

**FORT MYERS BEACH
TOWN COUNCIL MEETING
OCTOBER 21, 1997**

NationsBank Building, Council Chambers
2523 Estero Boulevard
FORT MYRS BEACH, FLORIDA

I CALL TO ORDER

Mayor Anita T. Cereceda opened the meeting on Tuesday, October 21, 1997 at 5:02 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 Town Attorney Richard Roosa.

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III PUBLIC COMMENT ON AGENDA ITEMS

A BOB GAYDOS

Mr. Gaydos said that there are no sidewalks to Bay Oaks. Is a sound system more important than the life of a child?

IV APPROVAL OF MINUTES: SEPTEMBER 22, 1997

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

V REVIEW OF FINANCIAL REPORTS FOR SEPTEMBER

There were no questions or comments on the financial reports.

VI UPDATE ON THE LPA BY BILL VAN DUZER

Mr. Van Duzer, a member of the LPA, reported on the activities of the LPA in September and October. They have approved the draft of three elements of the comp plan. They continue to work on committees, including the Mound House, signs, San Carlos Island, beaches, transportation, etc. They held five hearings on land use. They have also considered amendments to the land development code, including changing commercial zoning to commercial planned development, parking requirements, food and beverage service, hotel and motel density, etc.

VII COUNCIL MEMBER ITEMS AND REPORTS

A RAY MURPHY

Mr. Murphy announced that the Council has been invited to the grand opening of a new restaurant on the beach tomorrow night.

B GARR REYNOLDS

Mr. Reynolds said FDOT is prepared to change the center lane on San Carlos Blvd. using flex sticks so people will not use the center lane for passing. Next spring they will dig up that center lane in some sections and plant trees. He also reported that at the MPO meeting it looks promising that San Carlos will be widened from McGregor to Summerlin.

He also handed out a memo regarding a letter that he wrote to Mrs. Segal-George on September 22. The San Bar Motel has been sold and is now closed, and he questioned whether the closed motel still carries liability insurance to protect the public safety, and also whether the accessory jet ski rental operation could still operate when the motel is closed. It is still operating and he wondered if they are covered by liability insurance also. He wanted to know if they had the written permission to operate there as a business. He called Commissioner Judah, and Martha suggested that Mr. Reynolds check that information with the state insurance agency in Tallahassee. He did not check with them. Since he had not heard from Mrs. Segal-George since the letter, he asked if she had anything to share tonight. Mrs. Segal-George said she understood the letter as being rhetorical more than asking for answers to specific questions. She thought it was just expressing his frustration at what is going on in that location and what she has been able to do in the past. She said she would be happy to respond to the specific questions in this memo in writing. Nonetheless, she reported that she has talked with Dave Crabtree and Rick Roberts about the situation, and

code enforcement believes that the jet ski accessory use is still appropriate there. In fact, the new owners of the SanBar are now listed on the new license for that vendor. It is the new owner's responsibility to carry insurance on the closed building. Mr. Reynolds said he realized that the mayor has asked him not to ask informational questions directly of Mrs. Segal-George rather than bringing so much up at the council meetings in order to keep the meetings shorter. But he said if the Town Manager does not cooperate more in responding when he asks a question, he may have to regress to his former practice of asking more questions at council meetings. He said he thinks he carries more responsibility than any other council members about the situation at the closed motel because he is a neighbor and he can hear when it is broken into at night. He is concerned about public safety. He thinks some people think he is being revengeful against a jet ski operator, but there is nothing farther from the truth. He did go see Rick Roberts about the situation since he was across the street at the MPO meeting. He asked Mr. Roberts if he had found out anything about the situation and he said he didn't know anything about it. He also did not know anything about the operation at the Sandpiper. Mr. Reynolds said that that location has not operated since about July of 1996. It disturbed Mr. Reynolds that Mr. Roberts had not been asked to follow through. Mayor Cereceda clarified that she has never asked him not to bring so many things before the council. He can spend as much time as he wants. What she did ask is that he abide by the policy that he voted to accept that council members' items and reports be just that and not a question and answer period with the town manager or any other staff member that could take place outside of a public meeting. Mr. Reynolds said he did not agree with the interpretation of the policy because he felt a council member should take every opportunity to share whatever you want to discuss on the council. If it includes asking a staff member a question, they should. Mayor Cereceda said that this was simply a question, and no one else has participated in any discussion and it does not require any act of council for him to get the information.

C RUSTY ISLER

Mr. Isler asked the council to reflect on the zoning request process, whether the Council feels like the process is working. He noted that sometimes the county recommends denial, then the LPA approves, and the council approves. Does the county feel that next time they should recommend approval since the Council is going to approve it anyway? Mrs. Segal-George answered that she has asked the county staff to apply the regulations as strictly as possible and let the lenience come from the LPA and the Council. She feels like the process is working well. Mr. Roosa said that this is a transitional period and sometimes it does not fit well together, but he does not think that means it is a bad system. When we get our own zoning, those problems should ease up, even though they will never go away. He did say, though, that the special master system is new and it hasn't been decided for sure that it is a good system.

D TED FITZSIMONS

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

E ANITA CERECEDA

Mayor Cereceda talked about the parking problem in Times Square. Mango Bay is rebuilding and therefore quite a few parking spaces have been eliminated for employees in the area. The county has sold parking passes to merchants for employees, giving them the opportunity to park under the bridge and beside La Playa at no cost. Those spaces belong to the Town and were not the County's to give away. We will recognize the permits until they expire, but the Town is looking into whether to start our own system. She asked the Council to listen to the merchants and think about a policy. Mr. Gucciardo reported that he sent out 40 letters and only 4 have responded and they are split on the issue. He does not want to make a recommendation based on only four responses.

VIII PUBLIC HEARING: ORDINANCE AMENDING THE ORDINANCE ESTABLISHING THE MARINE RESOURCES TASK FORCE

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

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

IX RESOLUTION SETTING STANDARDIZED TOWING RULES AND REGULATIONS

Mr. Reynolds mentioned that he has had a call asking how we can require that the towers to accept credit cards. Mr. Roosa said they are licensed by the Town and we can set any reasonable rules. If they

want a license, they must accept our rules. Mr. Reynolds asked who you can call if someone parks in your driveway. Mr. Roosa said you can call anyone you would like to call.

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

X AGREEMENT FOR TOURIST DEVELOPMENT TAX FUNDING (KIOSKS)

Mrs. Segal-George said that we applied for this money from TDC in response to people saying they don't know about Little Estero Island and what is allowed there.

Motion: Mr. Murphy moved and Mr. Isler seconded that the agreement be signed. The motion passed unanimously.

XI TOWN APPOINTMENTS

A PARKS AND RECREATION ADVISORY COMMITTEE

Mrs. Segal-George explained that since we are sharing in the funding of Bay Oaks, she met with Vicky Massey and some other people from Parks and Rec. They will run the committee, but they offered us five appointments (they will have four). The Town will not have to staff the committee. It was advertised in the Observer that the Town was looking for volunteers, but we only received two responses, from Joanna. Hogan and Ms. Sullivan. Mayor Cereceda also nominated Jennifer Kaestner. Mr. Isler suggested that those three be appointed and that the other two will be appointed at a later date.

Motion: Mayor Cereceda moved and Mr. Murphy seconded that Ms. Kaestner, Ms. Hogan, and Ms. Sullivan be appointed. The motion passed unanimously.

B CITIZENS ADVISORY COMMITTEE OF THE MPO

Mr. Reynolds said he had someone who would accept the appointment, but he needed to check back with them first. He suggested this decision be put off until the next meeting. He thanked Mr. Gaydos for his faithfulness in attending the committee meetings.

The council took a break at 6:05 PM and reconvened at 6:17 PM. Mr. FitzSimons was absent after the break.

XII DISCUSSION OF REFERENDUM QUESTIONS

Mr. Van Duzer said that one referendum question bothers him, and that involves the 3% tax. He is concerned because he thinks there needs to be assurance that large users of electricity will not have to pay too much. Mrs. Segal-George said the plan is to have a sliding scale for commercial users. There will also be a hardship allowance. Mr. Roosa said the utility tax is very strictly regulated by state law. There is a procedure where you can exempt the first so-many kilowatt hours across the board so that the smallest users will be exempt. He is not sure that you can give a different rate to different users. Churches and governments are exempt. Mr. Reynolds said he hoped that we would do 3% across the board and not get into a sliding scale. Mr. Whittaker said it will cost him \$360 more per year but he thinks it is a very worthy project. Mayor Cereceda said she has heard comments that it shouldn't have been limited to land acquisition. It should have had a more open purpose, which would include such things as beautification.

Regarding the single member districts, Mr. Van Duzer pointed out that all the present council members live within a mile of each other. He thinks it is a mistake to go to single member districts.

Mr. Reynolds said he has heard negative comments that the third question on the ballot will allow the council to incur too much indebtedness.

XIII NEW BUSINESS

A REQUEST FROM BAY OAKS FOR \$7722 FOR SOUND SYSTEM

Mrs. Segal-George said this is an "extra" and it is something that Vicky Massey can't get through the system. Mayor Cereceda suggested moving this to the next meeting since it was already time to start the next meeting. Mr. Isler suggested asking the county to partner with us for 50%, because he felt that we should jointly do the capital improvements. It was moved to the next meeting.

XIV TOWN MANAGER'S ITEMS AND REPORTS

Mrs. Segal-George said the Southwest Regional Planning Council, which is changing to an organization of governments, has offered us a seat. It will cost \$1811.70, based on \$.30 per capita. She said they take a regional approach to solving problems and she feels that the Town should be represented. Their next meeting will in December. Mr. Murphy expressed interest in representing the Council.

Motion: Mr. Isler moved and Mr. Murphy seconded that the Town join the Southwest Regional Planning Council and that Mr. Murphy be appointed as the representative for the Town. The motion passed unanimously.

Mr. Gucciardo showed a sign that was produced at St. Pete's Beach warning people about the danger of stingrays. He asked for direction from the council on whether they want to pursue a joint effort with the Chamber, the Town and the TDC to make signs for the beach. They would like to do it in four languages. They would be put up seasonally. There was no objection from the council to the joint project.

He also reported that they are working on contacting the landowners between Gulfview and Bayland, where beach erosion is a serious problem and where sea walls are compromised. The Town is trying to pursue some options to build up the beach and approach the property owners to see if they are interested.

XV TOWN ATTORNEY'S ITEMS

Mr. Roosa reported that we have two outstanding lawsuits. Bogdanski is set for oral arguments on November 3. The Town has received a petition for writ of certiorari in the Ganim/Tarick case.

Motion: Mr. Murphy moved and Mr. Reynolds seconded that Mr. Roosa be authorized to represent the town in these cases. The motion passed unanimously.

XVI PUBLIC COMMENT

A BOB GAYDOS

Mr. Gaydos said that the bylaws required that he resign the seat on the CAC of the MPO when he decided to run for office. He thanked the council for considering safety in passing the Eckerds plan and not allowing parking on Lenell Road. Lenell should be the second priority for sidewalks. Sidewalks for school children should be number one. School Road is narrow, has no sidewalks, and is heavily traveled. Bay Street also does not have sidewalks. He hoped we could use some of the highway money for sidewalks. He also mentioned that on Old San Carlos there is a bar that is located at sidewalk's edge with only a bike path on Third Street. People are parked there. We need to enforce and tow those vehicles.

B BILL WHITAKER

Mr. Whitaker spoke about the parking sticker issue. This will affect him more than any other issue that has come before the Council. It is very hard to get employees, and he has never been fully staffed. They must be hired from off the island and therefore cannot ride the trolleys. Parking meters are not a good solution because they must be fed. Parking lots are \$5 per day. He has between 7 and 12 employees, which costs him about \$350 to buy stickers for his employees. If we get rid of the sticker program, parking will cost him between \$1200 and \$1400.

XVII ADJOURNMENT

The meeting adjourned at 6:40 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary