

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JANUARY 24, 2005
Town Hall-Council Chambers
2523 Estero Blvd.
FORT MYERS BEACH, FLORIDA 33931**

- I. CALL TO ORDER:** The regular meeting of the Fort Myers Beach Town Council was called to order on Monday, January 24, 2005 at 6:30 p.m. by Mayor Bill Thomas.

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

Excused absence from the meeting: None.

Staff present at the meeting: Town Manager Marsha Segal-George, Director of Public Services Matt Feeney, Community Development Director Jerry Murphy, Town Attorney Richard Roosa, Deputy Town Manager John Gucciardo, Finance Director Janeen Paulauskis.

- II. PLEDGE OF ALLEGIANCE:** All those present assembled and recited the Pledge of Allegiance.

III. INVOCATION BY PASTOR TOM SNAPP, ST. PETER LUTHERAN CHURCH

IV. PUBLIC COMMENT:

Karl Bergstrom of 47 Fairview Blvd. came forward and spoke regarding the contract of Town Manager Marsha Segal-George. He recalled appearing before Council on October 11, 2004 on this subject and requested a review of all past outside work performed by Ms. Segal-George to determine possible conflicts of interest. He also suggested that any future outside work opportunities be reviewed by Council prior to acceptance. He presented his request in writing.

Larry Hatch of 7500 Estero Blvd. and president of the Riviera Club Condo Association came forward to speak concerning the current pool and clubhouse renovation project at the condo. He described the process of selecting a contractor and obtaining permits prior to and after the hurricanes. Work was halted after a visit by a FMB Code inspector who Mr. Hatch said made disparaging remarks in the hearing of witnesses about the facilities being renovated. He asked that this inspector's decision be overturned.

Jeff Werner of 7150 Estero Blvd. came forward and commented on the Council term and election litigation and requested that further appeals and delays be halted and a new election date be set as soon as possible.

David L. Ostdiek of 21401 Widgeon Terrace came forward and commented on the need for bicycle paths.

Dan Hughes of 270 Randy Lane came forward and recalled having been Mayor when Ordinance 106 changing the terms of office and 310 establishing the general election runoff were adopted. He commented on the litigation initiated by Charles Meador and subsequent editorials and newspaper articles on the subject and the court's ruling. He recommended complying with the judge's order and holding an election as soon as possible. He also referred to his memo of July 27, 2001 and stated his support of 4-year terms which are in effect in all other Lee County municipalities.

Lou Marrone of 8351 Estero Blvd. came forward and spoke about the dredging program at Laguna Shores. He noted that there are only 104 owners of waterfront property in the development and made reference to contacts with Staff concerning percentages.

Tom Babcock of 5130 Williams Dr. came forward and said that his purpose in calling attention to the Council term and election issue was to correct mistakes, not cause problems. He

noted that several Council members have asked why the lawsuit is being brought now if this was an issue in 2001 and commented on events since that time. He urged holding an election as soon as possible. He added that the ordinance on this meeting's agenda should not be acted upon until an election is held, expressing the opinion that they will not solve the problem.

Harry Heist of 155 Dundee Rd. and a business owner on FMB came forward and commented on the Council terms and election process. He asked that the people be allowed to vote, noting that there is public conjecture about why the process is being delayed.

Pat Smith of 50 Fairview Blvd. came forward and also commented on Council terms and elections. She submitted several alternatives that she said could have been taken and asked that there be no further delays in holding an election and referred to costs being incurred during this litigation.

Jamie Diaz of 260 Egret St. came forward and advised that he had been away for several weeks and had been reading newspaper articles to catch up. He expressed disappointment that a mistake is not being rectified resulting in negative public opinion and disagreed with the Town Attorney's having filed an appeal of the judge's decision. He disagreed with statements by Mayor Thomas that the lawsuit is a personal vendetta for the purpose of getting rid of Town Manager Segal-George. He also thanked the Council for not enforcing the 3-minute rule and allowing the people to speak and not be cut short.

Mayor Thomas verified with the Town Attorney that an appeal had not been filed. The Mayor also rebutted statements by Mr. Diaz which included his name and explained the reasons why he changed his vote.

Public comment was closed at this time.

V. CONSENT AGENDA:

- A. APPROVAL OF MINUTES, DECEMBER 20, 2004**
- B. FINANCIALS FOR THE MONTH OF DECEMBER**

MOTION: Motion to accept Consent Agenda Items A and B was made by Councilman Van Duzer and seconded by Councilman Ryneerson.

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

VI. ADMINISTRATIVE AGENDA:

A. FMB LITTLE LEAGUE – REQUEST OF COUNCILMAN MASSUCCO:

Charlie Whitehead, President of the FMB Little League came forward and asked for funding to replace the 2 scoreboards at Bay Oaks that were damaged beyond repair by the hurricanes. He noted that over 100 FMB youth participated in Little League last year. The soft drink companies that previously supplied scoreboards have been inundated with requests since the storms and are unable to provide them all. He advised that he has checked with the County, and while they allow scoreboards to be placed on County property, they do not provide them. Mr. Whitehead has obtained quotes from \$4,000 per board and up depending on size. His request to Council was for a one-time donation of up to \$10,000 to purchase and install 2 replacement scoreboards. He added that uniforms equipment and leadership are provided with community support.

Councilman Ryneerson asked who would maintain the scoreboards if the Town funds them. Ms. Segal-George advised that Mr. Feeney had researched the issue and there was no actual ownership, so there can be no request to FEMA for replacement. She advised that if the Town purchases them and they are damaged in the future, the Town can then file a claim. She therefore recommended that if Council approves expenditure of the funds for this purpose, that the Town would own the scoreboards so they can insure them. Ms. Segal-George explained that funds are available since the County picked up funding for Treasures by the Sea.

MOTION: Motion was made by Mr. Ryneerson and seconded by Mr. Massucco to pay up to \$10,000 with funds taken from Treasures by the Sea.

DISCUSSION: Mr. Massucco thanked all who are involved in FMB Little League and other youth activities on behalf of Council and Town Staff and noted the benefits to youth and to the community. He asked for unanimous approval of the request.

Vice Mayor Reynolds asked how many children were involved in Little League last year, and Mr. Whitehead said it was his understanding that there were just over 110 last season. This year's registration is under way and no figures are available. Mr. Reynolds spoke in favor of the request and thanked Mr. Whitehead for his efforts.

Mr. Van Duzer recalled the efforts that went into building the ball fields and that the signs were approximately 30 years old. He spoke in favor of the request and also thanked those involved in the program.

Mayor Thomas added his support, recalling that he has 3 sons and had coached Little League baseball himself.

Mr. Rynearson recalled that FMB had the first chartered Little League girls' team in the country and added his support for the program.

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

Mr. Van Duzer verified that the scoreboards would be under Town ownership.

B. DREDGE PROJECT FUNDING RECOMMENDATIONS:

1. STAFF REPORT:

Director of Public Services Matt Feeney came forward and recalled the dredge project funding considerations that had been presented at the November 15th Council meeting, at which time Staff had been directed to solicit specific recommendations from the 2 current dredge projects, Yachtsman's Cove and Laguna Shores. Their recommendations were referred to as Attachments A and B. In summary, he advised that Yachtsman's Cove had requested Council to consider funding 2/3 of the construction costs, and also consider funding the engineering fees; Laguna Shores had requested Council consider providing 40 per cent funding of their overall project and consider funding engineering fees as well. After evaluating these recommendations, Staff recommends that Council consider adopting a policy that addresses each project on a case-by-case basis but sets up a clear definition of why a public contribution is appropriate and what it would be based upon. He presented Staff's recommended policy and said that after review Staff concurs with each, except that Yachtsman's Cove instead of being 1/3 be 30 per cent for uniformity.

MOTION: Motion was made by Councilman Rynearson to take the Staff recommendation to fund 30 per cent of the cost with a cap of \$30,000 as a policy. Motion was seconded for discussion by Councilman Van Duzer.

DISCUSSION: Mr. Van Duzer expressed concern that a uniform percentage might not be appropriate for all future projects. He proposed allowing Staff to decide on a case-by-case basis rather than imposing a cap. Mr. Rynearson said he agrees with a case-by-case basis but was concerned with setting a precedent for the public's understanding. Mr. Rynearson agreed to amend his motion to 30 percent and eliminate a dollar amount as cap.

Mr. Massucco expressed concern that future projects might be funded by grants rather than public funding. Mr. Van Duzer agreed that it would be incumbent on those involved to pursue grant funding and noted that in other locations such projects are funded by MSTU.

Vice Mayor Reynolds observed that he was opposed to the program initially 2 years ago because there was no policy, and he still believes a policy is required. He agreed with the Staff Report that there are wide ranging benefits to the community. He said he was in favor of 40 percent.

Mayor Thomas noted that such projects increase the value of non-waterfront property as well, which also increases the tax base.

Mr. Reynolds added that the same formula should apply whether or not grant funding is obtained.

It was verified that the motion is to set an overall policy in which the Town's portion would be 30 per cent and the private portion 70 per cent, and in any case the total amount would be paid up front by the Town and the private portion collected over time. Mr. Van Duzer and Mr. Rynearson concurred. It was also verified that if grant funding were available, that figure would come off the top and the remainder would be divided 30/70.

Mr. Reynolds said he did not agree with considering these projects individually and felt that a policy should apply across the board. He also felt that 40 per cent was a more appropriate split. He also recalled funding of Old San Carlos and Times Square and felt that there should be a uniform policy. He said he could not vote for less than 40 per cent and asked that the motion be clarified.

The motion was clarified as follows: Mr. Rynearson explained that the motion was to set a policy of paying 30 per cent and the residents paying 70 per cent. Mr. Van Duzer agreed as seconder.

VOTE: Motion passed on a vote of 4 to 1, Vice Mayor Reynolds casting the "no" vote.

MOTION: Mr. Rynearson made a motion that the Town pay 30 per cent of the Yachtsman's Cove project, and since it is a pilot project, that the Town pay 50 percent of the engineering fee in addition. Motion was seconded by Mayor Thomas.

DISCUSSION: Mr. Reynolds commented that he could not support the motion because it is only 30 per cent and he believes the Town can afford to make a larger contribution, recommending 40 per cent. He noted that the Town has apparently agreed to pay the engineering costs.

Mr. Van Duzer asked the amount of the engineering fee for Yachtsman's Cove, and it was explained by Mr. Feeney that the cost is \$17,515 through permitting, and to date \$5,170 has been spent. For Laguna Shores, total through permitting and construction to completion is a total of \$53,000 with \$27,000 having been spent to date. It was noted that representatives from both projects were present if additional information is desired.

2. RESPONSE FROM YACHTSMAN'S COVE AND LAGUNA SHORES:

Jack Metz of 2053 Madera Road, current President of the Yachtsman's Cove Board of Directors, came forward and explained that there are 18 owners and are very pleased with the discussion and proposals, except that they have spent 9 years working on this project and are disappointed that they are being cut from 1/3 to 30 per cent and the engineering to 50 per cent. He described the scope and dimensions of the project. He compared past and current costs. He also noted that the community is appreciative of the Town's response following Hurricanes Charley and Gabrielle when an emergency permit was required to remove materials deposited by those storms. He advised that the Council proposal from this meeting would be presented to the annual meeting of their Board at their March 16th at which time they will determine if they are able to proceed. He complimented Council and Staff, singling out Mr. Feeney for his efforts. Mr. Metz added that since this was a pilot project, the Town gained valuable insight and experience that will be useful in the future and suggested that payment of the entire engineering cost would therefore be appropriate.

Mr. Feeney clarified that Yachtsman's Cove is a canal dredging project, while Laguna Shores is an access issue separate from canals due to the sandbar.

Mr. Van Duzer verified that the difference between the Yachtsman's Cove request and the Staff proposal is \$2,000.

Mr. Reynolds had a question of Mr. Feeney about different applications in different locations, which Mr. Feeney explained pertained to additional public interest.

Mr. Van Duzer said he had misunderstood the figures and would not support the motion as it stands because he believes the Town should approve the 1/3 – 2/3 split and pay the engineering costs.

Mr. Ryneerson was asked to restate his motion. His motion was to go along with the policy that was just set for 30 per cent and because it is a pilot program, the Town pay half of the engineering costs.

VOTE: Motion passed on a vote of 3 to 2; Vice Mayor Reynolds and Councilman Van Duzer opposed.

Mr. Ryneerson verified the total estimated cost of Laguna Shores with Mr. Feeney as \$177,500 for construction costs and the total cost for engineering to construction as \$53,000.

MOTION: Motion was made by Mr. Ryneerson that the Town pay one-third of the Laguna Shores project, and 50 percent of the engineering fee in addition. Motion was seconded by Mayor Thomas.

DISCUSSION: Mr. Van Duzer pointed out that this is not a canal, but a lagoon with significant benefit to everyone who uses the water. He recommended going along with Staff's recommendation to pay 40 per cent of the construction cost, which they estimate to be \$71,000 and all of the engineering fees. He expressed the opinion that another 10 per cent would be appropriate because of additional public interest in this particular case.

Mr. Massucco agreed with Mr. Van Duzer and pointed out the difference in the two projects.

Motion was withdrawn by Mr. Ryneerson.

MOTION: Motion was made by Mr. Ryneerson to approve the Laguna Shores project for a 40/60 split as recommended by Staff, and the other recommendations that the Town pay permitting and engineering as well. Motion was seconded by Mr. Reynolds.

DISCUSSION: Mr. Reynolds noted the difference in the two projects as mentioned in the Staff Report.

Mr. Van Duzer noted that the 30 per cent policy which was passed included 10 per cent each for storm water, water quality, and tax base, with an additional 10 per cent for public interest.

Mr. Ryneerson pointed out that the Town is paying half the engineering fee on both projects because they are pilot projects.

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

The representative from Yachtsman's Cove came forward and asked for clarification of Council's decision to pay 50 per cent of their engineering costs and all of Laguna Shores'.

MOTION: Mayor Thomas made a motion to reconsider the previous vote. Motion was seconded by Mr. Ryneerson.

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

MOTION: Motion was made by Mr. Van Duzer to pay 1/3 of the Yachtsman's Cove construction costs, or 33 1/3 per cent, and the engineering and permitting service in total. Motion was seconded by Mr. Massucco.

VOTE: Motion was passed by vote of 4-1, Mr. Reynolds dissenting.

Dennis _____, President of Laguna Shores Homeowners Association came forward and expressed satisfaction with the action taken. He emphasized that this action is for the benefit of opening the lagoon, and that canals will be an issue in the future.

C. PENDING LEE COUNTY ZONING CASE DCI2004-00033: BEACHWAY RESORT CPD:

Ms. Segal-George explained that this is an off-Island case but was brought to Council because it could affect Fort Myers Beach.

Community Development Director Jerry Murphy described the proposed project at the intersection of Pine Ridge Road and San Carlos Blvd. and explained the traffic implications for the Beach. 290 hotel rooms are being proposed. The project will go before the County Commission on January 31st, and Mr. Murphy asked for direction concerning the position the Council would like to take. He suggested that the County should require that such projects work with the Town in view of all the efforts being taken by the TMA to assist in the mitigation. He added that he had just received a request for rezoning on the Warfield property and anticipates receiving many more such applications.

Mr. Reynolds expressed doubt that the County would take FMB objections into consideration in approving or rejecting any project along the San Carlos corridor. Mr. Murphy pointed out that the County Comprehensive Plan requires that they coordinate these types of issues with the other jurisdictions in the County, of which the Town is one. They are also supposed to coordinate their decisions with the Town's Comprehensive Plan, which addresses a desire for restricting growth and development on San Carlos Blvd. He does not suggest that they would deny such a request, but that mitigation efforts should be coordinated as new development occurs.

Mr. Rynearson suggested that Mr. Murphy ask that action be continued from January 31st until he has had the opportunity to meet with County and developer personnel. He also suggested that the County be asked to include the Town in any discussions as far out as Healthpark. Mr. Murphy expressed the opinion that this is a reasonable request, and that this would bring to light the necessity for such communication.

Policy versus interlocal agreement was discussed. Mr. Massucco observed that Mr. Murphy had been treated very shabbily by the hearing examiner and that they were not very respectful to his position and the concern. Mr. Murphy noted that the particular hearing examiner had moved on to another position. Mr. Massucco also disagreed with a 15 per cent traffic allocation estimate for FMB.

Mr. Van Duzer called attention to Goal 108 of the Lee Plan which says, "Development proposals within Lee County will be reviewed for their impacts on levels of service for public facilities as stated in the Comprehensive Plans of adjacent governments." He noted that this gives the Town every right to question such proposals. He also pointed out that this project at 290 units is almost 20 units per acre, whereas the Town upon incorporation set a limit of 4, down from 6, and emphasized that projects outside the Town have significant impact on the Island.

It was pointed out that Council did not have the conditions attached to the County Staff Report, and Mr. Murphy summarized these. It was agreed that he had received sufficient direction from Council to proceed.

D. MOUND HOUSE REQUEST – CONTRACT EXTENSION FOR POOL EXHIBIT ARCHAEOLOGICAL MITIGATION: Withdrawn.

E. INTRODUCTION OF ORDINANCE 05-01 – AMENDING THE FINANCE ORDINANCE BID PROTEST:

Ms. Segal-George explained that this is an introduction, and after reading the caption of the ordinance the Public Hearing will be set on February 7th. She added that the only change to the ordinance is the addition of a formal bid protest procedure, which the Town has never had before. The caption was read by Mr. Roosa.

MOTION: Motion was made by Mr. Van Duzer and seconded by Mr. Rynearson to set this ordinance for Public Hearing on February 7, 2005 at 6:30 p.m.

DISCUSSION: Mr. Reynolds questioned Line 32 and asked whether provision could be added that bids be opened in the presence of the Mayor and Department Head, and it was

explained that the ordinance has not been advertised that way. Presence of the Mayor came under discussion, as well as the separate responsibilities of the Town Manager and Council as provided in the Town Charter.

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

It was suggested by Mr. Van Duzer that the questions raised by Mr. Reynolds be investigated for future action. He will put this in the form of a memo.

F. CONSIDERATION OF REFERENDUM ORDINANCES:

1. TOLL REFERENDUM – ORDINANCE 05-02:

Mr. Roosa pointed out that there are 3 different alternatives in this ordinance that would send bridge tolls to referendum, and asked that Council select which language they prefer. He proceeded to read the 3 alternatives.

The 3rd alternative was selected by consensus. Mr. Roosa and Ms. Segal-George advised that the ordinance would be set for introduction on February 7th. It was noted that this was the only substantive change recommended by the CRC being adopted by Council.

2. CHANGE FROM PRIMARY ELECTIONS TO RUN-OFF – ORDINANCE 05-03

Mr. Roosa reminded Council that when the lawsuit was filed, one of the issues was the ordinance that changed the primary to a runoff. He explained that the original Charter had provision for a runoff when elections were held in November, but Council decided it would be better to have a primary and adopted an ordinance subject to referendum changing the runoff to the primary; after changing the date from November to March, it was decided preferable to have a runoff, and that ordinance was changed by vote of Council without referendum. Mr. Roosa advised that the legality of that ordinance was withdrawn from the court, so there was never a ruling, but he is recommending that this issue be submitted to the referendum process as well so there is no issue with respect to the legality of that provision. There was agreement that this ordinance will be read and introduced on February 7th.

3. CHANGE FROM THREE-YEAR TERM OF OFFICE TO FOUR – ORDINANCE 05-04

Mr. Roosa explained the purpose of this ordinance. Mr. Reynolds said he sees no reason to take this issue to referendum. There was discussion about whether to ask the citizens if they want a 3-year or 4-year term, and Mr. Roosa advised that the dates can be adjusted depending on the time of election. Mr. Reynolds made reference to public comments on the issue. Mr. Roosa explained that the Court has ruled that the Town cannot change from 3 year to 4 year terms without a referendum, and that being the case, he drafted an ordinance to submit the 4-year term to the public, otherwise the term will remain 3 years.

Mr. Rynearson expressed the opinion that the issue should be put to referendum so that everyone has the opportunity to express their opinion, not only those who attend the meetings.

Mayor Thomas referred to an article in the *Sand Paper* which included a definition of "politics."

Mr. Van Duzer noted that some members of the public were in favor of 2-year terms.

Mr. Massucco established that 3 seat expire in March, and the only way to rectify the matter is to have elections as soon as possible. Mr. Roosa pointed out that this is not the issue under consideration and cautioned against discussing the litigation out of Executive Session.

Mr. Van Duzer suggested that this ordinance not be put forward for referendum.

Mr. Rynearson expressed the opinion that it should be taken forward to referendum.

Mr. Massucco pointed out that the public was concerned with when an election would take place.

It was established that a majority of Council wanted no further action on this item.

Mr. Reynolds asked about the hiring of an independent attorney, which he has heard. Mr. Roosa replied that the services of Robert Donald had been retained. The source of the

information to the public was discussed, and there was discussion about Executive Sessions. It was noted that Executive Sessions are transcribed, and can become public record after the litigation is over.

VII. COUNCIL MEMBER ITEMS AND REPORTS: None.

IX. TOWN MANAGER'S ITEMS:

Ms. Segal-George advised Mr. Bergstrom that she would be happy to comply with his request.

She reported that the harbor is operating with boats tied up and a pumpout boat working so that boats are no longer discharging sewage tanks into Estero Bay. She recalled that the first idea for a harborage came in 1987 and it is now operating, which she described as a huge plus for the area and for the Island.

She also reported that the transportation initiatives have been moving very quickly and noted a positive editorial in the *News-Press*.

She reported that the Park-N-Ride went to full complement last Thursday. There is still some fabrication to be completed by Lee Tran, and Next Bus terminals are installed at Lynn Hall and Bowditch with Main Street and Summerlin Square to be completed this week. She noted that there had been a great deal of TV and radio coverage last week regarding the Park-N-Ride and the other proposed initiatives. One traffic camera is operating and will be on the Website by the end of the week, and 2 or 3 more are expected to be operating before the end of Season. The TMA has an extensive agenda of traffic initiatives which is moving forward, and goals are being met. Concrete pads are being poured on the Island at trolley stops, and there will be benches and trash receptacles installed by the end of February, which has been a goal of the Mayor's for some time.

She noted the approval of the 2 dredging projects at this meeting, which she said is significant for both Laguna Shores and Yachtsman's Cove, pointing out that these projects have been in the works for over 3 years. She also emphasized that under the County or other municipalities, the residents would have been assessed 100 per cent of the cost of such projects, and that not only did the Council enact a tax decrease this year, but they are continuing to spend Town funds on significant projects such as these that benefit residents.

Ms. Segal-George pointed out that Staff has a heavy workload at this time, and she called attention to the significant progress that is being made on a variety of projects.

Mayor Thomas thanked Ms. Segal-George for a very positive report and called attention to the fact that the Town is doing many things that other municipalities are not doing.

X. TOWN ATTORNEY'S ITEMS:

Mr. Roosa called attention to the ordinance concerning reorganization of the Council and election of the Mayor and Vice Mayor. He pointed out that the date in the ordinance was not changed when the election date was changed from November to March and proposed that an ordinance be introduced on February 7th to change the election of Mayor and Vice Mayor to the first regularly scheduled meeting in March. He explained that this is a housekeeping matter, and he received a consensus from Council to submit the ordinance on February 7th.

XI. PUBLIC COMMENT:

Dave Ostdiek of Widgeon Terrace came forward and asked a question about trolleys. Ms. Segal-George explained the trolley program and where the stops are necessary. She added that both short-term and long-term solutions are being investigated. In response to another question by Mr. Ostdiek, Ms. Segal-George explained that there are some parts of the Island where there is no right-of-way to get the trolleys out of traffic.

Karl Bergstrom came forward and noted that there are many positive things happening, naming the harborage as an example. He said that from personal experience at other locations he believes there is great potential for the Town. He spoke against inclusion of tolls in a referendum and said he would prefer that tolls not be an issue. He added that he recognizes that the election issue was an oversight, but would prefer that there be an election as soon as possible.

Tom Babcock thanked Council for their action on Ordinance 05-04 which he said he believes was the right thing to do. He said as much as he would like to see the voters have the opportunity to select the term limit, he disagreed with the way this ordinance was written and its timing. He also addressed the date of the next Executive Session and the possible date of an election. He verified that since the runoff ordinance will be on the ballot, for this election there will be a primary for multiple seats. Ms. Segal-George responded by explaining that the Supervisor of Elections will be providing a calendar of what dates are available.

Ceel Spuhler came forward and said she felt the need to come forward and point out that there are many who are pleased with how the Town is going. She noted that she volunteers on one of the 12 committees, with approximately 112 volunteers who work with the Town Manager and Staff. She said they feel that their voices are being heard, and that much is taking place. She said she is disturbed by the negativity, while she understands that residents can agree to disagree at times. She asked for cooperation among everyone and thanked Council and Staff for the progress that has been made.

Dan Hughes came forward and thanked Ms. Spuhler for her positive remarks. He added that there appears to be confusion about the scope of the Court's ruling. He quoted from the minutes of the meeting at which the 4-year terms were adopted and expressed personal preference for 3-year terms. He also made reference to CRC recommendations concerning seats which he would like to see revisited. Mr. Reynolds replied to Mr. Hughes' statement concerning the minutes of the above referenced meeting.

Andy Preem of Bay Beach Harbor Pointe came forward and echoed Ms. Spuhler's remarks about positive accomplishments. He addressed his remarks to Council concerning the election and asked that there be no further delays in holding an election.

Pat Smith agreed that there has been progress in many areas, but expressed the opinion that the election issue is a breach of trust between Council and the voters. She acknowledged that this was initially accidental but disagreed with prolonging the appeals in order to prevent a vote. She also objected to the ordinance proposed by Mr. Roosa at this time.

Jerry Sawyer of 111 Anchorage St. came forward and spoke about the issue of trust of the leadership. He said a vote is needed to clear this up.

An unidentified individual came forward and disagreed that the answer given to Mr. Babcock was correct, saying that this election should have a runoff if required rather than a primary. He said this was withdrawn as an issue in the court case. He also noted several proposals to amend the Town Charter and suggested that dates be amended to include provision for legal holidays. With respect to the approval of the 3rd option on bridge tolls, he suggested that this be reviewed because there are no controlling provisions of law. He spoke about the 2nd provision of Judge Corbin's ruling and the expiration of several Council terms after March 8th. He recommended giving these issues careful consideration.

Harry Heist came forward and said he came with hope and has heard good things and bad things. He expressed disappointment that the Town Attorney was not instructed to stop going forward with the lawsuit. He said anticipates problems in the future if an election is not held within the next 50 days because the public is angry.

Another unidentified individual came forward and said he was mistaken in his belief that there had been an appeal. He said that as a layperson he considered the motion to vacate as a request that the judge amend the decision or change his mind. He read a portion of the final judgment. He mentioned the expenditure of funds in the course of defending this lawsuit. He commented on the actions of the Town Attorney and also told Mayor Thomas that his comments are not meant as a personal attack.

Pat DeVincent came forward and referred to letters he had sent to Council concerning the election issue. He asked that the Council take action to make the election happen.

XII. ADJOURNMENT: Meeting was adjourned by motion and second, time not stated.

Respectfully submitted,

Patricia L. Middlekauff