

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
FEBRUARY 7, 2005  
Town Hall-Council Chambers  
2523 Estero Blvd.  
FORT MYERS BEACH, FLORIDA 33931**

**I. EXECUTIVE SESSION, 6:00 p.m.**

**II. CALL TO ORDER:** The regular meeting of the Fort Myers Beach Town Council was called to order on Monday, February 7, 2005 at 6:30 p.m. by Mayor Bill Thomas.

**Members present at the meeting:** Mayor Bill Thomas, Vice Mayor Garr Reynolds, Councilman Dan 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 Guccirado, Town Attorney Richard Roosa, Community Development Director Jerry Murphy, Mound House Co-Director Theresa Schober

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

**IV. INVOCATION – DEACON “SCOOP” KIESEL, CHURCH OF THE ASCENSION**

*NOTE: The tape recording began with Mayor Thomas giving the invocation.*

**V. INVITED GUEST – SHERIFF MIKE SCOTT**

Mayor Thomas introduced Sheriff Mike Scott. The Sheriff made reference to a murder and high speed chase in Fort Myers that day and apologized for his appearance. He said that Fort Myers Beach is the most immediate issue at the present time, and described efforts to prepare for Spring Break.

**VI. PUBLIC COMMENT:**

Fran Myers of 21461 Widgeon Terrace came forward and commented on past Council meetings which she has been watching on TV. She noted that none of the approximately 100 volunteers who serve on Town committees have appeared before Council expressing dissatisfaction. She complimented Council and Staff for their efforts and stressed that Town business must continue to be conducted. She added that perception in this case was not reality and that the critics were few in number.

Karl Bergstrom of 47 Fairview came forward and voiced his concern and dissatisfaction about the way Council has handled the election issue.

Charles Meador of 112 Mango St. came forward and expressed disappointment with the Fall election date. He said that he had called the Division of Elections Office in Tallahassee and had been advised by the Deputy Director that the Town does not have to use the Lee County Supervisor of Elections but can run its own election. He added that there are companies already approved by the Division of Elections that can run municipal elections and his research disclosed a company able to conduct an election in 21 days' notice for \$2,500 less than the Supervisor of Elections. He produced a written quote from this firm.

Bill Shenko, Jr. of 581 Carlos Circle came forward and made reference to Mr. Meador's remarks. He expressed the opinion that the Town Manager and 3 of the Council members were deliberately delaying the election. He urged that an election be held quickly.

Robin Calabrese of 2910 SW 29<sup>th</sup> Ave., Cape Coral came forward representing the Greater Fort Myers Beach Chamber of Commerce. She extended an offer by the Chamber to resume holding Town Hall meetings.

Marty Hartung of 4191 Bay Beach Lane came forward and recalled a speech made by Frank d'Alessandro concerning hurricane recovery. She complimented the Council on their efforts in helping property and business owners like herself recover within the first 6 months.

George Whistler of 21630 Madera Ave. came forward and commented on his view that the Town should elect its Mayor rather than have a Town Manager. He recalled that prior to incorporation there was not so much disagreement. He expressed concern about complying with the Town Charter and urged that an election be held quickly, making a comparison with a similar issue in Bonita Springs.

Grace Workman of 194 Coconut Dr. came forward and expressed disappointment with the election delay and with recent actions by certain Council members.

Pat Smith of 50 Fairview Blvd. came forward and expressed disagreement with the fall election and Council terms, with which she disagrees. The Mayor responded to her comments and described events that occurred following the last meeting resulting in the presence of LCSO personnel at this meeting.

Jerry Sawyer of 111 Anchorage St. came forward and commented concerning the elections and actions of Council and Staff. He urged that elections be held before fall.

Anita Cereceda, a lifelong resident of FMB, came forward and noted that there were 70 people in attendance, making a comparison with the population of the Island. She commented as a former Mayor that she believes it impossible to achieve any positive results for the Town without a belief in the goodness of people. She noted that the hurricanes had shown the best and worst of the community, stressing that FMB has rebounded better than any surrounding community. She emphasized that it is possible to disagree with someone without showing disrespect.

Roxie Smith of 21521 Madera Rd. came forward and thanked Council and Staff for their efforts toward betterment of the community. She expressed concern about the quality of life in the community after watching negative comments during televised Council meetings in recent months. She disagreed with recent speakers' claim to represent the majority of the residents of the community. She expressed the opinion that any error in extending terms was done in good faith with no ulterior motives and expressed a desire to get on with the business of the Town. She expressed dismay about comparisons made to Iraq since she has a grandson waiting to be deployed to that country.

Ken Katcko of 330 Donora Blvd. came forward on behalf of the Chamber and as a resident and business owner, and read a letter on the subject of elections. Reference was made to the amount of time being spent on the issue and the need for cooperation and respect.

Frank Schilling of 6672 Estero Blvd. came forward and spoke about mitigation of hurricane damage at his condominium complex. He described the damage and asked that something be done to allow them to put back a fence that was allowed in 2002.

Mayor Thomas closed Public Comment and thanked everyone for attending and for their comments. He encouraged them to continue attending future Council meetings.

**MOTION:** Motion was made by Councilman Massucco that Council instruct the Town Manager and Town Attorney to immediately begin the process described by Mr. Meador to hold the Town's own election. Motion was seconded by Vice Mayor Reynolds.

Mayor Thomas asked for a legal opinion, and Mr. Roosa advised that it is important to follow the proper procedures to avoid challenges of elections. He noted that the Town's established election procedure is through an agreement with the Lee County Supervisor of Elections and expressed concern about the legal issues involved in deviating from that procedure and also the process itself. Mr. Van Duzer suggested that the matter be deferred until later in the meeting, saying he had no problem with an open discussion. It was agreed to insert this between Agenda Items VIII and IX.

**VII. CONSENT AGENDA:**

**A. APPROVAL OF COUNCIL MINUTES:**

1. JANUARY 3, 2005:
2. JANUARY 10, 2005:
3. JANUARY 24, 2005:

**B. RESOLUTION 05-05 FOR FLORIDA LEAGUE OF CITIES LEGISLATIVE PRIORITIES**

**MOTION:** Motion was made by Mr. Van Duzer and seconded by Mr. Rynearson to approve the Consent Agenda, Items A.1,2 and 3 (with corrections) and B.

**DISCUSSION:** Vice Mayor Reynolds called attention to certain items in the minutes which Mr. Van Duzer as motioner and Mr. Rynearson as seconder agreed to accept as part of the motion. Mr. Reynolds noted that he had spoken with Rachel Lambert about the changes, which were submitted in written form.

Mr. Massucco asked to withdraw Item B for discussion as he did not agree with some of the language. Ms. Segal-George explained that the Town has no input on this document which is received yearly from the Florida League of Cities. Mr. Reynolds moved that this be delayed until the next meeting for further study.

**VOTE:** Motion to approve the Consent Agenda passed by a vote of 3 – 2, Vice Mayor Reynolds and Councilman Massucco casting “no” votes.

**VIII. ADMINISTRATIVE AGENDA:**

**A. MOUND HOUSE REQUESTS:**

**1. CONTRACT EXTENSION FOR POOL EXHIBIT ARCHAEOLOGICAL**

**MITIGATION:**

Mound House Co-Director Theresa Schober came forward and gave a brief overview of the project. The requested contract extension is completely covered by grant funds.

Mr. Van Duzer verified the amount of the extension being requested, which Ms. Schober explained as \$37,000 all of which is grant funding. There is no additional cost to the Town.

**MOTION:** Motion was made by Mr. Rynearson and seconded by Mayor Thomas to accept this request for contract extension.

**DISCUSSION:** Mr. Reynolds referred to the Mound House job description and salary range.

**VOTE:** Motion passed unanimously, 5-0.

**2. NEGOTIATION OF ARCHITECTURAL SERVICES FOR MOUND HOUSE WALK-IN SHELL MOUND EXHIBIT:**

Ms. Schober explained this item, recalling that Council had directed her at the January 3, 2005 meeting to move forward with negotiations with Renker Eichs Parks architects. She reported on her negotiations with Renker Eichs Parks and described the various phases of the project.

**MOTION:** Motion was made by Mr. Rynearson and seconded by Mayor Thomas to approve the item.

**DISCUSSION:** Mr. Massucco verified that the amount of the fee is included in grant funding.

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

### **3. REQUEST TO SET KAYAK TOUR PROGRAM FEES:**

Ms. Schober explained the history of the kayak landing project, which was grant funded. She described the tours being offered and the manpower required to conduct these. She reported that on January 21<sup>st</sup> the CELCAB recommended establishing appropriate fees for these tours so as not to compete with commercial tour enterprises and to recoup some of the salary costs and other expenses. She advised that CELCAB had unanimously recommended \$25 per person for the Full Moon Tour; \$30 for the Creatures of the Back Bay Tour; and \$40 for the Mound Key Tour in addition to recommending a 50 per cent reduction for FMB property owners.

**MOTION:** Motion was made by Mr. Ryneason and seconded by Mr. Van Duzer to approve the item.

**DISCUSSION:** In response to a question by Mr. Reynolds concerning kayak rentals and rezoning, Ms. Schober explained that rezoning is a necessity under the terms of the Florida Communities Trust grant which funded the purchase. She noted that they are not renting kayaks, but rather conducting guided educational tours. Mr. Reynolds noted that there is public opposition to changing the Mound House to a CPD. In response to a question by Mr. Reynolds, the Town Manager explained that it is possible to limit uses under the CPD and that there is no other zoning category appropriate for Mound House projects and programs. She emphasized that restaurants and bars would not be permitted.

**VOTE:** Motion was passed by vote of 3-2.

### **B. REORGANIZATION OF COMMUNITY DEVELOPMENT DEPARTMENT AND STAFFING NEEDS:**

Mr. Murphy came forward and referred to his memorandum on this subject. He explained that his assistant, Chris DeManche, will be leaving at the end of this week for a new career as a planner with the City of Cape Coral, and coupled with another vacancy, he views this as an opportunity to reorganize in order to provide adequate service to the public.

Mr. Reynolds expressed the opinion that additional employees are not needed. Mr. Murphy explained the workload involved including code enforcement.

Mr. Massucco expressed regret at Mr. DeManche's departure and noted the proposed upgrade in the new position. He agreed with Mr. Reynolds that an additional code enforcement position is not appropriate at this time and also said he was in favor of replacing Mr. DeManche's position with the upgrade.

Mr. Van Duzer noted that with the additional code enforcement position the compensation would be \$79,000. He expressed preference for replacing Mr. DeManche and the sign person, but consider taking code enforcement out of the interlocal agreement and bringing it in-house under full time FMB employment. He also expressed regret that Mr. DeManche is leaving. There was discussion about compensation of code enforcement personnel.

**MOTION:** Motion was made by Mr. Ryneason to approve replacement of Mr. DeManche's position as Mr. Murphy suggests with the upgrade, and to revisit the code enforcement position later in the summer.

**DISCUSSION:** Mr. Reynolds addressed the salary ranges. Ms. Segal-George explained that 70 per cent of the phone traffic at the present time pertains to Mr. Murphy, with people sitting in line waiting to see him. She said that people are angry because the lines are so long, and that this is very technical work requiring an individual with specialized knowledge. She described the time consuming nature of these contacts and the number of people needing assistance on complex issues.

Mayor Thomas said he supports the motion because FMB has had a reputation for providing the best customer service in Lee County and he wants this to continue.

Mr. Reynolds clarified with Mr. Murphy the intent of his memo concerning the additional positions and the increase in compensation. He said he could not support a 37.5 per cent increase.

Mr. Rynearson added that the Town is not paying higher salaries than other government entities.

**VOTE:** Motion passed by a vote of 3-2.

**C. REIMBURSEMENT FOR HURRICANE CHARLEY STAFF HOURS:**

**MOTION:** Motion was made by Mr. Van Duzer that the administrative staff be reimbursed for their overtime hours work with the understanding that the bill will go to FEMA for 100 per cent reimbursement. Motion was seconded by Mr. Rynearson.

**DISCUSSION:** Mr. Reynolds commented on the number of hours worked by certain employees and suggested that some of this time should be voluntarily donated back to the Town. Mayor Thomas disagreed strongly with this position and suggested that some of the public in attendance volunteer in various efforts.

Mr. Massucco disagreed with Mr. Reynolds and noted that although he was out of town, he saw the results on his return.

Mr. Van Duzer noted that these were extremely trying times, and agreed that asking them to volunteer some of the time worked was inappropriate. He thanked everyone for the amount of additional effort, particularly Ed Lawler. He added that there were a number of individuals who volunteered.

Mr. Reynolds clarified his earlier statement.

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

**D. PUBLIC HEARING OF ORDINANCE 05-01 – AMENDING THE FINANCE ORDINANCE BID PROTEST PROCEDURE:**

Mr. Roosa read the title of the ordinance. Mayor Thomas noted that there would be a roll call vote on this item.

Public Hearing was opened at this time. There being no public comment, Public Hearing was closed.

Mr. Van Duzer verified that this was a single Public Hearing.

**MOTION:** Mr. Van Duzer moved for adoption of this ordinance with one change to the printed content of the ordinance on Page 1 which says, "Bids shall be opened by the Town Manager in the presence of the Town Clerk..." and recalled a question about this at the last meeting which he said he believed was valid. He would like to change that wording to read, "Bids shall be opened by two Staff members as designated by the Town Manager ..." Motion was seconded by Mr. Rynearson.

**DISCUSSION:** Mr. Massucco recalled that the Town Manager had pointed out that any change to this ordinance would require a Charter change. Mr. Roosa called attention to Agenda Item VIII.F which addresses this issue. Mr. Van Duzer then withdrew his motion.

**MOTION:** Motion was made by Mr. Rynearson and seconded by Mr. Van Duzer to accept the ordinance as written.

**DISCUSSION:** Mr. Reynolds received clarification concerning Ordinances 05-01 and 05-06.

**VOTE:** Motion was passed by unanimous vote, 5-0. (NOTE: A roll call vote was not taken.)

**E. INTRODUCTION OF ORDINANCES:**

**1. TOLL REFERENDUM – ORDINANCE 05-02:**

Mr. Roosa read the titles of this ordinance. This ordinance will be set for Public Hearing on February 28, 2005 at 6:30 p.m.

Mr. Reynolds made reference to Section 12.02 and asked Mr. Massucco to comment.

Mr. Massucco recalled that he had raised a question on this section and had been provided a copy of the general law 100.342 by Mr. Roosa, which answered his question.

Mr. Reynolds described the statement in this section as cut and dried and expressed concern that it was too simple to serve the intended purpose. He provided and read a proposal which he recommends.

Mr. Massucco expressed a preference for simplicity. Other Council members agreed. Mr. Reynolds asked Mr. Roosa for his opinion, and Mr. Roosa advised that the sentence and a half as written adequately protect the public.

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

**03:**

Mr. Roosa read the title of this ordinance. This ordinance will be set for Public Hearing on February 28, 2005 at 6:30 p.m. Mr. Van Duzer and Mr. Rynearson recommended that this ordinance be set for Public Hearing. Mr. Van Duzer added that he had recommended to Mr. Roosa that this ordinance be made retroactive to the 22<sup>nd</sup> day of September, 2003 to cover any problems that might be encountered in the future, and he verified with Mr. Roosa that he felt this was unnecessary.

**3. REORGANIZATION OF MAYOR AND VICE MAYOR – ORDINANCE 05-04:**

Mr. Roosa read the title of this ordinance. This ordinance will be set for Public Hearing on February 28, 2005 at 6:30 p.m. Mr. Van Duzer recommended that it be set for Public Hearing.

**4. SETTING OF ELECTION DATE – ORDINANCE 05-05:**

Mr. Roosa read the title of this ordinance. During discussion it was explained that this is a temporary measure but will go into the Charter and was recommended by the Court to allow for extension of Council member terms that would expire on March 8 until the next election can be held. There was discussion about election procedures. Mr. Van Duzer recommended that this ordinance be moved forward for Public Hearing on February 28, 2005 at 6:30 p.m. in anticipation that a date certain will be determined later in this meeting. There was further discussion about terms and election dates.

**F. CONSIDERATION OF DRAFT ORDINANCE 05-06 – AUTHORIZED BID**

**OPENING:**

Mr. Van Duzer suggested changing the wording to read "Bids shall be opened by the Town Manager or the Town Manager's designee in the presence of the Town Clerk or designee at the time and place specified in the notice." He noted that this will give the Town Manager the ability to designate a Staff member to take the place of the Town Clerk.

Mr. Reynolds made reference to Line 28 and suggested the wording, "...can be opened by the Town Manager in the presence of a Department Head and the Town Mayor ... and with the public invited." It was noted that bid openings are already open to the public. Mr. Van Duzer expressed concern with adding a 3<sup>rd</sup> person and said he did not think this should be the responsibility of the Mayor. Mr. Reynolds explained that this would be one way of increasing communication between Council and Staff. Mayor Thomas objected to assigning this task to the Mayor. Mr. Rynearson pointed out that this is Staff's responsibility and that bid openings are open to the public. Mr. Massucco again asked whether adding anyone other than Town Manager and Town Clerk would require a Charter change. Mr. Roosa was of the opinion that adding the Mayor would probably require a Charter change because it would mean the Legislative branch

becoming involved with the Executive branch. Adding a designee would not require a Charter change. Mr. Massucco added that he was not in favor of any Charter changes.

Mr. Reynolds called attention to Line 20 of Section 6 concerning purchase transactions over \$25,000 and suggested adding the provision that such transactions must be approved by Council. On Item B he recommended that a week was a very short period of time for someone to respond and suggested 21 days. The Town Manager pointed out that the Town has been operating under these rules which are currently in existence. Other Council members expressed the opinion that no changes were needed. Mr. Van Duzer recalled that the amount had been raised from \$10,000 to \$25,000 at a previous date. Mr. Massucco added, "If it ain't broke, don't fix it."

Mr. Roosa advised that this ordinance will be introduced at the next meeting. The wording was verified by Mr. Roosa.

Ms. Segal-George pointed out that the issue of the election was to be added at the end of the Administrative Agenda.

**MOTION:** Mr. Van Duzer recommended looking into the proposal made by Mr. Meador earlier concerning an earlier election date. He noted that he had spent almost an hour on the telephone with Elections Supervisor Sharon Harrington in response to a letter he had sent her, and she advised that there are legal issues involved, including the Town's contract with her office. He emphasized that he was not opposed to taking a look at this proposal but recommended scheduling a November election while investigating Mr. Meador's proposal for doing it sooner.

Mr. Reynolds noted that some of the public are under the impression that Council has set a date, while no vote has actually been taken on an election date.

**MOTION:** Motion was made by Mr. Reynolds that Council set a date of the second Tuesday in April and a runoff on the second Tuesday of May 2005. Motion was seconded by \_\_\_\_\_.

**DISCUSSION:** Mr. Rynearson observed that the Town Attorney is telling Council this is not legally possible. He stressed that this issue must be resolved before acting on any motion and pointed out that Sharon Harrington runs the Town's elections. He agreed with Mr. Van Duzer to set the election for November 8, 2005 and move it up if there is a legal possibility of doing that. There was discussion about whether or not Mr. Van Duzer had made his proposal in the form of a motion. Mr. Rynearson then seconded this motion. The Mayor noted that there were two motions on the floor with seconds, and called for a vote on the Vice Mayor's motion first. More discussion was requested by Mr. Reynolds and also by Mr. Van Duzer, who expressed the opinion that the Vice Mayor's motion would set an election date that might not be possible to keep. Mayor Thomas noted that the Elections Supervisor has stated the November date, and until it is proven that the Town can do otherwise, this date should be set and the controversy ended. The Mayor stated that he supports Mr. Van Duzer's motion. Mr. Massucco noted that when Mr. Meador presented his proposal he had indicated having spent a lot of time on the telephone with elections officials. He felt that the April/May date would be appropriate and more beneficial. Mr. Reynolds added that he felt Mr. Meador's proposal should be adopted.

Mr. Roosa noted that the ordinance is set for hearing at the end of February, and the date is required by that time, but not before. He recommended that the Council appoint Mr. Massucco and himself to meet with the Supervisor of Elections and review Mr. Meador's proposed procedure to determine whether it would meet with State regulations and if the election can be held in May. He noted that Town Hall does not have the election rolls of registered voters, so the Supervisor of Elections must be involved in the process. He anticipated that this committee could report back at the next Council meeting, February 28<sup>th</sup>. Mr. Reynolds said he would have no objection to Mr. Massucco being so designated. There was discussion about the date of the next meeting and effective date of the ordinance. Mr. Massucco advised that he would be happy to attend such a meeting, provided he could also have an attorney with him.

**VOTE:** Vote was taken on Mr. Van Duzer's motion. Motion passed by a vote of 3 – 2.

**IX. COUNCIL MEMBER ITEMS AND REPORTS:**

**Bill Van Duzer** asked the public who were beginning to leave Chambers to remain. He made the statement that he is tired of the constant barrage of hateful, hurtful, demeaning and often untruthful statements, letters, conversations and general behavior that has recently been displayed by so many. Mr. Reynolds verified as a point of order that the agenda had moved to Council Member Items and Reports. Mr. Van Duzer stated that as just demonstrated, actions have reached a personal level that he considers shameful and unwarranted. He described his efforts in raising money for the American Cancer Society and called attention to the contrast in cooperative spirit within the community. He asked for what purpose the community is suffering and asked that a close look be taken at what has been called a "war" by some individuals. He recalled issues resulting in controversy beginning with the hurricanes and responded to each individually. He noted that the ordinance which was the basis of the lawsuit was adopted over 4 years ago and wondered why it took so long to be raised as an issue. He conjectured that there may be a hidden agenda behind the lawsuit. He recalled the reasons considered by Council in adopting the ordinance and stressed that after proper consideration by Council, the record shows that the ordinance was drafted and approved by unanimous vote. He also pointed out that since adoption, 5 Council members have been elected to 4-year terms under this ordinance with no objections being raised.

Mr. Van Duzer emphasized the following dates:

September 27, 2004 – Mr. Meador files lawsuit.

October 14, 2004 – Town files motion to dismiss

October 13, 2004 – Attorney Meador files notice of non-availability through period ending November 8, 2004

November 22, 2004 – Judge granted Town's motion to dismiss but allowed Mr. Meador the opportunity to amend his complaint

December 13, 2004 – Judge heard amended complaint by Mr. Meador and rules in his favor, but allowed defendant (Town) opportunity to respond prior to first part of January 2005

December 30, 2004 – Town's response submitted to Court

January 6, 2005 – Judge issues motion of summary judgment in favor of Mr. Meador, and ordered Mr. Meador to provide a form of final judgment for the Court's consideration

January 13, 2005 – Judge heard evidence from defendant and plaintiff (Mr. Shenko standing in for Mr. Meador, who was not available) and (1) denied Town's motion to vacate, and (2) denied the form of judgment presented on that same day by Mr. Shenko as being not satisfactory.

January 20, 2005 – Judge issued final judgment modified from prior summary judgment. This final judgment did not call for elections to be held in March, as has been circulated. The judge removed this from the final judgment.

Mr. Van Duzer stated that it is apparent from this timeline that at no time did the Town delay the legal process but was accommodating to the Court system, while Mr. Meador delayed the process on two occasions. He emphasized that there has been false and misleading information about the Town's actions which is damaging to Council and Staff.

**Vice Mayor Garr Reynolds** commented about the use of the word "negativism."

He reported having observed pool water being discharged on the Beach and said he intended to call Code Enforcement.

He had been called to Connecticut Ave. by a resident yesterday because someone cutting grass at the Mound House was blowing debris and causing noise. The Town Manager advised that she has 2 incident reports about this and asked Mr. Reynolds to speak with her.

He thanked the public for showing up and made reference to Robert's Rules of Order.

**Mayor Bill Thomas** replied to Mr. Reynolds' mention of Robert's Rules of Order.

He noted that much had been accomplished at this meeting even though there had been disagreement, calling attention to the election date which provides 9 months for the Town to get on with its business. He said he has spoken with many people about the statement that the townspeople are "demanding" an election and asked specific questions about their impressions of Council, and found that there was no negative response. He urged the public to become involved in the Town's many committees and become a part of the team.

**Councilman Howard Rynearson** noted that there were 2 recurring issues: (1) Fire Town Manager Marsha Segal-George, for which Council has no basis, and (2) anger over the post-hurricane events. Mr. Rynearson called attention to the fact that a meeting had been held with County and other emergency personnel involved at which the public was invited to attend and present their opinions, and which no public had attended except 2 people from the Beach Medical Clinic who asked to be part of the committee. He agreed with Mayor Thomas that those who are critical should volunteer to serve on the committees.

**Councilman Don Massucco** pointed out that Mr. Babcock, a member of the Charter Review Committee, and not Mr. Meador who had originally brought up the issue of the 2001 ordinance.

He wished Mr. DeManche well in his new position in Cape Coral.

Mr. Massucco also thanked Sheriff Mike Scott for coming and speaking.

He noted that Mr. Murphy had appeared before the BOCC regarding Beachway Resort, which is expected to impact Beach traffic, and secured a delay, and thanked him for his efforts.

He congratulated the TMA and maintenance people for getting the camera up and running.

**X. TOWN MANAGER'S ITEMS:**

Ms. Segal-George listed some of the positive things going on in the Town:

Friday evening at 6:00 p.m. there will be the annual volunteer dinner honoring over 100 volunteers from the various committees.

The Laguna Shores drainage project is under way.

There was a favorable editorial last week about the cameras, one of which is now on the Web page with others in the works.

The *News-Press* printed an article on the Park-N-Rides.

There has been a great deal of media coverage on all of the traffic initiatives.

The fountain at the end of Old San Carlos is up and running.

Finance Director Janeen Paulauskis will be involved in the 8<sup>th</sup> annual audit.

Ms. Segal-George commented that she would use the word "accusatory" rather than "negative." She pointed out that she had never spoken with the Supervisor of Elections until today, nor had she been asked to go outside the scope of the interlocal agreement.

**XI. TOWN ATTORNEY'S ITEMS: None.**

**XII. PUBLIC COMMENT:**

Tom Babcock of Williams Drive came forward and thanked the Mayor for sharing the results of the Executive Session at the beginning of this meeting. He thanked the Council for being willing to forego an appeal and for being willing to consider acceleration of the election. He recalled bringing 2 Charter issues before Council last fall and noted that the primary/runoff issue has not been addressed. He asked that an Attorney General's opinion be obtained on this issue to avoid further lawsuits or contested elections.

Pat Smith came forward and agreed with Mr. Babcock that the primary/runoff issue needs to be resolved. She made reference to legal advice from Mr. Roosa. She disagreed with the Mayor that much of the public is not unhappy and stressed that a referendum is needed to determine how the public feels. She also objected to invitations to volunteer on Town committees.

Anita Cereceda came forward and expressed concern with following the Policies and Procedures Manual with respect to non-advertised issues and voting on issues not on the agenda. She also referred to the quasi-judicial capacity and stated that Mr. Reynolds did raise an issue at this meeting prior to the LPA hearing the Mound House zoning case tomorrow.

**XIII. ADJOURNMENT:** Meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Patricia L. Middlekauff  
Transcribing Secretary