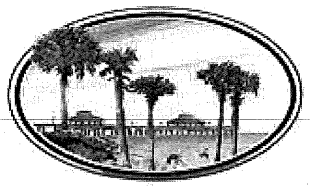

MINUTES

Monday, August 20, 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 August 20, 2012 Regular Meeting of the Town Council at 6:33 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 – Deacon Kiesel
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.

Tree Andre, resident, requested the Council take action to create or modify the land development codes that would establish a code of conduct for long-term rentals similar to LDC Section 34-23-93 that dealt with the code of conduct for short-term rentals. She discussed her opinion that this would then allow for consequences to landlords who take no action for disruptive or disrespectful tenants. She reviewed Florida statutes as it pertained to disruptive/disrespectful tenants who violate Chapter 8-77.03 and the potential second degree misdemeanor charge. She noted that the majority of property owners on the Beach were responsible; however, there were some irresponsible absentee owners.

Roy Hinkleman, resident, President of the Laguna Shores Home Owners Association, thanked the Town Council, Town Manager, and staff for making the dredging project a reality. He reported he spoke with the Town Manager about his concern regarding changing the site to the western site; however, he had not been able to meet with the Town Manager about that matter yet.

Public Comment closed.

Consensus was to discuss Ms. Andre's request about including a code of conduct for long-term rentals in the LDC during Agenda Management.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

A. Recognition of Donors to Parks & Recreation Department over $500.00

Parks & Recreation Director Evans gave a brief synopsis of the community groups, organizations, and businesses that assist the Parks & Recreation Department through volunteerism, donation of equipment and supplies, and monetary and in-kind donations throughout the year with their programming efforts. She reported that it had been Council's direction to recognize donors of $500 or more and that staff determined there were seven donors for the current fiscal year. She announced that 5 of the 7 donors were present tonight, and that the Lions Club and Lighthouse Resort were unable to attend due to illnesses. Donors present for recognition by the Town Council were:

- Fort Myers Beach Women's Club – represented by Jean Ann Walker
- Kiwanis Club of Fort Myers Beach – represented by Bill Pearson
- Brian Raymond, Business Owner
- Friends of the Mound House – represented by Ceel Spuhler
- Fort Myers Beach Fireworks Fund – represented by Mr. & Ms. Semmer

VII. IMAGE OF FORT MYERS BEACH

Council Member Kosinski reported the Second Annual 'Spirit of '45', and event that honored World War II veterans, was held on August 12th. He thanked all that attended from the Council and the Town Manager, and the Junkanoo for use of their site and donations.

Discussion ensued regarding the Second Annual 'Spirit of '45' event.

Council Member List reported the art project for Seafarer's was on-going, and how it was an all-inclusive event for the Town's children.

Town Manager Stewart gave an update on activities at Crescent Beach:

- Lee County recently installed vegetation which narrowed the amount of beach the public could use during high tide; staff would contact the County to request a modification to the plantings.
- Lee County was installing three 'functional art structures' built out of recycled steel that were designed to be shelters – scheduled for installation completion by the end of the current week.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

No advisory committee speakers.

Council Member Mandel reported the meeting requested with CELCAB had been scheduled.

IX. CONSENT AGENDA

A. Surplus Assets Disposal
A request for Council to declare listed items as surplus and authorize staff to dispose of these items utilizing the Municibid government auction website.

B. WCIND Grant Agreement for Marine Law Enforcement
Approve and authorize the Town Manager to execute the Agreement for West Coast Inland Navigational District Subgrant Funding L-361 Marine Law Enforcement for FY 2012/2013.

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

VOTE: Motion approved, 5-0.

XII. ADMINISTRATIVE AGENDA

A. Discussion Regarding Filling Vacancies on Town Council

Town Attorney Miller reviewed the Town Charter as it pertained to elections and vacancies on the Town Council. She noted Mayor Kiker was required to resign from his position on the Town Council as part of his qualifying requirements as a candidate for the County Commission District #3 effective 12:00 midnight on October 5, 2012. She reported the Town's Charter was specific that the Vice Mayor would assume the role of Mayor at 12:00 midnight on October 5, 2012; the Council would need to appoint someone as Vice Mayor at that time; and the Council would also need to appoint a person to fill Mr. Kiker's position for the period commending October 6, 2012 until the election in March 2013.

Town Clerk Mayher explained that the Council would need to discuss and decide how they would like to accomplish filling the Council vacancy; and noted the candidate must be a Town resident and a registered voter, and shall have resided within the corporate limits of the municipality for a minimum of one year prior to qualifying for election.

Mayor Kiker explained the selection process could be similar to how Council appointed members to Town boards, or each Council Member could nominate candidate(s).

Discussion ensued regarding the appointment process for Mayor and a Council vacancy; consensus was to follow the process currently used when appointing board members.

Town Attorney Miller recommended the appointment to be done at the second meeting in October.

Public Comment opened.

No speakers.

Public Comment closed.

B. Set Date for COP Hearing
Request to set a final hearing date for September 4, 2012 at 6:30 p.m. for Ordinance 12-03, amending LDC Section 34-1264, COP in EC.

Mayor Kiker reported that earlier today the Council held a Work Session and conducted site visits regarding the COP which was open to the public. He added that the Town Attorney had opined that one public hearing would be sufficient since there had already been two Public Hearings held previously.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Motion by Council Member List moved to approve setting a final hearing date for September 4, 2012 at 5:30 p.m. for Ordinance 12-03 amending LDC Section 34-1264, COP in the EC; second by Council Member Mandel.

VOTE: Motion approved, 5-0.

XI. PUBLIC HEARINGS

A. Final Public Hearing, Ordinance 12-06, Public Safety Committee

Mayor Kiker opened the Public Hearing at 7:07 p.m.

Town Clerk Mayher read the title of Ordinance 12-06:
AN ORDINANCE REPEALING CHAPTER 2, ARTICLE IV, DIVISIONS 7 AND 10 OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, "PUBLIC SAFETY TASK FORCE" AND "TRAFFIC MITIGATION AGENCY;" AND ESTABLISHING A NEW CHAPTER 2, ARTICLE IV, DIVISION 7 TO BE ENTITLED "PUBLIC SAFETY COMMITTEE;" PROVIDING FOR CREATION OF THE COMMITTEE; PURPOSE AND SCOPE; COMPOSITION, APPOINTMENT PROCEDURE AND TERM OF OFFICE; AND FORFEITURE OF OFFICE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

Town Manager Stewart noted that the Council had demonstrated a great deal of interest and concern regarding pedestrian, bicyclists, and vehicle safety; and that the Council had created an interim Task Force who has been working on the topic of public safety. He explained the proposed ordinance would

create a Public Safety Committee as an advisory committee to the Town Council, and the Council would appoint members to the new Committee.

Mayor Kiker asked if there was a member from the LPA present for comment.

LPA member was not present.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Kosinski moved to adopt Ordinance 12-06, establishing a Public Safety Committee; second by Council Member Mandel.

VOTE: Motion approved, 5-0.

Mayor Kiker closed the Public Hearing at 7:11 p.m.

Mayor Kiker questioned the advertising for the Public Safety Committee.

Town Manager Stewart noted there were vacancies for the other Town committees/boards and the new Public Safety Committee vacancies would be included in that advertisement.

Mayor Kiker mentioned to the Town Manager to keep in mind that there were members of the Chamber of Commerce and the Public Safety Task Force who had expressed an interest in the Public Safety Committee.

XIV. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XV. TOWN MANAGER'S ITEMS

A. Mound House Update

Town Manager Stewart noted that staff provided Council with a Mound House Projects Update Report from Public Works; and that there were no significant changes since the last Council meeting. He did point out that the underground exhibit required the contractor to come back and re-do the process on the floor due to some type of staining and the results turned out well. He reported the original contractor for

the underground exhibit had left the job site prior to completion, and the Town withheld funds which resulted in court action and mediation which concluded with a reduction of payment from approximately $27,000 to $14,250. He added that the project still remained on budget even with the settlement.

Vice Mayor Raymond asked for an update on the parking issues associated with the Mound House.

Town Manager Stewart reported the Community Development Director was working on a methodology that would be used in the Joint Use Agreement with the church parking.

Council Member Mandel asked if the Town was still seeking an archeologist.

Town Manager Stewart responded in the affirmative. He noted that the CELCAB Chair had requested a meeting with the Council Liaison and Town Manager and the meeting had been scheduled.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Miller reported that the Town would be filing a suit this week against the landlord on Mango Street who had been working to get the tenant out of the subject premises who had already been convicted many times of 'breach of peace'.

XVII. COUNCILMEMBER ITEMS AND REPORTS

Council Member Kosinski – no items or reports.

Vice Mayor Raymond – no items or reports.

Council Member List – no items or reports.

Council Member Mandel – noted the need for an evaluation of the Town Manager which should be scheduled for a Work Session.

Consensus was to place the Town Manager's evaluation on Agenda Management to schedule a date.

Mayor Kiker – asked that during the next Council meeting in two weeks that the Public Safety Task Force be scheduled to present an update; and he briefly reviewed the tremendous amount of research and work the Task Force had performed in the past three months.

XVIII. AGENDA MANGEMENT

Mayor Kiker pointed out the earlier request regarding a long-term rental code of conduct.

Consensus was to add 'long-term rental code of conduct' onto the Agenda Management.

Mayor Kiker noted the other item to add to Agenda Management was the Town Manager's evaluation.

Town Manager Stewart requested the Council do his performance evaluation and asked that it be done prior to the Mayor's departure.

Discussion ensued regarding the Town Manager's evaluation; consensus was to place the evaluation on the September 17th Work Session Agenda.

Discussion was held concerning the evaluation form.

Town Manager Stewart stated he would ask the Town's Personnel Officer to forward each of them the evaluation form.

Council Member Mandel asked that Council be kept abreast of anything that concerns water and utility rates so they may keep the condominium associations informed as the associations prepare their next year's budget.

Town Manager Stewart reported Public Works Director Lewis received a communication from the County that they would be adjusting their water rates again, and the item would be placed on a future agenda. He noted that again this year the County had not notified the Town of the proposed increase with sufficient notice.

XIX. RECAP OF ACTION ITEMS

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

- Surplus Assets Disposal would be processed through *Municibid* as approved
- WCIND Grant Agreement for Marine Law Enforcement would be executed as approved
- Staff would work to fill board/committee vacancies and the Town Council vacancy (i.e. advertisements)
- COP Hearing scheduled for September 4, 2012
- Town Manager's evaluation scheduled for the September 17, 2012 Work Session and evaluation forms would be forwarded to the Town Council
- Long-term rental code of conduct set on Agenda Management
- Update Council on status of golf cart use at the Mound House as it pertained to the overflow parking

Motion by Council Member List, seconded Council Member Mandel to adjourn. Meeting adjourned at 7:32 p.m.

Adopted 9-17-12 With/Without changes. Motion by Kosinski/Raymond

Vote: 5-0

Michelle D. Mayher, Town Clerk

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