

MINUTES
FORT MYERS BEACH TOWN COUNCIL

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, FL 33931

September 17, 2007
6:25 PM

SPECIAL MEETING OF THE TOWN COUNCIL **6:30 PM**

Mayor Boback called the meeting to order.

MOTION: Councilmember Acken moved to cap this meeting at 10:00 PM, and have Councilmembers' Items no later than 9:30 PM, and adjourn no later than 10:00 PM, and any unfinished items would be continued to the next meeting. Councilmember Shenko seconded the motion.

VOTE: Motion passed 3-1, with Mayor Boback dissenting.

II. PUBLIC COMMENT:

Opened Public Comment:

Public Comment was heard:

- Carl Marsh spoke regarding the ROW agreement, and encouraged Council to consider on behalf of the Yucatan Beach Stand.
- Natalie Manning spoke, and presented a petition to keep the Community Pool open.
- Phyllis Robertson spoke in favor of the Community Pool.
- Brian Munsey spoke as a representative of Champion Pool Corporation, and in support of continued contractual services for the Pool.
- Molly Orvis spoke in favor of keeping the pool open.
- Mary Ann Pascuicci spoke in favor of the Community Pool.

Closed Public Comment

III. CONSENT AGENDA:

- A. Proclamation: National Planning Month
Town Clerk Michelle Mayher read the proclamation.
- B. Special Event Permit Application – Pirate Festival

MOTION: Councilmember Shenko moved for approval as presented. Councilmember Acken seconded the motion.

VOTE: Motion passed 4-0.

IV. ADMINISTRATIVE AGENDA:

Special Town Council Meeting
September 17, 2007

A. Stormwater Sceptor Demonstration:

Ron Edenfield, Engineer for Environmental Consulting and Technology, Incorporation opened the presentation by mentioning that this stormwater filtration demonstration is in response to an inquiry by the Council and introduced Tom Happel, Vice President of Suntree Technologies Inc. Mr. Happel began with a power point presentation, and then a demonstration of the product in Council chambers. Council had various questions regarding permitting, implementation, warranty, durability, and maintenance. Mr. Edenfield offered to provide to the Council a list of other communities that use this stormwater scepter in order for a reference.

Recess: 7:20 PM Reconvene: 7:35 PM

Opened Public Comment

None

Closed Public Comment

B. Presentation by Schultz, Chaipel, Redovan, Baker & Co on the annual budget.

Mr. Martin Redovan, CPA for Schultz Chaipel, Redovan Baker and Company addressed the Council, giving the Council a status report. Mr. Redovan indicated that the audit is in its final days, he will have a draft this week for review and a final document definitely by the month end, and probably next week. Mr. Redovan also mentioned that the final financials for the Public Works Services Inc. are complete and have been delivered to the Finance department. Council had several questions, clarifying that this audit is for fiscal year 05/06, and that the requirement is to be submitted within 12 months to the State.

Opened Public Comment

None

Closed Public Comment

C. Interlocal with Lee County for Community Development

Attorney Dalton informed the Council that since the original agreement had been supplied to the Council in the packet, further numbers have come forward which reduced the cost for the coordination meetings between the County and the Town and reduced the scope of services.

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Shenko moved to approve the agreement between Lee County and the Town for Transitional Community Development Services as to the revised numbers. Vice Mayor Kiker seconded the motion.

VOTE: Motion passed in favor 4-0.

D. FEMA Flood Hazard Mitigation Grant Policy

Community Development Jerry Murphy addressed this item, explaining that it is a grant program that FEMA offers through the State, to the Town, and the intent is to have a uniform policy in dealing with this program.

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Shenko moved to continue with the program, and to go forward with requiring indemnity agreements from owners who receive the funds from FEMA, that should those funds be directed to be repaid to FEMA that they indemnify the Town similar to the agreement that was reached with the Best Western. Vice Mayor Kiker seconded the motion.

VOTE: Motion passed 4-0.

E. Direction Regarding Codification Proposal

Town Manager Gary Parker introduced this item, stating that he and the Town Clerk had sought proposals from two corporations for ordinance codification, and outlined the process, the proposals and staff's recommendation to contract with Municipal Code Corporation.

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Acken moved to contract codification services with Municipal Code Corporation, with the stipulation that we request that MuniCode host our code on their website, free, for two years. Councilmember Shenko seconded the motion.

VOTE: Motion passed 4-0.

F. Direction Regarding Easement ROW Agreements

Opened Public Comment

None

Closed Public Comment

MOTION: Vice Mayor Kiker moved to ask the Town Attorney to go back and rework the language in paragraph C to include changes as suggested.

Motion failed for lack of a second.

MOTION: Councilmember Acken moved to table this item indefinitely. Vice Mayor Kiker seconded the motion. Councilmember Acken withdrew his motion, and Vice Mayor Kiker withdrew his second.

MOTION: Vice Mayor Kiker moved to send this document back for revision to include tonight's discussion and bring it forward on October 1, 2007. Councilmember Shenko seconded the motion.

Attorney Dalton offered to make this document available to other applicants/ property owners that may be in the pipeline, as well as other municipalities who have encountered the same situation, seeking feedback.

VOTE: Motion passes 4-0.

Preliminary Discussion of Sales Tax Proposal. Attorney Dalton reference the memo provided in the packet which outlined the results of the research she had done regarding the possibility of the Town imposing a sales tax. Mayor Boback inquired as to whether the State Constitution prohibits the Town from levying a sales tax, to which Attorney Dalton responded that it is not authorized under general law, that it is her opinion that there is no legal way that the County could levy a tax within our municipality, that the law states that absent an apportionment between the County and the municipality as to revenues generated, there's an implication that theoretically the County can say yes you can have the proceeds, but other municipalities would have to join in and that as a practical matter it is unlikely. Attorney Dalton further explained that Florida statute 212.055 sub paragraph 2 is very specific regarding what the tax could be used for, for example infrastructure purposes, and Ms. Dalton was unable to find any items that the Mayor wanted the tax to cover. Ms. Dalton further opined that in order to move forward on this matter, the Town could attempt legislative change. The Council thanked Ms. Dalton for gathering this information, and took no action.

V. TOWN MANAGER'S ITEMS:

Mr. Parker referred to a letter from FDOT regarding restriping the bridge, dated Sept 10, and that the restriping would be at the Town's cost.

Public Works Director Jack Green indicated his task order is to restripe the bridge, and was reluctant to opine as a public servant. Council gave him direction to restripe, and will put it on a future agenda for discussion with the Board of County Commissioners.

VI. TOWN ATTORNEY'S ITEMS

None

VII. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Kiker mentioned that the Sanibel City Manager attends the TDC meetings, and expressed his preference to have Town representation at these meetings.

Vice Mayor Kiker referenced Newton Park, asking for an update on the request to clean up that property.

Mr. Parker responded that staff has discussed this item, and is dealing with the landscaping firm, have met on-site to come up with a plan to incorporate the present direction by council and fast track it, yet still accommodate any future plans. Mr. Green indicated that changes to a historic site requires a certificate of appropriateness, which requires going to the HPB. He further indicated that Ms. Schober has contacted Lee County Parks and Rec to see what resources are available, and a cost comparison.

Mr. Vice Mayor offered, with Council's consideration, to offer his services and his time to work with staff to get this project moving forward. Council concurred. The Vice Mayor referenced a date for Goals and Objectives, as well as meetings for the Newton Project and Beach Renourishment. In light of recent events, those being resignations by the Town Attorney and Public Works Director and Public Works Supervisor. He would like to reschedule upcoming meetings to allow for a discussion of policies and procedures, behaviors, duties and responsibilities of Mayor, Vice Mayor and Council. He feels the Town's capability is in jeopardy.

Council rescheduled the agenda for the Wednesday, October 3, 2007 meeting for the subject matter to be changed to a discussion of policies, procedures behaviors, duties and responsibilities. This meeting will begin at 6:30 PM. The agenda item, goals and objectives will be rescheduled.

Councilmember Acken thanked all who turned out in support of the Community Pool. Mr. Acken expressed his regret over current resignations.

MOTION: Councilmember Acken moved to reconsider the wording of the ballot language of the two referenda. Motion fails for lack of a second.

Councilmember Acken expressed his disappointment in what he has observed as to lack of civility, and announced that he will be asking that the Mayor step down at the next meeting.

Councilmember Shenko requested a discussion regarding getting control of our meetings and agendas at the recently scheduled meeting for October 3, 2007.

VIII. PUBLIC COMMENT

Opened Public Comment

None

Closed Public Comment

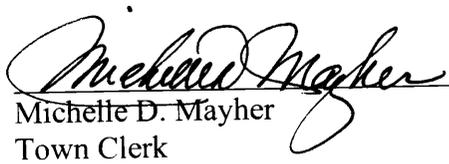
IX. ADJOURNMENT

Councilmember Shenko moved to adjourn. Vice Mayor Kiker seconded the motion.

The meeting adjourned at 9:57 PM.

Adopted 10-24-07 With Without Changes. Motion by Shenko/Kiker
(Date)

Vote: 5-0


Michelle D. Mayher
Town Clerk

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