

## MINUTES

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

**September 3, 2008**

### **I. CALL TO ORDER**

Mayor Kiker called to order the meeting of the Town Council at 6:50 PM.  
All Councilmembers were present, as well as the Town Manager Scott Janke, Town Attorney Anne Dalton and Town Clerk Michelle Mayher.

### **II. PUBLIC COMMENT**

#### **Opened Public Comment**

#### **Public Comment was heard:**

- Lee Melsek spoke to the budget being government as usual in unusual times.
- Sandi Suter spoke as a long time beach resident who was active in incorporation and felt that beach voters want government lite.

#### **Closed Public Comment**

### **III. CONSENT AGENDA:**

- A. Adoption of Minutes: August 18, 2008
- B. Adoption of Minutes: August 26, 2008

**MOTION:** Councilmember Babcock moved to adopt the consent agenda.  
Councilmember List seconded the motion.

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

With the consent of Council, Mayor Kiker indicated wanting to hear the Interlocal Agreement with Lee County next.

With Consensus of Council, the Mayor brought forward two items.

**PROCLAMATION:** Industry Appreciation Week.

Town Clerk Michelle Mayher read the proclamation claiming the week of September 15-19, 2008 as Industry Appreciation Week.

The Mayor then called upon Jack Green, Public Works Director, to speak to the Mayor's Special Award, Certificate of Appreciation presented to Joe Lyszak, a patrol officer with Beach and Street Enforcement (B.A.S.E.). Donna Fletcher, Manager of B.A.S.E., and other patrol officers were present to accept the Award on behalf of Mr. Lyszak's family.

**B. Interlocal Agreement, Lee County Animal Services**

Attorney Dalton indicated that the item had been postponed from a previous meeting, pending statistics from Lee County Animal Services. Those statistics were received and provided to the Council.

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Councilmember Raymond moved to approve the fifth amendment to the interlocal agreement with Lee County choosing option "A" for a flat rate charge. Councilmember Babcock seconded the motion.

Lance Raiche, Chief Investigator, Lee County Animal Services, responded to questions from the Council regarding the statistics provided.

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

**Recess: 7:10 PM**

**Reconvene: 7:20 PM**

**PUBLIC HEARING:**

**C. Resolution 08-38, First Public Hearing to Adopt Millage for FY 2009**

Mayor Kiker opened the public hearing at 7:20 PM. Attorney Dalton read the title. Ms. Dalton added the word "tentative", so title read "In the *tentative* amount of \_\_\_ MILLS.."

**Opened Public Comment**

Public Comment was heard:

- Pat Smith indicated she has reviewed most of the Town's budgets over the years, and urged the Town to keep the millage where it is, or perhaps lower it.
- Dennis Boback urged the Council to think of the taxpayers, and not just businesses, when adopting this budget.

**Closed Public Comment**

Town Manager Scott Janke indicated that the Town Council is being asked to set a tentative mill rate this evening and then on September 15, 2008, set the permanent millage.

**MOTION:** Vice Mayor Acken moved to adopt resolution 08-38, with a mill rat of .7963. **Motion failed** for lack of a second.

**MOTION:** Councilmember Babcock moved to adopt resolution 08-38 with a mill rate of .7093 per 1,000 dollars. (Attorney Dalton assisted Councilmember Babcock with the following language) This tentative operating millage rate exceeds the rolled-back rate by 2.02%, computed pursuant to Florida Law and amounts to a 17.18 increase in property taxes. Councilmember Raymond seconded the motion.

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

Mayor Kiker closed the public hearing at 7:55 PM

D. Resolution 08-39, First Public Hearing to Adopt Budget for FY 2009

Mayor Kiker opened the public hearing

**Opened Public Comment**

None

**Closed Public Comment**

Town Manager Scott Janke indicated this resolution is to adopt the tentative budget for FY 2009. Mr. Janke summarized the revenue detail, as outlined on page 132 of the proposed budget.

**MOTION:** Councilmember Babcock moved to pass resolution 08-39, adopting a tentative Town operating and capital budget which sets forth appropriations and revenue estimated to be in the amount of \$20,198,727.00 for fiscal year 2008-2009. Councilmember Raymond seconded the motion.

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

Mayor Kiker closed the public hearing.

E. Public Hearing, Advisory Committees Membership and Terms

Mayor Kiker opened the public hearing.

Attorney Dalton read the title:

**ORDINANCE 08-12**

**AN ORDINANCE AMENDING THE MEMBERSHIP REQUIREMENTS OF THE ANCHORAGE ADVISORY COMMITTEE, CULTURAL AND ENVIRONMENTAL LEARNING CENTER ADVISORY BOARD, COMMUNITY RESOURCE ADVISORY BOARD, MARINE RESOURCE TASK FORCE, PUBLIC SAFETY TASK FORCE, TIMES SQUARE ADVISORY BOARD, AND TRAFFIC MITIGATION AGENCY, PROVIDING AUTHORITY; SEVERABILITY; EFFECT OF ORDINANCE AND EFFECTIVE DATE.**

**MOTION:** Councilmember Raymond moved to adopt ordinance 08-12, abolishing advisory committee term limits and making non-substantive changes to the advisory committee selection process. Councilmember Babcock seconded the motion.

Council discussed a time frame/ window of opportunity for filling vacancies on advisory committees. Councilmember Babcock offered to draft a policy for the Council Policies and Procedures for Council's consideration.

**Opened Public Comment**

None

**Closed Public Comment**

Town Clerk Michelle Mayher called the roll:

Councilmember Raymond	aye
Councilmember Babcock	aye
Councilmember List	aye
Mayor Kiker	aye
Vice Mayor Acken	aye

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

Mayor Kiker closed the public hearing at 8:25 PM.

F. Public Hearing, Ordinance 08-13, Emergency Preparedness Fund Access

Mayor Kiker opened the public hearing.

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 Manager Scott Janke indicated the main use of this fund is to react to some kind of catastrophe, to get the Town back together post-disaster.

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Councilmember Babcock moved to approve ordinance 08-13, also known as the Town of Fort Myers Beach Emergency Preparedness Fund Access Ordinance. Councilmember List seconded the motion.

Town Clerk Michelle Mayher called the roll:

Councilmember Babcock	aye
Councilmember List	aye
Mayor Kiker	aye
Vice Mayor Acken	aye
Councilmember Raymond	aye

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

Mayor Kiker closed the hearing.

Mayor Kiker opened the floor for discussion on the resolution 08-31. Councilmember Babcock asked what happens when the fund is used, how is it refunded? Council discussed leaving it open ended, or at the end of an event to evaluate the amount.

Recess: 8:50 PM

Reconvene 9:00 PM

**V. ADMINISTRATIVE AGENDA:**

**A. Ranking of Responses for Building Safety Services Contract**

Town Manager Scott Janke confirmed the ranking: Nova, MT Causley and Bureau Veritas. Mr. Janke indicated that the top three bids need to be ranked to comply with the statute.

**MOTION:** Councilmember List moved to accept the selection committee's ranking of the firms responding to the request for qualifications: Professional Building Safety and Standard Code Compliance Services (CN-08-01-CD); and authorizes staff to begin negotiations with the top ranked firm moving down the list until negotiations are successful. Councilmember Babcock seconded the motion.

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

**C. Referendum Items, 2009**

Attorney Dalton spoke to a discussion of referendum questions, being directed to eliminate any referenda issues not related to the water utility. If it is the will to be on with Sanibel's election on March 3, 2009, language needs to be in to the Supervisor of Elections by November 3, 2008.

Discussion ensued regarding the utility, whether it would remain a corporation or become part of the Town or become an enterprise fund, 5-year capital improvement projects, the flexibility in planning provided by long term debt. It was the consensus of the Council not to go to referendum in March 2009.

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

A. Sign Enforcement Action Plan

Town Manager Scott Janke informed Council that of the two code officers, one was on vacation and one was in the hospital. Items #1 and #3 are finished, and items #4 and #5 may get bumped back.

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

No items.

**VIII. COUNCIL MEMBERS ITEMS AND REPORTS**

A. Pedestrian Light at Lenell Road

The Public Safety Task Force is in support of the LPA's resolution 2007-15, that it is in the best interest of the Town of Fort Myers Beach to request the Town Council to urge the Lee County DOT and the FMB Fire District to jointly consider the installation of a blinking yellow "caution" light. Council directed staff to pursue this item and come back with whatever can be found out at the October 6, 2008 meeting.

B. Goals and Objectives

Councilmember Raymond had no items.

Councilmember List had no items.

Vice Mayor Acken requested a proclamation for National Estuaries Day on the September 15, 2008 agenda.

Councilmember Babcock requested attendance at the advanced Institute for Elected Municipal officials in October in Deerfield Beach.

Councilmember Babcock had a hand out from a power point presentation that shows proposed air traffic to and from Regional Southwest over Fort Myers Beach. Council gave consensus for Mr. Babcock to continue monitoring these changes. Town Manager Scott Janke will be available to join Mr. Babcock at any meetings.

Councilmember Babcock feels that the Traffic Mitigation Agency is in crisis and needs some intervention. Council directed staff to arrange a joint meeting between the Town Council and the TMA, and open it up to any passed TMA members.

Mayor Kiker handed out an evaluation form to use for Town Manager Scott Janke's six month performance evaluation.

**X. RECAP OF ACTION ITEMS**

Discussion regarding the Times Square Information booth by Mr. Acken

TMA – intervention – joint meeting

Technical equipment, and correct and appropriate usage of the website

Reinstitute the monthly minutes and advisory committees meeting with the Council  
Proclamation National Estuary Day

**Public Comment**

Opened Public Comment

Public Comment was heard:

- Ceel Spuhler commented on the potential for even more flights coming to the Beach, and is glad that perhaps FMB can have some input.

**Closed Public Comment.**

**XI. ADJOURNMENT**

The meeting adjourned at 10:55 PM.

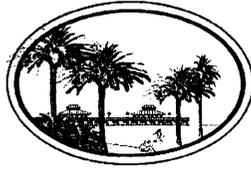
Adopted \_\_\_\_\_ With/ Without Changes. Motion by \_\_\_\_\_  
(Date)

Vote: \_\_\_\_\_

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Michelle D. Mayher  
Town Clerk

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**Closed Public Comment.**

**XI. ADJOURNMENT**

The meeting adjourned at 10:55 PM.

Adopted 9-15-08 With/ Without Changes Motion by Leist / Babcock  
(Date)

Vote: 5-0

  
\_\_\_\_\_  
Michelle D. Mayher  
Town Clerk

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