



## MINUTES

**Monday, November 18, 2013**

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

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

Mayor Mandel called to order the November 18, 2013 Regular Meeting of the Town Council at 6:30 p.m. Present along with Mayor Mandel: Vice Mayor Kosinski and Council Members Andre, List, and Raymond. Also Present: Town Manager Stewart, Town Attorneys Humphrey and Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, Parks & Recreation Director Norton, and Town Clerk Mayer.

### **II. INVOCATION – Town Clerk Mayer**

### **III. YOUTH COUNCIL – Fort Myers Beach Elementary School**

Council Member List introduced representatives of the Fort Myers Beach Elementary School Youth Council – Grace Piccirillo and Richard Hilpert.

Grace Piccirillo, Fort Myers Beach Elementary School Youth Council, reported on the students' project to paint pictures of the school that were displayed at the Paint the Beach event. She noted the Art Club painted a seahorse (donated by Santini Plaza) that would help decorate the Golisano Children's Hospital. She noted the event, "Pancakes on the Bay", at Fish Tale Marina helped the students raise over \$1,000; and she thanked Mayor Mandel for cooking at the event. She added that the students liked helping with various Beach events throughout the year.

Richard Hilpert, Fort Myers Beach Elementary School Youth Council, reported there was a block party this past Saturday to celebrate the 65<sup>th</sup> Anniversary of the Fort Myers Beach Elementary School. He thanked BORC, the Town pool, the public library, Friends of Matanzas Pass Preserve, Council Member List and everyone else who helped to make the day fun. He announced that students in music class had practiced holiday songs for a holiday craft and music concert event to be held at the school on December 17<sup>th</sup>. He added that the students had invited parents and family to the school this Wednesday evening for a turkey dinner.

Council Member List told of the great open-house event held at the school on Saturday.

#### **IV. PLEDGE OF ALLEGIANCE – Fort Myers Beach Elementary School Youth Council**

Pledge of Allegiance was performed at the start of the Youth Council Report.

#### **V. APPROVAL OF FINAL AGENDA**

Mayor Mandel thanked Mr. Durrett for providing all the facilities at Santini Plaza for the Pancake Breakfast event; and he also thanked Principal Wood, County Commissioner Kiker, and Truly Scrumptious for their assistance with the event.

Mayor Mandel requested to change the Administrative Agenda to be heard in the order of Items B, C, and A.

Consensus approved the Agenda as amended.

#### **VI. PUBLIC COMMENT**

Mayor Mandel noted Public Comment was a time for the public to discuss Consent Agenda Items and issues currently not on the agenda.

Public Comment opened.

Bud Nocera, President of the Fort Myers Beach Chamber of Commerce, expressed his concern with the recent announcement of cutbacks to LeeTran bus service after 6:00 p.m. in the Town. He noted how many people utilized the bus service during season in the evening hours; and how the cutback would cause more vehicles to be on the Town roads. He requested the Town work with the County to re-establish the schedule.

Tom Babcock, member of citizens' group concerned about aircraft traffic noise, noted that last June the Town Manager and Mayor had an encouraging meeting with the Lee County Port Authority and the FAA. He discussed the feedback received from the meeting which included:

- Progress of the noise recommendations passed by the Port Authority last January that seemed would not be approved until early next year.
- Much of the recommendations in the study could be implemented voluntarily.
- How the change of season there was increased aircraft traffic that lined up with runway #6 that lined up over the Town.
- Feedback given to the airport and air traffic controllers included that the citizens' group would use the flight tracking system utilized that was used and approved last March; data was being collected in order to give them answers as to what and was not working for the Town residents; and to have a baseline for when a lot of the recommendations should be approved and implemented.

He reported there was a meeting last week with Council Member List, the Town Manager, and members of the citizens' group in order to share data collected; and at that time it was recommended for the group to take the information to the airport and the FAA for their feedback. He requested approval from the Town Council for the Town to arrange meetings with the Port Authority and station managers that would allow the group to share their information and obtain feedback; and noted the urgency of scheduling the meetings because there was a forum planned for early December.

Public Comment closed.

## **VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Council Member Andre offered kudos to the Town's website for the traffic cams; and offered thanks to all who participated in the Matanzas Pass Wine Dinner event where over \$9,000 was raised for the Preserve.

Council Member List recognized Mr. Bruce Cermak who was owner of the Surf Club for his benevolence to the community over the years. She noted his recent personal health challenges and reported that on this coming Saturday his staff organized a festival to show support and help for Mr. Cermak. She described the block party this past Saturday to celebrate the 65<sup>th</sup> Anniversary of the Fort Myers Beach Elementary School.

Council Member Raymond complimented Council Member List for her 2-hour performance at the Paint the Beach event this past Saturday.

Mayor Mandel recognized Mr. and Mrs. Durrett in the audience for their assistance at the Pancake Breakfast; thanked Council Member Andre and Mrs. Andre for their work at the Matanzas Pass Wine Dinner; and complimented everyone who participated in the Paint the Beach event. He announced, as of today, membership at Bay Oaks was just under 1,600.

## **VIII. ADVISORY COMMITTEES ITEMS AND REPORTS**

Miffie Greer, Chair of the Community Resources Advisory Board, offered an update on CRAB projects such as but not limited to signage and improvements for bay and beach accesses; and the contact of stakeholders regarding comfort stations at certain bay and beach accesses to attend the next CRAB meeting (i.e. Canal Street and Avenue C). She reported CRAB was requesting that Council look at the lack of lighting at the Crescent Beach Family Park. She noted CRAB was looking into a beautification feature using amber lighting along Estero Boulevard for once the improvements were completed.

Mayor Mandel noted that when coming over the bridge at night that Crescent Beach Family Park was not well lit.

Town Manager Stewart indicated he would report the lighting concern to the County Manager.

## **IX. ADMINISTRATIVE AGENDA**

**B. Pink Gold Rush Documentary**

A request to approve \$6,000 funding to WGCU to support the production of the Pink Gold Rush video about the Fort Myers Beach Shrimping Industry.

Barbara Lindstrom, Executive Producer from WGCU – Public Broadcasting Television (a broadcast service of Florida Gulf Coast University), reviewed their request for sponsorship of a public television show.

Public Comment opened.

No speakers.

Public Comment closed.

**MOTION:** Council Member Andre moved to approve \$6,000 funding to WGCU to support the production of the Pink Gold Rush video about the Fort Myers Beach Shrimping Industry and that WGCU agreed to list the Town as a sponsor and display the Town logo in the credits; second by Vice Mayor Kosinski.

Town Manager Stewart reported that Mr. Brennan of WGCU stated the Town would be listed as a sponsor and also give the Town public announcement credits in an amount equal to the \$6,000.

Council Member Raymond questioned the fund to be used for the \$6,000 sponsorship.

Town Manager Stewart recommended the \$6,000 come out of the funds which had been set aside for arts, cultural, and history events. He indicated that the fund had approximately \$60,000 allocated.

Discussion was held concerning the budget line item set aside for arts, cultural, and history events; the timeliness of sponsorship requests as it pertained to the Town's budget preparation process; and the separate budget line item for fireworks.

**VOTE:** Motion approved; 5-0.

**C. Greater Fort Myers Beach Area Friends of the Arts Request for Funding**

A request for funding of the 2014 Publicity Program.

Bob Layfield, President of the Fort Myers Beach Area Friends of the Arts and President of the island's newspaper, reviewed the funding request of \$25,000 for publicity of culture and arts on the island for the next 12 months. He reported the TDC announced on Friday that Fort Myers Beach became the number one tourist tax collector in Lee County. He discussed the tourist 'visitation experience' which included events, activities, and things to do; and how the Friends of the Arts promoted all forms of art on the Beach.

Cindy Dobbins, Above Water Public Relations, further reviewed the funding request of \$25,000 for publicity of culture and arts on the island for the next 12 months. She offered a presentation outlining

the types of art events Friends of the Arts funded; and the local media coverage, and even national and international media coverage the events received. The presentation noted how Island businesses were involved in bringing the community together and helping promote events; how numerous art groups were benefitting from public relations; and how events contributed to promoting the community.

Bob Layfield reviewed some of the basic facts of the funding request.

Town Manager Stewart explained that the difference between the Friends of the Arts application last year and the current application – this year’s application provided a report of accomplishments. He reported the Friends submitted an application that met all of the criteria established by the Council to qualify them to be able to make a funding request.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Raymond suggested creating a line item in the budget if the Council intended to fund the Friends of the Arts each year.

Discussion was held regarding the Friends of the Arts funding request.

**MOTION:** Vice Mayor Kosinski moved to approve the Greater Fort Myers Beach Area Friends of the Arts request for funding of its 2014 Publicity Program in the amount of \$25,000; second by Council Member List.

**VOTE:** Motion approved; 5-0.

A. Event Sponsorship Procedural Guidelines

A request to approve a written sponsorship policy establishing guidelines to evaluate sponsorship and administer the sponsorship program.

Town Manager Stewart explained that the discussion item on Event Sponsorship had been before Council previously, and it had been requested to craft a set of operational policies regarding Event Sponsorship.

Town Attorney Miller reviewed how the guidelines for the sponsorship program did not create an open public forum.

Town Manager Stewart noted that the guidelines were new and that Council might expect some modification(s) in the future as staff worked with the sponsorship guidelines.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Andre suggested a modification on Page 7 of the draft guidelines under, Authorization Requirements and Process, and that it should be a Council decision if the sponsorship was \$10,000 or more.

Town Manager Stewart concurred with Council Member Andre.

**MOTION:** Vice Mayor Kosinski moved to approve the sponsorship policy, and add any sponsorship over \$10,000 required Council approval; second by Council Member List.

**VOTE:** Motion approved; 5-0.

Mayor Mandel noted that earlier in the meeting the Council approved the funding request to WGCU for the Public TV production sponsorship of the Pink Gold Rush documentary. He discussed food sustainability and the concept of branding Fort Myers Beach shrimp. He requested to form a committee with Mr. Nocera and Ms. Gore to work on food sustainability, preservation, and branding. He displayed a vehicle placard from 1995 entitled "Treasure by the Sea" which was donated to the Town.

## **X. PUBLIC COMMENT**

Public Comment opened.

No speakers.

Public Comment closed.

## **XI. TOWN MANAGER ITEMS**

### **A. Mound House Update**

Mayor Mandel reported that the Cultural Affairs Grant from the State for the Mound House restoration was valid and approved.

Town Manager Stewart reviewed how at the earlier Work Session staff had presented information to Council for the creation of the Mound House Capital Improvement Plan in order to create a clear-cut funding path for all Mound House projects. The information included the total cost and the gap between funding (approximately \$106,000 gap). He reported the Florida Historical Commission grant of \$333,614 for restoration and exhibits was pending approval of the Historical Commission's budget from the State for FY2014-15.

Mayor Mandel asked if Council should contact State legislators about the grant.

Town Manager Stewart stated his first inclination was to respond affirmatively; however, he recommended that he first speak with the grant office. He asked if there were any questions regarding the Mound House Projects Update Report dated November 6, 2013.

No questions.

B. Action Items Recap

Town Manager Stewart asked if Council had any questions on the information submitted the Action Items Recap.

No questions.

**XII. TOWN ATTORNEY ITEMS**

A. Amendment to Legal Services Agreement with Fowler White Boggs

A request from Fowler White Boggs to approve a retainer increase and amend the agreement for legal services.

Attorney Humphrey, of Fowler White Boggs, noted the Council had indicated the need for additional time to have Town projects completed in a more timely way. He reviewed their firm's request to increase the monthly retainer and noted upcoming special projects such as but not limited to the Estero Boulevard improvements and review of ordinances which required additional time. He reported the firm spent a total of 708 hours since January 1<sup>st</sup> through October 31<sup>st</sup>. He stated the firm wanted to provide more time to the Town and requested Council favorably consider "*either one of the two or a combination*".

Discussion was held concerning the 'governmental rate' (\$225/hour); the cost for work on special projects; obtaining a legal response within a reasonable period of time; and the rates charge to the Town.

Mayor Mandel requested confirmation that the lobbyist agreement was separate from the subject agreement.

Attorney Humphrey responded in the affirmative.

Town Manager Stewart noted that the lobbyist services could be prepared as an amendment to the agreement; and added the funds were budgeted for the lobbyist.

Attorney Humphrey agreed to bring back a proposal for Council consideration in December.

Town Attorney Miller reported she had forwarded information to Council regarding the Lani Kai lawsuit; that Attorney Potter in her office would handle the matter; and there may a closed attorney/client session. She discussed an Attorney General Opinion she had received and her communication with the Lee County Building Official as it pertained to an interlocal agreement for building services [dual office holding].

### **XIII. COUNCILMEMBER ITEMS AND REPORTS**

#### **A. Designation of a Representative to Speak at Lee County Legislative Meeting December 3, 2013 – Mayor Mandel**

Mayor Mandel reported the Lee County Legislative Committee was meeting on December 3<sup>rd</sup> and requested approval to be designated as the Town's representative to speak at the Lee County Legislative Meeting. He stated he wanted to discuss ways in which a small town could fund large projects such as but not limited to the upcoming infrastructure work (i.e. possibly using a sales surtax).

Consensus approved the Mayor's request to serve as the Town's representative at the Lee County Legislative Meeting.

Keith Arnold, Fowler White Boggs, told of his discussions with the Mayor regarding the Town's funding of large projects and the possible implementation of a local sales tax without going through the County Commission. He reviewed the current law as it applied to a local option infrastructure sales tax; and encouraged a broad approach to the issue. He noted upcoming important issues – the communications service tax and municipal pension reform. He added he would continue to work on the Estero Boulevard Improvement project and the State Revolving Fund; pointed out the agenda back-up for the legislative priorities; and mentioned the Mound Key annexation issue.

Council Member Andre – questioned the status of the Town Hall window display.

Town Attorney Miller reported she had modified the agreement language which was sent to the landlord.

Town Manager Stewart stated he spoke with the property manager about the request who informed him that she wanted to comply with the Town's request; however, she was still negotiating the matter with her attorneys.

Council Member Andre questioned the status of the Investment Policy review by the Audit Committee.

Town Manager Stewart reported he spoke with the Chair of the Audit Committee yesterday; and he was informed that the Committee was working on the issue and had forwarded a review request to the Town Attorney about the Investment Policy.

Town Attorney Miller reported she intended to attend the Audit Committee's December meeting.

Council Member Andre questioned if staff had spoken with Ms. Monroy about Center Street.

Town Manager Stewart reported he had not heard from her and would follow-up with a telephone call.

Council Member Andre questioned how the mandatory business recycling on the Beach was working since it went into effect on November 1<sup>st</sup>.

Town Manager Stewart explained that staff had provided information to each location impacted through Advanced and through the Chamber for those businesses not using Advanced; and that each location was required to recycle their major recyclable item.

Discussion was held concerning the requirements of the mandatory business recycling.

Council Member List – discussed the aircraft noise issue and her meeting with a private citizens’ group who monitor aircraft noise data; noted there were discretionary things that could be done now that would give relief to residents if the Town could get their ideas put forth again. She requested the Mayor, Town Manager, and some members of the group to meet with the air traffic controllers and airline station managers regarding the aircraft noise.

Discussion was held concerning the creation of a Town committee to deal with the aircraft noise issue.

Town Manager Stewart recapped his sense of the meeting he attended along with Council Member List and the private citizens’ group who monitor aircraft noise data; and what he believed their intention was to request the airport for additional voluntary compliance.

Discussion was held concerning the timeline for FAA approval; and meeting with the airline station managers.

Council Member List recognized Mr. Babcock in the audience.

Mr. Babcock reported he attended a meeting on the Estero Bay Management and offered an update on personnel changes at the airport.

Consensus approved Council Member List’s request for the Mayor, Town Manager, and some members of the group to meet with the air traffic controllers and airline station managers regarding the aircraft noise.

Council Member Raymond – questioned an email he received from Mr. Wallace concerning the Little Estero Island Estuary.

Mayor Mandel explained how many years ago the Gulf of Mexico came up to the Island Reef Condominium; how over the years a lagoon-type body of water had formed, but after the last storm it appeared the inlet had closed. It seemed that the condominium residents were questioning if the inlet should be re-opened. He added that to open the inlet a permit from the State would need to be obtained. He reported he spoke with Mr. Wallace about the matter.

Council Member Andre asked if the Town’s Environmental Scientist was aware of this issue.

Town Manager Stewart stated the Environmental Scientist was aware of the issue who indicated to the Town Manager that it was not likely that the Town would get approval to perform dredging of the

subject site. He reported he would ask staff to provide a statement with information from the letter of complaint and request the State make a statement back to the Town.

Council Member Raymond expressed his concern about the recent announcement of cutbacks to LeeTran bus service after 6:00 p.m. in the Town. He explained how LeeTran service helped to relieve some of the traffic issues in the Town because so many people utilized the trolley service during season.

Discussion ensued regarding cutbacks to LeeTran bus service after 6:00 p.m. in the Town.

Mayor Mandel requested the Town Manager send a communication to the County Manager about the service cutback and outline the Council's concerns.

Town Manager Stewart reported when he learned of the issue he had communicated his concerns with the County Manager that the Town was learning about this matter through the media. He stated the County Manager offered a sincere apology and he assigned an Assistant County Manager to offer a better understanding of what was happening. Town Manager Stewart offered to work with the County to determine how they could avoid the reduction in service.

Council Member Raymond noted the importance of maintain the bus/trolley service on the Beach.

Council Member List pointed out that the LeeTran bus/beach service was a 'county' service and not just a 'town' service.

Vice Mayor Kosinski – no items or report.

Mayor Mandel asked if they had received the information on the prescription drug cards.

Town Manager Stewart stated the information was being printed and the Town was awaiting delivery from the National League of Cities.

Mayor Mandel – pointed out that the Town usually took a table at the Horizon Council event; and relayed a conversation he had concerning assisting children on the Island during the holiday season.

Town Manager Stewart reported the table cost \$30 per seat or a total of \$300 per table.

Consensus approved the Town Manager to obtain 12 seats at the <sup>Spirit of Holidays</sup> ~~Horizon Council~~ event.

## **XVII. AGENDA MANAGEMENT**

Town Manager Stewart and Town Council reviewed the Agenda Management:

- Three additional items had been added – Increased Code Enforcement (#30), Flood Insurance (#31), and Annexation (#32); the Mound Key annexation would come before Council when it was ready.
- Fort Myers Beach Film Commission (#24) and Pink Gold Rush (#25) – removed/completed.
- Maintain the December 16<sup>th</sup> and January 6<sup>th</sup> Council meetings.

- Increased Code Enforcement (#30) and Code Enforcement Discussion (#22) – difference between the two topics; and the funding request to TDC for increased ambassadors which was approved; Town Manager to report back to Council when the increased ambassadors would occur and the hours of service. Council requested a discussion on Code Enforcement be added to the Work Session of December 16<sup>th</sup>.
- Water Utility Management – place on the December 2<sup>nd</sup> Agenda.
- Golf Carts for handicapped use on the beach – place on the December 2<sup>nd</sup> Agenda.
- LeeTran Bus/Trolley Service - place on the December 2<sup>nd</sup> Agenda for an update.
- Mound Key Annexation – keep placeholder on December 16<sup>th</sup> Agenda.

Council Member Raymond questioned a timeline for completion of an enforceable noise ordinance.

Town Attorney Miller explained that during the prior discussion on the entertainment district it was noted that the Town should obtain the services of a sound expert to assist with decibel levels. She added the Sheriff's Office indicated the deputies could still cite people for 'breach of peace'.

Discussion was held concerning special events, noise levels, and enforcement issues.

Consensus requested the noise ordinance be placed on the December 16<sup>th</sup> Work Session.

Town Manager Stewart requested approval to remove Items # 4 Water Utility Rate Study & Bonding, #21 Policy for Non-Profit Waivers and Funding, #25 Pink Gold Rush, #26 County Proposal on Estero Boulevard, and #28 CIP for the Mound House.

Consensus approved the Town Manager's request to remove the items described from Agenda Management.

### **XVIII. RECAP OF ACTION ITEMS**

Town Manager Stewart stated he would forward the recapped the Action Items to the Council.

### **XIX. ADJOURNMENT**

Motion by Council Member Andre; second by Council Member List. Meeting adjourned at 8:40 p.m.

Adopted 12/16/13 <sup>Pg. 10</sup> (With/Without changes. Motion by Andre; List)

Vote: 5-0

Derek Bargmann  
Derek Bargmann, Deputy Town Clerk

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