

Note from the Clerk's Office: The minutes from the May 21, 2007 Town Council meeting were presented to the Town Council for adoption at the June 4, 2007 and the June 11, 2007 meetings. The Council deferred these minutes at the request of Vice Mayor Kiker for additional information regarding the Newton Beach Park, and the Town's hurricane brochure. Provided here are the minutes from the May 21, 2007 meeting as previously provided, and an addendum with the requested information.

MINUTES

TOWN OF FORT MYERS BEACH REGULAR TOWN COUNCIL MEETING

2523 Estero Boulevard
Fort Myers Beach, Florida 33931

6:30 PM

May 21, 2007

CALL TO ORDER: Mayor Boback called the meeting to order at 6:32 PM

PLEDGE OF ALLEGIANCE: All stood for the pledge to the flag.

PRESENT: Mayor Boback, Vice Mayor Kiker, Councilmember Acken, Councilmember Shenko, Town Manager Gary Parker, Town Attorney Anne Dalton, Town Clerk Michelle Mayher, Projects Director Theresa Schober, Senior Projects Manager Cathie Lewis.

ABSENT: Mayor Boback announced that Councilmember Meador is expected to arrive, but will be late.

PUBLIC COMMENT: ~~Larry Yax spoke to his lack of response from the Community Development Department.~~

As to the appointment of Jeff Werner to the Marine Resources Advisory Board, Councilmember Shenko filed Form 8B, Memorandum of Voting Conflict, disclosing:

~~I, William E. Shenko, Jr. hereby disclose that on May 21, 2007, a measure came or will come before my agency which may inure to my special private gain or loss; the measure before my agency and the nature of my conflicting interest in the measure is as follows. As to the appointment of Jeff Werner, I am the Plaintiff in an action in which Jeff Werner is the defendant. Upon instruction of the Town council of Fort Myers Beach, I filed a Motion to Tax Attorney's Fees and Costs against Mr. Werner. The motion is pending further action and/ or instruction from the Town council.~~

*which was read
and a copy
appended to
the minutes
of this
meeting.*

~~Any recovery of fees or costs would be reimbursed to the Town of Fort Myers Beach, copies of the relevant pleadings are attached. I am filing this conflict to avoid the appearance of impropriety.~~

Vice Mayor Kiker asked that Council postpone the appointment to the MRTF until Councilmember Meador is present.

CONSENT AGENDA:

MOTION: Councilmember Shenko moved to pass the Consent Agenda. Councilmember Acken seconded the motion.

VOTE: 4-0 *in favor of the motion.*

ADMINISTRATIVE AGENDA:

A. NEWTON BEACH PARK

PUBLIC COMMENT:

- ~~• Marilyn Quackenbush, a resident of Ocean Harbor, spoke to the desire to have the Strandview beach access remain as is, and submitted her statement for the file.~~
- ~~• Barbara Steffey, a resident of Ocean Harbor, spoke in favor of keeping the Strandview access as it is, and submitted her statement for the file.~~
- ~~• Ron Janarek, 4753 Estero, spoke on behalf of owners at the Ocean Harbor, and submitted a statement for the file.~~

Theresa Schober, Projects Director, presented this item, providing cost estimates and a proposal for the relocation of the Newton home. Also submitted is input from the neighboring condominiums with regard to the Park. Ms. Schober also provided to the Council this evening a letter from Florida Communities Trust, ~~having only been received today. Ms. Schober is asking the Council what they would like to ask of Florida Communities Trust with regard to modifications in the Park Management Plan.~~

~~Discussion ensued regarding the demolition or removal of either or both of the structures on the property. Attorney Dalton commented that the demolition of the cottage would trigger a repayment obligation, but "Seven Seas" is a bit more ambiguous. Should the Town demolish or move that property without specific consultation with the County and FCT could result in some very serious consequences.~~

~~Vice Mayor Kiker asked for clarification regarding the Strandview beach access and the crosswalk.~~

~~Ms. Schober explained that the key issue by Strandview Condominiums is the crosswalk that crosses Estero Boulevard and comes onto the Strandview beach access; the residents asked that a pathway be put inside the park, instead of on the condo road, to separate pedestrian and vehicular use.~~

~~Vice Mayor Kiker asked what group or agency would designate the historic significance of a property within the Town. Attorney Dalton spoke of the Historic Preservation Board granting certificates of appropriateness. HPB is the last port of call in terms of approval. Vice Mayor Kiker spoke of his concern regarding beach duning, mounds and seawalls. He feels there is a cross section between what's required versus what's in the LDC, vs. what is the right thing to do.~~

~~Councilmember Acken spoke in favor of going forward, except for the changes to the Strandview access. He would like to get park in use for the general public as soon as possible.~~

~~Mayor Boback spoke to the maintenance cost of \$117,000. per year, and whether that includes wind and flood insurance, hurricane preparedness, etc.~~

~~Ms. Schober spoke to the Town's blanket insurance, and deferred to Finance for more information. She identified an educational staff member written into the grant agreement, and recommends an educational person for both Mound House and Newton. Grounds maintenance is reimbursed by TDC – as they do for all beach front facilities within the County.~~

the Town Manager

Council instructed ~~staff~~ to get the property cleaned up, to convert it to a usable park, and to talk to the County and to FCT to see if we can proceed as a park without the structures.

CONTRACT FOR MOORING FIELD UPLAND FACILITIES:

Chad Spitznagle, Public Works Supervisor, spoke to this item, informing Council that the Town sent an RFP last month, and that Matanzas was the only respondent.

~~Mayor Boback commented that the mooring field has improved ten fold.~~

PUBLIC COMMENT:

Public Comment was heard.

~~Pat Smith, resident, commented that the feedback is that Matanzas is providing excellent customer service.~~

MOTION: Councilmember Shenko made a motion to approve the agreement with Matanzas, with the proviso that they provide dockage for the Town's pump out vessel. Vice Mayor Kiker seconded the motion.

VOTE: 4-0 *in favor of the motion.*

PENSION PLAN REVISIONS

Town Manager Gary Parker stated that this is an update to be in compliance with IRS regulations. With these changes the AIG product would not be affected.

PUBLIC COMMENT:

None

MOTION: Vice Mayor Kiker moved to accept as presented. Councilmember Shenko Seconded the motion.

VOTE: 4-0 *in favor of the motion .*

PROPOSED LDC AMENDMENTS:

Mayor Boback suggested to postpone this discussion until Councilmember Meador is present, or move it to a next meeting. Councilmembers concurred.

HURRICANE BROCHURE:

No public Comment:

~~Mayor Boback would like staff to add website and AM radio information. He spoke of a glaring omission in the reentry information. Certain conditions are identified in the EOP and this should be added into this brochure.~~

BANK OF AMERICA UPDATE:

No public comment

No action.

TOWN ATTORNEY'S ITEMS:

Professional Services for Water Utility

MOTION: Councilmember Shenko moved to negotiate with Nabors Giblin to proceed with advising on water utility issues and authorize, on an hourly basis as proposed in the Town Attorney memo dated May 2007.

Vice Mayor Kiker seconded the motion.

Councilmember Acken requested an amended motion to include notification if fees exceed \$10,000 without specific approval of Council, and that the water utility board reimburse the Town .

VOTE 4-0 *in favor of the motion*

COUNCILMEMBERS ITEMS AND REPORTS:

Vice Mayor Kiker asked to have information regarding the Lee County Human Services Council on the web, seeking a volunteer from the community.

Vice Mayor Kiker referred to the algae book from Sanibel. Mayor Boback suggested having the Marine Resources Task Force address this. ~~It was also suggested also to have the MRTE address the Vice Mayor's concerns regarding sand dunes, mounding and vegetation on the beaches.~~

Councilmember Acken asked to move the appointment of Jeff Werner to the MRTF to the next scheduled council meeting. Council was in agreement.

Councilmember Acken reported on his attendance at the Charlotte Harbor National Estuary meeting. ~~He would like to extend an invitation to Dr. Lisa Beaver to come address the council on the state of Estero Bay; water quality trends, analyses.~~

PUBLIC COMMENT -

Council heard public comment.

~~Carol Landry, beach resident, spoke in favor of the Sunshine Law.~~

~~Don Massucco, resident and former Vice Mayor, expressed his gratitude for the privilege to serve on council and with this staff. He cautioned of tough times ahead. He and his wife will be leaving Florida permanently on the 29th. He thanked all supporters over the years, and many great friends made on the beach, and he wished the community well.~~

ADJOURNMENT:

MOTION: Councilmember Shenko moved to adjourn. Vice Mayor Kiker seconded.

VOTE: 4-0 *in favor of the motion.*

Council adjourned at 9:09 PM

Respectfully submitted,

Michelle D. Mayher
Town Clerk

ADDENDUM

Theresa Schober presented the outline of the Newton Beach Park project.

~~Vice Mayor Kiker asked Ms. Schober if there was a timeline for this project. Ms. Schober responded that it was her understanding that the Council wanted to move forward on this project, so the only timeline would be that set by the Council. The Town has completed what was intended to be completed to this date, and have demonstrated to the State that the Town is actively working on the project.~~

~~Mr. Kiker would like to see the Town clean the property up for immediate use. He sees that as a good faith offer for the citizens. He would like to go to Lee County and make a proposal to them. In June the Historic Preservation Board will meet and at that time we could have their jurisdiction. He would like FCT's official position as to what they would like to do with the property: keep it as a park, or give it back. In the meantime, clean it up.~~

~~The Mayor concurred with Vice Mayor Kiker on getting an official position from the County. He would like to have the ropes around the preliminary plantings be removed. The Mayor asked if that is something that could be done tomorrow. Ms. Schober explained that the right of way was never an actual beach access, but that yes, we can remove the ropes.~~

~~Vice Mayor Kiker has heard the three scenarios: 1) status quo, move forward; 2) turn it into a park; 3) we want out on the deal, and how much does it cost. He would like to present these three scenarios to the County.~~

~~Councilmember Shenko agrees with cleaning it up and getting it as accessible to the public. He is in favor of entering into negotiations with FCT and Lee County to discuss the possibility of converting it to a usable park, or transferring ownership.~~

~~Councilmember Acken asked Ms. Schober what would be the time frame to completion, should the Town decide to move forward with one of the plans that has already be presented, i.e., keep both houses, go ahead with the landscaping that's been approved, turn the cottage into bathrooms, seven seas to a meeting room. Ms. Schober responded the plans which were presented by the architect have an approximate timeline of twelve months.~~

- End of discussion on this item

Mr. Gary Parker discussed the Hurricane Brochure, and asked for Council's approval to move to printing and distribution.

~~Councilmember Shenko expressed his pleasure with the product. Vice Mayor Kiker would like to communicate with the public that could be displaced. Mayor Boback noted we should list the Town's website, and reference to the Town's radio station, 1640. Vice Mayor Kiker wants to set expectation levels to the residents; what kind of communication can they expect. Mayor Boback referenced the Town's off island site identified in the EOP. Mayor Boback mentioned that communications were identified in the EOP, and mentioned that last year the phones were tested at the designated off-site meeting location. He further mentioned that the re-entry should be in the brochure. Councilmember Acken suggested listing the Town's website for re-entry information, perhaps parcel the portion of the EOP regarding reentry and have it on the Town's website as a separate link. Vice Mayor Kiker commented that the website may not be used. He further went on to say that the website is housed here at Town Hall, and part of the evacuation process is to remove all the data off the computer and take it with them, and we won't have a website. Mayor Boback disagreed, saying it should all be set up at the Masonic Lodge. Vice Mayor Kiker asked if it has been tested. Michelle Mayher qualified that the Town tested the phone communication however was not certain whether the website had been tested as to the transportability. She mentioned also that the entire new IT system includes emergency preparedness. Vice Mayor Kiker suggested we look at housing it in New York, or some other place that would not be impacted with a hurricane. Town Manager Parker confirmed that a "dry run" of the emergency operations plan is in the staff's future plan. Vice Mayor Kiker feels that in referencing the Town's website, it's important to know that it is going to work.~~

- End of discussion on this item
- End of document

7-9-07
approved motion by Councilmember
Meador. Passed 3-2, with
Vice Mayor Kiker and
Councilmember Acken dissenting

Michelle Mayher

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, William E. Shenko, Jr., hereby disclose that on May 21, 20 07 :

(a) A measure came or will come before my agency which (check one) may

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

As to the appointment of Jeff Werner, I am the Plaintiff in an action in which Jeff Werner is the defendant. Upon instruction of the Town Council of Fort Myers Beach, I filed a Motion to Tax Attorney's Fees and Costs against Mr. Werner. The motion is pending further action and/or instruction from the Town Council. Any recovery of fees or costs would be reimbursed to the Town of Fort Myers Beach, copies of the relevant pleadings are attached. I am filing this conflict to avoid the appearance of impropriety.

5-21-07
Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.