



MINUTES

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

AGENDA

December 15, 2008

6:30 PM

I. CALL TO ORDER

Mayor Kiker called to order the regular meeting of the Town Council at 6:30 PM. Present along with Mayor Kiker was Vice Mayor Herb Acken, Councilmember Tom Babcock, Councilmember Bob Raymond, Councilmember Jo List, Town Manager Scott Janke, Town Attorney Anne Dalton and Town Clerk Michelle Mayher.

II. INVOCATION

No clergy was present for an invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Kiker called on the Youth Council to come to the dais and lead us in the salute to the flag. Natalie Coveleski was acting Mayor, and Lisa Corbett was acting Vice Mayor. Vice Mayor Corbett introduced her family, and Mayor Coveleski introduced her family. The Youth Council read their reports on their progress at Beach Elementary School.

Mayor Corbett called for public comment.

Opened Public Comment

Public Comment was heard

Paula Kiker thanked the students at Beach Elementary for their participation in the Tree Lighting Ceremony.

Herb Acken encouraged the youth council to continue to be involved in local government.

Closed Public Comment

Mayor Corbett adjourned the meeting.

IV. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Councilmembers expressed their pleasure and appreciation of the recent holiday activities: the tree lighting ceremony, the boat parade and pancake breakfast.

With consent of Council, Mayor Kiker had an agenda change, bringing forward Administrative Agenda Item B.

X. ADMINISTRATIVE AGENDA

B. Special Event Permit Application – New Years Eve

Town Manager Scott Janke outlined the cost breakdown. If Council approves current expenditure, business community will continue to raise funds to offset Town funds. Councilmember List questioned some of the costs, for example \$500. for an entertainment coordinator, and \$500. for posters and flyers. Joanne and Bill Semmer were present to answer questions regarding the fireworks and the permits, however were not aware of the entertainment costs.

MOTION: Councilmember Raymond moved to approve the permit application with a not to exceed amount of \$15,000.00, and have staff work with the business community to raise the balance. Councilmember Babcock seconded the motion.

VOTE: Motion passed 5-0.

V. PRESENTATIONS

A. Proposal for Lobbying Services-

Public Affairs Consultants, Jack Cory (10 minutes)

Mr. Cory, president of Public Affairs Consultants outlined his services. The mission statement: "To do whatever it takes to provide positive, professional public affairs representation of our clients' views to state and local governmental entities in an honest, legal, moral, and ethical manner."

Mr. Cory referenced a list of references, scope of services and company biography. Councilmember Raymond asked regarding cost. Mr. Cory responded they contract on an annual basis, according to scope of services \$3,000. a month.

VI. PUBLIC COMMENT

Opened Public Comment

Public Comment was heard:

- Pat Smith spoke to the Town Birthday party on December 31, 2008, and asked for the Council support. The Civic Association is requesting NTE \$1,500.00.

Closed Public Comment

MOTION: Councilmember List moved to approve up to 1500.00. Councilmember Babcock seconded the motion.

VOTE: Motion passed 5-0.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Opened Public Comment

None

Closed Public Comment

A. Appointments to Anchorage Advisory Committee

Councilmember Babcock commented the intention of staggered terms was to retain the knowledge of its members throughout the life of the committee.

MOTION: Councilmember Babcock moved to accept appointments as determined by the Anchorage Advisory Committee. Councilmember Raymond seconded the motion.

VOTE: Motion passed 5-0.

B. Appointments to Bay Oaks Advisory Committee

Councilmember Babcock questioned membership on this committee because of conflicting language in the committee by-laws. Council recognized Betty Simpson in the audience and as chairperson of this committee, asked if she could offer clarification. Ms. Simpson indicated there used to be a ten member committee, but in 2005 or 2006 amended by-laws.

MOTION: Councilmember List moved to appoint Karen Swanbeck and Rae Sprole to the Bay Oaks Advisory Committee. Councilmember Babcock seconded the motion.

VOTE: 5-0

C. Appointments to Community Resource Advisory Board

MOTION: Vice Mayor Acken moved to appoint the four persons who expressed an interest in being appointed to CRAB. (Ms. Kane, Ms. Nienhaus, Mr. Rodwell and Mr. May). Councilmember List seconded the motion.

VOTE: Motion passed 5-0.

D. Appointments to Marine Resources Task Force

E. Appointment to MPO – Citizen Advisory Committee

F. Appointments to Cultural and Environmental Learning Center
Advisory Board

MOTION: Councilmember Babcock moved to approve the appointments to the MRTF, the MPO – CAC, the CELCAB as submitted, with Lorrie Wolf and Claude Bowyer with one year terms on CELCAB, and the appointment of Mr. Durrett to MRTF for a two year term. Councilmember Raymond seconded the motion.

VOTE: Motion passed 5-0.

VIII. CONSENT AGENDA

A. Approval of Minutes: November 3, 2008

B. Approval of Minutes: November 17, 2008

C. North Estero FEMA Subgrant Agreement

MOTION: Vice Mayor Acken moved to approve the consent agenda. Councilmember Raymond seconded the motion.

VOTE: Motion passed 5-0.

IX. PUBLIC HEARING

A. Comprehensive Plan Amendments:

- 1) 2008-06-TEXT: Amends the Future Land use Element
- 2) 2008-10-TEXT: Revises Objective 9-E and 9-F
- 3) 2008-11/12-TEXT: Revises Policy 8-C-2008-13-TEXT: Modifies the Coastal management and Future Land Use Elements
- 4) 2008-14-MAP: Modifies the Future Land Use Map

Bill Spikowski, Spikowski Planning & Associates on behalf of the Town of Fort Myers Beach explained the process of the Comprehensive Plan Amendments. It is a mandatory step in State review. 2008-06 Text is the outcome of the E/AR regarding hotels and motels, to be owned condominium style. There are two new policies to be put in the plan.

Opened Public Comment

Public Comment was heard:

- John Albion, President of the Greater Fort Myers Beach Chamber of Commerce, spoke to policy 4a-4, referencing easy access to the beach, maintain legal ability for pedestrians to be moved to an area to cross the street, a unified approach in stormwater drainage, and asked whether the County will be participating in this.

Closed public comment

Bill Spikowski further outlined the proposed amendments, 2008-10 changes the dates to more realistic and set realistic timetables for the completion of a stormwater master plan, as this study has already been approved and funded. 2008-11/12 are so interrelated, they are combined. This revises policy 8-C-6 to delete references to the Public Service Commission and Florida Cities Water company; updates the text of the Utilities Element to reflect the Town's acquisition of the potable water distribution system from Florida Cities; modifies the Utilities Element to reflect the latest the-year water supply plan; and makes corresponding policy changes to the Conservation, Intergovernmental Coordination, and Capital Improvements Elements. 2008-13 modifies the Coastal Management and Future Land Use Elements to reflect the state's new definition of "coastal high-hazard area". 2008-14-MAP Modifies the Future Land Use Map to depict the state's new definition of "coastal high-hazard area."

Opened Public Comment

None

Closed Public Comment

MOTION ; Councilmember Babcock moved to transmit comp plan amendments (2008-06-TEXT, 2008-10-TEXT, 2008-11/12-TEXT, 2008-13-TEXT, AND 2008-14 MAP to Florida Department of Community Affairs. Councilmember List seconded the motion.

VOTE: Motion passed 5-0.

Mayor Kiker closed the public hearing at 8:20 PM.

With Consensus of council, Mayor Kiker brought the next item forward out of agenda order.

X. ADMINISTRATIVE AGENDA

A. Introduction of Ordinance 08-16, Parcelization

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Babcock moved to forward Ordinance 08-16, to LPA for reconsideration. Councilmember List seconded the motion.

VOTE: Motion passed 5-0.

X. PUBLIC HEARING

B. Second Public Hearing, Ordinance 08-15, Fertilizer Ordinance

Mayor Kiker opened the public hearing.

Attorney Dalton read the title:

AN ORDINANCE REGULATING THE APPLICATION AND USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN THE TOWN OF FORT MYERS BEACH; PROVIDING FINDINGS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR TIMING OF FERTILIZER APPLICATION, CONTENT AND APPLICATION RATE, BUFFER ZONES; PROVIDING FOR SOIL TESTS INFORMATION; PROVIDING FOR CERTIFICATION OF APPLICATORS; PROVIDING A PROCESS FOR ADMINISTRATIVE RELIEF; PROVIDING FOR ENFORCEMENT AND PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, INCLUDING A 180 DAY IMPLEMENTATION PERIOD.

Opened Public Comment:

Public Comment was heard

- Marti Daltry Sierra Club mentioned that Bonita Springs adopted a fertilizer ordinance, and the Sierra Club requests the Town adopt the Lee County language.
- Laura Miller, Director of Natural Resources for League of Women Voters, and a resident of Fort Myers Beach. Long work for safe clean water, comment the Town Council for passing a fertilizer ordinance.
- Pat Smith since we live on such a fragile barrier island, we need to make moves in the direction of protecting our water resources.

Closed Public Comment

Joanne Shamp, member of the LPA spoke to this ordinance, indicating it will take an important step to protect our water, we can share in stewardship for preservation. Ms. Shamp offered thanks to the council for vision in recognizing the need to protect quality of life on our island. Ad-hoc member Jim Rodwell added that AAC member Kathryn light was also involved in the drafting of this ordinance.

MOTION: Councilmember Babcock moved to pass draft version 112408 in the form of an ordinance, not codified in LDC at this time; that Town Council review this policy at its first meeting in 2010 to see how it's working and possibly codify in LDC. Councilmember List seconded the motion.

AMEND: Councilmember Babcock amended the motion to revisit at a later date. Councilmember List amended the second.

Town Clerk called the roll:

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

VOTE: Motion passed 5-0

Councilmember Babcock requested this ordinance be revisited on an action items list for the first meeting in January 2010.

MOTION: Councilmember Babcock moved to fund the education program in the amount of \$5,000.00; authorize the town manager to fund NTE \$5,000. for education purposes. Councilmember List seconded the motion.

VOTE: passed 5-0.

Recess: 8:50 PM Reconvene 9:05 PM

XI. TOWN MANAGER'S ITEMS

A. Solid Waste Citizens Advisory Board

Lee County Solid Waste will be establishing a citizen's advisory board to assist in establishing criteria for the next solid waste contract due in 2010. It was the consensus of Council for the Town Manager Scott Janke to appoint someone.

C. Resolution 08-49, Laguna Shores Uniform Collection

Mayor Kiker opened the public hearing at 9:12 PM.
Attorney Dalton read the title resolution 08-49

**A RESOLUTION OF THE TOWN COUHCNCL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER08-49
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BACH, FLORIDA ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM SPECIAL ASSESSMENTS LEVIED WITHIN THE LAGUNA SHORES DREDGING ASSESSMENT AREA OF THE TOWN; STATING A NEEDE FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember List moved to approve resolution 08-49 for the Uniform Method of collecting non-ad valorem special assessments levied within the Laguna Shores dredging assessment area, with the correction of the scriveners error in exhibit B, the insertion of the Official Record Book 1275. Councilmember Raymond seconded the motion.

VOTE Motion passed 5-0.

X. ADMINISTRATIVE AGENDA

C. Interlocal Agreement – Lee County Property Appraiser

Town Manager Scott Janke indicated this is a standard form ILA, allows residents a certain time period in which to pay assessments without incurring additional charges.

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember List moved to approve the Laguna Shores Dredging Assessment Area Interlocal Agreement with the Lee County Property Appraiser to include the non-ad valorem tax assessments to be included in the assessment roll and collected in conjunction beginning with the 2009 assessments. Councilmember Raymond seconded the motion.

VOTE: Motion passed 5-0

D. Interlocal Agreement – Lee County Tax Collector

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Babcock moved to approve the Uniform Collection Agreement with the Lee County Tax Collector. Councilmember List seconded the motion.

VOTE: 5-0

E. Proposals for State Legislative Lobbying Services

Mayor Kiker suggested an amendment to the requested motion stated on the blue sheet, to read: Authorize the Town Manger to negotiate an agreement with _____ for lobbying services, and to bring it back to Town Council.

Opened Public Comment

None

Closed Public Comment

Council discussion ensued with members offering pro and con opinions on the merits and qualifications of the three lobbying firms that have done presentations.

MOTION: Councilmember Babcock moved to authorize the Town manager to negotiate an agreement with William J. Peebles, P.A. for lobbying services. Councilmember Raymond seconded the motion.

VOTE: Passed 5-0.

F. Air/Space Real Time Flight Tracking Equipment

Opened Public Comment

Public Comment was heard:

- Tom Cameron expressed his concern about the fly-overs, and is shocked by those who have not noticed the increased air traffic. Noise and air pollution.

Closed Public Comment

Councilmember Babock indicated he had not yet heard back from the FAA, however understands that the letter is in the mail (request to FAA – allow controllers to release the planes to turn inside the island).

Vice Mayor Acken supports the tracking equipment, however testing residues can be very difficult to differentiate from boats or cars.

MOTION: Councilmember List moved to table the discussion until after the letter from FAA. Vice Mayor Acken seconded the motion.

VOTE: Motion passed 5-0.

G. Discussion regarding Charter Review

Councilmember Babcock mentioned it has been five years since the last charter review, and would like to aim for March 2010 election date, so would need to begin review.

Discussion ensued, with a consensus of Council that there are enough projects on their plate, and that this item will be tabled.

H. Discussion Regarding Town Hall Day

Mayor Kiker raised the subject of a Town Hall Meeting. Discussion ensued with a consensus for staff to look toward scheduling a meeting at the end of February.

XII. TOWN MANAGER'S ITEMS

B. Direction regarding Marketing Strategy Proposal

C. Authorization to Explore New Position, Computer Operations Coordinator

Town Manager Scott Janke left the meeting due to illness, and these items will be placed on a future agenda.

XII. TOWN ATTORNEY'S ITEMS

Attorney Dalton advised Mr. Peebles that Mr. Janke will be contacting him to inform him that he has been selected.

Ms. Dalton is requesting a special meeting for an executive session from 8:00 AM to 8:50 AM, the purpose being to discuss litigation strategy and other matters.

Regarding the appeal by the Lani Kai, Ms. Dalton requested to be given permission to have Fowler White appear on this matter to prepare the brief, on a very limited basis.

It was the consensus of Council to give permission.

XIII. COUNCILMEMBERS ITEMS AND REPORTS

A. Proposed 2009 Council Meeting Calendar

Consensus of Council to postpone this item until Dec 17, 2008.

Vice Mayor Acken would like for future discussion, possible alternative temporary solution for discharging of pool water.

Vice Mayor referenced the recycling ordinance, with a desire to tie in MRTF's beach clean up/ straws campaign.

Send holiday greeting to other municipalities for the 2009 season

Mr. Acken mentioned the Beach elementary PTO fund raiser on 12.18.08 at beach school Christmas program.

Councilmember List attended a great horizon council meeting, is getting organized with the Horizon Council to get business sector better partnered to be sure the beach is part of the conversation, the Horizon Council hired a PR firm to figure out the "branding" of Lee County, and efforts to get the business community better organized.

Councilmember Raymond mentioned a meeting with Lee Tran. Steve Myers has list of questions that he will have answers to in writing in 30 days.

Councilmember Babcock requested for the January 5, 2009 agenda – Garden Club Proclamation, also to consider supporting the positions endorsed in the letter from the City of Sanibel re: environmental position statement.

Mayor Kiker spoke of his visit with all the Lee County BOCC except Commissioner Mann. They talked about Beach Nourishment; the Town is supporting it, wanting last right of refusal regarding dunes and vegetation. Items for discussion at the upcoming joint meeting are Beach Nourishment, Estero, TDC and Building Services.

Mayor Kiker would like the Emergency Communication Trailer to be identified as an Information Trailer.

XIV. RECAP OF ACTION ITEMS

XIV. PUBLIC COMMENT

Opened Public Comment

None

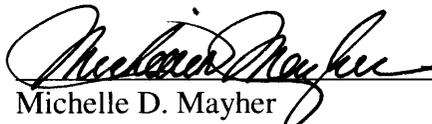
Closed Public Comment

XV. ADJOURNMENT

The meeting adjourned at 12:13 AM (December 16, 2008).

Adopted 1-15-09 With/ Without Changes Motion by Baberock/Lust
(Date)

Vote: 5-0



Michelle D. Mayher
Town Clerk

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