



## MINUTES

**FORT MYERS BEACH TOWN COUNCIL**  
TOWN HALL – COUNCIL CHAMBERS  
2523 ESTERO BOULEVARD  
FORT MYERS BEACH, FLORIDA 33931

**AGENDA**

**JULY 20<sup>TH</sup>, 2009**

**6:30 PM**

**I. CALL TO ORDER**

Vice Mayor Herb Acken called the meeting to order, sitting in for Mayor Kiker due to a death in the family. Mayor Kiker to participate by phone during the millage discussion and Councilmember Babcock to participate throughout the meeting by phone. Councilmembers List and Raymond present. *Town Manager Janke absent*

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

Reverend Forrest Critser, First Baptist Church led the Invocation.

**MOTION:** Councilmember List made a motion to allow Councilmember Babcock to participate by phone with a second by Councilmember Raymond.

**VOTE:** Motion passed 3 to 0

**IV. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

None noted

**V. ADVISORY COMMITTEES ITEMS AND REPORTS**

None noted

**VI. PRESENTATIONS**

A. Kraft Construction Request for Waiver of Noise Ordinance  
Public Works Director, Jack Green gave a brief explanation for the following presentation.

Jack Dillion, Project Manager of Kraft Construction presented information regarding the Matanzas Pass Subaqueous Crossing. Mr. Dillion indicated the pilot hole was complete across Matanzas Pass for the water main and they were approximately 660 feet in the reaming process going back with hope that the 32 inch reaming would be done by Friday of the current week.

Mr. Dillion stated they were looking at Option #1 on the drawing presented to Council. He went on to state they had rented the parking lot from Snug Harbor until the end of October and Moss Marine had allowed them the alley way adjacent to their structure enabling Kraft Construction to stretch the pipe out about 400 feet toward the road. In addition to the road presently closed under Option #1, the next block would need to be closed to place a crane.

The operation would take about 17 hours and the reason for the request to allow Kraft to proceed at night is for the safety, health and well being of the public. Mr. Dillion explained the procedure and the possibility of danger during the pipe pull which highlighted the need for overnight work to greatly reduce the possible number of spectators. Mr. Dillion stated he would be providing information to all residents and businesses prior to the work to alert them of the event.

Discussion ensued regarding the time of night, level of noise and duration of the work along with the number of residents and businesses affected.

**MOTION:** Councilmember List made a motion to suspend the enforcement of the noise ordinance for two evenings, one, Tuesday of next week and approximately one month later to do the pipe pulling and give permission to Public Works to work with Kraft Construction to establish public safety measures and to make sure notifications go out in a timely fashion to impacted residents and businesses with a second by Councilmember Raymond.

Public Works Director Jack Green requested a correction by the motion maker to not specify the date. Councilmember List amended her motion to state a “week night” with Councilmember Raymond seconding the amended motion.

**VOTE:** Motion passed 4 to 0

**VII. PUBLIC COMMENT**  
**Opened Public Comment**  
None  
**Public Comment Closed**

**VIII. CONSENT AGENDA**

A. Approval of Minutes: June 15, 2009

**MOTION:** Councilmember List moved to accept Consent Agenda, seconded by Councilmember Raymond.

**VOTE:** Motion passed 4 to 0.

Vice Mayor Acken requested a change in the order of the meeting due to a request from Mayor Kiker to place the discussion of the millage rate before the Comprehensive Plan Amendment. All Councilmembers were in agreement of the change.

- Mayor Kiker joined the discussion by phone.

**MOTION:** Councilmember List made a motion to include Mayor Kiker to the discussion by phone with a second by Councilmember Raymond.

**VOTE:** Motion passed 4 to 0

A. Resolution 09-16 Adoption of the Tentative Millage Rate FY 2010

Finance Director Evelyn Wicks gave an overview stating the need to set the Tentative Mill Levy, which is the Levy that would be advertised in the TRIM Notice in the summer months and that it needed to be done and to the County by August 4<sup>th</sup>.

Councilmember Raymond noted he was not opposed to the .8670 rate which had been discussed at the prior meeting but did not necessarily agree that is where it should wind up.

Councilmember List stated she did not want to raise taxes on anyone right now yet everyone wants to continue their level of services. She was willing to set the tentative rate at .8670.

Councilmember Babcock supported setting the tentative rate at .8670 and felt after lengthy discussions the expenditure side was pretty well set but that the revenue side needed additional work.

Mayor Kiker supported the tentative rate at .8670 but felt there was a lot of work to do especially on the revenue side.

Vice Mayor Acken was concerned with a revenue stream to replace the one time cuts and felt property values would not be increasing this year and felt a motion was needed to be made at .9 and anything else would be a risk.

**PUBLIC COMMENT**

## Opened Public Comment

### Public Comment was heard:

- Pat Smith discussed the risk of going with a .9 rate and felt it was not the time to do that with the state of the economy. She asked Council to go as conservatively as they could and to think of all the people of the island.
- Jim Stevens noted his confusion on the rates discussed.

### Public Comment Closed

Councilmembers continued their discussion with Vice Mayor Acken concluding by offering thanks to all members of Staff for their efforts on the budget.

**MOTION:** Councilmember List made a motion to accept Resolution 09-16, Adoption of the tentative ad valorem millage rate .8670 mills for the Tax Year 2009/2010 for the Town of Fort Myers Beach, in compliance with the State of Florida TRIM requirements and set the first hearing to consider final millage rate and adopt the budget for Fiscal Year 2009-10 for September 9<sup>th</sup>, 2009 at 6:30 p.m., with a second by Councilmember Raymond.

Town Attorney Dalton read the resolution:

### RESOLUTION NUMBER 09-16

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE FOR TAX YEAR 2009/2010 FOR THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA; DETERMINING THAT THE PROPOSED OPERATING MILLAGE RATE EXCEEDS ROLLED-BACK RATE; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND THE BUDGET FOR THE TAX YEAR 2009/2010; AND PROVIDING AN EFFECTIVE DATE**

Town Attorney asked of the motion maker to amend the resolution to include the second meeting of September 21<sup>st</sup> at 6:30 p.m. at Town Hall.

Councilmember List amended her motion as did Councilmember Raymond.

### VOTE: Roll Call Vote

- |                         |     |
|-------------------------|-----|
| ▪ Councilmember List    | Aye |
| ▪ Councilmember Raymond | Aye |
| ▪ Councilmember Babcock | Aye |



presented to Council in their packet regarding the opening of the bids

and the recommendation to approve the award of the contract to White General Constructors, Inc. for \$57,480.00.

**MOTION:** Councilmember Raymond made a motion to approve the award of Contract 09-05-CR Mound House Shell Mound Exhibit Phase II to White General Constructors, Inc. in the amount of \$57,480.00 and authorize staff to move forward with the project. A second was made by Councilmember List.

**VOTE:** Motion passed 4 to 0

### **OPEN PUBLIC COMMENT**

**Public Comment Opened**

**Public Comment Closed**

Ms. Schober brought Council up to date regarding the grounds restoration at the Mound House and stated by the August 10<sup>th</sup> Council meeting she should have the permit from the DEP to move forward. Ms. Schober also indicated fabrication had begun on the Calusa carts, which are mobile educational carts.

Ms. Schober informed Council that the Historic Preservation Board had held it's hearing on Council's request for demolition of the cottage and that request was successful. A revision of the management plan was being completed for Council's approval, to be submitted at the Council meeting on August 17<sup>th</sup> and then be sent to the State for review and approval.

Vice Mayor Acken again voiced his dismay over the demolition of the Newton Park cottage and wanted to see further options discussed. Councilmembers List, Raymond and Babcock did not want to see staff burdened with these efforts.

Ms. Schober then indicated the Local Planning Agency held the hearing for rezoning of the Newton property. It has been forward for Town Council consideration at the August 17<sup>th</sup> meeting. Construction documents would be finalized and sent to bid. The bid award for the Seven Seas restoration is scheduled for Council's August 10<sup>th</sup> meeting.

*Recess: (no time noted)*

*Reconvene: (no time noted)*

## **XI. TOWN MANAGER'S ITEMS**

### **A. Bay Oaks Update**

Jack Green provided a prospective to give the negotiating team some actions for leverage as well as pointing out time lines for advertising and hiring of Bay Oaks positions. Mr. Green pointed out the need for

Council to have a workshop and decide what their bottom line is when the team meets with the County. A review of the facilities building inspection report including issues with the roof, structural steel problems and numerous other problems were discussed. Mr. Green stated if a tentative agreement was not reached soon an October 1<sup>st</sup> transfer could not happen.

Attorney Dalton provided an overview for Council of what has occurred to date between the Town and the County. Mr. Green felt the team should request the repair of all deficiencies to the facility including replacement of the roof.

After much Council discussion and suggestions by Mr. Green, a decision was made to go to the County with the position to repair all deficiencies, replace the roof, \$160,000.00 in reserve and \$150,000.00 for operations.

A discussion ensued regarding the interlocal with the school district. Council would take up the matter after their meeting with the County on Bay Oaks.

**B. Beach Nourishment Status**

Mr. Green felt Council was up to date on the topic and advised that DVDs of the meeting at Pink Shell was to be distributed to beach front property owners.

Council discussed adding a letter and return envelope to the DVDs to provide a better count on easements acquired.

**C. Water Utility Status**

Jack Green indicated the Council will have a presentation from a representative from the Florida Rural Water Association who did the Town's rate study. The study will be in Council's packet on the 10<sup>th</sup> and the presentation will be made on August 17<sup>th</sup>. A reminder to Council that decisions needed to be made in regards to the Referendum for the March election.

**D. North Estero Boulevard Drainage Project Update**

Mr. Green stated a mandatory pre bid meeting was held with all contractors who planned to bid the project, with 22 bid holders participating. August 5<sup>th</sup> would be the bid opening.

**XII. TOWN ATTORNEY ITEMS**

Attorney Dalton had no items to declare.

**XIII. COUNCILMEMBERS ITEMS AND REPORTS**

Councilmember Babcock asked Mr. Green if the sewer line problems on San Carlos Island affected the beach, with Mr. Green indicating there were no issues on Estero Island.

Councilmembers Raymond and List had nothing to report.

Vice Mayor Acken gave condolences to Larry and Paula Kiker.

#### **XIV. AGENDA MANAGEMENT**

Councilmember Babcock requested a discussion of an accelerated occupancy certificate for the Mound House. A decision was made to add it to the meeting of the 13<sup>th</sup>. Councilmember Babcock then asked when to expect the discussion on the Capital Improvement Projects. Attorney Dalton reminded Council that the LPA is required to review and make a recommendation first and the LPA had not seen the documents. Councilmember Babcock requested a discussion on August 19<sup>th</sup>. Councilmember Babcock then asked when they would be talking about revenue sources. Vice Mayor Acken stated his opinion would not change and saw no need for further discussion. Councilmembers List and Raymond agreed for the need for additional conversation but all decided to select a time at the next Council meeting when all Council would be present. Councilmember Babcock then asked for a discussion at a future meeting regarding project management to include a list of projects, goals and cursory prioritization of the projects. Vice Mayor Acken felt this needed to be addressed when all Council was present.

#### **XV. RECAP OF ACTION ITEMS**

- Certificate of Occupancy for Mound House on Workshop Agenda for August 13
- Capital Improvement Projects set for August 19<sup>th</sup> M & P
- Revenue sources- set for August 19<sup>th</sup> M & P, discuss August 10<sup>th</sup>
- Project Management discussion August 10<sup>th</sup>
- Coordinate with Kraft Construction for Matanzas Pass Subaqueous Crossing regarding notifications to residents and businesses
- Millage rate
- Comp Plan, revenue
- Action Item – Contact State Park Service or others regarding the cottage
- Moving Ordinance 09-03 to August 17<sup>th</sup> at 8 p.m.

#### **XVI. PUBLIC COMMENT**

**Opened Public Comment**

**No Public Comment**

**Public Comment Closed**

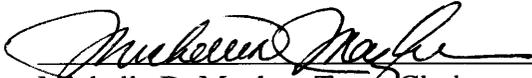
#### **XVII. ADJOURNMENT**

The meeting adjourned at 10:16 p.m.

Adopted 8-17-09 With/Without changes. Motion by Aiken/Lent

Pg one of ten

Vote: 5-0

  
Michelle D. Mayher, Town Clerk

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