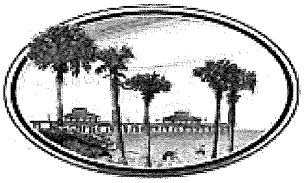

MINUTES

Monday, June 18, 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 June 18, 2012 Regular Meeting of the Town Council at 6:30 p.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, Community Development Director Fluegel, and Town Clerk Mayher.

II. INVOCATION – Town Clerk Mayher

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Consensus approved the Agenda as presented.

V. PUBLIC COMMENT

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

Public Comment opened.

No speakers.

Public Comment closed.

VI. LOCAL ACHIEVEMETS AND RECOGNITIONS

No speakers.

VII. IMAGE OF FORT MYERS BEACH

No speakers.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

No speakers.

IX. PROCLAMATION

A. Designation of July as National Parks and Recreation Month

Town Clerk Mayher read the Town of Fort Myers Beach Proclamation designating July as Parks and Recreation Month.

Mayor Kiker presented the Proclamation to Parks and Recreation Director Evans.

Parks and Recreation Director Evans asked her staff to come to the podium to share the honor, and noted this was the first time the Town had an official Parks and Recreation staff. She pointed out the various responsibilities of the staff (i.e. After School, Athletics, Summer Camp, Special Events, etc.) and complimented all of them for their hard work and dedication.

X. CONSENT AGENDA

A. Notice of Intent to Dismiss Outstanding Financials

Town Attorney Miller reported she was contacted by Administrative Judge Adams of the County Court who met with the Town and other Lee County municipalities concerning uncollected fines. The Clerk of Court had requested the Town authorize the dismissal of outstanding financials representing uncollected fines for municipal ordinance violations. She reported the Clerk of Court did make an attempt to collect the outstanding fines utilizing a collection agency ($647 in uncollected fines and $582.30 would have been received by the Town); however, all of the cases were older than seven years and collection efforts have been unsuccessful.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Vice Mayor Raymond moved to approve Consent Agenda Item A; second by Council Member Mandel.

VOTE: Motion approved, 5-0.

XI. ADMINISTRATIVE AGENDA

A. Award of Bid, ITB 12-03-CD, Laguna Shores Dredging Project

Town Manager Stewart explained the request was for approval of the actual construction work; Council would be approving the ranking of bids submitted; select the number one ranked firm to award the construction bid to; and approving the expenditure of a not-to-exceed amount of $20,000 for construction management by Hans Wilson and Associates (the environmental engineering company to oversee the project). He stated the total amount to be approved would be $259,750.36, and there was no contingency included; therefore, if there were any additional costs, staff would have to come back to Council.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Kosinski moved to approve the bid tabulation and ranking of bids submitted in response to ITB-12-03-CD and award the construction contract to the Zep Construction, Inc. in an amount of $239.750.36, and approve the expenditure of not-to-exceed $20,000 for construction management by Hans Wilson and Associates; second by Council Member Mandel.

VOTE: Motion approved, 5-0.

B. Times Square Merchant & Event Association, Inc., Times Square Sunset Celebration Recurring Event Application

Town Manager Stewart noted the Council recently approved an ordinance that allowed for recurring events; that the applicant submitted an application; staff reviewed the application and determined the applicant met all of the necessary requirements; and staff recommended approval.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Mandel moved to approve the recurring special event permit to the Times Square Merchant and Event Association, Inc. for the Times Square Sunset Celebration for the period of June 22, 2012 to June 15, 2013, and authorize the Town Manager to sign the permit on the Town's behalf; second by Council Member List.

VOTE: Motion approved, 5-0.

C. Resolution 12-09, Adoption of the Tentative Millage Rate FY 2012

Town Manager Stewart explained the requirement for the Town to adopt a tentative millage rate and noted that per Florida State Statutes the rate may go lower, but could not go higher.

Town Clerk Mayher read the title of the Resolution 12-09:
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 2012/2013; AND PROVIDING AN EFFECTIVE DATE.

Public Comment opened.

No speakers.

Public Comment closed.

Town Manager Stewart pointed out that the Public Service Tax was implemented this current fiscal year in April; and the Town had received its first payment of approximately $67,000 which would fluctuate from month-to-month. He added that per Council's direction staff modified the millage rate to reflect the revenue from the PST. He reported the current millage rate for this year was .8144 and requested the Council approve a tentative rate tonight of .79 and suggested not going lower than .76.

Discussion was held concerning prior millage rates.

MOTION: Council Member Mandel moved to adopt Resolution 12-09 setting the tentative operating ad valorem rate at .79 mills for the Tax Year 2012/2013 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 2012/2013 for September 4, 2012 at 6:30 p.m.; and the final budget hearing is scheduled for Monday, September 17, 2012 at 6:30 p.m.; second by Council Member Kosinski.

VOTE: Motion approved, 5-0.

D. Request for Waiver of Open Container Law – Times Square Fourth of July

Town Manager Stewart reported that typically there were two times during the year that the Town waived the open container law – Annual New Year's Eve and the Fourth of July Celebrations.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Kosinski moved to approve waiving the open container restrictions for the Times Square area on July 4, 2012 from 10:00 a.m. to 10:00 p.m.; second by Council Member List.

VOTE: Motion approved, 5-0.

XII. PUBLIC HEARING

A. Ordinance 12-05, Lien Reduction

Town Clerk Mayher read the title of Ordinance 12-05:
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RELATING TO CODE ENFORCEMENT LIENS; AMENDING SECTION 2-427 OF THE TOWN OF FORTH MYERS BEACH LAND DEVELOPMENT CODE BY DELETING CERTAIN PROVISIONS RELATING TO THE EXECUTION OF SATISFACTIONS OF LIEN AND JURISDICTION OVER LIENS; CREATING A NEW DIVISION 4 IN CHAPTER 2, ARTICLE V, OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, TO BE ENTITLED "REDUCTION AND/OR RELEASE OF CODE ENFORCEMENT LIENS," CREATING SECTION 2-432, "PROCEDURE TO OBTAIN A REDUCTION AND/OR RELEASE OF A CODE ENFORCEMENT LIEN;" PROVIDING FOR APPLICATION REQUIREMENTS; CRITERIA FOR THE TOWN MANAGER OR DESIGNEE AND THE TOWN COUNCIL TO FOLLOW WHEN CONSIDERING APPLICATIONS FOR REDUCTION OR FORGIVENESS OF CODE ENFORCEMENT LIENS; TIME PERIOD WITHIN WHICH ANY REDUCED LIEN AMOUNT MUST BE PAID; RECORIDNG OR RELEASE OF LIEN; PROVIDING FOR CODIFICATION; CONFLICTS; SEVERABILITY AND AN EFFECTIVE DATE.

Town Manager Stewart reported there were no pending lien reduction requests; therefore, the very next lien reduction request that would come forward would have to meet the criteria set forth in Ordinance 12-05. He noted there had already been workshops and discussions on the ordinance and stated he was ready to answer any questions.

Town Attorney Miller stated she believed the proposed ordinance was a good process for a lien reduction request.

Mayor Kiker noted there had already been a Public Hearing and a Work Session on Ordinance 12-05.

No representative from the LPA was present.

Public Comment opened.

Public Comment closed.

MOTION: Motion by Council Member Kosinski to approve Ordinance 12-05, Lien Reduction; second by Vice Mayor Raymond.

ROLL CALL VOTE: Motion passed, 5-0.

Public Hearing closed at 6:57 p.m.

XIV. PUBLIC COMMENT

Public Comment opened.

Roy Hinkleman, resident and President of the Laguna Shores Homeowners' Association, thanked the Council and Town staff for taking care of the dredging project.

Public Comment closed.

XV. TOWN MANAGER'S ITEMS

A. Mound House Update

Town Manager Stewart indicated that staff provided the Vice Mayor with a written report on the Mound House, and asked if he had any questions. He mentioned that not much had changed since the last report to Council.

Vice Mayor Raymond noted his appreciation for the fact that the Mound House was now an Agenda Item, and that the Public Works Director was providing written reports on what had been done and timing for the project.

Council Mandel questioned the status of the Joint Use Agreement for parking at the Baptist Church.

Town Manager Stewart stated he expected to have something back to Council at their first meeting in August assuming that everything worked out as anticipated. He thanked the Council for the opportunity to attend a recent County/City Managers' Conference in Bonita Springs.

Council Member List questioned if there were any innovative ideas of concepts that arose which could be applicable to the Town.

Town Manager Stewart stated he attended a sessions on CRAs and development districts, and water and utility related issues. He added that at the Conference they also discussed the deterioration of Home Rule in Florida.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Miller stated that earlier during the Work Session the Council had asked her to offer her thoughts on the C.O.P. ordinance; and explained she fully expected to receive the opinion from the Ethics Commission before the Council came back from their hiatus. She suggested to place the C.O.P. on the first Work Session in August; and stated that unless there were major changes, she did not believe two more Public Hearings would be necessary.

Discussion was held concerning Council's schedule as it pertained to the C.O.P Public Hearing(s).

XVII. COUNCILMEMBER ITEMS AND REPORTS

Council Member Kosinski – no items or reports.

Vice Mayor Raymond – no items or reports.

Council Member List – recounted her past report on a potential painting project by Beach children for the Seafarer's site; and reported the BOCC had approved paying for the cost of the materials.

Council Member Mandel – no items or reports.

Mayor Kiker – reported there were great things happening within the Safety Committee. He explained the Committee's objective was to look at what could be done on Estero Boulevard to make it safer for both bicycles and pedestrians; and attempt to implement suggestions by October 15th. He stated he had a conversation with a representative of Bike Walk who complimented the North Estero Boulevard Project. He explained that the Safety Committee had taken on the issues with lighting on Estero Boulevard and learned that there were some lights not working, there were problems with light wattage, and crosswalks with no lighting. He discussed the costs associated with fixing some of the issues on Estero Boulevard such as but not limited to increased bulb wattage and adding lights.

Discussion was held concerning the monthly and amortized costs of correcting or changing the lighting issues.

He expressed his belief that the Safety Task Force would make a presentation to Council in August; and asked if the Town was in the situation where they had to allocate funds up to $25,000 would it be permissible to Council that they move forward with scheduling work (i.e. changing a light bulb) and then it would come before Council at a later date.

Consensus approved Mayor Kiker's request concerning scheduling lighting/safety work along Estero Boulevard.

XVIII. AGENDA MANGEMENT

Town Manager Stewart asked Council to review the Agenda Management sheet and noted some items were completed, some were on hold, and after the hiatus there would be the issue of C.O.P. which would

be placed on a Work Session. He noted that the September meetings would include the budget and suggested keeping one date open for a Work Session on the budget.

Town Clerk Mayher noted her belief that Council wanted the C.O.P. on the August 20th Work Session agenda, and the budget on the Work Session on September 4th. Town Manager Stewart responded that schedule was correct.

Discussion ensued regarding the Work Session and Regular Meeting schedule and Agenda Management items.

Consensus was that the Mayor and Town Manager would work together on the scheduling of agenda topics during the hiatus, if needed.

XIX. RECAP OF ACTION ITEMS

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

- Staff would provide the appropriate signed documents to the Clerk of Court regarding the dismissal of outstanding financials
- Staff would move forward with notification to Zep Construction and would notify Council of the project's commencement date
- Staff would issue the permit to the Times Square Merchant & Event Association, Inc. tomorrow
- Staff would prepare the notification for the tentative millage
- Staff would move forward with notification to the merchants in Times Square concerning the open container law regarding 4th of July
- Staff would craft the appropriate forms necessary for Ordinance 12-05; and Town Manager would notify Council as to whether or not the property owner was going to challenge a proposed lien reduction

Vice Mayor Raymond questioned the status of volunteers and donations for the New Year's Eve fireworks. Town Manager Stewart reported that much of the fireworks and entertainment for the Fourth of July was supported by businesses. He stated staff was working with various groups on the matter; and he would have the Parks and Recreation Director bring Vice Mayor Raymond up-to-date on the events.

Motion by Council Member List, seconded Vice Mayor Raymond to adjourn. Meeting adjourned at 7:27 p.m.

Adopted 8-6-12 With/Without changes. Motion by List/Kosinski

Vote: 5-0

Michelle D. Mayher, Town Clerk

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