



MINUTES

Monday, May 6, 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 Mandel called to order the May 6, 2013 Work Session of the Town Council at 2:30 p.m. Present along with Mayor Mandel were: Vice Mayor Kosinski and Council Members Andre, List, and Raymond. Also Present: Town Manager Stewart, Town Attorney Miller, Community Development Director Fluegel, and Town Clerk Mayher.

II. PLEDGE OF ALLEGIANCE

Mayor Mandel mentioned that Council had previously approved that he, the Town Manager, and Town Attorney Humphrey study Estero Boulevard; so, they took advantage of Attorney Traber being present and discussed a concept with him. When ready, they would present it to Council and if approved, bring the concept forth to the County Commissioners.

III. CORPORATE PERSONHOOD

Town Manager Stewart explained the item was placed on Agenda Management and had been brought forward by Council Member List.

Council Member List reviewed how a Town resident [Suzanne Zeimer] submitted information about her concerns regarding 'corporate personhood'. She explained how the Supreme Court granted 'corporate personhood' to corporations. She stated that she supported doing away with 'corporate personhood'. She noted that the proclamation submitted to the Council was from a group and not a council; and questioned if the Town should be making political statements.

Town Attorney Miller explained 'corporate personhood', and how it involved political spending by corporations and the First Amendment [free speech] as it pertained to corporations and unions. She reported that the movement regarding 'corporate personhood' was an attempt to get Congress to pass a

law that would specifically prohibit corporations from spending certain amounts of money on political speech.

Town Manager Stewart explained that the Council could not take an action that would change this; however, the Council could decide to put forward a resolution that supported the action, opposed the action or take no stance at this time.

Town Attorney Miller pointed out that the group that brought the matter forward to Council Member List was urging Council to adopt a resolution supporting what the group was attempting to do.

Town Manager Stewart told of his experience in local government as it pertained to their involvement with broader national issues.

Discussion was held concerning whether Council should become involved in the issue of 'corporate personhood'.

Council Member List stated she did not support the Town Council creating a resolution concerning 'corporate personhood'.

Discussion continued concerning whether Council should become involved in the issue of 'corporate personhood'.

Consensus agreed that the Town Council would not become involved in the issue of 'corporate personhood'.

IV. CODE ENFORCEMENT DISCUSSION

Town Manager Stewart mentioned Council's interest in Code Enforcement as it related to how it impacted the Island, and the recently adopted IPMC.

Community Development Director Fluegel prepared, utilized, and discussed the hard copy of a PowerPoint presentation on Code Enforcement as follows:

- Active cases – 127
- Closed cases YTD – 414
- Opened cases YTD – 306
- Special Magistrate Hearing cases – 23
- Liens collected YTD - \$22,627.50
- Prosecution costs recovered YTD - \$1,115
- Code cases YTD by type – 10 erosion control, 30 signs (number of cases high due to the amendment to the Town's sign ordinance; expected number to drop next year; repeat violation to be utilized by the Magistrate when applicable), 34 accessory uses, 34 outdoor display, 34 short-term rental, 34 zoning (violations related to Chapter 34 that were not separately broken out such as outdoor displays & short-term rentals), 6 floodplain regulation, and 6 property maintenance.

- Code cases FY 2011/12 YTD by type – 10 erosion control, 30 signs, 34 accessory uses, 34 outdoor display, 34 short-term rental, 34 zoning, 6 building, and 6 property maintenance.
- Property Maintenance
 - International Property Maintenance Code adopted January 22, 2013
 - Property maintenance cases opened since adoption of IPMC – 25
 - Property maintenance cases YTD – 63; (last week violations issued for 80 Avenue E – unsafe structure and numerous maintenance issues)
- Approaches to Property Maintenance Enforcement
 - Current Methods
 - Complaint-driven
 - Code/Building staff spot identification
 - Potential Methods
 - Neighborhood sweeps
 - Interactive neighborhood outreach effort
 - Comprehensive blight assessment
 - Identification and prioritization by maintenance issue type
 - Monthly identification and outreach education

Town Manager Stewart noted that the YTD figures begin on the start of the fiscal year, October 1st; and that the majority of the cases were closed out before they ever get to a Hearing Officer. He explained that staff worked hard to obtain compliance through cooperation by the public. He added that the cases that went to the Magistrate usually came into compliance shortly after their hearing with the Magistrate. He described how at the beginning of his tenure with the Town staff had performed an analysis of the existing code cases and liens; Council took action to remove some of the cases ‘off the books’; staff pursued other cases; and the Council created a lien process to address forgiveness or mitigation. He reported staff would provide information to Council on the number of on-going liens.

Council Member Raymond noted his previous request regarding Code Enforcement checking on Mondays where people have put their trash cans out too early.

Community Development Director Fluegel reported Code Enforcement did go out last Monday; however, he did not receive a report.

Council Member Raymond stated he looked into the matter today and there were at least eight instances where trash cans were placed out too early.

Discussion ensued regarding the appropriate day and time to put out trash cans.

Council Member List suggested educating the public on code enforcement topics, and notifying the two local newspapers as to when certain code enforcement sweeps would occur to inform the public.

Discussion was held concerning short-term rentals and condominiums, and their utilization of commercial versus residential trash pick-up schedules.

Mayor Mandel agreed with Council Member List regarding informing the public, and then checking for compliance.

Town Manager Stewart pointed out that rental properties have the opportunity of purchasing additional trash pick-up services.

Mayor Mandel explained he would like to develop the concept for user-friendly permit information on the Town's website.

Town Manager Stewart reported that staff was already working on that matter and it should be completed in about two more weeks.

Community Development Director Fluegel stated staff was preparing 'quick fact sheets' for the permitting process (i.e. Certificate of Use, building permit, OTC building permit, Development Order, special exception, rezoning, and signs).

Council Member List suggested adding 'outdoor displays' to the 'quick fact sheets'.

Town Manager Stewart stated staff was working on preparing similar 'quick fact sheets' on code enforcement issues.

Council Member List asked if the Town was able to have informative content on the cable channel.

Town Manager Stewart stated the Council could decide to place whatever content they wanted on the cable channel.

Discussion ensued regarding ways to reach the residents through informative shows/presentations on the cable channel; the Town's electronic infrastructure/equipment; and an alternate location for the Town's antenna at Newton Park.

Council Member List discussed her views on increasing the Code Enforcement staffing.

Town Manager Stewart stated that one of the Town's Code Enforcement Officers recently informed him that he intended to 'step away' at the end of the month. He reported he discussed the matter with the Community Development Director. He added they were considering breaking the full-time position into a few part-time positions according to different times and days in order to get better coverage of events and activities.

Council Member List reported there was a rumor in her neighborhood that Helmerich Plaza was under contract and that McDonald's would leave the Island.

Town Attorney Miller stated the only thing she was aware of was that there was a contract on the property which was discovered because the Special Magistrate was handling the contract and could not hear a particular code case. She added that there had not been a request for a zoning verification letter, so at this point it was still a 'rumor'.

Community Development Director Fluegel reported the Ocean Jewel had an open active permit.

Council Member Andre recounted an incident reported to him by a resident concerning their request to receive a written description of the code that was allegedly violated. He suggested that Code Enforcement prepare the same type of 'quick fact sheets' that were being prepared for permitting matters.

Town Manager Stewart informed Council Member Andre he was aware of the incident he was referring to and was working to resolve it.

V. PARKING ALTERNATIVES

Town Manager Stewart noted that Council received a hard copy and electronic copy of the agenda item back-up material as prepared by Vice Mayor Kosinski.

Vice Mayor Kosinski explained that the information he prepared and submitted was just one idea on a parking garage for Fort Myers Beach that would help address some of the Town's major issues such as but not limited to parking and traffic. He reviewed his views about problems associated with using the property at Helmerich Plaza. He discussed how the subject concept he prepared would:

- Help to keep cars off Estero Boulevard
- Vehicles would enter the proposed parking garage from the bridge
- Obtaining the cooperation of some of the most 'winning' locations on the beach; and creating a public/private partnership

He requested Council to research the concept he proposed a little further; have Walker Parking Consultants give an informal presentation to Council on these types of projects, examples of similar projects in other cities, and cost/funding information. He discussed the possibility of using tiers on the building to decrease the size facing the beach and the issue of property owner development rights. He explained after an informal presentation by a consultant the next step could be to commission a person to perform the research on the cost and to prepare a more in-depth presentation. He recommended increasing trolley service with a stop at the garage; and having an overhead walkway from the main garage to Times Square. He requested permission to pursue his concept and obtain more information.

Discussion ensued regarding the potential improvements at Snug Harbor; other potential garage sites; obtaining additional information and visuals; and the parking garage structure in Punta Gorda.

Mayor Mandel told of his experience with municipal parking structures, some of which were multi-purpose, in Michigan.

Discussion ensued concerning the potential cost for a parking structure.

Council Member List discussed her hope to see concepts that would help to keep vehicles off the beach.

Discussion ensued concerning reasons and alternate methods to potentially keep vehicles off the beach and mitigate traffic (i.e. trolleys, satellite parking, free trolley service, etc.).

Consensus approved Vice Mayor Kosinski to obtain additional information and to have a parking consultant inform the Council about the parking garage.

Council Member Andre asked if the proposed garage was out of the FEMA Floodplain Area where retail would be permitted on the ground floor.

Community Development Director Fluegel believed the site would require 'dry flood proof' (AE Flood Zone).

Vice Mayor Kosinski told a phone call he received prior to the this meeting from a property owner on Third Street who was open for discussion as it related to parking.

VI. COUNCIL MEMBERS ITEMS

Council Member Andre – questioned if any items were added to Agenda Management today.

Town Manager Stewart reported that Agenda Management had not been addressed at today's Regular Meeting.

Discussion was held concerning items for Agenda Management from the Regular Meeting.

Town Manager Stewart noted that Mr. Taulbee's issue had already been forwarded to MRTF who would address the issue and come forward to Council with a recommendation. He stated he would work with the Staff Liaison to MRTF to make sure the matter was addressed.

Consensus agreed to direct the Town Manager to inform MRTF of Council's desire for the Task Force to address Mr. Taulbee's issue.

Council Member Andre noted one of the Lani Kai signs was removed.

Town Manager Stewart pointed out that Council received two letters from Mr. Conidaris' attorney informing the Town they would pursue a lawsuit; therefore, he recommended there be no conversation on the matter at this point.

Council Member Andre discussed the venue for Taste of the Beach as it pertained to the hot weather and the tent utilized and his visioning for site improvements.

Discussion was held concerning a gazebo at Times Square and a mobile stage.

Council Member List – no report.

Council Member Raymond – no report.

Vice Mayor Kosinski – no report.

Mayor Mandel – no report.

VII. ADJOURNMENT

Meeting adjourned at 3:45 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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