing companies were able to agree with these changes. Mr. Isler said this would control the problem from the towing companies, but he asked if there was any way to make the private property owner less of the problem. Mr. Reynolds asked for a clarification on the after hours charge if it is within the first 24 hours. Mr. Dillon explained that if someone picks up their car between midnight and 8 AM, they will be charged the after-hours charge even if they are within the first 24 hours. The 24 hours refers to storage only. Mr. Reynolds said he does not think this will be a major change because most people will be getting their cars back after midnight and will want their car back immediately. Mayor Cereceda said she believes that most tows were between 9 PM and 11 PM. Mrs. Segal-George agreed that most of the complaints were before midnight. So there will be a change for those people because it will lower their cost, and also they can now use a credit card. Mr. Reynolds said he would like to see the after-hours fee not charged until after the 24 hour time. He would also like to see the basic charge be \$45, plus \$10 for storage outdoors or \$12 indoors. He would like the after hours charge to be \$20. The public hearing was opened.

### **A RAY MERTENS**

Mr. Mertens, who is a parking lot owner, thinks we are punishing him for providing parking for his customers. If the town drives the rates down, the tower will have to charge him more in order to pay his expenses. Everyone who comes in to complain to him, knows that their car has been towed, not stolen. Until we live in the towers shoes and see what his costs are, we can't say he is charging too much. The council is mad because there was one bad tow operator. It is ridiculous to punish the good ones.

### **B BRIAN AGID**

Mr. Agid of Red's Express understands that the council is working hard, but he is too. He works 7 days a week, and he goes out of his way for everyone he tows. Most people were not complaining about the rates, they were complaining about the way they were treated. He stressed that there are a lot more expenses to a private property tow. He thanked Mr. Dillon for working hard to try to work with the towers and understand the business. He feels he is getting the bad end of the stick because of something someone else did.

### **C RON ANDERSON**

Mr. Anderson, of All Florida towing, said there are a lot of costs involved in the towing business, even if they tow from your home to a repair shop. But there are many more costs for private property tows. He needs an office and storage, and the tows are more difficult because of tight turns, locked wheels, etc. He only makes enough money to pay his storage lease about two months out of the year. He feels it is degrading to say they are not worth the money they charge. If you call an electrician or plumber at night, you have to pay extra, so why not him?

The public hearing was closed. Mr. Reynolds said he is not mad at the towing companies and that is not the reason the ordinance came about. They are addressing the problem because of the negative publicity. He believes that if we adopt the proposed figures, we will not be gaining anything. He thinks people were conscientious enough to park in the back of the lot where businesses were not opened and they got towed anyway. They were not taking up any vendor's parking places. Mr. Murphy said that since the towing companies agreed with the new rates, they seemed reasonable to him.

**Motion:** Mr. Murphy moved and Mr. Isler seconded that the ordinance be adopted. **Discussion:** Mr. Isler asked Mr. Dillon if in his research these were appropriate rates for the area. Mr. Dillon said that the rates vary a lot, and what works for one area, might not be appropriate for another. Mr. Roosa confirmed that the rules will be adopted by resolution at a later date. Mr. Reynolds questioned whether there were too many changes between the first reading and second reading so that it should not have been a final public hearing this evening. Mr. Roosa said it is not required that the ordinance be exactly the same between the first and second reading. Mr. Isler says he thinks this is a reasonable compromise, with the addition that credit cards must be accepted, and he wanted to pass it tonight and be done with it. We do not need more rules until we see if this works. **Amended motion:** Mr. Isler moved that the motion be amended to remove the requirement for a resolution and add the requirement that credit cards be accepted. Mr. Roosa said it cannot be done because it would change the titles of the ordinance, but that he will bring a resolution to the next meeting requiring that credit cards be accepted. **Action:** Mr. Murphy, aye; Mr. Reynolds, nay; Mr. Isler, aye; Mayor Cereceda, aye. The motion carried.

**XII FIRST READING: ORDINANCE TO AMEND THE ORDINANCE ESTABLISHING THE MARINE RESOURCES TASK FORCE**

Mayor Cereceda read the titles. The public hearing was set for October 6 at 3:00 PM.

**XIII RESOLUTION CALLING FOR AN ELECTION OF COUNCIL MEMBERS TO SEATS #1 AND #2**

**Motion:** Mr. Murphy moved and Mr. Isler seconded that the resolution be accepted. The motion passed unanimously. Mayor Cereceda introduced the council candidates and thanked them for their interest in the town government.

The council took a break at 8:30 PM and reconvened at 8:44 PM.

**XIV RESOLUTION PLACING PROPOSED CHANGES TO THE CHARTER FOR REFERENDUM**

**Motion:** Mr. Murphy moved and Mr. Isler seconded that the resolution be adopted. The motion passed unanimously.

Mr. Isler asked if the town was going to do anything else, other than the flyer, to speak for or against the amendments. Mayor Cereceda suggested that we have a workshop to discuss the amendments. Mr. Roosa suggested having the referendum discussion be an agenda item at each council meeting until the election.

**XV RESOLUTION TO SET PUBLIC HEARING ON PETITION TO VACATE**

**Motion:** Mr. Murphy moved and Mr. Isler seconded that the resolution be adopted. The motion passed unanimously.

**XVI CONTRACT WITH THE LEE COUNTY SUPERVISOR OF ELECTIONS**

Mr. Gucciardo clarified that the supervisor of elections has been handling elections for the municipalities, but they have now been advised that it is no longer considered a core service and they must contract with each of the municipalities. It will now cost us about \$500 and proof of insurance covering liability issues. They also need an indemnification from possible lawsuits. It was clarified that the \$500 does not include the actual cost of the election.

**Motion:** Mr. Reynolds moved and Mr. Isler seconded that the contract be accepted. The motion passed unanimously.

**XVII OLD BUSINESS**

**A TOWN APPOINTMENTS**

Mayor Cereceda asked that she be allowed to be the representative on the Coastal Advisory Committee. There was no objection. Mrs. Segal-George said that Jack Bright is willing to serve on the Harbor Board. She also suggested Johanna Campbell for Waterfronts Florida because she has been monitoring the San Carlos CRA already. However, she has not been contacted yet to see if she will serve.

**Motion:** Mr. Reynolds moved and Mr. Isler seconded that those three persons be appointed. The motion passed unanimously.

**XVIII NEW BUSINESS**

**A DELEGATE TO CONVOCATION ON BEACHES AND PASSES**

Mayor Cereceda, as new appointee to the Coastal Advisory Committee, will not be able to attend the meeting on September 29. She suggested that perhaps John Mulholland from the Marine Resources Task Force might like to attend. Mr. Gucciardo will be able to cover the meeting also.

**XIX TOWN MANAGER'S ITEMS AND REPORTS**

Mrs. Segal-George had no items to bring before the Council.

**XX TOWN ATTORNEY'S ITEMS**

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

**XXI PUBLIC COMMENT**

**A DAN PARKER**

Mr. Parker wanted to thank the town council for their wisdom. He was able to watch the town through their web site while he was gone for the summer.

**B JOHN MULHOLLAND**

Mr. Mulholland said he would be happy to substitute for Mayor Cereceda at the convocation on beaches and passes.

**XXII ADJOURNMENT**

The meeting adjourned at 9:00 PM.

Respectfully submitted,

Peggy Salfen  
Recording Secretary