

## **MINUTES**

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

**AGENDA**

**November 2, 2009**

**9:00 AM**

**I. CALL TO ORDER**

Mayor Kiker called the meeting to order at 9:01 a.m. Present with Mayor Kiker was Vice Mayor Acken, Council members Babcock, List and Raymond along with Interim Town Manager Jack Green, Town Attorney Anne Dalton and Town Clerk Michelle Mayher.

**II. INVOCATION**

Invocation was led by Deacon Scoop Kiesel, Church of the Ascension.

**III. PLEDGE OF ALLEGIANCE**

Pledge was led by Deacon Scoop Kiesel.

**IV. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Councilmember List thanked all staff and Council who came to the Beach School's Civics class.

Vice Mayor thanked Councilmember List for the work with the Beach School and all who assisted with the Wounded Soldiers Program.

Councilmember Babcock also thanked Councilmember List and those who were a part of the Wounded Soldiers Program.

Mayor Kiker commended Councilmember List for her work with the Civics class and went on to praise the sponsors and volunteers with the Wounded Soldiers and all those who volunteer on all the Town's committees.

**V. ADVISORY COMMITTEES ITEMS AND REPORTS**

No committee members present.

**VI. PUBLIC COMMENT**

**Public Comment Opened**

**No Public Comment**

**Public Comment Closed**

**VII. PROCLAMATIONS**

**A. Smoke Free Lee – Lee County Tobacco Coalition**

Those representing Smoke Free Lee County Tobacco Coalition stood while Town Clerk Michelle Mayher read the Town of Fort Myers Beach Proclamation stating November 19<sup>th</sup>, 2009 as the Great American Smoke-Out Day. Mayor Kiker presented the proclamation.

**VIII. PRESENTATIONS**

**A. Legislative Update – Bill Peebles and Bob Romig**

Interim Town Manager Green introduced Mr. Peebles who in turn introduced Karen Peterson and Bob Romig.

Mr. Peebles began his explanation of legislature's dispersal of monies and his reminder to Council that having a lobbyist was not a quick fix for fast money. He also stated the Town needed to be in a position to borrow money, with a reference to the Town's Charter.

Revenue and expenditure caps on local government, was also discussed by Mr. Peebles followed by information on Offshore Drilling.

Councilmember Raymond noted his desire to receive more in depth feedback on a regular basis from the lobbyist. Mr. Peebles indicated his communication with a manager form of government is with the Town Manager so he and the Town Manager needed to decide on a plan to inform the Council.

Councilmember List asked for clarification on the Town's water issue, regarding either a change to the Town's Charter or raising the millage. Mr. Peeble's response was to revise the Charter to permit the Town to borrow money or to use current revenue to pay for long term capital assets.

Mayor Kiker stated there was another option which was for a referendum for a specific amount of money which would allow the Town to borrow money up to \$11 million.

Mr. Peebles reiterated that the Town's ability to access grants is very low due to its inability to borrow money.

Councilmember Babcock noted he was willing to commit but not solely for the water utility stating he would like to see a line item for capital improvement.

Councilmember List brought up offshore drilling and noted her disbelief that any money would come to the Town and voiced her opposition to offshore drilling.

Councilmember Babcock joined in with Councilmember List's thoughts on offshore drilling and asked about partnering with other coastal communities.

Mr. Peebles indicated numerous other coastal communities north were working with the Florida League of Cities and that he could contact some of those representatives and see what the effort looked like.

Councilmember Babcock brought up storm water management and the advantage to forming a storm water utility similar to water utility in terms of funding with Mr. Peebles stating it made a lot of sense since he has represented a lot of utilities.

Councilmember Babcock brought up Historic Preservation as well as Parks and Rec. Interim Town Manager Green noted that Fort Myers Beach was number 4 on the list to receive grant money to restore the interior of the Mound House.

Renewable energy improvements was the next item brought up by Councilmember Babcock along with water quality improvement and Senate Bill 360 regarding control of municipalities.

Mayor Kiker went on to thank Mr. Peebles for his assistance during the recent tough time in the Town. Mayor Kiker then asked to be included in carbon copying of communication. The need for the Town's participation with the Florida League of Cities was then questioned with a positive response from Mr. Peebles.

Bob Romig presented Council with a handout and gave an overview on transportation funds, the limited funds available and the importance of MPO.

Councilmember Babcock stated his concerns with sequencing an Estero Boulevard project. The idea of tolling on the island was then discussed with its ability to help the Boulevard project move forward. Councilmember Babcock then asked if Mr. Romig had any resources regarding airspace issues.

Vice Mayor Acken brought up considerations for future issues with the aging

bridge.

Councilmember List questioned the state formula for dividing up the gas tax.

Councilmember Raymond noted the Estero Boulevard master plan is suppose to be on the MPO master plan this year however, felt the missing player was the BOCC. Regarding bike and pedestrian ways, Councilmember Raymond noted the Town was not listed however the Town was number 16 in the stimulus.

Mayor Kiker stated a plan needed to be developed now as to where Estero Boulevard should be routed since there is so much chaos in the ownership of the vacant properties along Estero Boulevard in the Times Square area.

Discussion continued with Council, Mr. Peebles and Mr. Romig regarding interaction with the BOCC, traffic studies and the intention and willingness of the Town to move forward on numerous projects.

*Recess: 11:24 AM*

*Reconvene: 11:40 AM.*

**IX. CONSENT AGENDA**

- A. Approval of Minutes, October 5, 2009
- B. Approval of Updated Interlocal Agreement for the Creation of the MPO
- C. Revised FY10 FMB Trolley Service Interlocal Agreement

**MOTION:** Councilmember List moved to approve with a second by Councilmember Babcock.

Vice Mayor Acken asked to have item C. pulled. The motion was then for Items A. and B. Councilmember List amended her motion.

**VOTE:** Motion passed 5 to 0

Vice Mayor Acken asked if it were possible to make changes to the agreement and send it back to the County. Interim Town Manager Green indicated it was possible but the deadline could not be met for season. Vice Mayor Acken took issue with the time of the last trolley in the summer. Mr. Green indicated that was a separate issue from the enhanced trolleys during season and it would be best to treat it as a separate issue. Vice Mayor Ackcn also voiced concern with the use of actual trolleys on the island as well as the Town receiving some revenue from the County's advertising for Lee Tran.

Mr. Green reminded Council that this document was for service through April.

**MOTION:** Vice Mayor Acken made a motion to approve the Interlocal with the change that County provide service with hybrid buses whenever possible.

No second, motion died for lack of a second.

**MOTION:** Councilmember Babcock moved to approve the Interlocal Agreement between the Town of Fort Myers Beach and Lee County for Continued trolley service for the period of October 1, 2009 through September 30<sup>th</sup>, 2010 with a second by Councilmember List.

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

**X. PUBLIC HEARINGS**

A. Final Public Hearing, Ordinance 09-06, Bay Oaks Advisory Committee  
Mayor Kiker opened the hearing and asked Attorney Dalton to read the caption.

**TOWN OF FORT MYERS BEACH ORDINANCE NO. 09-06 BAY OAKS RECREATION CAMPUS ADVISORY BOARD  
AN ORDINANCE ESTABLISHING THE FORT MYERS BEACH BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD, PROVIDING AUTHORITY, COMPOSITION AND APPOINTMENT; QUALIFICATIONS OF MEMBERS; PURPOSE AND SCOPE; MEMBERS TERMS AND VACANCIES; FORFEITURE OF OFFICE; COMPENSATION OF MEMBERS; ELECTION AND DUTIES OF OFFICERS; SEVERABILITY AND EFFECTIVE DATE.**

Interim Town Manager Green made note to Council the two differences between this committee and other Town committees. One being members of this committee could participate as a member of another committee and the Bay Oaks Campus services areas other than just the Town of Fort Myers Beach, which staff felt would allow for 2 of the seats be appointed to off island members.

**Opened Public Comment**

**No Public Comment**

**Public Comment Closed**

Councilmember Raymond voiced his disapproval with the ability of members to be on multiple committees as well as the proposal for members to be able to be off island residents.

Councilmember List agreed with Councilmember Raymond's statement.

Vice Mayor Acken did not feel Council should be restricting future Councils' from allowing off island residents to become members of this committee.

Councilmember Babcock felt people should have the opportunity to be on more than one committee and noted that Bay Oaks was unique and having up to two members off island would seem appropriate, however with some possible restraints, such as limiting to the 33931 area.

Councilmember Raymond then stated he did not have a problem with people being on more than one committee as Council has the power to either put them on or not put them on.

Councilmember List also shifted her position on the ability of people to serve on more than one committee if there are no other qualified persons applying for the position.

**MOTION:** Motion by Vice Mayor Acken for approval of Ordinance 09-06 with section 5 C. with the deadline of December 31<sup>st</sup> for applications, section D. membership on the BORC-AB shall not render a person ineligible for membership on any other advisory committee as well as the selection, members may reside outside the municipal boundaries of the Town, with a second by Councilmember List for discussion.

Vice Mayor Acken amended his motion to read 'two members may reside outside the municipal boundaries'.

Discussion ensued regarding time lines, applicants and the need to change the Ordinance covering all the other committees regarding being seated on more than one committee.

Mayor Kiker stated he was not in favor of people serving on two committees.

Vice Mayor changed to a November 6<sup>th</sup> date with an amended second by Councilmember List.

Town Clerk Michelle Mayher called for a roll call to adopt Ordinance 09-06 as discussed.

Councilmember Babcock	Aye
Vice Mayor Acken	Aye
Councilmember Raymond	Nay
Councilmember List	Aye
Mayor Kiker	Nay

Motion passed 3 to 2 with Councilmember Raymond and Mayor Kiker dissenting.

*Hearing is closed at 12:45 p.m.*

**MOTION:** Councilmember Babcock made a motion to bring back ordinances for all other committees for consideration to change the wording to allow for participation on more than one committee. Vice Mayor Acken seconded the motion.

Discussion ensued whether LPA would be excluded from allowing members to be on more than one committee.

**VOTE:** Motion passed 3 to 2 with Mayor Kiker and Councilmember Raymond dissenting.

**XI. ADMINISTRATIVE AGENDA**

**A. Interlocal Agreement, Bay Oaks and Lee County School Board**

Interim Town Manager Jack Green noted that they had not yet heard back from the School Board and requested no action be taken until a response was received.

**Public Comment Opened**  
**No Public Comment**  
**Public Comment Closed**

Councilmember Babcock voiced his disapproval with the agreement.  
Items of issue: The Playground, Frisbee Golf and liability issues

Discussion on options, liability and the ability to reach an agreement with the School District continued.

**B. 09-34, Resolution, Bay Oaks Recreational Campus Fee Schedule**  
Attorney Dalton read the Resolution title:

**RESOLUTION OF THE TOWN COUNCIL, OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RESOLUTION NUMBER 09-34**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLOIRDA, ESTABLISHING A FEE SCHEDULE FOR USE OF BAY OAKS RECREATIONAL CAMPUS; PROVIDING FOR TOWN MANAGER AUTHORITY; PROVIDING AN EFFECTIVE DATE**

Mr. Green reviewed information from Council's workshop as well as the fec schedule provided to Council.

**Public Comment Opened**  
**No Public Comment**  
**Public Comment Closed**

**MOTION:** Vice Mayor Acken moved for approval of 09-34, approving the fee schedule for the Bay Oaks Recreation Campus with direction to revisit the fees as part of the budget process no later than October 1, 2010 with a second by Councilmember List.

**VOTE:** Motion passed 5 to 0

**XII. TOWN MANAGER'S ITEMS**

- November 5<sup>th</sup> at 9 a.m. groundbreaking ceremony for North Estero Project
- Attendance to the SW Florida Legislative Consortium on November 12<sup>th</sup>
- Water Utility Rate Report to be presented to Council during the week
- Rain barrel workshop at 9 a.m. Saturday, November 7<sup>th</sup> at Town Hall
- Tuesday, November 10<sup>th</sup>, Public Workshop for the Base and Bay Storm Water Project
- Bay Oaks Halloween Party had great attendance

**XIII. TOWN ATTORNEY'S ITEMS**

Attorney Dalton noted she would be willing to make herself available for the upcoming hearing on the rate adjustment.

**XIV. COUNCIL MEMBERS ITEMS AND REPORTS**

Councilmember Raymond commented on the Bay Oaks Halloween Party

Councilmember List noted positive letters from several residents regarding Code Enforcement as well as thank you notes for the volunteer dinner. She stated the November 20<sup>th</sup> Horizon Council meeting would feature Bob Ball from the airport as the speaker as well as her attendance at the Coastal Advisory Meeting and the concern throughout the County regarding beach nourishment. Councilmember List also stated the Town has been recertified as a Tree City. Councilmember List reported that she was no longer able to be the head of a Noise Ad Hoc Committee as a sitting Council member and was in search of someone to take over the committee or the Council to take it over once again.

Councilmember Raymond stated he is receiving numerous calls regarding nonconforming signs and short term rentals.

Vice Mayor Acken wanted to see LDC changes prioritized with a time line for implementation.

Councilmember Babcock questioned Mr.Green regarding borrowing money, the timeline on the right of way study, the Clean Water Resolution, a Mayor's Climate Protection Agreement and a MRTF recognition for a long time member choosing not to continue with the committee and if it would be possible to recognize the person at the next Council meeting.

Mayor Kiker asked for suggestions for improving the recognition dinner. Mayor Kiker thanked Mr. Green for doing the Human Services Council then noted the memo he sent out regarding auditors and possible RFP for that service.



**XV. AGENDA MANAGEMENT**

Interim Town Manager Green noted Agenda Management was included in the Council's manual.

**XVI. RECAP OF ACTION ITEMS**

Inaudible, off microphone.

**XVII. PUBLIC COMMENT**

Opened Public Comment

No Public Comment

Closed Public Comment

**XVIII. ADJOURNMENT**


**MOTION:** Motion was made by Councilmember List to adjourn the meeting  
With a second by Councilmember Raymond.

**VOTE:** Motion passed 5 to 0

*Meeting adjourned at 2:07 PM.*

Adopted 12-7-09 With Without changes, Motion by Aekin/Sabeach

Vote: 5-0

  
Michelle D. Mayher, Town Clerk

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