



INSTR # 6394432

RESOLUTION NUMBER 02-28 BK 04395 Pgs 0028 - 98; (71pgs)

RECORDED 08/09/2004 04:17:01 PM

CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY, FLORIDA  
RECORDING FEE \$21.00

RESOLUTION LEVYING A SPECIAL ASSESSMENT LIEN AGAINST CERTAIN DESIGNATED PARCELS BENEFITED BY THE TOWN OF FORT MYERS BEACH OLD SAN CARLOS IMPROVEMENT DISTRICT; PROVIDING . AUTHORITY; NATURE OF THE PROPOSED IMPROVEMENT; STREETS TO BE IMPROVED; PART TO BE PAID BY SPECIAL ASSESSMENTS; MANNER IN WHICH ASSESSMENTS SHALL BE MADE AND BECOME DUE; WHAT PART SHALL BE FROM THE GENERAL FUND; THE LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED; COST OF THE IMPROVEMENT; ASSESSMENT ROLL; CONSIDERATION OF SPECIAL ASSESSMENTS; EQUALIZING BOARD TO HEAR COMPLAINTS AND ADJUST ASSESSMENTS; ASSESSMENT; PRIORITY OF LIEN; INTEREST; AND METHOD OF PAYMENT; SEVERABILITY AND EFFECTIVE DATE

WHEREAS, Chapter 170, provides that any municipality may provide for the construction, reconstruction, repair, paving, repaving, hard surfacing, rehard surfacing, widening, guttering, and draining of streets, boulevards, and alleys; for grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing, and rehard surfacing of sidewalks; and in connection with any of the foregoing, provide related lighting, landscaping, street furniture, signage, and other amenities as determined by the governing authority of the municipality; and,

WHEREAS, Chapter 170, provides for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specially benefited property; and,

WHEREAS, the special assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such improvements when the improvements funded by the special assessment provide a benefit which is different in type or degree from benefits provided to the community as a whole; and,

WHEREAS, special assessments against property deemed to be benefited by local improvements shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, said special benefits to be determined and prorated according to the foot frontage of the respective properties specially benefited by said improvement.

WHEREAS, there is on file with the Town Clerk an assessment plat showing the area to be assessed, with plans and specifications, and the cost of the proposed improvement, which assessment plat, plans and specifications and estimate are open to the inspection of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

SECTION 1. AUTHORITY. This resolution is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 170 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. NATURE OF THE PROPOSED IMPROVEMENT. The street will maintain the basic street alignment and be visually framed a reconditioning of the streetscape, including wider sidewalks, formalized on-street parking, design for traffic calming, and a public plaza with a water feature at the Bay.

SECTION 3. STREETS TO BE IMPROVED. The project length is 1650 feet the entire length of Old San Carlos Boulevard, plus the plaza.

SECTION 4. PART TO BE PAID BY SPECIAL ASSESSMENTS. All new items including 20% of the Plaza will be paid by Special Assessments. Replacement items will be paid from the DRA and General Fund. Town pays for parking meters.

SECTION 5. MANNER IN WHICH ASSESSMENTS SHALL BE MADE AND BECOME DUE. The following options for payment of assessments are available for the individual property owners to choose from. Final payment is due no later than five (5) years from the date of this resolution.

Payment Option 1 – Up front, lump sum payment

To encourage up-front, lump sum payment of the assessment without interest, made no later than three months following the date of this resolution.

Payment Option 2 – Annual Installments

Payments may be made in five annual installments plus 8 per cent interest on the unpaid balance.

SECTION 6. WHAT PART SHALL BE FROM THE GENERAL FUND. The cost for replacement items and the remaining cost after the Property Owners' Share shall be divided equally between the Town (50%) and DRA (50%).

In addition to the costs listed above, the Town will provide 59 parking meters at a cost of \$375 each for a total of \$22,125. Since the Town will be able to recover these costs over time from meter revenues, this cost is not included in the apportionment of costs to the property owners or the DRA.

SECTION 7. THE LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED. All lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat .

SECTION 8. COST OF THE IMPROVEMENT. The cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expense, and such other expense as may be necessary or incident to the financing.

SECTION 9. ASSESSMENT ROLL. An assessment roll is on file prepared in accordance with the method of assessment established by the Town Council, showing the lots and lands assessed and the amount of the benefit to and the assessment against each lot or parcel of land, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided.

SECTION 10 FINAL CONSIDERATION OF SPECIAL ASSESSMENTS; EQUALIZING BOARD TO HEAR COMPLAINTS AND ADJUST ASSESSMENTS; ASSESSMENT. The Town Council has met and heard testimony from affected property owners as to the propriety and advisability of making the improvements and funding them with special assessments on property. Following the testimony, the Town Council decided to levy the special assessments. Thereafter, the Town Council met as an equalizing board to hear and consider any and all complaints as to the special assessments and adjusted and equalized the assessments on a basis of justice and right. The final assessment roll shall be filed with the governing authority of the municipality, and such assessments shall stand confirmed and remain legal, valid, and binding first liens upon the property against which such assessments are made until paid. The assessments shall be recorded in a special book, to be known as the "Improvement Lien Book," and the record of the lien in this book shall constitute prima facie evidence of its validity.

SECTION 11. PRIORITY OF LIEN; INTEREST; AND METHOD OF PAYMENT. The special assessments shall be payable as provided in Section 5; shall remain liens, coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate of 8 percent per year, and may be made payable in equal installments over a period of five (5) years, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid. However, the assessments may be paid without interest at any time within three months following the date of this resolution.

SECTION 12. SEVERABILITY. If any part, section, subsection, or other portion of this resolution or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this resolution, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The Town declares that no invalid or prescribed provision or application was an inducement

to the enactment of this resolution, and that it would have enacted this resolution regardless of the invalid or prescribed provision or application.

SECTION 13. EFFECTIVE DATE. This resolution shall become effective upon adoption.

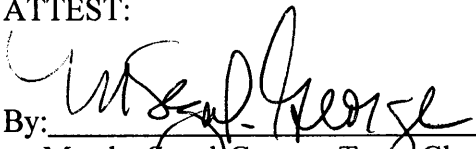
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

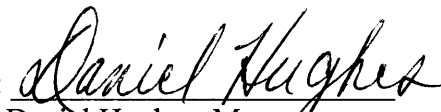
Howard Rynearson	<u>aye</u>
Daniel Hughes	<u>aye</u>
Bill Thomas	<u>aye</u>
W. H. "Bill" Van Duzer	<u>aye</u>
Terry Cain	<u>aye</u>

APPROVED this 17th day of June, 2002.

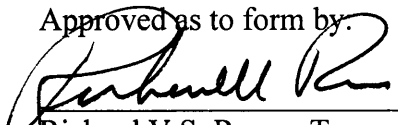
ATTEST:

TOWN OF FORT MYERS BEACH

By:   
 Marsha Segal-George, Town Clerk

By:   
 Daniel Hughes, Mayor

Approved as to form by.

  
 Richard V.S. Roosa, Town Attorney

TO: Marsha Segal-George, Town Manager  
FROM: Carol Cunningham  
SUBJECT: Old San Carlos Boulevard Assessments  
DATE: June 10, 2002

The following provides a revised calculation of assessments based on the Estimate of Final Cost provided by the Town.

The methodology for this calculation is based on the Town Council's previous direction to assess the property owners for all new items (not including parking meters) plus 20% of the cost of the Plaza. Based on the cost breakdowns provided in the original cost estimate for the project (Opinion of Probable Cost), this method of apportioning the costs translates to the Property Owners' share being 25.56% of the total project costs (not including parking meters).

This 25.56% was then applied to the Estimate of Final Project Cost (not including parking meters and the speed table) to determine the amount of the Property Owners' share based on the actual project costs.

The original Opinion of Probable Cost provided a total project cost of \$1,958,859, with the Property Owner's Share being \$500,640 or \$238.74 per frontage foot. The Estimate of Final Project Cost is \$2,695,733. Without the parking meters and speed table, the total is \$2,568,462.18, of which the Property Owners' Share is \$656,498.93 or \$313.07 per frontage foot.

Table 1 provides the Estimate of Final Project Cost by line item, calculates the Property Owners' share, separates out the Town's cost for parking meters with the remaining total to be split between the Town and DRA, and provides a calculation of two options for that split.

Table 2 provides the calculation of Assessment per Property with frontage on Old San Carlos Boulevard based on \$313.07 per frontage foot.

TABLE 1  
ESTIMATE OF FINAL PROJECT COSTS

Item	Estimate of Final Project Costs	Project Costs minus speed table and parking meters	
Wilson Miller Eng/Design	\$85,300.00	\$85,300.00	
Huff Engineering	\$2,000.00	\$2,000.00	
Warner Architecture	\$6,800.00	\$6,800.00	
Utelco Bid including Plaza	\$1,456,534.75	\$1,456,534.75	
Project Manager	\$82,500.00	\$82,500.00	
FPL	\$362,613.00	\$362,613.00	
Speed Table	\$107,071.00		\$107,071.00
Gazebo	\$150,000.00	\$150,000.00	
Cost of conduit	\$20,000.00	\$20,000.00	
Cost of installation of conduit	\$10,000.00	\$10,000.00	
Concrete wall removal	\$666.72	\$666.72	
Light Pole fusing	\$2,401.00	\$2,401.00	
Additional Tree removal	\$8,146.71	\$8,146.71	
Critical pull-boxes	\$76,000.00	\$76,000.00	
4" concrete tree surrounds	\$42,600.00	\$42,600.00	
Removal/disposal of exfiltration	\$7,000.00	\$7,000.00	
Filter cloth (Phase 1 and 2)	\$600.00	\$600.00	
Stake out for streetlights and fountain	\$1,650.00	\$1,650.00	
Sprint distribution box covers	\$6,000.00	\$6,000.00	
Replacement of broken stormwater RCP and water connection to Snug Harbor	\$34,000.00	\$34,000.00	
Removal of existing RCP at 3rd st	\$2,000.00	\$2,000.00	
Additional base rock and asphalt (contingent)	\$5,000.00	\$5,000.00	
Possible additional material; quantity discrepancies	\$20,000.00	\$20,000.00	
Testing and flushing of water lines/chlorination	\$1,000.00	\$1,000.00	
Abandonment of 12" A/C water main	\$2,000.00	\$2,000.00	
Removal of concrete over 6" thick entire project	\$5,000.00	\$5,000.00	
Benches, litter receptacles, powder coat charge etc	\$42,935.00	\$42,935.00	
Sign frames, streetlights, streetpoles, banner rods, clamp-on street frames, antique pole hardware	\$78,541.00	\$78,541.00	
Parking meters	\$20,200.05		\$20,200.05
Tree grates, square steel angle frames, cast iron trench grates, 6" trench grate steel frames	\$47,150.00	\$47,150.00	
Bicycle parking racks	\$10,024.00	\$10,024.00	
<b>Total</b>	<b>\$2,695,733.23</b>	<b>\$2,568,462.18</b>	<b>\$127,271.05</b>
Property Owners Share (25.56% of total project cost w/out speed table, parking meters)		<b>\$656,498.93</b>	
Town cost – Parking Meters		\$20,200.05	
Remainder (to be split between Town and DRA)		\$2,019,034.25	
If 50/50 split	Town	\$1,009,517.12	
	DRA	\$1,009,517.12	
If 62.5%/37.5% split	Town	\$1,261,896.40	
	DRA	\$757,137.84	

TABLE 2  
Assessments per Property based on Estimate of Final Project Cost

Item #	Strap	Name			Frontage	Numbers based on Estimate of Final Project Cost (not including speed table and parking meters) at the same percent of total project costs as approved by Town Council under option 1 (25.56%). Cost per frontage foot is \$313.07
1	244623W3000040000	KIRIC	1131	FIRST ST	88	\$27,550
2	244623W3002030010	INV BROS	340	OLD S.C.	40	\$12,523
3	244623W3002030020	RICHARD	320	OLD S.C.	145	\$45,395
4	244623W3002040010	ROESSLER	250	OLD S.C.	105	\$32,872
5	244623W3002040030	HOLLAND	200	OLD S.C.	120	\$37,568
6	244623W3002070000	150 S.C.B.	150	OLD S.C.	134	\$41,951
7	244623W30030A0010	POWELL	401	OLD S.C.	80	\$25,045
8	244623W30050A0010	KIRIC	343	OLD S.C.	50	\$15,653
9	244623W30050A0030	RICHARD	309	OLD S.C.	125	\$39,133
10	244623W30050A0080	RICHARD	237	OLD S.C.	125	\$39,133
11	244623W30050A0130	HVAC	185	OLD S.C.	29	\$9,079
12	244623W30050A0140	MAY S E	163	OLD S.C.	46	\$14,401
13	244623W30050A016A	JENKINS	159/61	OLD S.C.	50	\$15,653
14	244623W30050A018A	P B INV.	151	OLD S.C.	62	\$19,410
15	244623W3000050010	STREIT	500	OLD S.C.	100	\$31,307
16	244623W3000240000	SCHULZ	201	OLD S.C.	125	\$39,133
17	244623W3000260000	KIRIC	645	OLD S.C.	320	\$100,181
18	244623W3000260030	KIRIC	441/45	OLD S.C.	125	\$39,133
19	244623W3002010010	STREIT	450	OLD S.C.	74	\$23,167
20	244623W3002020010	STREIT	440	OLD S.C.	40	\$12,523
21	244623W3002020020	STREIT	430	OLD S.C.	34	\$10,644
22	244623W3002020030	STREIT	420	OLD S.C.	80	\$25,045
				<b>Total frontage</b>	<b>2097</b>	<b>\$656,499</b>
				<b>Total estimated final cost</b>	<b>\$2,568,462</b>	(not including speed table and parking meters)
				<b>Prop Owners Share</b>	<b>\$656,499</b>	
				<b>Per frontage foot</b>	<b>\$313.07</b>	

TO: Marsha Segal-George  
 FROM: Carol Cunningham  
 SUBJECT: Regarding the Request from 150 Old San Carlos Boulevard (revised to reflect estimated final cost per frontage foot)  
 DATE: June 10, 2002

Following the discussion at March 18<sup>th</sup> Town Council meeting, I would like to offer a suggestion for how to equalize the perceived inequity regarding applying the "per frontage foot" methodology to the extensive frontage at 150 Old San Carlos Blvd given the triangular shape of the parcel.

First, I believe the per frontage foot methodology is the only fair way to apportion the costs of the streetscape project to the property owners. It is designed to tie the relationship of the improvements closely to the benefit the improvements provide, which is an enhanced frontage on the street, providing greater exposure, thus increasing the ability to capture the growing market of pedestrian activity stimulated by the improvements. The most significant benefit of the project is tied directly to the street frontage and has little to do with the size or shape of the parcel. The more frontage, the more exposure, the greater the benefit.

However, if the Town Council feels strongly about making some adjustment to the assessment amount allocated to the parcels at 150 and 200 Old San Carlos Boulevard because of their triangular shape (one having less frontage and more developable parcel, the other having more frontage and less developable parcel), I suggest one of the following methods that would not penalize or be unfair to the other property owners.

1) Add together the frontage for 150 Old S.C., the Town's right-of-way formerly Center Street, and the frontage of 200 Old S.C. (134' + 80' + 120' for a total of 334'). Divide the total of 334' by 3 resulting in 111.33'. Assess the two private properties for 111.33' of frontage for a total of \$34,750.77 each, with the Town picking up the remaining \$9,809.53. The following table illustrates:

	Actual Frontage	Adjusted Frontage	Adjusted Frontage times \$313.07 per frontage foot	Original Assessment Amount based on actual frontage times \$313.07 per frontage foot
150 Old S.C.	134	111.33	\$34,855.13	\$41,951.38
200 Old S.C.	120	111.33	\$34,855.13	\$37,568.40
Town	80			
Total frontage	334			
Average frontage	111.33			
Town's Share			\$9,809.53	
Total			\$79,519.78	\$79,519.78



2) Take the total cost currently allocated to the two private properties which is \$79,519.78, and divide it by the new total of 334 frontage feet which includes the Town's 80 feet. This will produce a new cost per frontage foot number of \$238.08 per frontage foot for the three properties. Apply that number to the frontage feet of each private property and the Town's right of way as follows:

	Actual Frontage	Adjusted assessment based on \$238.08 per frontage foot, with the difference made up by the Town	Original Assessment Amount based on actual frontage times \$313.07 per frontage foot
150 Old S.C.	134	\$31,903.14	\$41,951.38
200 Old S.C.	120	\$28,569.98	\$37,568.40
Town	80	\$19,046.65	
Total frontage	334		
Total		\$79,519.78	\$79,519.78

I prefer method one (1) because it does not change the cost per frontage foot, but simply attempts to equalize the triangular parcel concern.

As you suggested at the meeting, the concern expressed by the property owner of 150 Old S.C. may be addressed, instead, by making an adjustment or providing some relief to his costs for providing an appropriate and attractive transition area. This might be an appropriate additional expenditure for the DRA which probably has more latitude than the Town to write down the cost of improvements on private property that provide a broader benefit, or perhaps the property owner could be convinced to dedicate the affected transition area to the Town and have the Town or DRA pick up the total cost of the improvements and make them as attractive as they need to be.

Please let me know if you would like me to explore any other alternatives. I hope this is helpful.