

**MINUTES
FORT MYERS BEACH
TOWN COUNCIL
2523 Estero Boulevard
Fort Myers Beach, FL 33931**

March 19, 2007

I. CALL TO ORDER

Members Present: Mayor Dennis Boback, Vice Mayor Don Massucco, Councilman Garr Reynolds, Councilman Charles Meador, Jr., Councilman Bill Shenko, Jr.

Town Staff Present: Town Attorney Anne Dalton, Town Manager Gary Parker, Community Development Director Jerry Murphy, Public Works Director Jack Green, Finance Director Evelyn Wicks, Town Clerk Michelle Mayher.

II. PLEDGE OF ALLEGIANCE:

All present stood for the recitation of the Pledge of Allegiance.

III. INVOCATION: Michelle Mayher recited the Invocation.

IV. PUBLIC COMMENT: Please note that public comment will be heard at the time the agenda item is discussed.

V. CONSENT AGENDA

- A. Approval of Minutes; March 5, 2007*
- B. Monthly Financials*

MOTION: Vice Mayor Massucco made a motion to approve the Consent Agenda. Councilman Shenko 2nd the motion.

VOTE: The motion passes 5-0.

VI. RESOLUTIONS

- A. Resolution 07-14; Acceptance of Referendum Results*

Ms. Dalton announced Resolution 07-14; Acceptance of Referendum Results of March 13th, 2007 ballot. .

MOTION: Vice Mayor Massucco made a motion to adopt Resolution 07-14. Councilman Reynolds seconded the motion.

VOTE: The motion passes 5-0.

B. Resolution 07-15; Acceptance of Election Results of March 13, 2007.

Ms. Dalton announced Resolution 07-15; Acceptance of Election Results of March 13, 2007 certifying the results of the Election and announces the winners of the Election for seat one and seat two; Ms. Dalton announced Herb Acken for seat one, and Larry Kiker for seat two.

MOTION: Vice Mayor Massucco made a motion to approve Resolution 07-15. Councilman Reynolds 2nd the motion.

VOTE: The motion passes 5-0.

Mayor Boback expressed his thanks to Vice Mayor Massucco for his dedication and service to the Town, and presented Vice Mayor Massucco with a plaque in his honor.

Vice Mayor Massucco thanked his fellow Councilmembers and the public for their continuous support.

Mayor Boback also expressed his thanks for Councilman Reynolds for his dedication and service to the Town, as shown with a plaque.

Council Reynolds thanked Council and the public for their support.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

******RECESS******

VII. OATH OF OFFICE

A. Seat 1; Herb Acken

Ms. Dalton swore in Mr. Herb Acken Oath of Office to seat one.

B. Seat 2; Larry Kiker

Ms. Dalton Swore in Mr. Larry Kiker Oath of Office to seat two.

****RECESS****

VIII. REORGANIZATION OF TOWN COUNCIL

Ms. Dalton announced each Councilmember has an opportunity to nominate someone and that the nomination does not require a 2nd.

A. Nomination and Election for Mayor

Mr. Acken nominated Mr. Kiker for Mayor.

Mr. Kiker passes.

Mayor Boback passed.

Councilman Shenko nominated Mayor Boback.

Councilman Meador passed.

MOTION: Councilman Meador made a motion to close the nominations.

Ms. Dalton announced the first nomination for Councilmember Mr. Kiker as Mayor, and announced the second nomination for Mayor Boback.

Vote for Mr. Kiker was 2-3.

Ms. Dalton announced a vote of 5-0 for Mayor Boback to continue as the Mayor.

B. Nomination and Election of Vice Mayor

Ms. Dalton announced nomination for Vice Mayor

Mr. Acken passed on a nomination.

Mr. Kiker passed on a nomination.

Mayor Boback nominated Mr. Kiker.

Councilman Shenko nominated Mr. Kiker.

Councilman Meador nominated Councilman Shenko.

Councilman Shenko declined.

MOTION: Councilman Shenko made a motion to close the nominations.
Councilman Acken 2nd the motion.

VOTE: Ms. Dalton announced a vote of 5-0 for Larry Kiker as Vice Mayor.

C. *Appointments and Alternate appointments of Councilmembers to Off Island Committees.*

- 1. *Coastal Advisory Committee***
- 2. *Southwest Florida Regional Planning Council***
- 3. *Horizon Council***
- 4. *Charlotte Harbor National Estuary Program***
- 5. *Metropolitan Planning Organization***

Mayor Boback asked Councilman Acken whether he would be interested in representing the Town to the *Coastal Advisory Committee and Charlotte Harbor National Estuary Program.*

Mr. Kiker accepted the *Southwest Florida Regional Planning Council* appointment.

Councilman Shenko agreed to continue as representative to the *Metropolitan Planning Organization.*

MOTION: Councilman Shenko made a motion to accept the appointments as indicated by the volunteers for the committees. Councilman Acken 2nd the motion.

VOTE: The motion passes 5-0.

IX. ADMINISTRATIVE AGENDA ITEMS

A. *Request for Approval of Parking Contractor Selection*

Mr. Parker announced this was brought back from the previous Council meeting and added that Mr. Green had the information Council had requested.

Mayor Boback opens public comment:

Donna Fletcher from Central Parking System addressed the beach patrol issue.

Mayor Boback closes public comment:

Councilman Acken expressed his concerns regarding the Central Parking asking whether it was Council's direction to flat rate management fees and to move away from heavy handed enforcement.

Mr. Green responded that a flat fee would be easier to manage the contract.

Councilman Acken compared the total contract price of \$299,000 and last years expenses were \$361,000 pointing out that there was a short fall of \$62,000, and asked how Central Parking would be making up that difference, questioning if there would be a reduction in services.

Mr. Green responded that the proposal is written so there would be no reduction in services indicating that it would have the same core hours and requirements including Beach Patrol.

Vice Mayor Kiker questioned what measures would be taken and whose financial responsibility it would be for education for the Beach Patrol.

Mr. Green pointed out that there had been concerns regarding Beach Patrol's responsibilities and certifications as well as lacking proper training, so those responsibilities had been removed. With the new proposal they were looking to reestablish those responsibilities by providing that training and certification in Code Enforcement.

Councilman Shenko suggested going back to the way things were with the Town's oversight making sure they are properly trained, and expressing his concern regarding binding into a contract longer than his term of office, and binding Council three-years out to contracts.

Councilman Meador asked Attorney Dalton about the Town's liabilities as they pertain to Beach Patrol and rendering first aid.

Ms. Dalton responded that the Town would not have a liability as they are agents, adding that she will look further into it.

MOTION: Councilman Acken made a motion to accept the contract as written. Vice Mayor Kiker 2nd the motion.

Discussion:

Councilman Meador expressed that he would like to see the B.A.S.E. operations out of the contract as it is the most expensive aspect of the contract, stating that Central Parking people cannot enforce what they are charged to enforce in paragraph six; animal control is paid separately, as well as they have other people who pick-up trash and are on their payroll. Councilman Shenko expressed that he would prefer to put the burden back on B.A.S.E. as the original setup.

Councilman Shenko pointed out that the Beach Patrol is a valuable asset, and that he would like to see their role broadened, having Council review

that role. Councilman Shenko expressed that he would like to have this item revisited in six-months and have reports brought back to Council on whether or not it helps them by having enforcement powers.

AMENDED MOTION: Councilman Acken amended his motion to revisit this item in six-months as described by Councilman Shenko. Vice Mayor Kiker amended his second.

Mayor Boback pointed out that it would not be feasible to put the Sheriff out on the beach from 9:00 am to 6:00 pm, based on the cost for them to direct traffic four hours a day stating that is not an issue that they can revisit cost wise. Mayor Boback also pointed out that he did not believe the Sheriff will tie up his manpower to patrol the beach. Mayor Boback suggested exploring the matter in the next six months.

VOTE: The motion passes 4-1; with Councilman Meador dissenting.

B. Work Flow Management Software Vendor Selection

Mr. Gary Parker stated that Council had directed staff to work on bringing Community Development Services in-house, indicating that a key part of playing out that assignment is by having the work flow management software in place. This software is up to the standard that Lee County currently uses in tracking applications, permitting and data management.

Mr. Murphy reported having a consultant assist in the crafting of the RFP and based on the information they had when they ranked the vendor's, CRW was the highest ranked. Mr. Murphy added that this will be an instrumental component in order to allow their system to work for their constituents and asked Council for direction in order to implement their short-term goals.

Mayor Boback opens public comment:

- Grace Workman expressed her uncertainty as to the pending project.

Mayor Boback closes public comment:

Mr. Murphy reports that they have had an interlocal agreement with the County for these types of services, and that that contract will expire at the end of the fiscal year, and it is unlikely that it will be renewed, pointing out if it did, the cost would be greater than they have previously paid in the past.

Discussion:

Vice Mayor Kiker spoke about an additional \$225,000 to Lee County for their services above the normal.

Mr. Murphy responded that was the amount they currently subsidize under the interlocal agreement, adding that the County also keeps all of the Town's fees.

Vice Mayor Kiker questioned the amount of time needed to implement a system as mentioned above.

Mr. Murphy responded approximately 12-months stating that they are at the bottom end of a large spectrum, so they have targeted a six-month implementation; indicating starting as soon as possible. Mr. Murphy pointed out the price that was quoted to them was \$194,000.

Councilman Shenko referred to comments made by Vice Mayor Kiker who had indicated they needed to budget for the project. Councilman Shenko asked if CRW had any experience in moving data over from a Tide Mark System.

- Linda Donnelly representative of CRW and introduced Chris Wuerz who is president of CRW Systems.
- Chris Wuerz responded to the question whether or not they had any experience in moving data over from a Tide Mark System by stating that they have converted other vendors in this market to their system, indicating that Tide Mark is one of their conversions.

Councilman Shenko asked if staff was satisfied with this system as being the best available to them within the timeframe to get this job done.

Mr. Murphy responded that he in fact was satisfied with the system as long as CRW is working along side with him.

Councilman Meador pointed out that Council was not provided with the worksheets **for** those various vendors, and questioned if the **CRW** software they are considering failed to **meet any of the Town's requirements that were listed as "Critical" in the request for proposals.**

Nicole Olsen, IT Assistant, responded then in the process of creating the RFP, one of the concerns brought up by Code Enforcement was the rewrite capabilities for different users, and the importance of only one person editing a record at a time.

Councilman Meador referred to the criterion not met starting at page 42, and asked Ms. Olsen to go page by page indicating the critical concerns identified by the proposal request that were not met by the software.

Ms. Olsen referred to Windows Vista, stating that the Town would not be ready to go to the Vista operating system within the next year. Ms. Olsen reports that CRW did not anticipate any conflicts once they move to Vista, indicating that CRW will be moving to Vista sooner than they would. Ms. Olsen indicated the code enforcement issue previously described; user rights and reported that CRW is not able to meet this requirement. Ms. Olsen also noted that in their response to the RFP, CRW reported that they could not meet the Town's requirement for 24-hour support for the software's warranty period of 12 months. Ms. Olsen reports none of the proposals were able to provide this, and CRW would provide support during normal business hours, and emergency after hour support is available upon request from the Town.

Councilman Meador asked if the system includes a backup, to which Mr. Murphy reported that the software itself did not provide a backup, but that their system does backup their data.

Councilman Acken questioned if there were any options to offsite data backup for emergency such as hurricanes, and Ms. Olsen responded that the Town already has this process in place.

MOTION: Councilman Shenko made a motion to approve staff's recommendations of CRW's proposal as outlined in materials. Councilman Acken 2nd the motion.

Discussion:

Councilman Meador question whether or not the Town will be taking all permitting and plan review from the County.

Mr. Murphy responded that it may be the case indicating that they need to have a certified building official, and a certified plans examiner for the various disciplines. Mr. Murphy reported that the Town would have to hire highly educated and well trained people to do so. Mr. Murphy's proposal would be to train their staff to work in a multi disciplinary manner in order to bring that in-house.

VOTE: The motion passes 5-0.

X. TOWN MANAGER'S ITEMS AND REPORTS

Mr. Parker announced that they have two proclamations they would like to put on the agenda for April 2nd for Building Safety Week 2007; week of May 6-12, and for National Arbor Day which would be declared on April 20th.

XI. TOWN ATTORNEY'S ITEMS AND REPORTS

A. Request for direction regarding Lobbying Ordinances

Ms. Dalton asked for direction regarding the Lobbying Ordinance by Council.

Mayor Boback suggested having a workshop setting.
Councilman Acken didn't think it needs to be made public.
Vice Mayor Kiker agreed to postpone the discussion for the workshop.
Councilman Shenko expressed the workshop is good.
Councilman Meador also expressed the workshop would be good.

Workshop is scheduled for 6:00 on 03/26/07.

Ms. Dalton referred to Council's direction regarding the electronic personal assistant mobility device known as the "Segway." Ms. Dalton indicated that depending on the investigation by the Public Safety Task Force, she has these potential options.

1. To prepare a Resolution declaring a moratorium on zoning approvals.
2. As a policy matter, allow this to go forward while Public Safety is reviewing it; The zoning approval would carry a warning that it is a temporary approval so no rights will vest.

Mayor Boback opens public comment:

- Mr. Bob Simon referred to the Segways operations on the beach, indicating that based on the investigation there were three major cities which banned Segways completely, naming Toronto, Canada; San Francisco and the city of Providence, Rode Island.

Mayor Boback closes public comment:

Councilman Meador expressed that he is still waiting for some safety information regarding the Segway where there have been more accidents involving Segways than with pedestrians or bicycles, expressing a desire to see Council do nothing than to permit the matter to go forward.

Councilman Acken agreed with Councilman Meador stating that they provide an alternative for people who have limited mobility who don't feel quite ready for a chair. Councilman Acken pointed out that he would not oppose if the majority of Council agrees to it.

Vice Mayor Kiker expressed that it is a good idea to take feedback from other committees. Vice Mayor Kiker stated that they are not practical, although he is not against them but admits to crowding the sidewalks and bike paths.

Councilman Shenko agreed that they would be at a disadvantage if they adopt a moratorium without having a rational basis for the moratorium. Councilman Shenko expressed that he would like for it to go back to Public Safety Task Force.

Mayor Boback agreed to send it to Public Safety Task Force for further investigation with item number two.

Ms. Dalton reiterated that there is a consensus on no moratorium, but pointed out if the zoning approval goes forward, would Council be agreeable to a warning indicating that the Town in some future may regulate this in some fashion.

Mayor Boback suggested having them sign a waiver indicating that they have read and understood that.

Ms. Dalton reported that Council will be authorizing staff to proceed with their normal review process, and for the Town Attorney to draft some warning that they may not have this license for a long period of time depending on Council's decision in the future.

XII. COUNCILMEMBERS ITEMS AND REPORTS

Councilman Meador referred to the Sandarac asking when they can have the matter put on their agenda for reconsideration.

Ms. Dalton responded that she has sent out a memo to Council regarding Mr. Schilling, and is recommending that this go through the normal process of going through the DEP component as it is a DEP matter. Ms. Dalton suggested if there are issues concerning the Town's component it should go through the Town staff as it normally does as set out in the Land Development Code.

Councilman Meador pointed out that the matter was presented to Council years ago which received a 5-0 vote and an approval. Councilman Meador expressed that he was not asking for an approval, he was asking for a date.

Mr. Parker reported the next Land Use meeting will take place on April 9th at 4:00 pm.

Councilmember's agreed to the Land Use meeting on April 9th at 4:00 pm, and Mr. Parker will contact Mr. Schilling.

Ms. Mayher indicated that last schedule put out for Council dated December 8th, had the April 9th meeting tentatively scheduled for 3:00 pm.

Ms. Mayher reiterated the Land Use meeting on April 9th at 3:00 pm.

Councilman Shenko referred to issues related to the MPO regarding adding toll lanes to I-75. Councilman Shenko pointed out that this affects Fort Myers Beach because their representative of the MPO may be the swing vote on that one. Councilman Shenko announced that there was a joint meeting of the Collier and the Lee MPO last week, where Councilman Shenko was informed that Lee County is ready to go forward with a toll on additional lanes on the interstate, Collier wants it to go to referendum indicating there was no quorum so there was no vote on it. Councilman Shenko reported that they will find more information in their packets from the MPO as it relates to the tolling of the interstate, and Councilman Shenko will bring it back for Council's direction before they are asked to vote on it. Councilman Shenko asked for Council's direction regarding adoption of the letter with the change of the one word.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

MOTION: Councilman Shenko made a motion to adopt the position statement as prepared with the change of the language "large" and that he will add that the Town of Fort Myers Beach withdraws as a member of the Transit Authority Oversight Committee. Councilman Meador 2nd the motion.

Councilman Meador asked Council to revisit the Sandarac matter which was scheduled for April 9th at 3:00 pm, and have it on the first Land Use meeting after the April 9th meeting.

Councilmember's agreed to have the Land Use meeting on May 14th.

Vice Mayor Kiker referred to the Beach Parking Contract and asked Council if they can have some type of an agreement set of 30-days before a contract is due to have it come to Town Council no later than that in order for Council to have time to exercise their approval. Vice Mayor Kiker also referred to the time line of the process 30-days before they get the final or 60-days if there is a request to use the same vendor not having to go out for three or more bids.

Vice Mayor Kiker referred to the water referendum that has passed and questioned if there is a next step to get the process.

Ms. Dalton responded that she and Mr. Parker had spoken with Florida League of Cities who does one day workshops tailored to each municipality. Ms. Dalton also indicated that Town Council previously has had a relationship with one of the law firms in Town, and they can acquire services from a law firm as to how to handle the financing.

Councilman Meador questioned if their finance director has done any research with the current lender as to what they would do for the Town on a long-term obligation.

Ms. Wicks reported that Sun Trust is the note holder and that she will be receiving information and therefore, will bring it back to Council to determine.

Councilman Shenko thanked Vice Mayor Kiker for bringing the matter forward and concurs that they look at it with a six month time frame minimum in order for them to look at all of the options.

Vice Mayor Kiker referred to the condition of the water system and what they intend to do about it, adding that they need to supply the dollars for analysis of the problem, and they need to submit dollars to get an estimate in order to find out the severity of the problem and how much it will cost them.

Mr. Green added that with the recent approval of different engineering firms under the CCNA process, they can engage some of that through a task order to tell them what it takes to put together the needs analysis, as well as an estimate as to how much it would cost.

Mr. Green indicated the Town approved a budget with a \$250,000 line item to do some repairs.

Vice Mayor Kiker referred to the volunteer committees suggesting for each committee to bring forward three priorities they would like the Town to look at.

Councilman Acken also wanted to know more about the current status of the committees. Councilman Acken questioned if the Community Resources Advisory Board have a function as a clearinghouse for information coming to and from the committees.

Mr. Murphy responded that there is an Ordinance which calls for a Community Resources Advisory Board, but that Board has not been appointed in the previous year.

Councilman Acken expressed his concerns regarding the Time's Square revitalization project. Questioning whether the Town's staff has a liaison with the developers in order to know where they are, and what their plans are.

Ms. Dalton responded that they were waiting for an application from the developer, but that they have not yet received the application.

Councilman Acken referred to the sign ordinance sunset, pointing out that it is set to expire on 9/13/07 in the middle of hurricane season. Councilman Acken requested that he would like to put the procedure in place to review extending the sunset and revisiting the entire issue.

Councilman Acken reported that he was contacted by the principal of Beach Elementary regarding speed bumps and a flashing light on Oak Street directly in front of the school.

Councilman Acken also thanked Councilman Reynolds and Councilman Massucco for their services, and expressed he hopes that they will continue to be available as a public resource.

Mayor Boback announced that on Wednesday the 21st, they have the joint meeting with the County Commissioners. Mayor Boback also reported that Commission Chairman James will not be there.

Mayor Boback referred to the Voice Volunteers indicating that the luncheon will be on Friday at 11:45 at the American Legion on Buttonwood. Mayor Boback reported that last year the Town has made a donation to the Voice Volunteers, and asked Councilmembers if they wanted to do the same this year. Mayor Boback reported last year they donated \$2,000 or \$2,500 and they gave them 17 or 18 free passes.

Councilman Shenko expressed he would like to see them give a larger donation as they are giving the Town their time.

Councilman Acken also concurred with Councilman Shenko.

Vice Mayor Kiker was in favor to increase the amount.

Councilman Meador was in agreement.

MOTION: Councilman Shenko made a motion to make a contribution in the amount of \$4,000 to the Sheriff for the Voice Volunteers in recognition of their service to the Town of Fort Myers Beach. Councilman Acken 2nd the motion.

VOTE: The motion passes 5-0.

XIII. FINAL PUBLIC COMMENT: Public comment at this time is heard on any item and/or issue of concern.

Mayor Boback opens public comment:

- Chris Loffreno Public Safety Task Force spoke about the public safety regarding the Segways. Mr. Loffreno reports that they have some information for review.
- Pat Loffreno referred to money being spent, but that no one speaks about the people who die on Estero Boulevard, due to getting hit by cars.

Mayor Boback closes public comment:

XIV. ADJOURNMENT

MOTION: Councilman Meador made motion to adjourn. Councilman Shenko 2nd the motion.

VOTE: The motion passes 5-0.

Mayor Boback adjourned the meeting at 9:25 PM

NEXT MEETING: April 2, 2007 at 6:30 PM

NOTE: This meeting is televised live on Comcast channel 11.

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is

to be based. Please note: Agendas will be available on the Friday prior to this meeting at www.fortmyersbeachfl.gov.

Respectfully submitted,

Debbie Cardoso

Motion: Approve as presented.

Councilmember Shenko/Meador

VOTE: 4-0

 4/23/07