

**FORT MYERS BEACH
TOWN COUNCIL MEETING
DECEMBER 16, 1996**
Nations Bank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

The meeting was opened on Monday, December 16, 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 PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III INVOCATION

The invocation was given by Vice Mayor Ted FitzSimons.

IV PUBLIC COMMENTS AND INQUIRIES

A JACK MARKHAM

Mr. Markham spoke about the Times Square project. He wasn't sure at first that he would like it, but in the past month he has been down there for dinner three times with friends and now he thinks it is a total asset to the community.

V APPROVAL OF MINUTES:

A NOVEMBER 13, 1996

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

Discussion: Mr. Gucciardo mentioned that on page 2, number 4, it should be clarified that the .8 miles of new sidewalks was from ICTEA funds, and the \$200,000 mentioned by Mr. Crawford was additional County funds for repair of a different portion of the sidewalks. The two are not connected.

Amended Motion: Mr. FitzSimons moved and Mr. Murphy agreed to the amendment that the minutes be approved as qualified. The motion passed unanimously.

B NOVEMBER 18, 1996

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

C DECEMBER 2, 1996

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

Discussion: Mr. Isler clarified that on page 7, XVI the sentence should read "He recommends getting a full-size monitor for Marsha Segal-George for use with the laptop. He also recommended getting a portable phone for about \$100..." The minutes were approved unanimously as amended.

VI REVIEW OF EXPENDITURES

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

VII COUNCIL MEMBERS' ITEMS AND REPORTS

A RAY MURPHY

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

B GARR REYNOLDS

Mr. Reynolds mentioned a paper he received regarding safety on crosswalks. It has some good suggestions and he is planning to take it to the chamber traffic meeting. He also wanted to talk about a suggestion he received about a tram which would carry people across the bridge from the parking lot and he will take that to the traffic committee also. Marsha Segal-George said that the Town has requested help from the TDC but they said that their policies would not allow use of funds for transportation, but they created a subcommittee to study the problem.

C TED FITZSIMONS

Mr. FitzSimons reminded the Council and public that the Legislative Committee, a group of local state legislators, is meeting at Town Hall tomorrow morning, to gather sentiments of the area to take back to Tallahassee. He said that we need to remind the legislative committee about the importance of saving Estero Bay, and to encourage them to continue Preservation 2000, and to purchase environmentally sensitive land and other lands for preservation. He encouraged everyone to attend.

He also asked Gretchen Johnson to speak about the first birthday party that is being planned for the Town. Ms. Johnson said that the celebration will be from 1-3 PM on News Years eve afternoon. There will be music and cake at Times Square.

D RUSTY ISLER

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

E ANITA CERECEDA

Mayor Cereceda reported on the Christmas decorations which the Council authorized at an earlier meeting. The Town has bought two wreaths, two banners and six reindeer which are all in place now. She passed out a paper reporting on the cost. She mentioned that the lights on the trees at Times Square are at the expense of the local merchants.

She also reported on a plan to have a family holiday gathering on Times Square on Thursday, December 19. Three churches and the Beach Elementary School will provide music. The event will be free, and local restaurants will have some things to offer. There will be an expense of about \$250. There was no objection from the Council.

She has decided to eliminate herself from voting on Times Square because the decision could have a financial impact on her and her family business. Legally Mr. Roosa felt that she could vote, but she has decided to abstain and will file a conflict of interest form.

She has been contacted about a motorcycle run to benefit needy children that would involve about 2500 motorcycles. The run would be from Fort Lauderdale to Fort Myers Beach on Memorial Day weekend. Even though the Town cannot prevent them from coming, she wanted to see the audience reaction. Mr. Reynolds was worried about parking and facilities for that many vehicles. Mr. Isler suggested asking the Chamber and the sheriff for their input.

VIII FIRST READING OF PUBLIC SERVICE TAX ORDINANCE

Mayor Cereceda read the titles. The ordinance was set for public hearing on January 6, 1997.

IX RESOLUTION ON REORGANIZATION OF THE MPO

Marsha Segal-George said that this has already been approved by the Council, but the City of Fort Myers made a few changes which do not affect the Town, but it has to be reapproved.

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

X PUBLIC HEARING ON RESTRICTION OF TRAFFIC IN TIMES SQUARE

Mr. Roosa said that on December 2, the Council passed a resolution that set the public hearing for tonight. Now the Council has before them a new resolution, substantially the same but adding a section about the safety problem of cruising on that road, and there is also a new map that better identifies the area in question.

Mayor Cereceda read the titles. She opened the meeting for public comment.

A JOHN LALLO

Mr. Lallo, who owns Pete's Time Out on Times Square, said he is giving his total support for the closing of Times Square. He does want them to consider that there is still a major problem with parking. He thanked Mr. Gucciardo for his hard work in helping solve their problems. He hopes that outside dining is part of the consideration, otherwise he is not in support of it.

B MIKE KLEIN

Mr. Klein is a resident and is in support of the closing, but wants the Council to talk to the County to work out some way to access the parking lot in the evening. The lot closes fairly early. It needs to stay open and be available to citizens who want to come down for a walk or a meal. A shuttle is nice, but if he is dressed up for dinner, he is not going to park across the bridge and take a shuttle. The Town needs to make people feel welcome, and having parking available is one of the ways.

C CHARLES BASINAIT

Mr. Basinait, an attorney representing Steve Strauss, owner of Top of the Mast, said that his client opposes the closing. He has had a thriving business for 23 years and does not see the need for change. He has concerns which have not been addressed yet, and he is concerned about what will happen if the road is closed before those concerns are cleared. The legal description incorporates the area in front of the Top of the Mast and his parking lot, cutting him off from public access to his restaurant. He does not think the Town wants to buy his restaurant or his parking lot. He suggest they change the description. His garbage container is currently on the right of the restaurant where the kitchen is, and it will be cumbersome to go somewhere else. Other problems concern service and delivery, security when they leave at night with money, and lost parking spaces in front of their place. He thinks the idea of putting tables in the right of way is ill conceived and will put tables where minors can consume alcohol. He wrote a letter about these concerns dated November 27, and has not received a response. He also mentioned that lenders covenants may require access to vehicular traffic.

D HOWARD RYNEARSON

Mr. Rynearson said that he used to go off the island for breakfast, but ever since he has been back, they go down to Times Square instead, and it is ideal and should be protected. What little traffic has been on the pavers has caused grease and oil stains. He also asked the Council not to let motor cycles on there either—anything with a motor should be banned.

E MICHAEL MARCAPICK

Mr. Marcapick said that at Thanksgiving time there were tables out, families out, and it was good for the town. There is plenty of parking under the bridge if the Town can get it lit and get some businesses open on old San Carlos. There wasn't that much parking on Times Square anyway, so closing the road won't hurt parking.

F MICHAEL SCHULTE

Mr. Schulte said he can now walk in Times Square and it is delightful. He left last April and just returned 4 weeks ago to see a beautiful square. The color is wonderful, and vehicular traffic should be permanently stopped. He is sure the problems at Top of the Mast can be resolved. Safety is very important.

G STEVE MAILLAKAKIS

Mr. Maillakakis, owner of Plaka Restaurant, said it is very beautiful but has caused a lot of problems for the restaurants. He is in favor of closing the Square on a trial basis to see how it works out, but he needs the Council to take care of their problems first. Garbage is a great concern.

H MARY LOU ELLYAT

Mrs. Ellyat said she could never find a parking place on Times Square anyway. If it is closed, she would come down there to eat without having to dodge cars.

I RAY MERTENS

Mr. Mertens is in favor of closing, but he thinks the Council is going too fast since all the problems have not been solved. His insurance rates are now \$15,000 higher because one of his employees hurt their back taking out trash. He wouldn't want his employees carrying the trash that far. Propane gas is a problem. Parking is not solved. The county put beauty before the practicality of it. These problems should have been worked out before the project was started. He encouraged the Council not to accept ownership until all the problems are worked out. Be fair to the businessmen.

J SALLY MARKHAM.

Mrs. Markham went to Boston Harbor, and never had to use a car. They walked everywhere or took water taxis (which the Town should look into.) They have to have garbage disposal at Boston Harbor. Check with them to see how they do it.

K SANDY COLLIS

Ms. Collis said she sees both sides of the issues. Before there wasn't any parking, and now it is beautiful and there is still no parking. Families are strolling. She likes tables. She thinks there is more business now. Work on the garbage issue however, because if you start driving cars on it, it will be ruined.

L STEVE GOODBREAD

Mr. Goodbread, owner of Pelican's Pier, supports the closing 100% even though he is directly affected by it. If they can get the people there, they can work out the problems. If everyone works together, there is nothing that can't be resolved, without resorting to attorney's fees. This will all be a plus; there are no negatives.

M NORMAN PRIMEAU

Mr. Primeau, owner of West Coast Surf Shop, said that he was for the project from the start and gave up his own personal property for the road to go into Top of the Mast. He also gave up five parking spaces. The project is really good. His customers are families, and he likes to see them walking around. The question should be "What can we do to make the project better?"

N ROSE MONSERRATE

Dr. Monserrate said she thinks that anything that encourages foot traffic will benefit the area. Conflicts can be better resolved by working together rather than suing each other.

O REG COLLIS

All of his visitors are very positive about the project. The small problems can be ironed out. Go ahead and close the road.

P DON HARRIS

The County shoved this down our throats before everything was ready. The County said do it or you won't get the money.

The public hearing was closed.

Mr. Gucciardo said that he attended a meeting at the CRA today. He submitted a letter from the CRA giving unequivocal support for closing the road. It was part of the original plan that there would need to be some limited access for emergency and service vehicles.

He confirmed that the concerns of the merchants are real. After a meeting on Dec 2, he wrote a letter to the County indicating that we are pleased with the project and recognize the benefit, but that there were a list of issues that must be resolved before the Town could take over the project from the County. These included emergency access, road signage, location of planters and pavers, sealing of the tiles, temporary usage by the merchants during construction, and helping the merchants in daily operation including gas, grease, delivery, and garbage. The Town should have a written response by the end of the week. The County is sympathetic and realizes that not all issues were properly thought out.

Mr. Reynolds reminded everyone that the effective date is not until the Town takes over the CRA project from the County, and the Town will not accept it until the problems are worked out. Mr. Roosa said the acceptance will not require another public hearing, but it will require a vote of the Council.

Mr. Roosa pointed out that the map, which was taken from the plans that were submitted to the County, shows the area being restricted to EMS vehicles only. This resolution is much less restrictive, as it allows for service vehicles as needed also.

Mr. Murphy said there is no such thing as a perfect building or project, but in perspective, with all the positives that will come from it, the problems can be worked out.

Mr. FitzSimons said that when they talked about staffing this new government, they had no idea how much time would be involved in this project. The Town has inherited a lot of the liason effort, and if they hadn't, it might not be off the ground at all. With the help of the Town staff, he is confident the problems will be resolved for the benefit of the town.

Motion: Mr. Reynolds moved and Mr. FitzSimons seconded that the resolution to close Times Square to vehicular traffic be approved. Mr. Reynolds, Mr. FitzSimons, Mr. Murphy, and Mr. Isler voted in favor. Mayor Cereceda abstained. The motion carried.

The Council took a break at 7:45 and reconvened at 8:00 PM.

XI DRAFT DISCUSSION OF HAZARDOUS MATERIAL INCIDENT COST RECOVERY ORDINANCE

Mr. Roosa explained that the arrangement we have with the County is that they would handle any hazardous spills and they would try to recover the money from the violator, and if they are unable, they would charge the Town. This allows the Town to continue to try to recover the cost. The ordinance was set for first reading on Jan. 6.

XII TOWN MANAGER'S ITEMS AND REPORTS

A REFINANCE OPTIONS FOR TAX ANTICIPATION NOTE

Mr. Gucciardo mentioned a memo about the refinance options. The staff recommends going with Nations Bank which has given the Town a commitment letter which gives the needed flexibility. There are still some details to work out, but the Town is not in a particular rush. The existing loan with First Union is due at the end of year, but the funds to pay it back are on account in Tallahassee.

Motion: Mr. FitzSimons moved and Mr. Murphy seconded that the staff proceed with the loan with NationsBank. After discussion, the motion passed unanimously.

Discussion: Mr. Reynolds asked why the Town would want a loan of \$500,000, rather than perhaps \$250,000 so the Town can start reducing their obligation, especially since the Town did not need the money in the first year. Mr. Gucciardo said that the Town can get a better percentage rate at \$500,000, and the interest rate we are borrowing at is slightly less than what we can make in the investment pool, so there is no down side to borrowing the entire amount. It is conceivable that at the end of next year, the Council may decide not to borrow at all, but for this next year it gives the Town more room for unanticipated expenses. Mr. Reynolds said he is concerned that with ½ million dollars available, it would be too easy to draw on. Last year there was a need for the loan, but this year there is not. Mr. Roosa responded that when you need money, it is hard to find. The Town needs to develop a credit rating. It speaks well for the town that we have had the money for a whole year without spending it. When we need money in the future, our record will be better. His only concern is that it is not a lot of money to have available in an emergency situation.

B BEACH KIDS AND THE UNITED WAY

Mr. Gucciardo mentioned an organization called Beach Kids, headed by David Essel, that has been funding local needy children, working with the local school and Bay Oaks and Chapel By the Sea. Individuals and groups in the Town assisted at Thanksgiving by donating food and meals. Now they are trying to do the same for the Christmas season. They do not give dollars, but give food and gifts for kids. He also reminded them that the United Way has helped 808 people on the beach this year.

Motion: Mayor Cereceda moved and Mr. FitzSimons seconded that the Town make a donation from the community services budget of \$1000 to the Beach Kids Fund. After discussion, the motion passed unanimously.

Discussion: Mr. Reynolds felt this should have been on the agenda. Things should not be passed without discussion except in an emergency situation. He does not feel he knows enough about the organization. Mr. Gucciardo and Mayor Cereceda vouched for Mr. Essel and the organization. Mr. Essel has been funding this organization out of his own pocket, and did not approach the Town for a donation. Mr. Isler said it sounds like 100% would be for kids on the island and that Mr. Essel has a local group who is helping him decide who is needy.

Motion: Mr. FitzSimons moved to modify the motion so that \$500 goes to United Way and \$500 to Beach Kids. There was no second.

C LONG PROPERTY

Marsha Segal-George mentioned that the State is coming next week to do the first site visit, which is the first step toward our receiving the million dollar grant for the Long property.

D USING VOLUNTEERS ON DRAINAGE ISSUES

On Nov. 25, Mr. Gucciardo issued a memo on drainage issues, which suggested using volunteers in the process. The procedure is that when someone calls with a complaint, either to Town Hall or to DOT, an RFA (request for action) is filled out. The problems are usually with drainage, potholes, trees overhanging, etc. The Town waits until they get a batch, then someone goes out to determine if work is needed, if it is the Town’s responsibility, and what is the priority. He and Mr. Reynolds have been going for the inspections, but it is very time consuming and he wanted to make sure there are no concerns about using volunteers for that in order to free up his time. Mr. Reynolds was concerned that it would be a problem with being a public meeting if he worked with too many volunteers, but Mr. Roosa advised it was no problem. Mr. Reynolds also noted that if Mr. Gucciardo does not have enough time to do this, perhaps he shouldn’t go to the traffic committee that Mr. Reynolds is already attending. Perhaps Mr. Gucciardo should go to the TAC meetings instead. Mr. Reynolds feels that Mr. Gucciardo is spending too much time on the Times Square project because it should be the County’s project. Marsha Segal-George said that it is her call how Town staff spends its time, and she feels that the issues at Times Square and the traffic committee affect the Town more directly than the TAC. There were no other objection to using volunteers to help Mr. Reynolds with evaluating road issues and the Council confirmed that it was good to use volunteers whenever possible to help relieve the staff.

XIII TOWN ATTORNEY’S ITEMS

There will be a hearing on Mid Island marina before the next Council meeting.

XIV PUBLIC COMMENT AND INQUIRY

A BRIAN SCANLAN

Mr. Scanlan missed the public hearing, so he wanted to speak on Times Square. He is president of the Times Square Merchants Association. There is not a consensus among the merchants so he can’t speak for all of them, but to summarize, the primary concern is economic, how it will impact their businesses. The lane is still there, and in case all the businesses start failing, the road can be reopened. As to operational issues, John Gucciardo has been very helpful and has probably saved them several months. There are eight restaurants, some don’t want the road closed, some don’t want tables, some want tables but no alcohol, some who want alcohol and food. Suggestions: make the closing for a six-month trial period then reevaluate. Be patient, go slowly. Perhaps they could try six months with all sorts of options about tables and alcohol. The merchants need financial support and help from TDC, the Chamber of Commerce and Mainstreet USA.

B ROSE MONSERRATE

Dr. Monserrate has lived on Sanibel for 10 years and has never been to a Council meeting before. She said there must be a way to sit down together to come to a solution to problems. She passed out a document telling what she is planning to do at the medical clinic she is proposing. She is hoping for a quick solution to her problem. She also suggested that Council members be held to three minutes just like the public, and not be allowed to repeat themselves.

Mr. FitzSimons noted that as an original member of the CRA, he wanted to comment that over the 6 years they were involved, they tried to get citizens involved, which was why the Times Square Merchants Association was formed. To say now that the Town should go slowly, bothers him because, when faced with inevitability, people will move toward resolution of the problems.

He also noted that this is the last meeting of first year. He expressed his thanks to the staff.

Mr. Reynolds mentioned, regarding alcohol being served on the street in Times Square, that he hopes it will not be served in containers so that people can walk around with them.

XV ADJOURNMENT

The meeting was adjourned at 9:00 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary

