



MINUTES

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

January 3, 2011

9:00 AM

I. CALL TO ORDER

Mayor Kiker called the meeting to order at 9:05 a.m. Present with Mayor Kiker was Vice Mayor Raymond, Council members Babcock, List and Mandel as well as Town Manager Stewart, Town Attorney Miller and Town Clerk Michelle Mayher.

II. INVOCATION – Member of staff

III. PLEDGE OF ALLEGIANCE

All stood for Pledge of Allegiance

IV. APPROVAL OF FINAL AGENDA

Council consented to Mayor Kiker's request to move the proclamation ahead of public comment.

V. LOCAL ACHIEVEMENTS AND RECOGNITIONS

A. Proclamation – Southwest Florida Symphony, 50th Anniversary Celebration
The Town Clerk read the proclamation with Mayor Kiker presenting.

VI. PUBLIC COMMENT

Public Comment Opened

- **Donald Voigt** Mr. Voigt did not speak but asked his statement be read for the record, expressing his support for the library expansion.

- **Carol Landry** stated there had been a number of misstatements of fact regarding the library expansion, that the library expansion had much more publicity than when the Town purchased the water utility.

- **Pat Smith** noted statements regarding the library she felt were illogical, provided reasons for this expansion to proceed now, such as a favorable market for labor and materials, and encouraged Council to get back to its own business..
- **Ed Scott** donated money to the library fund and had provided a magazine for the reading area; he reviewed the time line of the library's expansion and referenced its many volunteers.
- **Sam Lurie** addressed the library expansions process likening it to the Red Sox Stadium, noting operating cost increase, the absence of a 2006 survey he had requested and stated it was his opinion that the entire process was suspect.
- **Jim Seabury** indicated his wife is on the library board and stated he took personal offense at the slanderous remarks directed toward the library board. He asked for proof of the allegations, or an apology.
- **Kris Cloud** resident of Boardwalk Caper spoke in favor of the library expansion, commenting on the use she and her neighbors enjoy.
- **Charlie Whitehead** indicated he was not a resident of Fort Myers Beach however was a taxpayer of the Library District, that his wife serves on the library board and that he resented the implications toward the board and his wife. He reminded Council that they approved the Library expansion in June of 2008.
- **Charles Eck** indicated he was neutral regarding the library, however asked if the library had ever asked to use any space that the Town had to offer. Mr. Eck stated he was there to obtain information.
- **A.J. Bassett**, a 71 year resident of the beach, stated that her mother was a founding member of the library; she provided some history of the library and the expressed her opinion of the need for the expansion.
- **Harry Gottlieb** noted he was the spouse of a library board member and feels it is absurd for a referendum for something that has been going on for years. He feels the library was right up there with the beaches and Estero Bay as highlights of our island and should be permitted to proceed as planned.
- **Rochelle Kay** wanted to 'ditto' A.J. Bassett's comments and expressed her concern that some taxpayers want to hijack monies that belong to the library. Ms. Kay asked Council to stand back and allow the expansion to proceed as was planned.
- **Jim Stevens** joined the friends of the library and became the vice president, then went on to question the need for the expansion. Having looked at the library from a marketing perspective, Mr. Stevens wants the library to justify the additional space.

▪ **Garr Reynolds** thanked Council for allowing residents to register their concerns noting he could not go against the library, feeling that those who have worked with the library for over 10 years to have more knowledge and understanding of what was needed than someone who just recently came forward and did not normally utilize the library.

▪ **Lee Melsek** indicated his mother was one of the founders of the library and felt this discussion was a good sounding board; however did not understand the objectors coming before the Council since it had no jurisdiction over the library board. Mr. Melsek questioned having the town's Attorney looking into another taxing district, encouraging the Council to get on with the business of the Town and solving the town's problems.

▪ **Harry Gottlieb** stated the proper financial reports have been filed.

▪ **Irene Queris** stated she was all for the library expansion if the economy was rising and if taxes did not increase.

Public Comment Closed

Councilmember List thanked all for coming in to express their opinions, stated that the Attorney was looking into a statutory responsibility and other than that she felt the Council should not be having the conversation.

Vice Mayor Raymond indicated Council was asked by the taxpayers to look into the issue also that none of the library's money could go toward the town's water system.

Councilmember Babcock noted the Council Meeting was the wrong venue; that the issue should be addressed at the Library Board. Councilmember Babcock addressed the FS Chapter 189 brought up in the previous meeting by Attorney Humphrey, stating that his own opinion after reviewing the Statute was that the Town did not have any jurisdiction over the library expansion.

Councilmember Mandel thanked all those who came to speak, related that he has found that no matter how long something has been discussed some don't respond until it is about to happen, citing as an example the mobile restrooms. Councilmember Mandel also referred to the tax day the Town held to advise residents about their tax bill.

Mayor Kiker indicated he has spent more time dealing with the issue than anything else happening in the Town at the moment, referring callers to the library board.

Mayor Kiker cautioned against the danger in counting heads, for or against,

noting there had been several projects where folks had come in at the last minute to change the tides, citing beach re-nourishment as one example.

Town Manager Stewart stated he had no comment regarding the project however wanted to respond to a comment. Mr. Stewart indicated he has had no involvement other than sitting down with Mr. Hommerding offering his expertise should he desire it.

Recess: 10:28 a.m. Reconvene: 10:40 a.m.

VI. ADMINISTRATIVE AGENDA

A. Request for Authorization to Issue an Invitation to Bid for Construction of the Mound House Observation Deck

Town Manager Stewart reviewed the request to Council indicating staff had provided Council with alternatives and time lines.

Public Comment Opened

▪ **Paul Abraham** thought it was a dead issue, felt it was a royal sham as it would become a public fishing pier not just a place to educate children, stating whoever initiated the grant had no concern for the residents in the area.

▪ **Joyce Heckman** stated she had been a volunteer for 7 years and on the board of the Friends of the Mound House, is in full agreement to open the bid for the pier, and listed the positive aspects.

▪ **Ceel Spuhler (letter read by Joyce Heckman for Ceel Spuhler)** noted support for the pier as well as encouraging Council to utilize parking at 216 Connecticut.

▪ **Lynn Noon** resident of Connecticut stated her concerns with the observation deck; she felt the property was a beautiful place yet it was nothing but a glorified dog park and a refuse dump. She asked Council to take into consideration the people who live on the street and the affects on them.

▪ **Warren Babcock** reviewed past decisions on the Mound House property, the impact on his property, that he has always been for the original plans for the Mound House but understood that the pier was not a part of the original plan. He questioned maintenance, repairs, and future costs of the pier, again asking Council to consider the neighbors.

Public Comment Closed

Councilmember Babcock addressed concerns regarding the pier being able to be used as a fishing pier and the hours at this time would be sunrise to sunset with no ability to be used as a boat dock. Mr. Babcock continued his questions regarding the size of the pier and the necessary changes that would

be required.

Vice Mayor Raymond stated he had not changed his position in 5 ½ years, noting he was not in favor of the observation pier, feeling it was a waste of money and would be used as a fishing pier constantly. Vice Mayor Raymond would like to see the progression of the pier stopped and a decision made on parking at 216 Connecticut.

Councilmember List stated she had visited with people on Connecticut stating it seemed to be a 50/50 split from the residents affected, adding that the property needed to generate income to help pay for itself.

Councilmember Mandel questioned landscaping buffers between the Mound House property and the neighbors, responding to a claim by an adjacent property owner that people could look into her window. Mr. Mandel questioned whether if the observation deck had to have the fishing use element.

Cultural Resources Director Schober stated that the landscaping would provide a buffer for the neighbors, but was not able to answer positively whether the pier had to be used for fishing.

In response to Mayor Kiker's question whether the observation pier was in the original plans, Ms. Schober noted it was on the exhibit but not in the text. Mayor Kiker stated his problems with the continued Mound House discussions, a lack of focus on getting the Mound House open, a need to know what volume of traffic / use the property would have, the order in which individual projects were dealt with on the property, and that he would not support any further projects until the house was open.

MOTION: Councilmember Babcock moved to authorize staff to proceed with an invitation to bid for construction of the Mound House observation pier as designed.

FAILED: No second, motion failed.

MOTION: Vice Mayor Raymond made a motion to cancel the construction of the observation deck.

FAILED: No second, motion failed.

After further discussion Town Manager Stewart reviewed the tasks for staff consisting of a conversation with Florida Communities Trust, a discussion with the TDC regarding discontinuing the fishing element of the pier as well as bring back limitations and format regarding the restoration of the house itself.

Vice Mayor Raymond requested a progress report at the January 18th meeting on the landscaping project.

▪ **Paul Abraham** addressed Council stating that after legal advise he should inform the Town that they must rezone the property from CPD to Special Exempt Museum or Historical Designation.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

None

VIII. APPROVAL OF MINUTES

A. December 6, 2010 regular Council Meeting

B. December 6, 2010 work session

MOTION: Councilmember made a motion to approve both sets of minutes; second by Vice Mayor Raymond.

VOTE: Motion passed 5 to 0

IX. CONSENT AGENDA

None

X. ADMINISTRATIVE AGENDA

B. Discussion Regarding Estero Island Beach Restoration Bids

Town Manager Stewart provided Council with a review of the documents in their packet as well as a brief discussion on the recommended contractor's previous work and recommendations.

Public Comment Opened

▪ **Carleton Ryffel** expressed his desire that Council approve the project.

Public Comment Closed

MOTION: Councilmember List made a motion to endorse Lee County staff's recommendation of Florida Dredge and Dock as the preferred proposer for the beach re-nourishment project; second by Councilmember Mandel.

VOTE: Motion passed 5 to 0

Mayor Kiker asked Town Manager Stewart to check up on easements as well as finding out once the project began if there was a way to find out when the work would be in front of particular properties and for how long.

C. Approval of Contract with Town Manager Stewart

Councilmember Mandel thanked staff for all information used for background along with the assistance of the Town Attorney.

Public Comment Opened

No Public Comment
Public Comment Closed

Councilmember Babcock questioned the wording in clause # 4 of the contract feeling it was inconsistent with the Town Charter regarding the 6 month notice. Discussion ensued regarding the reasons for the wording; questioned the last sentence of clause #7 C in accordance with the Charter; addressed salary and benefits, noting the true cost to the Town since Mr. Stewart was not partaking of the health insurance, and the justification for the amount of vehicle allowance.

Councilmember Mandel stated the salary was no different than what they paid to Mr. Sallee and that the Town had been steadily increasing travel expenses. Councilmember Babcock addressed the increase in vacation time and sick leave, and questioned the deferred compensation.

MOTION: Councilmember List made a motion to approve the proposed employment contract with Town Manager Terry Stewart; second by Vice Mayor Raymond.

A clarification by Attorney Miller to change the time frame in paragraph 5 to no later than June 30th with approval by the motion maker and the second.

VOTE: Motion passed 5 to 0

Town Manager Stewart thanked Council for the opportunity to work with them, along with Councilmember Mandel and Attorney Miller, stating working for the town had been a great experience.

XI. PUBLIC COMMENT
Public Comment Opened
No Public Comment
Public Comment Closed

XII. TOWN MANAGER'S ITEMS
None

XIII. TOWN ATTORNEY'S ITEMS
None

XIV. COUNCILMEMBERS ITEMS AND REPORTS
Councilmember List wanted to acknowledge staff regarding the New Year's Eve celebration, as well as the Civic Association.

XV. AGENDA MANAGEMENT

Adding issue of rezoning of Mound House from CPD to special exemption

XVI. RECAP OF ACTION ITEMS

- Prepare a letter for Mayor’s signature to BOCC for recommendation of acceptance of beach renourishment contractor
- Bring back on January 18th information from Florida Communities Trust regarding restoration of Mound House
- Updated list of easements/schedule for property owners

XVII. ADJOURNMENT

MOTION: Councilmember List moved to adjourn with a second by Councilmember Mandel.

VOTE: Motion passed 5 to 0

Meeting adjourned at 12:55 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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