



**MINUTES**  
**FORT MYERS BEACH TOWN COUNCIL**

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

August 26, 2008

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**I. CALL TO ORDER**

Mayor Larry Kiker called to order the meeting of the Town Council at 6:35 PM. Present with Mayor Kiker was Vice Mayor Herb Acken, Councilmember Jo List, Councilmember Bob Raymond, Town Manager Scott Janke, Town Attorney Anne Dalton and Town Clerk Michelle Mayher. Councilmember Babcock attended by telephone.

**II. PLEDGE OF ALLEGIANCE**

All stood and recited the pledge to the flag.

**III. PUBLIC COMMENT**

**Opened Public Comment**

None

**Closed Public Comment**

**II. CONSENT AGENDA:**

A. Approval of Minutes: July 14, 2008

B. LPA/CIP Resolution Transmittal

**MOTION:** Councilmember List moved to adopt the consent agenda as presented. Councilmember Raymond seconded the motion.

**VOTE:** Motion passed 5-0.

**VI. PROCLAMATIONS:**

A. Florida Institute of Government Certificates of Completion

Town Clerk Michelle Mayher read the letters from the Florida Institute of Government from Jeff Hendry, Executive Director, congratulating Councilmembers Babcock, List and Raymond for attending the Institute for Elected Municipal Officials.

**VII. ADMINISTRATIVE AGENDA:**

A. Introduction of Ordinance 08-12, Advisory Committees

**MOTION:** Councilmember Raymond moved to advance Ordinance 08-12, abolishing advisory committee term limits and making non-substantive changes to the advisory

committee selection process, forward to final hearing on September 15, 2008 at 6:30 PM. Councilmember List seconded the motion.

**VOTE:** Motion passed 5-0

**B. Cultural Resources Items**

**1) Direction to the HPB for Newton Property Historic Designation**

**Opened Public Comment**

**Public Comment was heard:**

- Ceel Spuhler suggested Council compare the expense of the existing historic structure to a new building that needs to be adapted to the era, encouraging preservation of these cottages.
- Dennis Boback urged Council to think about the zoning for putting a commercial building in a residential neighborhood, suggesting that this intrusion is not allowed by the Comp Plan.

**Closed Public Comment**

**MOTION:** Vice Mayor Acken moved to direct staff to pursue historic designation of the Newton property in front of the Town's Historic Preservation Board. Councilmember Raymond seconded the motion.

**VOTE:** Motion passed 5-0.

**2) Newton Park Architectural Services Contract Extension**

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Vice Mayor Acken moved to authorize the extension of the contract with Renker Eich Parks Architects to complete architectural services required for the Newton house (Seven Seas) adaptive reuse and cyclical maintenance plan not to exceed \$26,941.50. Councilmember List seconded the motion.

**VOTE:** Motion passed 5-0

**3) Selection of Landscape Architect, 216 Connecticut Street**

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Vice Mayor Acken moved to approve ranking of EDAW, Inc., as the consultant to provide professional landscape architecture services for the development of 216 Connecticut Street. Councilmember Raymond seconded the motion.

**VOTE:** 5-0

**C. Division of Historic Resources Grant Agreement for Mound House**

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Town Manager Scott Janke indicated the grant is to purchase the Calusa carts for the shell mound exhibit, and is a 50/50 split.

**MOTION:** Councilmember Raymond moved to authorize execution of the Historic Preservation Grant Award Agreement for Community Education Grant No. S0901 in the amount of \$27,790 for the *Calusa Carts: A Mobile Mound House Project* with receipt of funds by reimbursement. Vice Mayor Acken seconded the motion.

**Opened Public Comment**

None

**Closed Public Comment**

**VOTE:** Motion passed 5-0.

**D. Animal Control**

2) Interlocal Agreement

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Councilmember List moved to approve the fifth amendment to the Interlocal Agreement with Lee County for Animal Control Services, Option A, with flat rate charge. Councilmember Raymond seconded the motion.

Vice Mayor Acken questioned how to determine an officer initiate action. Town Manager Scott Janke responded if a County Animal Officer is dispatched to the Beach, the Town is charged. Mr. Acken questioned the source of the 192 calls as identified on the blue sheet. Mr. Janke responded that the information came from the County.

**VOTE:** Motion fails 4-1, with Councilmember Babcock voting in favor.

**MOTION:** Councilmember Raymond moved to consider the Interlocal Agreement at the September 3, 2008 Town Council meeting and have definite numbers and types. Vice Mayor Acken seconded the motion.

**VOTE:** 5-0

1) Direction to the Local Planning Agency/ LPA Resolution 2008-36

**Opened Public Comment**

None

**Closed Public Comment**

Dennis Weimer, representative to the LPA spoke in absence of Mr. Yerkes. The LPA Resolution 2008-32 stands. Mr. Weimer indicated the LPA was given two assignments; one to consider a short term remedy regarding dogs on leashes, and who's empowered to handle these issues. Secondly, to look at the current ordinance with long term improvements and to address several issues during workshops.

Mayor Kiker referenced the list of items attached as Exhibit A to LPA resolution

2008-32, and broke them down one at a time gaining a consensus from Council as to each item. Attorney Dalton recapped the items:

To continue to allow dogs on the beach with the restraint, as is in the current ordinance; the LPA is the proper venue for this project; the LPA can consult with MRTF and Lee County Animal Control staff at their discretion; the LPA should develop a new Town animal control ordinance, using the Lee County ordinance as a base, at their discretion; the LPA should develop a new ordinance with the ILA in place and continuing; the Town should enforce the recently adopted ordinance; the LPA should consider feces on the beach as an issue; don't send back pets on public property, continue with the current ordinance provision; don't send back the short-term visitor and resort requirements; public advisory plan should go to staff for public education

**MOTION:** Councilmember Raymond moved the recap as stated by Attorney Dalton. Councilmember List seconded the motion.

**VOTE:** Motion passed 4-1, with Vice Mayor Acken dissenting.

Recess: 8:43 PM

Reconvene 9:00 PM

F. Approval of Stormwater Master Plan Agreement, CN-08-02-PW, with CDM

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Councilmember List moved to accept the Professional Services Agreement with CDM for the development of a comprehensive stormwater master plan pursuant to the CH 08-02 solicitation and ranking. Councilmember Raymond seconded the motion.

**VOTE:** Motion passed 5-0

G. Introduction of Ordinance 08-13, Emergency Preparedness Fund Access

Attorney Dalton read the title:

**ORDINANCE 08-13**

**AN ORDINANCE TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH EMERGENCY PREPAREDNESS FUND ACCESS ORDINANCE; PROVIDING FOR ACCESS TO EMERGENCY PREPAREDNESS FUND UPON DECLARATION OF STATE OF EMERGENCY OR UPON AFFIRMATIVE VOTE OF SUPERMAJORITY OF TOWN COUNCIL; PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.**

Town Manger Scott Janke indicated the intention is to adopt the budget and then hopefully the Ordinance.

Attorney Dalton referenced section 2 and 3, indicating in a non emergency scenario it's not a super majority.

Vice Mayor Acken questioned unrestricted Access, stating he would like it to be specifically for catastrophic uses; expenditures have to be related to catastrophic event.

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Councilmember Babcock moved Ordinance 08-13 to public hearing on September 15, 2008 at 6:30 PM. Councilmember List seconded the motion.

**VOTE:** Motion passed 5-0

**VIII. TOWN MANAGER'S ITEMS:**

A. Purchasing Policy Amendment Request

Town Manager Scott Janke requested to authorize the Town Attorney to develop a purchasing policy to allow for 10% local preference. It was the consensus of council to authorize such. Attorney Dalton requested to allow the MBE DBE component in grant requirements.

B. Reports

1) Action Items

Town Manager Janke indicated a change in the structure of this report to make it more useful.

2) Beach Renourishment Update

At the Board of County Commissioners' Management and Planning Meeting, they told staff to move forward.

3) Code and Building Activity Reports

This report provides statistics on applications and inspections.

4) Water Resources Report

a) North Estero Boulevard Update

b) Shoulder Paving Status Report

This report highlights those projects.

5) Laguna Shores Update

The Town received bids today, and they have not yet been reviewed.

6) Signs Compliance Update

Mr. Janke asked Council for direction on this item.

Council engaged in considerable discussion as to the economic conditions of the beach community, the enforcement of the sign ordinance and the businesses that are or are not in compliance. Town Manager Scott Janke indicated that he will come up with a plan of action for sign compliance and bring it back to Council on September 3, 2008 at 6:30 PM.

7) Re-entry Pass Update

The Town issued 2700 passes pre-Fay, then volunteers issued 1120 passes, for a total of 3800 passes.

**IX. TOWN ATTORNEY'S ITEMS:**

A. March 2009 Referendum Review

Attorney Dalton sought input from the Council regarding any potential referendum items, stating that it is time critical if it is the desire of the Council to tag onto the Sanibel election in March. Council discussed the possibility of borrowing to upgrade the water system.

Mr. Janke indicated that long term financing will become a major part of what council tries to accomplish in the next 3 or 4 months, and can then choose issues to go to the public.

Public Works director Jack Green responded to Council's inquiry regarding the state of the water utility infrastructure by saying that at the budget workshop for PWSI, it will be clear what needs to be done.

Councilmember Babcock spoke in support of a water utility referendum. Mr. Babcock also would like to solicit whether the people are ready for a charter change to allow the town to borrow money.

**MOTION:** Councilmember Raymond moved to defer this item to the September 3, 2008 meeting. Councilmember List seconded the motion.

**VOTE.** 5-0

**X. COUNCILMEMBERS ITEMS AND REPORTS:**

A. Goals and Objectives

B. Pedestrian Light at Lenell Road

(These items were not heard)

Vice Mayor Acken mentioned the Times Square information booth, asking whether the Town would go out to bid to the general public? Mr. Acken asked that this item be placed on the September 3, 2008 agenda.

Councilmember List mentioned a letter from resident Amy Jane Mellot stating that storm water management should take preference over Estero beautification.

Mrs. List mentioned e-mail communication with Pat Farrell, teacher at Cypress Lake High School, who has agreed to do a youth council, as well as Beach Elementary Principal Larry Wood who would like to involve beach school kids with the Town.

Mrs. List mentioned attending a Coastal Advisory on Monday; they talked about dredging of Matanzas Pass.

Councilmember Raymond mentioned attending the MPO on Friday. He is pushing Lee Tran for bus transportation from the airport to the beach. Mr. Raymond mentioned a conversation with Don Scott, head of the MPO, about getting dollars for Estero Blvd. from the MPO to fund sidewalks and bike paths. Mr. Raymond suggested a meeting at the end of September to explain the whole project. Mayor Kiker directed staff to have it as an item on a future agenda.

Mayor Kiker thanked staff for the direction signs to the Newton Park. Regarding the Town Manager's performance measures, he will be forwarding his recommendations based on the first six months. Mr. Kiker directed staff to have this as an agenda item in September. He will put together a packet with measurements for Mr. Janke and Ms. Dalton.

Mayor Kiker expressed a need to look at the Town's technical equipment, better chairs to sit in, etc. Mr. Kiker directed staff to look at modernization and come back with costs.

Mayor Kiker directed staff to add discussion of Estero Boulevard to the agenda for the September 5, 2008 PNP.

Councilmember Babcock reinforced a need for a more effective conference system.

Mr. Babcock felt a need for an intervention for the TMA, feeling they are in crisis and need a meeting regarding their mission. Council will discuss this 'next week'.

## XII. RECAP OF AGENDA ACTION ITEMS

Town Manager Janke and Attorney Dalton recapped the action items:

- ✓ HPB to look at historic designation of the Seven Seas
- ✓ Animal ILA, reports, on agenda next week
- ✓ Advisory committee ordinance revisions be brought prior to hearing
- ✓ The LPA to look at the animal control ordinance per motion
- ✓ New sign compliance plan next week
- ✓ Emergency management ordinance to be modified
- ✓ Direct staff to look into the information booth lease in the square
- ✓ Direction to move forward with the modification of the purchasing ord., Local Bidder Preference
- ✓ The ILA for transit authority in September
- ✓ Mr. Janke's evaluation
- ✓ Future Measurements for Attorney and Manager
- ✓ Technology improvement for Chambers
- ✓ M&P items for discussion

## XI. PUBLIC COMMENT

Opened Public Comment

Public Comment was heard:

Paula Kiker mentioned that the sign ordinance has been in effect for nine years, and last September was told to be in compliance. She has invested in the look and appearance of this Town, and feels it is not fair for everyone not to be in compliance.

## XIII. ADJOURNMENT

The meeting adjourned at 10:55 PM.

Adopted 9-3-08 With/ Without Changes Motion by Babcock/Liot  
(Date)

Vote: 5-0

  
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Michelle D. Mayher  
Town Clerk

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