



# MINUTES

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

**June 21, 2010**

**6:30 PM**

**I. CALL TO ORDER**

Mayor Kiker called the meeting to order at 6:33 p.m. Present with Mayor Kiker was Vice Mayor Raymond, Council members Babcock, List and Mandel along with Town Manager Stewart, Town Attorney Humphrey and Town Clerk Mayher.

**II. INVOCATION** – Invocation was led by Town Clerk Michelle Mayher.

**III. PLEDGE OF ALLEGIANCE**

All stood for the Pledge of Allegiance.

**IV. APPROVAL OF FINAL AGENDA**

No changes

**V. PRESENTATIONS** – Introduction of City of Bonita Springs Council Member Stephen McIntosh, liaison to the Town of Fort Myers Beach

Mr. McIntosh provided information on his background with Bonita Springs, the joint concerns and issues of Bonita Springs and Fort Myers Beach as well as his interest in representing Bonita Springs as a liaison.

**VI. PUBLIC COMMENT**

**Public Comment Opened**

- **Carolyn Epperson and Keri Hendry** spoke regarding the Hands Across the Sand gathering being held on the beach Saturday, June 26 to bring awareness of the oil free beaches.
  
- **Ceel Spuhler** represented the Friends of the Mound House thanking all for their support of the Mound House property.

**Public Comment Closed**

**VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

A. Presentation of Plaque to FMB Pilot Club for their donation to Bay Oaks Recreational Campus

Mayor Kiker presented a plaque to Betty Simpson and Lorrie Wolf on behalf of the Town for the Pilot Club's \$2,500 donation to Bay Oaks.

B. Presentation of Plaque to Sam Galloway Jr. for his donation to Bay Oaks Recreational Campus

Mayor Kiker acknowledged the \$500 donation by Sam Galloway Jr. to Bay Oaks.

C. Recognition of Anne Dalton, Esquire

Mayor Kiker along with Council, Town Manager Stewart and Town Attorney Humphrey presented a Proclamation along with the Key to the City to Anne Dalton, past Counsel to the Town of Fort Myers Beach.

D. Recognition of CRAB's 2010 Leadership Conference

Mayor Kiker acknowledged the Leadership Conference hosted by CRAB thanking Jim Rodwell and his committee for all their hard work.

**VIII. ADVISORY COMMITTEES ITEMS AND REPORTS**

None

**IX. APPROVAL OF MINUTES**

A. May 3, 2010 Town Council Meeting

**MOTION:** Councilmember Babcock made a motion to approve the minutes of May 3<sup>rd</sup>, 2010 with a second by Councilmember List.

**VOTE:** Motion passed 5 to 0

**X. CONSENT AGENDA**

A. Beach Access Restrooms

B. Request Approval for Change Order to North Estero Blvd Project Seawalls

C. Central Parking Systems of Florida – Request for Reduction of Performance Bond

D. Authorization to Prepare Mound House Restoration Grant Applications

E. Contract Extension with University of West Florida for Public Archaeology Network (FPAN) Operations

F. Special Event Permit Application – Rockin' 4<sup>th</sup> the Rec. Center, Beached Whale

Councilmember Mandel asked to pull item D. Authorization to Prepare Mound House Restoration Grant Application

**MOTION:** Councilmember Babcock moved to approve the remainder of the

Consent Agenda with a second by Councilmember List.

**VOTE:** Motion passed 5 to 0

Town Manager Stewart noted Council had asked for staff to notify them when Grants were available to allow discussion before application was made.

Theresa Schober reviewed the 3 Grants available in July and August, indicating there were 2 State Grants which the town had received previously.

Councilmember Mandel's concern regarding the grants was the source(s) of the required matching funds. Town Manager Stewart offered that, by seeking the grants, it did not mean that if the town were successful that it had to go forward without having another opportunity to discuss the matter. Discussion continued on matching funds necessary, time elements and which grants would be most beneficial to the town.

*added w/ adoption*

Council Member Mandel asked, if the Town were awarded all three grants, what would be an estimated cash requirement? Cultural Resources Director Schober responded that the Town would not be able to accept all three; should the Town be awarded the two grants recommended, Ms. Schober anticipates the Town's cash requirement to be under \$50,000.

**Public Comment Opened**  
**No Public Comment**  
**Public Comment Closed**

**MOTION:** Councilmember List moved to approve with a second by Councilmember Babcock.

**VOTE:** Motion passed 5 to 0

**XI. ADMINISTRATIVE AGENDA**

A. Beach Restoration Interlocal Agreement

**Public Comment Opened**

- **Frank Schilling** addressed Council expressing his concerns with a cap on the financial end as well as the possible discrepancy with the rescinding of easements.
- **Steve Boutelle, Lee County Natural Resources** stated Lee County staff had completed a technical and legal review of the document and could support the draft dated June 18<sup>th</sup>.

**Closed Public Comment**

Former Town Attorney Dalton addressed questions posed to her by Council

regarding the interlocal. Issues addressed included the following:

- a cap on costs
- ability to back out of agreement
- easements, rescission and date of rescission
- why \$110,224
- definition and scope of project

Council then directed staff to put together an implementation plan for rescission of easements.

Discussion continued on the percentage of easements, issues with the erosion control line and lot lines.

***Recess: 8:20 PM    Reconvene: 8:30 PM***

**MOTION:** Vice Mayor Raymond made a motion to approve the Interlocal Agreement for Estero Island Beach Restoration and direct the Town Manager to provide it to the Lee County Manager for County approval with the town being the recipient of the property owners easement rescissions and the town would transmit the request no later than October 1, 2010 and the county would respond within 30 days to rescind them. Second by Councilmember List.

**VOTE:** Motion passed 4 to 1 with Councilmember Babcock dissenting.

B. Coastal Structure Permit for Lee County Beach Restoration Project  
Town Manager Stewart indicated by making it necessary for the county to obtain a permit it allowed the town to retain some form of control over the project.

**Public Comment Opened**  
**No Public Comment**  
**Public Comment Closed**

**MOTION:** Vice Mayor Raymond made a motion to approve a Coastal Structure Permit for the Lee County Beach Restoration Project and to instruct the Town Manager to issue the permit, and secondly to make the following findings of fact: the Lee County activities set forth in the permit are adjunct to a lawfully existing activity and are for a purpose necessary to protect the public welfare. Second by Councilmember List.

**VOTE:** Motion passed 5 to 0

C. Sign Ordinance Discussion  
Town Manager Stewart indicated the item had been before Council previously with a discussion as to whether it needed to go back to the LPA and proceeded to review some of the issues at hand.

**Public Comment Opened**  
**No Public Comment**  
**Public Comment Closed**

Mayor Kiker provided new Town Attorney Jim Humphrey with an overview of the issues with the sign ordinance indicating he did not want to send it to the LPA at this time but wanted the new attorney to review the matter and return to Council with a recommendation.

Councilmember Babcock stated he wanted to see the sign ordinance implemented with it being legal and enforceable while maintaining the original intent.

Attorney Humphrey suggested his firm be permitted to look over the ordinance and the issues that had been presented and return to Council with a recommendation, with Council in agreement.

D. Town Hall Lease

Town Manager Stewart indicated an appraisal of the property needed to be acquired, taking approximately 45 to 60 days, to gain information necessary to make a decision on purchasing the property. Town Manager Stewart indicated there was also the possibility of Seafarer's Mall being looked at for a Town Hall location.

**Public Comment Opened**  
**No Public Comment**  
**Public Comment Closed**

Vice Mayor Raymond brought up the possibility of utilizing Bay Oaks by adding a second story.

**XII. TOWN MANAGER'S ITEMS**

A. Executive Session

Town Manager Stewart requested an Executive Session for 8:30 a.m. on July 12<sup>th</sup> regarding 201 Old San Carlos

B. Discussion of Date for Ribbon Cutting at Newton Park

Council advised Town Manager Stewart to set the date and advise

C. Oil Spill Update

Town Manager Stewart reviewed the latest information as well as the new process for filing claims regarding the spill.

Councilmember Mandel stated there were discrepancies in the 2006 ordinance and 2008 ordinance regarding declaring an emergency and asked the town attorney to review the ordinances and make a recommendation for a clear path in declaring an emergency. Councilmember Mandel also wanted Attorney Humphrey to review the procedure for utilizing emergency funds.

There was a consensus from Council directing Mr. Humphrey to review the issue.

Attorney Humphrey discussed setting up a worksession with an attorney who had previous experience with the Exxon Valdez Oil Spill to provide information on filing claims.

**D. Seafarer's Property Update**

Mr. Stewart indicated he and Mayor Kiker had met with Commissioner Judah regarding the town's expectations. Mayor Kiker continued by providing Council with the latest updates on the property and communication with the BOCC.

Vice Mayor Raymond voiced his disapproval of using the Seafarer's Mall property for a parking lot. Councilmember Babcock requested a list of ways the property could be used as well as putting a process in place to obtain public comment and suggestions for the property.

**XIII. TOWN ATTORNEY'S ITEMS**

Previously covered.

**XIV. PUBLIC COMMENT**

**Public Comment Opened**

- **Frank Schilling** thanked the Mayor and Town Manager for taking time to sit down with him to learn more about technology and design for beaches.

**Public Comment Closed**

**XV. COUNCILMEMBERS ITEMS AND REPORTS**

Councilmember Babcock thanked Mr. Schilling for all his efforts toward Beach Renourishment.

Vice Mayor Raymond stated he hoped Council asked their questions prior to a meeting in order to cut down the length of the meetings.

Councilmember List commented on the musical at the Beach Elementary.

Councilmember Mandel asked Mr. Humphrey to look at the water utility and make a recommendation on moving forward with the financing Mayor Kiker addressed Mr. Humphrey asking him to let Council know when he was ready to have a worksession.

**XVI. AGENDA MANAGEMENT**

Looking at possibilities of new town hall at Bay Oaks

**XVII. RECAP OF ACTION ITEMS**

- Beach Renourishment, Attorney Dalton provided final document for signature
- Sending permit forward to County Commissioners
- Staff working with Town Attorney for recommendation
- Executive Session at 8:30 a.m. July 12<sup>th</sup>, 2010
- Set a date for Ribbon Cutting of Newton Property
- Set a date for Grand Opening Ceremonies
- Work with Councilmember Mandel and Town Attorney for emergency ordinances
- Provide Council with list of uses for Seafarer's
- Acquire appraisal for present Town Hall property
- Set date for meeting with attorney regarding oil spill claim procedures

**XVIII. ADJOURNMENT**

**MOTION:** Councilmember List made a motion to adjourn with a second by Councilmember Mandel.

*Meeting Adjourned at 9:48 p.m.*

Adopted 7-12-10 ~~With~~ Without changes. Motion by List / Mandel  
pg 3 of 7

Vote: 4-0 Babcock absent

  
Michelle D. Mayher, Town Clerk

- End of document.

