



# **MINUTES**

**Monday, April 1, 2013**

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

## **I. CALL TO ORDER**

Mayor Mandel called to order the April 1, 2013 Regular Meeting of the Town Council at 9:00 a.m. Present along with Mayor Mandel: Vice Mayor Kosinski and Council Members List and Raymond; Council Member Andre was excused. Also Present: Town Manager Stewart, Attorney Rooney for Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, Parks & Recreation Director Evans, and Town Clerk Mayher.

**II. INVOCATION** – Deacon “Scoop” Kiesel, Church of the Ascension

**III. PLEDGE OF ALLEGIANCE**

**IV. APPROVAL OF FINAL AGENDA**

Mayor Mandel requested that Appointments to the Marine Resources Task Force and Public Safety Committee be added to the Agenda.

Consensus approved the Agenda as amended.

**V. PUBLIC COMMENT**

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.

Maria Eigerman-Humphrey discussed Ordinance 03-03.

Doris Grant spoke about the Fort Myers Beach Civic Association Forum to be held on April 24, 2013.

Tom Cameron spoke on the ‘quiet zone’ in single-family residential neighborhoods.

Public Comment closed.

## **VI. IMAGE OF FORT MYERS BEACH**

Council Member List mentioned an article about Viva Florida doing a time capsule, and consensus of Town Council was to task CRAB with coming up with items for the Viva Florida 500 time capsule.

## **VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

## **VIII. ADVISORY COMMITTEES ITEMS AND REPORTS**

### **A. Public Safety Committee – Education Brochure**

Barbara Mezeske and Bruce Butcher reviewed the report by the Public Safety Committee on the proposed safety brochure as part of the Committee’s safety outreach.

**MOTION:** Council Member List moved to approve the brochure presented by the Public Safety Committee; second by Vice Mayor Kosinski.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

## **IX. PROCLAMATION**

### **A. Arbor Day**

Town Clerk Mayher read the Proclamation announcing April 26, 2013 as “*Arbor Day*” in the Town of Fort Myers Beach. Bonnie McClure, President of the Estero Island Garden Club accepted the proclamation.

### **B. Volunteer Recognition**

Town Clerk Mayher read the Proclamation announcing the week of April 21-27, 2013 as “*National Volunteer Week*” in the Town of Fort Myers Beach. Patti Evans, Director of Parks & Recreation for the Town accepted the proclamation.

### **C. Military Family and Community Covenant Day**

Town Clerk Mayher read the Proclamation announcing April 17, 2013 as “*Military Family and Community Covenant Day*” in the Town of Fort Myers Beach. Chief Warrant Officer Jeffery Kerner of the Fort Myers Beach Coast Guard Station accepted the proclamation.

## **X. APPROVAL OF MINUTES**

- A. March 4, 2013 Town Council Meeting
- B. March 4, 2013 Work Session

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

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

## **XI. CONSENT AGENDA**

- A. NPDES Interlocal Agreement with Lee County

A request to authorize the Town Manager to execute the “Interlocal Agreement Providing Joint Control of Pollutants” associated with the National Pollution discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) permit number FLS000035-003.

Town Manager Stewart reviewed the intent of the proposed Interlocal Agreement; the stormwater system’s capacity and water quality; and runoff of the stormwater from Estero Boulevard.

Mayor Mandel requested that the Town’s goals regarding the storm sewer system should be noted when discussions occur with the County regarding Estero Boulevard improvements.

Discussion ensued regarding the County’s responsibility concerning Estero Boulevard; and the conformity of the system on north Estero which was working well.

**MOTION:** Vice Mayor Kosinski to approve and authorize the Town Manager to execute the “Interlocal Agreement Providing Joint Control of Pollutants” associated with the National Pollution discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) permit number FLS000035-003; second by Council Member List.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

## **XIV. ADMINISTRATIVE AGENDA**

- A. First and Only Public Hearing, Ordinance 13-03, Personnel Manual

Mayor Mandel opened the Public Hearing at 9:46 a.m.

Town Clerk Mayher read the title of Ordinance 13-03:

AN ORDINANCE ADOPTING THE TOWN OF FORT MYERS BEACH PERSONNEL MANUAL WHICH INCLUDES PROVISIONS RELATING TO EMPLOYMENT POLICIES AND PROCEDURES; EMPLOYEE BENEFITS; AND EMPLOYEE CONDUCT AND RESPONSIBILITIES; A COPY OF THE PERSONNEL MANUAL IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE; PROVIDING THAT ALL PRIOR PERSONNEL RULES OR REGULATIONS ARE HEREBY SUPERSEDED AND REPLACED BY THE ATTACHED PERSONNEL MANUAL; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

Town Manager Stewart noted the Town currently had a personnel manual, and that the updated manual had been prepared to eliminate any inconsistencies, typographical errors, and to serve the needs of the Town and the employees. He mentioned that the matter was discussed at a prior Council Work Session; and explained how vacation and sick leave would be combined into one category of 'leave time' which would be classified as either 'scheduled or unscheduled leave'.

Mayor Mandel asked if there was a representative from the LPA or other committee who wished to offer input on the matter.

No speakers were recognized.

Attorney Rooney questioned if it was acceptable to Council that the new manual would include Christmas Eve Day and New Year's Eve Day as paid holidays.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Raymond noted that the two additional holidays were already half-day holidays, and indicated his support of including the two full days as holidays.

Discussion ensued regarding the two additional holidays and consensus agreed with Council Member Raymond.

Mayor Mandel suggested that when dealing with 'garnishment' that any administrative expenses incurred by the Town should be the responsibility of the subject employee.

Attorney Rooney stated he would have to confirm if that suggestion was permissible.

Town Manager Stewart reported that since Council indicated their intent regarding 'garnishment' that if the Attorney determined it was permissible; staff would then proceed with Council's intent.

Mayor Mandel questioned if 'military leave' was addressed in the manual as it pertained to employment applicants.

Town Manager Stewart pointed out that there was a Florida statute on that particular issue.

Attorney Rooney added it was the 'Florida Service Members Act' and he did not believe it needed to be added to the manual.

Town Manager Stewart reported that the Town adhered to statutes regarding military applicants for employment and whenever possible the Town hired veterans.

**MOTION:** Council Member List moved to adopt Ordinance 13-03, Personnel Ordinance; second by Vice Mayor Kosinski.

**VOTE:** Motion approved, 4-0; Council Member Andre excused.

Public Hearing closed at 9:54 a.m.

Recess at 9:54 a.m. – Reconvened at 10:06 a.m.

## **XV. ADMINISTRATIVE AGENDA**

### **A. Special Event Permit Fee Waiver – Lions Club Shrimp Festival**

A request for the Town Council to waive the fee charged to hang banners for the 55<sup>th</sup> Annual Lions Club Shrimp Festival, and authorize the Town Manager to reimburse the Lions Club for the \$320 fee.

Town Manager Stewart reviewed the request from the Lions Club for reimbursement of the \$320 fee charged to them for hanging the Shrimp Festival banners over Estero Boulevard. He added that the Lions Club had submitted their application too late to make a previous Council Meeting agenda.

Public Comment opened.

No speakers.

Public Comment closed.

Discussion ensued regarding Council's approval of the fee waiver last year.

**MOTION:** Vice Mayor Kosinski moved to approve the waiver of the \$320 fee charged to hang the 55<sup>th</sup> Annual Lions Club Shrimp Festival banners over Estero Boulevard and authorize the Town Manager to reimburse the Lions Club for these fees that were paid; second by Council Member List.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

**B. Special Event Permit Fee Waiver – Garden Club**

A request from the Estero Island Garden Club to Town Council to waive the application fees and fees for six rental tables for the annual Garage Sale special event that occurred on March 16, 2013 and authorize the Town Manager to reimburse the fees paid in the amount of \$52.00.

Town Manager Stewart pointed out that the Garden Club's request was similar to the previous request as it pertained to a reimbursement request after the event. He noted the community work the Garden Club performed for the Town, and how the Club worked with the Town on landscaping at various locations within the Town.

Public Comment opened.

No speakers.

Public Comment closed.

**MOTION:** Vice Mayor Kosinski moved to approve a request from the Estero Island Garden Club to Town Council to waive the application fees and fees for six rental tables for the annual Garage Sale special event that occurred on March 16, 2013 and authorize the Town Manager to reimburse the fees paid in the amount of \$52.00; second by Council Member List.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

**C. Special Event Permit Application – Nervous Nellie's, 2<sup>nd</sup> Annual Spring Fling**

A request to approve the 2<sup>nd</sup> Annual Spring Fling Concert Special Event to be held on Saturday, April 13, 2013 at Nervous Nellie's, and authorize open containers of alcohol in designated areas.

Town Manager Stewart explained why the application was coming before the Town Council for approval; and noted the applicant met all the requirements to hold the proposed event.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Raymond asked if there had been any problems with the 1<sup>st</sup> Annual Spring Fling Concert last year.

Town Manager Stewart responded in the negative.

**MOTION:** Council Member List moved to approve the request for the ‘2<sup>nd</sup> Annual Spring Fling Concert’ Special Event Permit to be held on Saturday, April 13, 2013 at Nervous Nellie’s, and authorize open containers of alcohol at this event in the designated area of the Town right-of-way pursuant to Ordinance 99-15; second by Vice Mayor Kosinski.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

D. Special Event Permit Application – FMB Chamber of Commerce, 18<sup>th</sup> Annual Taste of the Beach

A request to approve the “18<sup>th</sup> Annual Taste of the Beach” special event permit to be held on Saturday, April 28, 2013 on Old San Carlos Boulevard and authorize open containers of alcohol in designated areas.

Town Manager Stewart told how the permit was for longer than three days and for open containers in designated areas; that the applicant met the permit requirements; and that staff recommended approval.

Public Comment opened.

No speakers.

Public Comment closed.

**MOTION:** Vice Mayor Kosinski moved to approve the request or the ‘18<sup>th</sup> Annual Taste of the Beach’ special event permit to be held on Saturday, April 28, 2013 at Old San Carlos Boulevard and authorize open containers of alcohol in the designated area of the Town right-of-way pursuant to Ordinance 99-15; second by Council Member List.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

E. Request from Ted Schindler to be appointed to the Marine Resources Task Force, and a request from Jim Wray to be appointed to the Public Safety Committee

Town Clerk Mayher reported that Mr. Schindler had submitted a letter and resume seeking appointment to the Marine Resources Task Force, and Mr. Wray submitted a letter and resume seeking appointment to the Public Safety Committee.

Public Comment opened.

No speakers.

Public Comment closed.

**MOTION:** Vice Mayor Kosinski moved to appoint Ted Schindler to the Marine Resources Task Force, and to appoint Jim Wray to the Public Safety Committee; second by Council Member List.

**VOTE:** Motion approved, 4-0; Council Member Andre was excused.

## **XVI. PUBLIC COMMENT**

Public Comment opened.

No speakers.

Public Comment closed.

## **XVII. TOWN MANAGER'S ITEMS**

### A. Mound House Update

Town Manager Stewart reported he met with CELCAB to inform them about the status of the items which had been previously reported as missing; and noted he had already given the same update to the Town Council at a previous meeting. He 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" dated March 20, 2013 in the agenda packet. He mentioned that the kayak building was under construction; and discussed that as part of that construction the contractor was required to perform some pathway work and it was staff's hope that the contractor would be able to resolve pathway issues throughout the site.

Mayor Mandel asked for an estimated completion date.

Public Works Director Lewis stated she was hopeful the kayak shed would be finished by the end of this month; however, the work on the pathways might take a little longer.

Town Manager Stewart explained that some of the delay regarding the kayak building was due to the 'panel systems'.

Mayor Mandel questioned the 'negotiations for a structural engineer' listed on the Mound House Report.

Public Works Director Lewis responded negotiations were not complete; however, she was negotiating with a firm and hoped that it would be finished in the next few weeks, but noted she may have to move onto another firm.

Town Manager Stewart explained the structural engineering services had to do with the ground water at the site and how to prevent hydrostatic water intrusion.

Council Member List mentioned that she had learned CELCAB had been concerned that the dimensions of the kayak shed had been changed and that they had not been informed of the change. She requested a joint meeting between the Town Council and CELCAB as soon as possible in order to discuss how all the interested parties function together.

Public Works Director Lewis noted she was remiss in explaining to CELCAB about the kayak building dimension, and stated the height did not change. She explained how the kayaks would be stored on a trailer in the building, and that the actual footprint of the building was change by about 150-200 square feet in 2008 or 2009. She reported the Town had purchased, through the TDC, a mower for the Mound House property. It had been thought the mower could also be stored in the kayak building, and that was the 'driving force' for the decision to change the footprint of the building years ago.

Consensus agreed to hold a Joint Meeting of the Town Council and CELCAB.

Council Member List requested Council Member Raymond to consider becoming the Liaison to CELCAB.

Council Member Raymond explained how the Town committees were representatives for the people of Fort Myers Beach. He discussed his concerns regarding the pathways at the Mound House and the length of time for the completion.

Town Manager Stewart reported the pathways were installed when the landscaping was done; however, unfortunately, the work was not up to par and he described how staff was working with a subcontractor on the existing pathways.

Discussion ensued regarding the pathway work.

Council Member Raymond questioned the completion date for the fishing dock/observation pier (7/15/13).

Town Manager Stewart recounted how the 'concept plan' for the fishing dock came about and the estimated costs.

Public Works Director Lewis reported staff was just about finished with the 'value engineering' for the fishing dock and she was preparing to bring that matter forward to the Town Manager and the Parks & Recreation Director for approval prior to getting the consulting engineer to move forward with the next step. She added that she believed a contractor would be in place by July; however, the work would not be completed by that time.

Council Member Raymond noted his concern regarding the length of time for construction of the dock.

Town Manager Stewart stated staff would contact Council later in the week with an update for an anticipated completion date of the subject dock.

Discussion ensued regarding the fishing dock/observation deck as it pertained to construction, completion dates, and 'value engineering'.

Public Works Director Lewis reported, as it pertained to the Mound House, the following:

- Town's consultant was reviewing the RFQ; and anticipated review to be completed by this week or next week and then the RFQ would be placed 'back on the street'.
- Staff was changing the methodology of advertising the project; staff was seeking a request for qualifications versus a bid.

Discussion was held concerning previously approved funding by the State, and a 'follow-up grant' submitted to the State.

Public Works Director Lewis noted the engineer's estimated cost for the renovation to the Mound House was \$320,000 which did not include the fire suppression system or the landscape lighting.

Mayor Mandel requested Director Lewis to research and inform the Council of the estimated cost of the entire project (including the fire suppression system and landscape lighting) and if there would be any shortfalls.

Discussion was held regarding funding for the Mound House and funding provided by the Friends of the Mound House.

#### B. Update on Phase I Water Distribution System Improvements

Town Manager Stewart reported staff ran into a 'little bit of a technical snag' that caused them to extend the response time for the contractors (original date was 3/28/13; new date was 4/11/13). He added that staff would review the submittals along with the consultant and then present the item to Council.

Mayor Mandel questioned the timeline as it pertained to the commencement of the project.

Town Manager Stewart noted that after review of submittals by staff and the consultant the item would go before the Selection Advisory Committee and then to Town Council.

Public Works Director Lewis indicated the item should appear on a Council Agenda either the end of May or in June.

Mayor Mandel questioned when the Rate Study would come before Council.

Town Manager Stewart reported it was anticipated to be on the next Council meeting. He discussed how the Town would initiate borrowings in order to accomplish the water distribution system improvements over the next several years; the debt on the current water system and the possibility of paying down the debt on the current water system; and how he would bring a recommendation to Council at some point in the future on this matter.

### **XVIII. TOWN ATTORNEY'S ITEMS**

Attorney Rooney for Town Attorney Miller – no items or reports.

### **XIX. COUNCILMEMBER ITEMS AND REPORTS**

Council Member Raymond – thanked everyone for their get well wishes; and noted he worked for the people of Fort Myers Beach and that he would continue to work 100% for the residents during the remainder of his term in office.

Vice Mayor Kosinski – no items or reports.

Council Member List – reported that one of the Town’s local writers, Laurie Neinhaus, published a book about tea entitled *Steeped*; and noted she enjoyed performing a live reading from the book at the library and that another reading was planned to be held at the library soon. She announced there were a lot of events happening in the Town this month (i.e. Sand Bash, Film Festival, Taste of the Beach, Spring Fling, etc.).

Mayor Mandel – shared a comment from a constituent regarding the Town committees as it pertained to the possibility of holding meetings in the evening which would offer the possibility for people who work during the day to be able to serve on a Town committee.

Town Clerk Mayher noted that some committees did meet in the evening depending upon the desire of the committee members.

Mayor Mandel requested information concerning the meeting time to be included on the Town’s website so potential applicants would know which committees met at night. He requested a discussion on a proactive code enforcement effort at a future workshop.

Council Member List concurred to place ‘code enforcement’ on Agenda Management for a future Work Session.

Mayor Mandel reported the *Lynx Privateer* had sailed from Fort Myers Beach and were on their way to the Great Lakes. He hoped the Town would see the tall ship again after hurricane season.

Council Member Andre – was excused.

## **XX. AGENDA MANGEMENT**

Town Manager Stewart offered the following update on Agenda Management:

- Discussion on code enforcement was added.
- Beach raking was coming up and the business people involved with this topic had been made aware of the upcoming discussion.

Mayor Mandel asked to add a discussion on trash containers.

Town Manager Stewart stated staff would prepare a report on trash containers.

Consensus agreed with Town Manager Stewart’s suggestion for staff to prepare a report on the matter.

Council Member List asked if there was interest in discussing how the Town handled non-profit waivers and funding requests.

Consensus agreed to add 'non-profit waivers and funding requests' to Agenda Management.

Discussion was held concerning 501(3)(c) funding requests.

## **XXI. RECAP OF ACTION ITEMS**

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

- Staff would process the appointments to MRTF and Public Safety Committee
- Staff liaison would bring to CRAB the task assigned to them to come up with recommendations for the VIVA 500 Florida time capsule
- Staff would move forward with the educational brochure presented by the Public Safety Committee as directed by Council
- Staff would continue to work to support service members, veterans, their families, and local military organizations
- Staff would work to organize the Joint Meeting of Town Council and CELCAB
- Two topics added to Agenda Management – code enforcement and non-profit waivers and funding requests policy
- Staff would prepare a report on beach trash cans
- Staff to prepare Mound House renovation estimates

Motion by Council Member List; second by Vice Mayor Kosinski to adjourn. Meeting adjourned at 11:05 a.m.

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

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Michelle D. Mayher, Town Clerk

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