



# **MINUTES**

**Monday, August 20, 2012**

**FORT MYERS BEACH TOWN COUNCIL  
MANAGEMENT & PLANNING WORK SESSION  
TOWN HALL – COUNCIL CHAMBERS  
2523 ESTERO BOULEVARD  
FORT MYERS BEACH, FLORIDA 33931**

## **I. CALL TO ORDER**

Mayor Kiker called to order the August 20, 2012 Work Session of the Town Council 9:00 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, Community Development Director Fluegel, Jeff Richard of Public Works, and Town Clerk Mayher.

## **II. PLEDGE OF ALLEGIANCE**

Mayor Kiker indicated to the Town Manager that he had received complaints regarding the plantings in the middle of the beach.

## **III. FEE SCHEDULE**

Town Manager Stewart noted the installation of the new carpeting in the Chambers, and the anticipated new chairs which would replace the current ones that were approximately 15 years old.

Discussion ensued regarding the disposition of the current blue chairs.

Town Manager Stewart reviewed the general fee schedule as it pertained to providing services (Exhibit A) and how the Town Council should routinely review the fees to determine whether or not there should be an increase, decrease, or elimination. He explained how the Town's fee structure had requirements from the State to be fair and judicious as it pertained to a cost analysis of the fees and services rendered. He noted that each department had prepared a list of current fees and recommended changes; and reviewed the fee schedule regarding the current fee, proposed fee, difference (over/under), and the percentage of change, if applicable.

Discussion ensued regarding the proposed Fee Schedule:

- Town Clerk's Office – No change
- Community Development Department
  - Zoning
    - Administrative Actions - Vehicle Permit for Beach Access (per vehicle): New fee
    - Vacations – Right-of-way, plat: New fee
    - Sign (initial) – Revised \$100 to \$150
    - Joint-Use Parking Lot Approvals – Revised \$400 to \$600
  - DCI/Planned Development (PD)
    - PD Base Fee (up to one acre) - \$10,000 to \$9,000; Per Additional Acre \$10,000 to \$1,000
    - PD Amendment (Public Hearing) - \$8,500 to \$8,000
    - PD Amendment Minor (<1 acre total property area, Public Hearing) - \$4,500 to \$5,000
  - Public Hearing
    - Administrative/Advertising Fee - \$1,900 to \$750

Discussion was held regarding the proposed vehicle permit for beach access; the cost analysis of fees and services submitted by the Community Development Department; the potential for review and evaluation of Community Development processes; the possibility of subsidized fees; the Town as an 'in-fill' community as it pertained to the Town's land development codes; how to possibly improve and make the 'processes' more cost effectiveness; regulatory requirements of the 'processes' and associated costs; and how staff should evaluate and recommend 'process' amendments, changes or improvements in order to reduce the Community Development Department fees as discussed.

Town Manager Stewart discussed his opinion that to reduce the cost of doing business in the Town how it was tied to developing 'processes' that were less costly in time.

Discussion ensued regarding the time and cost associated with acquiring a consultant to work on issues with the land development regulations and the Comp Plan.

Town Manager Stewart noted his belief that it was Council's direction to have staff move forward with the matters discussed regarding 'how to improve the processes'.

Mayor Kiker asked the Town Manager to bring up the matter for a discussion and possible vote at tonight's Council meeting.

Discussion continued regarding the proposed Fee Schedule:

- Public Works
  - Mooring Field
    - Daily Rate - \$13.00 to \$13.65
    - Weekly Rate - \$90.79 – New
    - Monthly Rate - \$260.00 to \$290.74

Discussion was held regarding use/occupancy rate, cost, and prices at the mooring field; potential advertising and marketing of the mooring field; and review of the information by the Anchorage Advisory Committee in September before Council made a decision.

Discussion continued regarding the proposed Fee Schedule:

- Public Works
  - Farmers Market – Unchanged
  - Parking (All prices include 6% FL sales tax)
    - Permits for resident; establishing a ‘non-resident property owner’; business owner, and mooring field (eliminating annual permit and establishing bi-annual permit); meter ‘bags’

Discussion was held concerning the proposed fees for parking permits (i.e. property owners, residents, etc.); property owners all pay the same parking permit fee; and consensus was that staff would re-evaluate the parking permit fees and bring it back to the Council at the same time they returned with the recommendation from the Anchorage Advisory Committee on the mooring field.

Discussion continued regarding the proposed Fee Schedule:

- Public Works
  - Right-of-way – Business Extension (Times Square area; \$4 to \$4.50 per square foot)

Parks & Recreation Director Evans reported the proposed fee schedule was reviewed by BORCAB who was in agreement with the proposed fee schedule with the exception of Mr. Melsek who noted opposition to any increase related to youth activities.

Council Member Mandel asked Director Evans and BORCAB to consider corporate memberships (i.e. resorts) which they could advertise to their guests for use. He asked for discussion on the idea of giving the Town’s property tax payers a membership or discounted membership at BORC.

Discussion was held regarding the composition of the BORC membership (i.e. residents, non-residents); administrative costs of the membership program and fee collection; and membership fees for residents and non-residents.

Discussion ensued regarding the remainder of the proposed fee schedule for the Parks & Recreation Department; consensus was in agreement with BORCAB’s approval of the fee schedule as noted by Director Evans.

#### **IV. C.O.P. TASK FORCE RECOMMENDATIONS**

Town Manager Stewart noted the Council was given the recommendations from the COP Task Force.

Town Attorney Miller reported the State’s Ethics Commission had offered a formal opinion that the questioned vote was deemed to be ‘remote and speculative’ and that there was no voting conflict. She added that the Council may accept the recommendation by the Task Force.

Town Manager Stewart stated there were examples potential areas of expansion set-up for Council to visit as it related to the COP.

Community Development Director Fluegel summarized the packet of information which included the attachments included in the agenda packet:

- Original COP Ordinance with minor revisions
- Aerial maps depicting potential areas of expansion per the original ordinance
- COP Task Force recommended ordinance modifications
- Aerial maps depicting potential areas of expansion per COP Task Force Recommendations

He noted the Council would be visiting Pierside Grill, Gulfshore Grill, Wicked Wings, Beach Pub, Junkanoo, Holiday Inn, and Nemo's. He pointed out that when they visit the sites, the stakes were color coordinated to the aerial maps (green flags were Task Force recommendations and red were staff recommendations).

Council Member Kosinski noted that this exercise was not a matter of selecting one or the other; it could be a combination of recommendations.

Town Attorney Miller recommended to the Council that they only observe at the site visits; not to interact with each other until they returned to the Council Chambers; and they should take notes and ask questions of staff upon their return.

Departure for site visits at 10:35 a.m. – Returned to Council Chambers at 1:30 p.m.

Community Development Director Fluegel recapped that the Council visited various sites where the areas were staked out with red markers which represented the staff recommendations and the green markers were staked according to the Task Force recommendations as it pertained to areas of expansion for the COP. He noted the area of expansion at the Pierside Grill demonstrated what it would look like if the measurement was from the rear of the deck versus the EC Zoning Line. He reviewed the Task Force recommended changes to the proposed ordinance:

1. Limit the area of expansion to 25'
2. Require a 7' side setback
3. Limit the area of expansion to 1,500 square feet
4. No administrative approval, special exception only
5. No requirement for establishment name on the plastic cups
6. Double-sided sign at entrance to beach depicting the fine and ordinance
7. No new COP outside of the Downtown

Discussion was held regarding the signage and controlled entrances at the Beach Pub; and personal views and opinions of the sites visited; the differences between staff and Task Force recommendations; determination of how much room between the water and the COP (i.e. Diamond Head); vegetative barriers; and administrative approval.

Mayor Kiker questioned the number of Public Hearings required for the proposed ordinance.

Town Attorney Miller explained one more Public Hearing would be required unless the change to the ordinance title was substantial.

Mayor Kiker questioned the process of whether to hold one or two additional Public Hearings.

Town Attorney Miller noted there already had been two Public Hearings on the proposed ordinance. She advised that Council could discuss the matter of Public Hearings further tonight at the regular meeting.

Town Manager Stewart pointed out that on tonight's Agenda under Administrative Agenda it was already listed to 'set the date for the COP Hearing'. He also noted that there had been several meetings on the topic in addition to the two prior Public Hearings.

Discussion ensued regarding public input; the proposed ordinance and potential changes or amendments; and whether or not there were recommendations by the Task Force that Council wanted to include in the proposed ordinance.

Discussion was held concerning Recommendation #7 from the Task Force; and that there should be no new COP outside of the Downtown after the initial approval of the existing sites.

Mayor Kiker reviewed that the Council would work on implementation and that tonight they would announce that they have instructed staff to proceed with certain aspects of implementation; that there would be a hearing based upon the process the Council was working on; and that it would be voted on.

Council Member Mandel suggested review of each Task Force recommendation starting with #7 and working upwards.

Mayor Kiker reviewed and discussion was held regarding the following Task Force recommendations:

- #7 - the proposed ordinance would not recognize any COP outside of the Downtown that does not already exist. *Consensus approved.*
- #6 – double-sided sign at the entrance to beach depicting fine and ordinance. *Consensus approved to mirror the signage at the Beach Pub.*
- #5 – No requirement for establishments name on the plastic cups. *Consensus approved; and to include 'no glass or aluminum on the beach'.*
- #4 – No administrative approval, special exception only. *Consensus approved that additional clarification was necessary as discussed (i.e. administrative approval process for 6 months, have language that would allow the Community Development Director the jurisdiction that would compel an applicant to go through a special exception process if issues warranted).*

Recess at 2:22 p.m. – Reconvened at 2:40 p.m.

Mayor Kiker continued to review and discussion continued regarding the following Task Force recommendations:

- #3 – Limit the area of expansion to 1,500 square feet. *Consensus was to amend calculation of limitation of the area of expansion (possibly basing on using square feet per linear feet).*

- #2 – Require a 7’ side setback. *Consensus was to amend to 7’ side setback ‘if there was a beach access’ or ‘consistent with setbacks for the underlying zoning’.*
- #1 – Limit the area of expansion to 25’. *Consensus was to eliminate #1.*

Mayor Kiker discussed his concerns regarding the relocation of vegetation for mitigation purposes; and if vegetation was counted as part of the calculation formula as it pertained to COP.

Discussion ensued regarding dune vegetation and calculation formulas; and relocation of vegetation.

Mayor Kiker noted his concern regarding the possibility of expansion areas becoming too large at resorts; and how resort areas might designate spaces for guests and the public.

Town Manager Stewart announced that the US Army Corps of Engineers would begin dredging the Matanzas Pass within the next 40 days; and the Corps would utilize a permit from 2009 which was still active. He added that all the dredge spoils would be placed off-shore underwater to create a new shore bar. He reminded the Council of what happened the last time this was done and the unpleasant odor experienced for a period of time.

Mayor Kiker asked if the Town could suggest to the Army Corps of Engineers to place the material at the south end where the beach had been washed out.

Town Manager Stewart acknowledged Mayor Kiker’s recommendation.

## **V. ADJOURNMENT**

Meeting adjourned at 3:08 p.m.

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

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

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Michelle D. Mayher, Town Clerk

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