



MINUTES

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

JUNE 1, 2009

9:00 AM

I. CALL TO ORDER

Call to order by Mayor Kiker at 9:25AM. Mayor Kiker and Town Manager Janke indicated that the Town of Fort Myers Beach Public Works Services Inc. Board of Directors Meeting would not be held. Mayor Kiker stated that the 09-01-U Resolution correcting the utility monthly services charge will be brought up later in the management items. Town Manager Janke stated the issue will be brought up later, there is no Resolution making a change. Mayor Kiker indicated the reason is to allow anyone wishing to make public comment to do so. All present were in agreement.

Mayor Kiker also made a change for the Consent Agenda to go directly after Invocation and move into the Proclamation and Presentations. All present were in agreement.

II. YOUTH COUNCIL

No Youth Council present.

III. PLEDGE OF ALLEGIANCE

All present rose for the Pledge of Allegiance.

IV. INVOCATION

Rev. Maynard Pittendreigh, Chapel by the Sea

V. CONSENT AGENDA

A. Approval of Minutes: April 20th 2009

B. FDLE Request for Letter of Support: Edward Byrne Memorial Justice Assistance Grant (JAG) Program

MOTION: Councilman Babcock moved for approval of the Consent Agenda with a second by Councilman Raymond.

VOTE: Motion passed 5 to 0

PROCLAMATION

**A. Recognition of Fort Myers Beach Fire Control District's
60 Years of Service**

Proclamation is read by Town Clerk Michelle Mayher, presented by Mayor Kiker and all attending Council members. Accepted by FMB Fire Chief Mike Becker.

VI. PRESENTATIONS

Air Intrusion Relief

Presenter from the F.A.A. was not able to attend the meeting. Councilmember Babcock provided brief statement that scheduling was being worked out and that the F.A.A. had been working on suggestions made to them during their visit in March and hoped to return to our area the end of June, beginning of July.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Councilmember List gave overview of closing day of Little League at Bay Oaks as well as her approval of Town Hall now using bio-degradable cups and utensils and all of their recycling efforts.

Councilmember Babcock commented also on the well maintained Bay Oaks Facility and the efforts of the volunteers from the Town.

Mayor Kiker thanked Larry Wood for the invitation for him and Jo List to attend a breakfast for the school district and looked forward to more participation next year.

X. ADVISORY COMMITTEES ITEMS AND REPORTS

- Dennis Weimer – LPA
Discussed possibilities for date and time for joint meeting of LPA and Town Council. Decision made to refer to Clerk's calendar after Council meeting.

Mayor Kiker inquired about the status of openings on committees. Town Clerk Michelle Mayher reported 2 openings on Anchorage, 1 on CRAB and 2 on LPA and that they were to be advertised through June 5th. Applications received were 2 for Anchorage, 1 for LPA and 1 For CRAB.

XI. PUBLIC COMMENT

- John Gardner – Mr. Gardner distributed fliers to Council and spoke regarding Third Street issues and the forthcoming parking garage. Mr. Gardner and neighbors were in favor of a transition of a size of the parking garage to come down to their level in the community over having another monolith such as the Moss Marina. Mr. Gardner spoke of blocked bay views, drainage issues, density problems and the devaluing of their properties. He also spoke of 18 wheelers and Moss Marina parking issues.

Town Attorney Anne Dalton suggested that Mr. Gardner needed to reiterate his comments for the Snug Harbor hearing to have them entered during the hearing.

- Lee Melsek, Fort Myers Beach Civic Association – Mr. Melsek provided information regarding the Civic Association's 4th of July Parade.

Public Comment Closed

VIII. PUBLIC HEARINGS

A. Snug Harbor

Mayor Kiker opened the Hearing for Snug Harbor at 9:50 AM.

Mr. Janke indicated the Council had a letter from the developer asking for a continuation of the Hearing until sometime in August. Attorney Dalton stated that under the LDC since they had already requested a continuance it would be up to Council to say yes or no. Attorney Dalton stated that at the last Hearing the matter was continued so that the applicant could talk with adjacent property owners and that she had been informed that talks had happened and were ongoing.

Attorney Dalton swore in all those giving testimony.

Mayor Kiker requested of Mr. Gardner to have his testimony entered into the record.

Attorney Dalton requested Mr. Gardner to advise on the record that everything he said during public comment was true and correct and that he wanted the document he presented called Citizens of 3rd Street to be considered as part of this hearing. Mr. Gardner replied, Okay.

PUBLIC COMMENT CLOSED

Cody Vaughn Birch for the applicant Kirick Investments stated they were working with adjacent property owners to resolve the issues and requested the continuance. He went on to state it was a condominium association they were in discussions with as opposed to a single entity and the association has time frames for meetings and that was the cause for additional time needed. A request to appear before Council on July 13th was made.

Staff requested Aug. 10th for the next Hearing date. Councilmember List asked for assurance that the 3rd Street residents were being contacted. Joe McHarris of McHarris Planning and Design indicated they have been working with the residents during the process and will continue working with them.

MOTION: Councilmember List moved to continue the Hearing to Aug. 10, 2009 at 9 AM and respectfully requested that all documentation that will be required for the Hearing be submitted to the Town no later than July 27, 2009. Councilmember Babcock seconded the motion.

VOTE: Motion passed 5 to 0

Mayor Kiker closed the Hearing at 10 AM

A discussion ensued regarding the need for a continuance to be added to Agenda or if Staff could handle the issue. Comm. Develop. Director Shockey explained the difference between a continuance and deferral and how it all applied to the LDC as well as the ability for the public to comment during the Hearing.

X. ADMINISTRATIVE AGENDA

A. 09-15 Resolution Correcting Utility Monthly Service Charge For Multi-Family Residential Rates

Town Manager Janke stated there was no Resolution, however, on the Blue Sheet there were items that discussed the issue. In an effort to satisfy and correct an issue with an outstanding loan, some information was uncovered as to how things were done back in 2002. As a result of that Mr. Janke's recommendation would be to await the outcome of a rate study being preformed right now from third party help. Once that study is received they move forward proactively with looking at the issue with Council. Staff would like direction to move forward in creation of tools and then proceed once all information is received.

Opened Public Comment

None

Closed Public Comment

Council members List and Raymond suggest waiting until all information is received. Councilmember Babcock supported not dealing with the Resolution at the time but noted it was the time to discuss what they were going to do next. Councilmember Babcock questioned what they would learn from the rate study without knowing the implications of the rate issues and at the same time is outside legal opinion needed to help decide what the best way to go forward is once the rate decision is in place. Councilmember Babcock wanted to be prepared with all facts and issues before making any decisions.

Town Manager Janke stated that the Ad Hoc Committee was making advances regarding the Water Utility and that their findings would be presented soon.

Councilmember Babcock questioned receiving from outside legal counsel answers to what actually happened and how to recover and then move forward, then reiterated the need to do it right and to do it quickly in fairness to everyone.

Vice Mayor Acken inquired about a sliding scale in the rate study depending on the amount of water used.

Discussion ensued regarding operational issues, the rate study and the need for legal opinion.

Councilmember List felt the need for all information, set a goal and question legal assistance as to how to make it happen.

Councilmember Raymond agreed with Ms. List and wanted additional information before moving on anything.

Town Manager Janke discussed a date for the rate study to be presented and then move forward. Additional discussion ensued regarding the timing and need for legal assistance.

XI. TOWN MANGER'S ITEMS

Town Manager Janke brought up the approval of a special event permit for a soccer event that was canceled due to a family emergency by the organizer however they reapplied for the same event for June 13th and 14th, all approvals were in place and approval was sought pending necessary insurance.

Discussion ensued regarding other events and dates and the need for a master calendar.

Bay Oaks Update

Town Manager indicated he and Town Attorney Dalton were scheduled for a meeting June 4th to work with the County on an interlocal agreement to transfer Bay Oaks to the Town. Investigations are on going regarding the running of the facility.

Mayor Kiker stated his surprise that shutting down Bay Oaks is really an option and Councilmember Babcock stated he did not feel that Town Council had established a strategy on negotiating. Councilmember Babcock questioned if a formal inventory had been completed with Manager Janke stating that one had been requested and an independent inspector was being sought to look at the property.

Discussion was brought forward by Councilmember Babcock in relation to a budget for Bay Oaks and lack of information available at this time.

Councilmember List discussed moving forward and the willingness of local volunteers ready to assist in making the transition work while Councilmember Raymond felt a workshop was needed with members of the Ad Hoc Committee as well as staff present. Vice Mayor Acken encouraged spreading the word that Commissioner Judah would be at the meeting on the 15th so residents could come and speak out on Bay Oaks.

Mayor Kiker asked that a request for a work session be put on Agenda Management.

Town Manager Janke reminded all about the Hurricane Event scheduled for June 11th, at Town Hall at 6:30PM.

Beach Nourishment Update

Environmental Sciences Coordinator for the Town, Keith Laakkonen, provided information on rescissions, easements and contacts which were followed up with meetings to property owners.

Vice Mayor Acken questioned the easement numbers and if the project could still go forward. Mr. Acken also encouraged the need for public knowledge to go out to all property owners.

Mayor Kiker agreed on the need to get correct information out and then to follow up with a solid program.

Councilmember Babcock also agreed with the need for correct and proper information reaching the public, but was still confused as to the percentage of easements needed and wanted more clarity on the timing of the project.

Councilmember Raymond discussed the fact that most of the people he had talked to did not understand what was going to happen and where it would happen. He did not feel that fear mongering was right, but encouraged the residents to look toward helping their neighbors.

Mayor Kiker asked when something would happen on North Estero Blvd. Manager Janke stated they were awaiting their contract bid documents and Public Works Director Jack Green indicated it would go out to bid soon.

Mayor Kiker asked when the Mound House would be complete. Manager Janke indicated it was waiting on funding and at this time there was no real work happening there. Mayor Kiker asked for a status update on Newton Park. Manager Janke stated they were awaiting the finalization of a contract on Newton Park as well.

A discussion on the Cottage at Newton Park ensued as well as a mention as to the arrival of the new street sweeper.

XII. TOWN ATTORNEY'S ITEMS

Attorney Dalton indicated she did not have an update on the Tezak matter other than to reiterate that they have an Executive Session on the matter which was recessed and the plan was to pick it up again at noon.

XIII. COUNCIL MEMBERS ITEMS AND REPORTS

Councilmember Babcock indicated he felt Attorney Dalton should be at the Budget Workshops on the 17th and 18th.

Mayor Kiker preferred if there were recommendations for consultations for legal, that they be written up ahead of time.

Vice Mayor Acken agreed with Mayor Kiker that Attorney Dalton did not need to be there.

Councilmember Raymond did not feel Attorney Dalton needed to be there the entire two days.

Councilmember List felt if Attorney Dalton wanted to present her own budget to them that would be great, but that she did not need to be there the entire time.

Vice Mayor Acken discussed the dates he would be able to attend the M & P's. Mr. Acken also brought up the Town's website and requested that the Ordinances be made more accessible.

Councilmember List stated that the Horizon Council had a presentation they would like to bring to town and would like to set a date when they could come. Ms. List also commented on the fundraiser she attended for the Friends of the Mound House.

Councilmember Raymond made note of the junk mail and spam he was getting on his email.

Mayor Kiker requested that on Mr. Judah's visit on the 15th that residents could submit questions ahead of time.

XIV. RECAP OF ACTION ITEMS

Snug Harbor continued until Aug. 10th at 9 AM

4th of July Parade approved

Look at LCD changes that may allow administrative relief

Sliding scale on utility rates

Cathie to look into Management Company

Use of outside attorney

Workshop with Ad Hoc Committee

Bay Oaks awaiting Inventory

Work session with LPA based on all calendars

Website list of Ordinances

Horizon Council presentation date

Junk email on Town email system

Attorney Dalton stated documents from the applicant need to be submitted to the Town by July 27th as well as the Council being in agreement for her to appear in front of Council in regards to budget.

XV. AGENDA MANAGEMENT

Mayor Kiker listed the Cottage, Bay Oaks and legal workshop and asked for agreement. Councilmember Babcock stated there was a suggestion by Vice Mayor Acken previously on having an LCD discussion on business friendly options also work on a policy for Ad Hoc Committees of which Councilman Babcock indicated he was ready. Mayor Kiker also

mentioned there was a carry over on short term rental fees from Councilmember Raymond.

Councilmember Babcock then questioned if all were to be done before June 17th. Town Manager Janke said they would go over revenue and what the options were.

XVI. PUBLIC COMMENT

Opened Public Comment

Public Comment was heard:

- Lee Melsek invited all to participate in the parade.

Closed Public Comment

MOTION: councilmember List moved to continue this meeting, with a second by Councilmember Babcock.

VOTE: Motion passed 5 to 0

Council in recess. Council reconvened at 1:25 PM

XVII. AGENDA MANAGEMENT

Mayor Kiker brought up the issue of business friendly environment previously stated by Vice Mayor Acken for LDC changes, now slated for late September.

Ad Hoc Committee of interest for Councilmember Babcock.

The Cottage, Bay Oaks, Legal, Short Term Rental Fees, and Escalation Process all listed by Mayor Kiker.

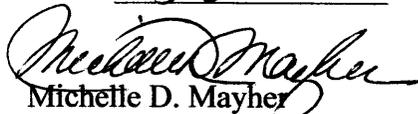
Bay Oaks and Ad Hoc then slated for June 8th at 6:30 PM

IX. ADJOURNMENT

The meeting adjourned at 1:40 PM

Adopted 4-13-09 With/Without Changes, Motion by List/ Raymond

Vote: 5-0


Michelle D. Mayher
Town Clerk

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