

FORT MYERS BEACH

TOWN COUNCIL MEETING APRIL 11, 1996

NationsBank, Council Chambers 2523 Estero Boulevard

FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

The meeting was opened on Thursday, April 1, 1996, at 6:45 P.M. by Anita T. Cereceda Mayor.

Present at the meeting were: Anita T. Cereceda, Mayor and Council Member; Ted Fizesimons, Vice Mayor and Council Member; Council Members Ray Murphy and Garr Reynolds; Marsha Segal-George, Town Manager, and Attorney Richard Roosa.

Absent from the meeting: Rusty Isler, who is on vacation.

OLD BUSINESS -- LIST OF EXPENDITURES

Marsha Segal-George reposed expenditures totaling \$13,184.15. The council had been given copies of the bills at Monday night's meeting as listed below: Legal services for March 1996

Advertisement for Town Manager

Town letterhead and envelopes Insurance (2nd and last installments)

Recording secretary

Repair of copy machine

Reimbursement to Mr. Huber for hardware items

United Telephone bill

Reimbursement to Mr. Huber for documentation of the tax

Laptop computer

MOTION: Made by Ray Murphy and seconded by Ted Fitzsimons to pay the bills listed above. Passed unanimously.

III ROUND TABLE DISCUSSION OF GOAL PRIORITIES AND WORK PLAN

LPA Committee members present: John Mulholland, Chairman, Bill Van Duzer, Roxie Smith, Betty Simpson, Dan Hughes, Lena Heyman

Alternate members present: Linda Beasley and Ron Kidder

Absent: Johanna Campbell

Mr. Roosa said that the terms of the committee members should be staggered so that there would never be a complete turnover at any time. If someone wants to be reappointed after his term is completed, he should be able to. Mrs. Segal-George said a member would want to be reappointed in order to help complete a project he or she was in on from the beginning.

Lena Heyman thought the alternates should also have a voice while sitting in on meetings. It was concurred that the more input at the meetings, the better.

Mr. Roosa advised that an alternate is not a replacement until there is a vacancy and then an alternate would be the first choice for that vacancy. The alternate would be up to speed having already been exposed to everything the committee members have been exposed to. But alternates cannot vote until they become committee members, nor can they constitute a quorum.

It was felt that even though they could establish any number they wished for committee members, that their group of seven with two alternates was a good number to work with.

The ordinance is set up so that if any member has three successive unexcused absences, he can be dismissed from the committee. John Mulholland felt that this might pose a problem. Mr. Roosa said he didn't feel they should give that rule up. This has got to be a working committee and they have a lot to accomplish. If someone doesn't show up for three successive unexcused meetings, they have shifted the burden onto the other members and there are two alternates who can replace him.

John Mulholland stated that it was decided at their first meeting to have people as information sources on the LPA. He wished to know if the council saw any problem in operating in this fashion. Mayor Cereceda said the council has done the same and it has worked out well. It doesn't mean that no one else can help with regards to that topic, but it does mean that you have someone to attend extra meetings on a particular topic, a person who can be turned to for information. Mr. Roosa advised that if there are two or three members on the same committee, it is okay as long as they don't meet outside the general meeting. They can gather information separately because when you have a broad subject there are sub-subjects, lesser things that have to be done. What would be wrong is it: they meet and discuss the issue without being at the LPA meeting. That would not constitute a quorum and they would thus violate the Sunshine law. In fact, all seven members are on every subject that you haven't assigned.

Mr. Mulholland asked for advice regarding public input for the LPA. Mayor Cereceda outlined all the different ways in which the council has allowed public input and which method seems to work best for the council. You want to know what the public thinks, but you don't want their input to be so intrusive that you can't work. Ted Fitzsimons added that they would be having consultants speak as well and they should avoid public input until after the consultants have had their say. He suggested they limit the time for each speaker to two minutes as the council does. Dan Hughes felt that at public hearings you almost have to allow public input as each issue is presented. Garr Reynolds urged the LPA to resist the temptation to give rebuttals. And Mayor Cereceda said you should not invite comments during the meeting.

According to Roberts Rules of Order, the chairman does not vote, John Mulholland advised. Ted Fitzsimons said that under Roberts Rules the chairman only votes to break a tie but that the LPA can modify this. Mr. Roosa stated that the chairman of the LPA has to vote. There are only seven of them

and they all have an equal vote regardless of whether they are chairman or not. Lena Heyman added that the chairman can also make motions. When their rules don't apply, then Roberts Rules apply according to Dan Hughes.

It was determined that the LPA could set its own guidelines, and it was thought best to start off with some. These guidelines could be changed later, if desired.

Attorney Roosa referred to Florida Statute 163, County Municipal Land Use Regulations. He advised the LPA that they were a unique board or agency in that they were created and appointed by the town council but that they also drew their authority through Florida statutes. Once they are identified as an LPA, Local Planning Agency, then they have authority separate and apart from directives by the ordinance under the Florida statutes.

According to statute 163.3174, The Local Planning Agency, it says "The governing body or bodies shall appropriate funds for salaries, fees and expenses necessary in the conduct of the work of the local planning agency." The legislature, Mr. Roosa said, has given you the authority to have the money. The mechanics of that can vary from town to town and county to county. If he was on the local planning agency, he would be working to develop a budget and a plan to present to the town council. Set the goals, decide on what you want to accomplish, what sort of organization or expertise or what staff it is going to take and Marsha can provide you with some estimates of cost, and then come to the council. If the council disapproved of the figures, the LPA should go back and redo their budget and plan and come back again. The legislature says that the town council must provide the LPA with the funds but it doesn't say how much. It is totally in the council's discretion as to how much money the LPA spends.

There may still be grant money from the state to support the production of a comp plan, according to Ted Fitzsimons.

Marsha Segal-George stated that while the LPA is trying to get a budget ready, they need consultants to begin their process. With regards to the type of consultants the LPA is going to need, the best way to approach this may be to create a preliminary budget to get them through the fiscal year ending September 30. Then they can plan a new budget for the next year starting October 1.

Once the comp plan is in place, there will be kind of a routine. But the consultant demand is going to be much greater in these initial few years, getting up to speed for the comp plan and getting the community to define itself for the future, Mr. Fitzsimons said.

Mr. Roosa suggested they think about working with the University of South Florida, which has a bachelors degree program in land planning and community planning. He doesn't know if they have any graduate degrees or not, but if they could latch on to a graduate student, he or she would be tickled pink to be in on the groundwork and use it for reference when they go job hunting. This idea was backed by Ted Fitzsimons.

Referring to IS3.3177, Required and Optional Elements of the Comprehensive Plan, paragraph one, Mr. Roosa advised he thought that one of the first elements the LPA committee could start on is Capital improvements, but it would be the last one they would finish, because until they put together their whole plan, they don't really know what they will be investing in. If they do a good job, all the programs have to fit together. And the whole comp plan has to weave together with the other comp plans in the county and the region and the state, Mr. Fitzsimons said. Mr. Roosa noted that the DCA hasn't yet

approved the county plan and the region would be in a lot better condition if they had approved that plan.

Attorney Roosa outlined all the different elements that are mandatory that the LPA committee must work on. In addition to these, the committee can add others. It doesn't really matter where you start, he said, because they all fit together and they all come together in the end. It might not be a bad idea to start out with the one that is easiest to put together because you can develop the procedures and the processes with it. The county is in the same business and has information the committee is going to need to know in order to put together its land plan and other plans.

Ted Fitzsimons pointed out there are some things listed that are out of our geographic jurisdiction but are not out of our planning process. They do have an impact on us. We are the funnel, the collector of so much of all of the things that surround us. So a lot of the things that you might find in the present Lee County Comp Plan or the 12131/95 Lee County Comp Plan and the Goal 18 we might be able to carry forward in our comp plan because they already exist, are already basically approved by Lee County.

Dan Hughes referred to Section 31.71, Area of Authority under the Act. This says that the local planning agency should have jurisdiction over adjacent, unincorporated areas on joint agreements with the county. In another study he was given to review, the area of the study was treated as that area encompassing the Fort Myers Beach Fire Protection District, which of course covers some extra territorial area. Mr. Hughes said he was wondering what the feeling of the board is about attempting to broaden our jurisdiction to encompass the very sensitive areas that he thinks have a great impact on our island, to wit, the San Carlos Boulevard area and San Carlos Island. He was told that evacuation was a concern. There is nothing like that in the county at this time, but for planning purposes, broadening our jurisdiction is very possible. In terms of regulatory authority outside of the boundaries of the town, he may not be able to count on it. It would be very difficult to get that sort of agreement from the county. And it would require people in those areas to have to comply with the comprehensive plan even though this council wouldn't have the final word on rezoning in that area. And it could make the county zoning ordinance in that particular area inconsistent with the comprehensive plan, according to Marsha Segal-George. Mr. Roosa feels that if we had a plan that we could take to the county commissioners and show them how much more effective it would be if it went over into the Fire Control District, it might have a better chance. Think of a product and show them what we can do here and then say now, we would like to take this product and expand it, then the county commissioner may go along with that.

When you get into something like evacuation, Ted Fitzsimons suggested, go talk to Sanibel. They have been through it. By joining together with them in terms of relationship to Lee County, you can add strength to your arguments and to theirs. And they can bring you a lot of data and analysis, which is something you are going to become very familiar with. It is a requirement. Every conclusion and policy that you come up with has to be backed by data and analysis. When it gets to Tallahassee or gets in front of an administrative hearing officer, that's what is going to be the basis of the strength of your comp plan. The Regional Planning Council is another factor that Mr. Fitzsimons feels can be beneficial to the committee. They have a lot to say about hurricane evacuation and are very conscious of it and responsible at the same time.

Our boundaries go out about 1000 feet offshore, according to the charter. It includes Matanzas harbor, and a question was posed whether or not the LPA should worry about that in their plans. San

Carlos island has been working on it and the county has a harbor plan. The island is even going to get a little bit bigger by virtue of the sand that is being dumped on it starting today. Our boundaries now end at San Carlos island's high water mark. But if it is touching another land mass, the boundary does not include that land mass or any structure or appurtenance that is part of that land mass.

Some of the development going on at the other side of the bay is affecting the estuaries that empty into Estero Bay and the fishing quality of the water.

Mrs. Segal-George advised that at the next meeting of the LPA, they are going to take the existing comp plan and start going through it so that the committee members can begin getting a feel for the elements. The council members could share with the committee some of their ideas about what areas they think are particular priorities. At the committee meeting they had discussed having someone come in and look at the island and then meet with the council and with the LPA and talk about the big picture and also use this as a framework to develop the comprehensive plan.

Another issue, according to Mr. Roosa, is the CRA. We need an amendment to the zoning. An overlay exists, but it has to go through the LPA committee, as does any ordinance that has to do with land use. Then it goes to the town council.

Ted Fitzsimons feels that going through the present comp plan is a good place for the LPA to start, including going through Goal 118, which is the beach specific part of the present comp plan. Look at the language, because you'll notice the difference in the level of language as you step down from the higher, general, ear reaching terms to more specific terms. Find out what you like about the different elements and what you don't like about them. You could also take four or five subject areas that are critical to our community, such as traffic, water quality, postal management, then each committee member could individually state what he or she wants the 20-year picture to look like on those subject areas. This will be a good exercise to stretch your minds with. A visioning wizard is going to come in here and he will tell us to forget about everything we've heard about this whole thing and to look into the future instead. But do it with an eye towards making it achievable.

Garr Reynolds wondered if the county would give up the highway and at the same time give up the moneys that we are paying for the maintenance of that highway. We are very restricted as to what we can do with this county road and they take all these funds and do nothing. Mr. Roosa said it would take a legislative act because those roads are classified by standards put out by the Florida legislature.

The county is told that this is a county road and these are municipal roads. But we can have some input on that.

IV SELECTION OF TERMS FOR LPA

The LPA committee members drew their terms of office from slips of papers. The results were as follows:

One year: Bill Van Duzer and John Mulholland

Two years: Roxie Smith, Lena Heyman, and Dan Hughes

Three years: Johanna Campbell and Betty Simpson

The results were

V TOWN MANAGER' REPORT

Marsha Segal-George gave input regarding the roads:

1. When they talked to George Crawford, he spoke of traffic calming. This whole idea of narrowing the roadway and having wall(ways and landscaping has a calming effect so that people don't look at the road as a thoroughfare, and don't drive on it as one. If folks want to get to Lovers Key and Black island, maybe they should come in from the south.

2. The county has told us that the stretch from the bridge to in front of Seafarers is now considered to be state. The county didn't even know it was state and they were maintaining it, but now the state says it is theirs. They received an official letter from the state with an agreement for the town to sign saying that the signal is technically on the state part and that the town should pay for it. The state has a rule that if one of their signals is within the boundaries of a city or a town, the city or town must pay for the maintenance of the signal. We could also yank the signal and not have to pay. There are options.

3. Mr. Reynolds has spoken with George Crawford regarding seeing if we can get the county and the state to agree so that we're only dealing with one jurisdiction. Mr. Crawford said that the county was amenable to that. That if the state were willing to give up that little piece, that the county would be willing to include it.

4. There is still discussion on whether Estate Boulevard to the north is county maintained or not. They're saying that they don't think it should be a county road, but it does go to a county regional park and that could be a problem.

COMMITTEE MEMBERS INPUT

Ted Fitzsimons felt that there were a lot of things that they could customize, like in-season and out-of-season things. On long-range definitions of things that can or should be done, you can project into the future as to what seems to have worked best and establish requirements for their continuance.

Mr. Roosa questioned whether when we become involved in establishing the level of service for Estero Boulevard, if that would impact our zoning. Mrs. Segal-George said that is one of our big problems right now. It was discussed at our first meeting and we have the county's most recent concurrency manual, but the town is going to have to look at its own regulations with regards to concurrency and how to deal with Estero Boulevard. Right now they are not requiring any traffic mitigation from any development on Estero Boulevard because it is a constrained road, which means it can never go down, which means there are no impacts. All those things can be addressed. Impact fees can be addressed. The whole area is wide open with regards to how it can be customized. According to Ted Fitzsimons, the county has said that Estero Boulevard is 185% of capacity. Mrs. Segal-George

explained how things that were supposed to have been put into place never were, creating some unwieldy situations.

Mayor Cereceda feels that the most important aspect of everything is going to be the vision. Start with utopia and think that you will get utopia and you might get something really close to it. She advised that County Commission has their '95-'97 goals and objectives for the administrator and the commissioners. She would like to see them and feels this might help us. She said it was important for Fort Myers Beach to hold on to what we have as far as public land is concerned. Matanzas Pass, Bowditch should be held on to and never let go.

Ted Fitzsimons said he had a recent meeting with Code Enforcement people and they went down a whole list of basic things. He would like to set up a working relationship with them so that we know about their operation, how they do their job. He would also like them to understand that we are in a different environment now than we were before incorporation. Mr. Fitzsimons would like to know what we are going to do with the county's code enforcement funds September 30. Are we going to stay with them or are we going to pick up some of these roving Cape Coral guys that are available, or are we going to contract out to a private firm. Marsha Segal-George advised that she has a meeting on Monday with a private firm.

Roxie Smith asked if the committee would have to file financial disclosures and was told yes, but that it would be a very simple short form. Marsha will have forms for anyone needing one. She will also have copies of the Lee County EPA rules.

VII ADJOURNMENT

Mayor Anita T. Cereceda adjourned the meeting at 8:30 P.M.

Respectfully submitted:

Lorraine Calhoun

Recording Secretary