



MINUTES

Monday, March 4, 2013

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

I. CALL TO ORDER

Acting Mayor Mandel called to order the March 4, 2013 Regular Meeting of the Town Council at 9:03 a.m. Present along with Acting Mayor Mandel: Council Members Andre, List, and Kosinski; Mayor Raymond was excused. Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, Parks & Recreation Director Evans, and Town Clerk Mayher.

II. INVOCATION – Town Clerk Mayher

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Acting Mayor Mandel requested to add to the Administrative Agenda – Item C, WCIND Application.

Consensus approved the Agenda as amended.

V. PUBLIC COMMENT

Acting Mayor Mandel noted Public Comment was a time for the public to discuss Consent Agenda Items and issues not already on the agenda.

Public Comment opened.

Eddie Foster, resident, discussed her concerns regarding safety on the Island and suggested the idea of mandating bells or horns on bicycles; and having appropriate sidewalks on the Gulf side of Estero Boulevard (paved sidewalks down to Diamond Head). She stated she did not believe there were enough

pedestrian crosswalks from Times Square to Town Hall. She recounted her experience in attending the LCSO Citizens' Academy as it pertained to educating pedestrians about crossing streets/roads.

John Pohland, resident, discussed his concerns regarding the Estero Boulevard reconstruction after he had attended in informational meeting last week on the subject. He urged for the support of 4-lanes the entire length of the Island; and to coordinate the Estero Boulevard reconstruction with the San Carlos Pass Bridge rebuild planned for 2015-16. He added that the members of CERT would be willing to volunteer to help educate pedestrians on how to properly and safely cross the street and that they would coordinate their efforts with the LCSO.

Mary 'Meg' Bushnell, President of the Fort Myers Beach Art Association, requested a permit and dispensation for the special event fee application for their scholarship event on March 24th.

Town Manager Stewart reviewed potential action by Council regarding the request from the Art Association.

MOTION: Council Member Kosinski moved to approve the fee waiver for the event contingent upon the timely submittal of an application and approval by the Town; second by Council Member Andre.

VOTE: Motion approved, 4-0; Mayor Raymond was excused.

Public Comment closed.

Council Member Kosinski noted that the Estero Boulevard construction informational workshop seemed to be a little confusing; and he was considering writing a guest commentary for the local papers to review the process when the improvements commenced in the future.

Council Member List addressed Ms. Foster's comments and concurred with the comments regarding pedestrian and bicycle rider education.

Acting Mayor Mandel mentioned that the Council was awaiting a report from the Public Safety Committee and requested Ms. Foster's suggestions about safety be forwarded to the Public Safety Committee. He thanked all the people who attended the Estero Boulevard informational workshop; discussed his belief that what was presented at the workshop was not favorably perceived by the attendees; and stated he would discuss his concerns on the topic during Council Member Items later in the meeting.

Town Manager Stewart pointed out there had been a lengthy discussion with a County Commissioner last year at that Joint Meeting with the BOCC regarding the 'complete streets' concept; and how the Town was interested in getting sidewalks, bicycle paths, and trolley pull-offs for public safety.

Discussion was held concerning the Estero Boulevard improvement workshop held on February 28th; right-of-way issues; landscaping; pedestrian crosswalks; and bicycle paths.

Acting Mayor Mandel discussed his idea to consider postponement of Council's discussion later this afternoon on Estero Boulevard improvements; and writing a letter to the BOCC thanking them for meeting with the Council, and to include back-up information on what was stated at the Estero Boulevard improvement informational workshop as an attachment. He suggested that the Council consider asking the BOCC to allow Council Member Kosinski to sit in on their Estero Boulevard planning meetings; and requested approval for himself to work together with the BOCC on the timing and financing of the project. He discussed how the residents needed a safe and reliable water system, a safe and effective traffic flow on Estero Boulevard; the interruption to the residents and visitors and financial burden as it pertained to digging up the street twice as it pertained to the anticipated construction work.

Consensus approved Acting Mayor Mandel's request to ask the BOCC to allow Council Member Kosinski to sit in on their Estero Boulevard planning meetings; and for Acting Mayor Mandel to work together with the BOCC on the timing and financing of the project.

VI. IMAGE OF FORT MYERS BEACH

Council Member Kosinski reported the Spirit of '45 event would be held on August 11, 2013. He requested the support of the Town to have the Vietnam Memorial Wall at Crescent Beach Park on the same weekend. He stated he already placed a request with Lee County Parks Department to see if it was feasible. He asked if the Town wanted their logo to appear in the Spirit of '45 program.

Consensus approved Council Member Kosinski's requests concerning the Spirit of '45 event and the Vietnam Memorial Wall.

Council Member List suggested flying the Town's flag at the events.

Acting Mayor Mandel thanked the Fort Myers Beach Art Association for a very nice program they had yesterday.

A. Discussion regarding "VIVA Florida 500"

Parks & Recreation Director Evans distributed information and reviewed the statewide initiative as it pertained to cultural and historical events for VIVA Florida 500; and the Town's activities such as but not limited to:

- Town received approval from the State to use the VIVA 500 logo
- Town's 4th of July event to kick-off the VIVA 500 events
- An upcoming VIVA 500 event in Collier County

Acting Mayor Mandel noted the Town had an archeologist consultant; and discussed the concept of having archeological conferences or seminars held in the Town as it pertained to Ponce de Leon and that time period.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Andre noted the article on the Mound House which appeared in last Sunday's newspaper.

Town Manager Stewart thanked the organizers of the 'Smokin' in the Mangroves Cook-off' event held in Santini Plaza.

Council Member Andre noted the fabulous event, 'Visions of the Past', held at Matanzas Pass Preserve.

Council Member List talked about the recent successful fund raising event at Fish Tail Marina.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

No speakers.

IX. PROCLAMATION

A. Chapel by the Sea Presbyterian Church 75th Anniversary Celebration

Town Clerk Mayher read the Proclamation announcing the week of March 17-24, 2013 as the "Chapel by the Sea Week".

Mr. Pearson accepted it on behalf of the Chapel by the Sea Presbyterian Church.

X. APPROVAL OF MINUTES

A. February 4, 2013 Town Council Meeting

B. February 4, 2013 Work Session

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

Council Member Andre noted under 'Call to Order' to change "~~Mayor Raymond~~ called to order..." to "Acting Mayor Mandel called to order...".

Motion maker and second agreed to the change.

VOTE: Motion approved, 4-0; Mayor Raymond was excused.

XI. CONSENT AGENDA

A. Cultural Facilities Landscape Maintenance RFP #12-19-PR

A request to authorize the Town Manager to enter into a Service Provider Agreement with Valley Crest Landscape Maintenance of Fort Myers for the provision of Landscape Maintenance at both Mound House and Newton Park.

Town Manager Stewart pointed out there had been an agreement with a different provider, but something happened to the business and they stopped coming to perform the maintenance services.

MOTION: Council Member Kosinski moved to approve the Consent Agenda Item A; second by Council Member List.

Council Member Andre questioned who maintained the grounds at Bay Oaks.

Town Manager Stewart reported that the Town used the same contractor the County utilized (JSM Services) as it pertained to the ball fields.

Parks & Recreation Director Evans stated an employee from Public Works worked to maintain the landscaping around the building.

Acting Mayor Mandel noted that if Council Member Andre wanted to question the matter further that the item would need to be pulled for discussion purposes.

VOTE: Motion approved, 4-0; Mayor Raymond was excused.

XI. ADMINISTRATIVE AGENDA

A. Introduction of Ordinance 13-02, Amending Provisions of the Town Code Relating to Town Advisory Committees

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES;" AMENDING SECTION 2-97 BY DELETING THE REQUIREMENT THAT MEMBERS MEET SPECIFIC CRITERIA; AMENDING SECTIONS 2-97, 2-145, 2-178, 2-223, 2-270 AND 2-313 BY PROVIDING THAT MEMBERS DO NOT NEED TO BE TOWN RESIDENTS, BUT TOWN RESIDENTS AND OWNERS OF REAL PROPERTY IN THE TOWN WILL BE GIVEN ABSOLUTE PREFERENCE IN APPOINTMENT OVER NON-RESIDENTS; AMENDING SECTIONS 2-100, 2-180 AND 2-222 BY PROVIDING THAT MEMBERS MAY SERVE AN UNLIMITED NUMBER OF TERMS; AMENDING SECTIONS 2-145, 2-231, AND 2-276 BY PROVIDING THAT MEETINGS SHALL BE HELD AT LEAST QUARTERLY; AMENDING SECTION 2-225 TO CORRECT THE LENGTH OF TERM FOR CELCAB FROM ONE YEAR TO TWO YEARS AND THE TIME OF APPOINTMENT FROM MAY TO OCTOBER OF EACH YEAR; REPEALING ORDINANCE 04-19 AS AMENDED, WHICH ESTABLISHED THE "TRAFFIC MITIGATION AGENCY;" REPEALING SECTIONS 6 THROUGH 13 OF ORDINANCE 99-09, AS THOSE SECTIONS HAVE BEEN AMENDED, WHICH ESTABLISHED THE "TIMES SQUARE ADVISORY COUNCIL;" PROVIDING SEVERABILITY AND AN EFFECTIVE DATE

Public Comment opened.

No speakers.

Public Comment closed.

Town Attorney Miller noted the Ordinance title was fairly self-explanatory and reviewed Council's past discussions regarding the Town advisory committees. She explained the ordinance would allow for non-residents to be appointed in the event no Town residents or property owners applied; and it would bring the frequency of meetings and length of terms to be the same.

Town Manager Stewart mentioned that the proposed ordinance was spearheaded by the Town Council.

MOTION: Council Member Andre moved to set Ordinance 13-02, amending Town Code Relating to Advisory Committees for a Public Hearing date for March 18, 2013 at 6:30 p.m.; second by Council Member List.

VOTE: Motion approved, 4-0; Mayor Raymond excused.

B. Special Event Permit Application – Estero Island Garden Club Garage Sale

A request from the Estero Island Garden Club to waive application fees for the special event scheduled for March 16, 2013.

Town Manager Stewart indicated the Applicant completed the necessary paperwork and submitted an application for a fee waiver (\$40 per permit).

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Andre moved to approve the request from the Estero Island Garden Club Garage Sale to waive application fees; second by Council Member List.

VOTE: Motion approved, 4-0; Mayor Raymond was excused.

C. WALK-ON ITEM

Request for approval and authorization to submit funding applications to the West Coast Inland Navigational District for marine law enforcement for FY 2014.

Public Works Director Lewis reported the Town received notification that WCIND had moved up their application deadline to today. She explained the application was a standard request that the Town made annually that provided for marine law enforcement within the waters of the Town. She noted the Town,

generally, matched about 50%; and that the match was not a requirement, but in the past the Town found that if it was not matched the funding was reduced.

Town Manager Stewart reviewed the funding requested which was for \$40,000 and the Town would match \$26,000.

MOTION: Council Member List moved to approve and authorize the request for staff to submit funding applications to the West Coast Inland Navigational District for marine law enforcement for FY 2013-14; second by Council Member Kosinski.

VOTE: Motion approved, 4-0; Mayor Raymond was excused.

XII. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XIV. TOWN MANAGER'S ITEMS

Town Manager Stewart reported the first element of the potable water system rebuild had 'hit the street'; the RFQ asking for qualifications for the design/build team was advertised on February 27th; and that no potential provider was permitted to contact or speak with anyone from the Town, other than staff in the Purchasing Division, about this matter until the time when Council made a final decision.

Acting Mayor Mandel questioned the application deadline for the RFQ.

Public Works Director Lewis stated it was at the beginning of April.

Town Manager Stewart reviewed that the RFQ was seeking qualifications from a provider; and that the Town would review the RFQ along with their consultant Tetra Tech, and then make recommendations to the Town Council who would make the final selection.

Public Works Director Lewis noted that the recommendations would also be reviewed by the Selection Advisory Committee prior to sending the matter to Council for a final selection. She reported it was staff's intention to bring the matter before Council at their last meeting in May or first meeting in June.

Acting Mayor Mandel questioned the anticipated commencement for the utility work.

Public Works Director Lewis reported it would be early fall.

A. Mound House Update

Town Manager Stewart noted the Council was given a copy of the most recent report entitled “Town of Fort Myers Beach – Public Works Mound House Projects Update Report” in the agenda packet.

Council Member Andre noted the out-of-date dates on the Report.

Town Manger Stewart requested the Public Works and Parks & Recreation Team to correct the dates. He recounted how several months ago he had discussed that many artifacts designated for use in the Mound House museum could not be located; the search conducted by staff to locate the artifacts; and how many artifacts were found and identified in laboratories and Town storage facilities. He explained how there had been a lack of documentation by the Town, laboratories, and State agencies with respect to the location and identification of many artifacts. He reported that almost all of the items had been located with the exception of eight items.

Council Member List thanked the Town staff for conducting such a time-consuming search.

Acting Mayor Mandel questioned the policy/procedures that would be followed in the future as it pertained to the artifacts.

Town Manager Stewart indicated that the Town never had written policy or procedure regarding a historical site. He recalled that the Town had recently retained the services of an archeological team; and described how they would assist staff with setting up policy and procedures that would be followed with an archeological or historical site and artifacts.

Discussion ensued concerning the creation of a documented procedure for dealing with the Town’s historical artifacts.

Acting Mayor Mandel referred to a letter the Town received from Mr. Dan Hughes concerning an offer of contribution to the Mound House, and he and thanked him on behalf of the Town and the Council for the donation. He asked if there should be a formal action by the Town Council to accept the donation.

Town Manager Stewart responded in the affirmative and suggested the Town Attorney could draft an agreement to document the donation that would outline the Town’s responsibilities as expected by Mr. Hughes; and to arrange a meeting with Mr. Hughes to formally thank him.

Discussion ensued and consensus agreed to invite Mr. Hughes to attend the March 18th Council Meeting.

Town Attorney Miller reported she would prepare the appropriate document indicating the donation through the Friends of the Mound House.

XVI. TOWN ATTORNEY’S ITEMS

Town Attorney Miller – no items or reports.

XVII. COUNCILMEMBER ITEMS AND REPORTS

Council Member Andre – requested a more ‘aggressive’ agenda as it related to the 24 items listed on the Agenda Management List.

Acting Mayor Mandel noted there was much preparation work being done by staff at this time and many items from Agenda Management would shortly be appearing on meeting agendas.

Council Member List mentioned that more items were being placed on Work Session agendas which offered more discussion time between Council, staff, and the public.

Town Manager Stewart reported that there would be policy matter items that would require Council’s direction on upcoming agendas shortly.

Acting Mayor Mandel – referred to an email request for a Council Member to be a judge at ‘Taste of the Beach’ event.

Council Member Andre noted he had already committed his involvement with the event.

Council Member Kosinski offered to serve as judge at the at ‘Taste of the Beach’ event.

Council Member List noted she had responded to the email; asked for information regarding time because the event was on the last day of the Fort Myers Beach Film Festival and she was already committed to the event; however, she had not received a response to her email.

Acting Mayor Mandel – discussed the request from ‘Art of the Olympians’ for a Council representative to attend an event on March 15th at 5:30 p.m.

Council Member List stated she would represent the Town and attend the event.

Acting Mayor Mandel – reported there was a petition received from residents on Delmar Street about flooding which would tie into the anticipated utility work.

Public Works Director Lewis indicated she was unaware of Council’s receipt of a petition; however, she noted that part of the water/utility RFQ for Phase I and Phase IA included the streets from Carolina to Tropical Shores, bay and Gulf sides, which were also a part of the Basin Base Stormwater Project. She explained how they moved the water utility work into the Phase I Program so the Town could accomplish the Stormwater Project at the same time.

Acting Mayor Mandel requested the Town Manager respond to the person who sent in petition that Delmar Street would be addressed as described by Public Works Director Lewis.

Town Manager Stewart acknowledged the request.

Acting Mayor Mandel – reported he would forward to the Town Clerk comments he received from a resident at the Estero Boulevard Workshop, and copy Council as well. He noted a request which was forwarded to the Council from the Florida Military and Family and Community regarding an event in April.

Discussion ensued and consensus approved support of the event and requested staff to address the request.

Acting Mayor Mandel – asked if there was any answer from the CAC regarding the request to change dates.

Town Manager Stewart stated there had been no response from the CAC.

Acting Mayor Mandel – asked if Public Works Director Lewis had the opportunity to speak with the TDC since the last meeting concerning the Town’s ranking for application priorities.

Public Works Director Lewis responded in the affirmative; and noted the applications for Beach & Shoreline Maintenance ranked #1 priority, Coastal Management Study #2 (categorized as beach renourishment), Bay Side and Beach Accesses #3 (capital), ADA Restroom #4, and Shade Structure #5 (Newton Park). She added that the Coastal Advisory Council (CAC) would review the applications on March 18th; and she would attend the review meeting.

Town Manager Stewart explained why there would not be an application for a shade structure at the Mound House.

Acting Mayor Mandel – questioned the meeting date for the TDC’s review of the applications.

Public Works Director Lewis noted her belief it would be at the TDC’s first meeting in May.

Acting Mayor Mandel – reported he was in receipt of a letter from Senator Nelson’s office concerning the aircraft noise over the Town which indicated the Senator’s office made contact with the FAA; however, the local group had not submitted the report to the FAA yet. He stated he was attempting to contact Mr. Fisher at Southwest Regional Airport to determine when they intended to forward the report to the FAA, and then he would inform Senator Nelson of that date. He announced he was invited to another Mayors’ Meeting in Bonita Springs followed by a Mayors’ Meeting with Lee County Commissioner Kiker. He stated that he and the Town Manager attended a luncheon organized by Senator Benaquisto.

Town Manager Stewart recounted his experience in attending luncheon.

Acting Mayor Mandel – requested that after attending the luncheon, where he spoke with Senators Benaquisto and Richter that the Town Manager look into the meetings with the transportation departments that Mr. Arnold spoke about as it pertained to Estero Boulevard improvements. He reported he received a telephone call from the TDC regarding reimbursement to the County from British Petroleum (BP), potential grants for food sustainability, and insuring the local shrimp fleet survived. He

stated the Chamber of Commerce would take the lead on applying for the grant and had requested a letter of support to be part of the grant application.

Consensus agreed to write a letter of support for the Chamber's grant application, and direction was given to the Town Manager to prepare the letter on behalf of the Town Council.

Council Member List – noted her receipt of an email concerning the dumpster at Bay Oaks utilized for dumping of dead fish as a result of 'red tide'.

Town Manager Stewart reviewed how staff handled the dead fish that wash up on shore in the Town; how the staff stays on top of the situation throughout the day due to the tidal changes; and how the Bay Oaks location was the only site where the Town could 'store' the fish until the solid waste management trucks could remove them.

Public Works Director Lewis reviewed the Town's arrangements to store the fish until the trash trucks could remove the dead fish such as but not limited to using large horticultural roll-offs which were later changed to two smaller units that could be picked up on a daily basis.

Discussion ensued regarding how to handle removal and storage of the dead fish when future outbreaks of 'red tide' occur (i.e. trash units with lids, possible installation of an enclosure in the subject area at Bay Oaks).

Council Member Kosinski – no items or reports.

Mayor Raymond – excused.

XVIII. AGENDA MANGEMENT

Town Manager Stewart indicated the Personnel Manual would come before Council at the Work Session later today, and that the noise ordinance would come before Council in the near future. He explained the noise ordinance discussion would begin with a request for guidance from the Council similar to how the COP was treated. He mentioned that the discussion on the short-term rental ordinance would be schedule for a Work Session soon; however, he added that there was a State statute that local governments could not create such ordinances or add to existing ordinances, but they could lessen or eliminate existing ordinances. Town Manager Stewart reported the Town did receive a response from the leasing agent for the owners of Town Hall; the Town did preserve their right for the additional two years; the owners have agreed to negotiate on a longer term lease; and the leasing agent questioned if the Town wanted to lease the front portion of the building. He recounted the explanation given to him by the leasing agent as to why the owners did not wish to sell the subject building; and reviewed why 'eminent domain' would not be a favorable possibility for the Town. He requested to place the Item #3, Town Hall Lease, on an agenda and take it off Agenda Management.

Acting Mayor Mandel indicated he would like to remove the 'Recap of Joint Work Session TC/BOCC' off the Work Session Agenda today and place on an agenda for March 18th or April 1st.

Town Manager Stewart noted his belief that matters concerning the lease should be wrapped up enough to present to Council in early May.

Discussion was held concerning items scheduled for the March 18th; Council Member Kosinski indicated he was ready to move forward with Item #10 (Discussion Regarding Bridge Alternatives) for the March 18th meeting; the Annual Audit and a report on Bay Oaks were scheduled for March 18th; and the Water Rate Study would be discussed at today's Work Session and removed from the Agenda Management list.

Council Member Andre questioned a date for Agenda Management Item #20, Mooring Field Management, Revenues & Expenditures.

Discussion ensued regarding the selection of a date to discuss Agenda Management Item #20; possible discussion by Council prior to sending the contract 'out onto the street'; time constraints with the current contract as it related to sending the contract 'out onto the street'; consideration for an additional Work Session if needed for certain matters (i.e. Estero Boulevard); and it was decided to:

- Add Agenda Management Item #20 to the March 18th Work Session
- Short-Term Rentals on the first meeting in April
- Beach Raking and the Noise Ordinance on the second meeting in April
- Town Hall lease on the first meeting in May.

XIX. RECAP OF ACTION ITEMS

Town Manager Stewart recapped the Action Items added during the meeting:

- Staff would forward Ms. Foster's comments and recommendations to the Public Safety Committee
- Staff would follow through on the tentative approval of the permit fee request from the Beach Art Association
- Town would request to have Council Member Kosinski sit in on their Estero Boulevard planning meetings
- Staff would continue to move forward with working with VIVA 500 as instructed
- Town Manager Stewart would meet with Council Member Andre concerning landscaping issues at Bay Oaks
- Ordinance 13-02 was scheduled for March 18, 2013
- Staff would process Consent Agenda Items A and B accordingly
- Staff would invite Mr. Hughes to the March 18th Council Meeting as instructed
- Staff would prepare the letter of support for the Military families
- Staff would respond to the person who sent in petition regarding Delmar Street
- Staff would provide the date of the TDC Meeting regarding their funding discussion
- Staff would prepare the letter of support to the Chamber of Commerce for their grant application regarding food sustainability

Council Member List announced this weekend was the Fort Myers Beach Lions Club Shrimp Festival and Parade. She request attention to the squeaking chairs on the dais.

Town Manager Stewart recapped the details for Council's transportation during the Shrimp Festival Parade.

Motion by Council Member List; second by Council Member Andre to adjourn. Meeting adjourned at 11:02 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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