



MINUTES

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

Tuesday September 7, 2010 6:30 PM

I. CALL TO ORDER

Mayor Kiker called the meeting to order at 6:35p.m.. Present with Mayor Kiker, Vice Mayor Raymond, Council members Babcock, and Mandel along with Town Manager Stewart, Town Attorney Miller and Town Clerk Michelle Mayher. Council member List was absent due to a previous commitment.

II. INVOCATION

Invocation led by Reverend Jeanne Davis, Beach United Methodist Church

III. PLEDGE OF ALLEGIANCE

All stood for the Pledge of Allegiance

IV. APPROVAL OF FINAL AGENDA

Mayor Kiker reviewed changes to the agenda as follows:

- Public Comment
- Break in meeting to open and close as DRA meeting for budget
- Local achievements and recognitions
- Advisory committee's items and reports
- Approval of minutes
- Consent agenda
- Administrative agenda: Beach Renourishment
- Public Hearings: D. Ordinance 10-09, Parking; followed by A.B.C.

MOTION: Councilmember Babcock moved to approve the Changes; second by Councilmember Mandel.

VOTE: Motion passed 4 to 0, Councilmember List absent

V. PUBLIC COMMENT
Public Comment Opened
No Public Comment
Public Comment Closed

MOTION: Motion by Vice Mayor Raymond to close the meeting and open as DRA Hearing; second by Council member Mandel.

VOTE: Motion passed 4 to 0, Council member List absent

Mayor Kiker called to order the Downtown Redevelopment Agency Hearing at 6:40 p.m.

Public Comment Opened
No Public Comment
Public Comment Closed

Town Clerk Michelle Mayher read the Resolution title.

**RESOLUTION OF THE DOWNTOWN REDEVELOPMENT AGENCY
OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION
NUMBER 10-01-DRA**

**A RESOLUTION OF THE DOWNTOWN REDEVELOPMENT AGENCY
OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE
TENTATIVE DOWNTOWN REDEVELOPMENT AGENCY BUDGET
FOR FISCAL YEAR 2011, PROVIDING AN EFFECTIVE DATE.**

Town Manager Stewart indicated the resolution for continuing the DRA with a minimal budget would keep the agency alive allowing the Town to utilize it at a future date.

Public Comment
No Public Comment
Public Comment Closed

MOTION: Council member Babcock moved to approve Resolution 10-01-DRA and move it ahead to a final hearing on September 20th, 2010 at 6:30 p.m. with a second by Councilmember Mandel.

VOTE: Motion approved 4 to 0, Councilmember List absent

Mayor Kiker closed the DRA Meeting at 6:45 p.m.

MOTION: Vice Mayor Raymond made a motion to close the hearing with a second by Councilmember Mandel.

VOTE: Motion passed 4 to 0, Councilmember List absent

Mayor Kiker reopened the Council Meeting at 6:46 p.m.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

None noted

VII. ADVISORY COMMITTEE'S ITEMS AND REPORTS

None noted

Council member Babcock indicated MRTF asked to be included on the September 20th agenda referencing an email received by all Council members. MRTF wanted a dialogue on the types of projects they should be working on. Councilmember Babcock asked for Council's input. Mayor Kiker stated it had previously been agreed to that there would be joint work sessions with the committees.

Vice Mayor Raymond felt it might be best to wait until after October 1st when new committee members would be in place. Council member Mandel suggested Keith Laakkonen provide topics for MRTF to consider. Council member Babcock suggested a date between October 14th and November 1st. Vice Mayor Raymond felt Council should allow time for each committee to meet with Council.

VIII. APPROVAL OF MINUTES

- A. August 2, 2010
- B. August 2, 2010 Work Session
- C. August 16, 2010
- D. August 16, 2010 Work Session

MOTION: Vice Mayor Raymond moved for approval with a second by Councilmember Babcock

VOTE: Motion passed 4 to 0, Councilmember List absent

IX. CONSENT AGENDA

- A. Special Event Permit Application – Pirate Festival

MOTION: Council member Babcock moved for approval with a second by Vice Mayor Raymond.

VOTE: Motion passed 4 to 0, Councilmember List absent

X. ADMINISTRATIVE AGENDA

A. Discussion Regarding Beach Renourishment Construction Start Date

Discussion regarding the start date for beach renourishment per correspondence from Steve Boutelle of Lee County Natural Resources. RFP's had not gone out nor had permitting begun. Councilmember Babcock stated his disappointment with the delay as well as the project management, noting his desire for the project to get underway and completed as quickly as possible.

Public Comment Opened

- **Frank Schilling** voiced his concern over the delay in starting the project.
- **Carleton Ryffel** reviewed issues with the project he felt could shorten the time line and read correspondence he planned to send to the County regarding the renourishment project and provided Council with photos showing the lack of beach and water levels.
- **Peter Lisich** reaffirmed that the situation was reaching crisis level and had intensified since the dredging of the channel at a frightening speed, also indicating if something wasn't done there would be no future tourist seasons.
- **John Boucher** thanked Council for their work on the restoration agreement with the County. Mr. Boucher then addressed how quickly the beach was eroding and asked Council to fast track the project.
- **John Albion** requested Council to pressure the elected officials to get the project moved to the forefront, to have a Councilmember put on the County's agenda on an emergency basis and to enlist the help of the lobbyist.

Public Comment Closed

Councilmember List joined the meeting

Council continued their discussion on moving forward with the project and the need to encourage the County to move quickly due to the escalation of erosion to that area of the island.

Town Manager Stewart indicated there was a draft letter from Mayor Kiker in their packet that could be sent to Mr. Boutelle at the County and asked Council if they desired to have it forwarded to Mr. Boutelle. Mayor Kiker indicated he would like the letter to be sent to the County Commissioners or presented in person during a Seafarer's joint meeting as well as requesting a response in an appropriate time frame.

Town Manager Stewart also updated Council on the response from the easement letter.

Council decided they would request a response and a progress report from the County as well as providing information regarding the Council's discussion along with comments from the public.

XI. PUBLIC HEARINGS

A. Case Number FMBSEZ2010, Special Exception Skye's Restaurant

Mayor Kiker opened the hearing at 8:10 p.m.

All Council members indicated they had no ex parte communication. Mayor Kiker indicated he had eaten there and while there found out the issue had aged then asked the Town Manager to look at the status.

Witnesses were sworn in by the Town Attorney.

Town Manager Stewart indicated the LPA had submitted Resolution 2010-08 and noted it was a request for extension of premises so the restaurant in question could have a full liquor license to serve in the outside area of the restaurant, with Town Manager Stewart then reviewing the conditions of the area in question.

The applicant, Sylvia Steiger, owner of Skyes Mexican Restaurant addressed Council.

Council member Babcock indicated this would be the first time for a request for outdoor seating in Santini and asked if it fell under the same restrictions as Times Square. Town Manager Stewart stated it was not outside but within an enclosed breezeway which was contained within the building.

LPA representative Bill Van Duzer addressed the Council stating the LPA did not want to place any other restrictions on the restaurant that others did not have to comply with and did not want to rewrite the code without Council's approval. Mr. Van Duzer indicated there were 6 members present with one abstaining due to prior dealings with the applicant and another member voting against. All others voted in favor. Mr. Van Duzer went on to state that the LPA recommended Council approve the request for COP.

Councilmember Babcock noted his concern with the alcohol discrepancies on the island and felt the issue needed to be addressed.

Public Comment Opened
No Public Comment
Public Comment Closed

The applicant, Sylvia Steiger indicated she was not interested in running a bar only a restaurant where margaritas could be served with dinner.

Attorney Miller noted a typo in the resolution.

Mayor Kiker closed the testimony portion of the hearing, asking Council for any discussion.

MOTION: Council member Babcock made a motion to approve Resolution 10-24 with wording as follows: The Town Council **approves** the applicant's request; Changed or changing conditions **exist**; the requested special exception, as conditioned, **meets or exceeds** all performance; The requested special exception, as conditioned, **will** protect; The requested special exception, as conditioned, **will** be compatible with existing or planned uses and **will not** cause damage; The requested special exception, as conditioned, **will** be in compliance.... with a second by Councilmember Mandel.

VOTE: Town Clerk Michelle Mayher conducted a roll call vote.

Councilmember Babcock	Aye
Councilmember Mandel	Aye
Councilmember List	Aye
Mayor Kiker	Aye
Vice Mayor Raymond	Aye

Motion passed 5 to 0.

Mayor Kiker closed the hearing at 8:35 p.m.

Recess: 8:35 p.m. Reconvene: 8:50 p.m.

D. Ordinance 10-09, Amending Chapter 34 of the LDC, Parking Regulations – 1st of Two Public Hearings

Mayor Kiker opened the hearing at 8:55 p.m.

Town Clerk Michelle Mayher read the Ordinance title

**TOWN OF FORT MYERS BEACH ORDINANCE NO. 10-09
AN ORDINANCE AMENDING REGULATIONS IN CHAPTER
THIRTY-FOUR OF THE TOWN OF FORT MYERS BEACH LAND
DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING
AMENDMENTS TO DIVISION 26 (ENTITLED PARKING) OF
ARTICLE IV (ENTITLED SUPPLEMENTAL REGULATIONS) OF
CHAPTER 34 (ENTITLED ZONING DISTRICTS, DESIGN STANDARDS,
AND NONCONFORMITIES); PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Manager Stewart reviewed the ordinance noting it was directed toward

temporary parking facilities and the length of time to allow temporary parking lots. This is the 1st of 2 hearings.

Councilmember Babcock questioned the removal of previous options and whether it contained the decisions of the LPA with Attorney Miller indicating yes the document contained the LPA's final decision.

No LPA member present.

Public Comment Opened

No Public Comment

Public Comment Closed

MOTION: Council member List approved moving the ordinance to a 2nd hearing to September 20, 2010 at 6:30 PM. Second by Councilmember Babcock.

VOTE: Motion passed 5 to 0

Mayor Kiker closed the hearing at 9 p.m.

B. Resolution 10-22, First Public Hearing to Adopt Millage for FY 2011

Mayor Kiker opened the hearing at 9:01 p.m.

Town Clerk Michelle Mayher read the resolution title.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 10-22

A RESOLUTION ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE FOR THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA FOR FISCAL YEAR 2011; DETERMINING THAT THE PROPOSED OPERATING MILLAGE RATE IS 1.48% LESS THAN THE ROLLED-BACK RATE; ESTABLISHING THE DATE, TIME AND PLACE FOR A FINAL HEARING TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE FOR FISCAL YEAR 2011; PROVIDING AN EFFECTIVE DATE.

Town Manager Stewart indicated there would be another hearing on September 20th with a final vote on the millage and budget on that date. Mr. Stewart noted staff had been able to bring the rate down below the roll forward rate of .9281 to .9144.

No comment from LPA or other committees.

Public Comment Opened

- **William Simmons** addressed Council reviewing his TRIM notice and questioned his proposed tax bill.

Mayor Kiker advised the audience that the Town would be putting on a Tax Day so everyone could attend and comment on their tax rates and receive answers to their questions; however, indicated that Town Manager Stewart or Evelyn Wicks would assist Mr. Simmons in understanding his TRIM notice.

- **Mark Ludvigsen** voiced his concern with property values, taxes and Town Hall expenditures.

Public Comment Closed

MOTION: Councilmember Mandel made a motion to change the proposed Millage for 2011 from 1. mill to .9144 mills and reiterated that the second hearing would be September 20th, 2010 at 6:30 p.m. and approved Resolution 10-22 with a second by Council member Babcock.

VOTE: Motion passed 5 to 0

Mayor Kiker closed the hearing at 9:30 p.m.

C. Resolution 10-23, First Public Hearing to Adopt Budget for FY2011

Mayor Kiker opened the hearing at 9:30 p.m.

Town Clerk Michelle Mayher read the resolution title.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 10-23

A RESOLUTION ADOPTING THE TENTATIVE BUDGET FOR THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA FOR FISCAL YEAR 2011; PROVIDING AN EFFECTIVE DATE.

Town Manager Stewart reviewed the packet materials with Council noting the \$250,063.00 difference in the budget and the possibilities for making up the difference.

No LPA or committee member present for input.

Public Comment Opened

- **Lee Melsek** stated the Civic Association had made recommendations in the Tidelines publication regarding budget cuts and encouraged Council to read them.

Mr. Melsek thanked Council for the budget process of the Town and then noted the lack of a line item for the Children's After School Program at Bay Oaks.

Public Comment Closed

Councilmember Babcock questioned the Lee Tran contract and where it was in the budget with Finance Director Wicks indicating it was Gas Tax Funded, with \$235,000 budgeted on page 92.

Vice Mayor Raymond discussed his thoughts on making up the \$250,036.00 difference in the budget. Council member List felt Council and staff worked very hard on the budget process and continued by discussing the funds originally set aside for beach nourishment and what it could be used for now.

Councilmember Babcock commended staff for reducing the expenditures of the Town. Mayor Kiker also commented on the accessibility of staff and their willingness to answer questions.

Town Manager Stewart spoke to Council regarding the entire budget process, thanking them for their direction and acknowledging staff for their contribution and hard work.

MOTION: Council member List moved to approve Resolution 10-23 adopting the tentative Town operating and capital budget for FY2011, finding that it was consistent with the requirements of the Town Comprehensive Plan, and setting the final budget hearing for September 20, 2010 at 6:30 p.m. Second by Vice Mayor Raymond.

VOTE: Motion passed 5 to 0

Mayor Kiker closed the hearing at 10:05 p.m.

Recess: 10:05 p.m. Reconvene: 10:20 p.m.

XII. TOWN MANAGER'S ITEMS

B. FMB Chamber of Commerce Request to Use Council Chambers

Town Manager Stewart indicated there was a request for use of the Council Chambers. John Albion, President, Fort Myers Beach Chamber of Commerce stated Thursday October 14th would be the date for the Commotion by the Ocean requesting the use of the Chambers along with permission to have the meeting televised that night and then rebroadcast.

There was a consensus from Council to allow the use of the Chamber.

A discussion ensued as to whether there needed to be a vote for Town Manager Stewart to allow the use of Council Chambers with Council deciding the decision

could be made by the Town Manager.

A. FMB Library Landscape Revisions

Town Manager Stewart stated the Town Attorney had pointed out there was a restriction in the LDC which would disallow what the Library wanted to do.

Town Attorney Marilyn Miller indicated in Chapter 10 of the LDC, section 10-4-17D under Perimeter Buffering D5 Easements, variations of the requirement were prohibited.

Town Manager Stewart thanked Council for allowing him to attend the Florida League of Cities Conference with Vice Mayor Raymond.

Mr. Stewart advised Council that he would be bringing Council information soon regarding revenue diversity.

Mayor Kiker brought up the status of Town Manager Stewart and the needed discussion regarding his permanency with the Town. Mr. Stewart felt it was time for Council to evaluate him. It was decided Town Manager Stewart would complete a criteria information sheet and have it ready for Council by the September 20th meeting so Council could complete their evaluation sheets and respond publicly at the October 4th meeting.

The process of submitting the evaluation sheets was discussed and September 23rd was chosen for the date to supply Town Clerk Michelle Mayher with the evaluations.

XIII. TOWN ATTORNEY'S ITEMS

None

XIV. COUNCILMEMBER ITEMS AND REPORTS

Vice Mayor Raymond provided information to Council regarding his attendance at the Florida League of Cities Conference.

Council member Jo List discussed her attendance at the MPO Meeting, then recommended Councilmember Mandel to take over as representative to the Horizon Council. Council member Mandel agreed to take over the position.

Council member Mandel provided Council with a document covering monthly budget topics and asked to place it on the agenda as an action item, he also brought up pedestrian signs and asked for a discussion of policies relating to beach accesses which could be placed on agenda management.

Council agreed to place it on agenda management.

Council member Babcock addressed a letter Council had received regarding abandoned boats.

Mayor Kiker advised all of a Town Sponsored Event at Newton Park for the Uncommon Friends organization on September 8th. Mayor Kiker asked for a consideration for future TDC funds for bike racks at beach accesses.

Mayor Kiker then provided additional information on the Seafarer's Mall property going on to address the Town Tax Day to be held on September 21st. Discussion continued regarding the meetings presentations.

Council member Babcock felt it was not the best date and did not feel the meeting had been thought out enough.

XV. PUBLIC COMMENT

▪ **Paula Kiker** mentioned on September 18at at Santini Plaza there would be a fund raiser for Bay Oaks and the Haunted House.

Public Comment Closed

Attorney Miller was asked to put together a Sunshine Forum.

XVI. ADJOURNMENT

Meeting Adjourned at 11:20 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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