



MINUTES

Thursday, July 17, 2014

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

I. CALL TO ORDER

Vice Mayor Andre called to order the July 17, 2014 Special Meeting of the Town Council at 6:00 p.m. Present along with Vice Mayor Andre: Mayor Cereceda (via Skype) and Council Members Hosafros, Mandel, and Stockton. Also Present: Town Manager Stilwell, Town Attorney Rooney, Special Counsel Ebelini, and Town Clerk Mayher.

II. PLEDGE OF ALLEGIANCE

Town Attorney Rooney reviewed the purpose of the Special Meeting of Town Council regarding the matter of *Orlandini vs. the Town of Fort Myers Beach*, Lee County Circuit Court Cases No. 14-CA-000148 and No. 14-CA-000319. He pointed out the balcony dimensions in the proposed Settlement Agreement were:

- Second floor balcony (first habitable floor) – six feet wide on the canal side and eight feet wide on the bay side.
- Upper story balcony – five feet wide completely around.

He requested an action by Council to reaffirm the Settlement Agreement with the understanding of the balcony dimensions. He explained the Vice Mayor would conduct the meeting since the Mayor was not physically present and suggested the Council allow the Mayor to participate via Skype [from Spain] due to 'extraordinary circumstances'.

MOTION: Council Member Hosafros moved to allow Mayor Cereceda to participate in this Special Meeting via Skype due find an extraordinary circumstance; second by Council Member Stockton.

VOTE: Motion approved; 4-0.

Vice Mayor Andre noted the purpose of the Special Meeting of Town Council was regarding a Settlement Agreement in the matter of *Orlandini vs. the Town of Fort Myers Beach*, Lee County Circuit Court Cases No. 14-CA-000148 and No. 14-CA-000319.

Public Comment opened.

MOTION: Council Member Stockton moved to extend the time for Public Comment beyond three minutes per speaker.

VOTE: Motion failed for a lack of a second.

Brian Jones, resident, discussed his views concerning how the development at 301 Palermo violated his property rights. He indicated that if the proposed Settlement Agreement was approved that he and other property owners would take legal action on the basis of loss of privacy, loss of view corridor, reduced property values, and emotional distress.

Gayle Manner, resident, discussed the proposed dimensions for the subject property balconies, and the potential for additional lawsuits. She expressed dissatisfaction with the proposed Settlement Agreement; and how 301 Palermo should be required to come into 100% compliance.

Tracey Gore, resident, explained she was in support of her neighbors. She discussed the signatures listed on the previous and proposed Settlement Agreement; questioned the doors and windows on the subject structure; and requested the 'construction' error should be called a 'permit' error and to change 'minor' error to 'major' error.

Joe Stockton, resident, urged Council to consider the Agenda issue as two separate issues: 1) monetary issue and 2) moral issue. He discussed how the Town should uphold the building codes and pay the least amount of money for the mistakes.

Jay Light, resident, stated he was unhappy with the proposed Settlement Agreement. He expressed his belief that practicality should prevail and questioned if the matter went to trial how much more would it cost.

Public Comment closed.

III. Settlement Agreement in *Orlandini vs. the Town of Fort Myers Beach*, Lee County Circuit Court Case No. 14-CA-000148 and Case No. 14-CA-000319.

MOTION: Council Member Mandel moved to accept the proposed settlement agreement and reaffirm the first floor balcony at six (6) feet, eight (8) feet on the bay side balcony, and the upper story at five (5) feet; second by Council Member Hosafros.

Mayor Cereceda [via Skype] discussed her views on the dimensions of the balconies for the subject structure and her concerns that the dimensions did not match.

Discussion was held concerning the timing of scheduling tonight's Special Meeting.

Council Member Stockton explained why she could not support the Settlement Agreement; and she suggested offering to reduce the settlement amount to \$50,000-80,000.

Council Member Mandel explained how the proposed settlement was a compromise and how there was potential for a further legal battle if the Agreement was not approved.

Vice Mayor Andre noted he had requested the Town Manager to keep the Mayor informed about the subject matter. He read the definition of a 'compromise' according to Webster's New World Dictionary. He noted both attorneys were satisfied with the signatures on the Agreement.

VOTE: Motion passed 3-2 with Mayor Cereceda and Council Member Stockton dissenting.

IV. ADJOURNMENT

Mayor Cereceda adjourned the meeting at 6:30 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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