

## **MINUTES**

**Monday, April 15, 2013**

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

### **I. CALL TO ORDER**

Mayor Mandel called to order the April 15, 2013 Work Session of the Town Council at 9:00 a.m. Present along with Mayor Mandel were: Vice Mayor Kosinski and Council Members Andre, List, and Raymond. Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Community Development Director Fluegel, Parks & Recreation Director Evans, Public Works Director Lewis, and Town Clerk Mayher.

### **II. PLEDGE OF ALLEGIANCE**

### **III. BEACH RAKING**

Town Manager Stewart explained that the topic of beach raking had been proposed and discussed in the past, and that Town staff had reached out again to the beach raking industry on this matter.

Keith Laakkonen, Environmental Scientist for the Town of Fort Myers Beach, reported that approximately three years ago the Town received complaints about beach raking, and at that time staff investigated what was physically occurring (i.e. holes on the beach, prior permitting requirements and the vague permitting process). He noted that mechanical beach raking was performed by very few businesses in Fort Myers Beach; and that how to deal with a commercial beach raking operation had not really been addressed in the ordinance. He added that the State of Florida did issue their own beach raking permits; however, the State seldom conducted any compliance or inspections. He explained the proposed ordinance would give the Town more 'self-stewardship' over their beaches. He prepared, utilized, and reviewed a visual presentation that depicted proposed changes to the Land Development Code as follows:

- Mechanical beach raking – use of tines or boards to rake; prohibited use of sifting.
- Amendments/changes to proposed ordinance – definition of wrack and wrack line.
- Wrack lines under abnormal conditions such as but not limited to storm conditions.

Discussion was held concerning wrack and wrack lines, wet sand line, and tidal conditions.

Keith Laakkonen continued his visual presentation that depicted proposed changes to the Land Development Code as follows:

- Section 14-6, Beach raking and wrack line policy, #(9)(a) – add “...the Florida Fish and Wildlife Conservation Commission”
- Night raking – lighting levels with respect to turtle nesting season and reducing disturbance to wildlife such as shorebirds and the public.
- Application process, aerial photograph from the Lee County Property Appraiser website for the permit process.
- Environmental education on what was wrack.
- Beach raking helped to manage the Town’s beach better and aided sea turtles and migratory birds.

Town Manager Stewart encouraged Council to move forward with beach raking in order to permit the Town to provide stewardship for the beach and to have the ability for effective enforcement.

Discussion ensued as to what happened to the wrack that was removed from the beach; and the composition of the wrack.

Council Member Raymond questioned enforcement and consequences of the proposed ordinance.

Keith Laakkonen explained it could be enforced through the typical code enforcement process and/or a permit for a particular property or an entire permitted area could be revoked. He noted that the proposed ordinance required an annual educational and training session provided by the Town for mechanical raking businesses.

Town Manager Stewart pointed out that if a non-commercial property owner wanted to bring a vehicle to their property for raking, the owner would be required to obtain a beach vehicle permit at the very least.

Keith Laakkonen noted that non-commercial property owners were required not to disturb the wrack line; however, they could remove dangerous items (i.e. trash, dead fish, filling holes, etc.).

Town Manager Stewart explained there were two parts to the ordinance:

1. Permitting – process.
2. Raking – how it would be done.

Council Member Andre noted a permit for a ‘vehicle on the beach’ was complicated; and discussed the proposed permit fee and how the permit fee would go into an environmental education and restoration fund.

Vice Mayor Kosinski asked if it was correct that a private property owner did not have to pay the permit fee, but they did have to register with the Town.

Town Attorney Miller pointed out the permit fee and registration was required for 'mechanical' raking; and that the ordinance was changed so that a vendor who raked multiple properties would not have to get a permit for each individual property.

Mayor Mandel requested staff send copies of Mr. Laakkonen's brochure on the wrack line to the condominiums.

Environmental Scientist Laakkonen responded in the affirmative.

Mayor Mandel noted his request at a previous Council meeting concerning trash receptacles on the beach.

Town Manager Stewart explained that he was going to forward a report regarding trash receptacles on the beach; and noted there were receptacles at beach entrances and some further down on the beach from the access point. He added that to place additional receptacles further down on the beach would require the Town to obtain permission from the private property owners.

Discussion ensued regarding trash receptacle requirements for COP businesses; trash receptacles and the wrack line; and the number and placement of trash receptacles on the beach.

Council Member Andre suggested MRTF could look into the number and placement of trash receptacles on the beach.

Town Manager Stewart asked if Council wanted to move 'beach raking' to the next step.

Community Development Director Fluegel stated the item could go forward to Council for Introduction.

Town Attorney Miller agreed and noted the matter had already gone to the LPA.

Consensus agreed to move 'beach raking' onto Introduction.

#### **IV. NOISE ORDINANCE**

Community Development Director Fluegel explained how staff began their analysis of the noise ordinance with determining what were the existing approvals and what the current ordinance identified. He reviewed a preliminary assessment of the noise ordinance research:

- Noise ordinance adopted in 1996; outdated concepts; enforcement left entirely to LCSO; no role for Town's code enforcement.
- Spreadsheet depicting the existing special exception approvals; hours allowed for operation and outdoor entertainment.
- Concept of an 'entertainment district'.

Jim LaRue of LaRue Planning & Management Services offered a presentation on entertainment districts:

- Components and what takes place in an entertainment district – shops, retail, entertainment, mixed-use residential, and sub-districts.

- Possible geographic delineation of an entertainment district – downtown zoning, zoning overlay.
- Potential changes to existing ordinances.
- Pros and cons of an entertainment district – creating a sense of place, economic development aspect.
- Comprehensive Plan implications – potential intensity or density changes, potential Comp Plan revisions.
- Noise implications.

Town Manager Stewart pointed out for the benefit of viewers and members in the audience that the discussion today was for staff to obtain some guidance and expectations from Town Council. He explained that the Town did have an entertainment district even though it was not defined within a specific regulation or code. He suggested the entertainment district be recognized; discussed how it impacted both residents and businesses; and how the Town should outline specific rules and expectations on how to consistently enforce it. He noted how the noise ordinance needed to be reviewed for not only typos and grammatical errors but for conflicting information, as well.

Community Development Director Fluegel noted that Mr. LaRue explained the concept of an entertainment district in a broad scheme; however, the Town could focus on a narrow assessment of an entertainment district in the form of an overlay district (i.e. noise ordinance, outdoor entertainment, and the accompanying alcohol regulation).

Mayor Mandel asked if Council wanted to consider the idea of districts, areas, hours, consistency, and the general nature of the issue presented.

Discussion ensued regarding the Downtown Zoning District and an overlay district and a sub-district.

Consensus agreed to move forward with the idea of districts, areas, hours, consistency, and the general nature of the issue presented.

Mayor Mandel queried the Council as to issues they would like to see addressed:

- Council Member Andre – districts and sub-districts
- Council Member Raymond – noise ordinance; decibel levels and surrounding residential areas
- Council Member List – level of noise measurements and location and consistency; residential areas next to entertainment areas; natural amplification of noise over water; parking requirements; alcohol consumption; mixed-use
- Vice Mayor Kosinski – uniformity and consistency; hours of operation

Discussion was held concerning uniformity and consistency regarding hours of operation; enforcement consistency; potential conflict for residential in the middle of an entertainment district; and the importance of defining, creating, and outlining the regulatory framework for enforcement purposes.

Mayor Mandel continued to query the Council as to issues they would like to see addressed:

- Vice Mayor Kosinski – noise ordinance to address residential neighborhoods (i.e. party at neighbor's residence)

- Mayor Mandel – recapped that an assessment should look at the island and realize that ‘one size does not fit the whole island’, zones and sub-zones, logical consistencies in the areas of hours and noise as it applied to enforcement purposes, and parking and traffic flow.

Recess at 10:19 a.m. – Reconvened at 10:35 a.m.

## **V. FUNDING FOR STORMWATER**

Town Manager Stewart reported the Town had funding for an initial project area.

Public Works Director Lewis stated the boundaries of the initial project area (Basin Based Project – result of Hurricane Wilma through the Hazard Mitigation Grant Program - HMGP) were the 12 roads (both bay and Gulf sides) from Carolina Street through Tropical Shores Way. She reported the Basin Based Project was combined with Phase I of the water rehab, and the waterlines would be replaced in that area at the same time. She noted that the quality aspects of the project were intended to be funded through the Town since the HMGP only funded collection and conveyance.

Town Manager Stewart described the elements of the project – capacity of stormwater to prevent flooding and the ability to treat water before it went into the natural environment.

Public Works Director Lewis noted that the purpose of the HMGP was to ‘reduce and eliminate flooding’, and was generally storm-related.

Discussion ensued regarding the filtering system used on north Estero, and underground treatment units and how they operated.

Mayor Mandel asked if stormwater improvements would eventually be done on the entire island.

Public Works Director Lewis responded in the affirmative.

Mayor Mandel asked if there would be multiple locations for the filtering.

Public Works Director Lewis responded in the affirmative.

Mayor Mandel asked if the County would also utilize the Town’s system; and if there was potential for an interlocal agreement with the County to have them pay the Town.

Public Works Director Lewis responded in the affirmative that the County would also utilize the Town’s system, and that there was potential for the interlocal agreement with the County to have them pay the Town.

Discussion was held concerning whether or not there were federal funds available for stormwater projects; and project funding alternatives (i.e. State’s 319 Program).

Town Manager Stewart discussed the potable water project and the funding mechanism called “rates”; when in the future the Town would need to analyze the rate structure; how the rate structure was the basis for the Town’s ability to borrow money for major capital work; and the potential cost and funding for a master stormwater project.

Public Works Director Lewis reviewed her memorandum (April 3, 2013 – Stormwater Planning) and discussed the following:

- Infrastructure – a variety of approaches and mechanisms would be necessary to meet the islands’ needs for collection and treatment.
- State and EPA imposed conditions for the discharge of stormwater.
- Majority of the Town’s stormwater and flooding issues were from Estero Boulevard.
- The urban setting of the community.
- Limited ability of the Town’s current codes to reduce the amount of impervious area on an individual’s property; and the potential changes to the code.
- Potential use of the canal system to provide some discharge when necessary.
- Stormwater Master Plan has identified certain areas of the island so as to determine how to proceed with the different types of infrastructure (i.e. reconstituting swales).

Town Manager Stewart noted that if the Town embarked on the stormwater program, it would require borrowing and it would be placed before the public in the form of a referendum.

Mayor Mandel asked if the cost estimate was for just the Town’s streets or did it include Estero Boulevard.

Public Works Director Lewis reported it was for the Town’s streets; and explained that the numbers did reflect some of the carrying of those intersections that were in the Town’s right-of-way which might be the settling point for some of the flooding along Estero Boulevard.

Mayor Mandel noted his belief that the project should be done with an interlocal agreement in mind and with a joint working group.

Finance Director Wicks discussed how the cost estimates were not totally detailed; and noted the information submitted to the Council included an amortized debt over a 20-year period, and that the choices were limited for financing this type of a project (either enterprise utility-type fund or through General Fund dollars). She explained her belief that an enterprise fund seemed to be a fair and equalizing method.

Discussion was held concerning the similarities and differences between the water utility and stormwater as it related to an assessment and a user fee; and how to determine the annual cost to the public.

Town Attorney Miller recommended that the Town hire an engineering firm since they would need a firm basis for how they determined the ‘charging’ methodology (i.e. ERU, square footage, etc.).

Discussion ensued regarding the potential annual cost to property owners; and the need for public outreach to gain acceptance and approval.

Consensus agreed that the proposed stormwater program move forward.

Council Member List questioned regulations related to the amount of impervious area permitted on a property.

Public Works Director Lewis reported there was language in the Town's Land Development Code; however, in her opinion it was not enough, and reported staff was working to bring some new language to the LPA associated with this matter which would come back to Council.

Council Member List discussed her views on the lack of maintenance to Estero Boulevard by the County.

Discussion was held concerning whether or not to begin the creation of an interlocal agreement with the County; future improvements to Estero Boulevard by the County and corresponding improvements to the stormwater system; and sizing the Town's initial capital infrastructure to be able to handle what would come off Estero Boulevard and the added sizing and operational costs.

Town Manager Stewart explained that the role of Public Works Director Lewis on the Estero Boulevard design team was 'design'; and that he would take 'financing and cost' to the County Manager.

Consensus agreed that the Town Manager would discuss this matter with the County Manager, and that the Public Works Director and the Finance Director would proceed with engaging consultants on this matter and come back to the Council with their findings.

Recess at 11:18a.m. – Reconvened at 10:35 a.m.

## **VI. PARKS & RECREATION DEPARTMENTAL REPORT**

Council Member Raymond was excused.

Town Manager Stewart noted that at the request of the Town Council, the Cultural Resources Division information was now included in the monthly report and the report had been re-named the 'Parks & Recreation Department Monthly Report'.

Parks & Recreation Director Evans presented the monthly overview of the Parks & Recreation Departmental activities, revenues, expenditures, user participation, and donations for March 2013 which included Cultural Resources, Parks, Recreation, and Aquatics. She discussed the following items of the Cultural Resources Report:

- Capital Improvement Projects
  - Newton Park Signage, potential future grant (i.e. Florida Communities Trust, TDC) funding for staffing Newton Park
  - Shell Mound Exhibit – video and synchronization of lighting

- Kayak Equipment and Tours – kayaks ordered and awaiting delivery; tours and educational programs were planned and advertised in the newsletter; update on the kayak building construction
- Museum – contractual archeologist was working with Town staff; working on the display content and fabrication of signage for inside museum

Town Clerk Mayher interjected that there were two Joint Meetings of the Town Council scheduled for April 22, 2013 for them to meet with MRTF and CELCAB.

Parks & Recreation Director Evans continued her presentation on the monthly overview of the Parks & Recreation Departmental Cultural Resources Report:

- Bocce Courts – project completed in-house with Public Works staff and Conidaris Builders; an additional layer of surface material to be added

She noted the Report included information on daily participation at the various facilities, volunteers and volunteer training/orientation, the new Beach Explorers Programs at Newton Park, and Division of Cultural Affairs grant update (funds to be encumbered by 6/1/13).

Discussion ensued concerning funds to be encumbered by June 1, 2013.

Parks & Recreation Director Evans continued her presentation on the Parks & Recreation Department Monthly Report – Grants & Reporting and Other Cultural Resources Activities:

- Division of Historic Resources, Special Categories – Town would be informed after June on the outcome of their application
- Florida Community Trust – Mound House Annual Stewardship Report would be signed by Town Manager and submitted by April 30<sup>th</sup> as required
- Tourist Development Council (TDC)
- Mound-a-Bout cart was serviced for a new battery
- Signage for church overflow parking; signage at the Mound House directing visitors to the church

Council Member Andre questioned the status of the RFQ for the Mound House.

Town Manager Stewart reported the RFQ would be advertised by this Friday which was the date originally planned.

Mayor Mandel questioned his request concerning ‘planning a conference around the Viva Florida 500’.

Parks & Recreation Director Evans reported that at this time CELCAB had discussed the matter; she had yet to discuss the item with the Town Manager; and noted they had yet to plan their big event to encompass the educational component. She explained that CELCAB did feel the Town’s Viva Florida 500 event should have an international focus.

Mayor Mandel explained that his previous discussion of Viva Florida 500 was that the staff might consider an ‘international conference of experts on the topic’ because Viva Florida 500 deals with Spain

and Florida. He discussed his views on promoting archeological conferences during off-season and the marketing of the Mound House.

Council Member Andre questioned staff's attendance at the Old Florida Festival.

Parks & Recreation Director Evans noted the attendance was a staff training session and it was a very small event.

Town Manager Stewart added that the Town would be utilizing the Town's archeologist to assist staff on the Viva Florida 500 event with an educational component.

Council Member Andre questioned if staff had contacted the National Parks Association to obtain an average subsidy for the parks and recreation departments across the country.

Parks & Recreation Director Evans stated that information was not completed at this time. She reported Bay Oaks now had 570 new members since January.

Mayor Mandel asked if the Director knew what the new members were spending.

Parks & Recreation Director Evans responded in the negative; and noted tracking issues with their software as it pertained to obtaining this type of information.

Discussion ensued regarding how to compile the new member spending information by comparing last year numbers to current year.

Mayor Mandel asked how the Town was publicizing membership to the public.

Parks & Recreation Director Evans reported a marketing plan had been created and was underway:

- Entertainment Magazine – membership and upcoming specialty camps

Town Manager Stewart stated he would forward to Council the staff's outline of the marketing plan.

Parks & Recreation Director Evans reviewed the series of 8-10 specialty camps created for the summer; adult fitness programs were winding down due to season; the BOSS Coordinator position was filled; the Walking Poker Crawl on April 20<sup>th</sup>; Family Fun Movie Night; athletic field rentals; aquatics; and the Senior Room renovation.

Council Member Andre requested that an American flag be included in the mural planned for the Senior Room.

Parks & Recreation Director Evans continued her report noting one of the pool awnings was replaced; there were some closures in March due to cold weather; and swim lessons began last Saturday. She reported that Leadership Fort Myers Beach came to the facility and had a positive experience.

Town Manager Stewart complimented CRAB for their organization of the Leadership Fort Myers Beach.

## **VII. COUNCIL MEMBERS ITEMS**

Council Member List – informed Council she had asked Ms. Greer to come before them with a synopsis of the Leadership Fort Myers Beach. She requested an excused absence from the second Council meeting in June.

Consensus agreed that Council Member List would not be in attendance at the second Council meeting in June.

Council Member Andre – questioned the status of the Neptune Inn signage.

Town Manager Stewart reported the Inn had made their application and received approvals; however, he did not know what was holding it up, but probably it had to do with ‘season’. He stated he would check with the Community Development Director and respond to Council Member Andre.

Council Member Andre noted a previous discussion regarding Central Parking’s ability to enforce animal control on the beach and indicated he had received data from the Public Works Director about the number of tickets issued for certain incidents. He asked if he should assume that since no tickets were issued for animal control on the beach that Central Parking could not enforce this matter.

Town Manager Stewart reported Central Parking could cite for animal control on the beach.

Council Member Andre requested information that would inform Council as to what issues Central Parking had the ability to cite.

Town Manager Stewart explained one of the problems with a dog was that if someone called, that by the time the officer got to the site the owner and dog were usually gone. He added that Central Parking could issue a warning and a citation regarding a loose dog.

Discussion was held concerning compliance and enforcement.

Council Member Andre noted when the Heavenly Biscuit requested their commercial designation back and how the applicant had stated he would paint and fix the exterior. He questioned if there was any follow-up to that case.

Town Manager Stewart reported there had been another issue at that location pertaining to whether or not the building was safe for use. He stated he would investigate Council Member Andre’s concern and report back to Council.

Council Member Andre questioned if the portable restroom at a beach access would have the opportunity for public input with regard to site selection.

Town Manager Stewart pointed out that when the restrooms were discussed in the past there had not been much opposition by the public; and that staff did send out notices to the surrounding property owners again.

Vice Mayor Kosinski – no report.

Mayor Mandel – no report.

Council Member Raymond – no report; excused earlier in the meeting.

Town Manager Stewart reported staff had received a two applications for appointment to Town committees (Bill Veach/MRTF, Summer Stockton/BORCAB).

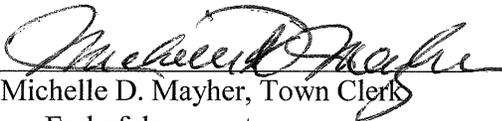
Mayor Mandel stated he would request Council at their meeting later to add those appointments to the agenda.

### VIII. ADJOURNMENT

Meeting adjourned at Noon.

Adopted 5:00-13 With/Without changes. Motion by Kosinski/Andre

Vote: 4-0 List absent

  
Michelle D. Mayher, Town Clerk

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