

TOWN COUNCIL MEETING TOWN OF FORT MYERS BEACH

MINUTES OF MEETING

TUESDAY, MARCH 25, 1996  
6:30 PM

The meeting was conducted in Council Chambers at the Fort Myers Beach Town Hall, 2523 Estero Boulevard, Fort Myers Beach, Florida. A call to order was made by Mayor Cereceda who led the group in the Pledge of Allegiance. Councilmember Reynolds delivered the invocation.

Present on behalf of the Town of Fort Myers Beach were:

Richard V.S. Roosa, Town Attorney  
Anita Cereceda, Mayor  
Ray Murphy, Councilmember  
Rusty Isler, Councilmember

Marsha Segal-George, Town Manager  
Ted Fitzsimmons Vice Mayor  
Garr Reynolds, Councilmember

Public comments and inquiries were aired. Johanna Campbell addressed the Council and stated that she noted there was to be a presentation on the Matanzas Harbor Plan during this evening's meeting. She indicated that at a meeting in February on San Carlos Island there had been a speaker who talked regarding industry on the Island and who stated that the shrimping/fishing business was growing and thriving. This industry represents the second largest in the State of Florida. She expressed concern about proposed dredging and the need for additional docks and stated that whatever the Harbor Plan represents, she hoped the Town would include dockage for the shrimping industry.

Elizabeth Cutter addressed the meeting regarding the south end of Estero Island. Public safety is a concern, and Estero Boulevard is very congested. The south end of the island has neither sidewalks nor bikepaths. Walking there is very difficult at best and often dangerous. She asked the Town Council to remember sidewalks and bike paths for the south end. She also suggested that the Council should pursue transportation monies of \$247,000 discussed last week. She believes the Town is not only entitled to those funds but entitled to determine how best they should be spent. Some of those monies could be used for south end sidewalks and/or bikepaths.

No further public comments were offered.

Mayor Cereceda requested a Motion to approve Minutes of the March 8, 1996 meeting. Motion was duly made, seconded and passed; no discussion was held and none opposed. A Motion was made, seconded and passed to approve Minutes of the March 11 meeting with none opposed. A Motion was made, seconded and passed to approve the Minutes of the Meeting of March 15; no discussion was held and none opposed.

It was indicated that the presentation on the original Matanzas Harbor Plan was dependent on a guest speaker who had not yet arrived. Therefore, Council moved to the next item on the Agenda, i.e., the Interlocal Agreement.

The Interlocal Agreement was before the Council because the current agreement expires at the end of March. The agreement needed to be included on the Agenda. Changes to be made along with additional funds can be covered later in a Letter Agreement and made a part of the Interlocal when information is available; however, the present Agreement needed to be approved at this meeting.

Town Attorney Roosa stated that Lee County has agreed to continue to perform services and changes can be identified at a later date. Changes and comments noted were:

Vice Mayor Fitzsimmons called attention to Section 3, Part A, at the bottom of text stating "and as all of the above may be amended or revised from time to time during the term..." and stated this verbiage appears to be in conflict with 15.8, Part D, of the Town Charter. Vice Mayor Fitzsimmons asked Town Attorney Roosa for clarification. Mr. Roosa advised that the Agreement can only be amended by the Town Council. Fitzsimmons recommended insertion there of "revised by the Town Council of Fort Myers Beach," and again at the end of Part B in order to clarify, as

well as in Section 4. in the third to last line of the opening paragraph immediately following "as they may be amended or revised . . ."

Councilmember Reynolds indicated a concern regarding language relinquishing authority to a hearing examiner who would have final decision on code or any other enforcement. He believes the Town Council should have the ability or right to countermand any decision that might contradict town ordinances. Fitzsimmons remarked that few code cases get to the hearing examiner and code enforcement cases don't go before the County Commission. The hearing examiner's office is the resolution department of Lee County for code enforcement and the process is critical in terms of legalities. The Hearing examiner is required to provide penalties for non-compliance.

Reynolds questioned why the Town Council shouldn't retain the same rights and options as the Lee County Commissioners in order to maintain some control of the process. Mayor Cereceda stated that this had been discussed prior, the hearing examiner issue was left off and Code enforcement was to be retained by Lee County. She asked, "Do we have the ability to deal with code enforcement?" Reynolds clarified that he believed the portion allowing the hearing examiner final decision should be omitted. Fitzsimmons advised that all code enforcement issues are resolved at hearing examiner level, and Councilmember Isler stated that after a hearing examiner rules, the next step in the process would be Circuit Court. Councilmember Reynolds thereupon withdrew any further comments upon explanation of the process. Mayor Cereceda stated that this Interlocal Agreement would cover the Town through September of 1996. She requested any further changes, comments or amendments. Fitzsimmons asked if a supplemental had been necessary regarding fees. Town Manager Segal-George explained that the purpose was to identify fees that would apply. Mayor Cereceda asked for a Motion to approve the Interlocal Agreement. Motion was duly made to approve as modified, seconded and passed. No further discussion was held and none opposed.

A resolution concerning membership in the Lee County Metropolitan Planning Organization is to be prepared by Attorney Roosa at Councilmember Reynolds' request. The purpose is to ask the Governor to consider adding an additional member to the MPO in order to accommodate Ft. Myers Beach. It was recommended by the staff at MPO that the Town adopt such a resolution. Councilmember Reynolds stated that a staff member would be present during the meeting later to discuss and asked Town Manager Segal-George to explain any more expeditious ways to accomplish the effort. Ms. Segal-George stated that the quickest way was to send the resolution and request directly to MPO and not to the Governor's office. Councilmember Reynolds also relayed comments made by Commissioner Albion that was indicative of the Commissioners support and recognition of the Town Council of Fort Myers Beach. Town Manager Segal-George stated that members have been provided a letter regarding MPO. In addition, the Governor's office has called to follow up on the processing for membership and reiterated to whom the resolution should be forwarded for quickest action. Councilmember Reynolds share comments made regarding red tide and dead fish. Vice Mayor Fitzsimmons asked about a supporting document that might be necessary from the County seat. Does the Town Council need to require a resolution? Town Manager Segal-George stated that MPO will assist in the process and the Mayor of Sanibel has also offered to assist. A motion was made to approve the resolution, seconded and passed with no further discussion and none opposed.

Town Attorney Roosa asked regarding the figures used for high season census. Some discussion ensued concerning actual annual population. The permanent voting base does not increase appreciably. The census figure in 1990 was at 5,812.

The presentation on the Matanzas Harbor Plan was made. Town Manager Segal-George introduced Chuck and Jim Lavender and asked that they present the plan to the Council and attendees at tonight's meeting along with an update from Lee County's perspective.

Bids on the beach renourishment were stated to be around \$300,000. Funds were awarded to Ft. Myers Beach to complete the project. Mayor Cereceda welcomed the two guests, and Chuck offered information regarding the Plan. Monies recently appropriated would open the navigation channel. The plan commenced with an assignment in 1989 to find a resolution to what was deemed an "unmanaged harbor." Concerns were largely sanitation issues, hence the plan to manage the harbor at Ft. Myers Beach. Some parts of the plan are being pursued. A major part is a land base to provide services and help regulate activities as the plan is developed. He envisions the harbor plan and all of its elements as an improvement for the community in the boating area. No questions were asked.

Jim Lavender described past meetings and the history of the plan. He presented a site plan to help explain the various parts of the plan and described the specific components. What Lee County has done is developed a Master Plan of the site. Marine Sciences for Lee County will ultimately manage the area. The S.W. Florida Marine Institute will have a place to build a center. Two other areas on either side of the Trico parcel are what is presently being worked on.

The Phase I rendering of waterfront was shown to include shrimp docks, and final construction drawings are available on that portion of the site. Current budget is 8337,000. The site will be developed in phases but with dockage and waterfront as a first priority. The status of project is that all permits, state and local, are in hand. Bids will be solicited on April 12 with contract to be awarded on May 29, notice to proceed to be issued on June 17 and work completed by October 31. The current construction estimate is 8350,000 and SW Fla Marine Institute is still working on it and will have offices there, resulting in a presence by Fall of staff on the old Murphy Oil site.

A question was asked regarding funds being use, i.e., WCIND money or parks & rec? It was answered that it will be a combination of bond and tourist monies as well as some "301" money. A question was asked if Lee County was planning a container ship port in that area? Jim Lavender stated he had no knowledge of any such plan and does not believe it to be a part of any County plan. As far as he is aware, Lee County is not working on a container ship port. The question was then asked if as part of Commissioner Judah's plan, was not he discussing a container ship port? Jim reiterated that he had no knowledge of any such plan on the part of the County.

A question was asked regarding live-aboards and whether pump-out facilities, water, etc. be available? It was answered that Marine Sciences will regulate the harbor once the infrastructures are in place. This plan was originally developed because of live-aboards and the need for regulation. Chuck explained the "Pilot Program for Voluntary Regulation of Anchorages." This includes WCIND, the Boaters' Action Information League, the Florida Department of Environmental Protection, the SW Florida Planning Council and the Fla. Seagrant organization. The premise is that boaters would act to regulate among themselves and others. The purpose is to remove problem boaters. Florida State is backing this program, and there is no cost. The original harbor plan included free facilities. There are grant programs available for free public pumping facilities and other issues need to be considered. Lee County will not act to regulate, but the Town of Ft. Myers Beach will have an opportunity to provide facilities in conjunction with San Carlos Island and to manage the water and waterways. A question was asked if water taxi service was included in the harbor plan. It was stated that it was included in the original documents via established access points. These are all long-range plans. Facilities and properties will be in place. Containerized shipping is not a new concept. Ft. Myers Beach is a good geographic possibility as a shallow draft port. The major problem is support. The Harbor Trust Fund was discussed with Porter Goss, but these shallow draft ports are not considered.

A question was asked regarding when Cuba opens, what will stop boats from coming? Chuck had no definitive answer and stated that some thought needs to be given to this potential.

The question was asked why boats don't pay to lease or moor offshore? It was replied that the Federal law does not permit fees and navigation laws govern. Definition of "navigable" needs to be nailed down. Trico makes a lease payment of \$2,000 per month to the County and the County pays \$4,000 per year to State.

Town Manager Segal-George indicated this plan was started in 1989. Harbor planning is a 10-year process because of all of the legal issues. Fitzsimmons asked if the FunKruz ship pays a port tax to Lee County? Jim stated he did not believe they do. Jim also urged Town to work with Marine Sciences and County Staff. Segal-George thanked the speakers for their time and information.

The MPO (Metropolitan Planning Organization) presentation was scheduled for 7:30 p.m. Therefore, the Council moved to next item on the agenda.

Councilmember Murphy stated he had met with Ms. Segal-George and will meet again this week. He expected to have something back no later than Monday and everything was going well.

Councilmember Reynolds made a presentation to the Town on behalf of a local merchant of a poster called "Enchanting" that has been promoted by the Beach Chamber of Commerce. It was donated to the Town and people of Ft. Myers Beach for use in the halls of the Town Council. The business was the "Island Gallery & Boutique." Reynolds also presented an unframed poster print for each of the Councilmembers, Town Attorney and Town Manager. He further mentioned an event of the previous week when the Town Hall was decorated with artwork from the Art Association. The Town Council owes a special "thank you" to artists who participated, including Gretchen Johnson who was present at tonight's meeting. Thanks were extended to Gretchen and her group.

Councilman Isler described a recent Lee County Coastal Advisory Council meeting he attended this date regarding beach renourishment. The Town had good representation at the meeting with the presence of Roxie Smith. Hopefully, this will be represent a great long-term improvement and better planning. Mayor Cereceda mentioned an article in the paper concerning dollars paid by Captiva residents for sand and beach renourishment. Councilman Isler asked Ms. Roxie Smith to speak about her committee. Roxie explained that the committee was formed three years ago by Commissioner Manning as a beach preservation task force. It studied various methods, plans and sources of funding. There are 42 miles of beaches in Lee County and 16 to 18 of those miles are critically eroded. Funding and planning is very important. Lee County has been working on a plan, and TDC money of \$40,000 has contributed toward developing a plan. Assessments on Captiva Island were discussed. Federal, State, County and local dollars are very important. This is a very costly proposition. A question was asked if \$15 million was a real number. It was answered that the real number is closer to \$2 million per mile and 3.5 miles on Ft. Myers Beach needs attention. Councilman Isler thanked Ms. Smith for her information.

Vice Mayor Fitzsimmons advised tilts past Thursday, seven members of an LPA (Local Planning Agency) were selected. He asked them to stand and be recognized if present. They are:

Lee Hayman  
Roxie Smith  
Betty Davis-Simpson  
John Mulholland

Bill VanDueser  
Dan Hughes  
Joanna Campbell

Two alternates also selected were Ron Kidder and Linda Beasley.

Mayor Cereceda asked for input on the towing situation and towing policy for illegal parking policy with the suggestion that property owners organize on this issue. The resultant PR and community image is very bad. She asked for comments about the situation and how to handle. Cost to vehicle owners to retrieve their vehicle after towing is \$125 and Mayor Cereceda asked for suggestions.

Councilman Reynolds commented on parking places and local merchants, they could think about. Most recently was an Island Hardware "No beach parking during business hours" sign. That kind of signage might be a step in the right direction. Council needs to take some direction toward parking availability, and a well-designed parking garage might be a viable solution. Vice Mayor Fitzsimmons noted that the Master Plan for Estero Island CRA included plans to increase parking at Times Square by some 400 cars. Mayor Cereceda also indicated she would pursue with merchants and property owners to try to find a solution to avoid the situation. Councilman Isler asked if someone on the Traffic Committee could narrow the issue down and get more detail and information. Mayor Cereceda indicated she would follow up.

Councilman Reynolds introduced the speaker from MPO, Mr. Glen Ayler, who is the Staff Coordinator for Lee County. Mr. Ayler stated he had attended the evening's meeting primarily to answer questions and assist in the process of the Town joining. He advised he had talked this day to people in the Governor's office regarding the application, length of time, etc. It does not appear to be a very difficult process. The Governor's office is the authority and they work very closely with Florida DOT. He was advised that the Town of Ft. Myers Beach should

submit resolution requesting that MPO include a member for Town of Ft. Myers Beach. Lee County MPO should do likewise and submit an apportionment plan. Lee County MPO considered the issue at the meeting last week. At that time, the indication was that the members agreed they should add one more member for Ft. Myers Beach. Mr. Ayler plans to prepare a resolution to be brought to the MPO at the next meeting and then submitted to Governor's office. He has obtained the names and addresses for the application and believes it will not take very long. The review is brief and he anticipates no problems. Councilman Reynolds asked about the purpose. It was explained that the Lee County MPO was created in 1976 pursuant to Federal Transportation Act which provides that each metropolitan area and must put a continuing, cooperative and comprehensive transportation planning process in effect. According to the laws, this applies to municipalities with a population of 50,000 or more. It is a "three-C" planning process - cooperative, comprehensive and continuing. Current form since 1979 is the MPO. Membership has changed very little. Cape Coral added after 1988 census. The purpose is to undertake a metropolitan transportation planning process on a continuing basis using the three-C process. Periodically, updates are done for long-range planning and the plan is being updated now to the year 2020. Shorter range planning also being pursued that looks at existing and short-term congestion problems without major capital improvement. It also includes programming process for State and Federal funds, e.g., TIP (transportation improvement program) and is updated annually. Projects to be funded are determined over the next five years and include highway and transit, aviation, etc. The program works with Florida DOT over a year ahead with plans and reviews, MPO develops its transportation improvement program, and Florida State adopts a final work program that has a five-year outlook outlining projects to be undertaken with State and Federal funding. He asked if there were any additional questions. Councilman Isler asked about problem of traffic, and what is his best recommendation for Town of Fort Myers Beach. Mr. Ayler answered that as part of the process, membership at policy level in MPC is available as well as at staff level. Participation of one member at staff level will be very helpful in working out solutions for Ft. Myers Beach. Over past year, MPC has not made any major decisions that might preclude decisions of the Town because of the incorporation. Estero Boulevard and bridge are very congested and pedestrian traffic is a priority. One project over past year was a \$3 million dollar sidewalk improvement projects. This represents the \$3 million in ICT monies. Other issues have been held pending Town council input.

Fitzsimmons asked regarding long-range planning. What is life span of Matanzas Pass Bridge? Mr. Ayler stated that bridges are generally considered to have a 50-year lifespan. He is not familiar with that bridge right now and did not recall that it would need to be replaced for at least 25 years. Councilmember Isler asked about the technical advisory committee and if the Town could send people to the technical advisory committee meetings. It was responded that the Town can also send people to those workshops and meetings. The Technical Advisory Committee is mostly staff members and local municipality generally each with a seat for planning and transportation. Also, one citizens advisory committee seat is available. These are non-technical community members to which town could appoint one member.

Vice Mayor Fitzsimmons asked about members who presently sit on community advisory and LPA and whether any conflict exists. He was answered "no." There were no other questions. Mr. Ayler discussed the possibilities of "community meetings" some time this year and at least annually in each County Commission district. Together they generate more feedback from the community to raise on special concerns before MPO. Councilman Reynolds extended thanks on behalf of the Council and offered use of the Town Hall for any such meetings.

Fitzsimmons asked if the year 2020 plan includes any indication of interest or possibility of mainland bridge connection to the barrier islands. It was answered that the current plan does not anticipate any new bridges. State policy limits bridges to the barrier islands, particularly in undeveloped Barrier islands. This is an issue that can be discussed. Cost and environmental problems were the biggest obstacles. However, it is a possibility in some way or form. There were no other questions.

A "thank you" to Mr. Ayler from Mayor Cereceda was extended. A brief recess was called.

The meeting resumed with input from Mr. Roosa, Town Attorney, when the meeting was called back to order at 8:15 by Mayor Cereceda. The only item he presented was a resolution regarding ex parte communications. He recommended that the Town Council adopt, and Motion was duly made to adopt the resolution, seconded and passed. There was no further discussion. Items to be raised by Town Manager Segal-George concerned five subjects:

1. Mrs. Cutler had raised issue regarding \$247,000, and Ms. Segal-George stated that this is the Town's money to be spent as it sees fit. She suggested that Councilmember Reynolds and she speak with George Crawford to work on a priority list. The money must be spent before end of September.

2. With regard to the CRA resolution that was passed last week, a meeting this morning with Ray Judah and others resulted in Mr. Roosa presenting an approach that consists of collection of monies by CRA. The Lee County Board of Commissioners stated that CRA ended on December 31 when town was incorporated. CRA continues and money continues to be collected. Mr. Roosa's approach was that majority of tax money for the year 95-96 to be deposited in January of 1997 has already been collected. That means \$1 million or better would be deposited in January of 97 which belongs to the Town of Ft. Myers Beach. This is still being pursued. It was a very productive meeting. Mrs. Segal-George will follow up on progress already made and is waiting now to hear County's response. Councilmember Reynolds asked if commissioners had acknowledged that they are in fact still collecting. Two legal issues raised were: (1) whether CRA was legally in existence. The answer is yes, and (2) the issue of dual taxation. Indication is that this is not an issue. The policy direction of County Commissioners is the final issue, and she is awaiting a reply.

(3) TDC dollars are available each year in grants. The deadline is today, March 25. Ms. Segal-George Believes a request can be put in tomorrow in a rough form. One of items requested would be beach cleaning. Dollars going to the County parks total about \$360,000 per year from TDC. Ms. Segal-George intends to put in an application for the Town of Ft. Myers Beach. She had planned to tentatively request \$1.6 million for any number of projects, and she stated she will provide a copy when it has been put together and attempt to list needs up to this point for application of dollars.

Councilmember Reynolds commented on beach cleaning problems. Perhaps a continuous program could be started to take care of these problems. This needs to be ongoing. Perhaps local contract would be the answer. These could be included in such a program. A private contractor might indeed be a good resolution. Mayor Cereceda commented on red tide and asked about "adopt a road" program being applied to "adopt a beach" program. It was answered that this exists. Perhaps along with this and funding, it could be done. This is part of the "Keep Lee County Beautiful" program and efforts are done quarterly.

(4.) Expenditures: before the Board for approval is the invoice from Kelly Services for February including Lorraine. Staffing proposals would include those costs as a secretary. Charge from Kelly Services is \$13.50 per hour. Ms. Segal-George asked for approval on expenditures. Motion to authorize payment of expenditures was so made, seconded and passed.

(5) The last item is the staffing proposal. The proposal for the office is the same as previously presented with two positions to be approved and filled.

Councilmember Reynolds proposed that the Town take one step at a time and get an A-1 qualified administrative clerical/secretary type and then after that should look for a second staff member as Town Manager assistant. Councilmember Isler commented that if there was all that was required, the Town would be doing well. He moved that the Council adopt the staffing proposal. The motion was seconded. Additional discussion ensued. Mayor Cereceda asked if this falls within the expenses anticipated by the studies for incorporation. Ms. Segal-George that it did, and commented that her difficulty is meetings requiring her attendance with regard to interlocal, franchise fees, etc. which precludes effective coverage at all of them. County meetings taking a great deal of time when travel time is considered. An assistant is necessary in order to cover all effectively.

Councilmember Reynolds indicated he was not in opposition but first priority should be administrative secretary. An assistant could be hired later. Ms. Segal-George indicated she believes she needs both positions filled now. Councilmember Isler stated that staff is very necessary and request represents a very small staff. It will be more cost effective to complete staffing now. Mayor Cereceda asked how final hiring is handled. According to the Town Charter, Ms. Segal-George will hire and advise Town Council of plans. The Motion was passed with all in favor and none opposed.

There were no public comments offered.

Therefore, the meeting adjourned at 8:30 p.m. Karen Commiskey, Secretary