



# **MINUTES**

**Monday, December 16, 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 December 16, 2013 Work Session of the Town Council at 10:01 a.m. Present along with Mayor Mandel were: Vice Mayor Kosinski, Council Members Andre, List, and Raymond. Also Present: Town Manager Stewart, Town Attorney Miller, Public Works Director Lewis, Community Development Director Fluegel, Parks and Recreation Director Norton, and Deputy Town Clerk Bargmann.

## **II. PLEDGE OF ALLEGIANCE**

## **III. STORMWATER SYSTEM FUNDING MECHANISM**

Mayor Mandel noted that last April the Council had received a memo from the Finance Director concerning stormwater financing; there were some meetings with the Government Services Group (GSG) during the past year; and he briefly reviewed the latest GSG proposal.

Town Manager Stewart explained the item was on the agenda to inform Council about the expenses associated with the stormwater system and long-term costs. He pointed out that the stormwater project had begun as part of the first phase of the potable water system improvements that were funded through a FEMA grant the Town received after Hurricane Charley; however, the grant did not pay for all of the stormwater improvements and that there was no funding mechanism in place in order to accomplish all of the stormwater work necessary. He explained the importance of the stormwater improvements as it related to handling/moving stormwater and water quality issues.

Town Attorney Miller addressed a portion of the State statute that dealt with ‘the DEP and Department of Economic Opportunity in cooperation with local governments in the coastal zone shall develop a

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model stormwater management program which could be adopted by local governments that contain dedicated funding options or stormwater utility fee system based upon an equitable unit cost approach. Funding options should be designed to generate capital to retro-fit existing stormwater management systems, build new treatment systems, operate facilities, and maintain and service debt’.

Mayor Mandel noted that Lee County would be installing stormwater management on Estero Boulevard.

Town Manager Stewart clarified that, today, staff was not trying to have Council approve a stormwater assessment program; rather they wanted to gather the necessary data to be able to determine the scope of the stormwater issue and the cost necessary to remedy that issue.

Council Member List questioned the status of what ordinances and/or regulations were currently in effect requiring property owners to handle stormwater on their own property.

Public Works Director Lewis reviewed the Town’s LDC as it pertained to some provisions for individuals to manage their own stormwater; however, it was not clear enough and needed some improvements.

Town Manager Stewart noted that an analysis would include information on which properties were currently generating or handling all of their stormwater.

Council Member List discussed her views on an assessment program and the importance of personal responsibility for stormwater to be built into the program.

Discussion was held concerning current regulations for stormwater management by property owners (i.e. residential, condominiums, etc.); building personal responsibility into the stormwater management program; using an island-wide through the streets approach; potable water system and stormwater management improvements performed concurrently; an assessment analysis to determine a funding methodology to support the stormwater infrastructure work; and how the Town’s LDC assisted through permitting to help control stormwater management.

Town Manager Stewart reviewed prior Town action on stormwater management such as but not limited to the Stormwater Master Plan. He explained that the Town needed to furnish a mechanism that would provide funding that would enable the Town, as they borrowed money to complete the project, to be able to collect enough revenue to pay the debt service as each piece was put into place. He noted the operational and maintenance aspects involved with the stormwater system.

Council Member Andre questioned how was north Estero done and if there was a study completed for that area.

Public Works Director Lewis explained north Estero work was accomplished as part of a FEMA grant and there was some “*investigation*” completed.

Council Member Andre questioned the ‘total cost’.

Public Works Director Lewis referred to the Scope of Services from CDM for the engineering aspects and costs, which she gave to Council this morning.

Discussion ensued regarding the type of property evaluation CDM would conduct; the cost of the study; an engineering analysis of properties; and an appeal process if and when a stormwater system assessment program was implemented.

Sandy Melgarejo, Government Services Group, explained how they utilized a statistical sampling based upon a sampling of residential parcels to determine how much impervious area was on the residential properties based the statistical sampling.

Discussion ensued concerning the residential sampling, uniform rates, and billing rates per building units; the lack of drainage easements and swales on the island; and the residential sampling accuracy rate.

Town Manager Stewart explained how the methodology example, from a legal perspective, was one that had been tested in court and had been validated on numerous occasions. He reviewed how the rates would be determined using the equivalent residential unit (ERU).

Discussion ensued concerning the calculations per ERU; potential for exemptions (i.e. unimproved property with no impervious area); checks and balances when the annual maintenance was done for the assessment roll; ability to obtain mitigation credits (i.e. chamber systems); assessment rate assumptions and a full analysis to be done every 3-5 years; and placing the assessment on the tax bill.

Mayor Mandel briefly shared a Wall Street Journal article concerning municipalities going into debt due to the imminent interest rate rise.

**Recessed at 11:00 a.m. – Reconvened at 11:17 a.m.**

#### **IV. PARCEL ACQUISITION, MOUND KEY**

Mayor Mandel summarized the agenda item which was a request to allow Council a discussion on the parcel acquisition known as Mound Key, which included but was not limited to:

- The Town had meetings with the only private property owner on Mound Key (Magee Family Trust).
- Potential for the Town's acquisition of the subject property.
- The Town may have an interest in the parcel; there was a historical connection between the Mound Key and the Mound House; and a park site could be a great addition to the Blueway.
- State owned most of the property on Mound Key; and the State did not want to see development on the subject property.
- Town Council had previously heard about a potential annexation of Back Bay islands in order to gain greater positive points in the open space category for the Town's CRS rating.

He explained if the State would allow the Town to annex Mound Key on a voluntary basis that would be a decision by the Governor and his advisors. He added that in order to make the request to the Governor the Town would need a pre-annexation agreement with the Magee Family. He indicated the Magee

Family was interested in the naming rights of a passive park on the Key. He requested approval for himself and the Town Manager to meet with the Magee Family regarding a pre-annexation agreement; and noted the matter would still need to come back before Council for approval.

Town Manager Stewart reviewed the fourth bullet point listed on the agenda back-up:

- Town Council had previously heard about a potential annexation of Back Bay islands in order to gain greater positive points in the open space category for the Town's CRS rating. And, the improvement of that rating has the potential to save Town property owners approximately \$500,000 annually on flood insurance premiums, and \$5,000,000 over a ten year period.

He clarified how the annexation would supply about 40-50% of what the Town needed to get to the next rating level to lower insurance premiums.

Planning Coordinator Overmyer reviewed the Town's current CRS rating and how annexation would help the Town work towards the next classification in the CRS Program to obtain lower insurance premiums; and what else would be necessary along with the annexation.

Town Manager Stewart clarified annexation would not ensure the Town achieving the next classification, but would significantly help.

Discussion ensued regarding whether or not to pursue acquiring the only privately owned parcel of property located on Mound Key; the Magee Family's desire to sell their property on Mound Key; naming rights for a passive park by the Magee Family; appraisals already completed on behalf of the Magee Family; and the State's offer to the Family for \$400,000 which was rejected.

Town Manager Stewart explained the Town's goal would be to obtain the subject property for the most reasonable amount.

Mayor Mandel noted the appraised amount supplied by the Magee Family was based on the ability to develop the property; and added that the State did not want development.

Discussion was held concerning how the Magee Family appraisal was based upon highest use of the subject property and entitlement rights to a certain number of development units on the parcel; the State's ability to deny development on property designated as environmentally sensitive; and how each CRS Program class improvement was worth about \$140,000 per year in savings to Town property owners.

Community Development Director Fluegel cautioned how the CRS Program rating system had been fairly stable; however, the ratings system could be changed in the future which could eliminate a perceived savings.

Council Member Raymond noted how the annexation of Mound Key would tie into the Mound House; however, he opposed the Town paying for the subject parcel.

Town Manager Stewart pointed out that the annexation was not totally dependent upon Mound Key; and suggested that regardless of what happened with Mound Key the Town should consider moving forward with the annexation of the outer State-owned islands as they would help with CRS points.

Town Attorney Miller explained the difference between a voluntary annexation and an involuntary annexation.

Town Manager Stewart noted that the State would not agree to annexation of the subject property if the Town were to give the Magee Family any development rights on the property.

Discussion ensued regarding the purpose of annexing the subject property; the Magee Family's desire to sell or develop the subject property; potential benefits to the Town from the annexation; and transfer of development rights.

Consensus approved that the Mayor and Town Manager should move forward with their discussion of Mound Key with the Magee Family.

#### **ADDED ITEM: FIRE INTERLOCAL DISCUSSION**

Mayor Mandel noted on the Regular Meeting agenda later tonight there was a matter concerning an Interlocal Agreement with the Town of Fort Myers Beach Fire Control District; and added that Attorney Pringle was unable to attend tonight's meeting. He asked if Council wanted to discuss the matter at this time—the Council agreed to discuss the interlocal. He asked if there was a current Interlocal Agreement with the Town of Fort Myers Beach Fire Control District.

Attorney Pringle responded in the negative; he added that other fire districts were utilizing a similar mechanism. He explained how the District had certified inspectors through the State's Fire Marshal Office; the Town had a Code Enforcement aspect in place; and how the interlocal agreement's purpose was to combine the two together so the Fire Inspectors can be Code Enforcement Officers.

Discussion was held concerning the inspectors current ability to find violations but not cite the violations; and how the Town's Fire Department was a separate entity and not part of the municipality.

Fire Chief White explained how gaining compliance with certain inspections had been an issue, and how the proposed Interlocal Agreement would help the Town and the Fire Department overcome some problems.

Council Member Andre questioned the appearance of the item on the agenda without having been on Agenda Management; and suggested in Exhibit B that on Page 8 "*amendment by the agreement of the ~~Town Manager~~ and the Fire Chief*" should be changed so that it would come back before the Council.

Discussion was held regarding how Bonita Springs handled plan review from a Fire Code standpoint; code enforcement activity that resulted in the payment of a fine; fire inspections on transient public lodging, single-family, short-term, and multi-family rental properties in the Town; no 'hold harmless' language within the proposed interlocal agreement and the problem with two public entities

indemnifying each other which was prohibited by State law; and how the same type of interlocal agreement would be presented to the County for approval.

Mayor Mandel questioned the stringency of fire code regulations in place.

Fire Chief White noted the regulations could not be 'less stringent' than the State.

Discussion was held regarding the current plan review time.

Consensus approved the suggestion in Exhibit B "*amendment by the agreement of the ~~Town Manager~~ and the Fire Chief*" to be changed so that it would come back before the Council.

Town Attorney Miller reported she would specify any changes to statutory references when the matter was discussed later tonight.

## **V. PARKS & RECREATION DEPARTMENTAL REPORT**

Parks & Recreation Director Norton distributed copies of a Resolution approved by BORCAB concerning the dumpsters on Town property at Bay Oaks.

Council Member List noted that Town staff had been searching for several months for alternative locations for the dumpsters.

Town Manager Stewart explained why the Council was receiving the copy of the Resolution now instead of prior to the meeting because it had to deal with staff working to obtain Board signatures on the document.

Parks & Recreation Director Norton provided an overview of the monthly Parks & Recreation Departmental Report which included activities and participation which included Cultural Resources, Parks, Recreation, and Aquatics:

- BORC New Membership Report as of 11/1/13
  - As of 11/1/13 there were 1,705 new members since the 'Every Resident a Member' started on January 1, 2013; there were a total of eight corporate memberships.
- BORCAB Program Report
  - Club Rec was open every regular school day from dismissal until 6:00 p.m.; and was currently open to children grades K-5 (64 children enrolled). He noted that this program has recently generated over \$1,000 profit.
- BOSS – trips had increased attendance and received good feedback; and Thanksgiving Feast.
- Pool & Aquatics Program Report – repair work done at the facility while the pool was closed and staff anticipated opening up on December 27<sup>th</sup> instead of January 6<sup>th</sup>.

Council Member List asked if there was a plan to hire a Senior Coordinator at this time.

Parks & Recreation Director Norton reported there was still an open position and there was still a need; and pointed out the difficulty in finding the right person for the job.

Mayor Mandel asked if there was a promotional ad for BORC scheduled for January to April to get new members.

Parks & Recreation Director Norton responded in the affirmative.

## **VI. COUNCIL MEMBERS ITEMS**

Mayor Mandel – asked for consensus to send a letter or card from the Council/Town to Commissioner Mann on the passing of his mother, Barbara B. Mann.

Consensus was to send flowers from the Town to the memorial service for Barbara B. Mann.

Vice Mayor Kosinski – no items.

Council Member List – no items.

Council Member Raymond – no items.

Council Member Andre – no items.

## **VII. ADJOURNMENT**

Meeting adjourned at 12:34 p.m.

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

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

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Derek Bargmann, Deputy Town Clerk

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