



MINUTES

Monday, November 19, 2012

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

I. CALL TO ORDER

Mayor Raymond called to order the November 19, 2012 Regular Meeting of the Town Council at 6:30 p.m. Present along with Mayor Raymond: Vice Mayor Mandel, Council Members Andre, Kosinski, and List. Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, and Contracts Manager Bargmann for Town Clerk Mayher.

II. INVOCATION—Reverend Alice Marcrum, Saint Raphael’s by the Sea

III. YOUTH COUNCIL – Fort Myers Beach Elementary School

Youth Council Mayor, John Sohner, and Youth Council Vice Mayor, Erica Halsey, led the pledge of allegiance before giving their report. Their report is included below under “Pledge of Allegiance.”

IV. PLEDGE OF ALLEGIANCE

Youth Council Mayor Sohner read his report that announced his class would be very busy this year; the Kiwanis members joined the fifth grade class for breakfast at the school; and that the students collected over 1,000 cans of food during their canned food drive for the Salvation Army in October. He added that the Beach Elementary School students had collected the most canned food items per student than any other school in the District. He described how the Beach Elementary School students painted pictures that were displayed at the ‘Paint the Beach’ event, and painted murals which were displayed at the former Seafarer’s site.

Youth Council Vice Mayor Halsey reported that the Beach Elementary School play this year would be “Beauty and the Beast” and would be performed in March; and that the students were preparing to sing holiday songs on December 1st and 18th. She described the Thanksgiving Day event celebrated at the school with the parents and that the students were planning another holiday feast in December.

Council Member List congratulated the Beach Elementary School students on their successful canned food drive for the Salvation Army.

V. APPROVAL OF FINAL AGENDA

Consensus approved the Agenda as presented.

VI. PUBLIC COMMENT

Mayor Raymond noted Public Comment time was scheduled for discussion of items that were not on the agenda.

Public Comment opened.

No speakers.

Public Comment closed.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member List recognized the art project that was created at the Seafarer's site; and how it had been a culmination of months of work between Town staff, County staff, Beach Elementary students, and artist, Mark Harris.

Vice Mayor Mandel thanked the Fort Myers Beach Community Foundation for a nice event the other night.

Council Member List noted her attendance at the event that recognized the sixth grade Honor Roll students at the Lexington Middle School; and that there were many Beach Elementary graduates who were included in the Honor Roll recognition.

VIII. IMAGE OF FORT MYERS BEACH

Council Member Kosinski complimented students' artwork at the Seafarer's event.

Mayor Raymond noted his attendance at the 'Paint the Beach' event last week and complimented the participating artists. He said Council Member List did a great job of singing at the event. He wanted to thank the artists and Mr. Al Durrett.

IX. ADVISORY COMMITTEES ITEMS AND REPORTS

No speakers.

X. APPROVAL OF MINUTES

- A. October 15, 2012 Town Council Meeting
- B. October 15, 2012 Work Session

MOTION: Council Member Kosinski moved to approve the minutes as presented; second by Council Member List.

VOTE: Motion approved, 5-0.

XI. CONSENT AGENDA

- A. Special Event Permit Application – Yoga at the Beach

Withdrawn.

XII. ADMINISTRATIVE AGENDA

- A. Ongoing Miscellaneous Professional Land Planning Services, RFQ-12-09-CD
Request a motion to award Calvin, Giordano & Associates Inc.; Dover, Kohl & Partners; LaRue Planning & Management Services; Johnson Engineering; and Tindale-Oliver & Associates, Inc. as recommended by the Selection Advisory Committee.

Community Development Director Fluegel reviewed how the staff had been directed to retain a land use/planning consultant for ongoing professional land planning services. He reported the Selection Advisory Committee (SAC) met and evaluated submittals, and ranked the firms. He indicated that staff concurred with the SAC recommendation and requested Council authorize staff to begin negotiations with the five firms.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Vice Mayor Mandel moved to approve the Selection Advisory Committee's recommendation in response to Request for Qualifications RFQ-12-09-CD *Ongoing Miscellaneous Professional Land Planning Services* and authorize staff to enter into negotiations with Calvin, Giordano & Associates Inc.; Dover, Kohl & Partners; LaRue Planning & Management Services; Johnson Engineering; and Tindale-Oliver & Associates, Inc.; second by Council Member Kosinski.

VOTE: Motion approved, 5-0.

- B. Approval of Revised Fee Schedule

Request to approve Revised Fee Schedule, effective November 19, 2012.

Town Manager Stewart noted the item had been previously discussed by Council at Work Sessions. He pointed out the request from Community Development Director Fluegel at the Work Session earlier today to add a Contractor Registration (\$50) and a Street Performer Registration (\$100) to the Fee Schedule. He mentioned that Lee County's Fee Scheduled called for a \$100 Contractor Fee and the Town was requesting one at \$50.

Public Comment opened.

No speakers.

Public Comment closed.

Town Attorney Miller suggested that the fee schedule be adopted by resolution.

MOTION: Council Member Andre moved to approve the revised fee schedule by resolution; second by Council Member List.

Council Member List noted that would include the Contractor Fee (\$50) and Street Performer Fee (\$100 – background check and licensing fee).

Town Manager Stewart pointed out that the Corporate Membership Fee which had been discussed at the Work Session earlier today would be included.

Vice Mayor Mandel reported that amount was \$345 for a corporate membership. He explained that Parks & Recreation Director Evans had submitted some new 'numbers' as of 4:00 p.m. today and Council would need to discuss the change. He briefly reviewed the changes such as but not limited to making all Fort Myers Beach residents Bay Oaks members; current total membership revenue; current membership statistics; and corporate membership. He believed it is in the best interest to give all island residents a membership.

Discussion was held concerning the changes to the Parks & Recreation section of the fee schedule.

Mayor Raymond questioned if approving the motion would approve making all Island residents Bay Oaks members and create the corporate memberships.

Town Manager Stewart explained that would depend upon how the motion was stated.

Mayor Raymond discussed the basis why he did not support free membership for all the Island residents and corporate membership.

Council Member List suggested, regarding free membership, that resident and taxpayer needed to be defined more.

Council Member Andre suggested, regarding corporate membership, that some type of limitation on the number of passes distributed be examined; and questioned the price charged per pass.

Council Member Kosinski suggested placing the Parks & Recreation aspect of the topic back on a Work Session in order to discuss details that needed to be defined such as but not limited to the criteria for free membership as it related to a taxpayer or resident.

Town Manager Stewart discussed aspects of a resident and taxpayer and how it would relate to membership at a community recreation facility. He noted doubts if corporate membership would be utilized; however, noted that if offered, the staff would track it and report back to Council.

Discussion ensued regarding corporate membership.

Vice Mayor Mandel and Council Member Andre had offered suggestions for changes to the initial motion including “membership for residents” and “annual.”

MOTION: Vice Mayor Mandel moved to approve by Resolution 12-26 for the revised fee schedule with the following changes: Contractor Registration Fee (\$50), Street Performer Fee (\$100); eliminating the flex-membership and including annual membership for all residents of the Island at Bay Oaks; second by Council Member Andre.

VOTE: Motion approved, 5-0.

Mayor Raymond noted the corporate membership concept would be discussed further at the item would be placed on Agenda Management.

C. Request for funding from non-profit organization, Fort Myers Beach Friends of the Arts

Town Manager Stewart reported the Fort Myers Beach Friends of the Arts had submitted an application for funding from the Town in the amount of \$25,000 and the supporting documents were included in the Agenda Packet. He noted the guidelines established by the Council this past September for non-profit organizations who were seeking funding from the Town. He explained the Council could approve the requested amount, approve a different level of funding, or deny the request.

Public Comment opened.

Bob Layfield, Fort Myers Beach Friends of the Arts Board Member, discussed his belief that funding the request was the right thing to do. He reported the funds would be used to hire a professional public relations firm to assist the organization with the promotion of all the arts on the Island. He noted that none of the funds would be used for the purchase of media and that their goal was to promote all the arts on the Island.

Public Comment closed.

MOTION: Council Member Andre moved to approve a request for non-profit organization funding in the amount of \$25,000 for the Fort Myers Beach Friends of the Arts; second by Council Member Kosinski.

Council Member Andre asked how much funds were set aside for programs such as the Friends of the Arts.

Town Manger Stewart reported approximately \$100,000 was set aside for special events.

Council Member List noted that included in the Friends of the Arts application was a list of the organizations which benefited from them. She feels that if awarded these funds would go pretty far.

Mayor Raymond wondered how much of the \$100,000 set aside had been used up to this point. Town Manager Stewart responded that all of the funds remained at this point.

VOTE: Motion approved, 5-0.

D. Appointment to the Local Planning Agency

Town Manager Stewart gave a brief overview of the item stating that both residents are island residents and that one of the applicants currently serves on another board.

The two applicants were in attendance and were asked if they would like to give a brief introduction to the Council.

Ms. Rexann Hosafros (applicant) declined the opportunity because she recently gave a brief introduction before the Council for the vacant seat; therefore, she wanted to afford the other applicant the same chance she had.

Mr. James Steele (applicant) accepted the invitation to address the Council and give an introduction. He gave a brief overview of his life and stated that he was a current member of the Audit Committee.

A written vote was taken by the Town Council

Acting Town Clerk Bargmann announced there were three votes for Mr. James Steele and two votes for Ms. Rexann Hosafros. **Mr. Steele was appointed by vote to the vacant Local Planning Agency seat.**

XIII. PUBLIC HEARINGS

A. Introduction of Ordinance 12-09, Street Performers Program

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, CREATING A NEW DIVISION VII IN CHAPTER 10 OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, TO BE ENTITLED "STREET PERFORMERS," CREATING SECTION 10-190, "DEFINITIONS;" SECTION 10-191, "PROHIBITION;" SECTION 10-192, "PERFORMER'S

PERMIT APPLICATION; PERMIT CONDITIONS;” SECTION 10-193, “DISPLAY OF PERMIT;” SECTION 10-194, “PERMITTED PERFORMANCES; RESTRICTIONS;” SECTION 10-195, “ACCEPTANCE OF CONTRIBUTIONS;” SECTION 10-196, “PERMIT SUSPENSION/ REVOCATION; APPEAL;” SECTION 10-197, “VIOLATION—PENALTY;” PROVIDING FOR CODIFICATION; CONFLICTS; SEVERABILITY AND AN EFFECTIVE DATE.

Acting Town Clerk Bargmann read the title.

Town Attorney Miller gave a quick overview of the ordinance and addressed a few minor issues associated with the ordinance. She suggested a change to “SECTION 10-194,” particularly with the limitation of 50 feet for street performers.

Mayor Raymond asked if there was an comment from the LPA.

No comment offered by the LPA.

Public Comment opened.

John Lallo, owner of Pete’s Time Out and acting chair of Time Square Merchants, stated he supported the ordinance, but also had some concerns. He wondered about music during a special event, how to enforce and control the 50 feet restriction in the ordinance. He also raised concerns about the lack of enforcement officers after 5:00 PM and the issue of performance “wars” (where sounds are amplified by competing performers). Town Manager Stewart responded that Enforcement Officers have been scheduled to work some evenings, weekends and random times so that the ordinance and its provisions could be enforced.

Michael Quinn, street performer, expressed his love of working on the Beach and his support of the ordinance. He stated that most street performers just want to work with businesses and other street performers to ensure a good working relationship among all parties.

Public Comment closed.

Council Member Andre questioned the 80 decibel inclusion and stated that recent court cases nationwide had upheld 1st amendment rights about free speech of letting people play their radio at their desired volume. Town Attorney Miller responded that the current code only allows 72 decibels as the maximum noise level and that she would change the number from 80 decibels to 72 decibels in the ordinance. Town Manager Stewart noted that noise could not be amplified according to the ordinance.

MOTION: Council Member List moved to adopt Ordinance 12-09, approving the Street Performers Ordinance with changes by Town Attorney Miller; second by Council Member Kosinski.

VOTE:	Council Member Jo List—AYE	Mayor Bob Raymond—AYE
	Council Member Joe Kosinski—AYE	Vice Mayor Alan Mandel—AYE
	Council Member Dan Andre—AYE	

Motion approved, 5-0.

XIV. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XIV. TOWN MANAGER'S ITEMS

A. Mound House Update

Town Manager Stewart stated he would have an updated schedule by next meeting.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Miller had no items to present.

XVII. COUNCILMEMBER ITEMS AND REPORTS

Vice Mayor Mandel – noted that the Sheriff's & Fire Department have requested to be non-voting ex-officio members of the Public Safety Committee. Town Attorney Miller stated the ordinance establishing this committee would have to be amended.

MOTION: Vice Mayor Mandel moved to amend Ordinance 12-06, establishment of the Public Safety Committee, by adding the Lee County Sheriff's Department and the Fire Department as ex-officio non-voting members; second by Council Member List.

VOTE: Motion approved, 5-0.

Council Member List – meeting with school officials for lunch, will give an update on action items at the next meeting.

Council Member Andre – expressed an interest in all-digital Council packets and the elimination of paper for Council documents. Discussion ensued about the use of paper for weekly reports and for Council packets. Consensus to distribute weekly reports only digitally, but to continue to distribute Council Packets in hard copy form for the time being.

Mayor Raymond – none.

Council Member Kosinski – none.

XVIII. AGENDA MANGEMENT

Corporate Membership at Bay Oaks has been added. Staff will bring amended agenda management as soon as possible including the changes indicated in this morning's work session.

XIX. RECAP OF ACTION ITEMS

Town Manager Stewart recapped the Action Items during the meeting.

Aleksandra Eifler, Yoga Teacher, asked why Consent Agenda Item A. Yoga at the Beach had not been addressed. She stated she had talked to Public Services Supervisor, Jeff Richard, and he had said the application was fine as submitted. Town Manager Stewart responded that this application could only be allowed if it were for a resort on the beach, but if not, then the application could not be approved. He urged Ms. Eifler to meet with Town Staff if she had any questions about her application or the guidelines for approval.

Adjournment at 7:57 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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