

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JANUARY 3, 2005
Town Hall-Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA**

I. EXECUTIVE SESSION – held at 6:00 PM and Regular Council Meeting opened at 6:30 PM.

II. CALL TO ORDER: The regular meeting of the Fort Myers Beach Town Council was called to order on Monday, January 3, 2005 at 6:30 p.m. by Mayor Bill Thomas.

Members present at the meeting: Mayor Bill Thomas, Vice Mayor Garr Reynolds, Councilman Don Massucco, Councilman Howard Rynearson, Councilman Bill Van Duzer.

Excused absence from the meeting: None

Staff present at the meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Finance Director Janeen Paulauskis, Public Works Director Damon Grant, Town Attorney Richard Roosa, Mound House Director Theresa Schober.

III. PLEDGE OF ALLEGIANCE: All those present assembled and recited the Pledge of Allegiance.

IV. INVOCATION – ROGER WELTON, CHAPEL BY THE SEA

V. PROCLAMATIONS;

A. PROCLAMATION FOR MUNCH BOX

A proclamation was presented to Lisa Johnson for assistance provided by the Munch Box after Hurricane Charley.

B. PROCLAMATION FOR PUBLIX

A proclamation was presented to Kelly Davison for assistance provided by Publix of Fort Myers Beach after Hurricane Charley.

VI. RECOGNITION

Chief Stephen Markus of the Ft. Myers Beach Fire District presented a plaque to Ed Lawler, Ft. Myers Beach Supervisor of Maintenance, recognizing him as “2004 Citizen of the Year” for his outstanding work during and after Hurricane Charley.

VII. PUBLIC COMMENT None

VIII. CONSENT AGENDA

A. APPROVAL OF COUNCIL MINUTES OF DECEMBER 13, 2004

B. RESOLUTION 05-01 – ACCEPTING DISTRIBUTION FACILITIES FOR WATER UTILITY SERVICE

MOTION: Motion was made by Councilman Rynearson and seconded by Councilman Van Duzer to approve consent items A and B.

DISCUSSION: Vice Mayor Reynolds requested A and B to be pulled for further discussion.

Vice Mayor Reynolds asked that the minutes reflect his response to ex-parte communication on page 3 as being that he visited the site, but did not have any conversations regarding the project.

Vice Mayor Reynolds requested more information before voting to accept Resolution 05-01- Accepting Distribution Facilities of Water Utility Service.

VOTE: Motion passed unanimously, 5-0.

IX. ADMINISTRATIVE AGENDA:

A. FINAL PUBLIC HEARING OF ORDINANCE 05-01-COMPREHENSIVE AMENDMENT FOR ANNUAL UPDATING OF THE FIVE-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS:

Bill Spikowski read the first section of the Ordinance. Mayor Thomas opened the Public Hearing for public comment; there being no public comments, Public Hearing was closed.

MOTION: Motion made by Councilman Rynearson to approve Ordinance 05-01 as presented; seconded by Councilman Van Duzer.

DISCUSSION: Bill Spikowski explained that the state requires each municipality to amend its Comprehensive Plan. There have been no changes made to the already approved Town Budget.

Vice Mayor Reynolds sought for more information about the CRA and how that money is collected and used.

Town Manager Marsha Segal George explained that capital improvements have already been approved during the budget process. The monies used for the downtown (TIF) are monies collected only from those businesses in the downtown area, not from the Town as a whole, and therefore can only used in that area.

Bill Spikowski noted that the Ordinance number 05-01 is being corrected to reflect when the Ordinance was first introduced and will read 04-13 when finalized.

ROLL CALL VOTE: Councilmen: Rynearson- aye; Van Duzer-aye; Massucco-aye; Reynolds-aye; Thomas-aye. Motion passed unanimously.

B. COMPREHENSIVE PLAN: EVALUATION/APPRaisal REPORT

Bill Spikowski explained the need for hiring a professional consultant to assist in the preparation of the Evaluation/Appraisal Report. These professionals would

also seek public input in this process. The effects of Hurricane Charley has made this a timely issue when new requests for new buildings will be rebuilt, giving the Town what they want as opposed to what private developers want.

Town Manager Segal George pointed out that the Town is being featured in the New Urbanism Magazine. She stressed the need to get assistance from the firm that initially worked with the Town in developing an award-winning Comprehensive Plan. She also explained that both the LPA and the TMA recommended Victor Dover , Hohl & Partners to help in the evaluation process. She explained that it is important to bring in non-biased professionals to keep the process above board.

She suggested, that since the cost of the project is not in the approved budget, it could be funded through FEMA as a Mitigation Project for the amount of \$75,000 and \$25,000 could be taken from the \$500,000 grant already approved.

Vice Mayor Reynolds asked the Town Manager what was meant by “an award winning comp plan.” She responded that the state has recognized the comp plan as the best public document. Vice Mayor Reynolds asked if we have a letter or some document stating this. Town Manager responded that the Town Hall has a plaque documenting this.

The Vice Mayor asked how much time will this require. This question was referred to Bill Spikowski. He responded that he hoped there would be one big public session led by Dover, Hohl & Partners. However, the expense is not for running that meeting. The real expense comes from the engineers sifting through the input and generating a report along with drawings etc. A second meeting would then be held to present the ideas and giving their recommendations.

(The above transcript has been taken from the videotape since the audiotape was not recording at this time. This portion was transcribed by Staff.)

Ms. Segal-George explained that the \$75,000 for Mr. Dover’s services is being submitted as a FEMA mitigation project since much of the work has to do with hurricane Charley damage. The remaining \$25,000 will come out of the \$500,000 grant. The Vice Mayor pointed out that the vote on the Comp Plan was 4 to 1, and also expressed the opinion that this could be done more economically. He further expressed concern about the trend to build back larger buildings and conversions from motels to condos, and whether this meets the needs of the Island’s tourism industry. Mr. Spikowski advised that this is an issue to be addressed, and he also acknowledged that the ability to build at ground level is an issue of concern. The involvement of Council in building conversions also came under discussion, as well as the FLUEDRA cases.

MOTION: Motion was made by Councilman Rynearson to hire Victor Dover 1 and also Rick Hall, taking the \$25,000 out of the \$500,000 grant. He pointed out

that this will provide for public input which is very important. Motion was seconded by Councilman Van Duzer.

DISCUSSION: Mr. Van Duzer added that he is highly in favor of doing this for all the reasons previously set forth. He noted that there are many things facing the community at this time and it is important to bring this back to the people to voice their preferences. He expressed the desire that innovative ways of funding be pursued and that it be done in the least expensive way possible and discussed openly in meetings.

Mr. Massucco noted that the individuals come highly recommended and are high priced. The proposed fees will be contracted at a not to exceed figure. Mr. Spikowski explained that timing is a factor, and the consultants have been notified that the charettes must take place during Season. Mr. Massucco noted that this will require an extensive public relations effort.

Mayor Thomas said that he would be in favor of hiring these individuals because of their track record and experience and the proven quality of their work.

Vice Mayor Reynolds said he would support this motion because of his understanding of the sources of the funding, but cautioned Council and the TMA to keep an eye on expenses.

VOTE: Motion passed by a vote of 5-0.

C. RANKING OF ARCHITECTURAL FIRMS FOR THE MOUND HOUSE WALK-IN SHELL MOUND.

Mound House Director Theresa Schober referenced her memo and recalled the State grant that had been awarded providing \$269,500 for this project. There were 3 responses to the RFQ, and CELCAB heard presentations on December 13th from 2 applicants; the 3rd had withdrawn prior to that date. Following the presentations and a question-and-answer period, there was lengthy discussion about the applicants. Ms. Schober summarized some of the projects by each of the applicants. She explained that Mr. Sanford's firm was ranked 1st because of his proven record of interest in the property, and historic preservation in Lee County. She also referred to his responsiveness during the electrical upgrade on which he also worked, and their location in Lee County. Ms. Schober advised that this ranking was determined by a vote of 7 to 4, with both firms deemed acceptable should one not be available. She has confirmed availability of both firms and pointed out that due to the time-sensitive nature of the State requirements, CELCAB recommends that time lines be written into any contract, with sanctions for failure to meet time sensitive goals.

Mr. Rynearson noted that he had read the minutes and listened to the meeting tapes, and expressed concern that CELCAB was led in this determination by one statement of Ms. Schober that Parks was not capable of finishing this job on time because of the amount of work they had in process, which he pointed out is unfair and inappropriate of the Mound House Director. He expressed the opinion that the Parks firm is much more highly qualified. Ms. Schober acknowledged that Parks is the more highly qualified of the two, explaining that her concern was the timeline and completion of the master plan. It was

verified that they had been specifically asked whether they could complete the job on time, and they had replied that they could do so.

Mr. Van Duzer also expressed concern and advised that he had read the minutes but not listened to the tapes. He noted that Ms. Schober reported that when confirming availability, the Parks firm had completed 2 of their 6 outstanding projects which were of concern. Mr. Van Duzer also expressed the opinion that the Parks firm is more highly qualified, noting that while CELCAB has presented a recommendation the decision is up to Council.

MOTION: Mr. Van Duzer made a motion to select Renker Eich Parks for this project. Motion was seconded by Mr. Rynearson, who requested a penalty clause be added to the motion. Mr. Van Duzer agreed and noted that in the minutes CELCAB member Dan Hughes had offered to work with Town Attorney Richard Roosa in drafting the contract. Mr. Rynearson also asked to add to the motion provision that either Damon Grant or Matt Feeney from Staff conduct the negotiations. Mr. Van Duzer declined to make this part of the motion, saying he would leave this up to the Town Manager. Ms. Segal-George explained the process and said it would be taken care of internally.

DISCUSSION: Vice Mayor Reynolds verified with Ms. Schober that she could work comfortably with either firm, and that each firm had been heard by all CELCAB members. Mr. Reynolds said he felt that the firms had been given thorough examination, and he would support CELCAB's recommendation.

VOTE: Motion was passed by a vote of 4 to 1, Vice Mayor Reynolds opposed.

D. LAGUNA SHORES BID AWARD

Damon Grant advised that in 2002 Bill Morris was awarded the engineering for the Laguna Shores drainage improvement, which would include Buccaneer, Lagoon and Redfish Drive. On December 14th there were 7 contractors who came and submitted bids for the project, listed in a memo which he referenced. Quality Enterprises USA, Inc. was the lowest most responsive bidder in the opinions of the Town Attorney, Staff and engineering with a price of \$270,159.40 which was a lump sum bid and considerably below the probable cost estimate of the engineer, which was \$315,000. Staff is asking for approval to award this contract to Quality Enterprises. Several questions concerning licensing were addressed.

MOTION: Motion was made by Mr. Rynearson to accept Staff's recommendation and award the contract to Quality Enterprises USA, Inc. in the amount of \$270,259.40. Motion was seconded by Mr. Van Duzer.

DISCUSSION: Mr. Massucco verified that this was for the stormwater drainage project and not for the dredging, which is a separate project. It was noted that there is only \$16,000 difference between Quality's and the next lowest bid, however, Ms. Segal-George advised that there is an obligation to accept the lowest bid unless there is some reason to disqualify that bidder. Mr. Van Duzer asked whether all the access agreements

are in place and was advised that one permit from Southwest Florida Water Management District, and engineer Bill Morris has been in contact with them today regarding this. 3 of the 4 required easements have been executed, and there is a verbal on the 4th. Mr. Morris and Mr. Grant will be meeting with this gentleman tomorrow at the property. Mr. Reynolds inquired about the size of the holes through the existing seawalls, which Mr. Grant explained.

VOTE: Motion was passed by unanimous vote, 5-0.

E. RECOMMENDATIONS OF THE TOWN'S DISASTER ADVISORY COUNCIL AND PUBLIC SAFETY TASK FORCE RELATIVE TO NEXT YEAR'S STORM SEASON

MOTION: Motion was made by Mr. Rynearson to accept the recommendations of Staff. Mr. Gucciardo explained that the intent was to refine and retool emergency plans during the off-season, and this item is the result of meetings for that purpose. Motion was seconded by Mr. Van Duzer.

DISCUSSION: Vice Mayor Reynolds asked which items on the memo were included in the motion, and the individual recommendations were explained. The anti-gouging ordinance was discussed. It was verified that the PSTF involvement would be coordination of volunteers following an emergency.

VOTE: Motion was passed by unanimous vote, 5-0.

The Mayor verified with the Town Attorney that there was no conflict of interest with Mrs. Van Duzer serving on the PSTF.

F. REQUEST FOR TRAFFIC SIGNS FOR LAGUNA SHORES AND DELMAR

The reasons for bringing this issue to the Council were explained. Signs had been requested by the residents. PSTF recommended against posting speed limit signs because they were not considered effective. Stop signs or speed bumps were mentioned as alternatives. It was suggested that due to the new Sheriff's Office administration, contact be made with CAPT Powell to discuss methods of enforcement. Dennis Grout, President of Laguna Shores Homeowners Association came forward at the invitation of the Mayor. He advised that the only existing sign in the subdivision is not effective. They would like to try some 20 MPH signs.

MOTION: Motion was made by Mr. Van Duzer and seconded by Mr. Rynearson to comply with the request to add 2 signs and lower the speed limit to 20 MPH.

DISCUSSION: Mr. Massucco expressed the opinion that no speed limit signs in residential districts should be above 25 MPH, and several Council members agreed. There was discussion about the criteria inherited from the County regarding speed limits on public roads and the legality of enforcing lower speed limits. Mr. Rynearson

suggested that because of the enforceability issue the motion should be changed to installation of stop signs. The Laguna Shores representative agreed to amend their request to posting stop signs with additional 30 MPH signs. Mr. Van Duzer also agreed and amended the motion accordingly. This motion applied only to Laguna Shores.

VOTE: Motion was passed by unanimous vote, 5-0.

It was explained that on Delmar, the residents have indicated a significant number of children and are requesting that “children at play” signs be posted. Following discussion it was agreed that enforcement of existing signs and speed limits be attempted first.

G. REQUEST FROM PAT DeVINCENT

1. PBS/WGCU History of Fort Myers Beach Video Tape

Mr. DeVincent came forward and read a statement responding to comments made by Councilman Van Duzer following the December 20, 2004 Council meeting concerning alleged disparaging remarks against Chamber President Petrocelli. He also referenced letters to FGCU, the Historic Society, and the Council requesting WGCU to delete the incorporation history and replace it with a corrected version and again placed this request before Council.

Mr. Van Duzer responded to Mr. DeVincent’s request and advised that he has viewed the disk, expressing the opinion that incorporation is only a small portion of the Island’s history and did not even need to be included, and that he saw nothing derogatory in the way it was depicted. Mr. Van Duzer pointed out that this production was a documentary about Estero Island, San Carlos Island and the shrimping industry, and that it had been partially funded by the Town through FGCU. He also noted that there had been a public meeting at which the production was shown, and there had been positive reaction. He recommended taking no action.

Mr. Rynearson agreed with Mr. Van Duzer, stating that he has spoken with numerous people in the community, including members of the Historic Society, and received no negative reaction. He pointed out that there will be other productions in the future, and that no history is being lost because everything is documented. He also recommended no action.

Vice Mayor Reynolds commented on Mr. DeVincent’s allegations, referring to individuals who were pro and con about incorporation. He agreed that certain segments should be replaced.

There was general discussion about this documentary, and the participation of the Chamber and the mention or omission of certain individuals.

2. Status of the Nov. 3, 2004 MPO Project

Mr. DeVincent presented a response to Ms. Segal-George’s November 15th presentation regarding the Estero Blvd. Streetscape project in which he commented on the funding thereof. Ms. Segal-George referenced 2 memos to Council concerning the CRA funds and Mr. DeVincent’s statements, noting that everything had been extensively documented. CRA funds came under discussion, as well as the Town Manager’s response to various allegations. The Vice Mayor made reference to certain documentation which then came under discussion. Mr. Van Duzer recalled certain events

concerning funds that had been controlled by Lee County which countered some of Mr. DeVincent's statements. He emphasized that since incorporation, residents of the Island other than in the Downtown district no longer pay into a TIF fund, which is designated to be used only in that area and stressed that there has been no diversion of funds as alleged. There was discussion about formation of the CRAs. Mr. Rynearson pointed out that Roxie Smith was the Chair of the first CRA and was present.

Ms. Smith came forward and recalled serving as chair during the life of the CRA. She pointed out that no taxes were collected by this group. She explained the procedure by which TIF funds were collected as well as the decision to delay sidewalks on one side of Estero Blvd. because Commissioner Judah had recommended underground utilities. Ms. Smith also explained that the group members were appointed by Mr. Judah.

Mr. DeVincent expressed disappointment that the discussion did not produce the positive result he was seeking and apologized for the use of Council's time.

X. COUNCIL MEMBER ITEMS AND REPORTS

Mayor Bill Thomas observed the New Year of 2005 and expressed the desire for Council to take a new direction under his leadership. He noted that some of the 5 Council members put in more volunteer and committee time than others and would like to see everyone participate. He also asked that constructive criticism be accompanied by suggested solutions. Mayor Thomas also suggested that members conduct research on agenda issues and obtain information at Town Hall and elsewhere so as to come to meetings fully informed.

Mayor Thomas noted the celebration of the Town's 9th birthday and Ted Fitzsimons Day at which a plaque was presented and 1,000 cupcakes distributed. He noted the distribution of alcoholic beverages in glass containers by certain merchants in violation of the Town ordinance.

Councilman Howard Rynearson also mentioned the birthday party as well as the New Year's Eve celebration and fireworks.

He expressed the hope that everyone listened to the Mayor's comments and would move forward on a positive note.

He expressed appreciation to Mr. DeVincent for coming forward and said no apology was necessary, and promised to continue to working on Estero Blvd. improvements.

Councilman Don Massucco wondered how all of the 1,000 cupcakes disappeared.

Vice Mayor Garr Reynolds noted that this appears to happen every year.

He said he agreed with the Mayor's remarks and read comments concerning the direction of the TMA. He expressed concern about statements that the TMA's efforts benefit day trippers and tourists rather than Island residents and said he does not question their intentions nor did he wish to disparage the TMA.

Mr. Reynolds also mentioned having observed the consumption of alcoholic beverages during the birthday party. He also made reference to attending the New Year's Eve celebrations.

Councilman Bill Van Duzer complimented the Mayor on his comments and also expressed the hope that Council would move forward in a positive manner. He wished everyone a happy and prosperous New Year without storms.

He also reported having had a good time in Marathon.

X. TOWN MANAGER'S ITEMS

Mr. Gucciardo reminded everyone of the planned workshop for the evening of January 27th on the Beach Restoration Project. This will be advertised, with the Town, County and State participating, and it is hoped there will be updates available on the status of this project. Dune plantings and easements will also be addressed at this meeting.

Ms. Segal-George pointed out that the Laguna Shores drainage project will have a profound effect on the Island and stressed that under the County this would not have been done without additional taxes to the residents. She emphasized that unlike other municipalities, FMB does not levy a separate tax for projects such as this, but funds them out of saved revenues to the benefit of the residents.

XI. TOWN ATTORNEY'S ITEMS

Mr. Roosa expressed concern about the manner in which the minutes are being approved, and particularly changes to the minutes. He suggested certain different procedures to be followed to ensure accuracy.

XII. PUBLIC COMMENT

Fran Myers came forward as Chair of CELCAB and added that with such a large group as CELCAB it is sometimes difficult to arrive at their decisions. She said she foresees no disagreement by the committee with Council's decision to reverse its recommendation. Ms. Myers also suggested Council consider reducing the number of members from its current 12. She also complimented Council and Staff on the job they are doing.

She mentioned that the Red Coconut has been in business since 1927 and was not mentioned in the documentary.

Roxie Smith came forward and agreed with Mayor Thomas' remarks. She expressed appreciation for the positive sentiments and comments. Mr. Van Duzer called attention to the fact that Ms. Smith was pictured in *Gulf Coasting Magazine*.

XIII. ADJOURNMENT

Meeting was adjourned at 9:27 p.m.

Respectfully submitted,

Patricia L. Middlekauff
Transcribing Secretary