

**FORT MYERS BEACH
TOWN COUNCIL**

**Town Hall- Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, FL 33931
August 1, 2006**

Special Town Council Meeting

5:00 PM

I. CALL TO ORDER

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

Absent: None.

Town Staff Present: Town Manager Rachel Lambert, Community Development Director Jerry Murphy, Town Attorney Anne Dalton and Planning Consultant Bill Spikowski.

II. PLEDGE OF ALLEGIANCE:

All present stood for the recitation of the Pledge of Allegiance.

III. INVOCATION: Rachel Lambert gave the invocation.

IV. PUBLIC COMMENT: **Please not that public comment will be heard at the time the agenda item is discussed.**

V. ADMINISTRATIVE AGENDA

A. *Approval of Wilker Stipulation*

Attorney Dalton announced having at hand a full stipulation signed by the attorney of the property owner. Ms. Dalton reported the stipulation has some other provisions where the property owner is required to have certain code enforcement compliances done within a certain amount of time, and if it is not done within the timeframe, the Town has the right to foreclose the property without further court proceedings. Ms. Dalton requested Council to approve this stipulation and have it signed by Mayor Boback.

MOTION: Councilman Shenko made a motion to approve the Stipulation of settlement agreement by the Town Attorney. Vice Mayor Massucco 2nd the motion.

Discussion:

Councilman Reynolds had no comment.

Vice Mayor Massucco commented his approval in getting this done as Mr. Wilker is in poor health.

Councilman Shenko and Councilman Meador had no comments.

VOTE: The motion passes 5-0

B. Continued discussion of Draft Evaluation/Appraisal Report

Mr. Bill Spikowski provided some background on this item. The approval of this report is an action of the Town Council. Mr. Spikowski mentioned they have reviewed Chapters three, four and five primarily as those were the ones with the most substantial concept. Mr. Spikowski suggested Council to review the seven items and decide whether there are changes Council would like to make to the report before sending it to the state. Mr. Spikowski asked Council for direction on this matter, if they are ready for it to be presented informally.

Mayor Boback asked if Council would prefer to start with the seven items or go page by page.

Councilman Shenko stated he had no problem reviewing the seven items.

Vice Mayor Massucco stated he had made comments on the seven items.

Item one: Density of redevelopment of mobile home parks.

Councilman Meador stated with the adoption of the first Comp-Plan the particular properties went to 6-units per acre for residential redevelopment.

Ms. Spikowski stated the county reclassified the entire island for 6-units per acre in 1989. Mr. Spikowski advised Council that they are able to reexamine particular items mentioned every year.

Councilman Meador stated he is not ready to put this into an E.A.R., report without Council thoroughly reviewing it first.

Councilman Shenko also agrees with Mr. Meador as he had 17-items and stated this is not one of them. Mr. Shenko stated due to having vested rights, this does not have to be revisited at this time.

Vice Mayor Massucco stated that this should be discussed at a regular Council meeting sometime in the future, and agrees with both Councilmen this is not the right time.

Councilman Reynolds reported details on how the 15-units came about. Mr. Reynolds stated the request from Red Coconut was for an increase from 6-units to 10- units per acre. Mr. Reynolds reported during discussion the 10-units were agreed upon then, the Chairman of Council decided to increase it to 15-units per acre; the vote was approved 4-1 with Councilman Reynolds dissenting. Mr. Reynolds believes this does need discussion.

Mayor Boback questioned this being proposed by staff for 10-units, and it was proposed by the Red Coconut for 15-units, and the Council who decided in 1998, to allow either version. Mayor Boback asked if they allowed either version, did they vote to go the higher version.

Mr. Spikowski reported when they were going through the adoption process DCA questioned the density and how many units per acre. The concept was based on the development plan on Seaside Florida which was under 10-units per acre. Mr. Spikowski stated the Land Development Code the village zoning district implements both versions.

Mayor Boback asked whether the plan specifically states 15-units and not either or.

Councilman Meador asked if there was an approved development order written in the plan as an option.

Mr. Spikowski stated the plans; both the consultants and the Myers are shown in the comprehensive plan as an illustration.

Mayor Boback asked legally we are at 15-units.

Mr. Spikowski asked if the consensus at this point is not to change it in the E.A.R and will bring it up at a later time.

Councilman Shenko reported on page 68-69 achievements and challenges; seven geographic areas of the Town are discussed as well as future land use map, but villages are not mentioned.

Mr. Spikowski replied that property is neither one of the seven areas nor of the land use areas. It's more of a hybrid of the two, designated as mixed residential.

Attorney Dalton asked if Mayor Boback would like to take public comment on these items or wait until the presentation.

Mayor Boback stated waiting.

Councilman Meador stated having everybody participate on the discussion on each point.

Mayor Boback stated we will take public comment before they discuss the item.

Mayor Boback opens for public comment:

- None were given.

Mayor Boback closes for public comment:

Mr. Spikowski stated the item deals with the discussion on pages 24-39 as to the feasibility, desirability and affectability of the Roundabouts.

Mayor Boback opens to public comment:

- None were given.

Mayor Boback closes to public comment:

Discussion:

Councilman Shenko doesn't see Roundabout being feasible or workable and does not see this as a viable alternative in fixing the problem. Mr. Shenko would like to have it removed.

Vice Mayor Massucco quoted from previous comments he has made. "Roundabout consideration should be part of any future discussion related to traffic mitigation plans for the island. It should remain in the E.A.R report as a Viable Option, in the search for traffic solutions." Vice Mayor Massucco suggested leaving it in.

Councilman Reynolds stated Roundabouts would create havoc and stated there are many reasons as to why Roundabouts would be a poor choice. Mr. Reynolds believes it should be deleted from the Town Plan.

Councilman Meador stated that he has used Roundabouts in the past which move traffic, and there is an intersection which does not move traffic. Mr. Meador stated leaving it in for future discussion and purposes.

Mayor Boback stated he is not a big fan of Roundabouts, but doesn't believe in limiting all their options when the time comes. Mayor Boback agrees in leaving it in a plan and open for discussion in the future.

Mr. Spikowski stated it is the consensus in leaving it in making no commitment in for it or against, but letting it remain in the document.

Councilman Reynolds announced Wilson Miller who did the first study here on the island; they did not recommend that. They went through with it.

Mayor Boback replied that they are not ruling on this, they are only leaving it for future consideration.

Mr. Spikowski reported the Third Item is on page 2 of 3 which deals with New Beach Front Park. Mr. Spikowski mentioned that several Councilmen questioned the extra expenses involved.

Mayor Boback opens for public comment:

- No public comment was given.

Mayor Boback closed for public comment:

Discussion:

Vice Mayor Massucco stated he would like to see another workshop scheduled in the near future in order for Council to discuss the future of Times Square.

Councilman Reynolds stated that a new park would benefit the Developer that would have to be maintained by the Town. This would not benefit the people it would only be benefiting the Developer.

Councilman Meador reported Mr. Myers did have the opportunity to make a presentation at that workshop by his attorney. Mr. Meador stated it was a fallacy as the gentlemen did not own all the land he was proposing to develop.

Councilman Shenko agreed with Mr. Meador with the fact that it was land that he did not own, and with the fact he chose not to meet with Council

on its behalf. Mr. Shenko also agrees that the park was not intended for the benefit for the people it was intended for the benefit of the Developer. Mr. Shenko stated that this should be removed.

Mayor Boback agreed to an extent with Councilman Meador. Mr. Myers did have the opportunity to come before us to present his proposal, and chose not to do so. Mayor Boback concludes not bringing Mr. Myers back to the table, and further states all Mr. Boback has seen about this park were conceptual drawings. Mayor Boback agreed in taking this out as well.

Mr. Spikowski asked if this was taken off the plan does this mean the Town would not want the Developer to continue with the plans.

Mayor Boback stated they do not know what his intentions are as he never made effort to express them. Mayor Boback stated if Mr. Myers wanted to incorporate a park like setting within his own Development plans and maintaining it, he would not have a problem with it.

Mr. Spikowski stated by taking it out of the report it would be stating Council doesn't want Mr. Myers to do it for his own purposes without any public benefit implied or guarantee.

Councilman Shenko replied that Mr. Myers does not own the land.

Mr. Spikowski agreed that there is a 35-foot parcel that Mr. Myers does not own which has been on the table from the beginning. Without that, the park idea can not happen.

Councilman Meador stated in concept it is a great idea.

Vice Mayor Massucco stated the workshop in June was a hostile one where a lot of negative comments were made; I would have probably reacted the same being in his shoes. Mr. Massucco stated they missed the opportunity to discuss with Mr. Myers the intent and stated he was very upset they didn't take that opportunity.

Councilman Reynolds commented on a Councilman's remarks that Mr. Myers didn't have a chance. Mr. Reynolds stated Mr. Myers did have a chance, he did not take it. Mr. Reynolds stated if Mr. Myers decided to follow through with this project, he will need a lot of concessions which we may not be able to meet.

Mayor Boback stated there was an opportunity missed however; we cannot bring him back to the table as far as he was concerned.

Mr. Spikowski reported there were three illustrations and it is not discussed who will maintain it on page 27, there are two site plans showing the street and the park. On page 29 there is a perspective rendering. Mr. Spikowski asked if Council wanted those out before sending it, or leaving it in.

Councilman Meador asked Mr. Spikowski if they were bound to any course of action if this is left in as drawn.

Mr. Spikowski stated that the drawings have been in public record for over a year now.

Mayor Boback stated there is no benefit to leaving it in or taking it out.

Mr. Spikowski stated there is benefit to leaving it in.

Attorney Dalton reported Council has another option. Ms. Dalton noted this is not the formal hearing for the adoption of the E.A.R. Ms. Dalton suggested leaving it in and addressing it at the formal hearing.

Councilman Shenko stated having the new and improved music-quarium. That is what is drawn in, a band-stand, a stage; it's facing a public park. Mr. Shenko stated he would not agree with that structure. Mr. Shenko stated it being removed from the E.A.R.

Councilman Meador agreed to have it in.

Councilman Shenko stated out.

Vice Mayor Massucco agree to have it in.

Councilman Reynolds stated out.

Mayor Boback stated out.

Mr. Spikowski stated the concensus would be to take out those three drawings and any text referring to the park.

Mr. Spikowski stated the next Item being on page 2 of 3 which concerns the reopening of Center Street. Three Councilmen members stated this was already decided not to that. Mr. Spikowski asked if Council wanted the paragraphs removed.

Mayor Boback opens to public comment:

- No public comment was given.

Mayor Boback closes to public comment:

Discussion:

Councilman Reynolds states this should be dropped.

Councilman Meador stated they should leave it if they are not going to open it up currently and leave it there for the possibility of installing the Roundabouts.

Councilman Shenko stated he is not against reopening Center Street, just that it expensive.

Vice Mayor Massucco commented on the way Mr. Bill Spikowski phrased it; the Council has decided not to reopen Center Street. Mr. Massucco stated keeping it out.

Mayor Boback stated having no problem with leaving it in, and it can always be discussed at a later time.

Councilman Reynolds questions asked why leaving loose ends.

Mayor Boback replied they are keeping their options opened.

Mr. Spikowski stated the concensus is to leave the discussion in, but Council has decided not to reopen.

Mr. Spikowski referred to the next Item regarding the New Bridge leading to San Carlos Island. Mr. Spikowski stated there were two comments one, there were not enough funds to support this, and the second, and it should not be allowed to cross the Beach Elementary School Preserve. Mr. Spikowski reported that it would be financially funded by the Metropolitan Planning Organization.

Mayor Boback opens for public comment:

- No public comment was given.

Mayor Boback closes for public comment:

Discussion:

Councilman Meador stated thumbs up as far as consideration.

Councilman Shenko stated he has no problem with it.

Vice Mayor Massucco stated leaving the statement as it appears in the E.A.R report.

Councilman Reynolds expressed the only way he would go along with it would be when the bridge is built, the old bridge is taken out.

Mayor Boback stated leaving it in as it is not a decision we will be making today.

Mr. Spikowski stated the concensus is clear on that.

Mr. Spikowski stated the last two Items are on page 3 of 3. The first one having to underground power lines which had many negative concerns about the expense, and about the reliability. Mr. Spikowski suggested changing the wording in the sentence.

Discussion:

Councilman Shenko suggested rewording it to say “it may be desirable to convert our main power lines to undergrounds lines.”

Councilman Reynolds stated this has been discussed may times there are too many problems with underground power lines, and he detailed the reasons.

Councilman Meador agreed with both Councilmen stating if money grew on trees it would be great. Mr. Meador agreed with the proposed wording of Mr. Shenko not throwing the idea out, but not making any commitment at this time.

Mayor Boback agreed leaving it in for future opportunity.

Mr. Spikowski stated the concensus would be leaving it in, modifying the sentence.

Mr. Spikowski referred to the last Item on page 70 regarding Beach Nourishment.

Mayor Boback opens for public comment:

- No public comment was given.

Mayor Boback closes for public comment:

Discussion:

Vice Mayor Massucco suggested the first statement in the draft should be reworded as “Beach Nourishment Project for certain areas can be beneficial to the Town.” The second statement could be reworded as “a funding formula that is very generous to the Town.”

Mr. Spikowski stated the last statement regarding the formula can be taking out.

Vice Mayor Massucco stated not being fond of the terminology.

Councilman Reynolds stated the present beach size will handle the number of people that can live, work and visit in a safe manner as is. Additional beach nourishment will last approximately five to seven years. Mr. Reynolds stated this is a Town decision, and according to Mr. Reynolds most people don't want anything to do with it.

Councilman Meador stated he is in favor in beach re-nourishment, but is not with beach nourishment as with its sole objective as beach area for the tourist visiting, and not for the residents.

Councilman Shenko agreed with Mr. Meador and suggested stating re-nourishment from time to time may be beneficial to the Town and will be examined from case to case by the Council for purposes of the E.A.R.

Mayor Boback stated he has no problem with the beach nourishment. Mr. Boback stated that most of the residents and business owners are for the beach nourishment as well. Mayor Boback states leaving this in as well and agrees with Councilman Shenko's wording.

Mr. Spikowski stated the concensus is leaving the discussion and leave the language as stated Mr. Shenko “re-nourishment from time to time may be beneficial to the Town Council.

Mr. Spikowski announced this was the last of his seven Items.

Councilman Shenko reported some issues stated in the Land Development Code and in the E.A.R that continues to exist on pages 5 and 6 involving a condominium complex regarding buildings being built beyond the line of regulation. Mr. Shenko stated there are buildings on Ft. Myers Beach built beyond that line. Mr. Shenko stated this should be out of the E.A.R.

Mr. Spikowski stated this being in effect since 1999, and every property has been able to relocate without problems. Mr. Spikowski states this only affects half a dozen and the rest are behind the line.

Mayor Boback opens for public comment:

- No public commented was given.

Mayor Boback closes for public comment:

Councilman Shenko stated that the Town has opened itself for potential taking claim including and not limited to Mr. Myers.

Vice Mayor Massucco asked if they can intentionally build beyond the construction line.

Councilman Shenko stated the present coastal construction line was drawn in more land ward. The stated of Florida permits constructing beyond the coastal construction line; they only regulate the building beyond that line.

Vice Mayor Massucco stated he would hate to see construction go on beyond where it is today.

Councilman Shenko recommended taking all the building that are already there 20-years before us becoming a town and exclude them and say they are capable of rebuilding a footprint.

Councilman Reynolds stated we don't need to talk about the building already built. Mr. Reynolds stated Mr. Spikowski should have some indicating no future building is allowed beyond the first line 78, and stated that they can hold that from future liability.

Councilman Meador doesn't have any type of amendment to the Comp Plan, having it carefully worded to make sure we are getting what we want in protecting the people they are looking to protect. Mr. Meador questioned Mr. Spikowski of a Comp Plan amendment cycle, and asked if that was a planed event of can any Council person bring any amendment to the Comp Plan forward at any time.

Mr. Spikowski stated the plan reads now is the Town will accept application from private individuals annually and also the majority of Council can vote an amendment on behalf of the Town.

Councilman Meador asked if this would be the same process for Comp Plan and Land Development Code.

Mr. Spikowski stated it is a different process with different statutory requirements.

Councilman Meador stated that if it was possible to bring forward if we wanted a change the rebuilding regulations.

Councilman Shenko stated having a policy change now.

Attorney Dalton stated they were out of compliance with E.A.R., and by making amendments it would put us further out of compliance.

Councilman Meador asked if this was mentioned in the E.A.R.

Mr. Spikowski replied it is mentioned as things that are done to protect the beach. Should Councilman Shenko's idea is accepted, it would be changed by stating we may have gone too far, and need to reexamine that policy.

Councilman Meador asked if it can be noted that all policies are under constant examination for ways they can be improved.

Mr. Spikowski stated it could be amended to say the policy could be detrimental to certain buildings within the line and may be reconsidered in the future.

Councilman Meador stated that would be acceptable.

Councilman Shenko stated at bare minimum and does want them to move forward and do something about it as it affects many structures. Mr. Shenko also stated having this as an agenda item to be discussed in the future and to change the plan.

Mayor Boback stated he has a lot of concerns, and stated bringing it up for discussion when they decide to look at that issue.

Mr. Spikowski stated the consensus would be then to add a sentence that this policy may be detrimental to certain buildings and may require reexamination in the future.

Mayor Boback stated wouldn't this be admitting that we were wrong in the first place. Mr. Boback expressed not liking the wording as it states that we are wrong.

Councilman Shenko stated for the purpose of conflict he would prefer not to vote on this.

Attorney Dalton confirmed that this is not a workshop it is a meeting.

Councilman Shenko stated he would file a conflict of issue, as he will not vote on this issue as he has property affect.

Councilman Reynolds stated with what was suggested.

Mr. Spikowski stated the concensus would be to add at the sentence “this policy could be detrimental to certain buildings on the island and might need to be reexamined in the future.

Councilman Meador stated to the extent that this policy may be detrimental to existing structures on the island it may be revisited by the Town Council.

Mayor Boback stated he is against it as they would be opening themselves up to liability.

Attorney Dalton also shared the Mayor’s concern.

Mayor Boback stated no to changing the wording, and if they are going to revisit it, to do it as soon as possible and change it then.

Vice Mayor Massucco stated he doesn’t know how it should be worded, but would like to see it finalized to then make a decision.

Councilman Reynolds referred to policy 585 which is a direct agreement with the policy and stated he sees nothing wrong with it.

Mr. Spikowski states the concensus would be just to leave it.

Councilman Reynolds stated having no problems with that.

Councilman Meador stated we are making no change.

Councilman Shenko stated that we make this an agenda item. Councilman Shenko referred to pages 5C7 and asked what the policies on the build back provisions on flood loss are.

Mr. Spikowski stated the policy 5C7 suggested a new direction of a thousand dollars.

Councilman Shenko stated they are getting rid of 5C7 and replacing with cumulative loss exceeding of 25% of value over 10-years.

Mr. Spikowski stated they would not replacing it in the plan, they would be taking it out of the policy out of the plan altogether. The cumulative

over 10-years is now in the Land Development Code and can be reexamined.

Mayor Boback opens for public comment:

- Fran Myers stated they need to listen to Bill Shenko on the items that he has brought up. Ms. Myers agrees a lot of people don't know and the ones that do are very worried.

Mayor Boback closes for public comment:

Councilman Reynolds had no comment.

Councilman Meador asked Mr. Spikowski if policy 5C7 is going to be eliminated and he concurs with that and with Mr. Shenko as far as what is being done in our Land Development.

Vice Mayor Massucco concurs with Mr. Meador and Mr. Shenko and stated the velocity line will change.

Mayor Boback stated that at this point they are taking out 5C7 and he is in agreement with removing the language.

Mr. Spikowski stated the report will stay the same and the report regarding 5C7 and the similar language of 4D1 be deleted.

Councilman Shenko requested having this as an agenda item this item being discussed at Council.

Councilman Shenko referred to page 18 which talks about conversion of motels to intervals ownership and should be addressed in the E.A.R.

Mr. Spikowski stated if the council has a strong consensus on how to handle this, it can be put on the Comp Plan.

Mayor Boback asked if Mr. Spikowski was referring to policy 4C6.

Mr. Spikowski stated it could be addressed in 4C6, and suggests for it not to be put into the plan.

Mayor Boback asked if this is what he is suggesting to clarify.

Mr. Spikowski replied all the items which are in bullets need to be clarified in the code.

Councilman Meador stated one of these items on this evening's agenda.

Mr. Murphy suggested some direction to go with Mr. Spikowski suggestion to bring back language with the LDC, we can eliminate this item.

Vice Mayor Massucco stated times are changing and we need to update both the Comp Plan and the Land Development Plan.

Councilman Meador stated this is too complex to make a decision. The language written in the Comp Plan is sufficient for this time.

Mayor Boback agreed with Councilman Meador.

Councilman Reynolds referred to page 14 regarding drive-thru food paving for commercial places and stated against it. Mr. Reynolds also referred to motels being converted to condos which are also listed here. Mr. Reynolds suggested discussing these items further in not making a haste decision.

Mr. Spikowski stated it is consistent with the report and will remain.

Councilman Shenko referred to page 23 and 42 it is mentioned twice. Eliminating the left turn lane on Estero Blvd going to Times Square and to North Estero Blvd. Mr. Shenko is not in favor and expressed his reasons why. Mr. Shenko suggested having these removed from the E.A.R.

Mr. Spikowski stated that is correct as it would be too disruptive, and is the reason why it is suggested eliminating that policy.

Mayor Boback opens for public comment:

- Tom Myers stated that he has been part of the traffic committee for many years. Mr. Myers asked Council to give this a lot of thought before taking away something which has provided use on the island.

Mayor Boback closes for public comment:

Councilman Meador stated that he has never see traffic back-up on Estero Blvd from that turn. Mr. Meador suggested removing it from the E.A.R.

Vice Mayor Massucco stated he has never seen any problems caused by that turn.

Councilman Reynolds stated it does encourage back-up coming off the bridge, but states it is not detriment to the point of removing it. He would rather keep it as it is.

Mayor Boback stated this should be taking out as well and feels the left hand turn doesn't affect anything.

Councilman Shenko referred to pages 46 and 48. Mr. Shenko stated of the taking over Estero Blvd and a transit lane. Mr. Shenko suggested changing the language stating it may be considered by Council sometime in the future however, Mr. Shenko believes the policy should be changed. Mr. Shenko stated the MPO was referring to having a dedicated lane from Summerlin Square to the bridge and throughout Estero Blvd. Mr. Shenko stated having the policy removed and replacing it with language stating the Town will consider the maintenance upkeep ownership of Estero Blvd from time to time.

Mr. Spikowski stated the language in the Comp Policy is nebulous stating it the Town wanted to do pedestrian and streetscapes improvements and the county agrees to it, the policy would have no affect.

Mayor Boback opens for public comment:

- No public comment was given.

Mayor Boback closes for public comment:

Vice Mayor Massucco expressed his concerns when dealing with Estero. Mr. Massucco stated after the county finishes with it, then Council might consider taking over at that point.

Councilman Reynolds stated if they can operate as the county do, they should fight for it. Mr. Reynolds stated it needing a lot of work and it belongs to the county, and they are in no position of taking over Estero Blvd and is not in favor.

Councilman Meador stated he agrees with Councilman Shenko and suggested making it a little more nebulous by replacing the word "will" to the word "may."

Mayor Boback had no problem as far as how it is worded but wants in there for future negotiations with the county on taking over Estero Blvd or the maintenance of it at their discretion.

Mr. Spikowski asked Council if they wanted to limit it as it is today as discussion or broaden it.

Mayor Boback replied broaden so it is open for discussion with the county at any time.

Mr. Spikowski stated replacing shall negotiate to may negotiate with the sentence ending; if necessary to carry out these improvements or further reasons in the Towns interest.

Mayor Boback stated having it so we may negotiate at any time we chose.

Councilman Shenko referred to page 47 and 48 regarding the Trolley, Park & Ride. Mr. Shenko stated he doesn't have a problem with the policy, but he does have a problem with the evaluation of the policy and quoting Trolley numbers and states it will probably be in the *News Press* tomorrow. Mr. Shenko feels the numbers quoted are not verifiable and should not be in the E.A.R.

Mr. Spikowski stated he doesn't doubt the accuracy of the Lee Tran numbers.

Mayor Boback opens for public comment:

- Pat Smith stated she is not in favor of saying something without verifying the numbers.

Mayor Boback closes for public comment:

Vice Mayor Massucco stated they need to show numbers.

Councilman Reynolds stated why show figures to something they don't agree with.

Attorney Dalton suggested to Mr. Spikowski changing the language to show the documentation is supported by a third party for example, the Town has been advised by.

Mr. Spikowski stated the numbers were provided by Lee Tran.

Councilman Meador stated as qualifying the numbers as Lee Transit Authority.

Councilman Shenko stated he doesn't believe he figures. Mr. Shenko stated that the numbers were not able to be verified as stated by Mr. Myers at an MPO meeting. Mr. Shenko states these should be removed as they are deceptive.

Councilman Reynolds stated the figures have to be out of order. Mr. Reynolds agrees with Mr. Shenko that the figures are not accurate.

Vice Mayor Massucco stated the disclaimer suggested by Town Council would suffice.

Mayor Boback stated we can not verify the accuracy of the numbers.

Councilman Meador stated these numbers are quoted by the Lee Transit and they do not have any numbers to report, and believes it would be sufficient qualifying the numbers that way.

Mayor Boback stated that there is no one here that believes these figures as being true, but if they had to have a figure, the one provided by Lee Transit are sufficient. We need to make the statement that the figures are not provided by us, but were provided by Lee Transit.

Councilman Shenko asked that this item be brought out for a separate vote.

Councilman Shenko referred to page 46, 51 regarding the success of the Trolley lane. Mr. Shenko stated he is not anti Park& Ride; he is anti Trolley lane on the bridge.

Vice Mayor Massucco stated the bridge was not constructed to tolerate three lanes of traffic.

Councilman Shenko spoke of rumor the bridge cannot hold the weight of the traffic.

Vice Mayor Massucco stated this was the first dedicated lane in the state of Florida. Mr. Massucco stated keeping the lane for future use and not remove it arbitrarily

Councilman Reynolds stated he believes the lane won't be allowed to stay. The lanes are 34-feet wide and should be 36-feet wide.

Councilman Meador stated DOT made the statement of the third lane not to be permitted because of the structural engineering of the bridge.

Mayor Boback stated in favor of keeping the three lanes and suggested taking out the dedicated Trolley lane and leave three lanes. Mayor Boback asked if anything can be done on that.

Mr. Spikowski referred to a traffic study on the usage of public transit is due to an experimental transit lane.

Councilman Shenko suggested removing paragraph four, and address while we have a dedicated Trolley lane the road may be used for better

traffic flow purposes and the Council may desire to explore other alternatives for the third lane.

Mr. Spikowski stated the point of the paragraph was to confirm the great success in getting people on public transit on the bridge, and not to assume it can be extended across the island.

Councilman Shenko stated he would like to displace the Trolley lane with a traffic lane stating the Town would like look into methods of moving more vehicles if possible.

Mayor Boback reiterates what everyone is saying as to having the flexibility to change the Trolley lane to a traffic flow lane.

Councilman Meador asked who were the people that were conducting the traffic study and if there was budget.

Mr. Spikowski stated ECT the Town's engineer, drainage engineer is the general consultant and TY lid the Town's program designer engineer is doing that work. Mr. Spikowski did not have the information concerning the budget.

Ms. Lambert stated she will send it for the workshop.

Vice Mayor Massucco stated a reversible lane on the bridge where it might work going off, but coming in.

Mayor Boback stated when there are two lanes coming on the Trolley lane would be dedicated as a right lane only.

Councilman Shenko referred to page 49 regarding policy 7J2. The Town should hire a traffic transportation consultant. Mr. Shenko stated that should be left out, or traffic transportation consultants may be utilized.

Mr. Spikowski stated this is the only thing the Comp Plan Policy they having dealt with and this requires expertise we don't have. Mr. Spikowski suggested taking it out of the plan.

Councilman Reynolds had no comment on traffic impact on policy 7J2.

Councilman Meador stated by what he has read on the traffic impact policy, this requires a developer who will do his own traffic impact analysis in connection receiving approval to develop. Mr. Meador suggested for the evaluation part of it and would rather the Town state they have completed their impact study.

Vice Mayor Massucco is not in favor of the written last line of the traffic transportation consultant. Vice Mayor Massucco stated they need an expert.

Mayor Boback agrees with Councilman Meador they do require a developer and should be changed or taken out; may hire. The TMA is working with an engineer with Lee County now. The chances of getting a traffic engineer from Lee County are slim, and that is not going to be on our agenda for that meeting.

Ms. Lambert stated this was on the agenda it wasn't able to be saved on a mutual agreement.

Mr. Spikowski stated of any proposing the rezoning to Town requiring the developer to hire their own engineer to assess the impacts of that zoning.

Mayor Boback reiterated they need to hire a consultant to set the specification, and states that may come into play when Mr. Myers decides to redevelop the properties that he has.

Mr. Spikowski state the lack of credible information on the impacts rezoning proposals has been a complaint in the past.

Mayor Boback asked Mr. Spikowski what can they do make sure that Mr. Myers or other developers address those issues.

Mr. Spikowski suggested writing the specifications for the studies and put them in the Land Development Code.

Mr. Murphy stated the traffic impact statement is waived based on not having criteria. Mr. Murphy has asked for the larger projects to provide him with some traffic impact analysis.

Mr. Spikowski replied to Mayor Boback if we put it in our code we can require it, we need the specs.

Vice Mayor Massucco stated it is a possibility.

Councilman Reynolds stated that was expected as they always got an impact study or analysis. Mr. Reynolds stated this should be required and it the way we should go.

Councilman Meador stated this having limited applicability and is not in favor of hiring another consultant. Mr. Meador stated the traffic impact study will not say much when the road has already failed.

Councilman Shenko stated for the purposes of the E.A.R, the Town may hire a traffic consultant.

Mayor Boback stated having in there in order to have the option whether we hire a traffic consultant or use other methods from other sources.

Mr. Spikowski stated the policy suggested recommends the Town should modify sec 7J2. Mr. Spikowski suggested rewording the sentence.

Councilman Shenko referred to page 52 regarding renewing the next bus system which should be taken out.

Mayor Boback opens for public comment:

- No public comment was given.

Mayor Boback closes for public comment:

Councilman Meador agrees with Councilman Shenko.

Councilman Reynolds agrees as well.

Councilman Shenko referred to page 61 regarding the water distribution system. The acquisition of this utility does not have significant comprehensive planning implications. Mr. Shenko stated the water system is a mess.

Councilman Meador questioned Mr. Spikowski if they say we may have, do they expand on the E.A.R.

Councilman Shenko asked if there were new statutes regarding the Town is required to develop a plan in developing their water.

Mr. Spikowski stated in 2002, the legislation was passed. This has to do with the supply of water.

Councilman Shenko stated it could be worded the next comprehensive planning for the water system is underway, and will be addressed in the next.

Mr. Spikowski stated the word comprehensive might be causing the problem. By saying there are impacts the Comprehensive Plan would need to be changed, where it is the utility that needs fixing. Mr. Spikowski suggested changing the sentence to avoid confusion by stating the Town has found various serious problems and is working to resolve them.

Mr. Spikowski regarding to two major issues concerning water issue. One is supply and treatment capacity, the second is the proper amount of pressure and water available at the property line.

Councilman Shenko suggested stating “may have implication which are being addressed by Council.”

Councilman Meador asked about the wording not having significant additional comprehension planning implications, as the same problems remain as before.

Vice Mayor Massucco had no further comment.

Mayor Boback had no further comment.

Attorney Dalton asked if it is the will of Council to move forward to the state.

Mr. Spikowski suggested a motion to forward the draft report with the changes discussed to the Department of Community Affairs for preliminary informal review.

MOTION: Councilman Shenko made a motion to move forward the draft report with the exception, on page 47 relating to the Trolley usage which can be addressed by a separate motion. Councilman Reynolds 2nd the motion.

Discussion:

Vice Mayor Massucco asked if that would mean the removal of those numbers.

Councilman Reynolds expressed his appreciation with the items he presented.

Councilman Meador had no further comment.

VOTE: The motion passes 5-0.

MOTION: Councilman Meador a motion to move that we authorize staff to send the evaluation Appraisal Report forward to the Department of Community Affairs with the proposes addition by way of disclaimer to the Trolley rider ship numbers as provided by the Lee County Tran. Vice Mayor Massucco 2nd the motion.

VOTE: Motion passes 4-1 with Mayor Boback, Vice Mayor Massucco, Councilman Reynolds and Councilman Meador in favor and Councilman Shenko dissenting.

C. *Interim Policy Regarding Further Parcelization of Existing Buildings*

Attorney Dalton suggested deferring this to another agenda bringing forward more options.

Mayor Boback agrees to this.

D. *Request Regarding Computer Services*

Ms. Lambert reported on her previous memo expressing the urgency of making changes on their I.T., system. Ms. Lambert asked Council is she may use some of the fund which is presently in the budget. Ms. Lambert suggested signing on a two month agreement Atose Services which will help upgrade the PC, move forward and prepare the new fiscal year.

Mayor Boback asked at some point they have previously approved \$25,000.

MOTION: Councilman Meador made a motion on putting it out for comparison bidding as \$5,000 it too high. Councilman Shenko 2nd the motion.

Councilman Shenko questioned if they rate set for hardware.

Ms. Lambert stated they would standardize all the PC's bringing up to speed approximately 15-PC.

Councilman Shenko questioned of the 2nd contractor the one that we supplied.

Attorney Dalton stated the service provided agreement is set up so it would be an attachment to our service provided agreement.

Vice Mayor Massucco stated he is a little apprehensive entering a two month commitment. Vice Mayor Massucco asked Attorney Dalton how long it will take to get a response.

Attorney Dalton stated they will take our agreement and attach it to their standard terms and conditions and will be returned. Ms. Dalton suggested if Council proceeds with this vendor, taking little contracts leaving a master contract for another time.

Councilman Reynolds stated this is not a time to pinch pennies. Ms. Lambert is working very hard and needs to have the equipment updated. Mr. Reynolds suggested moving forward with Atose until there are other options.

Mayor Boback also agrees with Councilman Reynolds in the two month contract.

Councilman Meador stated the proposal is to spend \$45,000 which includes two months of the ATOS Service. Mr. Meador suggested calling other vendors and getting different additional proposals.

Ms. Lambert stated that ATOS Service is a reputable company, and she assures Council the network system they will be updating a standard Windows software, which will be something any provider can service.

Councilman Shenko stated his concern with purchasing the hardware from ATOS Service, and states we should find other options.

Mayor Boback asked Ms. Lambert she is not purchasing any proprietary software. Ms. Lamberts replied no.

Vice Mayor Massucco states we should have the best possible I.T. and suggests looking other places instead of rushing into something.

Councilman Reynolds states he read some material and was very impressed. We should go along with Ms. Lambert as she has done her research, and is working very hard. Mr. Reynolds is in favor of moving forward with using the system for at least the two months.

Attorney Dalton stated the first part is prior to the master services agreement which would require a six month advance notification of termination.

Mayor Boback disagrees for the six months, and all Ms. Lambert is asking for is for two months.

Councilman Reynolds asked Ms. Lambert when does she need to give a respond.

Mayor Boback suggested doing the service instead of going ahead with the hardware, and would this give Ms. Lambert enough time for additional bids.

Councilman Reynolds stated moving forward with Atose without giving a obligation.

VOTE: The motion failed 3-2 with Mayor Boback, Councilman Meador, Councilman Shenko in favor and Vice Mayor Massucco and Councilman Reynolds dissenting.

VI. COUNCIL MEMBERS ITEMS AND REPORTS

Councilman Meador had no items to report.
Councilman Shenko had no items to report.
Vice Mayor Massucco had no items to report.
Councilman Reynolds had no items to report.

Mayor Boback reports meeting with Commission woman Hall and Mr. Stilwell to set the agenda which will be held at Edison College from 9:00 until noon. They came up with five issues which will be discussed at that meeting.

1. Beach Renourishment
2. Estero Blvd
3. Bike Paths and Sidewalks
4. The bridge and lanes
5. Having the county taking over Estero Blvd.

Mayor Boback announces this will be a workshop and will be televised.

Councilman Reynolds spoke about Pat Vicente and asked Ms. Lambert if she could put this item on the next agenda to recognize this gentleman.

VII. TOWAN MANAGERS'S ITEMS

Ms. Lambert regarded to two items requesting which came from the Observer regarding using the Chamber here for an August 16th Commissioners Elections or meet the Candidates. Ms. Lambert expressed her concern as this will be televised and will involve staff time as well.

Councilman Shenko stated he is not aware of policies set by prior Councils, but states the prior Council did permit Chambers to be used in the past. Mr. Shenko stated the MPO being televised. Mr. Shenko sees this as a plus for the Council and is in favor of it.

Vice Mayor Massucco stated it would involve our staff to operate. Vice Mayor Massucco is in favor of having them use the facility.

Councilman Reynolds asked what the cost would be involving the personnel.

Ms. Lambert stated she would have to get that information.

Councilman Reynolds stated this is not the first time, and we should designate this as trial until we form a policy.

Councilman Meador stated to the services to our residents with minimal cost is involved.

Mayor Boback stated this is a public service and should be seen by the residents. This would be a good service.

Mr. Green expressed his concerns regarding Hydro-Rock you provided me direction regarding the Town's budget. Mr. Green stated they had not presented anything tangible with regards to the mobilization fee. Mr. Green stated they had sent a letter to Hydro-Rock indicating that they were in an impasse, and that it was going to be presented to Council. Mr. Green recommends have me continue with the negotiations with Hydro-Rock, or select one of the remaining proposal submitters or get another bid.

Vice Mayor Massucco stated that Hydro-Rock was his second choice and asked who the other teams were.

Mr. Green replied Omni Pinnacle, the Rockwell team, Island Tree Service, Summer Electric and Banks Brothers.

Vice Mayor Massucco stated Rockwell was his first choice and to go back to them.

Councilman Reynolds stated Mr. Green's memo was present very well and he suggests moving on to other bids.

Councilman Meador asked if there have been any bids whether Omni Pinnacle or Rockwell is still available.

Mr. Green replied he had gone further until direction received from Council.

Councilman Meador asked if these companies are in full compliance with NIMS and ICS requirements as far as training.

Attorney Dalton stated they can make a condition with the compliance to word the bid.

Mr. Green stated he was not sure if the contractor had to be NIMS compliant.

Councilman Meador stated the people who respond on the phone have to be NIMS compliant.

Mr. Green stated he will inquire this information.

Councilman Meador stated his preference would be the Omni Pinnacle as they are the bigger outfit with a larger range of resources.

Councilman Shenko stated his concern as being decided as soon as possible, or put on the agenda at one of the other meeting.

MOTION: Councilman Shenko made a motion to inquire Rockwell if they are NIMS compliant, in not we go forward with Omni Pinnacle and if they are NIMS compliant we enter an agreement with them. Rockwell being first, Omni Pinnacle being the second.

Mayor Boback stated he has always thought highly of Hydro-Rock as being best obviously we are at an impasse. Mayor Boback stated he would choose Omni Pinnacle. Mayor Boback stated his preference would be putting it out to bid.

Mr. Green summarized two prefer bids, one prefers Rockwell, one prefers Omni. Mr. Green asked for a consensus.

Vice Mayor Massucco concurred with Councilman Shenko.

Councilman Reynolds stated not wanted to tie Mr. Green

Councilman Meador preferred Mr. Shenko's first idea of having another meeting giving the Rockwell and the Omni Pinnacle choices.

Councilman Shenko stated there is no time, and they need to make a decision. Mr. Shenko expressed having no problem putting Omni Pinnacle first.

Mayor Boback stated he disagrees with the Rockwell and believes they will be tying their hands by putting them first.

VOTE: The motion passed 3-2 with Mayor Boback, Vice Mayor Massucco, and Councilman Shenko in favor, and Councilman Meador and Councilman Reynolds dissenting.

Attorney Dalton stated because the motion had two conditions, list this for discussion at a special meeting, or other fashion. Attorney Dalton asked would it be possible to advertise it. Tomorrow night 5:00.

VIII. TOWN ATTORNEY'S ITEMS

Attorney Dalton presented no items.

IX. FINAL PUBLIC COMMENT: Public comment at this time is heard on any items and/or issue of concern.

No public comment was given.

X. ADJOURNMENT

MOTION: Mayor Boback made a motion to adjourn.

VOTE: Meeting was adjourned at 9:20 PM

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based. Please note: Agendas will be available on the Friday prior to this meeting at www.fmbeach.org.

Respectfully submitted,

Debbie Cardoso
Transcribing Secretary