



MINUTES

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

April 6, 2009

6:30 PM

I. CALL TO ORDER

Mayor Kiker called to order the meeting of the town council at 6:30 PM. Present with Mayor Kiker was Vice Mayor Acken, Councilmember Babcock, Councilmember List, Councilmember Raymond, Town Manager Scott Janke, Town Attorney Anne Dalton and Town Clerk Michelle Mayher.

II. PLEDGE OF ALLEGIANCE

All stood and recited the pledge to the flag.

III. INVOCATION

Reverend Forrest Critser, First Baptist Church of Fort Myers Beach delivered an invocation.

IV. LOCAL ACHIEVEMENTS AND RECOGNITIONS

V. ADVISORY COMMITTEES ITEMS AND REPORTS

Jim Rodwell, Chairperson for the Community Resource Advisory Board (CRAB) advised Council that the committee is still determining its target issues; under Councilmember Raymond and Councilmember Babcock recognized the Anchorage Advisory Committee Cruisers' Day as a great outing. consideration are: public information as dissemination regarding activities of government, Vision 2020, web page activity and a leadership program.

VI. PROCLAMATIONS

A. Appreciation of Trent Townsend, Island Sand Paper

Town Clerk Michelle Mayher read the proclamation thanking Trent Townsend for nearly three and a half years of dedicated service. Mayor Kiker presented the proclamation.

B. National Arbor Day – accepted by Laura Jibben.

Estero Island Garden Club

No one from the garden club was present to accept the proclamation.

C. Water Conservation Month

No one from the South Florida Water Management District was present to accept the proclamation.

VII. PUBLIC COMMENT

Opened Public Comment

Public Comment was heard:

- Michelle Thomas, representative of Cabascas, spoke to the Noise Ordinance issue, stating that they have received warnings and citations currently having a cost of \$20,000.00. Ms. Thomas stated that the current decibel levels make it difficult to function, and that there needs to be more flexibility.

Closed Public Comment

VIII. PRESENTATIONS

A. Public Access Points for Bayside Areas – Ms. Suzanne Ziemer,

Ms. Suzanne Ziemer, resident at 4753 Estero Boulevard, addressed the Council in an effort to raise awareness of bayside accesses and to re-establish Bayview Avenue as an access point. Ms. Ziemer stating being at the service of the Council to assist with the development of her proposal. She will return to Fort Myers Beach in December.

Mayor Kiker informed Ms. Ziemer that the Council concurred to place this item on their agenda management spreadsheet for a future workshop discussion.

IX. CONSENT AGENDA

A. Approval of Minutes: March 2, 2009

B. Special Event Permit Application – Shark Fest 2009

C. Donation to V.O.I.C.E Volunteers

MOTION: Councilmember List moved approval of the Consent Agenda. Councilmember Raymond seconded the motion.

VOTE: Motion passed 5-0.

Recognizing Mr. Bill Spikowski in the audience, Mayor Kiker brought forward Administrative Agenda item D.to be heard at this time.

D. DCA Response to Comp Plan Amendment

Mr. Bill Spikowski, of Spikowski and Associates, Planner for the Town, spoke to this ordinance, stating that these amendments have been in the works for a couple of years, and the Town has received a response from DCA. Mr. Spikowski referenced three comments outlined in his memo, and suggested the Town not comply, rather to go forward and allow the DCA to issue its findings of non-compliance, and negotiate at that time.

Town Manager Scott Janke indicated that staff is in agreement with Mr. Spikowski's recommendations.

Town Council agreed to continue with the response as is.

X. PUBLIC HEARINGS:

A. Second Public Hearing, Ordinance 09-02, Administrative Amendments MCP 34-219

Mayor Kiker opened the public hearing. Community Development Director, Frank Shockey, provided background on this item, indicating that the LPA had held a hearing to review a proposed change to Town LDC Section 34-219, which sets forth the parameters for administrative amendments to approved master concept plans. This amendment essentially gives the Community Development Director the ability to move forward with MCP.

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Babcock moved to approve Ordinance 09-02, regarding changes to Town Land Development Code Section 34-219(b) to simplify the administrative amendment process for Master Concept Plan approval. Councilmember List seconded the motion.

VOTE: Town Clerk Michelle Mayher called the roll:

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

Mayor Kiker closed the public hearing at 7:20 PM

XI. ADMINISTRATIVE AGENDA

A. Purchase of PA System

Town Manager Scott Janke addressed this item, stating he is looking for Council direction to light the fountain gazebo, and purchase a PA system, adding that this item is outside the scope of the budget.

Council discussion came to a consensus to light the gazebo, but not purchase a PA system at this time.

B. Resolution 09-05, Response to Inviting Resolutions from Other Municipalities for Joint Planning Interlocal Negotiation

Town Attorney Anne Dalton read the title:

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 09-05

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PURSUANT TO CHAPTER 171, PART II, FLORIDA STATUTES, THE INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT; ACCEPTING/REJECTING THE INVITATION FROM THE CITIES OF CAPE CORAL, BONITA SPRINGS, FORT MYERS, AND SANIBEL TO PARTICIPATE IN NEGOTIATIONS FOR AN INTERLOCAL SERVICE BOUNDARY AGREEMENT WITH LEE COUNTY AS SET FORTH IN EACH CITY'S RESPONDING RESOLUTION TO LEE COUNTY, FLORIDA; PROVIDING AN EFFECTIVE DATE.

Attorney Dalton informed the Council that if the Town chooses not to accept this invitation, the Town could be bound by an interlocal agreement, and this is not recommended. Ms. Dalton pointed out that the Council may designate an elected officer as the Town's representative.

Mayor Kiker indicated that in terms of a designee, the largest concern is money, traffic and roads, and his choice is Bob Raymond.

Opened Public Comment

None

Closed Public Comment

MOTION: Councilmember Babcock moved to approve resolution 09-05 providing for a responding resolution to invitations from cities of Cape Coral, Fort Myers and Bonita Springs to participate in their negotiations of interlocal service boundary agreement(s) with Lee County, Florida pursuant to Chapter 171, Florida statutes, choosing the word "ACCEPTING" in the title, and in section 3, on page 3, "ACCEPTS", and the designation of the MPO representative, and as alternate the representative to the Southwest Florida Regional Planning Council. Councilmember List seconded the motion.

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

C. Request for Direction Regarding BOCC Response to Interlocal Agreement for Beach Nourishment

Town Manager Scott Janke indicated that the Town has received a response from the County regarding the interlocal agreement for beach restoration, and a problem exists in that the County wants to designate to the Town the responsibility of the acquisition of the easements. Attorney Dalton pointed out sections in the agreement that she has color coded to identify changes made by the County to the agreement the Town had submitted, and referenced areas of particular concern for the Council to consider.

MOTION: Vice Mayor Acken moved to remove the requirement for dunes and vegetation in the beach nourishment interlocal agreement.

FAILED: Motion failed for lack of a second.

MOTION: Vice Mayor Acken moved to delete the section that releases residents from the easements.

FAILED: Motion failed for lack of a second.

MOTION: Councilmember List moved to re-tender the interlocal agreement to the County as originally tendered. Councilmember Raymond seconded the motion.

Opened Public Comment

None

Closed Public Comment

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

Town Manager Scott Janke indicated he will draft a cover letter for the Mayor's signature to send with the re-tendered interlocal agreement, expressing the urgency for the acquisition of easements, that the County needs to prioritize the acquisition of easements. Mr. Janke reminded Council that this is a County project, which the Town cannot control.

It was the consensus of Council to put a review of the parking permit program on an agenda management workshop.

Recess: 8:40 PM

Reconvene 9:00 PM

XII. TOWN MANAGER'S ITEMS

- A. Noise Levels Research
- B. FY09 Budget Status
- C. Subjects for Mayor and Manager to Discuss with the BOCC
 - 1) Beach Nourishment Interlocal Agreement
 - 2) Estero Boulevard Resurfacing Spring 2009
- D. Pending Legislation

Town Manager Scott Janke indicated that at the Town Hall meeting at Santini, the subject of the Town's noise ordinance came up and asked Council to schedule this item for discussion at a future workshop.

Regarding the resurfacing of Estero Boulevard, it was the consensus of Council to push forward on this project.

Mr. Janke informed the Council and audience that water restrictions are in place as of April 1st, and the guidelines are posted on the Town's website.

Mr. Janke referenced a letter drafted on the Bay Oaks transition, and sought authority to begin negotiations. It was the consensus of Council to have this item be a discussion at an upcoming workshop.

Discussion on a franchise fee/ electric utility to be placed on the agenda management workshop.

For the budget calendar, the Council agreed to hold the first public hearing on September 9, 2009 at 6:30 PM, and the second and final public hearing on September 21, 2009 at 6:30 PM.

XIII. TOWN ATTORNEY'S ITEMS

No Items for Discussion

XIV. COUNCILMEMBERS ITEMS AND REPORTS

A. Aircraft Update- Councilmember Babcock

Councilmember Babcock asked who should be involved in the negotiations, and advised that the discussion would be contained to what is in the resolution. Mr. Babcock asked and received a consensus from the Council to continue in his discussions with the FAA.

Regarding vacancies on the Town advisory committees, Council concurred with the plan to advertise vacancies on the website and in beach newspapers for 45 days, and after that time period, allow 30 days before making appointments.

B. Discussion Regarding Town Council Meeting at Beach Elementary School – Councilmember List

Councilmember List mentioned a discussion with the principal at Beach Elementary School about holding a town hall meeting at the school. Discussions are preliminary at this point, and the Council expressed agreement to go forward.

Ms. List mentioned the Matanzas Pass Preserve volunteers and asked if it would be possible to waive any parking tickets while they are volunteering. It was agreed that that area is dangerous to drivers when there is parking in the right of way.

Ms. List mentioned the 7th annual golf tournament being sponsored by the PTO on April 25, 2009, the Shorebird workshop on April 15, 2009 and the VOICE luncheon on April 17, 2009.

Ms. List reminded all those listening that the Citizen Recognition Program deadline for 2009 is the last Friday in July – July 31st.

Councilmember Raymond reminded all who are listening that Mayor Kiker is the guest speaker at the upcoming Chamber luncheon on April 9, 2009.

C. Town Hall Meeting – Mayor Kiker

Mayor Kiker indicated he would like to look toward October 2009 for the next Town Hall meeting, perhaps hold it at Bay Oaks and sought and received consensus from Council to begin planning.

Mayor Kiker mentioned the Linda Byrd Johnson Award this April in Kansas, and if an elected official could attend, that would be great, otherwise, Council will defer to the Town Manager to send a representative.

XV. RECAP OF ACTION ITEMS
XVI. AGENDA MANAGEMENT
XVII. PUBLIC COMMENT

Opened Public Comment

Public Comment was heard:

- Ceel Spuhler offered a suggestion to assist in educating the community about the goings on of the Town, in an effort to increase communication.

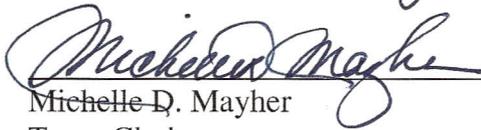
Closed Public Comment

XVIII. ADJOURNMENT

The meeting adjourned at 12:25 PM.

Adopted 5-4-09 (Date) With Without Changes. Motion by Fist / Aiken

Vote: 4-0 (Raymond absent)


Michelle D. Mayher
Town Clerk

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