MINUTES

Monday, March 19, 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 19, 2012 Regular Meeting of the Town Council at 6:30 p.m. Present along with Mayor Kiker: Vice Mayor Raymond, Council Members Kosinski, and Mandel; and Council Member List was excused. Also Present: Town Manager Stewart, Town Attorney Humphrey, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, and Town Clerk Mayher.

II. INVOCATION – Rev. Alice Marcrum

III. PLEDGE OF ALLEGIANCE

Mayor Kiker briefly described the creation and composition of the Youth Council and how the Town Council interacted with the children on this program. He introduced Larry Wood, Principal, and Beach Elementary School Students Bryanna McCarthy, Taylor Harlan, and Sydney Monahan who led the Pledge.

IV. YOUTH COUNCIL

Principal Wood reported that Students McCarthy, Harlan, and Monahan had been invited to submit an application for the Dr. Ben Carson Scholarship. He reviewed the criteria necessary in order to apply for the scholarship which included but was not limited to a 3.75 grade average; and noted that one of the three students would win a $1,000 college scholarship. He introduced 5th Grade Teacher, Jenny Fraley, who was in the audience.

Students McCarthy, Harlan, and Monahan each had the opportunity to recite a brief overview of their personal life, current and future goals, and academic achievements.

Principal Wood announced that Sydney Monahan won the Dr. Ben Carson Scholarship.

V. APPROVAL OF FINAL AGENDA

Mayor Kiker reported there was a '*walk-on*' request, *Leonardo Arms*, and requested it be discussed after the Consent Agenda.

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

VI. PUBLIC COMMENT

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

Open Public Comment.

Don Reagan, resident of Mango Street and owner of Fort Myers Beach Taxi, stated he lived in Fort Myers Beach for over 30 years and raised a family here. He discussed his concerns regarding a longstanding fruit stand on Mango Street which had closed; and how he and his wife investigated the subject site and re-opened the business two years ago. He described the steps they took to open the business properly and reported that last week the business was shut down by a Notice of Violation. He questioned if it was the Town or the property owner who was responsible for shutting down the business. He asked the Council to investigate the matter and expressed his desire to continue doing business in the Town.

Joyce Heckman, resident, noted the need for parking at the Mound House and requested that the parking lot issue be addressed as soon as possible.

Eddie Foster, resident, stated she wanted to call to the attention of the Council the following: 1) the rising cost of the Fort Myers Beach budget, salaries, and number of employees; 2) concerns regarding employees who appeared to be performing clean-up work in Times Square around business areas; 3) and her recommendation to get rid of plastic straws on Fort Myers Beach.

Public Comment closed.

Mayor Kiker asked the Town Manager to investigate the matter of Mr. Reagan's fruit stand.

Town Manager Stewart acknowledged the request and stated he would forward a report to the Council.

Mayor Kiker informed Ms. Heckman that the issue of the Mound House was in the form of a report from CELCAB.

Town Manager Stewart explained there was an area in the Times Square Plaza area that was owned by the Town and the Town was obligated for maintenance. He stated staff did not clean where the

restaurants were, but did remove trash where the containers were located. He noted the Town did not clean-up for the restaurants.

Mayor Kiker described a program the Town promoted a couple of years ago for the use of biodegradable straws. He stated that plastic straws was also a concern of Council and they had already placed the matter on Agenda Management for discussion and action; and that her first issue was duly noted.

VII. PROCLAMATIONS

A. Arbor Day

Town Clerk Mayher read the Town's Proclamation announcing that Friday, April 27, 2012 as Arbor Day.

Ms. Becky Bodnar accepted the Proclamation on behalf of the Estero Gardens. She announced that the Town had once again been nominated as a "Tree City" and described the Town's efforts to attain this designation.

VIII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Mandel extended appreciation and congratulations to the organizers of the Shrimp Festival and the St. Patrick's Day Parade.

Mayor Kiker announced there was a Cruisers Appreciation Day this Saturday at the base of the Matanzas Bridge; and that on March 24th at Chapel by the Sea was the final session regarding airplane noise and explained the importance of attending the session. He discussed the new section listed on the Agenda entitled the "Image of Fort Myers Beach", and how it was the goal and objective of the Council to improve the image of the Beach.

IX. IMAGE OF FORT MYERS BEACH

No speakers.

X. ADVISORY COMMITTEES ITEMS AND REPORTS

Ms. Ceel Spuhler, Friend of the Mound House and Member of CELCAB, reported that the Board, at the request of the Mayor and CELCAB Liaison Mandel, researched the matter of visitors and parking concerns for the Mound House. She stated that the Board's findings revealed that the number of visitors to the Mound House was increasing which was making the parking issue critical. She described the current parking capacity, the tour schedule and volunteer hours worked, donations received, and the use of the grounds by kayakers which added to the parking space shortage. She expressed the Board's desire to see the parking issue resolved.

Town Attorney Humphrey reported how the Town was working to obtain a grant for the Mound House in the amount of $445,000, and was awaiting approval by the Governor.

Mayor Kiker announced the Council's financial commitment and support in getting the Mound House completely opened by the end of this year.

Mayor Kiker and Council recognized the Friends of the Mound House present in the audience and thanked them for their hard work.

Mayor Kiker reviewed all of the work that Ms. Spuhler performed for the community such as but not limited to serving on CELCAB and Friends of the Mound House. He presented Ms. Spuhler with the Community Exceptional Special Service Award as an expression of the Town's grateful appreciation and recognition of Ms. Spuhler dedication and hard work on behalf of the Town.

Ms. Spuhler expressed her appreciation for the award.

XI. APPROVAL OF MINUTES

A. February 21, 2012 Town Council Work Session
B. February 21, 2012 Town Council Meeting

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

VOTE: Motion approved, 4-0; Council Member List excused.

XII. CONSENT AGENDA

A. Amendment to Extend Contract with Central Parking Systems

Mayor Kiker explained the item was an amendment to extend the agreement between the Town and Central Parking Systems of Florida, Inc. for a term of 12 months.

Town Manager Stewart noted that this would be the last extension allowed by the agreement.

MOTION: Motion by Vice Mayor Raymond to approve Amendment No. 4 to the Service Provider Agreement between the Town of Fort Myers Beach and Central Parking Systems of Florida, Inc. to extend the term of the Agreement for 12 months; second by Council Member Kosinski.

VOTE: Motion approved, 4-0; Council Member List excused.

Mayor Kiker announced at this time the Council would address the "walk-on" Agenda Item, Leonardo Arms.

Town Manager Stewart gave a brief overview of the item and noted it began about three weeks ago with the Town's Environmental Science Coordinator, Keith Laakkonen, who informed the Town Manager of

the situation. He explained at the subject property there was a 'lagoon-type' of an area that was experiencing a lot of tidal action lately that washed out the north end of that particular lagoon. Council was provided photographs of the subject site that revealed the erosion and showed how close the water was getting to nearby buildings. He reported that he and staff held communications on several occasions with the residents of Leonardo Arms, and he asked Environmental Science Coordinator Laakkonen to contact the State to determine what could be done about the situation. He stated that after speaking with the DEP it was learned the Town had the option to issue a "Declaration of Local Shoreline Emergency" that would enable the Town to issue a permit for temporary protective measures that the DEP would accept for a period of 60 days; (i.e. sandbags to help keep the erosion further). He noted Leonardo Arms could not do anything permanent at this time; they could come back and request an extension; and during this period Leonardo Arms could determine with the DEP what could be done on a more permanent basis. He added that Leonardo Arms would need an engineered plan of what they would plan to do.

Public Comment opened.

Gene Dahlin, Leonardo Arms, thanked the Town Manager and Environmental Science Coordinator for their assistance on this matter. He described the situation at Leonard Arms as it pertained to the impact of the tidal action to the subject property. He reported that they have already been in contact with DEP and have hired a coastal engineering firm. He requested Council approve the proposed resolution.

Public Comment closed.

Town Clerk Mayher read the title of Resolution 12-05:

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 12-05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DECLARING A LOCAL SHORELINE EMERGENCY; AUTHORIZING THE ISSUANCE OF A TOWN PERMIT TO INSTALL TEMPORARY EMERGENCY PROTECTION STRUCTURES, IN THAT AREA OF THE BEACH THAT IS ADJACENT TO 7400 ESTERO BOULEVARD, PURSUANT TO SECTION 161.085, FLORIDA STATUTES AND RULE 62B-33.0051 OF THE FLORIDA ADMINISTRATIVE CODE; PROVIDING AN EFFECTIVE DATE.

MOTION: Motion by Council Member Mandel to approve the Resolution 12-05 as read; second by Council Member Kosinski.

VOTE: Motion approved, 4-0; Council Member List excused.

XIII. ADMINISTRATIVE AGENDA

A. Introduction to Ordinance 12-02, Amendment to LDC, PWVL

Town Clerk Mayher read the title of the Ordinance:
AN ORDINANCE AMENDING CHAPTER 27, ARTICLE IV OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "ADDITIONAL RULES AND PROCEDURES APPLYING TO BOTH PERSONAL WATERCRAFT AND PARASAILING," AMENDING SECTION 27-52, "PWVL AND PAL LICENSES THAT ARE PERMITTED; AMENDING SECTION 27-55, "TRANSFERABILITY OF PWVL AND PAL LICENSES; GRANDFATER CLAUSE," TO CLARIFY THE CONDITIONS UNDER WHICH SUCH LICENSES MAY BE TRANSFERRED TO A DIFFERENT LOCATION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

Town Manager Stewart recounted the request about a year ago from a parasail operator to have the ability to move her license from one property to another. He explained the proposed amendment concerned the parasail and personal watercraft regulations and would clarify some inconsistencies and conflicting provisions.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Motion by Council Member Kosinski to approve introduction of Ordinance 12-02 and set public hearing for April 2, 2012; second by Vice Mayor Raymond.

Mayor Kiker questioned if April 2nd was the date for the first hearing on the COP.

Town Manager Stewart responded in the affirmative; and he noted the date could be changed for Ordinance 12-02.

Discussion was held.

AMENDMENT: Motion maker amended the motion to change the public hearing date to May 7, 2012; second agreed.

VOTE: Motion approved, 4-0; Council Member List excused.

B. Appointment to the Audit Committee

Mayor Kiker recognized Audit Committee candidate, Richard Cote.

Mr. Cote introduced himself, reviewed his personal and professional experience as it related to the vacancy on the Audit Committee. He requested approval of his appointment to the Committee.

MOTION: Motion by Council Member Mandel to appoint Richard Cote to the Town of Fort Myers Beach Audit Committee, as governed by Ordinance 11-06; second by Council Member Kosinski.

VOTE: Motion approved, 4-0; Council Member List excused.

Mr. Cote inquired about the Audit Committee meeting schedule.

Town Clerk Mayher briefly reviewed details about the Audit Committee, stated that she would prepare pertinent information for Mr. Cote, and informed him that the Committee meets once a month.

XIV. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XV. TOWN MANAGER'S ITEMS

Town Manager Stewart thanked the organizers of the St. Patrick's Day Parade for such a nice event and in particular Mr. Ray Murphy, for the event and for working through an issue with him which was no longer an issue.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Humphrey gave a brief update on the proposed Interlocal Agreement with Lee County on the Estero Boulevard improvements. He reported the County was proceeding with the design for the improvements; and noted the Town's discussion with the County Attorney's Office and staff regarding the request for an ILA which the BOCC had agreed to execute. He mentioned that it was pointed out to the County staff the importance and desire of the Town to have input regarding the improvement designs. He recommended the Council consider hiring a Transportation Planner or Engineer to represent the Town to interface and coordinate with the County to insure the Town's input was part of the decisions. He reported that the draft ILA should be ready within the next few weeks, and it would contain language noting the opportunity of both sides to utilize outside consultants.

Mayor Kiker asked if it was the Council's desire to direct staff to investigate outside professional consultants in the area of transportation.

Consensus was to direct staff investigate outside professional consultants in the area of transportation.

XVII. COUNCILMEMBER ITEMS AND REPORTS

Vice Mayor Raymond reported that at the MPO meeting he attended last Friday, he had the opportunity to speak with staff from the FDOT, LeeTran, and the County who were planning a meeting regarding

San Carlos and the direct trolley and some other trolley items. He reported that after speaking with them that Public Works Director Lewis would be invited to attend all those meetings.

Council Member Mandel noted the upcoming meeting with the church regarding parking at the Mound House. He reported he spoke with one of the owners of the Seafarer's property who indicated to him they were still assembling information to present to the Town. He asked the Town Attorney for an update on the concept of drawing a circle around the Seafarer's area in order to capture tax increment funding.

Town Attorney Humphrey gave a brief update on the work being done to ascertain the owners, and the just value given, and noted the attorneys were working on preparing a report for Council.

Mayor Kiker thanked Town Attorney Humphrey and his staff for the work done to obtain the grant for the Mound House. He reported that earlier today at the Work Session, Council discussed whether or not to reinstate the Public Safety Committee or the Transportation Management Agency for purposes of public safety, and how Council had directed staff to research the matter. He explained there were statistics available concerning the safety of Estero Boulevard. He requested Council approve that he address the BOCC in the next two weeks to bring to their attention the Town's concern about public safety in attempt to address Estero Boulevard as soon as possible.

Discussion was held concerning public safety on Estero Boulevard.

Consensus was to approve the Mayor's request to address the BOCC regarding safety issues on Estero Boulevard.

XVIII. AGENDA MANGEMENT

Town Manager Stewart requested the Town Clerk place numbers along the left side of the Agenda Management list as each was discussed. He reported that Council Member Kosinski requested to pull "Discussion Regarding Bridge Alternatives" from the list because he had some more work to do on the topic.

Consensus was to place "TBD" under the Meeting Date column and Council Member Kosinski would inform staff when he was ready to proceed with the discussion.

Town Manager Stewart noted that the "COP" was scheduled for Regular Meetings on April 2 and 16, 2012; and pointed out the report on the Mound House was scheduled for the Work Session on April 2.

Discussion ensued regarding the scheduled dates and the evaluation process for the Town Manager.

Consensus was to place the Town Manager evaluation process discussion on Agenda Management.

Discussion continued regarding the scheduled dates for the COP, Sign Ordinance, the Mound House, and the Lien Reduction Process.

Consensus approved to the Mound House on the first Work Session in May; and the Noise Ordinance on the second Work Session in May.

XIX. RECAP OF ACTION ITEMS

Town Manager Stewart recapped the Action Items added during the meeting:

- Staff would prepare a report for Council regarding the "Heavenly Biscuit" and the produce site
- Staff would prepare a response to Ms. Foster's comments on plastic straws
- Staff would work with Leonardo Arms to accomplish their emergency permit
- Staff would bring forward Ordinance 12-02 for the May 7, 2012 Council Meeting
- Town Clerk Mayher would work with Mr. Cote regarding his appointment to the Audit Committee
- Staff would investigate and inform Council about acquiring the services of a Traffic Planner/Engineer
- Staff would investigate and inform Council about the use of the parking area at the church on Connecticut Street
- Staff would research and present to Council information about reinstating the TMA

XX. ADJOURNMENT

Motion by Council Member Mandel, seconded by Vice Mayor Raymond to adjourn. Meeting adjourned at 7:55 p.m.

Adopted May 7, 2012 With/Without changes. Motion by Kosinski / List

Vote: 5-0

Michelle D. Mayher

Michelle D. Mayher, Town Clerk

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