

MINUTES

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

MINUTES

April 5, 2010

8:00 AM

I. CALL TO ORDER

Mayor Kiker called the Executive Session to order at 8:01 a.m. Present with Mayor Kiker was Vice Mayor Raymond, Council members Babcock, List and Mandel, Town Manager Stewart, Town Attorney Dalton, the court reporter and Denise Wheeler the Town's outside Counsel.

II. ANNOUNCEMENT OF COMMENCEMENT OF EXECUTIVE SESSION

Per Attorney Dalton all noted to be present were allowed under the State Statute which provides for a limited exception to the Sunshine Law for purposes of active litigation with the purpose of the day's meeting to be litigation strategy and other matters related to the limited exception.

The Executive Session was concerning SWF Beach Bay, Inc & 151 Old San Carlos LLC v. Town of Fort Myers Beach & John Richard/ case # 10-CA-484.

EXECUTIVE SESSION CLOSED TO THE PUBLIC.

I. CALL TO ORDER

Mayor Kiker called the meeting to order at 9:15 a.m. Present with Mayor Kiker was Vice Mayor Raymond, Council members Babcock, List and Mandel along

with Town Manager Stewart, Town Attorney Dalton and Town Clerk Mayher.

II. INVOCATION

Invocation led by Reverend Maynard Pittendreigh from Chapel by the Sea Presbyterian Church.

III. PLEDGE OF ALLEGIANCE

All stood for the Pledge of Allegiance as Rev. Maynard Pittendreigh led the Pledge.

IV. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council had no information to bring forward.

V. PUBLIC COMMENT

Public Comment Opened

▪ **Dave Tralease** resident of Ocean Harbour thanked Town Manager Stewart and the Sandpaper for documenting the facts surrounding Newton Park property and to commend Mayor Kiker for continuing to ask for more details on plans for the park property. Mr. Tralease hoped the project would soon come to an end since it began in 2003, indicating at completion he wanted to see improvement to the Hyde Park and Strandview right of ways.

▪ **John Albion** president Fort Myers Beach Chamber of Commerce thanked Mayor Kiker, Town Manager Stewart and Town Clerk Michelle Mayher for their Easter Egg Hunt assistance. Mr. Albion also thanked the Fort Myers Beach Fire Department for their help along with many other people who made the Easter Egg Hunt possible. Mr. Albion also asked Council to reimburse the \$30 fee.

Public Comment Closed

Mayor Kiker acknowledged Jessie and Vinnie Titus, acting as clowns and entertaining the children as well as assisting with crowd control.

VI. ADVISORY COMMITTEES ITEMS AND REPORTS

▪ **Jim Rodwell** from **CRAB** addressed Council regarding the Beach Leadership Conference scheduled for May 12th for 3 days. Mr. Rodwell indicated planning was nearly complete with the hopes of coming in under budget. Mr. Rodwell thanked the Town staff and Town Manager for their continued support. Mr. Rodwell then requested the use of Council Chambers for April 27th from 7 to 8 p.m. for a lecture regarding oncoming Health Care Legislation, with arrangements made for 3 prominent physicians from Health Park to come and provide information, with it to be non political and with no debate.

Mr. Rodwell then addressed Councilmember Babcock's request to provide an overview of the Leadership Conference, indicating it would be looking at

government here on the beach as well as other taxing authorities that provide services on the beach with talks by different department heads; also visiting Bay Oaks, the library, the Beach School, the Preserve, Bowditch and on the third day a prioritizing talk on issues of the beach by Mayor Kiker, a trip to the Anchorage and Mound House and dinner followed by Ray Judah's speech and certificates.

VII. PROCLAMATIONS: National Arbor Day
National Public Works Week

Town Clerk Michelle Mayher read the Proclamation for National Arbor Day with a representative from the Fort Myers Beach Garden Club accepting the certificate and thanking Council.

Town Clerk Michelle Mayher read the Proclamation for National Public Works Week with staff member Scott Baker accepting the certificate from Mayor Kiker on behalf of Fort Myers Beach Public Works Department.

Town Manager Stewart thanked Council for their recognition of Public Works as well as thanking Cathie Lewis, Scott Baker and the entire crew.

VIII. MINUTES ADOPTION:

- A. Approval of Minutes: March 1, 2010
- B. Approval of Minutes: March 3, 2010 Work Session

MOTION: Councilmember Babcock moved for adoption of the minutes with a Second by Councilmember List.

VOTE: Motion passed 5 to 0

IX. CONSENT AGENDA

- A. Special Event Permit Application – Taste of the Beach
- B. Approval of Replacement Copier Contract
- C. North Estero Drainage Project, Change Order #5

Public Comment Opened

▪ **John Albion** President, Fort Myers Beach Chamber of Commerce addressed Council indicating his desire for Council to approve the Bay Oaks location for the event and the importance of showcasing the local businesses of the island.

▪ **Carl Conley** 2915 Estero Boulevard, chairman of the event indicated to the Council the great response he was receiving regarding Bay Oaks as the chosen site for Taste of the Beach especially since it was a neutral location for all.

Public Comment Closed

MOTION: Councilmember Babcock moved for approval of the Consent Agenda with a second by Councilmember List.

Councilmember Babcock wanted to mention that the Town supported the event as well indicating it was a partnership even though it was driven by the Chamber. Councilmember Babcock brought up the issue of parking with Mr. Albion stating they were shifting the time to 12 to 6 p.m. which would provide additional parking at some churches and to continue to provide information to the public for those areas identified as event parking.

VOTE: Motion passed 5 to 0

X. PUBLIC HEARING

A. Second Public Hearing, Ordinance 09-08, Amendment to LDC, LPA Membership

Mayor Kiker opened the Hearing at 9:45 a.m.

Attorney Dalton read the title:

Ordinance 09-08 AN ORDINANCE AMENDING CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY, AMENDMENTS TO SECTIONS 34.113 AND 34.114, DIVISION 3 LOCAL PLANNING AGENCY, ARTICLE 11 ZONING PROCEDURES, WHICH ARE TITLED, RESPECTIVELY, “COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS”, AND “MEMBERS TERMS AND VACANCIES”, PROVIDING FOR CHANGE IN DATE OF APPLICATION FOR LPA MEMBERSHIP, CHANGE IN THE DATE OF APPOINTMENT TO THE LPA AND CHANGE IN THE TERMS OF LPA MEMBERS; SEVERABILITY; EFFECT OF ORDINANCE AND EFFECTIVE DATE.

Dr. Shockey indicated this was the second hearing of the Ordinance Council elected to initiate last fall essentially keeping up with the changes made to the Advisory Committee Ordinance that allowed committee members to serve on multiple committees if it were the will of Council to appoint them to multiple committees. Multiple hearings were needed since it was an amendment to the LDC.

Public Comment Opened

No Public Comment

Public Comment Closed

MOTION: Councilmember Mandel made a motion to pass Ordinance 09-08 to amend the Land Development Code regarding LPA member service on multiple committees with a second by Vice Mayor Raymond.

Councilmember Babcock indicated he supported the motion and felt it was

the right thing to do but noted he had an issue with the part of the Town Council to make every effort to involve as many people as possible in their volunteer committees, opening the possibility for people to serve on multiple committees but to encourage as many people as possible to serve.

Vice Mayor Raymond indicated he would rather have people on multiple committees than to have openings left unfilled.

Mayor Kiker indicated he would not support the motion as he felt it was the wrong thing to do and felt Council should not be passing the motion in fear of not having volunteers, noting he felt it would deter some people to stand up to volunteer for the first time.

Town Clerk Michelle Mayher read the motion calling for a roll call vote:

Councilmember Mandel	Aye
Councilmember List	Aye
Mayor Kiker	Nay
Vice Mayor Raymond	Aye
Councilmember Babcock	Aye

VOTE: Motion passed 4 to 1 with Mayor Kiker dissenting.

Mayor Kiker closed the Hearing at 9:50 a.m.

XI. ADMINISTRATIVE AGENDA

A. Introduction to Ordinance 10-07, CIP Amendments

Town Manager Stewart indicated Ordinance 10-07 would incorporate the CIP which had previously been adopted by Council for the '09-'10 fiscal year and would be done each year.

Public Comment Opened

No Public Comment

Public Comment Closed

Attorney Dalton read the ordinance title

Ordinance No. 10-07 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE COMPREHENSIVE PLAN OF THE TOWN OF FORT MYERS BEACH TO UPDATE THE CAPITAL IMPROVEMENT PLAN; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

Councilmember Babcock questioned if the LPA had approved the CIP Budget with Attorney Dalton indicating that was correct and stating that was why it did not need to go back to the LPA.

Mayor Kiker questioned Mr. Stewart about the numbers in the Ordinance one of which was a million dollars for beach renourishment, indicating it needed to be there to make it legal but asking how difficult it would be to go back to change a number possibly in the next month. Town Manager Stewart said it was the Council's prerogative to amend a CIP at any time however to change an amount they would have to make the same conclusion again for an amendment into the Comp Plan indicating to Council they were not compelled to spend the dollars, it was a plan only. A discussion ensued regarding the process necessary to change a dollar amount with the thought being a possible budget amendment.

A discussion began regarding modifying the Comp Plan and the need to go through a hearing process with an ordinance required.

MOTION: Councilmember Babcock moved to forward Ordinance 10-07 to a single hearing on April 19th, 2010 at 6:30 p.m. with a second by Councilmember List.

Councilmember Babcock stated it was his assumption Council would be doing this in a parallel process with the budget and CIP.

VOTE: Motion passed 5 to 0

B. Introduction to Ordinance 10-06, Amending LDC Sections 6-11, 34-1744, and 34-1745 (Refuse Container and Fence Height/Location)

Town Manager Stewart indicated it would initiate amendments to the LDC to require refuse containers to have lids and exception to limitations to heights of fences to adequately shield dumpsters.

Dr. Shockey referenced the background had been laid out in the blue sheet with the LPA having had discussions on numerous occasions.

Attorney Dalton read the ordinance title:

ORDINANCE NO. 10-06 AN ORDINANCE AMENDING REGULATIONS IN CHAPTER SIX AND THIRTY-FOUR OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDEMENTS TO SECTION 6-11 (REFUSE CONTAINERS) OF ARTICLE I PROPERTY MAINTENANCE CODE) OF CHAPTER SIX WHICH IS TITLED MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS; ADOPTING AMENDMENTS TO SECTION 34-1744 (LOCATION AND HEIGHT OF FENCES AND WALLS) AND SECTION 34-1745 (BUFFER FOR COMMERCIAL USES) OF DIVISION 17 (ENTITLED FENCES, WALLS AND ENTRANCE GATES) OF ARTICLE IV (ENTITLED SUPPLEMENTAL REGULATIONS) OF CHAPTER 34 (ZONING DISTRICTS, DESIGN STANDARDS, AND

NONCONFORMITIES); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Public Comment Opened

▪ **Roy Hinkleman** of Lagoon Road asked if it applied to Commercial only regarding the fencing issue.

Dr. Shockey responded that the ordinance was written to apply in different ways to containers that were movable and non moveable with certain requirements of those who utilize a moveable container and other requirements for screening of those containers that are non moveable with the lid requirements pertaining to both. The screening applied to the non moveable containers such as dumpsters.

Mr. Stewart indicated it was both since you could have a residential application such as a condominium and it would apply there as well as in commercial.

Public Comment Closed

Councilmember Babcock felt the LPA had made changes and asked if the Ad Hoc Committee was supportive of the changes made by the LPA.

▪ **Lee Melsek** chairman of the Ad Hoc Committee addressed Council stating the Ad Hoc Committee supported the amendment with the changes.

Mayor Kiker asked if mandatory recycling was part of the conversation and if not might it be and how would it be enforced. Mr. Kiker referenced LPA member Chuck Moorefield present at the LPA meeting who had asked what would be done about the sites that were not compliant and what could be done to bring them into compliance.

Attorney Dalton indicated the Town would have to review and subsequently pass a mandatory recycling ordinance then the LDC would need to be revisited.

MOTION: Councilmember List moved to schedule first hearing of Ordinance 10-06, amending Chapters 6 and 34 of the Land Development Code for the Town Council meeting of April 19, 2010, at 6:30 p.m. with a second by Councilmember Mandel.

VOTE: Motion passed 5 to 0

C. Introduction to Ordinance 10-02, Small Scale Comp Plan Amendments

Attorney Dalton read the title:

ORDINANCE NO. 10-02 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH PROVIDING FOR A SMALL-SCALE AMENDMENT TO THE COMPREHENSIVE PLAN OF THE TOWN OF

FORT MYERS BEACH TO RECLASSIFY CERTAIN PROPERTY FROM THE MIXED RESIDENTIAL CATEGORY TO THE PEDESTRIAN COMMERCIAL CATEGORY ON THE FUTURE LAND USE MAP; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

Attorney Dalton indicated under the Florida Statute the Town Council was required to have a hearing on this matter and as is the practice for the Town, the ordinance is first being introduced. Town Manager Stewart added it was a small scale amendment pertaining to the Purtell and Paine properties with staff recommending to move forward.

Public Comment Opened

No Public Comment

Public Comment Closed

MOTION: Councilmember List moved to schedule an adoption hearing as provided in Sections 163.3187(1)(c)3 and 163.3184(7) to consider the Comprehensive Plan Future Land Use Map amendment requested by James Purtell, Patrick Purtell and Fred Paine with a second by Vice Mayor Raymond.

Councilmember Babcock asked if this needed to be set to a date certain and whether it was a two hearing process with Attorney Dalton answering Council had the ability to schedule as a two hearing process however Council was requested to review the matter at a prior Council meeting at which time it was determined to be a one hearing process and yes it should be for a date certain. Councilmember Babcock suggested April 19th with Attorney Dalton questioning the availability of LPA minutes.

Discussion began as to the need for one or two hearings, the availability of LPA minutes for the April 19th date and whether the issue was time sensitive with Dr. Shockey indicating at least one of the applicants would like to see it resolved sooner rather than later.

Councilmember List amended her motion to include date certain of April 19th at 6:30 p.m. and that it be one hearing with the Vice Mayor amending his second.

VOTE: Motion passed 5 to 0

D. Contract Term Extension, Central Parking Systems

Town Manager Stewart indicated this was a request for Council to move forward with an extension of the contract with Central Parking Systems as they have been doing a good job for the Town with the only other alternative being to direct staff to go out to RFP. Mr. Stewart indicated Central Parking Systems had not raised their costs to the Town for the contract period extension with staff feeling it was in the best interest of the Town to move forward with the extension of the

contract.

Public Comment Opened

No Public Comment

Public Comment Closed

Councilmember Mandel suggested extending the contract for six months instead of a year, should Council wish to consider RFPs as part of the budgeting process for the next year.

Mr. Stewart tried to determine if doing all the RFP's at one time would be achievable, stating if Council wanted to do that for all contracted services that might be one thing but to do all RFP's at one time of the year might be an undertaking that would not be entirely possible.

MOTION: Councilmember Babcock made a motion to approve Amendment 1 to Service Provider Agreement RFP-07-01 with Central Parking System of Florida, Inc. to extend the contract for a one year period beginning May 1, 2010 with a second by Vice Mayor Raymond.

VOTE: Motion passed 5 to 0

E. Sovereignty Submerged Lands Fee Waived Lease – Mound House

Town Manager Stewart informed Council that staff was asking approval of the lease and to authorize the Mayor to sign the lease. Mr. Stewart stated there was currently a two slip dock at the Mound House and that it would include that area as well as an area for a pier with an opportunity for modification of the proposed pier. Mr. Stewart noted the Town was not required to build a structure but at the end of 5 years the lease would come to an end.

Discussion ensued regarding past conversations on the pier and design of the pier as well as rezoning for the Connecticut Street parking and Mound House work.

Public Comment Opened

▪ **Paul Abraham** 450 Connecticut Street addressed Council asking if this was referring to the pier that was there or the new pier or observation tower. Mr. Stewart answered by indicating it does provide the opportunity to the Town to construct a pier but does not approve a pier of any particular kind but provides the lease to place the pier there. Mr. Abraham voiced his disapproval for the construction of a new pier, feeling the residents of Connecticut Street no longer had rights.

▪ **Warren Babcock** 474 Washington Court addressed Council stating he would be the closest resident near the future pier indicating he was definitely opposed

to the construction of the pier. Mr. Babcock indicated the original plan for the Mound House was quite a bit different from what it had come to be, noting he felt the pier should not be built as it was not listed in the original management plan nor the revised management plan feeling the current Council and Town Manager needed to look into the subject making new evaluations.

Public Comment Closed

Town Manager Stewart addressed Mr. Babcock and Mr. Abraham stressing that the matter before Council was not for approval to build a pier but simply pertained to the submerged land lease that would enable Council to consider some sort of construction at some point in the future. All the matter at hand did was provide for the approval for a submerged land lease between the Council and the State and any decisions regarding a pier or any other structures over the water would be something for future discussion and decision by Council.

Vice Mayor Raymond indicated the blue sheet stated an observation fishing pier noting he thought it was to be an observation pier not a fishing pier. Mr. Stewart stated Council had the ability to determine what would be built and what it would be used for.

Councilmember List asked how the observation deck idea came about.

Theresa Schober replied that the pier was in the original master plan for the landscaping with the genesis for the idea of putting something over the water was the management plan with Florida Communities Trust with one of the elements to include on the property wildlife observation areas specific to manatees, dolphins and migratory shore birds.

Mayor Kiker indicated that some point in time the project needed to come to a single conclusion as it was so fragmented and all pieces did not always match. Mayor Kiker felt the action presently was very specific and did not mean anything else, indicating he would be casting his vote on that pretense as well as casting his vote on the pretense that in the coming months Council would have a chance to go through the Mound House and plan what would be happening which would allow for public comment and move forward from there. Mr. Stewart agreed with Mayor Kiker's assumptions. Mr. Stewart did state to Council that if the Council would choose to not build a pier the grant money would not be available and the submerged land lease would also terminate after 5 years if nothing was done.

Councilmember Babcock asked if it would allow for a pier of a smaller size with the answer being yes. Councilmember Babcock noted if Council would decide not to go forward with the submerged land lease money would have to be returned also making the point that the message from staff had always been clear all along but there was just a change of people too often

not wanting to punish anyone for inadequacies. Councilmember Babcock noted he felt the next significant step was the rezoning of Connecticut Street but without the inclusion of the pier in that decision; indicating the decision of Connecticut Street could drive a subsequent decision on the pier, feeling it had been in limbo way too long.

Mayor Kiker recalled the rezoning of Connecticut Street to be the catalyst to have the discussion of impact as well as what to do with parking at the end of the street and if Connecticut did not get rezoned where was parking going to go at the Mound House as well as the inclusion of the pier. Mayor Kiker felt the confusion stemmed from whether it was a rezoning project or a high or low impact project sensing there was a need for it all to be taken apart to make an operational decision before entering into rezoning.

Councilmember Mandel felt there was a need for a chart to list all the parts of the project, what track they were on, what needed to be done so everyone could see what needed to be done and considered.

Town Manager Stewart indicated he and Ms. Schober had been working on just that with the completed information ready for Council in the near future. Mr. Stewart stated that the initial draft showed the project to be extremely complex.

Councilmember List noted the complexities of the Mound House grants with their attached requirements as causing some of the delays in progress on the project and the need for Council to understand that and move forward.

Councilmember Babcock indicated Council had the pieces of a chart last fall during a workshop where two decisions were made, one being to go forward with the rezoning on Connecticut to be able to resolve issues like impact, the second decision which came back to Council in December of 2009 was on the landscaping plan where Council was given 3 plans and in order to move the project forward and use Grant money that was available and not make a decision that would need to be reversed at a later date in terms of parking and the pier at a later date, Council took out the pier and parking and said go ahead with the landscaping plan approving staff to go ahead in December. In the first meeting in March Council had an RFP with a recommendation from staff and now a month and a half later it should have moved forward. Councilmember Babcock felt the present Council was delaying the project as much as previous Councils.

Mayor Kiker indicated he had been waiting for the project to move forward as well, noting Council continued to ask for information to make decisions with but with the change of people the information was never received. Mayor Kiker voiced his desire for everyone to understand the project, have a discussion and come up with a good decision.

Vice Mayor Raymond voiced his frustration with not being able to get together with everyone including the public about the project, indicating he felt the project seemed to be in a constant state of change.

MOTION: Councilmember Mandel moved to approve the execution of the Sovereignty Submerged Lands Fee Waived Lease Instrument by Mayor Kiker with a second by Councilmember Babcock.

VOTE: Motion passed 5 to 0

Town Manager Stewart indicated there was not just an issue to the rezoning of Connecticut Street but also an issue of an amendment to the rezoning of the Mound House site itself.

Recess: 11:10 AM Reconvene: 11:20 a.m.

F. Laguna Shores Dredging: Options and Alternatives

Mr. Stewart addressed the previous dredging project and the DEP's concerns regarding the site. The Town's feeling was the area designated by the DEP would fill in very quickly which has now happened in less than a year with some areas at less than 2 to 3 feet. The Town commissioned Hans Wilson & Associates for the original dredging project, who actually opposed the location but did what he was asked to do. Mr. Wilson has put together some information which would assist Council in assessing the current situation, and staff is requesting a workshop in order to accomplish those decisions.

Council decided on April 19th at 9 a.m. for the discussion on Laguna Shores.

Public Comment Opened

▪ **Roy Hinkleman** president of Laguna Shores Homeowners Association indicated he had been receiving calls and emails regarding the disappointment from residents and the fact that they are continually getting stuck. Mr. Hinkleman stated the residents felt someone should be held accountable since the original estimate was 4 to 5 years before the area would fill back in with a need for additional dredging at that time not 8 to 10 months.

Public Comment Closed

MOTION: Councilmember List made a motion for Council to meet April 19th at 9 a.m. for the purpose of having a workshop for the Laguna Shores Dredging situation with a second by Councilmember Mandel.

Council made the decision to allow a representative from Laguna Shores time to speak.

VOTE: Motion passed 5 to 0

G. Town Manager's Performance Objectives and Evaluation Materials

Mr. Stewart stated this was being brought back for Council's review and final acceptance, indicating he was fine with what was presented.

Councilmember Mandel felt Mr. Stewart might be more comfortable with more specific points such as the area which read: Manage and Direct Staff and Implement Appropriate Human Resource Activities.

Councilmember Babcock addressed Councilmember Mandel's comments indicating during the workshop discussing the Town Manager's Evaluation Council recognized they were dealing with an experienced Town Manager making it Council's job to assess whether Mr. Stewart had done the job appropriately and by putting in more specific items it could force him into doing things that would not be the most beneficial use of his time or staff's time, noting the real goal was to establish a base line.

Public Comment Opened

No Public Comment

Public Comment Closed

MOTION: Councilmember Babcock moved acceptance of the Town Manager's Evaluation Input sheet and the Performance Evaluation sheet with the change that Council be considered evaluators rather than appraisers with a second by Councilmember List.

VOTE: Motion passed 5 to 0

XII. PUBLIC COMMENT

Public Comment Opened

▪ **John Pohland** addressed Council requesting a trolley pull off and shelter at Newton Park..

▪ **Doris Grant** resident of Crescent Street advised Council of an accident on Crescent Street in which a woman tripped and fell due to the condition of the street.

Public Comment Closed

Mayor Kiker asked if there was not already a trolley pull off planned for Newton with Theresa Schober indicating there had always been one in the plan but that would be part of the work done by Lee County. Mayor Kiker noted there was suppose to be a warehouse of trolley pull off shelters which could be used.

Mr. Stewart will have public works look at the area of Crescent Street.

XIII. TOWN MANAGER'S ITEMS

Mr. Stewart referenced a report from the Town Finance Director regarding what had been done with the refinance of the water system debt.

Vice Mayor Raymond asked when the referendum would be ready with Attorney Dalton answering it had not yet been authorized by Council. Councilmember Mandel stressed the urgency for a rollover due to increase in interest rates.

A discussion began on the necessity of a Town Audit for the bank as well as an acceptance from Council. Town Finance Director Evelyn Wicks addressed Council indicating SunTrust stated they would be able to lock in a rate within 90 days of the rollover which could be early May. Ms. Wicks stated the draft audits should be to the bank by Wednesday, April 7th for the Town and the Water Utility with the auditors coming to Council at the May 3rd meeting for acceptance. Once they were accepted SunTrust could lock in the rate with the information needed to start the underwriting of the process.

Attorney Dalton indicated Council had requested for Nabors, Giblin to provide a legal opinion on two issues, one being whether the referendum which had happened in the past was broad enough to allow a refinancing rollover this summer and the second question was would the referendum which occurred in the past be sufficiently broad to allow for refinancing or rollover in excess of 36 months with the response due within the week which would allow Council to decide to proceed with refinancing or to take other action. Attorney Dalton stated the \$9,500 fee incorporated the analysis of those two items plus the refinancing. Miss Dalton noted she has been advised by the County that normally the fee is a percentage of the loan and the \$9,500 was less than the normal amount charged.

Town Manager Stewart spoke briefly on the topic of a referendum noting he was doing the ground work on the issue however on the formal side of the legal question that had not yet been done.

Discussion ensued on the wording necessary for the referendum, the amount, the possibility of grants and the desire for Town Manager Stewart and Attorney Dalton to move forward on the issue.

Council's direction was for Town Manager Stewart and Attorney Dalton to come back to Council with a referendum for the utility which would include estimations put together by staff.

Mr. Stewart addressed the request by Mr. Albion earlier in the meeting to

wave the \$30 fee for the Easter Egg Hunt; Council indicated that should be within Mr. Stewart's discretion.

Town Manager Stewart asked for Council's decision for the use of Council Chambers by CRAB on April 27th for the Health Insurance Information.

Ana greement was reached to not allow the use of Council Chambers.

Mr. Stewart thanked Council for the positive comments on the weekly report.

XIV. TOWN ATTORNEY'S ITEMS

Attorney Dalton indicated the Ordinance passed earlier in the day was available for signature.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Raymond indicated he and Town Manager Stewart would be meeting with Rep. Connie Mack on Wednesday, April 7th.

Councilmember List mentioned there was a Horizon Council Day at the Twins stadium and she was accompanied by the Chamber Chairman Andrew Cochran.

Councilmember Mandel reviewed the 4 issues addressed at the Coastal Advisory Committee, which was the County would be getting \$1.25 million to repair the pier, the Town would be getting between \$435,000 and \$450,000 for beach maintenance work, no action taken on repair of the seawall at Newton but a suggestion was made that the Town appear at the TDC meeting to make the appeal and stress it was a State Mandate, that Councils had put monies into Newton as they are always looking at participation, and the request for \$100,000 for studies on beach renourishment was defeated.

Mayor Kiker asked Mr. Stewart about their visit to Tallahassee with Mr. Stewart stating due to the issues going on in Tallahassee there would be no advantage to going this year.

Mayor Kiker then indicated he and Mr. Stewart were scheduled to meet with the County Commissioners on Thursday, noting topics of conversation could be beach nourishment, Estero Boulevard and Seafarer's Mall.

Councilmember Mandel wanted to talk to Town staff regarding pedestrian safety.

Councilmember Babcock discussed the seawall issue noted by Councilmember Mandel.

XVI. AGENDA MANAGEMENT

Town Manager Stewart along with Council made the decision to conduct workshops and Council meetings on the same days.

After a lengthy discussion Council made a decision on the dates and subject matter for their next worksession meetings.

Vice Mayor Raymond questioned meeting dates for Mound House and Newton properties as well as the Sign issues.

Councilmember Babcock questioned the rezoning of Connecticut Street and the Landscaping for Mound House.

Mayor Kiker indicated there was time available in May and asked Council their preference for discussion on Mound House. Councilmember Babcock asked when rezoning would be taken to the LPA and when would Council be able to make a decision on the landscaping plan that the staff acquired bids for. Mr. Stewart indicated due to the fact that there was an issue on rezoning Connecticut and then finding there was an issue with zoning on the site itself and was then informed that they were not going to move forward with anymore portions on the Mound House, due to a discussion with Mayor Kiker until some decisions had been made about the zoning, Mr. Stewart stated he had pulled the item from the agenda in order to learn what the issue was about the rezoning on the Mound House property itself. Mr. Stewart indicated he has asked for pictures of the landscaping that would be going in so the Council would have a better idea of what they would be approving and to make sure there was a clear definition of what might be affected on the site should the parking change for one reason or another. Mr. Stewart noted staff could bring it forward to Council whenever they chose to have it brought forward.

Councilmember Babcock stated the only information that was new since last fall other than the rezoning on Connecticut Street was whether the rezoning that needed to be done at the Mound House itself impacted the landscape plan that was approved by Council and given approval to go out to bid. Mr. Stewart stated that was exactly the reason he pulled the item as he did feel there would be an impact to the plan depending on what happened to the parking once the decision was made on the amendment to the zoning. Mr. Stewart indicated he he did not want to get into the position of putting in landscaping and having it taken back out again due to a similar situation occurring at the Newton property.

Councilmember Babcock voiced his frustration that there had been no forward progress on the landscaping plan since the Council had previously approved a plan that withdrew the pier and the parking area from the plan allowing the project to move forward. Mayor Kiker disagreed with Councilmember's memory of what Council had approved with Mayor Kiker suggesting all discussion stop until a meeting in May when they could find out exactly what

was happening on the project so everyone would have the same understanding. Council decided to address the topic at the May 3rd workshop. Mr. Stewart asked staff if there was a date the LPA would be considering the rezoning issues with Dr. Shockey stating he had not received an application for either of the hearings so he had nothing to write a report on.

Mr. Stewart and Council discussed their desires to get the needed information on the Mound House as well as the Newton property with Mr. Stewart indicating he would provide Council with a living document to allow them to see what needed to be accomplished to get the projects completed and in use.

Attorney Dalton indicated Council had a joint meeting scheduled with the LPA for the first Wednesday in May at 9 a.m.

XVII. RECAP OF ACTION ITEMS

- Look at request from Chamber to administratively waive the fee for their event
- Inform CRAB that they would not be able to use Chambers for Health Meeting
- Distribute LPA minutes as soon as possible regarding decision on small scale
- Move forward with utility loan issues as quickly as possible
- Distribute documents for April 14 meeting
- Mound House and Newton, prepare for meeting on May 3rd
- List of RFP's Council would make decisions on
- Work on referendum questions along with Attorney Dalton

Councilmember Babcock indicated he would not be able to participate in the May 3rd meeting on the Mound House with Council deciding to schedule it for the afternoon of May 5th after the LPA/Council joint meeting.

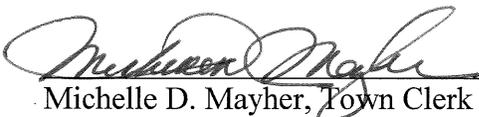
XVIII. ADJOURNMENT

MOTION: Vice Mayor made a motion to adjourn with a second by Councilmember List.

VOTE: Motion passed 5 to 0

Adopted 5-3-10 With/Without changes. Motion by List / Mercedes

Vote: 4-0


Michelle D. Mayher, Town Clerk

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