

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
NOVEMBER 4, 1996**  
Nations Bank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA

**I CALL TO ORDER**

The meeting was opened on Monday, November 4, 1996, at 6:33 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 PLEDGE OF ALLEGIANCE**

All assembled recited the Pledge of Allegiance to the flag.

**III INVOCATION**

The invocation was given by Mayor Cereceda.

**IV PUBLIC COMMENTS AND INQUIRIES**

There were no public comments.

**V APPROVAL OF MINUTES FROM OCTOBER 17, 1996 AND OCTOBER 21, 1996**

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

(It was noted that the County has agreed to close the pier for repairs starting the week after Easter.)

**VI REVIEW OF EXPENDITURES**

**Motion:** Mr. FitzSimons moved and Mr. Isler seconded that the expenditure report be accepted. The motion passed unanimously.

**VII COUNCIL MEMBERS' ITEMS AND REPORTS**

**A TED FITZSIMONS**

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

**B GARR REYNOLDS**

Mr. Reynolds reported that he had obtained costs for adding extra trolley service. The prices increase about 20% if the Town opts to make the trolleys free. Mr. Fetzer still recommends 25 cent charge. Mr. Reynolds recommended that the Town use some of the extra \$102,000 to add an extra trolley. Mr. Gucciardo noted that he has written to the Chamber and the TDC to indicate the Council's concern about traffic in the upcoming season, and asking if a joint venture or mutual packaging of the financial burden could be approached. He is hoping to hear from them both by the next meeting. Mr. Reynolds added that Mr. Fetzer would like to have the information by the middle of November if we are going to add another trolley in time for season.

**C RAY MURPHY**

Mr. Murphy reported on the unaudited financial figures for the past year. The total revenue in the general fund was \$336,878, which did not include all the revenue sources which will be available to the Town in 1996-7. The total expenditures were \$336,884, which includes the purchase of a lot of start-up equipment and furniture which will not be needed in the next fiscal year. The current balance in the general fund is \$48,276 which should carry the Town over until new revenue sources (such as ad valorem taxes) start to flow. The investment account balance is \$690,474 which includes about \$490,000 of the original loan and \$200,000 received from the county as a carryover from last year's general fund. The gas tax account balance (which is dedicated for use on roads) is \$24,008.73. (\$750 has been expended from that account.)

**D RUSTY ISLER**

Mr. Isler reported that he attended the Florida Shore and Beach Preservation Association meeting in Sanibel last week. Discussions were about beach restoration and its role in protecting the shoreline from storm damage.

He will be attending a meeting next week of a new committee being formed in Lee County to coordinate networking.

He also wanted to talk about the Town's purchasing phoping to hear from them both by the next meeting. Mr. Reynolds added that Mr. Fetzter would like to have the information by the middle of November if we are going to add another trolley in time for season.

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He also wanted to talk about the Town's purchasing procedures, but he asked that the discussion be held after item 12 so that the guest speakers could go ahead.

**E ANITA CERECEDA**

Mayor Cereceda reported that Reggie Reynolds has gathered some information about having a photograph of the first Town Council. Mayor Cereceda will voice mail the Council to set up a time.

She expressed thanks to Dean Southworth and the Kiwanis Club for the TV which they donated to the Town Hall.

She received a letter from the Southwest Florida Regional Planning Council asking the Town to pass a resolution requesting that oil and gas exploration not be permitted in the Gulf. There was no objection to proceeding with the resolution.

**VIII INFORMATIONAL UPDATE ON THE LPA**

Linda Beasley reported on the work that the LPA has done during the month of October. Rob Fowler and Scott Whipple have been guest speakers regarding design in Times Square. The LPA has discussed signage and building height restriction. They have had two hearings which will go to the Council in December. They have had a hearing on jet skis and parasailing and will continue the discussion in November. They have also discussed mother-in-law apartments and whether they violate FEMA regulations. They approved a contract for Bill Spikowski for the next two years. Mr. Isler noted that he added up 482 new units on the active building permit list received from the County. He is concerned whether this rate of growth will continue. Marsha Segal-George stated that in addition there are a lot of vested rights in developments that are not on this list. The LPA will probably not address vested rights unless the Council directs them to, because the only way to cancel those rights is to buy them out.

**IX PRESENTATION BY CONTINENTAL CABLEVISION**

Ken Fuchs, District Manager of Continental Cablevision, introduced Edward Garcia, Community Relations Manager, and spoke about their company's services. They have 71,000 customers in Lee County and 6000 on Fort Myers Beach. (On the average, 82% of homes have cable service.) They now have fiberoptic technology on the beach and are adding additional premium services which are being offered on an *a la carte* basis. They will be able to introduce cable modems early in 1997 which will greatly speed the use of the internet. Mr. Fuchs spoke about the problem with the franchise fee between the Town and the County (the license is issued with unincorporated Lee County and continues through the year 2002), and he offered any assistance that they can give. He presented a "Court TV" gavel to the mayor.

**X REPORT ON SEA TURTLE SEASON**

Eve Haverfield donated a book about turtles which will be in the library in the mayor's office. She reported that it was a good season with 616 nests on all the beaches (an increase over last year), 162 of which were monitored by Turtle Time, Inc. Thirty of the nests were on Fort Myers Beach. The first turtle came ashore on May 15 and laid eggs on May 19. The last nest was established on July 30, and had to be rescued during the storm generated by Josephine. The biggest concentration of nests was between Caper Beach Club and Connecticut Street (11 nests). There were two nests in the renourishment area. (There were 8 last year, but they had to be moved.) She spoke about the importance of turning off or shielding lights. This year out of 30 nests on the beach, there were over 2000 hatchlings. There were several cases of Kemp's ridley turtles being caught by fisherman, but Turtle Time was called and they were able to tag and release them. She asked the Council to keep turtles in mind when they enact ordinances on the beach, and she added that it would be nice if there was more regulation of beach scraping because a flat beach does not drain well and endangers the nests.

#### **XI REPORT ON PROPOSED ALARM SYSTEM FOR TOWN HALL**

Dan Parker reported on proposed alarm systems. He said the basic difference between the two is price, but he doesn't know if there is a difference in reliability. Both systems call for a confirmation call except when the panic button is used, which would go directly to the sheriff's office. Marsha Segal-George added that the impetus for a security system was to protect the Council during meetings, and to protect the staff when they are working. Both bids were made by local people who personally studied the facilities. The Council agreed that security should be provided. Mr. Gucciardo will check with the Sheriff's department before bringing back a recommendation to the Council.

#### **XII FIRST READING OF VESSEL SAFETY ORDINANCE**

Mayor Cereceda read the titles. The public hearing was set for November 18.

The Council agreed that all definitions that do not relate to a word in the ordinance should be removed. Mr. FitzSimons recommended adding a definition for "Town waters." On page 3, under the definition for slow speed, it was recommended that the last sentence be removed since it is technically impossible for a boat that is moving not to emit a wake. On page 5, line 19 it was suggested that the section should be changed to say "either slow speed or idle speed as posted." Mr. FitzSimons expressed a fear that 100' from the pier is not far enough because of people casting fishing lines from the pier. The LPA has added "or 500' from the shore, whichever is more restrictive," but most of the Council felt that 100' was enough. On page 3, line 28, it was suggested that the wording be changed from a "minimum wake" to "no wake" in order to make it more consistent. Mr. Roosa clarified that if you pay a ticket you are convicted. Mr. FitzSimons suggested inserting that a convicted violator be required to take a boating safety course. Mr. Roosa was afraid that since this is a civil infraction rather than a criminal infraction, there would be no mechanism for enforcement. Mr. Isler expressed a fear that the fine is too high because the sheriff might be reluctant to give a ticket unless it was a flagrant violation.

**Motion:** Mr. FitzSimons moved that Section 6 be changed to "vessel speed shall not exceed slow speed in the waters of the Town of Fort Myers Beach except in the designated channels." There was no second. The motion died.

The Council took a break at 8:25 PM and reconvened at 8:38 PM.

Mr. Isler passed out a worksheet for discussion on purchasing procedures. Mr. Gucciardo said that he felt that the procedure would take too much time and is unnecessary for a staff of only three, and he would rather wait to see if the auditor requires these steps. Mayor Cereceda thanked Mr. Isler for the work and suggested that it should be discussed in a workshop after staff has a chance to study it.

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

Marsha Segal-George reminded the Council that they have a joint meeting with the BOCC on November 13. She will speak with the Council members about which issues will be assigned to each Council Member and the staff will give them briefing papers. Council members are welcome to talk to her individually before the meeting if they wish.

The next workshop will be November 14. The Town still has not completed ordinances on fireworks, noise, and towing. Mr. Isler suggested that the November workshop could be on policy issues and they could start discussions on disaster plans. The ordinances could be scheduled in December.

Marsha Segal-George has contacted the Arnold Committee to see if the Town could have a seat on the committee. She was told that we will get membership on it.

The Nyman case is coming back to the Council for rehearing on November 18.

#### **XIV TOWN ATTORNEY'S ITEMS**

Regarding the allocation of the gas tax, Mr. Roosa reported that the County has reviewed the Town's Charter and decided that it requires the County to calculate the gas tax based on lane miles. Mr. Roosa feels that it is a baseless argument because it makes no sense that the writers of the charter intended to limit the amount of money the Town could receive. He feels that that section was put in the Charter only as an assurance of a starting date for the Town to receive the money. The state statute that is cited provides for three methods for determining the tax: by agreement between the parties, by the last five years' expenditures (which is excluded because we are a new town), and by the percentage of lane miles. The County's interpretation ignores the possibility of determination by agreement. In addition, that section is in the transition ordinances, and is no longer in effect now that we are incorporated.

He mentioned that on Jan. 9, the City of Sanibel is having a seminar for their Council on legal updates, and will invite our Council to attend. It will be held in the morning and will include lunch.

#### **XV PUBLIC COMMENT AND INQUIRY**

##### **A DOROTHY NORRIS-SCHUCHARDT**

Mrs. Schuchardt owns property on Dakota. She is very concerned that since the hurricane in October, that area has lost sand and seawalls are exposed. One of the vendors who rents jet skis stores them at the Sanbar and transports them down the beach to the Sandpiper with a four-wheel vehicle. She thought it was illegal for 4-wheeled vehicles to drive on the beach. Also, at low tide he has been using a scraper and going out into the water dragging sand up against the seawall at the Sandpiper Motel. He also dragged the beach sand up against the palm trees at another location. She thinks it is illegal to scrape sand from one location and put it someplace else.

##### **B JIM SCHUCHARDT**

Mr. Schuchardt added his concern about children getting hurt by a vehicle operating on the beach.

##### **C BILL WHITAKER**

Mr. Whitaker wanted to address the timing of the pier maintenance. He said it is a myth that the season ends the day after Easter. He says it really ends the second week after Easter and he would like to ask the County to delay another 7 days.

##### **D ROBERT GAUTHIER**

He is concerned that there is more protection for turtles than people. He sees many dogs being walked on the beach. He asked the Town to put a sign at each beach access stating that dogs are prohibited. He also feels that trucks running on the beach make it unsafe.

##### **E JOSE CERECEDA**

Mr. Cereceda stated that the Times Square renovations are the biggest asset the Town has had for many years. The Council has the power to close the road to traffic, and he asked the Council not to get intimidated by the people who are against closing the road. He has signatures from 1250 people asking the Town not to let traffic on the road, and he expects to get another 1000 signatures. He does not think that the blocks will last more than two years if you let traffic on them.

For the record, Mayor Cereceda stated that she has had nothing to do with the petition.

##### **F HAROLD HUBER**

Mr. Huber has noticed a marked improvement in the traffic flow now that the traffic light has been changed to a blinking light instead of a stoplight. The two-way traffic on 5<sup>th</sup> street seems to be working well and he does not think we need traffic in Times Square.

#### **XVI ADJOURNMENT**

The meeting was adjourned at 9:22 PM.

Respectfully submitted,

Peggy Salfen  
Recording Secretary