



# MINUTES

June 20, 2011

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

## **I. CALL TO ORDER**

Mayor Kiker called to order the June 20, 2011 meeting of the Town Council at 6:30 pm. Present along with Mayor Kiker: Vice Mayor Raymond, Council Members Kosinski, List and Mandel; Town Manager Stewart, Town Attorney Miller and Town Clerk Mayher.

**II. INVOCATION** – Reverend Jeanne Davis, Beach United Methodist Church

**III. PLEDGE OF ALLEGIANCE**

**IV. APPROVAL OF FINAL AGENDA**

With approval of the Town Council, Mayor Kiker brought forward a “walk-on” item.

Stan Nelson, with the Lee County Sheriff’s Office sought the Town’s approval of the distribution of \$226,581 of the FY 2011 Edward Byrne Memorial Justice Assistance Grant program funds for various projects throughout Lee County.

**V. PUBLIC COMMENT**

### **Open Public Comment**

- Sam Lurie – 150 Estrellita Drive, FMB spoke of an upcoming meeting of the FMB Library District, to be held on June 28, 2011 at 6:30 PM at the library. He offered the library’s web address, [www.beachlibrary.com](http://www.beachlibrary.com)

### **Closed Public Comment**

**VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Council Member Mandel mentioned island businesses which have pledged to pay for all the pedestrian / crosswalk safety signs, recognizing among the businesses – Al Durrett/ Santini Plaza, Pinchers at Holiday Inn, Red Coconut, Best Western, Pink Shell Resort

Council Member List recognized the efforts of the FMB Fireworks committee and fundraisers; BBQ competition at FishTale; Beach Pub VIP kids after school fundraiser

Council Member Kosinski spoke of the activity of the American Legion and VFW to bring down wounded soldiers from GA for a number of days in September

Mayor Kiker mentioned the dedication of Smith cottage on Thursday the 23 at 10:30 AM – a program by the Historic Preservation Board

## VII. ADVISORY COMMITTEES ITEMS AND REPORTS

None

## VIII. CONSENT AGENDA

- A. ICMA Retirement Corporation, 457 Defined Contribution
- B. ICMA Retirement Corporation, 401 Money Purchase Retirement
- C. Extension of FEMA Sub-grant Agreement, North Estero
- D. Appointment to the Community Resource Advisory Board

**MOTION:** Motion to approve by Council Member List, Second by Council Member Kosinski

**VOTE:** Motion passed 5-0

## IX. PUBLIC HEARING

*(60 minutes)*

- A. Final Public Hearing, 11-05, Residential Rental Registration Ordinance

Before opening the hearing, Mayor Kiker referenced a council work shop earlier and called on Vice Mayor Raymond.

Vice Mayor Raymond indicated that the draft ordinance did not come out the way it was intended, specifically the costs / prices are absolutely wrong. What the Council wants to do is to put this on hold for a date certain and do a work shop on it.

Mayor Kiker added that the Council collectively is a little hesitant at this time to act on the content of this draft ordinance.

Mayor Kiker opened the public hearing at 7:00 PM.

Town Clerk Mayher read the ordinance title:

### **ORDINANCE 11-05**

**AN ORDINANCE CREATING CHAPTER 10, ARTICLE VII, IN THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, TO BE ENTITLED "REGISTRATION OF RESIDENTIAL RENTAL PROPERTY;" PROVIDING FOR PURPOSE AND INTENT; APPLICABILITY; REGISTRATION OF RESIDENTIAL DWELLING UNITS REQUIRED; AGENCY; GENERAL PROVISIONS; REGISTRATION APPLICATIONS AND RENEWALS; POSTING AND NOTIFICATION REQUIREMENTS; TRANSFERABILITY; VIOLATIONS AND PENALTIES; SEVERABILITY AND AN EFFECTIVE DATE.**

### **Open Public Comment**

- Amy Loughrey – 5137 Estero Blvd. Ordinance needs 'tweaking'; would like to see some adjustments to the ordinance.
  
- Ann Alsop – employed with Century 21- happy to see this item discussed at a workshop

- Kathleen Cameron – an ordinance was passed in 2003; people continue to rent in violation of the ordinance and nothing is being done – no enforcement.
- Rena Obem – asked who is going to police homeowners who are renting? People doing a legitimate business would bear the cost.
- Tom Cameron – 100% short term rentals, specifically single family residential; it’s a business intrusion into a single family residential neighborhood.
- Rosanna Reilly – with Century 21 – loss of individual property rights
- Bill Gillespie – “In order to be fair”, have ordinance not enforced.

**Closed Public Comment**

Town Manager Stewart indicated that, should the Council decide to table the ordinance, then he would withdraw resolution 11-11, Residential Rental Registration Fees Resolution.

**MOTION:** Motion by Council Member Mandel to continue this hearing to October 3, 2011 at 9:00 AM

**VOTE:** Motion passed 5-0

B. Adoption of 11-11, Resolution Residential Rental Registration Fee Schedule

**WITHDRAWN**

**X. ADMINISTRATIVE AGENDA**

A. Resolution 11-08, Adoption of the Tentative Millage Rate FY 2012

Town Clerk Mayher read the resolution title:

**RESOLUTION NUMBER 11-08**

**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 2011/2012; AND PROVIDING AN EFFECTIVE DATE.**

**MOTION:** Council Member List moved to adopt resolution 11-08 setting the tentative operating ad valorem millage rate at 1.1 mils for tax year 2011/2012 for the Town of Fort Myers Beach, in compliance with the State of Florida TRIM requirements and set the first hearing to consider the final millage rate and adopt the budget for Fiscal year 2011/2012 for September 6<sup>th</sup>, 2011 at 6:30 pm. Council Member Kosinski seconded the motion.

**VOTE:** Motion passed 5-0

**B. ITB 11-01-CR, Lead Paint Abatement**

- 1) Allocation of Funding
- 2) Supplemental Task Authorization
- 3) Award of Bid

Town Manager Stewart indicated that the lead paint abatement had been pulled out and bid separately from the overall house restoration. Staff recommends the lower bid. Council will need to determine where the dollars come from; For the supplemental task authorization – the company doing the monitoring would need to be authorized; Should the council decide to allocate funding, they would then need to award the bid. If the council decides not to allocate funding then items numbered 2 & 3 are irrelevant.

**Open Public Comment**

- Ceel Spuhler – excited to get in the house and to get the lead paint removed. This is a very unusual situation, as these are hand-made bricks.

**Closed Public Comment**

**MOTION:** Council Member List moved to authorize allocation of \$116,000 from the beach renourishment reserve fund for Mound House lead paint abatement which includes the approval of supplemental task authorization with Greenfield Environmental, Inc. (GE) for air monitoring and reporting services not-to-exceed \$21,200; Approve award of contract for ITB-11-01-CR *Mound House Lead Paint Abatement* to American Management Resources Corporation (AMRC) in the amount of \$91,800. Vice Mayor Raymond seconded the motion.

**VOTE:** Motion passed 5-0.

**C. Beach Vegetation Survey Project Cost**

Town Manager Stewart indicated this item had been before Council at the June 6, 2011 meeting at which staff requested to set aside NTE \$30,000 for the beach vegetation project. Council questioned whether the cost for vegetation could be deducted from \$110,000 cap in the interlocal. Town Attorney Miller reviewed the agreement and opined that the project cost is to be included, however the County staff argues that the costs should not be included in the cost.

**Open Public Comment**

**None**

**Closed Public Comment**

**MOTION:** Council Member Mandel moved to transfer \$25,000 from Beach Renourishment

Fund to an expenditure account to accomplish the project and that the amount would come out of the \$110,000 identified in the interlocal agreement. Council Member List seconded the motion.

**VOTE:** Motion passed 5-0.

D. Release of Lien Process

Town Manager Stewart spoke of a need for a process for the release of liens. Whenever these items come before the Council, there should be a specific methodology which staff will undertake in examining the liens before bringing them to Council. The Town Council is the only body that can make final decisions on mitigation of liens. Manager Stewart sought acknowledgement from the Council to work with the Town Attorney to develop a lien process that would include an Amnesty Program. The goal is to get compliance on code violations and release liens. Council unanimously agreed to direct staff to work on developing a lien process.

E. Release of Lien, Code Enforcement Case No. CE 10-0291

This is a recommendation for mitigation of a lien amount recorded by code enforcement for the Town of Fort Myers Beach for a property located at 390 Jefferson Court, Fort Myers Beach. They are not selling this property at this time, the violation is corrected; the property is in correct order. The property is owned by the bank and was in the bank's possession at the time the violation occurred. The subject property is located at 3405 SE 11<sup>th</sup> Avenue, Cape Coral, FL. Since code enforcement liens are valid against any and all property owned by the violator, the bank needs to obtain either a full or partial release of the Town's lien in order to provide the purchase of the Cape Coral property with clear title. Town Manager Stewart recommends Council approve a Release of Lien upon payment to the Town in an amount not less than \$4,700.

**Open Public Comment**

- Gloria Tate – local Cape Coral realtor representing Bank of America. The vesting company is Government National Mortgage Association and they do have signing authority for that company. This is a property worth about \$19,000., have a offer that is much higher and have been trying to close for 45 days. Ms. Tate is seeking authority from the Council to negotiate this lien.

**Closed Public Comment**

**MOTION:** Council Member Kosinski moved to grant a partial release of lien of property located at 3405 SE 11<sup>th</sup> Avenue in Cape Coral upon payment of \$4,700.to the Town of Fort Myers Beach. Second by Vice Mayor Raymond.

**VOTE:** Motion passed 5-0

F. Release of Lien, Code Enforcement Case No. CE 10-0277

This is a code enforcement lien on 130 Eucalyptus Court, Fort Myers Beach. The property was sold on November 30 2010; prior to issuance of the final title insurance policy for the new owner, an updated lien search disclosed the town's code enforcement lien. The seller's attorney has requested a reduction in the fine

and a release of lien. The property is in compliance and the fine totals \$5,350.00. Town Manager Stewart recommends a release of lien upon payment to the Town in an amount not less than \$2,100.

### **Open Public Comment**

- Jay Bowerman, Naples, Florida – former owner/ seller is asking for amnesty
- Roy Hinkleman – Laguna Shores Home Owners Association president – expressed a need to put a process in place to make this easier

### **Closed Public Comment**

Code Enforcement Officer, Shane Hidle identified the process of receiving a complaint or observing a violation, contacted the listing realtor, attempted to contact the owner, revisited several times and talked with neighbors. The order was given by the magistrate on October 29, visited the property approximately three different times, and the property was in compliance on May 31.

**MOTION:** Council Member Kosinski moved to approve Release of Lien relating to Code Enforcement Case No CE 10-0277 for property located at 30 Eucalyptus Court, Fort Myers Beach, to provide amnesty and require payment of just the hard cost. Seconded by Vice Mayor Raymond.

**VOTE:** Motion passed 4-1, with Mayor Kiker dissenting

### **XI. PUBLIC COMMENT**

**None**

### **XII. TOWN MANAGER'S ITEMS**

Town Manager Stewart sought direction from the Council regarding the FMB Library and the required facilities report and how to proceed if they fail to provide the amended report that meets the criteria of Chapter 189. Town Manager Stewart sought permission from Council to prepare a letter to the County and to the Department of Community Affairs about the Library's failure to file the required report. Council gave consensus to the Town Manager to proceed.

### **XIII. TOWN ATTORNEY'S ITEMS**

**None**

### **XIV. COUNCILMEMBERS ITEMS AND REPORTS**

Council Member Kosinski mentioned his involvement with local veterans organizations, and described a program on August 14, 2011 at 7 PM, a coast to coast recognition of all the men and women that fought in WW II, to play TAPS from coast to coast; Mr Kosinski asked if Council wanted to get involved by providing vans to transport veterans from American Legion to pier and back. There will be a color guard that will march onto the pier, 21 gun salute, a wreath will be placed in the water and Taps will sound at 7:00 PM Another thought is to have a military fly-over.

Council Member List mentioned working with the Beach Elementary students and Principal Wood to hold an election this fall; creating a career mentoring program with the community and the youth.

**XV. AGENDA MANAGEMENT**

Based on the work flow, Town Manager Stewart will set the agenda items for the August 1, 2011 work session.

**XVI. RECAP OF ACTION ITEMS**

- Appointment to CRAB
- Postponed Ord 11-05 to October 3, 2011; work shop session with the community
- Tentative Millage rate approved
- Approved lead paint abatement
- Approved beach vegetation allocation of funds
- Partial Release of lien \$4700.
- Release of lien \$280
- Process for handling of lien mitigation and amnesty program

**XVII. ADJOURNMENT**

Council adjourned at 9:04 PM

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

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

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Michelle D. Mayher, Town Clerk

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