

**FORT MYERS BEACH
TOWN COUNCIL MEETING
DECEMBER 1, 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, December 1, 1997 at 6:30 P.M. Present at the meeting were: Mayor Cereceda; Vice-Mayor Ted FitzSimons; Council Members 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.
Absent from the meeting: Council Member Rusty Isler

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III INVOCATION

The Council was led in prayer by Mayor Cereceda.

IV PUBLIC COMMENT ON AGENDA ITEMS

There were no public comments.

V APPROVAL OF MINUTES FROM NOVEMBER 17, 1997

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

VI COUNCIL MEMBER ITEMS AND REPORTS

A TED FITZSIMONS

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

B GARR REYNOLDS

Mr. Reynolds thanked Mr. Roosa for clarifying Roberts Rules of Order.

C RAY MURPHY

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

D ANITA CERECEDA

Ms. Cereceda reminded the Council that the next meeting would be the last for Mr. Isler and she asked if the Council wished to present him with some sort of token for his term of service.

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that some form of recognition be presented to Mr. Isler at his last meeting on December 15. The motion passed unanimously.

Ms. Cereceda suggested having the swearing-in ceremony for John Mulholland before the meeting time on January 5, followed by a reception for the community, followed by the meeting at 6:30. Ms. Segal-George suggested sending out invitations to guests, county commissioners, and members of other city councils. The Council was in agreement.

VII FIRST PUBLIC HEARING: ORDINANCE AMENDING THE LAND DEVELOPMENT CODE

Mayor Cereceda read the titles. Mr. Roosa stated that these are changes to the overlay district and have already been passed by the LPA. Bill Spikowski, planning consultant for the LPA, said some changes are only clerical, so he pointed out the main points. In Section 2, language is added that will provide for notification of rezoning to all members of a condominium, not just the condo association. However, in the case of timeshares, only the timeshare manager will be noticed, not every owner. The variance applicants will now need to provide drawings of what is allowed and also what they are asking for. In Section 3, more rezonings will be required before large developments will be allowed. Two exceptions are the overlay district and very minor developments. He stressed that this is an interim plan and will not necessarily be

kept in the final plan. Sections 4 and 5 are minor clarifications. Section 6 makes changes that help the overlay district regulations conform more closely to the Wallace Roberts Todd plan and are mostly clerical. Mr. Reynolds asked about Section 5. Mr. Spikowski explained that public parking lots or parking garages would require a special exception and will no longer be a use by right. He said that section 7 clarifies the language regarding setbacks and will track more closely with the WRT master plan. Section 8 will require extra parking for outdoor seating. Section 9 and 10 are clerical changes. Section 11 makes the table correspond to the WRT study. Section 12 changes the section number. Section 13 and 14 regard accessory apartments. It implements the new concept, which applies only to existing accessory apartments and only when the owner or immediate family member lives on the premises during the time the apartment is rented out. Apartments will have a maximum of 850 sq. feet. Construction still has to meet flood regulations. Section 15 changes alcoholic beverage requirements and will make sure that accounting is made for sale of food and beverages, and that alcoholic beverage sales do not exceed 49%. Section 17 deals with hotels and motels and will lower the multiplier when changing dwelling units to hotel rooms. It will not discourage or forbid building hotels, but anything higher than the multiplier will require a deviation through the planned development process. Also more than 50 rental units will require a planned development. Section 18 makes sure that parking is required for outdoor seating. This mirrors what the county is doing already. Section 19 will allow temporary parking lots to operate until July 15, but will add extra requirements for screening and signage. Mr. Reynolds asked about using business parking lots after hours for paid parking lots. Mr. Spikowski said he does not see anything in the regulations that would forbid it but they might need extra buffering. Mayor Cereceda wondered if temporary lots should begin November 15 instead of December 15 in order to catch the Thanksgiving holiday.

The second public hearing was set for December 15 at 6:30 PM. The meeting was opened for public hearing.

A BILL WHITAKER

Regarding temporary parking lots, Mr. Whitaker said that July is their third busiest month of the year and their busiest of the summer season. The summer season runs through the third week of August. He said it makes no sense to cut them off on July 15.

The public hearing was closed. Mr. FitzSimons encouraged people to read these amendments and make comments. These changes are important for the town and many are overdue.

VIII OLD BUSINESS

A TRASH REMOVAL IN TIMES SQUARE

Mr. Dillon said that he has made one more plea to the county to allow the dumpsters to stay at Lynn Hall with the Town providing buffering and landscaping. The county does not agree. If the dumpsters are relocated, we are going to get objections no matter where we put them. The council needs to make a decision. Mr. Reynolds asked about the site behind Wings, but Mr. Dillon said it does not allow enough space for a compactor or dumpsters because of turning radius. He has not been able to get a specific dollar amount for the increased garbage pickup because the town has not approved a specific plan. Mr. Reynolds asked if there was a spot for the dumpsters within Times Square, but Mr. Dillon said the turning of the trucks would cause black marks on the pavers and they would have to drive over the pedestrian mall. (There are four dumpsters required.) Mr. Dillon said his first choice is leaving the dumpsters at the park. If they must be moved, the site under the bridge is the least objectionable even though we will lose 7 parking spaces. Mayor Cereceda said she has talked with Ms. Manzo and she does not think there is any compromising with her and that the only recourse would be to go to the commissioners or perhaps to Mr. Yarborough. She is hesitant to do that because she has been very accommodating to the town. But that site is the most convenient and least expensive option. Mr. Murphy said we are faced with the problem because of a design flaw of the CRA plan. He thinks we should continue to work with the county to keep the dumpsters there. Trash is necessary and it must be accommodated. He would be glad to talk with Ms. Manzo. Mr. Reynolds said even if we offer to pay the county for use of the land, it would be worth it. Mr. FitzSimons said that is a high pedestrian corner so he can sympathize with the county. Mayor Cereceda said she will try talking with Ms. Manzo again.

B UPDATE ON LEGAL ADS IN THE OBSERVER NEWSPAPER

Mr. Gucciardo said the legal ads must be run in the New Press because they meet statutory requirements. They cost about \$5500 this year. Similar ads at the Observer would be about 40% less. But we could drop the cost even more because we would not have to add the legal language and descriptions. He thinks we could add those ads for under \$2500 per year. If we do this we will have to amend the budget at some time to take the money out of contingency.

Motion: Mr. Murphy moved and Mr. FitzSimons seconded that modified ads be placed in the Observer also. The motion passed unanimously.

IX NEW BUSINESS

A LETTER TO BOCC REGARDING CRA FUNDS

Mrs. Segal-George said that there was approximately \$286,000 left over after the CRA project was completed, but that the money has been moved into the county general fund. The letter is asking for the money and states why we believe it belongs to the town and what we plan to do with it. The Estero Island CRA met on this issue and voted unanimously that the money belonged to the Town and that the money should be spent to complete the project since much of it was cut. We have also received a letter from Janet Watermeir asking for a meeting regarding CRA funding. Mr. Gucciardo will meet with her at 2:00 Wednesday. This is not money that was left over because the project came in under budget. The project was cut and now there is money left over, so the money should go to finish the project. The Council agreed that it was their wish to demand the money from the county. The Council authorized the letter to be signed and sent.

B APPROVAL OF WCIND GRANT

Mrs. Segal-George said this grant money is to be spent to pay the sheriff for patrols on the water.

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

C PRELIMINARY BEACH RESTORATION IMPLEMENTATION AND FUNDING PLAN (COASTAL ENGINEERING)

Mr. Gucciardo said this is a follow-up to the memo that was prepared for the council recently, trying to get an overview and evaluation regarding beach renourishment. The staff asked Coastal Engineering to give us a proposal to evaluate some of the more technical aspects of the Humiston Moore plan. The staff has had two meetings with them and Mr. Gucciardo said he is confident that they can come up with some fresh approaches for the town to follow. He believes that the proposed cost of no more than \$8500 is reasonable. Mrs. Segal-George said that this is potentially the largest project that the town will be involved with for many years. She feels that they need someone that is working just for the Town in evaluating these studies rather than just accepting the plans that have been done for other people. They will look at the technical data with regard to the Town's concerns about the project. Mr. Murphy questioned where this would come out of the budget. Mrs. Segal-George said there is some money in the budget for outside consultants.

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

X TOWN MANAGER'S ITEMS AND REPORTS

Mrs. Segal-George said that the town is beginning to get a lot of complaints from the residential areas near Moss Marine about large trucks and deliveries, etc. It appears that 15 years ago Moss Marine received a variance for access off of Old San Carlos and that is where all the deliveries are supposed to take place. Dave Crabtree will try to see how we can control these deliveries and keep them out of the residential areas.

Mr. Gucciardo said that VOICE volunteers will be out as of January 2 rather than the originally announced date of December 22.

XI TOWN ATTORNEY'S ITEMS

Regarding Liberty I, Mr. Roosa said the Town filed for an injunction because of the fire code, and since then they have come into compliance. The next step is for them to file their answer and then set a date for a hearing. It could take some time but we will try to push for a early date.

Regarding the Bogdanski case, the appellate court said there was a violation at the time of the citation, but at the time of the hearing there was no evidence presented by code enforcement that there was a violation (use as a motel) on that date, so it was set aside. If it is established that they are again using the facility as a motel, they could be cited again. Then it would become a continuing violation and the consequences should be more serious. The property owner has applied for some zoning action which will come before the Council on December 15, and their attorney says they are trying to bring the building into conformance.

He also reported that Murray Carslake has filed suit against the town because of the Town's failure to renew four of his personal watercraft licenses. He asked for authorization to represent the town in this case.

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that Mr. Roosa be authorized to represent the Town in the Carslake case. The motion passed unanimously.

XII PUBLIC COMMENT

A LYLE DUMERS

Mr. Dumers said we are getting block-ups at Times Square at the light. Someone punches the walk button, one person crosses and traffic backs up across the bridge. Traffic starts to move again and a minute later someone else punches the button. Something should be done about it.

B ROBERT GAUTHIER

Mr. Gauthier wanted to speak about noise pollution. There are Harley Davidsons cruising Estero Boulevard after midnight and they have straight pipes which are against the law. He would like to ask the Sheriff to give more attention to that after midnight.

XIII ADJOURNMENT

The meeting adjourned at 8:10 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary