



MINUTES

Monday, June 17, 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 June 17, 2013 Regular Meeting of the Town Council at 6:30 p.m. Present along with Mayor Mandel: Vice Mayor Kosinski and Council Members Andre and Raymond; Council Member List was excused. Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, and Town Clerk Mayher.

II. INVOCATION – Town Clerk Mayher

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Consensus approved the Agenda as presented.

V. PUBLIC COMMENT

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

Public Comment opened.

Jim Rodwell, Chair of the Audit Committee, reported a recommended investment policy was ready for Council's consideration. He requested a Joint Work Session with the Council to discuss the Town's investment policy and the direction of the Committee from this point forward.

Council consensus was to conduct a Joint Work Session in the month of September.

Public Comment closed.

VI. IMAGE OF FORT MYERS BEACH

None.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Mayor Mandel expressed gratitude to St. Peter Lutheran Church for their \$1,000. Donation to Bay Oaks Social Seniors.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Mulholland Stewardship Award

The Marine Resources Task Force will meet on Wednesday, June 12, 2013; recommendations for the Mayor John Mulholland Stewardship Award will come forward following this MRTF meeting.

Council Member Andre (Council Liaison to MRTF) noted MRTF now had a complete roster of committee members; described the purpose of the Mulholland Award; and announced that the MRTF voted to recommend to Council the 2013 Business Mulholland Award for Fish Tale Marina and the Individual Mulholland Award for James Rodwell for his work at the Matanzas Pass Preserve. He added that MRTF had reinstated the invocation written by Mr. Mulholland into their meeting agenda.

Town Manager Stewart explained that Council could accept the MRTF recommendation in total and move the names for approval.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Andre moved to accept MRTF's recommendation to award the 2013 Mayor John Mulholland Stewardship Award to Fish Tale Marine and Jim Rodwell; second by Vice Mayor Kosinski.

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

IX. APPROVAL OF MINUTES

A. May 20, 2013 Town Council Meeting

B. May 20, 2013 Work Session

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

Council Member Andre questioned on Page 9 of the May 20, 2013 Council Meeting Minutes as it pertained to: “He reviewed how he and the Town Manager met with staff from the FDOT; and that the State [at their cost] was willing to go ahead and prepare an overview plan of what would be involved, if the Town had the alternating lane on the bridge.” He noted that it was his understanding that circumstances had changed since the May 20th meeting, and that there would be a cost to the Town for the State to prepare an overview plan of what would be involved, if the Town had the alternating lane on the bridge.

Mayor Mandel acknowledged that Council Member Andre was correct and circumstances had changed as he indicated.

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

X. CONSENT AGENDA

A. FY 2013 Edward Byrne memorial Justice Assistance grant (JAG) Program.

A request to approve the distribution of \$179,907 (total allocation available) of the FY 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds for projects within Lee County.

MOTION: Vice Mayor Kosinski moved to approve Consent Agenda, Item ‘A’; second by Council Member Raymond.

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

XI. ADMINISTRATIVE AGENDA

A. Resolution 13-10, Adoption of the Tentative Millage Rate FY 2013

Town Manager Stewart explained “millage rate” and how it was a variable that was part of a formula to determine taxes. He noted the Council would set a *tentative* millage rate tonight; the millage rate could remain the same or lowered but not raised after the rate was set tonight; and reviewed the Property Appraiser’s process for setting valuations (which could be higher or lower than what was issued on June 1st), and the past history as it pertained to the valuation of Fort Myers Beach by the Appraiser.

Town Clerk Mayher read the title of Resolution 13-10:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE FOR THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA; DETERMINING THAT THE PROPOSED OPERATING MILLAGE RATE EXCEEDS ROLLED-BACK RATE; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND THE BUDGET FOR THE FISCAL YEAR 2013/2014; AND PROVIDING AN EFFECTIVE DATE.

Town Manager Stewart distributed and displayed on the projection screen a copy of a *sample* TRIM Notice for the current fiscal year. He reviewed the information included on the *sample* TRIM Notice as it pertained to:

- Total property taxes (\$5,723.79) and the portion of the total amount of the taxes which were for the Town of Fort Myers Beach (\$265.22);
- Past millage rates for the Town since 1996 to date;
- Taxable value

Town Attorney Miller reported that when she and Finance Director Wicks wrote the proposed resolution that they had struggled with the ‘rolled-back rate’ language; and that they were awaiting the final numbers from the Property Appraiser as it related to the ‘rolled-back rate’. She requested the following be deleted from the title of the proposed resolution:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE FOR THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA; ~~DETERMINING THAT THE PROPOSED OPERATING MILLAGE RATE EXCEEDS ROLLED BACK RATE;~~ ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND THE BUDGET FOR THE FISCAL YEAR 2013/2014; AND PROVIDING AN EFFECTIVE DATE.

She also requested the following be deleted from Section 2, Requirement of Prior Approval by Town Council:

The tentative ad valorem operating millage rate is hereby adopted at .7687 mills.
~~This tentative operating millage rate is less than the rolled-back rate by _____%.~~

Town Manager Stewart explained the purpose of the Town Attorney’s request was because that language would be required in the final resolution; however, in the tentative millage resolution it was not required.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Andre pointed out on the *sample* TRIM Notice that the Town’s portion of the total tax was \$265 and the Fire Department’s portion of the total tax amount was \$965. He also commented that he did not want to see the taxes raised.

Council Member Raymond noted that the Town was working with a preliminary budget and had not finalized the budget yet.

Town Manager Stewart reported that his recommendation and the Finance Director’s recommendation was to use the current millage rate as the tentative rate.

Discussion was held concerning the preliminary valuation from the Property Appraiser; and the total valuation of the Town of Fort Myers Beach.

MOTION: Council Member Andre moved to approve Resolution 13-10, setting the tentative operating ad valorem rate at .7687 mills for Tax Year 2013/2014 for the Town of Fort Myers Beach and deleting any language related to the rolled-back rate; second by Vice Mayor Kosinski.

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

B. Introduction of Ordinance 13-05, Non-Residential Mandatory Recycling

Town Clerk Mayher read the title of Ordinance 13-05:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ESTABLISHING ARTICLE IV IN CHAPTER 20 OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, TO BE ENTITLED "MANDATORY RECYCLING FOR COMMERCIAL ESTABLISHMENTS;" CRATING SECTION 20-60, "DEFINITIONS;" SECTION 20-61, "RECYCLING MANDATORY FOR COMMERCIAL ESTABLISHMENTS;" SECTION 20-62, "PROOF OF PARTICIPATION IN RECYCLING PROGRAM;" AND SECTION 20-63, "PENALTIES;" PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Town Manager Stewart noted the proposed ordinance had already been through a long and lengthy process; and that tonight the proposed ordinance was being introduced and would return before Council in July. He added that neither he nor his staff had received any phone calls about mandatory recycling for businesses.

Town Attorney Miller offered a brief overview of how the proposed ordinance would be required to recycle one type of material (i.e. cardboard, plastic, etc.); and the businesses were not required to contract with the County franchise haulers. She added that the businesses would be required to submit proof of recycling if questioned.

Mayor Mandel asked if a representative from the LPA was present for comment.

No LPA representative was present.

Public Comment opened.

Eric Tibbs, resident, proposed the Town explore picking up the recycling material and then selling the material to a recycler so this could be used as a revenue stream for the Town. He wondered if the Town had considered how much they would have to pay for recycling since they were a business entity.

Public Comment closed.

MOTION: Vice Mayor Kosinski moved to introduce Ordinance 13-05, Mandatory Recycling for Commercial Establishments, and set a public hearing for August 5, 2013 at 9:00 a.m.; second by Council Member Andre.

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

Council Member Andre noted to Mr. Tibbs that the proposed ordinance was set for a public hearing; and he believed his suggestion was a good idea.

Mayor Mandel reported the issue would be discussed further during Agenda Management.

C. RFQ 13-08-PR, Mound House Restoration Phase II – Qualifications Ranking

Request approval of staff recommendation in response to Request for Qualifications RFQ 13-08-PR, *MH Restoration Phase II*, and authorize staff to enter into negotiations with Fowler Construction and Development.

Town Manager Stewart discussed staff's recommendation to Council for establishing the RFQ rankings for the Mound House restoration. He pointed out there had been two respondents to the RFQ; and that staff recommended Fowler Construction be ranked #1. He requested staff be authorized to proceed with negotiations with Fowler Construction and if the negotiations were not satisfactory, then staff would be authorized to proceed with the second ranked firm, Chris Tel Construction. He announced the Town was approved for the grant's encumbrance extension and the request for the construction completion date extension was also approved.

Public Comment opened.

Ceel Spuhler, resident, expressed her pleasure in this item going forward.

Public Comment closed.

MOTION: Vice Mayor Kosinski moved to approve the staff recommendation in response to Request for Qualifications, RFQ 13-08-PR, *MH Restoration Phase II*, and authorize staff to enter into negotiations with Fowler Construction and Development to establish a contract and authorize staff to move to the second ranked firm should a satisfactory outcome not be reached; second by Council Member Andre.

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

D. RFQ 13-02-PW Design-Build Services for Phase 1 Water Distribution System Improvements

Request approval of the Selection Advisory Committee's final ranking recommendation in response to Request for Qualifications RFQ-13-02-PW *Design-Build Services for Phase 1 Water Distribution System Improvements* and authorize staff to begin contract negotiations with the top ranked design-build team of Mitchell & Stark.

Town Manager Stewart reported that the Town received nine qualified respondents to the RFQ for the Phase 1 Water Distribution System Improvements which the Selection Advisory Committee (SAC) reviewed and made a final ranking for Council's consideration. He noted that he did not sit as a member of the SAC; however, he did participate during the question and answer session. He explained why he does not remain in the room when this or any other selection process was held by the SAC. He reviewed the ranking which placed Mitchell & Stark Construction as #1, Denco Construction as #2, and MWH Constructors/Southwest Utilities as #3. He requested authorization for staff to move on to the next ranked firm if negotiations with the first choice were not satisfactory.

Council Member Raymond questioned why MWH was ranked #3.

Town Manager Stewart explained that Southwest Utilities was part of the MWH team; and it was Southwest Utilities that did the construction work on the north end of the island and MWH was not part of the team at that time.

Town Attorney Miller stated she was in attendance during the presentations and the deliberations at the SAC, and it had been her impression that Mitchell & Stark was ranked #1 because they had extensive experience in a very similar job in Marco Island.

Discussion was held concerning the difference between the bids, type of project work, and the responsive companies for improvements on the north end of the island versus the same for the Water Distribution System Improvements (i.e. design-bid-build versus design-build); competency of three firms in the final ranking recommendation; and phases of the Water Distribution System Improvement Project.

Town Attorney Miller mentioned that according to the Town's Purchasing Ordinance, if the Town Council decided not to approve the SAC recommendation, then the Council would be required to interview all of the proposers.

Town Manager Stewart noted the response was a request for qualifications, and the next step would be to negotiate a contract with prices that made sense and were within the guidelines set by the consultant.

Discussion ensued concerning how satisfied Marco Island residents were with Mitchell & Stark on a similar type project.

Public Works Director Lewis reported the SAC members took a lot of time and effort to conduct evaluations of the submittals and the presentations; and noted the favorable experience of Mitchell & Stark with a similar project in Marco Island. She stated Mitchell & Stark demonstrated clear evidence of working together with a team that they had put together in the same procurement methodology (design-build). She added that there was a Hazard Mitigation Program Grant for the Basin Based Neighborhood that had a deadline of next April; and stated it was her belief that Mitchell & Stark would be able to adequately meet that deadline.

MOTION: Council Member Andre to approve the Selection Advisory Committee's final ranking recommendation in response to the Request for Qualifications, RFQ 13-02-PW *Design-Build Services for Phase 1 Water Distribution System Improvements*, and authorize staff to begin contract negotiations with the top ranked team and move to the other ranked firms should staff be unable to negotiate a successful contract; and the final ranking being 1) Mitchell & Stark Construction, 2) Denco Construction and 3) MWH Constructors/Southwest Utility Systems, Inc., Joint Venture; second by Vice Mayor Kosinski.

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

Recessed at 7:35 p.m. – Reconvened at 7:46 p.m.

- E. RFP 13-05-PW Management and Operations of Beach and Street Enforcement
Request approval of the Selection Advisory Committee's recommendation in response to Request for Proposals (RFP) 13-05-PW, *Management and Operations of Beach and Street Enforcement* and authorize staff to enter into negotiations with Central Parking Systems.

Town Manager Stewart pointed out that this item was a Request for Proposals for the operation of beach and street enforcement. He added that Town staff was very comfortable with the work Central Parking had done for the Town to date. He requested Council approve staff to enter into negotiations with the top ranked proposer, Central Parking, and proceed down the ranking list should a satisfactory contract be unable to be achieved. He reviewed the ranking as follows: 1) Central Parking, 2) LAZ Florida Parking, 3) Lanier Parking Solutions, and 4) Denison Parking, Inc.

Public Comment opened.

Eric Tibbs, resident, noted the budget indicated revenues from beach parking as \$309,000 and expenditures as \$342,000 or a 10% loss, and questioned if the parking was operating at a loss.

Donna Fletcher, Central Parking Systems, stated she appreciated the ranking the firm received. She indicated that gross revenues had continued to climb each year and it was her belief that they were not operating at a loss; and she was available to review calculations. She complimented Town staff and the Central Parking staff.

Public Comment Closed.

Town Manager Stewart explained there had been an error in the amount of estimated revenues (approximately \$100,000); and it had been corrected about a month ago. He stated the Town was not losing money on this item.

Discussion ensued regarding revenues from parking meters and citations.

Council Member Andre questioned the pilot parking program as it related to the credit card and solar parking meters.

Town Manager Stewart noted that was a program of the Town and not Central Parking.

Public Works Director Lewis reported staff was compiling all of the costs and revenues; however, at the initial glance it did not appear to be as significantly successful as hoped due to matters such as but not limited to ancillary costs to the Town with using credit cards that could exceed the additional revenue realized from the project.

Discussion ensued regarding the ancillary costs to the Town with using credit card parking meters.

Town Manager Stewart reported once the analysis was completed, staff would come before Council with a report and a recommendation regarding the additional costs associated with using credit cards in the parking meters.

Donna Fletcher, Central Parking Systems, mentioned that with respect to on-street parking the Central Parking proposal intended to replace the pay stations which would be a savings of \$76,000 to the Town.

MOTION: Vice Mayor Kosinski moved to approve the Selection Advisory Committee's recommendation in response to Request for Proposals, RFP 13-05-PW, *Management And Operations Beach and Street Enforcement* and authorize staff to enter into negotiations with the top ranked proposer, Central Parking, and proceed down the ranking list should a satisfactory contract be unable to be achieved, 1) Central Parking, 2) LAZ Florida Parking, 3) Lanier Parking Solutions, and 4) Denison Parking, Inc.; second by Council Member Andre.

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

F. Town's Designated Voting Delegate for Florida League of Cities' 87th Annual Conference

A request to approve the Town's Designated Voting Delegate for the Florida League of Cities Annual Conference and Business Meeting on August 15-17, 2013.

Mayor Mandel reported he would be attending the referenced meeting as part of his responsibility on the Tax and Finance Committee which has begun preliminary work on the topic of how to possibly redistribute funds more fairly to small communities that serve the tourist industry.

Town Manager Stewart reviewed how each year the Florida League of Cities held a meeting that took place in August; and how an elected body must designate a voting member.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Vice Mayor Kosinski moved to approve Mayor Alan Mandel as the Town's Designated Voting Delegate for the Florida League of Cities Annual Conference and Business Meeting; second by Council Member Andre.

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

G. Request for Waiver of Open Container Ordinance in Times Square

This request was for the 4th of July events in Times Square.

Town Manager Stewart noted this was a recurring request to waive open containers in public areas for the annual July 4th event on Town property.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Andre moved to authorize open containers of alcohol at the July 4th celebration within the area of Times Square; second by Vice Mayor Kosinski.

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

Town Manager Stewart pointed out that the Town had taken over the responsibility of the fireworks display and also the responsibility of the parade.

Acting Parks & Recreation Director Norton offered an update on Fourth of July events (i.e. parade, fireworks, etc.) and advised of BORCAB's recommendation to have Mr. Bill Semmer to serve as Parade Grand Marshall.

MOTION: Council Member Andre moved to accept BORCAB's recommendation and designate Bill Semmer as Parade Grand Marshall; second by Vice Mayor Kosinski.

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

Town Manager Stewart noted staff was investigating parade transportation for the Council.

XII. PUBLIC COMMENT

No speakers.

XIII. TOWN MANAGER ITEMS

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” dated June 5, 2013 in the agenda packet. He reiterated the Town received approvals from the State for the grant encumbrance and completion dates. He reported he was communicating with the Mound House staff concerning signage and he was working to bring further information on signage to Council.

XVII. TOWN ATTORNEY ITEMS

No items or report.

XVIII. COUNCILMEMBER ITEMS AND REPORTS

Council Member Raymond – no items or reports.

Vice Mayor Kosinski – no items or reports.

Council Member Andre – questioned the status of Viva Florida 500.

Town Manager Stewart indicated the current status of the Viva Florida 500 was an element of Parks and Recreation which he was updating Acting Director Norton on the matter. He explained he intended to bring forth the Viva Florida 500 to CELCAB.

Mayor Mandel – asked if TDC had met to approve the marketing budget.

Town Manager Stewart was unaware of any approvals by TDC.

XIX. AGENDA MANAGEMENT

Mayor Mandel noted there had been a request for a Joint Work Session between Audit Committee and Town Council.

Council Members Andre and Raymond agreed to place the request on Agenda Management for a September meeting.

Mayor Mandel pointed out the question by Mr. Tibbs if the Town should be collecting recycling material.

Town Attorney Miller explained that if the Town went into the business of collecting recycling materials then the Town would have to become an FDEP certified recycling facility; and the Town could not mandate the commercial entities deliver their recycling materials to the Town.

Town Manager Stewart recommended that the Town not enter into the business of collecting recycling materials.

Discussion ensued regarding State statute as it pertained to recycling businesses, issues with the Town serving as a recycling business, and fluctuating prices of recyclables.

XX. RECAP OF ACTION ITEMS

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

- Audit Committee Chair Rodwell informed Council a recommended investment policy was ready for their consideration and requested a workshop to discuss the matter; Council directed this to be on a Workshop agenda in the month of September.
- Council approved Resolution 13-10 by a 4-0 vote establishing the Town's Tentative Millage rate at .7687 for Fiscal Year 2013-2014; staff would notify the required agencies of that decision.
- Proposed Ordinance 13-05 was introduced, and received a 4-0 approval vote to move forward to final hearing on the 8/5/13 Council agenda.
- The recommended ranking for RFQ 13-08 Mound House renovation, was approved 4-0 establishing Fowler Construction as the top firm and Chris Tel as the second firm; negotiations will begin with Fowler Construction as soon as the Town Attorney provided a draft contract.
- The recommended ranking for RFQ 13-02 Potable Water System Rebuild was approved 4-0 establishing the team of Mitchell and Stark as number one, Denco the second ranked firm, and MWH/SWUI as the third ranked firm; and negotiations would begin with Mitchell and Stark as soon as the Town Attorney provided a draft contract.
- The recommended ranking for RFP 13-05 parking enforcement and beach patrol was approved 4-0 with 1) Central Parking; 2) LAZ Florida Parking, 3) Lanier Parking Solutions, and 4) Denison Parking Inc.; negotiations would begin immediately based upon the existing contract with Central parking as our current provider.
- The Council approved Mayor Mandel as the voting delegate for the upcoming 2013 Florida League of Cities Annual Conference; and staff was completing the form document required by the FLC for immediate mailing.
- Council approved the Times Square open container waiver with a 4-0 vote; and this would enable staff to complete the special event permit application for the Fourth of July celebration events.

XXI. ADJOURNMENT

Motion by Council Member Andre; second by Vice Mayor Kosinski. Meeting adjourned at 8:18 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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