



## MINUTES

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

**AGENDA**

**February 1, 2010**

**9:00 AM**

**I. CALL TO ORDER**

Mayor Kiker called the meeting to order at 9:05 a.m. Present with Mayor Kiker was Council members Babcock, List and Raymond, Interim Town Manager Jack Green, Town Attorney Anne Dalton and Town Clerk, Michelle Mayher. Vice Mayor Acken was not present.

**II. INVOCATION**

Councilmember List led the invocation.

**III. PLEDGE OF ALLEGIANCE**

All stood to recite the Pledge of Allegiance

Mayor Kiker sought Council approval to change the agenda somewhat by beginning with Administrative Agenda item

**A. Town Manager (Interim) Contract**

Interim Town Manager Jack Green stated Council had a contract that was negotiated by Councilmember Babcock and Town Attorney Anne Dalton. Mr. Green indicated Mr. Stewart had agreed to the terms of the contract and it was ready for execution.

**MOTION:** Councilmember Babcock moved for approval of the agreement for Terry Stewart as Town Manager with a second by Councilmember List.

**Public Comment Opened**

No Public Comment

**Public Comment Closed**

**VOTE:** Motion passed 4 to 0

Mr. Stewart addressed Council, all those present in Council Chambers and those watching on television, thanking all for their support promising to do his best to work with Council, businesses and residents in making the Town a comfortable and wonderful place to live.

Councilmember List read a proclamation honoring the years of service to the Town by Jack Green and presenting him with a key to the Town.

Joanne Shamp, Chair of the LPA read resolution 2009-30 acknowledging and honoring Jack Green's service to the LPA and the Town.

Charles Hester, Marine Resources Task Force indicated they too had passed a resolution honoring Jack Green and thanking him for his service.

The Community Resources Advisory Board extended their thanks and best wishes to Mr. Green.

The Anchorage Advisory Committee acknowledged Mr. Green's service and extended their thanks.

Ceel Spuhler representing CELCAB thanked Mr. Green for his dedication.

Mr. Green addressed the Town thanking everyone, stating it had been an honor and privilege to work for the Town and that he would cherish the past 5 years.

**IV. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Councilmember Babcock attended a dedication of a memorial garden and bench at the Bay Oaks Facility which was funded by friends and family of Ann Reasoner, encouraged everyone to visit the area put in by the Garden Club and requested the Town send a thank you note to the Reasoner family and the Garden Club.

Councilmember Raymond stated that the Horizon Council recognized Councilmember List was acknowledged for all the work she had done for the Executive Committee for the Horizon Council.

Mayor Kiker recognized Pat and Mary DeVincent for their work in organizing S.O.O.D.A as well as their work on the Charter for the Town.

**V. ADVISORY COMMITTEES ITEMS AND REPORTS**

**A. CRAB – Leadership Conference**

CRAB Chair person Jim Rodwell provided an update on the Beach Leadership Conference indicating they were planning a conference that would last 3 days with up to 35 participants on a first come, first served basis. Mr. Rodwell reviewed the topics to be discussed and locations to be visited noting participants would be given a problem to address on the last day mirroring an issue facing the Town. A dinner for the last day along with a keynote speaker was planned. Mr. Rodwell indicated the logistics were being worked on at present. Estimated cost was \$5,000 with CRAB having a budget of \$2,500.00 with the hope of obtaining a sponsor for the remaining funds.

**MOTION:** Councilmember Raymond made a motion to put in the budget the \$2,500 should it be needed with a second by Councilmember Babcock.

**VOTE:** Motion passed 4 to 0

Charles Hester, Marine Resources Task Force, indicated the nominations were open for the John Mulholland Stewardship Award which is held each year generally coordinating with Earth Day.

## **VI. PUBLIC COMMENT**

### **Public Comment Opened**

- Edwina Foster indicated she had been coming to Fort Myers Beach since 1962 and a homeowner since 1987. Ms. Foster is of the opinion that the residents of Fort Myers Beach do not want beach nourishment, and urged the Council to represent the taxpayers and voters.
  
- Roy Hinkelman, President of Laguna Shores Homeowners Association expressed concerns about the dredging at mile markers #1, #2, #3 and #4 that took place last year that it has already filled in about 50 to 60%, within 10 months. In November he contacted Cathie Lewis of Public Works and was told that more information would be available in February 2010 after completion of an engineering report from Hans Wilson & Associates.
  
- Suzanne Ziemer, 4753 Estero Boulevard requested Council look at improvement to the public accesses on the bay side, specifically use the updating of Bayview Avenue as a starting point.
  
- Carleton Ryffel indicated he had been working on his own to assist in securing renourishment easements at the north end of the island was willing to provide information to those hesitant in signing easements.

### **Public Comment Closed**

## **VII. PROCLAMATION**

### **A. Hazardous Materials Awareness Week**

Town Council adopted a proclamation claiming Hazardous Materials Week.

## VIII. CONSENT AGENDA

- A. Approval of Minutes: January 4, 2010
- B. Approval of Minutes: January 5, 2010 Worksession
- C. TDC Beach and Shoreline Project Descriptions

Councilmember List asked for a correction in item A. page 20, changing the word *president* to *precedent*, page 22 including a space between the words *see* and *the*.

Mayor Kiker questioned item C. (3) study of new beach preservation technologies, being concerned that the Council had not discussed this topic.

**MOTION:** Councilmember List moved to continue the Council Meeting until Wednesday, February 3<sup>rd</sup>, 2010 with a second by Councilmember Babcock.

Discussion ensued as to the availability of TDC funds for renovation of the inside of the Mound House, whether TDC funds can be used for historic restoration and other uses from the TDC beach and shoreline program.

Attorney Dalton requested the motion on the table be withdrawn at this time, and that at the end of the meeting, should Council choose to continue the meeting, to move as such at that time.

**WITHDRAWN:** The motion for a continuance was withdrawn.

**MOTION:** Councilmember Babcock moved for approval of Consent Agenda items A. & B. with corrections suggested by Councilmember List with a second by Councilmember List.

**VOTE:** Vote passed 4 to 0

## IX. ADMINISTRATIVE AGENDA

### H. Beach Nourishment and ILA Update

Town Manager Stewart indicated staff was looking for direction as to what Council wished for in preparation in working through the draft agreement; noting there were some concerns regarding the agreement as it stood with the Town Attorney suggesting Council begin again with a whole new interlocal agreement. Mr. Stewart voiced his concerns for the Town to take action to adequately represent what will happen for the residents who have already signed off on the easements to make sure they are aware of what was happening and to make sure they are informed as to the issues for the future. Attorney Dalton stated on January 23<sup>rd</sup> she presented to Council a memo which was attached to the agenda item summary which was a summary of the proposed agreement, indicating the initial question for Council would be whether or not to reduce scope and if so then the rest of the items on the summary would fall into further discussion but if Council chose not to agree with the premise of reduction of scope then the rest of the items would be moot.

Mayor Kiker reviewed the request that instead of ending the agreement at the Federal level and starting a new agreement with a new concept to keep the same agreement that was in place and change the content.

Councilmember Babcock opined that the first question should be whether or not the Town wanted to cancel the current interlocal agreement that was signed on April 28, 2009.

Attorney Dalton indicated she had spoken with Mr. Boutelle who had calculated the financial contribution solely on the reduction of scope and suggested to Council that since the County had two significant properties within the proposed revised scope that those being taken out of the calculation with the Town's share solely based upon the non County properties which would significantly reduce the Town's contribution from \$250,000.00.

Mayor Kiker asked if the intention was to go through the interlocal agreement. Attorney Dalton indicated that was not her intention but rather to get a perspective from Council as to how they would like to move forward with the bigger question as well as addressing Mr. Stewart's comments on the easements and problems resulting from those in the future which could be a cloud on title in the future. Attorney Dalton stated she had addressed the issue with the south end easements with the County and their reply was they had already been given an opportunity to rescind. Attorney Dalton noted they had not done so under the newly proposed agreement, with a suggestion to Council they advise the County to contact the property owners and pay the recording cost and any other costs associated with further rescission. Mayor Kiker asked if it were the will of Council to allow public comment with Council noting they were in agreement.

#### **Public Comment Opened**

▪ **Frank Schilling** indicated to Council that the property owners had spoken and the interlocal with the County on beach renourishment should be dead, stating an aversion to vegetation, loss of property rights, distrust of Lee County statements in general.

▪ **Joanne Shamp** spoke regarding the Federal easements and what they meant to property owners indicating the interlocal did seek to retain the 10 and 50 year Federal easements despite the fact that the Federal Estero Island Restoration Project 30-22 had been changed to a navigation project.

Ms Shamp indicated that in 2008, in order to be eligible for Federal funding the 10 year easement was required and the easement and possible encroachment on private property had created stiff opposition from many beach front property owners and from the discussion with County staff it was the understanding if non Federal partners were to agree to eliminate Federal funding the project would require right of way agreements. Ms. Shamp opined that it was Council's job to protect the interest of the Town and its residents.

- **Rochelle Kaye** addressed the 240 foot groin design proposed by the County indicating it had been reviewed by the DEP with their structure impact review stating that the design had the potential to starve the sandy beach areas and shorelines along the inside of the inlet. Ms Kaye stated that the DEP felt it may be necessary to armor all or portions of the down drift shoreline as a result of erosion induced by construction of the groin.

Ms Kaye indicated that Town Council knew that armoring the shoreline was expressly prohibited by the LDC sections 26 through 77 so it could not support the construction of the groin with that expected impact. Ms Kaye stated the County was asking the Town to sign an agreement for a navigation project and pay \$250,000 for a project that the DEP already stated was a poor design and would create further erosion of the island with the need to be removed when it created the expected damage. The LDC also stated in section 14-3 A13 it was unlawful to install shore rocks, concrete or other shore stabilization material without a permit from the Town. Ms Kaye indicated it was time for the Town Council to reject the County's amendment for the construction of a poorly designed groin and follow the LDC of the Town of Fort Myers Beach which stated in section 14 A13 it was unlawful to install shore rocks or concrete. Ms Kaye went on to state the County's mismanagement in 2009 had already caused significant damage to surrounding properties and should be made to require new engineering for a properly designed groin that would meet the standards of the LDC and Comprehensive Plan as well as protect the interest of the Town and surrounding properties.

- **Larry Miller** resident of 5670 Estero Boulevard cited situations over the years for the need of beach nourishment however questioned the need for Council to spend money now in light of situations over the years with the County regarding mistakes and missed promises. Mr. Miller encouraged Council to vote against spending money on the project and asked Council to be cautious in spending taxpayers' money and for them to think in terms of the full time residents of the island.

- **Jim Stevens** treasurer of Strandview Condo Association indicated he agreed with the other speakers however wanted to address an issue in regards to Strandview which was the word trust, indicating there had been many changes regarding their easement and asked Council not to amend the agreement but for them to start from scratch.

- **Dennis Greenspun** resident north end of island indicated he had not signed the agreement as he owned two properties that were beachfront. Mr. Greenspun took exception to the News Press calling beachfront owners either ignorant or selfish, noting he was neither. Mr. Greenspun indicated he had concerns over the project, making it clear he was not opposed to renourishment, he was opposed to the vegetation requirement.

- **Shari Lee Dias** reviewed the past timelines given for obtaining the needed easements to go forward with the project, reminding Council they indicated it would be the property owners who would make the decision. Ms Dias indicated she felt the property owners had spoken that they did not want the project and hoped Council would keep their promise and officially put an end to the current project to be able to work on solution oriented projects that were cost effective for the beach.

▪ **Joe Farrell** indicated he understood the need for beach replenishment on the north end of the beach noting he had been one of the owners who had signed the original easement until he read and learned that his property rights were being taken away which led him to request to rescind his easement. Mr. Farrell stated he had owned his property since 1988 and over that time there were occasions when there was beach nourishment due to edging and was asked to give temporary construction easements and would have no problem with going forward on that basis. Mr. Farrell noted that even though he was not a full time resident of the beach he had paid a lot of taxes and was entitled to just as much consideration from Town Council as those residents who live on the island full time.

### **Public Comment Closed**

Mayor Kiker asked to canvas the audience asking for those who were not in favor of beach renourishment to please stand with 16 people standing.

Of those against beach nourishment, Mayor Kiker asked those to stand that were against it because of the dunes and vegetation with 4 standing.

Of those present, if the project were reduced to going only from the pier to the north end, how many would be in favor of that beach nourishment project with none standing.

Mr. Kiker then asked how many were against the expenditure of the \$250,000 with 16 standing.

Councilmember Babcock indicated it was hardly a scientific study when there were only 16 folks present.

▪ **Kay Miller** of 5670 Estero Boulevard was permitted to address Council indicating they had been on the island for years watching the sand come in and the sand go out and seeing all the money being spent when it would wash right back out again with them having no sand, acknowledging that now the north end didn't have sand but noting it would come back in, it was just how the beach worked and questioned spending the money.

Mayor Kiker stated that on Wednesday there would be a worksession regarding the interlocal agreement that had been presented by the County.

Councilmember Babcock asked for clarification of the title for Wednesday's workshop, with Town Clerk Michelle Mayher stating it was listed as Beach Management. Councilmember Babcock felt that was a different topic than what was being asked to be addressed, stating beach management was put on as a reaction to what Council might have to decide to do in lieu of a full beach nourishment project. Councilmember Babcock felt it was time to make a a decision in a publicly noticed Town Council Meeting, indicating Council had the agreement from the County in plenty of time to make a ddecision.

Mayor Kiker indicated the meeting Wednesday was to be in anticipation of a new interlocal agreement that was going to be given to Council after the BOCC had discussed it and voted on it and then Council was going to take the time to look and see what their proposal was and then discuss it during that meeting.

Mayor Kiker noted that the U.S. Supreme Court was now looking at a case involving beach front property rights which was to come out somewhere around June or July, indicating he was not comfortable making decisions with residents' property rights until the Supreme Court's decision was made.

Councilmember Babcock felt the issue was a 3 step process:

- Cancel the interlocal agreement signed on April 28<sup>th</sup>, 2009
- Initiate navigation channel project
- Initiate a joint effort between Town and County for restoration, stabilization, maintenance of the entire shoreline

***Vice Mayor Acken joined the meeting.***

Vice Mayor Acken indicated his position had not evolved and still continued to represent the interests of the people who talk to him that wanted to save renourishment. Vice Mayor felt there was a permitted project, an interlocal signed and in hand and would be able to move forward with the channel project, beach renourishment and 150 feet of beach for almost 5 miles of shoreline. Vice Mayor indicated the problem was the number of easements and could not support the County renegeing on their promise and leaving everything south of the pier just to fate with the hope of figuring something out and beginning from scratch. Vice Mayor Acken again indicated the issue with the easements could be addressed simply by getting rid of the dunes and vegetation stipulation and asked Council to send a clear message to the County that the Town wanted to protect all the businesses and all the residents not just the property north of the pier.

**MOTION:** Councilmember Babcock made a motion to cancel the interlocal agreement dated April 28, 2009 with a second by Councilmember List.

Attorney Dalton stated that the contract that was previously signed had a provision under section 8. Cancellation of the Agreement which said any cost incurred to the project prior to cancellation would be shared as specified in section 4, etc. etc. Attorney Dalton indicated the Town could take the position the County had unilaterally canceled the contract or proposed a modification but if the Town formally canceled the contract the concern could open up the liability of the Town to pay some costs incurred prior to cancellation; whereas if Council chose to go a different direction it might not have the potential liability.

Town Manager Stewart indicated he read the memorandum presented by the Town Attorney and had significant concerns about the way the County was proceeding, stating it was fairly clear based upon the criteria established by the County, that unless the

criteria were met, the project could not move forward. Mr. Stewart addressed the continuing need for dredging and the affects it has had on the north end of the island and what was happening with beach renourishment there. It is no longer the same project so the same ILA should not be in place and should be in fact dead, noting he was not entirely sure it needed to be cancelled as it was already cancelled by the criteria that was put in place by the County.

Councilmember Babcock was willing to modify his motion to recognize that the County had effectively cancelled the ILA indicating the Town would support the decision.

**AMENDED MOTION:** Councilmember Babcock amended his motion to recognize that the County had effectively cancelled the ILA and that the Town Council would support it. Councilmember List amended her second.

Council discussion continued regarding the history of the project over the years, dunes and vegetation, easements signed and rescinded, the future of the project and the Town's approach to the County as it related to the ILA.

Mayor Kiker suggested composing a letter of intent, which would be Council putting together what they really wanted as well as recognizing that the agreement was defunct and why, discuss ways to manage the beach, and recognize that there were permits in place.

Councilmember Babcock felt the letter of intent should have the components of an end to the current interlocal agreement and have a navigation channel project that would protect Bowditch Point and allow for fewer times to dredge the channel and put sand where it is absolutely essential.

**CALL THE QUESTION:** Vice Mayor Acken called to question.

Town Clerk Mayher read back the motion by Councilmember Bacoock to recognize that the County had effectively cancelled the interlocal agreement for beach nourishment and that the Town Council would support that.

**VOTE: (As the motion to call the question)** Motion passed 3 to 2 with Council members List and Raymond dissenting.

Town Clerk Mayher restated the motion on the floor: Motion by Councilmember Babcock to recognize that the County has effectively cancelled the agreement and that the Town Council would support that.

**VOTE:** Motion failed 4 to 1 with Councilmember Babcock voting in the affirmative.

***Recess: 12:00 Noon***

***Reconvene: 1:00 PM***

With consensus from Council, Mayor Kiker moved items B.C. and D. down the list under Administrative Agenda.

#### I. Discussion of Small Scale Comp Plan Amendments

Town Manager Stewart indicated what Council was looking at were a couple of small scale plan amendments and whether to move them forward, but not discuss the specifics of the case as it was a quasi judicial hearing; establishing the hearing process of what it would take to move it through, the number of times Council would have it before the own for discussion in public before Council's final decision as well as the time frame to be sent on to the DCA for review.

Attorney Dalton indicated the Town did not have a process for small scale amendments, with requests twice before for a small scale amendment that involved the Mound House and one that involved a private party.

#### **Public Comment Opened**

▪ **Mike Roeder** spoke on behalf of Jim Purtell and Fred Paine indicating they were there to discuss the process for a small scale amendment which was originally before a prior Council in 2003. When the Town adopted a new zoning map and some properties which had been zoned commercial were rezoned residential, some property owners complained. The Council invited them to submit a small scale plan amendment so it has already been through the process once, indicating it was true the Town did not have a small scale procedure but they have dealt with them before. By the time it was processed and submitted to Council for final hearing the elections had transpired and the new Council rejected the amendment on a 2 to 2 vote.

#### **Public Comment Closed**

Town Manager Stewart stated his understanding of DCA requirements were different than information provided, indicating on large scale there is no question that they have to be set and there is a twice a year window and on the small scale it was not a requirement to be sent to the DCA, however it needed to be sent to the LPA followed by one meeting of Council.

Attorney Dalton indicated the DCA component could be determined once the application was made and noting the Charter required an introduction and a hearing, with the ability for a second hearing should the Council so choose.

Councilmember Babcock asked for clarification that Council was not making changes in the zoning map but changing the process.

Dr. Shockey indicated what staff was asking was if Council wanted to hold it for consideration simultaneously with other amendments that might be proposed later this year, whether for efficiency or another reason and how many hearings Council would like to have scheduled on it.

Attorney Dalton offered clarification, stating that Council as a body is being requested to determine a process, part of it being driven by statute, part by Town Charter and part by Council's decision on a policy basis. An LPA meeting is required and the Charter requires an introduction as well as a Town Council Hearing and the question being asked by staff was, did Council want to have a second hearing, noting once the process was in place the application could go forward.

**MOTION:** Vice Mayor Acken made a motion to direct the small scale comprehensive plan amendment to the LPA and recommend that Council not send it to the DCA that the fee be waived and that Council hold only one hearing.

Mr. Stewart addressed the Vice Mayor indicating the idea was not to address the specific amendment but to set a general policy, noting the motion was specific to the particular amendment making it so there was still no general policy.

**WITHDRAWN:** Vice Mayor Acken withdrew his motion.

**MOTION:** Councilmember List made a motion to establish a policy of doing small scale amendment by an introduction, sending it to the LPA first then to Council for one hearing and not sending it to DCA for approval. Vice Mayor Acken seconded the motion.

Councilmember Babcock questioned whether he was correct in understanding that any amendment to their own Comprehensive Plan required DCA review, so found this motion to be inconsistent.

Mr. Stewart indicated he may have confused Council, stating all changes needed to go to DCA, however on small scale amendments, they could be sent at anytime.

**WITHDRAWN:** Councilmember List removed her first motion with Vice Mayor Acken rescinding his second.

**MOTION:** Councilmember List made a motion to handle small scale amendment as introduction, send to LPA, back to Council for one hearing. Motion seconded by Vice Mayor Acken.

**VOTE:** Motion passed 5 to 0

**MOTION:** Vice Mayor Acken made a motion to move the case forward as quickly as possible per Town Manager Stewart's suggestion; seconded by Councilmember List.

Town Manager Stewart suggested Council come up with a set manner of addressing fee waivers as to when they would be addressed since there are costs involved that have to be born by someone, such as notification of the public, publication that sort of thing that is fairly consistent.

**VOTE:** Motion passed 5 to 0

**J. Discussion of Water FDEP Quality Classification Changes**

Town Manager Stewart indicated the DEP was proposing a change in water quality classifications by adding a new classification that would essentially provide a lower quality classification that a district or community could secure in relation to their water quality. Mr. Stewart stated if they were allowed to go forward with that plan with a diminishment of requirements it could potentially impact the water that ended up in our bay area and Fort Myers Beach affecting our water quality. Mr. Stewart stated staff was not indicating it should not be done but that there had not been enough discussion about it and that it was moving forward far too fast without enough discussion and asked Council that they petition the DEP to have greater discussion and more public input.

**Public Comment Opened**

▪ **Amber Crooks** on behalf of the Conservancy of Southwest Florida was present to share support for the proposed letter drafted by staff as the letter would share many of the concerns of the Conservancy about the proposed classification changes and how they would affect our regional waters.

**Public Comment Closed**

Councilmember Babcock indicated this was the fourth letter he had been asked to endorse, opining that it was the right thing to do for the Town of Fort Myers Beach.

**MOTION:** Councilmember Babcock made a motion for approval of the letter dated February 2<sup>nd</sup> to the FDEP with a second by Vice Mayor Acken. Councilmember Babcock modified his motion for Keith to cc the letter to whomever he feels is appropriate with a modified second by Vice Mayor Acken.

**VOTE:** Motion passed 5 to 0

**B. Adoption of Resolution 10-07, Signatory Authority SunTrust Bank Account**

Town Manager Stewart indicated this was to add him as a signatory for the Town bank accounts.

**MOTION:** Councilmember List moved for approval of signatory authority with a second by Councilmember Babcock.

Attorney Dalton added that Councilmember Raymond was being added as a signatory.

**AMENDED:** Councilmember List amended her motion with an amended second by Councilmember Babcock.

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**VOTE:** Motion passed 5 to 0

**C. Adoption of Resolution 10-08, Signatory Authority Florida Municipal Investment Trust**

Town Manager Stewart stated this was adding him as a signatory, and the same changes tracking through all Signatories.

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**MOTION:** Councilmember Babcock moved for approval with the changes suggested with a second by Councilmember List.

**VOTE:** Motion passed 5 to 0

**D. Adoption of Resolution 10-09, Signatory Authority Sun Trust Credit Card**

Mr. Stewart indicated Resolution 10-09 allowed him to be a signatory on the Sun Trust Credit Card.

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**MOTION:** Councilmember Babcock made a motion to approve Resolution 10-09 with a second by Councilmember List.

**VOTE:** Motion passed 5 to 0

**G. Zoning Fee Schedule Discussion**

Town Manager Stewart indicated this was a discussion whether or not to sunset the fee schedule by taking an action or move it to a date certain but the recommendation by staff would be to continue with the fee schedule until late September or October. Mr. Stewart conveyed to Council that they not take an action at present as he would like to have the opportunity to sit with the Town Finance Director to take a look at what had been scheduled as far as revenues were concerned and come back to Council and report where the Town stood to allow Council to know how their decision would impact the Town as far as a budgetary item was concerned

Council directed Mr. Stewart to bring back the information when he deemed appropriate.

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

E. Introduction to Ordinance 10-03, Animal Control Services

Town Manager Stewart stated there were a number of municipal entities that used the County for animal control services, stating the County's formula was far too skewed in their favor, suggesting the Town sit down with the County and talk through the various items to make sure that all revenues were being counted appropriately.

Attorney Dalton indicated staff was asking Council to set this for a hearing keeping in mind it had been sent to the LPA with their resolution being included in Council's packet.

**MOTION:** Councilmember Babcock moved to schedule a hearing for Ordinance 10-03, known as the Town of Fort Myers Beach Animal Control Ordinance, for February 16, 2010 at 6:30 p.m. Seconded by Councilmember List.

**Public Comment Opened**

**No Public Comment**

**Closed Public Comment**

Councilmember Babcock expressed concerns regarding the lack of signage at Lynn Hall Park restricting dogs on the beach; Mr. Stewart offered to contact Lee County to correct this.

**VOTE:** Motion passed 4 to 1 with Vice Mayor Acken dissenting.

F. Fee Schedule, Animal Control Services

Town Manager Stewart indicated the fee schedule essentially mirrored Lee County's schedule with staff requesting whether to insert fees in the Animal Control fee schedule.

**MOTION:** Councilmember List made a motion to approve with a second by Councilmember Raymond.

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**WITHDRAWN:** Councilmember List removed her motion as did Councilmember Raymond for his second.

Council gave staff a consensus for inserting fees into the Ordinance.

Vice Mayor Acken welcomed Town Manager Stewart to the community before leaving the meeting.

**X. TOWN MANAGER'S ITEMS**

- Town Manager Stewart indicated the Harbor House event was a success for Bay

Oaks, with the proceeds amounting to \$4,000.00; recognition to be presented at the February 16, 2010 meeting.

- Valentine's Dance will be Friday, February 12<sup>th</sup> at 6 p.m. through 8:30 p.m.; grades kindergarten through 8<sup>th</sup>.
- Art Festival set for Saturday, February 20<sup>th</sup> from 9 a.m. to 5 p.m. with 20 to 30 vendors expected with Bay Oaks selling refreshments to raise additional money.
- Additional Zumba class being added due to the response.
- North Estero Project to start last section of waterline between Pink Shell and Bowditch February 1<sup>st</sup>, 2010 with two weeks expected for completion
- Waiting for DEP approval SUSI will start the exfiltration beds and once the waterlines are certified they will move back to the water system and begin the tie ins so the old line can be abandoned and the Southwest work begun.
- PWSI meeting first billing under new rate structure sent out on or about February 2<sup>nd</sup>, 2010

#### **XI. OWN ATTORNEY'S ITEMS**

Attorney Dalton congratulated Councilmember Raymond on his award from the Chamber of Commerce.

#### **XII. COUNCILMEMBERS ITEMS AND REPORT**

Councilmember Raymond advised of a workshop set for February 25<sup>th</sup> at 9:30 a.m. in the meeting room at the Chamber of Commerce regarding the designated trolley lane. Expected to attend was the fire department, sheriffs department, FDOT, Lee Tran, Department of Transportation, Ray Judah and a number of condo associations from San Carlos Island as well as San Carlos Redevelopment Association.

Councilmember Babcock brought up sending a thank you note to the Reasoner family regarding the donated garden and bench at Bay Oaks as well as a note to the local Garden Club.

Performance evaluation process was addressed regarding Mr. Stewart's contract asking to have it put on the agenda.

Councilmember Babcock addressed feedback from the latest Regional Planning Council Meeting with much of it dealing with environmental issues, such as water quality, storm water and oil drilling. Mr. Babcock mentioned that renewable energy was also being discussed, with an increasing effort to bring in grant money.

Mayor Kiker had been in contact with Commissioner Hall regarding the talks about the beach property that may or may not be available, noting Commissioners Judah and Hall and himself were going to discuss the possibilities for the property and the Town.

Councilmember Babcock requested Mayor Kiker wait until the workshop on February 3<sup>rd</sup> so Council would have an opportunity to discuss it before sending out the letter of invitation for the discussion.

#### **XIII. AGENDA MANAGEMENT**

Councilmember Babcock addressed page 1 under meetings, asking to move the evaluation from August 2<sup>nd</sup> to September 1; requesting on page 2 to put in the actual dates and asked for the same thing on the following page which would be the worksession date. Councilmember Babcock also asked to discuss the outstanding LDC issues with the actual date of May 5<sup>th</sup>, which should be a joint meeting with the LPA.

Mayor Kiker stated the last discussion on the topic brought Council to the decision to wait until after the election so the new Council could set the scheduling.

Council determined there were two workshops in April one on the 7<sup>th</sup> and one on the 14<sup>th</sup> and M & P on the 21<sup>st</sup>.

#### **XIV. RECAP OF ACTION ITEMS**

- Beach Nourishment moved to item discussion on Wednesday, February 3<sup>rd</sup>.
- Continuation of meeting to Wednesday, February 3<sup>rd</sup>
- Council approved small scale Comp Plan amendments to be handled as a policy matter
- Letter sent regarding Water FDEP Quality Classification Changes under the signature of Town Manager and Keith Laakkonen along with a cover letter from Council
- Zoning Fee Schedule Discussion will be brought back for Council's consideration with a comparison based upon the budget and other entities in the County
- Animal Control hearing set for February 16 at 6:30 p.m. communication with the County regarding signage on designated areas of the beach
- CRAB issue regarding the \$2,500 additional requested for their conference

#### **XV. PUBLIC COMMENT**

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

#### **XVI. ADJOURNMENT**

**MOTION:** Councilmember List moved to continue the meeting to Wednesday, February 3<sup>rd</sup>, 2010 at 9 a.m. with a second by Councilmember Babcock.

**VOTE:** Motion passed 4 to 0

*Recess: 2:47 PM)*

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

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Michelle D. Mayher, Town Clerk

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