



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

## **MINUTES**

### **WORK SESSION**

**Monday, October 17, 2011**

#### **I. CALL TO ORDER**

Mayor Kiker called to order the October 17, 2011 Meeting of the Town Council at 9:02a.m. Present along with Mayor Kiker: Vice Mayor Raymond, Council Members Kosinski, List, and Mandel; Also Present: Town Manager Stewart, Town Attorney Humphrey, Public Works Director Lewis, Finance Director Wicks, Community Development Director Fluegel, and Town Clerk Mayher

#### **II. PLEDGE OF ALLEGIANCE**

#### **III. REPORT FROM THE VISITOR AND CONVENTION BUREAU REGARDING FORT MYERS BEACH FUNDING**

Town Manager Stewart reported representatives from the TDC and VCB were in attendance to present Council with an update on their efforts in Lee County and how it related to the Town of Fort Myers Beach.

Tamara Pigott, Executive Director of the Lee County Visitor and Convention Bureau, started her presentation discussing the value of tourism and what it meant to Lee County. Next, she reviewed the structure of the Lee County Visitor and Convention Bureau (i.e. why they exist, how they exist, etc.). She reported 4.8 million visitors came to Lee County in 2010 and reviewed other related statistics concerning visitor dollar spending; bed tax information and trend analysis; and jobs in the county due to tourism; tourism tax collection data. She explained the Visitor and Convention Bureau was an agency of Lee County; was the lead marketing and promotional agency for Lee County Tourism; was funded by the 5% tourist development tax on short-term accommodations (aka – bed tax); and who brands the area as “The Beaches of Fort Myers and Sanibel”. She reviewed the “bed tax” which funded three functions with the advertising/promotion portion representing the operational budget of the Lee County VCB advertising/promotion, beach and shoreline, and stadium debt.

Discussion was held regarding Lee County ordinances and the State's Chapter 125 regarding allocation of tourist development tax; tourism development tax allocation as noted on the pie chart in the PowerPoint presentation, and the potential changes to the allocations if other projects come to fruition (i.e. swim center); the baseball/sports complexes; and the stability of the allocation or pledge for 26.4% to the beach and shoreline as noted on the pie chart.

Tamara Pigott continued her PowerPoint presentation with a review of her reporting mechanism through the County Manager, the Visitor and Convention Bureau, the Board of County Commissioners, and Tourist Development Council; described the composition of the TDC; and examined the VCB Mission Statement and the structure and responsibilities of the five departments within the VCB. She displayed an example of how they help to promote Fort Myers Beach as a destination (i.e. sand sculpting event, sales and marketing plan for 2012, press releases, website, etc.). She noted the Lee County Sports Authority was not under the Visitor and Convention Bureau; however, it was funded from the "bed tax". She discussed the VCB's Arts and Attractions Program, Beach & Shoreline Program, and their funding. Ms. Pigott touched on recent headlines regarding the use of funds for water quality consultants with respect to water quality issues. She reviewed a 10-year history of funding of programs that specifically benefitted the Town:

- Operation Beach Maintenance
- Fort Myers Beach Fishing Pier
- Estero Island Beach Re-nourishment
- Mound House Park Development
- Newton Beach Park
- ADA Portable Restrooms
- ADA Reconstruction of Accesses
- Beach Utility Vehicle
- Crescent Beach Family Park

She continued to review benefits to the Town of Fort Myers Beach within the Beach & Shoreline Program.

Discussion ensued regarding the funding figures used in the presentation; what the numbers represent and the costs to offset by the Town; the pie chart displayed regarding funding allocation; and whether the Mound House and Bay Oaks (kayak launch and water slide) advertising would come under the Arts and Attractions Program.

Ms. Pigott explained why she did not believe Bay Oaks would be funded because it would not qualify for shoreline protection and enhancement. She stated the Mound House would be considered a cultural site as was the Edison Home. She continued her presentation discussing the TDC event funding of Fort Myers Beach events (i.e. Ft. Myers Offshore Grand Prix, Sand Sculpting Championship, Pirate Festival, and Ft. Myers Beach Film Festival).

Town Manager Stewart acknowledged the benefits received by the Town as a result of the work by the TDC; however, he discussed a disconcerting experience Town staff encountered with responses from the County Attorney's Office (who represented the TDC). He described his belief of what appeared to be flaws in the TDC application process for a Town facility on the beach, which staff felt should be considered 'waterfront' and also be considered for funding. He reviewed the actions by the County

Town Council work session

October 17, 2011

Page 2 of 9

Attorney who opined the subject site was 'waterfront' and what occurred when the staff appeared before the TDC Board on the matter.

Discussion ensued regarding the application process as noted by the Town Manager.

Mayor Kiker requested consensus of Council and Ms. Pigott to allow the Council a few months to develop questions and concerns which could be forwarded to Ms. Pigott prior to another presentation to the Council.

Town Attorney Humphrey concurred with the consensus and discussed how he felt the water consultant issue might be timely in that it could allow the TDC an opportunity for a re-examination of their policy and structure (i.e. legislative findings); and how the Town Council might make recommendations to the TDC regarding the trust plan as it related to the change of allocated funding of 33% to the Beach and Shoreline Program to 26.4% and giving 6.6% to the stadium).

Ms. Pigott explained that if the Town Council would like to see changes to the structure of the TDC organization or the enabling ordinance or statute then it would be more appropriate to have that conversation with the BOCC.

Discussion was held concerning the process and structure used by the TDC; and why the TDC does not release information regarding the total amount of dollars and percentage that comes out of a particular area toward the 'bed tax' due to proprietary information which was exempt per State Statute, and Ms. Pigott reported she was having conversations with the Clerk of Court to determine a possible way to release this information.

Recess at 10:46 a.m. – Reconvened at 11:05 a.m.

#### **IV. UPDATE ON LEE COUNTY V. CHARLES GREEN, CASE NO. 11-CA-002896 (DECLARATORY JUDGMENT ACTION CONCERNING LEE COUNTY'S USE OF TDC FUNDS FOR ATTORNEY/LOBBYIST SERVICES)**

Town Attorney Humphrey reported the County Clerk of Courts had asked if the Town would join in on the declaratory judgment action; and explained the issue with the request had to do with 'standings' since the Town Council did not pay any of the tax, rather it was paid by hoteliers within the Town. He discussed his opinion that TDC funds should not be used for the attorney/lobbyist services and the importance of the matter from a legal perspective.

Mayor Kiker noted the Town Council had a meeting scheduled with the Board of County Commissioners in January and they should consider the topic of the re-evaluation of the TDC structure/process on the list of matters to discuss with the BOCC as policy-makers.

#### **V. PUBLIC RELATIONS FOR REFERENDUM**

Town Manager Stewart reported this referred to what the Town would do to support the January 31, 2012 referendum ballot concerning the acquisition of a Town Hall. He noted the Council may want to consider

Town Council work session

October 17, 2011

Page 3 of 9

doing nothing, which he did not recommend, to full blown public relations campaign. He pointed out that State Statute did not permit a local government to promote how a person should vote for or against a referendum; however, the Town was permitted to present factual information on the referendum and cited examples. He asked for Council's recommendation on how to handle the matter, and recommended the Town inform the public through literature, public meetings, and perhaps also a public workshop with the Council where that topic would be the sole subject.

Mayor Kiker suggested establishing timelines for public meetings.

Town Manager Stewart suggested having at least one public meeting per month over the next few months until the election.

Mayor Kiker suggested a 'Q&A' on the website.

Town Manager Stewart confirmed the Town filed the appropriate paperwork with the Supervisor of Elections and the referendum would be on the January 31, 2012 ballot.

Council Member Kosinski noted the importance of informing the public of the aspect that even though the ballot was on a Republic primary election, that Democrats and non-affiliated were able to vote on that topic.

Town Manger Stewart stated he would create a recommendation for Council to consider a 'calendar of activities' within the next ten days.

Discussion ensued regarding ways of informing the public and the importance of using accurate facts.

## **VI. PEDESTRIAN SIGNS**

Town Manager Stewart noted the pedestrian signs were presently down due to the paving work starting next week by the County who has committed to have the work completed by the end of October. He noted the Town had pledges from various people for the signs and the Town should move forward quickly on this matter so people do not forget about their pledge.

Mayor Kiker explained his impression that the signage was a test and questioned the results of the test.

Town Manager Stewart reported that the County would be the ones who would decide on whether or not they approved installing the signs at other locations.

Mayor Kiker suggested the Town Manager may want a recommendation from the Town Council as to whether or not they would prefer the signs at other location prior to a decision by the County.

Town Manager Stewart concurred with the Mayor's suggestion.

Discussion was held regarding comments received by the Council from the public on the pedestrian signage; and what seemed to be the public's preference to using only one sign at each crosswalk.

Town Council work session

October 17, 2011

Page 4 of 9

Mayor Kiker suggested scheduling a review of public input received by the Council, and questioned if there should be a public meeting to give an opportunity for the residents to speak on the matter further.

Discussion ensued regarding the pedestrian signage project, public input, and a submitting a recommendation to County Commissioners.

Council Member Mandel noted his belief that there was a test, comments received from the public, and noted at one intersection that had a history of severe accidents or even death that when the signs were up there were no such occurrences. He explained how the Town had taken three years to get to this point today, and if it was believed there was a need to study the topic some more, then so be it, but the signs needed to be installed before season.

Mayor Kiker asked if staff had any contact or conversation with the Sheriff's Office regarding the signage.

Public Works Director Lewis reported she had not had an 'official' discussion with the Sheriff's Office; however, when staff was reviewing the various placements of pedestrian signs during the pilot project they had conversations with both the Sheriff's Office and the Fire Department as to accessibility and maneuverability around them, and both agencies were supportive of the Town regarding the project.

Mayor Kiker recounted his discussion with representatives of the Sheriff's Office who agreed this was a good project; however, he noted no one really knew that and where was that documented.

Discussion ensued regarding pedestrian signage; Council Member Kosinski suggested Council Member Mandel and Public Works Director Lewis list their recommendations and present their findings to Council; conversation on which Council meeting to make presentation; and dialogue on whether or not to install the signs first as a safety precaution, and then schedule the matter for a meeting to arrive a final decision on the current signs and possible additional locations.

Public Works Director Lewis reported the pilot study was conducted by the Town and was also responsible for the cost. She noted the County was receptive to the having additional signs placed on the Boulevard at the Town's cost, as well as the cost of maintenance.

Council Member Kosinski suggested placing the item on the November 7<sup>th</sup> agenda, take formal action to re-install the signs since the paving would be completed, and in the meantime the Council would obtain information on the number of signs and possible additional locations.

Public Works Director Lewis noted her 'background comments' on the agenda packet Green Sheet #2011-042 outlining the receptiveness of the project and the assistance by the County with the placement locations of the signs.

Vice Mayor Raymond reported that all of the phone calls and emails he had received on the matter to date all recommended one sign per intersection.

Discussion ensued regarding the location of signs.

Town Council work session

October 17, 2011

Page 5 of 9

Town Manager Stewart explained staff would seek the assistance of the County's engineering staff for their recommendations for location of the signs, bring back that information to the Council, and then discuss the funding. He added that Council Member Mandel had identified a number of people willing to provide some funding, and he believed the next steps should be to contact those people to inform them of the next step in the project.

Public Works Director Lewis proposed to bring information back to Council at the November 15<sup>th</sup> meeting; and she would obtain input from the County as to sign location.

Town Clerk Mayher clarified the second Council meeting in November was on the 21<sup>st</sup> of the month.

Mayor Kiker clarified the topic would be presented at the Regular Meeting since the Work Session on November 21<sup>st</sup> would be actually a Town Hall Meeting.

## **VII. DONATION GIFT BOOK**

Finance Director Wicks noted the Council had a draft copy of the Town's new Guide to Giving. She explained it was staff's intention to place the Guide to Giving on the Town's website, and to print a brochure detailing the program which would be placed at various locations around the island (i.e. condominium associations).

Town Manager Stewart requested Council review the guide and at some point in the future, possibly the next meeting, adopt it as a policy. He noted Council's input on the guide was encouraged and welcomed by staff.

Discussion was held concerning which Council meeting to place the Guide to Giving; Finance Director Wicks explained why she would prefer to have the Guide adopted as policy and on the website in 'season'.

Consensus of the Council was to place the item on the next agenda.

## **VIII. QUARTERLY OPERATION REPORTS**

Town Manager Stewart introduced the Agenda Item VIII, and noted that within the Community Development Department Report there was information regarding other matters to come before the Council as well.

### **A. Community Development Department**

#### **1) Interlocal Agreement with Lee County for Plan Review and Permitting Services**

Community Development Director Fluegel using a PowerPoint Presentation discussed the following department topics along with the Town Council and City Manager:

- Department's organizational chart

- Personnel accomplishments and major accomplishments of the department (COP in EC Report issued; Building Services Contract with Lee County renegotiated saving Town \$266,904 per year; sign ordinance implementation program)
- Implementation of a customer satisfaction survey and establishment of benchmarks for performance and customer service survey results for FY 2011
- Overall operational environment of the department
- Building permit applications, building activity summary (permits applied for by type and permits approved by type), and building revenue summary
- Update on the status of the Evaluation and Appraisal Report (EAR)
- Carleton Ryffel Memorial Concepts
- Zoning activity summary, FY2011 zoning activity by type of application, zoning activity and zoning issues
- Environmental activity – coastal management and other environmental activity
- Code Enforcement - sign ordinance implementation and issues, historic lien status, code cases by type, and code enforcement in progress
- Consumption on Premises (COP) – COP in EC Zoning District Inventory Maps 1 and 2, and COP in EC Summary

Mayor Kiker requested during the presentation the need to dredge the south end of the Island which was duly noted by Community Development Director Fluegel and acknowledged by the Town Manager as a priority.

## **2) Status of Sign Ordinance**

Presentation and discussion was held during Agenda Item VIII (A)(1).

Community Development Director Fluegel was recognized by the Council and Town Manager for a job well done.

### **B. Town Clerk Department**

Town Clerk Mayher noted the department consisted of herself and two others, Contracts Manager Boers and Reception/Administrative Assistant Sebastian. She thanked the Council for their recent action which officially created the Town Clerk Department. She listed the responsibilities of the Town Clerk Department which included the business of the Town Council, a central information point, contracts management, municipal elections, and records management. She continued her presentation with a more detailed description and data associated with each responsibility which included but was not limited to:

- Council and advisory board meetings, agendas, notices, resolutions, minutes, and ordinances
- Front desk reception, notary services, information main point of contact, website management
- Contracts management – invitations to bid, requests for proposals, requests for qualifications, and miscellaneous agreements
- Municipal elections
- Records management – codification, records requests, and file management

Kudos extended to Town Clerk Mayher for a job well done by the Mayor and Council, Town Manager, and Town Attorney Humphrey.

Mayor Kiker mentioned that the Town was included in the County's 5-year CIP for Estero Boulevard and questioned an interlocal agreement with the County to the effect that the Town was included in the 5-Year CIP.

Town Attorney Humphrey reported that he had recommended that the Council favorably consider an interlocal agreement in order to have something in writing so that when future Commissioners are elected there was an identifiable document.

Mayor Kiker asked the Town Attorney for direction on the interlocal agreement.

Town Attorney Humphrey said his office would first prepare a draft to present to the Town Manager for him to disseminate to Council what the County intends to do, as well as what the Town intended to do.

Mayor Kiker explained that it was his understanding the Town Manager would meet with County staff to determine an action plan on implementation.

Town Manager Stewart acknowledged that he was still working on that matter.

Mayor Kiker requested Town Attorney Humphrey to mention to Town Attorney Miller to address this item at tonight's regular meeting so the Council may set direction.

Vice Mayor Raymond mentioned a 3-page email he received last night from a resident regarding the Town beach, and trailers with advertising parked on the sand.

Town Manager Stewart explained it was his understanding that the author of the email was referring to vendors that Council had identified as appropriate (i.e. beachside vendors, parasails, jet skis, etc.) and it was their booths the vendors used. He stated there were no trailers parked on the beach. He addressed the inaccurate comment by the email author concerning the public beach, as well as the email author's comments regarding a meeting with Town staff.

Mayor Kiker asked if had appeared to Council that lately some public comment within the framework of the Council meeting had been more personal in nature, in some cases inappropriate, at times had raised voices, and if so, was it their concern that the Mayor should stop that type of behavior.

Discussion ensued and consensus was that personal attacks should be stopped, and if there was inappropriate behavior then the Mayor should end it.

Town Attorney Humphrey recounted his experience with unsuitable conduct as it related to his tenure as Mayor of Fort Myers, and reported that Council had adopted a policy authorizing the Mayor to call any member of the public out of order, and removed if they demonstrated inappropriate behavior.

Vice Mayor Raymond discussed his basis for bringing up the email as it related to Council and staff time for continual claims and demands.

Discussion was held concerning inappropriate behavior at Council meetings.

Council Member List noted receipt of a response from the Library regarding the Town's request for a joint meeting.

Town Attorney Humphrey stated the Town performed what was statutorily required of them as it pertained to Chapter 189 and the Library.

Discussion ensued regarding the County's role as it related to Chapter 189 and oversight.

Council Member Mandel questioned if someone stated or wrote something about one of the Council, could it be addressed on the dais.

Town Attorney Humphrey responded in the affirmative. He explained if it was a personal issue that would be out-of-bounds; however, if it was related to the Town and their capacity as a member of Council it could be addressed.

Discussion continued on how to address inaccurate or inappropriate comments by the public.

**IX. ADJOURNMENT**

Meeting adjourned at 12:50 p.m.

Adopted 11-7-11 With ~~Without~~ changes. Motion by List / Kosinski

Vote: 5-0

  
Michelle D. Mayher, Town Clerk

- End of document.