



MINUTES

Tuesday, January 22, 2013

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

I. CALL TO ORDER

Mayor Raymond called to order the January 22 2013 Work Session of the Town Council 9:00 a.m. Present along with Mayor Raymond: Vice Mayor Mandel, Council Members Andre, List, and Kosinski. Also Present: Town Manager Stewart, Town Attorney Miller, Public Works Director Lewis, Parks & Recreation Director Evans, Community Development Director Fluegel, and Town Clerk Mayher.

II. PLEDGE OF ALLEGIANCE

III. PRIVATE USE OF PUBLIC RIGHTS-OF-WAY

Town Manager Stewart indicated there were some locations where a conflict existed as it pertained to leases for utilization of the rights-of-way within the Town [similar to the conflicts that had existed on north Estero Boulevard]. He pointed out that the existing conflicts were not all exactly the same, so the general framework should be consistent.

Public Works Director Lewis noted the information provided in the agenda packet summarized the methods and programs currently in existence and there were examples of the documents currently in place. She mentioned that the Town had right-of-way lease agreements with business owners in Times Square since the Town incorporated (i.e. utilizing the right-of-way to serve patrons, etc.). She reviewed how lease agreements for parking was precipitated by north Estero Boulevard when it was determined that some properties did not have adequate parking on-site since they were developed prior to zoning, and some had modified their parking arrangements; the basis for the creation of easement agreements; and the process used to determine the annual rate for right-of-way and parking use agreements. She pointed out that the agreements related to north Estero Boulevard were for a long term (25 years), but the Town had the ability to make modifications after five years. She described a site on Chapel Street which had no on-site parking and their lease agreement with the Town; however, it was for a period of five years. She pointed out that properties located on north Estero Boulevard had items which

encroached into the right-of-way such as but not limited to dumpsters, signage, and newspaper boxes which were required to be relocated on the private property.

Town Manager Stewart reviewed the examples of the various types of lease agreements provided in the agenda packet. He reported the Town had continually received complaints about Donora Street as it pertained to vehicle parking; and urged the Town to be consistent with a common methodology.

Council Member List advocated that a business currently encroaching into the Town's right-of-way should be approached in order to enter into a lease agreement with the Town. She questioned if the complaints on Donora Street was due to the business was using the right-of-way or that the vehicles were in the way of traffic.

Town Manager Stewart stated it was for both issues.

Council Member List offered in that particular case there should be at least an agreement for the use of the right-of-way, and any traffic considerations should be addressed. She questioned how this matter would apply to the bay access sections of streets.

Public Works Director Lewis explained that the Town was currently surveying two streets (Gulf Beach Road and Delmar Street); and indicated the Town may be able to offer metered public parking on Gulf Beach Road. She stated that there was insufficient space on Delmar Street to provide public parking; however, it could be made into a park that was accessed by bicycle or foot.

Council Member List questioned if and how to allow neighbors who wanted to improve the appearance of some of the bay accesses into possibly a 'pocket park', and noted the importance of maintaining the integrity of the rights-of-way.

Mayor Raymond noted that the rights-of-way were publically owned and questioned if public access could change if improvements were made by the private sector.

Town Attorney Miller gave a basic lesson on rights-of-way as it pertained to creation when platted, public use, and public easements.

Discussion ensued concerning 'thru streets' that dead ends into the water; creating an agreement to obtain consent from all property owners along a 'thru street'; and identifying/defining the types of improvements private citizens could install on public property in order to insure safety standards.

Council Member Kosinski asked if these types of agreements would require a public hearing.

Town Manager Stewart responded in the affirmative; and added that it would need to be approved by Town Council.

Discussion ensued regarding the status of the prior interest by a business to construct a gazebo on a right-of-way; and aspects of transportation rights-of-way.

Council Member Andre questioned how the \$870 annual fee was derived for a lease agreement.

Public Works Director Lewis noted that the lease agreement was for the seating area and not parking; and described how it was based on square footage.

Discussion was held regarding annual fees charged in the lease agreements (i.e. calculations, prior approval by Council, and increases according to the agreement).

Vice Mayor Mandel requested further information as it pertained to how many and the location of these agreements if the matter was discussed further by Council.

Council Member List requested a 'mock-up' of an agreement that would be specific to bay access rights-of-way in order to allow residents on these side streets the ability to improve them.

Public Works Director Lewis expressed her belief that staff could bring the requested agreement back to Council and noted though that each would probably be a little different depending upon how the plat was worded and the type of use. She pointed out that the Council had asked CRAB to vision these types of bay accesses and the importance of appearance consistency.

Council Member List mentioned her concern that when the Town addressed Donora Street that she did not want it to be disruptive to the business or the neighborhood.

Council Member List was excused at 9:35 a.m.

Mayor Raymond declared that he had no objection to private residents improving the bay access streets; however, he noted it was public property with public access. He discussed his concern regarding some accesses that have already been improved where the adjoining property owners were not allowing the public use; and parking issues as it related to public safety and 'enlarging a business footprint' on Donora Street.

Discussion was held concerning 'enlarging a business footprint' on Donora Street.

Town Manager Stewart explained that one of the reasons the matter of private use of public rights-of-way was before Council was because staff was seeking guidance to enable them to move forward with consistency and fairness.

Council Member Andre stated that after reviewing the lease agreement documents submitted to them it appeared that staff was doing a great job and they should carry on.

Consensus agreed with Council Member Andre's comment.

Public Works Director Lewis noted that all of the agreements were different in some respect. She discussed permanent structures and differences with other locations as it pertained to a particular business on Donora Street.

Discussion was held regarding potential public safety issues on Donora Street; and the cut-thru from Connecticut Street to Donora Street.

Public Works Director Lewis mentioned that when the redevelopment of north Estero Boulevard occurred there had been some workshops with Town Council to determine how to move forward with the project (i.e. parking agreements, signage, ingress/egress). She noted that the Town was now at the design stage for Estero Boulevard; and she hoped to provide the County with consensus from the Town Council for expectations along Estero Boulevard (i.e. driveway width).

Discussion ensued regarding driveway widths and consistency; and ingress/egress on corner businesses.

Recessed at 9:55 a.m. – Reconvened at 10:08 a.m.

IV. BAY OAKS REPORT

Town Manager Stewart noted that the presentation on Bay Oaks was the quarterly report as requested by Council and that this report was in a slightly different format than the previous one.

Parks & Recreation Director Evans reviewed that the report included a participation count; the numbers for December 2012 were up from the previous month; the Youth Programs Club Rec (after-school program) numbers were down due to the school holidays in November and December, but Fun Days (program for when school was closed) participation was up; and bridge program was affected by the Town and church holiday closures.

Council Member Andre asked if participants were required to sign-in for each program.

Parks & Recreation Director Evans responded in the affirmative. She added that they have now begun to track the people using the fitness room.

Mayor Raymond asked if there was an increase in attendance since they did not charge the membership fee.

Parks & Recreation Director Evans responded in the affirmative. She reviewed the bar graph included in the packet as it pertained to usage and membership.

Vice Mayor Mandel requested staff track how many of the new memberships were also signing up for a program. He asked if there was a marketing or advertising effort regarding the fact that there was no charge for membership.

Parks & Recreation Director Evans stated that an article regarding the membership appeared several times in the newspaper.

Keri Hendry Weeg, Island Sandpaper Reporter, stated she could include the information about the membership in the February Entertainment Magazine.

Parks & Recreation Director Evans reported that she had received very positive comments from residents who were surprised that the membership fee had been discontinued. She reviewed the Revenue and Expense Report (dated November 30, 2012).

Vice Mayor Mandel asked that in future reports to include the year-to-date revenue numbers from the previous year for comparison purposes.

Parks & Recreation Director Evans continued to review the Revenue and Expense Report (dated November 30, 2012).

Town Manager Stewart reported that staff was going to develop a 'cost profile' so that when a new program was added that was not run by Town staff, they could have an expected 'cost profile' for adding the program.

Council Member Andre suggested, in the future, that the report have the income category match up with the expenses.

Discussion was held concerning the operation, maintenance, and use of the pool; and advertising/marketing the pool.

Parks & Recreation Director Evans reported that staff attended a condominium association meeting and as a result of that meeting staff would now be able to email the secretary of the association who in turn would forward the information to the secretaries of the condominiums along the beach. She added that the Town would now be able to place notifications on the condominium bulletin boards and distribute information at condominium meetings. She offered to include a brief narrative along with the next quarterly report.

Discussion was held concerning the dimensions of the pool; and fees charged for the use of the pool.

Mayor Raymond noted his concern regarding a discount offered to a large group who used the pool last year.

Parks & Recreation Director Evans reported that she addressed the matter and instructed staff that the group discount was not allowed.

Discussion ensued regarding staffing of the pool; new equipment for the children's pool; deferral of pool maintenance issues in the past by the third-party provider; the Town's maintenance program now in effect since taking over the pool; and ADA requirements, the new pool lift to be installed, and the zero depth entrance into the pool.

Mayor Raymond asked when Council would receive their 'first blush' budget.

Town Manager Stewart reported it would be discussed at the second meeting in February.

Council Member Andre stated he would like to have more topics on the next Work Session agenda.

V. ADJOURNMENT

Meeting adjourned at 10:35 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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