

**FORT MYERS BEACH
TOWN COUNCIL
Town Hall – Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, FL 33931
February 6, 2006**

I. CALL TO ORDER

Mayor Reynolds called a regular meeting of the Town Council to order on Monday, February 6, 2006 at 6:30 PM.

Members Present: Mayor Garr Reynolds, Vice Mayor Don Massucco, Councilman Dennis Boback, Councilman Charles Meador, Councilman Bill Shenko

Excused Absence: None

Staff Present: Town Manager John Gucciardo, Town Attorney Anne Dalton

II. PLEDGE OF ALLEGIANCE

All in attendance stood for the recitation of the Pledge of Allegiance.

III. INVOCATION

Deacon “Scoop” Kiesel of the Church of the Ascension gave the invocation.

IV. PUBLIC COMMENT

Claudia Mayer of Ft. Myers Beach came forward. Ms. Mayer spoke about the Times Square Street Performers program, and offered to take the place of John Scott, the Town’s advisor to the group, in a voluntary capacity.

Todd Privatera of Ft. Myers Beach came forward. Mr. Privatera expressed his dismay at not being able to secure a permit to take part in the Times Square Street Performers program. Mr. Privatera had offered to help rewrite the rules for the program, as he felt his perspective as a street performer would be valuable, but said Mr. Scott had dismissed his ideas. Mr. Privatera said the new rules by Mr. Scott had negated his opportunity to work in his own home town as a street performer.

V. CONSENT AGENDA – Approval of Minutes

A. January 9, 2006

B. January 23, 2006

MOTION: Vice Mayor Massucco made a motion to approve the Consent Agenda. Councilman Shenko seconded the motion.

Mayor Reynolds remarked that he liked the condensed minutes being provided.

Mayor Reynolds mentioned a schedule conflict with a Council meeting and a Civic Association meeting on February 21st and asked that it be taken up as Item B-a in the Administrative Agenda.

Councilman Shenko remarked that the transcriptionist was doing an excellent job.

VOTE: The motion carried unanimously.

VI. ADMINISTRATIVE AGENDA

A. Presentation on FEMA Maps by Dick Tomasello, Consulting Engineer

Mr. Dick Tomasello came forward to make his presentation with the aid of projected computer-driven charts, maps and graphs which illustrated the proposed FEMA maps and the science used to create them.

Mr. Tomasello said his firm's analysis was that if they changed some factors used by FEMA in its calculations, the result would not be noticeably different in terms of the position of the V-Zone on the Island, with the exception of the northernmost area near Times Square, although it would not be significant. Mr. Tomasello characterized his firm's findings as disappointing.

Mayor Reynolds noted that the new FEMA maps would greatly impact both businesses and residences alike.

Mr. Tomasello recommended contacting FEMA, as he felt they would be receptive to any changes suggested before the appeal period officially began, as had been the case during Collier County's remapping experience. He noted that the changes that probably could be made would not have the desired effect of moving the V-Zone significantly back toward the Gulf.

Councilman Meador mentioned the preliminary maps that had been made available to the public, and asked when FEMA's proposed maps would be released to the public. Mr. Tomasello believed they would be delayed because FEMA's study had been extended to inland areas.

Matt Feeney, FMB Public Services Director, came forward. Mr. Feeney stated that, thus far, there had been no changes to the preliminary maps that had been made available already.

Mr. Tomasello noted that changes to the maps, as proposed by his firm, could benefit the properties closer to the bay side of the Island, as the flood elevations there would be lower.

Councilman Shenko asked if FEMA had taken into account the water depth offshore, especially on the north end of the Island. Mr. Tomasello said they did take it into account in the wave set-up analysis, but not in the WHAFIS (Wave Height Analysis for Flood Insurance). Councilman Shenko wondered if the Sanibel bar could be taken into consideration in the map calculations. Mr. Tomasello said it was a point that they could raise with FEMA.

Vice Mayor Massucco asked what the best-case scenario was that the Town could hope for with regards to suggested changes in the FEMA maps, and asked if it was worth pursuing.

Mr. Tomasello explained what results Collier County had gotten in their appeal, as a way of answering Vice Mayor Massucco. Ultimately, Mr. Tomasello said once all the studies undertaken in pursuit of Collier's appeal had been completed, FEMA may revise their map in the future. Mr. Tomasello felt FEMA would compromise to some extent, but was not currently inclined to accept major flood elevation reductions after the significant impact of Hurricane Katrina.

Mr. Tomasello said FEMA was going to implement their maps, whether the Town undertook a re-study such as was on-going in Collier County. He said if some of the inconsistencies in the WHAFIS analysis were brought to FEMA's attention, they would listen.

Vice Mayor Massucco asked Mr. Tomasello if it would be worthwhile to hire an economist to present the Town's case with regard to economic impact of the proposed maps. Mr. Tomasello did not think FEMA cared about that at all.

Vice Mayor Massucco asked if other entities had been successful in appealing FEMA maps. Mr. Tomasello said he knew of one city that had won an appeal.

Mayor Reynolds asked if the delay of the maps' release had been affected by the work Mr. Tomasello and Mr. Feeney had done with FEMA. Mr. Tomasello didn't believe so.

Councilman Meador asked if the proposed beach renourishment project, if completed, would have a significant impact on the proposed FEMA map. Mr. Tomasello did not think so.

Councilman Shenko asked if a partial still water elevation study could be done on the north end of the Island, coupled with the consideration of the Sanibel bar, as a way of mitigating the impact of the V-Zone position in that area.

Mr. Tomasello said a still water elevation study would have to be done on the entire coastal region of Lee County. However, he felt a re-analysis of the wave transects should be done, and in fact his firm planned to propose doing that.

Councilman Shenko asked if Mr. Tomasello would be available to travel with someone from the Town to the meeting with FEMA planned in Atlanta. Mr. Tomasello said he would be available.

Mayor Reynolds thanked Mr. Tomasello for his presentation.

B. Brief Presentation by Fire Chief Mike Becker – Requested by Mayor Reynolds

Chief Mike Becker came forward to make his presentation regarding hurricane preparedness.

Chief Becker said Homeland Security had charged the fire service with two areas of responsibility: terrorism and disaster preparation. Locally, the fire district had focused on disaster preparation.

Chief Becker said if preparations began now, with regard to hurricanes, disasters would be handled much more efficiently.

Some points Chief Becker raised:

- 1) Assure the safety of loved ones – safe shelter, medical needs, finances, evacuation routes, etc.
- 2) Determine how to protect one's home and property – identify risks from both wind and flooding
- 3) Formulate a recovery plan

Councilman Meador stated that FEMA had specifically been kept off the Island after Hurricane Charley, and asked if Chief Becker's intention was to do the same.

Chief Becker said he had developed a good relationship with FEMA since the advent of Hurricane Wilma, and that he could better serve the community as a result.

Councilman Meador recounted the number of officials, medical personnel and business owners who had not been permitted to come onto the Island after Hurricane Charley, regardless of the assistance they were there to provide. He asked again if Chief Becker intended to do the same.

Mayor Reynolds felt Councilman Meador's question was not timely, as Chief Becker's presentation was with regard to preparation. Councilman Meador

said he wanted to know if Chief Becker intended to go in that same direction as had been followed under the previous fire chief.

Chief Becker asked Councilman Meador to contact his office with his concerns, as his intention was to work with the Council in addressing their concerns. He assured Councilman Meador that his vision of disaster preparedness was very different from the former chief's vision.

Councilman Shenko believed Chief Becker would handle things better, based on conversations he had had with him after Hurricane Charley, before Councilman Shenko had been elected to Council and before Mr. Becker had been promoted to Chief. Councilman Shenko thought the Council, the Board of Fire Commissioners and the Town Staff should have a workshop, regarding the basics of hurricane preparedness and recovery, before the hurricane preparedness seminars were held for the public. Chief Becker said he would bring the idea to the next board meeting. Mayor Reynolds asked if Councilman Shenko and Chief Becker could meet to plan for the proposed workshop. Chief Becker said he would be happy to do that.

Mayor Reynolds noted that Chief Becker was scheduled to appear before Town Council again on February 21st, but that the date of that meeting might be changed.

B-a. Schedule Conflict between the Civic Association meeting and the February 21st Council Meeting

MOTION: Councilman Shenko made a motion to move the Council meeting to February 22nd at 6:30 PM to resolve the scheduling conflict. Councilman Meador seconded the motion.

VOTE: The motion carried unanimously.

A member of the Civic Association invited all to attend their meeting on Tuesday, February 21st at 7:30 PM, at which Eric Lindblad, Executive Director of the Sanibel-Captiva Conservation Foundation would make a presentation about the Lake Okeechobee discharge situation.

C. Neptune Inn Appeal Continuance

Town Attorney Dalton, referring to a memo dated 2-01-06 from Jerry Murphy and her, Ms. Dalton said discussions were still ongoing with the applicant, and requested a continuance of this item.

MOTION: Councilman Shenko made a motion that Council take up the item at 6:00 PM on February 13th in conjunction with the scheduled Land Use meeting. Councilman Boback seconded the motion.

VOTE: The motion carried unanimously.

Mr. Gucciardo brought up the fact that there were a number of special meetings and executive sessions that needed to be scheduled. Additionally, he asked if there were other items that Council needed placed on the agenda for February 13th.

It was determined that the February 13th meeting should be called a special meeting as opposed to a land use meeting, so that other non-land use items could be added to the agenda. Ms. Dalton said special meetings had to be noticed with the agenda items included in the notice, and asked that the additional items be made known to her as soon as possible.

Councilman Shenko asked that the appointment of an interim Town Manager be placed on that agenda.

Mr. Gucciardo suggested that the next stage of the hiring of a Town Manager also be put on that agenda.

Councilman Boback suggested the discussion with regard to selection of a firm to do background checks and drug testing also be placed on that agenda.

Mayor Reynolds asked if the agenda items list had to be finalized at this meeting. Ms. Dalton said it did not. Mayor Reynolds asked that all suggested items be given to Ms. Lambert for inclusion the February 13th agenda no later than Wednesday morning, February 8th.

D. Public Hearing Continued – Ordinance 06-01 Anchorage Advisory

Attorney Dalton, citing her memo of 2-02-06, said she had investigated as to whether the DEP had the ability to rule on the ordinance, and had found that it did have that ability. She then reviewed the DEP Environmental Resources permit issued in June 2003, which required the Town to submit changes in the Anchorage Advisory ordinance to the DEP for approval within 30 days of adoption. Ms. Dalton said she had already requested of two DEP local representatives that they review the ordinance before it is adopted, which she felt would avert the possible necessity for the repeal of the ordinance if the DEP found it objectionable. She said she had not received any comments about the ordinance from the DEP as yet. Ms. Dalton suggested the postponement of the public hearing on the ordinance until the February 22nd Council meeting.

MOTION: Councilman Boback made a motion to move the ordinance hearing to the Council meeting on February 22nd at 6:30 PM. Councilman Meador seconded the motion.

VOTE: The motion carried unanimously.

Although given the opportunity to speak on this issue, no one from the public came forward at this time.

E. Summary of Times Square Performers

Mr. Gucciardo, referring to a memo the Council packet, briefly reviewed the analysis of manpower and dollars spent in the management and overseeing of the Times Square Street Performers program.

Mayor Reynolds thought the estimate of money and manpower was very high, and didn't believe it was accurate. He didn't believe there should be an extra charge for Beach Patrol and Town maintenance staff with regard to the program.

Councilman Meador asked if the money spent was taxpayer money. Mr. Gucciardo said the money came partially from TDC and partially from CRA funds. Councilman Meador asked who had paid for the oversight of the program prior to the Town's having taken it over. Mr. Gucciardo said no one had paid money, as the street performers had managed themselves, and for a while, the Times Square Advisory Committee had managed them, up to that point. The TSAC had asked the Town to take it over because it had become too big for them to handle. Councilman Meador asked that a breakdown of the operating cost estimate be done to show tax money, TDC money and CRA money. Mr. Gucciardo said he would try to do that. Councilman Meador asked if the Times Square merchants were happy with the program. Mr. Gucciardo said he had gotten had been mainly positive although there were still ongoing issues with some of the rules and regulations formulated by John Scott – especially the distinction between vendors and performers.

Councilman Boback asked who benefited the most from the program. Mr. Gucciardo felt the whole Town benefited from it. He asked if the merchants in Times Square were unwilling to run the program themselves. Mr. Gucciardo felt they had tried, but were unable to manage it. Councilman Boback asked if the merchants had offered any assistance to the Town with regard to the program, and Mr. Gucciardo felt they had through the TSAC.

Councilman Shenko said he would like the TDC to pay for the program. He said the TDC and CRA dollars did help defray the cost to the Town, but he needed to do more research as to where those funds actually came from. He didn't feel the Town needed another branch of government.

Mr. Gucciardo said the CRA money was actually Town tax money. Mayor Reynolds believed the CRA money was collected only from taxes paid on properties in the Times Square area, not Town-wide. Mr. Gucciardo said if the CRA had not been created, those tax dollars would be going into the Town's general fund; instead, those funds were spent only in the CRA district.

Councilman Shenko guessed it cost about \$20,000 per year to run the program, and that the time Town personnel spent overseeing it was time not spent on their regular duties. He noted that Beach Patrol charged extra for assistance in oversight of the program. Mr. Gucciardo said the Beach Patrol did attend to other things while in the Times Square area. Mayor Reynolds said when the Beach Patrol came up for renewal, the Street Performer program should be included as part of their regular duties, and should not require additional money. Councilman Shenko noted that they worked later than their usual hours to accommodate the program.

F. Mayor Reynolds' Communication Regarding Workshop – Requested by Vice Mayor Massucco

Mayor Reynolds believed most people had seen his “bad letter”, which he said he wrote in a moment of frustration. He didn't believe it had been illegal to have written the letter, but said it had been uncalled for. Mayor Reynolds said his apology letter needed to be included in the record.

Vice Mayor Massucco thanked Councilman Shenko for making the letter a part of public record, and then reviewed the letter, sent to Councilmen Meador and Shenko from Mayor Reynolds, by raising specific points of it. Among the points he specifically reviewed, Vice Mayor Massucco cited negative comments made in the letter about Attorney Dalton. He said Ms. Dalton was too much of a lady and a professional to respond to those comments, but on her behalf, Vice Mayor Massucco praised the dedication and work of Ms. Dalton, and expressed his confidence in her legal guidance. Vice Mayor Massucco said there were many innocent people victimized in the letter – the Lee County Board of County Commissioners, the Chamber of Commerce, the entire Beach business community, the Civic Association, the Mound House co-director, the Friends of the Mound House group, and numerous outstanding Town citizens.

Vice Mayor Massucco asked the Mayor to make a public apology, not by e-mail or fax, but in the public forum of this meeting.

Councilman Meador asked for a ten-minute break. Mayor Reynolds called a ten-minute recess.

Mayor Reynolds reconvened the meeting.

Councilman Shenko said he felt the Town Attorney was doing an excellent job.

Mayor Reynolds said he had given everyone a copy of an apology letter, and believed it would appear in the Beach Observer newspaper in its entirety in its upcoming issue. He then began to read the response he had written to

Councilman Shenko upon hearing of the upset his initial letter had caused. Vice Mayor Massucco asked the Mayor if he had anything to say to him first, and Mayor Reynolds told him they were still in discussion on the item. The Mayor then read his response to Councilman Shenko, written the same day as the offending letter, in which he explained that the former Town Attorney had advised Council that they could communicate with one another about anything, as long as it was not an item on which the Council would be voting. He said elected officials have a right to personal conversation, and nothing in his first letter had violated the Sunshine Law. He then recounted the events that ensued after Councilman Shenko entered his letter into public record.

Mayor Reynolds apologized to everyone, including those who had not seen the letter. He said he was not proud of the letter, but he wouldn't hide it. He said his apology would be published in the local paper that week.

Mayor Reynolds apologized to Vice Mayor Massucco, and noted he had already done so in an earlier e-mail to him. Mayor Reynolds apologized to Attorney Dalton, and said he hoped they could work together in a more trusting manner for the benefit of the Town and the residents.

Mayor Reynolds said it had been a "weak moment" and did not happen often, and guessed that no one was perfect.

In conclusion, Mayor Reynolds read from a poem he had used when teaching children about humility and ethics. He then asked the Council to be patient with him.

Councilman Shenko noted that he had not had any communication as to the contents of the letter with Mayor Reynolds subsequent to his receipt of it, other than a generic response, from his office, that all matters received are matters of public record.

Vice Mayor Massucco said he accepted Mayor Reynolds' public apology.

G. Old Items – Areas of Responsibilities of Town Council and off-Island Committees

Mayor Reynolds pointed out that he had been attending the SWF Regional Planning Council and the MPO meetings since becoming Mayor, contrary to what was indicated on the list in their packets.

Apportionment of Responsibilities:

Councilman Meador - Group 4; primary representative in Chamber of Commerce Traffic Committee; primary representative in TDC

Mayor Reynolds said the Town no longer had a seat on the TDC, but Councilman Shenko pointed out a representative of the Town could present

issues to the Council at their meetings. Mayor Reynolds said his issue was that the Town no longer had a vote. Councilman Meador offered to bring that issue to the TDC.

Councilman Shenko - Group 2; primary representative in MPO; Coastal Advisory Committee alternate; Horizon Council alternate

Vice Mayor Massucco – Group 3; Primary representative in Coastal Advisory Committee; TDC alternate

Councilman Boback – Group 1; MPO alternate; SWF Regional Planning Council alternate

Mayor Reynolds – Primary representative in SWF Regional Planning Council; primary representative in Horizon Council

More **Old Business**:

Councilman Shenko discussed the replacement of the interim Town Manager's position being vacated by Mr. Gucciardo, and the various alternatives the Council could explore.

There ensued a lengthy discussion as to the various tacks the Council could take with regard to finding an interim Town Manager. Broadly, Mayor Reynolds, Councilman Boback and Councilman Meador preferred that the Manager-in-Transition who had not applied for the permanent position be found and appointed to the interim post; Vice Mayor Massucco and Councilman Shenko preferred someone from the existing Town Staff be appointed to the interim position.

Councilman Shenko said that, with John Gucciardo's consent, he would be willing to meet with existing Town Staff to see if one of them could take the interim position, and then would bring a recommendation to Council at the February 13th meeting.

Mayor Reynolds preferred that someone from outside of Town be brought in, but if a Town Staff were to be appointed, that it be as *acting*, rather than *interim*, Town Manager.

Councilman Meador preferred that the list of four names on the Manager-in-Transition be called, starting with the person who had not applied for the permanent position, until one was found who was available and willing to take the interim position. He didn't believe there was anyone on the existing Town Staff with the qualifications to do the job. He said the existing Town Staff were there to bring the new Town Manager, or in this case, the interim manager, up to speed on the specific issues, and were more valuable in their current positions.

Councilman Shenko said he knew one of the people on the Manager-in-Transition list, and preferred that he not be the one to call the people on the list. He recommended Town Attorney Dalton be assigned that task.

Ms. Dalton said she would make the calls if it was the will of the Council. She said she did not have any data to impart if asked questions about salary, housing, etc. while making those calls. Councilman Meador said those issues would be taken up at the February 13th Council meeting. Ms. Dalton also queried as to the possibility of hiring a former employee for the interim position.

Vice Mayor Massucco pointed out that the cost of housing for an “outsider” strengthened his argument for an existing Town Staff member to be appointed to the interim position.

Councilman Shenko suggested Ms. Dalton be directed, either by consensus or motion to call the four people on the managers-in-transition list, and to determine their salary requirements, and to bring the information she had gathered back to Council at the February 13th meeting.

Ms. Dalton asked if background checks would be run on the people being considered for the interim position. Councilman Boback didn’t think it was necessary because of time constraints; Mayor Reynolds felt it was crucial that background checks be done.

Councilman Boback suggested that Ms. Dalton be directed to call the one manager-in-transition who had not applied for the permanent position, and to bring back her findings to Council at the February 13th meeting. If that person was not available, Council would determine whether to continue calling the other three candidates on that list, or to appoint someone from the existing Town Staff.

Councilman Meador suggested Councilman Shenko could meet with Town Staff as a contingency so that Council had enough choices so as to make a decision on February 13th.

Ms. Dalton asked for specific parameters she could relay to the one person she would be calling, with regard to compensation, housing allowance, minimum guarantee of the duration of the appointment, commencement of the position, etc. She asked if the person should be asked to start before Mr. Gucciardo’s departure date of February 22nd.

Vice Mayor Massucco felt the lengthy discussion of the issue could be avoided by appointing someone from the existing Town Staff.

Mayor Reynolds felt it was inappropriate to elevate a Staff person to that level, and then return him to his former position. He said if someone was willing to do that as *acting* Town Manager, it would be better than *interim*.

Ms. Dalton asked permission to determine if there was a legal difference between *acting* and *interim* Town Manager, as she was not aware that there was a difference.

Mayor Reynolds felt someone from Staff could be asked to take on the duties without the title. Ms. Dalton pointed out that the Charter required that someone hold the position of Town Manager, so that his idea could not be implemented. Mayor Reynolds said the Deputy Town Manager position was not a legitimate position, and yet the Town had had one for ten years, and so felt the position of Town Manager could be left open for a short while. Ms. Dalton said the Charter gave the Town Manager the ability to create the Deputy Town Manager position, and included a job description for that position.

Councilman Meador suggested asking Bonita Springs if FMB could “borrow” Mr. Gucciardo for the interim period. Mr. Gucciardo stated that that was not possible.

MOTION: Councilman Meador made a motion that Ms. Dalton be directed to call the one manager-in-transition who had not applied for the permanent position; if that individual is not available, Ms. Dalton should continue calling the other three individuals, in the order in which they appear on that list, to determine which of them were available; Ms. Dalton should ask them to fax to Town Hall their salary and housing requirements; Ms. Dalton should bring back her findings to Council at the February 13th meeting. Councilman Boback seconded the motion.

VOTE: The motion carried 3 – 2, with Vice Mayor Massucco and Councilman Shenko dissenting.

AMENDED MOTION: Councilman Meador made a motion that Ms. Dalton be directed to call the four individuals on the manager-in-transition list to determine which of them were available; Ms. Dalton should ask those available to fax to her their salary and housing requirements; Ms. Dalton should bring back her findings to Council at the February 13th meeting. Councilman Boback seconded the motion.

No vote was called on the amended motion, however, consensus was reached that the direction in the amended motion was the direction given to Ms. Dalton.

H. New Items

No new items were brought forward at this time.

VII. COUNCIL MEMBER ITEMS AND REPORTS

Councilman Meador said he had had an extensive discussion with Lorna Brown, with the Lee County Red Cross, in which she had indicated an interest in coming to the Beach and running training sessions with the PSTF. She had also said there was a possibility that the Beach might be able to have its own Red Cross Task Force, manned with people who might possibly be on call specifically for Beach disasters only, rather than all of Lee County. She told him that the Red Cross worked in tandem with CERT teams, as they each had different levels of service and different goals. He believed she would soon contact the head of the FMB PSTF.

Councilman Boback asked if the PSTF was still on track with the planned March hurricane preparedness seminar. Mr. Gucciardo said it was on the PSTF agenda for their February 7th meeting, at which time the date, location and content would be finalized. He said the Council's input on those items was welcome, but that the seminar was being considered for late March, to be held at Santini Plaza.

Vice Mayor Massucco asked if Lorna Brown could be enlisted into the Disaster Advisory Council. Mr. Gucciardo didn't have enough information to answer that question. Other items:

- 1) The St. Patrick's Day Committee had approached him and asked him to put their parade on the agenda.
- 2) The Chamber of Commerce had requested that the "Taste of the Town" event be placed on the Council's agenda as soon as possible.
- 3) Vice Mayor reported his attendance at the SFWMD meeting at the Harborside Convention Center on January 25th, held to discuss the water releases from Lake Okeechobee and the attendant problems caused by those releases. He said the meeting had been well attended, and that Sanibel had been very well represented. He wished more people from Ft. Myers Beach would go in representation of the Town at these meetings.
- 4) On January 26th, Vice Mayor Massucco attended the Drowning Symposium held at Diamond Head. He said there were about 150 attendees. He had gone there to welcome the group, and had invited them back next year.
- 5) On January 27th, Vice Mayor Massucco attended the Town's tree program at the Mound House. He said it was a very successful program.
- 6) On January 28th, the Council/Town Staff workshop had been held at the Mound House, and Vice Mayor Massucco felt it had been very productive, and looked forward to another one.
- 7) On February 3rd, Vice Mayor Massucco attended the TDC meeting, at which two speakers – Judy Sanchez, U.S. Sugar representative; and Attorney John Fumiero, representing Lee County and the TDC in the

Okeechobee water release issue – had spoken. He felt it had been very interesting and informative.

Mayor Reynolds recalled that Ms. Lambert had asked that an advertising policy be written as soon as possible. He asked that Mr. Gucciardo look into getting a draft written and brought to Council as soon as possible. Mayor Reynolds asked Jerry Murphy if he had inquired as to added compensation required for County staff if they needed to attend an evening Council meeting. Mr. Murphy it would cost the Town an additional \$150 per hour of meeting time, plus a required added hour for travel time to and from the meeting. Mayor Reynolds asked Mr. Gucciardo if he had gathered the information requested as to the cost of the prior two Crescent Street traffic tests. Mr. Gucciardo apologized for not recalling being given direction to get that information; he added that he would look into it, and that they were waiting to hear from County as to the cost and timing of the planned test this season. Mayor Reynolds brought up the idea of bridge tolls. He felt things had changed considerably since the referendum that had been held a few years ago, in which both he and Vice Mayor Massucco had been stridently opposed to the idea, and which had produced a 70% vote against them. He believed Council should consider having another referendum on the subject.

Councilman Shenko thought the Mound House may not be up to ADA code, and considering the pending lawsuit against the Town, he recommended to immediately stop public access to the Mound House until it was certified as ADA compliant.

MOTION: Councilman Shenko made a motion to immediately stop public access to the Mound House pending its certification as being ADA compliant; the cost of hiring an expert to determine its compliance could be brought to the next special Council meeting. Councilman Meador seconded the motion.

Mayor Reynolds asked if this motion had to be advertised before they could vote on it.

Ms. Dalton said the Council had the ability at a general meeting to bring up items not on the advertised agenda, consider them, and pass or not pass them.

Councilman Boback believed that there were more than ADA problems, and felt the Mound House was not safe.

Vice Mayor Massucco said Councilman Shenko's argument was compelling considering public safety and the possibility of exposure to litigation.

VOTE: The motion carried unanimously.

Ms. Dalton asked if she should get the name of the expert from the attorney hired for the ADA litigation. Councilman Shenko said yes, and that she should find out what it would cost to hire that person to inspect the Mound House, and to bring the information back to Council on February 13th.

VIII. TOWN MANAGER'S ITEMS

Mr. Gucciardo said that, in the future, Special Events would be brought to the Council as Consent Agenda items, so as to keep Council apprised of what was going on in that regard. After some discussion, including mention of the Shrimp Festival, the Relay for Life event, and the St. Patrick's Day Parade, the Council was happy with this arrangement.

Mr. Gucciardo said the audit was an ongoing process, and had asked that the audit be completed, and that the Management Letter be ready for signature by February 22nd, as he wished to sign off on it himself before he left the Town Manager position. He believed the firm doing the audit would do so if possible.

Regarding the Shrimp Festival, Mayor Reynolds said all the Councilmen had been invited to ride in the parade, and that convertibles would be provided for that purpose. Vice Mayor Massucco said he could use his own convertible.

Mayor Reynolds said he had received calls from Town residents that perhaps the idea of bridge tolls should be revisited, which was why he had raised the issue during Agenda Item VII – Council Member Items and Reports, during which Vice Mayor Massucco had been temporarily out of the room.

Councilman Meador expressed concern that Council had not received a monthly financials statement since taking office in November, and asked Mr. Gucciardo when they would be getting them. Mr. Gucciardo said he didn't want to bring them to Council until he had the opportunity to review and annotate them, and would have them ready for the next Council meeting.

IX. TOWN ATTORNEY'S ITEMS – UTELCO Litigation Status (verbal)

Attorney Dalton said George Knott had been retained for litigation strategy purposes, as had been voted on by Council in a previous meeting about the litigation. She requested a one-hour Executive Session be held, so that Mr. Knott could discuss litigation strategy with Council. The Executive Session was set for February 22nd at 5:45 PM.

MOTION: Councilman Shenko made a motion to hold the Executive Session at 5:45 PM, and that the start time for the regular Council meeting on that same date, February 22nd, be moved to 6:45 PM. Councilman Boback seconded the motion.

VOTE: The motion carried unanimously.

Other items:

Attorney Dalton advised Council that Fowler-White had accepted representation of the Town in the Straub matter.

Ms. Dalton relayed to Council that Ms. Lambert needed items to be placed on the February 13th agenda to be brought forward to her no later than the afternoon of February 7th (the day after this meeting).

Ms. Dalton asked if Council wished her to hold one meeting with all the new committee appointees to discuss the Sunshine Law, public records and other issues. She asked Council to consider how they wished her to proceed with that, as well as possible specialized training for certain committees at some point. Regarding Mayor Reynolds' request that she inquire as to the possibility of having a joint training session with the Sanibel and the FMB Council, Ms. Dalton reported that the City Attorney believed they might be interested.

Ms. Dalton said she had inquired as to the status of fidelity bonds was with the Town, and she said there was not a bonding program in effect in the Town currently, and asked if there was some direction the Council wanted her to take regarding the bonding of Town Staff who handle money. Consensus was that Ms. Dalton should pursue the matter to determine what needed to be done in order to bond those employees who handle money on their jobs with the Town, and to bring the information to Council as soon as possible. Ms. Dalton said she had already spoken preliminarily with someone at the Florida League of Cities, and had learned that they did have a bonding program.

Councilman Meador wanted to ensure that the reorganization of the Town Council did appear as an item on the March 6th Council agenda. Mr. Gucciardo said it had already been scheduled.

Mayor Reynolds said that ordinance regarding the reorganization of Council was based on a ghost ordinance, and that before changes were made, the next election date should be determined.

X. PUBLIC COMMENT

Claudia Mayer spoke again about the Times Square Street Performers program, and reiterated her offer to replace the departing John Scott in a voluntary capacity, which she pointed out would save the Town money.

Tom Babcock of Williams Drive came forward. Mr. Babcock spoke against the letter-writing campaign in progress which called for the Council revisit the short-term rental ordinance. He said the letter was not factual, was misleading, and could damage the Town. He said he was angry with Townspeople whose only interest was personal gain, as they didn't care about

density or zoning or the vision of the Town as it is laid out in the Comp Plan and the LDC. He asked the Council to leave the ordinance as it stood.

Mayor Reynolds asked Mr. Babcock to give a copy of the letter to Mr. Gucciardo so that copies of it could be distributed to the Council for consideration.

XI. ADJOURNMENT

MOTION: Councilman Boback made a motion to adjourn. Councilman Shenko seconded the motion.

VOTE: The motion carried unanimously.

Mayor Reynolds adjourned the meeting at 10:22 PM.

Respectfully submitted,

Jo List
Transcribing Secretary