

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
AUGUST 19, 1996**  
Nations Bank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA

**I CALL TO ORDER**

The meeting was opened on Monday August 19, 1996, at 6:35 P.M. by Anita T. Cereceda, Mayor. Present at the meeting were: Anita T. Cereceda, Mayor and Council Member; Ted FitzSimons, Vice Mayor and Council Member; Council Members Rusty Isler, Ray Murphy, and Garr Reynolds; Marsha Segal-George, Town Manager; and Attorney Richard Roosa.

**II INVOCATION**

The invocation was given by The Reverend Raymond Kress, pastor of St. Raphael's Episcopal Church.

**III PLEDGE OF ALLEGIANCE**

All assembled recited the Pledge of Allegiance to the flag.

**IV PUBLIC COMMENTS AND INQUIRIES**

**A RAY MERTENS**

Mr. Mertens spoke on the budget. He felt that the \$30,000 allocation for the Long property should be called a grant instead of loan since there is no mention of repayment. Regarding the \$20,000 for human resources, he would like to see the town allocate even more, because that amount won't go very far to help those in distress. He would like to see some money allocated to kids, and he recommended \$1000 per week.

**V APPROVAL OF MINUTES**

**A MINUTES OF JULY 29, 1996**

Mr. Reynolds stated that on page 7, item XIV, the last line should read "this could impose an obligation to the city to cover those employees." On further investigation of the original minutes, it was determined that the statement was made by Mr. Roosa, not Mr. Reynolds, and that the statement was correct as written. A note will be attached to the minutes clarifying that the speaker was Mr. Roosa.

On page 6 Ray Isler should read Rusty Isler.

On page 6, item XII(A), the name should be Eve Haverfield.

On page 4 and 5, the correct spelling of the name is Gary Wicall.

**B MINUTES OF AUGUST 5, 1996**

There were no corrections.

**MOTION:** Mr. Murphy moved and Garr Reynolds seconded that the minutes of both meetings be accepted as corrected. The motion passed unanimously.

**VI REVIEW OF EXPENDITURES**

Mr. FitzSimons moved and Mr. Murphy seconded that the review of expenditures be accepted. The motion passed unanimously.

**VII PRESENTATIONS OF PROPOSALS FOR AUDITOR**

**A SCHULTZ, CHAIPEL & CO**

Marty Redovan, a partner in the Fort Myers firm, stated that he and Russell Baker, a manager in the firm, have audited several towns, counties and districts in their 15 years of experience. Another member of the audit team, Dan O'Keefe, with 18 years experience in governmental auditing, has been involved with Deltona in their chartering process, and is the independent auditor for DeBary. Their firm is a member of the Independent Government Audit Association of Florida. They can help in finding the best

software accounting program for the Town because Mr. Chaipel has computer consulting and installation experience, and they can also find out through IGAAF what has worked in other Florida communities.

**B KEITH BUONOCORE, CPA**

Mr. Buonocore is an independent CPA and has been a comptroller and accountant and budgeting director for various municipalities including Cape Coral. He has not done an audit for a municipality but has done internal audits for public water and sewer companies. He can help the Town in choosing software needs since he helped put together the system used by Cape Coral.

**C SPIRES, WALLACE & COMPANY**

Jim Spires and his partner Gary Wallace, stated that they have not had as much experience in governmental auditing, but enough to be aware of what is required in a governmental audit. Their company does 30% of their business in auditing. They are a small firm, but they have enough resources to handle an audit of this size. One of the partners will always be involved in the audit.

**D BOLLENBACK & FORRET**

Janene Bittenger, audit manager of the firm which is located in Clearwater, stated that their firm employs 20 people. They do auditing, accounting, and estates and trusts. They have a CPA on their staff who specializes in selection of software. She and Richard Cristini, are certificate reviewers for the GFOA program (a special award that municipalities and counties can earn for their financial report.) They are active in the Florida Government Finance Office Association. They currently serve four municipalities and six public pension plans. They also do strategic planning and can help with employee pension plans. Their fee quotation should be between \$5000 and \$7000, instead of what was quoted in their proposal.

The auditor candidates were asked to leave the room. Mr. Gucciardo confirmed that all of the candidates' proposals were for about \$5000, except for the last one which stated it may go up to \$7000, and he felt that all four seemed interested and enthusiastic and willing to work with the staff. The Council felt that it was important to go with someone with governmental experience, and most preferred using a local firm. Mr. Roosa suggested that the Council consider hiring for 1996-7 year at the same time. He felt the Town could save money by having someone work with the town all year. The Council agreed that it was a good idea.

**MOTION:** Mr. FitzSimons moved and Mr. Isler seconded that Schultz, Chaipel & Co. be selected as auditors for fiscal year 1996 and also for fiscal year 1996-7. Mr. FitzSimons, Mr. Isler, Mayor Cereceda and Mr. Murphy voted for the motion. Mr. Reynolds voted against the motion. The motion carried.

**VIII PUBLIC HEARING ON PACKET "G"**

**A THE TOWN OF FORT MYERS BEACH NIGHT SLEEPING ON BEACH ORDINANCE**

Mayor Cereceda read the titles. The public meeting was opened for comment. Ray Mertens asked if a group such a Boy Scouts could get a special permit if they wanted to hold a campout on the beach. Mr. Roosa said that the county would have control over the county parks, and that the Town would have to put a provision in the ordinance if they want to provide for a variance on the rest of the beach. Mr. Isler pointed out that as long as you are above the high water line on private property, this ordinance does not apply, and it is unlikely that anyone will want to camp on the wet sand. Since there was no further comment, the public meeting was closed.

**MOTION:** Mayor Cereceda moved and Mr. FitzSimons seconded that the ordinance be accepted. The motion passed unanimously.

**B THE TOWN OF FORT MYERS BEACH FIREWORKS AND SPARKLERS ORDINANCE**

Mayor Cereceda read the titles. The public meeting was opened for comment. There being no comment, the public hearing was closed. Mayor Cereceda suggested this ordinance be pulled until we hear back from the fire marshal and sheriff about enforcement. She is concerned about the danger of people shooting illegal fireworks on the beach. The sale of fireworks is covered by state law but that law is not being enforced now because people can sign a release that they will use the fireworks for agriculture or mining. Mr. Roosa pointed out that at the time of discharge they could be arrested. The county has dropped this ordinance because it didn't hold up in court, and Mr. Isler felt that the Town should mirror the County. Mr. Roosa noted that the Town needs this ordinance because it also regulates the fireworks displays and requires a pyrotechnic operator. He suggested that the hearing be continued until a specific date (so that the town will not have to re-advertise the public hearing) and that the Council study the issue further and get more input about enforcement.

**MOTION:** Mayor Cereceda moved and Mr. Reynolds seconded that the public hearing of this ordinance be continued until October 21, 1996. Mayor Cereceda, Mr. Reynolds and Mr. Murphy voted for the motion. Mr. FitzSimons and Mr. Isler voted against the motion. The motion carried.

### **C THE TOWN OF FORT MYERS BEACH FINANCE ORDINANCE**

Mayor Cereceda read the titles. The public meeting was opened. There being no comment, the public meeting was closed. Mr. Roosa confirmed that the ordinance would have to be amended if the Council wanted to change the rates. Some members suggested setting the price higher than 5 cents per copy because this only covers actual cost and does not account for the staff cost. Others felt that since people must be allowed access to public records that the cost should not be any higher. Mr. Isler thought the computer disk copy at \$100 is too high, and that it would be more reasonable to charge about \$10 for the first and \$5 for the additional disks.

**MOTION:** Mr. FitzSimons moved and Mayor Cereceda seconded that the ordinance be accepted with a change to \$10 for the first disk and \$5 for additional disks, and an increase to 10 cents per copy for duplication of papers. Mr. FitzSimons and Mayor Cereceda voted for the motion. Mr. Murphy, Mr. Isler and Mr. Reynolds voted against the motion. The motion failed.

**MOTION:** Mr. Isler moved and Mr. Murphy seconded that the ordinance be accepted with the change to \$10 for the first disk and \$5 for additional disks. Mr. Isler, Mr. Murphy and Mr. Reynolds voted for the motion. Mr. FitzSimons and Mayor Cereceda voted against the motion. The motion carried.

The Council took a break at 8:05 P.M. and reconvened at 8:15 P.M.

### **IX FIRST READING ON TIMES SQUARE OVERLAY ORDINANCE**

Mayor Cereceda read the titles and the ordinance was set for public hearing on September 3. Marsha Segal-George pointed out that the LPA went through the master plan page by page and held a public hearing and that this ordinance was unanimously approved by the LPA. The LPA did not want to make it mandatory, because they felt that the advantages were attractive enough that the Times Square business owners would want to go with it voluntarily. The problem with making it mandatory is that the Town would be open to the Bert-Harris challenge that landowners are not being allowed full use of their property under the existing zoning, particularly C1. Mr. Roosa clarified that this is an overlay to the county land use plan and avoids rezoning hearings which the Town is not ready for until they develop a comprehensive plan, yet it allows for immediate redevelopment in the Times Square area. As the Town goes through its own land use and development regulations, this overlay will disappear, and the rezoning will become mandatory. Mr. FitzSimons felt that it should be mandatory now, but Mayor Cereceda said that the Times Square merchants have taken a leap of faith in the Town Council and there is a lot of good will that will disappear if it is made mandatory. She does not believe anyone will opt to go with the old plan when they see the creative options of going with the overlay, but they need to see on their own that it is for their own good. It was clarified that if someone opts to go under the overlay so they can have the advantages, they will also have to go with the design guidelines that go along with it. When the ordinance refers to a special permit, it means that it will go through the LPA and then the Council rather than the

County offices that are mentioned in the original master plan. Otherwise, the substance of the original master plan is intact. Mr. Roosa cautioned the Council that just because the LPA recommends something, the Council should look at everything carefully, and can always have the option of sending it back to the LPA for further work.

**X FIRST READING ON POST-DISASTER ORDINANCE**

Mayor Cereceda read the titles. The ordinance was set for public hearing on September 3. There was no discussion.

**XI APPROVAL OF CONTRACT FOR CLEANING SERVICES**

**MOTION:** Mr. Isler moved and Mr. FitzSimons seconded that the contract be approved. The motion passed unanimously.

**XII CONTINUING DISCUSSION OF THE BUDGET**

Mayor Cereceda mentioned that the first public hearing is September 3, and she would still like to have a daytime meeting where the budget is gone through line by line. She suggested that at the workshop on Thursday, August 22, that the Council get input from all the people on towing and then move it for further study, and then spend the remaining time on the budget. If more time is needed, the discussion can be continued at a daytime meeting. Mr. Gucciardo said that there have already been some changes due to better information, and he can provide that before the meeting on Thursday. In addition the staff has more information from the County about their tax rates. (Apparently the County is proceeding with the franchise fee with FPL and it is expected to be 3%.)

Mr. Roosa passed out the County All-Hazards budget. He called the Council's attention to a few items. There is \$140,000 allocated for "other professional services" which is a contract with the City of Fort Myers to handle hazardous spills, which the Town could do on their own if they aren't in the plan. In addition there is an allocation for over \$300,000 to modify Lee County schools to make them more usable as shelters. There is a \$600,000 surplus to be added to the present reserves of about \$400,000, to make \$1,000,000 available for disaster relief. The County has said that Fort Myers Beach would be eligible for a "pro rata share" of that amount. Marsha Segal-George thinks the Town may not want to be in it if we only get a pro rata share. That would mean that the County is only holding our money for us and we can do that for ourselves. The staff is now waiting to see the Interlocal to see what the County is offering.

Mr. Roosa explained that when the millage was set by the town, it was based on last year's figure, which inadvertently gave the taxpayers a tax break since we cannot be in the All Hazards this year. If the Council decides that they want to impose the same millage burden as last year, they will have to increase the millage by .0533. They will have to notify the property appraiser's office, which will send out notices to property owners by regular first class mail. The cost to send the letter is a little more than a dollar, yet the Town will only gain about \$5.00 on a \$100,000 home. The question is whether it is worth it in terms of public relations with the taxpayers.

Mr. Roosa asked if the Council wanted him to pursue the area of Town occupational licenses. The Town is not going to get a percentage of the Lee County occupational licenses, and if they want any revenue from this source, they will have to have their own license. Mr. Reynolds felt that the Town needs the license, not for more money, but so the Town can control who can do business in the town. Most Council members felt that if the Town license can't replace the county's license, they did not want to burden the merchants further with an additional tax.

Mr. FitzSimons expressed the opinion that the \$20,000 for human services should stay in the budget and that perhaps all that is needed is further discussion on how it should be administered.

Mayor Cereceda also wants the Council to talk further about Bay Oaks and programs for youth and hopes to propose a youth council. She also wants to put in a line item for such things as Christmas decorations for Estero, or a banner across Times Square, or a first year anniversary celebration, etc. She felt that these things would create pride in the community.

Ray Mertens suggested that the Town have a block by block survey, and if 70% of the homeowners on the block want curbs and sidewalks, the Town would pay 50% and the residents would pay 50%. This same concept could be used to create other neighborhood improvements.

The staff has learned that the Town will be included with the County for CDBG grants for the next 2 or 3 years because the Town has already been included in the County grants.

### **XIII COUNCIL MEMBERS' ITEMS AND REPORTS**

#### **A RAY MURPHY**

Mr. Murphy congratulated Marsha Segal-George, Anita Cereceda, Fran Myers, and the rest of the staff for garnering first place in the Mainstreet USA grant.

He reported on his attendance at the Florida League of Cities convention. He felt that it was a valuable experience and he encouraged all the Council to participate next year.

#### **B GARR REYNOLDS**

Mr. Reynolds asked for clarification of the CDBG grants. Marsha Segal-George said that the Town is eligible for \$600,000 per year, which could be used for rehabbing homes for senior citizens, increasing energy efficiency, etc. He expressed his opinion that the Town residents probably do not need government grant money for those purposes on this island.

He does not want to put money into Bay Oaks because it is controlled by the County, unless the Town takes control of it in the future.

#### **C TED FITZSIMONS**

Mr. FitzSimons expressed concern that the County is not keeping the Town informed about building projects that have been permitted in the Town. He asked about the Lazy Flamingo sign and the Skipper's Galley renovation in particular. Mr. Gucciardo said that since the permits did not need approval of the Council, there was no system in place for the County to keep us informed. Under the new interlocal agreement that is being worked on now, there will be regular meetings between the County staff and the Town staff so that the Town can monitor what permits are being applied for.

#### **D RUSTY ISLER**

Mr. Isler had no items to report.

#### **E ANITA CERECEDA**

Mayor Cereceda reported that there will be a press conference for Mainstreet USA in Immokolee on Wednesday at 2:00 PM and she encouraged the council members to attend if possible.

She reminded the staff that it is time to schedule a workshop for the quarterly update.

She noted that the CRA is behind schedule. She asked that the project manager be contacted to see if they can give weekly (or every other week) updates.

### **XIV TOWN MANAGER'S ITEMS AND REPORTS**

John Gucciardo gave an update on the CRA project from David Nathe. FPL should start burying the undergrounds next week. All permits are in place in the loop area but there have been some problem getting the permits from Lee DOT until they are sure that the lights are turtle safe. The landscaping and pavers should be started on Fifth Street within the next 10 days. The wave wall is not in its finished state yet.

Marsha Segal-George reported that the County would like to do the extension of Bay Road to the historic cottage in shell rather than asphalt. The Historic Society can use extra money for handicap-accessible improvements to the cottage. The county wants a letter stating that the Town understands it is our road and that we will maintain it. The Council agreed to have the Town Manager write the letter.

She reminded the Council about the field trip to the back bay at 9 AM Thursday.

She has a copy of the Preservation 2000 Grant that was submitted if anyone would like to see it. The grant will allow the town to purchase the Long property if it is successful.

John Gucciardo gave an update on the DOT projects.

The Council was reminded that there is a workshop scheduled on the 29<sup>th</sup> to discuss the noise ordinance. The Chamber has scheduled their "meet the candidate" event on that same night. The Council should let the staff know if that will present a conflict.

**XV TOWN ATTORNEY'S ITEMS**

Mr. Roosa passed out copies of the Sanibel noise ordinance for the Council to study.

**XVI PUBLIC COMMENTS AND INQUIRIES**

There was no public comment.

**XVII ADJOURNMENT**

The meeting was adjourned at 10:15 P.M.

Respectfully submitted,

Peggy Salfen  
Recording Secretary