

**MINUTES  
FORT MYERS BEACH TOWN COUNCIL**

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

September 24, 2007  
5:01 PM

**TOWN OF FORT MYERS BEACH DOWNTOWN REDEVELOPMENT  
AGENCY**

Mayor Boback called the meeting to order. All Councilmembers were present except for Councilmember Meador.

RESOLUTION OF THE DOWNTOWN REDEVELOPMENT AGENCY OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 07-02-DRA

**MOTION:** Councilmember Shenko moved to approve the resolution as presented. Seconded by Vice Mayor Kiker.

**VOTE:** Motion passed 4-0.

**ADJOURNMENT:**  
The meeting adjourned at 5:04 PM

**TOWN OF FORT MYERS BEACH PUBLIC HEARINGS ON MILLAGE AND  
FISCAL YEAR 2007-2008 BUDGET**

Mayor Boback called the meeting to order at 5:05 PM. All members were present except Councilmember Meador. All stood and recited the pledge of allegiance.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 07-35 A RESOLUTION TO ADOPT AND LEVY AD VALOREM TAXES WITHIN THE CORPORATE LIMITS OF THE TOWN OF FORT MYERS BEACH, FLORIDA FOR THE TAX YEAR 2007-2008, IN THE AMOUNT OF .6053 MILLS (**\$0.6053 PER \$1,000**) BASED ON THE ASSESSED VALUE OF NON-EXEMPT REAL AND PERSONAL PROPERTY LOCATED WITHIN THE TOWN LIMITS; PROVIDING AUTHORITY; LEVY OF AD VALOREM TAXES; PROVIDING MANNER OF ASSESSMENT AND COLLECTION; PROVIDING AN EFFECTIVE DATE.

**Opened Public Comment**  
Public Comment was heard:

Ray Hinkleman spoke in support of the Laguna Shores dredging project.

**Closed Public Comment**

**MOTION:** Councilmember Acken moved to adopt resolution 07-35, and levy ad valorem taxes in the amount of .6053 mills. Councilmember Shenko seconded the motion.

**VOTE:** Motion passed 4-0.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 07-36 A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE FINAL TOWN OPERATING BUDGET FOR FISCAL YEAR 2007/2008, PROVIDING AUTHORITY; TOWN MANAGER'S RESPONSIBILITY; FINAL BUDGET; PUBLIC HEARING; ADOPTION; SEVERABILITY; REPEALING CLAUSE; AND EFFECTIVE DATE.

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Councilmember Acken moved acceptance of resolution 07-36, and the budget as presented, including the language, " appropriations and revenue estimated n the amount of \$18, 397,499.00. for fiscal year 2007-2008." Vice Mayor Kiker seconded the motion.

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

**ADJOURNMENT:**

The meeting adjourned at 6:10 PM

**REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH**

**September 24, 2007**

**6:30 PM**

Mayor Boback called the meeting to order. All councilmembers were present except Councilmember Meador.

**Opened Public Comment**

Public Comment was heard:

Pat Smith spoke on the FY 07-08 Budget.

Mark Ludvigson spoke on the FY 07-08 Budget, and the building department.

Jim Stevens spoke to courtesy and professionalism.

Lee Melsek spoke regarding a suggestion that the mayor step down.

## **Closed Public Comment**

Consent Agenda: Councilmember Shenko requested deferral of the minutes of September 10, 2007 to the October meeting.

Town Clerk Michelle Mayher read the Proclamation: Charlotte Harbor National Estuaries Month. Dr. Lisa Beever accepted the proclamation on behalf of CHNEP.

Public Hearing: Continuance of the Second Public Hearing: Ordinance 07-04, Parcelization

Attorney Dalton read the title: ORDINANCE 07-04

AN ORDINANCE AMENDING CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDMENTS TO CHAPTER 34 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED "ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES"; AMENDING SECTION 34-2 "DEFINITIONS"; AMENDING SECTION 34-621 "ALLOWABLE USES OF LAND DESCRIBED"; AMENDING SECTION 34-636 "PARCELIZATION OR SUBDIVISION OF EXISTING BUILDINGS"; AMENDING SECTION 34-1801 "DEFINITIONS"; AMENDING SECTION 34-1806 "REPLACING A NONCONFORMING HOTEL/MOTEL"; AMENDING SECTION 34-1807 "CONVERSIONS"; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

Opened Public Comment

None

Closed Public Comment

**MOTION:** Councilmember Shenko moved to continue this hearing to October 22, 2007 at 6:30 PM.. Vice Mayor Kiker seconded the motion.

**VOTE:** Motion passed 4-0.

Administrative Agenda: Approval of the Pool Contract.

## **Opened Public Comment**

Public Comment was heard:

Natalie Manning spoke in favor of the Beach Community Pool.

Phyllis Robinson spoke in favor of the Beach Community Pool.

Mary Ann Pascuicci spoke in favor of the Beach Community Pool.

Jim Stevens spoke as to the pool being a public service.

Tracy Maio spoke in favor of the Beach Community Pool.

## **Closed Public Comment**

**MOTION:** Councilmember Acken moved acceptance of the contract with Aquatic Management. Councilmember Shenko seconded the motion . Councilmember Acken

amended his motion to have the contract include the proviso that all gate receipts be retained by the Town. Councilmember Shenko seconded the motion.

**VOTE:** Motion passed 4-0.

Town Manager's Items.  
No items.

Town Attorney's Items.  
Direction on Request to Initiate Future Land use Map Change and Related Matters regarding properties located at 831 and 831 Estero Boulevard.

**MOTION:** Vice Mayor Kiker moved to direct Town Attorney Ann Dalton to further this work effort and let her negotiate as best she can, and bring back to Council for consideration. Councilmember Acken seconded the motion.

Councilmember Shenko indicated he will be filing a Conflict of Interest Form 8B, and not voting on this matter.

Vice Mayor withdrew his motion. Councilmember Acken asked what the policy was with regard to voting with abstentia whether a majority vote is required.

Attorney Dalton requested a recess to consult the Town Charter.

Recess: 7:29 PM Reconvene 7:30 PM

Attorney Dalton stated that Section 4.13 of the Town Charter addresses voting and quorum, that no action of the Council shall be valid or binding unless adopted by a majority of the Council, and in this case, the majority would be three, and therefore it would take three members of council to reach an action.

Councilmember Acken withdrew his second.

**MOTION:** Vice Mayor Kiker moved to table the discussion of this item to the October 15, 2007 Town Council meeting. Councilmember Acken seconded the motion.

**VOTE:** Motion passed 3-0, with Councilmember Shenko abstaining.

Attorney Dalton requested an executive session in the case of Czuelewicz versus the Town, case 06CV576FTM in order to discuss litigation strategy with Attorney Denise Wheeler.

**MOTION:** Vice Mayor Kiker moved to hold an executive session at 5:30 PM on October 3, 2007, prior to the special meeting at 6:30 PM. Councilmember Shenko seconded the motion.

**VOTE:** Motion passed 4-0.

Councilmembers Items:

Vice Mayor Kiker had no items.

Councilmember Shenko commented on the excellent report the Council received from the MRTF member, Joann Shamp on beach renourishment. Councilmember Shenko mentioned a junior Olympic sailing regatta on October 20 and 21. Mr. Shenko mentioned a news story regarding beach trolley service, and asked the Town Manager to address that with the media.

Councilmember Acken asked the Council to consider proposed language change to the referenda questions.

**MOTION:** Councilmember Acken moved to substitute the language previously provided. Vice Mayor Kiker seconded the motion.

**VOTE:** Motion failed 2-2, with Councilmember Shenko and Mayor Boback dissenting.

Councilmember Acken asked that Mayor Boback resign for the good of the town. Councilmember Acken asked that the agenda for the October 3, 2007 include the item, Roles and Responsibilities of the Mayor.

#### **Opened Public Comment**

Public Comment was heard:

Pat Smith spoke about a former recall effort, and attacks on the mayor.

Carol Landry spoke about Councilmember Acken's request for the mayor to step down.

#### **Closed Public Comment**

**MOTION:** Vice Mayor Kiker moved to eliminate the meeting scheduled for October 1, 2007. Councilmember Shenko seconded the item.

**VOTE:** Motion passed 4-0.

Adjournment: Meeting adjourned at 8:04 PM

### **TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES INC. BOARD OF DIRECTORS**

All directors were present, except Treasurer Meador.

Attorney Dalton outlined the petition for rate adjustment.

**Opened Public Comment**

None

**Closed Public Comment**

MOTION: Mr. Shenko moved to approve the petition for rate adjustment as outlined by Attorney Dalton. Mr. Kiker seconded the motion.

VOTE: Motion passed 4-0.

Adjournment: Meeting adjourned at 8:08 PM.

Adopted 10-22-07 With Without Changes Motion by Asken  
(Date)

Vote: 5-0

  
Michelle D. Mayher  
Town Clerk

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