MINUTES

Monday, March 5, 2012

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 March 5, 2012 Meeting of the Town Council 9:02 a.m. Present along with Mayor Kiker: Vice Mayor Raymond, Council Members Kosinski, List, and Mandel; Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, and Town Clerk Mayher.

II. INVOCATION – Rev. Maynard Pittendreigh, Chapel by the Sea Presbyterian Church

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Mayor Kiker requested Agenda Item 12B, Sand Bash Special Event Permit, be moved to before the Public Hearing.

Council Member Mandel questioned if *Seafarer's* should be a made into a continual agenda item.

Town Manager Stewart explained his understanding that *Seafarer's* would be handled during Council Reports.

Consensus approved the requested change to the order of the Agenda.

V. PUBLIC COMMENT

Mayor Kiker noted Public Comment time was scheduled for discussion of items that were not on the agenda.

Open Public Comment.

No speakers.

Public Comment closed.

VI. PROCLAMATIONS

A. Public Works Week

Town Clerk Mayher read the Town of Fort Myers Beach Proclamation of naming the week of May 20 through May 26, 2012 as *National Public Works Week.*

Mayor Kiker, Council Members, and Town Manager Stewart presented Public Works Director Lewis and her staff with the Proclamation.

Public Works Director Lewis accepted and expressed appreciation on behalf of her staff and herself for the Proclamation.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Town Manager Stewart explained how the Town approached Captain Matt Powell, LCSO – West District, to determine if the Town could get traffic control an hour earlier in the morning during the high part of 'season'; and Captain Powell's desire to have the deputies on an hour earlier in the evening. He noted the cost would be approximately $800-900 for the period in question.

Captain Powell discussed how they started the program last week with the use of volunteers; how the additional hours should be performed by the deputies; and the increasing amount of traffic.

Consensus was to approve the additional expenditure as requested by the Town Manager.

Discussion ensued regarding increased 'seasonal' vehicle traffic from San Carlos; and at Times Square and how increased pedestrian traffic influenced the vehicular traffic flow.

Captain Powell announced their was going to be a volunteer appreciation breakfast on March 28th at the Lani Kai and he would forward the information to the Town Manager who would notify the Council.

Mayor Kiker noted to the City Manager there were budgeted funds for VOICE volunteers.

Council Member List mentioned that the Beach Elementary School had successfully staged their production of Peter Pan. She added that local playwriter, Laurie Neinhaus, and Beach Playhouse Productions had staged a series of plays this past week.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

IX. APPROVAL OF MINUTES

A. February 6, 2012 Town Council Meeting
B. February 6, 2012 Town Council Work Session

MOTION: Motion by Council Member Kosinski to approve all the minutes as presented; second by Council Member List.

VOTE: Motion approved, 5-0.

X. CONSENT AGENDA

A. Acceptance of the final group of SAC Recommendations and Authorization to Negotiate – RFQ 11-02-PW, On-going Miscellaneous Engineering Services

MOTION: Motion by Council Member List to approve the Selection Advisory Committee's recommendation in response to Request for Qualifications (RFQ) 11-03-PW *Ongoing Miscellaneous Professional Services for Environmental Assessments and Marine Engineering* and authorize staff to enter into negotiations with Coastal Engineering Consultants, Hans Wilson & Associates, H.S.A. Engineers & Scientists, Johnson Engineering, Tetra Tech, Inc., and Turrell, Hall & Associates; second by Council Member Kosinski.

VOTE: Motion approved, 5-0.

Previously approved to change order of XII. ADMINISTRATIVE AGENDA:

B. Sand Bash Special Event Permit

Town Manager Stewart noted Council must approve all special event permit applications for events that extend beyond three days and included the consumption of alcohol in conjunction with the extended event period. He noted the applicant was presently in the process of obtaining the required permits, approvals, and authorizations. He mentioned that if approved by Council, the final approval would be contingent upon the other required permits and approvals (i.e. approval from DEP).

William Knight, representing The Sand Lovers, LLC, explained the change this year from a sand sculpting contest to an exhibition in conjunction with a wine tasting festival. He noted the dates were changed so the event would not compete with Spring Break but that the dates did back up to the turtle nesting season. He added that they reduced the footprint of the event site. He discussed their progress in obtaining the necessary permits from DEP which now required a Coastline Construction Permit. He pointed out that his business had donated approximately $90,000 over the years to Mote Marine for their sea turtle program; and that the event would close a 6:00 p.m., and how they were working in conjunction with the Film Festival.

Council Member Kosinski inquired if the alcohol was limited to the wine tasting.

Mr. Knight responded in the negative. He explained they would serve beer and a vendor would be setting up a bar; and how alcohol would be served in a confined area.

Council Member List asked if there would be a perimeter fence as in the past.

Mr. Knight explained where there would be a small perimeter fence.

Mayor Kiker asked the field permit requirement by DEP was new this year.

Town Manager Stewart responded in the affirmative, and noted it was not due to anything the Town had done.

Discussion ensued regarding the possible source for the DEP's new field permit requirement due to an event held during the past year.

Mr. Knight discussed how he was staying on top of the matter and working with Tallahassee.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Motion by Council Member Kosinski to approve the Sand Bash 2012 Special Event scheduled for April 20-29, 2012, conditioned on receipt of all required permits, approvals and authorizations, including approval of the extension of premises and confirmation that the Town will be included as a sponsor; second by Council Member List.

VOTE: Motion approved, 5-0.

XI. PUBLIC HEARING

A. Ordinance 12-01, Amendment to Ordinance 09-06, Establishing BORCAB

Mayor Kiker opened the Public Hearing at 9:29 a.m.

Town Clerk Mayher read the title of the Ordinance:
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV, DIVISION 3 IN THE CODE OF ORDINANCES, "BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD", AMENDING SECTION 2-145(a), "COMPOSITION; APPOINTMENT PROCEDURE; TERM OF OFFICE; "BY AMENDING THE QUORUM REQUIREMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Town Manager Stewart explained the Ordinance was to change the quorum requirement for a meeting the same as other Town committees/boards which was a simple majority.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Motion by Council Member List to adopt Ordinance 12-01, amendment to BORCAB; second by Vice Mayor Raymond.

VOTE: Motion approved, 5-0.

Mayor Kiker stated the time was 9:32 a.m. and the Public Hearing was closed.

Mayor Kiker noted he skipped "ADVISORY COMMITTEES ITEMS AND REPORTS".

James Rodwell, Audit Committee, reported the Committee had finished the RFP and was forwarded to staff. He noted there were six firms interested in the RFP. He stated the Committee would review the RFPs when received, rank them, and their goal was to bring forward to Council a list of at least three qualified firms.

Mayor Kiker inquired if the Committee was at capacity for membership.

Town Manager Stewart responded in the negative; and added staff had recently received one application; questioned if Council wanted the item on the next agenda; and explained the Town had fulfilled advertising requirements.

Discussion ensued regarding the announcement of the Audit Committee vacancy; Council Member Mandel would bring up the vacancy at the next Fire District Meeting; and it was consensus that the Town Clerk would advertise one more time in the newspaper.

Discussion was held regarding the deadline to compile information for the next Council meeting; and Council Member Mandel noted he would know if there was anyone else interested in serving on the Audit Committee by Wednesday.

Council Member List reported that she had been working to determine if the County would let Town school children place artwork on the fence surrounding the *Seafarer's* property, and recognized Parks and Recreation Director Evans.

Parks and Recreation Director Evans stated staff was contacted by Mr. Damon Grant, and it would be a joint project with the County, and that the County had offered to pay for the materials related to the project.

Council Member List reported the Fort Myers Beach Art Association would be happy to work with the Town and County on the project with the children.

Director Evans noted she was also going to meet with the Island Arts membership to invite them to participate in the project as well.

Council Member Mandel stated there was a meeting with the Baptist Church regarding the use of their parking area on Connecticut Street.

Town Manager Stewart reported staff had met with the Church representatives to discuss the possible use of the Church's parking lot in connection with visitor parking for the Mound House. He stated the Church requested the Town submit a proposal to them; and added that staff was working on the proposal.

Vice Mayor Raymond requested that a date be set to discuss and vote on 216 Connecticut Street and the observation/fishing deck. He noted his preference was to discuss the matters at the next Council meeting.

Mayor Kiker concurred with Vice Mayor Raymond. He also noted there was the completion of the building to discuss, the funding request to Tallahassee, and the appraisal on the adjacent property to the Mound House.

Discussion ensued regarding the meeting with the Baptist Church; potential parking needed for the Mound House once completed; how to transport visitors from off-site parking; completion of the Mound House building; 216 Connecticut Street; and the observation pier.

Town Manager Stewart recounted how approximately a year ago the Town did ask the Tourist Development Council about the opportunity to transfer funds from a project to the finishing of the restoration, and they were told it could not be accomplished. In the interim, the TDC had approved the transfer of funds for Sanibel from one project to another; therefore, it opened the door to ask the TDC the question again.

Public Works Director Lewis stated the design plans for the interior renovation, including technical specs, were at 95% completion, and she would work diligently this month to get them finalized. She reported she would be working to get the specs out by the end of this month or early April with construction performed during the summer months.

Council Member Kosinski recommended a list of all outstanding issues, items unresolved, and the direction the Council wanted to take, and to set a work schedule.

Town Manager Stewart stated staff had compiled that data previously; he would forward an updated copy to Council; and added that he agreed with Vice Mayor Raymond's comments regarding the dock. He noted the issues regarding the dock were 1) build as planned, 2) not to build it and inform the TDC, or 3) determine if the TDC would change their concerns regarding the dock usage as a 'fishing pier'.

Mayor Kiker discussed his belief that the number one priority was to determine the amount of parking needed at the Mound House.

Discussion ensued regarding how to determine potential parking requirements for the Mound House.

Town Manager Stewart reviewed previous information disseminated to Council and ensuing discussions regarding the Mound House and parking. He noted the prior parking estimates were determined by a committee and were actually visitor numbers they believed would be needed to make the facility self-sustaining; and that the report provided was based solely on financial information. He discussed how the usage today would be different from the usage once the facility was completed.

Mayor Kiker discussed the need for a Work Session meeting on the Mound House.

Town Manager Stewart requested 30 days to prepare for the Work Session.

Consensus agreed to allow staff 30 days to prepare for the Work Session; and place the item on Agenda Management with a meeting one month from today.

XII. ADMINISTRATIVE AGENDA

C. Timeline and Status Update on the Potable Water System

Public Works Director Lewis provided the Council with a Status Update on the Potable Water System which was discussed in her memorandum dated February 22, 2012 (Water Utility Improvement Phase I and IA Project Update). She noted the Finance Department had put out a Request for Proposals for the rate and financing analysis which should be received by March 16, 2012, and that she expected that the recommendation to begin negotiations would be brought forth to Council in May. She continued to discuss the timing for the financial analysis and the preliminary project schedule estimate. She reported that Phase I consisted of installing a redundant water line in the Bay Beach development and rehabilitating all of Laguna Shores interior distribution system; and Phase 1A consisted of the 12 roads from Carolina Street to Tropical Shores Way. She discussed her belief that the Town had the ability to get through the majority of the design work of Phase 1 and 1A with the reserves in the water utilities budget; and added that there was not any funding available to move it forward to construction. She discussed additional financing mechanisms that would be needed to be in place to move forward with construction. She noted her belief that the Town would be unable to use the State's Revolving Loan Fund process for the Phase 1 initial construction.

Town Manager Stewart explained how the State liked to see projects ready to move forward as it pertained to the revolving loan fund and how the application process worked. He stated that it was necessary to have the rate study completed before the Town could approach any source for borrowing funds.

Public Comment opened.

Ed Scott, resident, questioned if it was "portable" or "potable" water.
Town Manager Stewart stated it was "potable" water.

Public Comment closed.

Council Member Kosinski questioned if the stormwater was already funded.

Town Manager Stewart reported there were some funds already set aside.

Public Works Director Lewis explained that the project was funded through the Hazard Mitigation Grant Program and the Town had funding in place where 75% of the construction cost associated with stormwater improvements would be funded and the Town matched that at 25%.

Town Manager Stewart noted it was funded only for the first phase and the remaining funding still needed to be resolved.

Discussion ensued regarding performing the stormwater and potable water system at the same time; funding the rate study; when to begin the paperwork to apply for State revolving funds, and the availability of State revolving funds.

Mayor Kiker questioned the term used in the Public Works Director's memo as 'public outreach'.

Public Works Director Lewis explained that staff would be holding workshops with the neighborhoods to inform them of what was being planned and visiting neighborhoods to keep them informed during the course of the project.

Mayor Kiker stressed the importance of keeping the property owners and residents informed of what was happening as it pertained to the project.

Town Manager Stewart discussed how the firms that would bid on the project needed to be aware that they had to be capable of planning for the inconveniences the project would be causing residents.

Consensus was to continue to move forward with the planning, design, and construction of Phase 1 and 1A water utility rehabilitation project.

XIII. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XIV. TOWN MANAGER'S ITEMS

Town Manager Stewart reported staff had been working on getting all of the minutes from previous Council Meetings and all Town resolutions onto the Town's website, and staff now completed the work. He thanked Town Clerk Mayher and Finance Director Wicks for their efforts to accomplish this feat.

Town Clerk Mayher explained how the new feature worked on the Town's website. She noted that in addition to the Town Council resolutions the LPA's resolutions were also available.

Vice Mayor Raymond questioned the status of the Shrimp Festival Parade.

Town Manager Stewart reported he was awaiting confirmation for use of a fire truck and stated he would resolve the issue today. He added that all the other details associated with the event have been finalized.

Discussion ensued regarding the participation by the Youth Council and signs and/or banners designating the Youth Council.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Miller reported that Town staff and Legal staff were meeting with the County staff regarding the Interlocal Agreement for Estero Boulevard next Monday. She stated that she had received a signed agreement on the 'Tezak' matter and reported she sent an email to their attorney asking for a copy of the Power of Attorney showing that David was authorized to sign on behalf of his father, and when the Town might expect to receive the check. She discussed a matter regarding rental property at 125 Mango Street which involved an out-of-Town owner and approximately 12 arrests at the site for disturbing the peace since 2009. She requested a motion by Council to authorize her to send a letter to the owner of the property if the Neighborhood Resource Officer cannot resolve the matter to advise the owner of the existence of what is considered to be a nuisance on the property, and if they do not take action to abate the nuisance that the Town would file suit for an injunction to abate the nuisance.

MOTION: Motion by Council Member Kosinski to authorize the Town Attorney to send a letter to the owner of the property if the Neighborhood Resource Officer cannot resolve the matter to advise the owner of the existence of what is considered to be a nuisance on the property, and if they do not take action to abate the nuisance that the Town would file suit for an injunction to abate the nuisance; second by Council Member List.

VOTE: Motion approved, 5-0.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Mandel - mentioned previous Council discussion regarding the creation of a TIF area around the Seafarer's and reported he had spoken with Attorneys Miller and Humphrey about the matter.

Town Attorney Miller reported she was in the process of reviewing documentation received from Town Clerk Mayher regarding how in Fiscal Year 1990-91 the County created a TIF area for the entire island. She stated she would continue her review of the documents to determine the current status of the CRA and what options were available to the Town.

Council Member Mandel noted the potential significance of this research as it pertained to capturing TIF.

Town Attorney Miller stated she was in contact with the County Attorney's Office who was in agreement that they would have to come in with a CPD amendment for the Seafarer's site. She reported she informed the County Attorney's Office that whatever they submit it would have to be consistent with the current Comprehensive Plan.

Discussion ensued regarding the *Seafarer's* property; and it was consensus of the Council that Council Member Mandel continued his work on this matter.

Council Member List – no items to report.

Vice Mayor Raymond – no items to report.

Council Member Kosinski – no items to report.

Mayor Kiker – questioned utility tax refunds as originally questioned by Ms. Semmer.

Town Manager Stewart reported the Town received from Lee County a listing of streets that were currently being charged a Communications Service Tax for the town they do not reside in. He stated staff was in the process of completing a form required by the State because an individual could not get the State to take a street off the list of a particular governmental entity's rolls. He mentioned that the Town would advertise this matter and that there was a particular form they could request.

Mayor Kiker questioned an issue that arose concerning beach erosion.

Town Manager Stewart stated that issue did not cause any legal liability or financial responsibility for the Town; however, it would impact the Town. He pointed out that he forwarded information to the Mayor regarding the issue and that Leonardo Arms has encountered beach erosion that was within approximately 40' of the building. He reported that the Town had communication with the owners of Leonardo Arms recommending they find a coastal construction engineer to help them understand what was happening and inform them of what action they may need to undertake.

Mayor Kiker suggested Council Member Mandel may want to discuss this topic with the Condo Association.

Town Manager Stewart discussed his concern regarding beach erosion at other locations in addition to Leonardo Arms.

Council Member Mandel noted how the Town was losing sand from the EC area towards Bonita Beach.

Discussion ensued concerning beach erosion.

Mayor Kiker – discussed his desire to set definition for 'developer's signs', and how property owners were using huge signage such as 'developer's signs' to sell their homes. He requested to place the matter on Agenda Management.

Consensus was to place 'developer's signs' on Agenda Management.

Mayor Kiker reminded the Council of their upcoming Joint Meetings with the LPA and BORCAB. He reported that he and Town Manager Stewart attended a meeting with the Chamber of Commerce, the News-Press, the Mayor of Bonita Springs, and the Naples Daily News to discuss economic development.

Recess at 10:55 a.m. – Reconvened at 11:05 a.m.

XVII. AGENDA MANAGEMENT

Mayor Kiker noted the updated Agenda Management list and reviewed the list where the Council needed to determine a date. He asked that Council come up with tentative dates at the Work Session.

Discussion ensued regarding the assignment of meeting dates or times when information would be ready.

XVIII. RECAP OF ACTION ITEMS

Town Manager Stewart stated staff would work on the Action Items added as follows:

- Deputies working an additional hour; and would notify the LCSO in writing
- Application(s) for the Audit Committee on Council's next meeting
- Continue to work with the Baptist Church on parking
- Continue to work on the Ongoing Miscellaneous Engineering Services
- Adoption of Ordinance 12-01; process accordingly
- Continue to provide information in the Weekly Report on the status of the potable water project
- Determine if the Beach Elementary School had a banner for the Youth Council, and if not, the Town would proceed to acquire such a banner
- Town Attorney was authorized to forward a letter regarding 125 Mango Street; and Town staff would assist her if needed
- Town staff would continue to work with Lee County on the *Seafarer's* site pertaining to the CPD

XIX. ADJOURNMENT

Motion by Council Member List, seconded by Council Member Kosinski to adjourn. Meeting adjourned at 11:12 a.m.

Adopted 4-16-12 With/Without changes. Motion by Kosinski/Raymond

Vote: 5-0

Michelle D. Mayher, Town Clerk

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