



## **MINUTES**

**Monday, April 21, 2014**

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

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

Mayor Cereceda called to order the April 21, 2014 Regular Meeting of the Town Council at 6:30 p.m. Present along with Mayor Cereceda: Vice Mayor Andre and Council Members Hosafros, Mandel, and Stockton. Also Present: Interim Town Manager Stilwell, Town Attorney Rooney, Public Works Director Lewis, Planning Coordinator Overmyer, Parks & Recreation Director Norton, and Town Clerk Mayher.

### **II. INVOCATION - Rev. Jeanne Davis, Beach United Methodist Church**

### **III. PLEDGE OF ALLEGIANCE**

### **IV. APPROVAL OF FINAL AGENDA**

**MOTION:** Vice Mayor Andre moved to approve the Final Agenda as presented; second by Council Member Hosafros.

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

### **V. PUBLIC COMMENT**

Mayor Cereceda requested Public Comment to be concerned with Agenda Items.

Public Comment opened.

Fran Pedrassa, resident, noted his support of the Fort Myers Beach Chamber of Commerce.

Paul Rosen, resident and member of the Board of Directors for Marina Village at Snug Harbor, noted his support of the Taste of the Beach. He added that they were also in support of the location of the band as designated on the special event application.

David Anderson, Chair-Elect of the Chamber of Commerce, talked about the details of the event and purpose of the Taste of the Beach. He explained how organizers met with Marina Village about their concerns over the event; how the organizers adjusted the location of the band in an effort to direct noise away from the condominium; and he requested Council approve the event permit.

Steve D'Angelis, Chamber of Commerce Board Member and Manager of Nervous Nellie's, discussed how organizers worked with Marina Village concerning noise from the band; and pointed out he had technical information regarding amplification if needed. He requested Council approve the event.

James Lanay, Chamber of Commerce Board Member, noted his support of the Taste of the Beach and requested Council approve the event.

Joe Stockton, resident, discussed his views on 'neighborhoods' and stated he was speaking at the request of Missy and Bob Layfield of the Island Sand Paper newspaper. He talked about the 'muffling of neighborhoods', 'not giving priorities to the neighborhoods', and public input.

John Gavin noted the value of various well-known special events held on Fort Myers Beach and his support of the Taste of the Beach.

Bud Nocera, President of the Fort Myers Beach Chamber of Commerce, stated he was present to answer any questions concerning the special event permit application for Taste of the Beach. He addressed the position of the stage for Taste of the Beach and explained they were trying to build the stage over the end of the fountain in order to mitigate noise. He described the type of amplification equipment to be used at the event.

Tracey Gore, resident, stated she was in favor of the Chamber of Commerce and Taste of the Beach and claimed the residents of Crescent and Primo were also in favor of the event. She questioned the request from Nervous Nellie's to extend their COP over the fountain/gazebo.

Rich Karger reported he owned Fort Myers Beach Insurance Brokerage and noted he supported the Chamber of Commerce and their event.

Steven Lisay, resident, noted his support of the various events on the island, the Fort Myers Beach Chamber of Commerce, and the Taste of the Beach.

Ted Clifton, resident, noted his support of the Fort Myers Beach Chamber of Commerce and the Taste of the Beach. He noted his concerns about the long-term implications of ordinances related to special events; and noted he was Chair of the Lion's Club Shrimp Festival Expo and his wife was Chair of the Shrimp Festival Parade.

Public Comment closed.

## **VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Council Member Stockton recognized the Bay Oaks Poker Crawl and the businesses who participated in the event.

Vice Mayor Andre told of the discussion earlier in the day by Council on the special event process and application and how they were working to streamline the matter.

Mayor Cereceda recognized the Relay for Life event and the event organizers.

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

No speakers.

## **VIII. PROCLAMATION**

### **A. Make-A-Wish Foundation**

Presentation of proclamation was postponed until recipient could be present.

## **IX. APPROVAL OF MINUTES**

- A. March 18, 2014 Regular Council Meeting Minutes
- B. March 28, 2014 Work Session Minutes
- C. March 28, 2014 Special Meeting Minutes

Council Member Stockton requested corrections to the start time and adjournment time of the meeting in the March 28, 2014 Special Meeting Minutes.

**MOTION:** Council Member Hosafros moved to approve the March 18, 2014 Regular Council Meeting Minutes and March 28, 2014 Work Session Minutes as presented and the March 28, 2014 Special Meeting Minutes as amended; second by Council Member Stockton.

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

## **X. CONSENT AGENDA**

- A. Resolution 14-12, FDOT (Bridge) Maintenance Agreement  
A request to adopt Resolution 14-12, FDOT Bridge Maintenance Agreement No. BDX74 to perform necessary ancillary work on the Matanzas Pass Bridge.

**MOTION:** Vice Mayor Andre moved to approve a request to adopt Resolution 14-12, FDOT Bridge

Maintenance Agreement No. BDX74 to perform necessary ancillary work on the Matanzas Pass Bridge; second by Council Member Stockton.

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

B. Modification to the Sub-Grant Agreement, Neighborhood Basin Based Drainage Improvement Project

A request for approval of a modification to the sub-grant agreement between the Town of Fort Myers Beach and the Florida Department of Emergency Management for the Neighborhood Basin Based Drainage Improvement Project to extend the term of the Agreement to November 30, 2014.

**MOTION:** Vice Mayor Andre moved to approve a request for approval of a modification to the sub-grant agreement between the Town of Fort Myers Beach and the Florida Department of Emergency Management for the Neighborhood Basin Based Drainage Improvement Project to extend the term of the Agreement to November 30, 2014; second by Council Member Hosafros.

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

**XI. PUBLIC HEARING**

A. VAR2013-0005 – Setback variance for in-ground pool

A request for a variance from Section 34-1174(b) to allow an accessory structure (in-ground pool) forward of the primary structure with a 5' street setback; and a request for a variance from Section 34-3234(a)(1) to allow an existing dwelling to be elevated to meet the Base Flood Elevation at the current rear setback of 6.9 feet, where 20 feet is otherwise required.

Mayor Cereceda opened the Public Hearing.

LPA Attorney Rooney swore in the witnesses.

Mr. Whitley, Contractor for the Applicant, explained he was seeking a variance for the setback issue and discussed the applicable codes. He reported there was a setback of 6.9' where it should be 20' and that they were not increasing the volume laterally but were requesting the increase in height. He stated the applicant wanted to be in compliance with FEMA. He added they intended to do some remodeling that would exceed 50% of the value of the structure.

Town Attorney Rooney asked if any Town Council Member had ex-parte communication regarding this item. Council Member Hosafros – none; Council Member Mandel – none; Council Member Stockton – site visit; Mayor Cereceda – none; Vice Mayor Andre – none.

Planning Coordinator Overmyer confirmed the advertising affidavit for the subject application and presented comments for Variance 2013-0005, Setback Variance, at 30 Gulf Beach Road on behalf of the Town of Fort Myers Beach. He displayed an aerial view of the property, indicated the location of the

subject site, and noted the orientation of the property. He reviewed the Applicant's request for a variance from Section 34-1174(b) to allow an accessory structure (in-ground pool) forward of the primary structure with a 5' street setback; **and** a request for a variance from Section 34-3234(a)(1) to allow an existing dwelling to be elevated to meet the Base Flood Elevation at the current rear setback of 6.9 feet, where 20 feet is otherwise required, the background of the property, and the existing conditions of the subject site:

- Gulf-front lot – orientation of residence towards the house; makes the south side appear to be a side setback.
- Surrounded on either side by multi-story condominium buildings.
- Pools along Gulf Beach Road – Resolution 03-04 (50 Gulf Beach Road) ZB-84-118 (3830 Estero Boulevard).
- Existing condition on the subject property and location of pool on two other properties on the same street.
- Section 34-87(3) Findings – before granting any variance, the Town Council must find that all of the following exist:
  - Section 34-87(3)(a) - *That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.* The subject property is located at the terminus of the paved portion of Gulf Beach Road and is non-conforming with respect to the rear setback and limited space available in the side yard. The proposed pool location will have little to no impact on the surrounding property owners. Staff is of the opinion that rigid compliance is not necessary to protect the public in this instance. The alignment of the property along a dead-end road and the Gulf of Mexico causes some confusion as to which perimeters are front, rear, and sides. The Gulf is the most appealing view, which relegates the “rear” to the side of the building. The existing setback of 6.9’ functions as a side setback, which was how the structure appears from the Gulf. Staff is of the opinion that rigid compliance is not necessary to protect the public in this instance.
  - Section 34-87(3)(b) – *That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.* The conditions are not the result of actions of the applicant taken after the adoption of the regulation in question because the existing structure was built in 1976 prior to the incorporation of the Town. The structure was built prior to 1984 when Lee County joined the National Flood Insurance Program. The structure was built substantially lower than the current base flood elevation. The applicant is attempting to comply with the required flood elevation, but the existing setback will remain.
  - Section 34-87(3)(c) – *That the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.* Staff agreed with the applicant and recommended that the minimum variance necessary was to allow the in-ground pool to be located closer to the street than the existing building and allowing a 5’ setback for the pool from the front property line. The applicant is using the existing pilings to elevate the house straight up to comply with the base flood elevation; therefore, the existing setback of 6.9’ would remain which is the minimum variance necessary to elevate the house on the existing pilings.

- Section 34-87(3)(d) – *That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.* The granting of the variance would not be injurious to the neighborhood or detrimental to the overall public welfare. The rear setback of 6.9’ has existed since 1976 and abuts a side yard for the Estero Beach Club East Condominium.
- Section 34-87(3)(e) – *That the conditions or circumstances on the specific piece of property for which the variance is sought are not of so general a nature as to make it more reasonable and practical to amend the regulation in question.* The variance, as requested, is not so general or recurrent in nature as to require an amendment to Chapter 34. As property owners recognize a need to elevate existing structure to the minimum required base flood elevation, rather than rebuild, it is likely that there are many existing. As property owners recognize a need to elevate existing structure to the minimum required base flood elevation, rather than rebuild, it is likely that there are many existing Pre-FIRM structures with setbacks that do not comply with the required setbacks. The LDC should encourage property owners to comply with minimum necessary life safety measures in our codes, but the LDC Section 34-3234 requirement to come into compliance with setbacks acts as a disincentive.

He reported staff recommended **approval with conditions** of the requested variance as follows:

1. From Section 34-1174(b) to allow an accessory structure (in-ground pool) closer to the street right-of-way line than the primary structure with a 5’ street setback, subject to the following condition:
  - The location of the pool shall be as shown on the attached Exhibit B.
2. From Section 34-3234(a)(1) to allow an existing dwelling to be elevated to meet the base flood elevation at the current rear setback of 6.9’ where 20’ was otherwise required subject to the following condition:
  - The elevation of the existing structure shall be accomplished using the existing pilings and a 6.9’ rear setback. If the structure is demolished or removed, this variance will be null and void. Any new structure must comply with the required setbacks at the time of redevelopment or must seek a new variance from the requirements of the LDC at that time.

Vice Mayor Andre questioned the cost of the variance application fee.

Planning Coordinator Overmyer stated it was \$1,000.

Council Member Mandel questioned if the variance would adversely impact the Town’s FEMA flood insurance rates.

Planning Coordinator Overmyer responded in the negative.

Council Member Hosafros praised the LPA on their good work on the subject variance application.

Mayor Cereceda asked if there was a representative from the LPA present for comments.

No representative was present from the LPA.

Public Comment opened.

No speakers.

Public Comment closed.

Council Member Stockton suggested another stipulation that no pool cage be permitted.

Town Attorney Rooney suggested if Council Member Stockton had additional stipulations it could be included in the conditions of approval.

- MOTION:** Council Member Stockton moved to approve VAR2013-0005 for 30 Gulf Beach Road subject to the **Recommended Conditions:**
1. From Section 34-1174(b) to allow an accessory structure (in-ground pool) forward of the primary structure with a 5' street setback, subject to the following condition:
    - The location of the pool shall be as shown on the attached Exhibit B.
    - No pool cage shall be permitted, and no overhang or other structure may encroach the setback.
  2. From Section 34-3234(a)(1) to allow an existing dwelling to be elevated to meet the base flood elevation at the current rear setback of 6.9' where 20' was otherwise required subject to the following condition:
    - The elevation of the existing structure shall be accomplished using the existing pilings and a 6.9' rear setback. If the structure is demolished or removed, this variance will be null and void. Any new structure must comply with the required setbacks at the time of redevelopment or must seek a new variance from the requirements of the LDC at that time.

**SECOND:** Vice Mayor Andre.

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

Public Hearing closed.

## **XII. ADMINISTRATIVE AGENDA**

### **A. Resolution 14-10, Acceptance of Basic Financial Statements and FY2012-2013 Annual Audit**

A request to accept the Basic Financial Statements and Audit for Fiscal Year 2012-2013 as presented and authorize the Town Manager to fulfill any administrative functions in filing these documents with the State of Florida as required by Florida Statute.

Mayor Cereceda reported Council had reviewed the matter earlier during the Work Session.

Council Member Hosafros told of her comments made earlier at the Work Session about her experience attending her first Audit Committee Meeting and noted how impressed she was with Finance Director Wicks and the Audit Committee. She praised Town staff for their quick and thorough review and response to the Report since they did not receive it from the auditor by the expected deadline of March 31<sup>st</sup>.

**MOTION:** Council Member Hosafros moved to adopt Resolution 14-10 accepting the Basic Financial Statements and Audit for Fiscal Year 2012-2013 as presented by the Town Manager and further move that the Town Manager be authorized to fulfill any administrative functions in filing these documents with the State of Florida as required by Florida Statute, and that the Auditor would be amending a comment as discussed earlier at the Work Session; second by Council Member Mandel.

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

**B. Appointment to Bay Oaks Recreational Campus Advisory Board**

Two islanders have submitted letters of interest to be appointed to the one vacancy on the BORCAB.

Mayor Cereceda reported two letters of interest for the Board vacancy had been submitted – David Anderson and Margaret LaMarca.

Vice Mayor Andre explained how board appointments had been handled in the past and noted that on-island residents were given preference.

Town Clerk Mayher reported both applicants had been notified about the meeting and Ms. LaMarca had a previous appointment.

Discussion was held concerning the applicants and appointment to the board.

**MOTION:** Council Member Hosafros moved to appoint Peg LaMarca to BORCAB; second by Vice Mayor Andre.

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

Town Clerk Mayher reported, currently, there were two openings on Anchorage Advisory Committee, a vacancy on CRAB, and an opening on the Public Safety Committee.

**C. Special Events Permit Application – 19<sup>th</sup> Annual Taste of the Beach and Blues**

A request for approval of the 19<sup>th</sup> Annual Taste of the Beach and Blues” special event permit to be held on Sunday, May 4, 2014 at Old San Carlos Boulevard and authorize open containers of alcohol at this event in the designated area of the Town right-of-way.

Bud Nocera, President of the Fort Myers Beach Chamber of Commerce, explained he submitted the special event application to the Town and that they used the Friends of the Arts as their 501-3(c) to

apply for a liquor license. He added that Nervous Nellie's applied for an off-premises license so they could open the bar on the side of their building and serve during the subject event; and it was separate and apart from the Chamber of Commerce application to the Town and the ABT application.

Public Works Director Lewis reported when she heard the comments from Ms. Gore, she pulled the application and noted the only extension of premise that the Town had received was from Nervous Nellie's.

Mr. Nocera stated he sent the request to the Town via email as a PDF document (temporary license permit).

**Recessed at 7:20 p.m. – Reconvened at 7:30 p.m.**

Town Attorney Rooney explained the Town had, effectively, had two separate applications but somehow were mixed together. He suggested the matter be moved forward and treat each application separately. He suggested, if approval was granted to both applicants, to waive any procedural irregularities.

Council Member Hosafros noted that Mr. Nocera submitted a parking chart to the Council at the start of the meeting.

Discussion ensued concerning the request from Nervous Nellie's related to open containers in the Town's right-of-way; and complete and signed applications.

Public Comment opened.

Tracey Gore, resident, discussed her concerns regarding differences between the placement of the stage as submitted and indicated by the Chamber versus Nervous Nellie's.

Steve D'Angelis, Manager of Nervous Nellie's, discussed the placement of the stage and the purpose of an extension of premises from the ABT.

Paul Rosen, resident and member of the Board of Directors for Marina Village at Snug Harbor, requested clarification that the bandstand would be constructed as described by the Chamber of Commerce.

Bud Nocera, Fort Myers Beach Chamber of Commerce, described where the Chamber intended to place the stage, and explained it was the intent to have the sound as low as possible, to build the stage over the fountain and to aim the sound down Old San Carlos. He added that he was unaware of costs involved with building a stage over the fountain at this time; however, if it was doable he wanted to do it. He noted that if it was not possible, then the only other area was placing the stage back in the grass area but they would still aim the music down Old San Carlos.

Public Comment closed.

Town Attorney Rooney addressed Ms. Gore's comments and explained that Nervous Nellie's was not having a separate stage and that the application from Nervous Nellie's to the ABT only indicated where they *believed* the event stage would be placed by the Chamber.

Town Attorney Rooney suggested the following:

- Approval of both special event and the right-of-way permit for open containers for each parcel.
- Before any permits were issued that the Town confirmed a complete application was on file and all fees not waived by the Council had been paid.

Discussion was held concerning waiving the fees.

**MOTION:** Council Member Hosafros moved to approve the request for the 19<sup>th</sup> Annual Taste of the Beach and Blues" special event, [not including the pages in the agenda packet numbered 1 through 4] to be held on Sunday, May 4<sup>th</sup> at the Old San Carlos Boulevard and authorize open containers of alcohol at this event in the designated area of the Town right-of-way pursuant to Ordinance 99-15 and with waiver of fees and all permits will be in place; second by Council Member Mandel.

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

~~Council Member Hosafros noted Nervous Nellie's application was not signed.~~

Public Works Director Lewis explained that the application Council was viewing was Nervous Nellie's application to the ABT that needed to come to the Town and to be signed off by the Town from a zoning perspective; and pointed out for an 'extension of premise' this was the only application needed.

Discussion ensued regarding requests for extension of premise to the ABT.

**MOTION:** Vice Mayor Andre moved to approve the open container for COP for Nervous Nellie's for May 4, 2014 for Taste of the Beach pursuant to a complete application; second by Council Member Mandel.

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

D. Introduction of Ordinance 14-02, Amendment to Chapter 27, PAL, PWVL

An Ordinance amending Chapter 27 of the Town of Fort Myers Beach Land Development Code, "Personal Watercraft and Parasailing:" amending Section 27-47, "Means of Enforcement" by adding designated Town Code Enforcement Officers as person who can enforce the provisions of this Chapter; amending Section 27-49 by adding provisions relating to soliciting and picking up customers; amending Section 27-50 by adding provision relating to solicitation of customers; amending Section 27-51 by clarifying how the 500 foot separation is to be measured and by providing that PWVL businesses may also rent Paddleboards, Kayaks and other non-motorized watercraft; amending Section 27-52 by changing the number of PWVL licenses that can be outstanding any point in time from ten

(10) to eleven (11); amending Section 27-55 by providing that a PWVL may be transferred to a new conforming location when there are eleven (11) or fewer PWVL licenses outstanding; providing severability and an effective date.

Attorney Davies, Roetzell & Andress, stated he was representing the owner of Rebel Water Sports, Dean Kerkesner. He spoke on the issue of the cap on the number of PWVL licenses; and noted he supported the cap provision for 11 licenses. He told of the discussion of this matter at the last LPA meeting by both the LPA members and public and that all parties supported the proposed change from 10 to 11 licenses. He addressed the history of the number of parasail licenses issued and the number currently stated in the code. He urged Council to approve the proposed amendment for a cap of 11 licenses.

Dean Kerkesner owner of Rebel Water Sports reported he had been in business on the beach since 1994 at 1010 and 1028 Estero Boulevard. He discussed the historical background of the license cap in the code; and described the urgency and importance of Council's approval to increase the cap to 11 licenses as it pertained to his business. He requested the Council support the proposed code amendments.

Public Comment opened.

No speakers.

Public Comment closed.

Planning Coordinator stated it was his understanding that the recommendations to the ordinance came out of a meeting staff had with the PAL-PWVL operators a few years ago; and the proposed amendments regarding Code Enforcement came from the Town.

Discussion was held concerning the LPA's version and the staff's version of the proposed ordinance amendments.

**MOTION:** Vice Mayor Andre moved to Introduce Ordinance 14-02, PAL-PWVL Ordinance Amendments [LPA version] and set the Public Hearing date for May 5, 2014 at 9:00 a.m.; second by Council Member Mandel.

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

E. APL2014-0001 – Matanzas Inn Development Order Extension

A request to extend the Matanzas Inn Development Order for a two-year extension or to April 19, 2016.

Planning Coordinator Overmyer reported the Matanzas Inn submitted an amendment to their Commercial Plan Development that went before the LPA on March 11, 2014; however, since the LPA did not receive their packet on time the LPA continued the case until June 10, 2014. He added that between March 11<sup>th</sup> and June 10<sup>th</sup> the applicant's Development Order would expire; and that the applicant requested a two year extension so the CPD could go through the proper channels.

Public Comment opened.

Doug Speirn-Smith, Applicant and Owner of the Matanzas Inn, reported he had been working under the Development Order for a number of years; and described some of the remodeling that had taken place during that time. He stated he was not done with the process and hoped to be back after the LPA meeting in June to talk about some changes. He requested approval for an extension of the existing Development Order.

Jerry Murphy, Planner for the Matanzas Inn, stated he was present to answer questions.

Public Comment closed.

**MOTION:** Vice Mayor Andre moved to approve the request for the DO Extension APL2014- for a two-year extension; second by Council Member Mandel.

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

F. A Policy Decision Regarding the Requirement for Surveys with Development Permit Applications

A request from staff for a policy decision on specificity of permit documentation.

Ken Miller, Building Safety Services Coordinator, explained there had been questions from both the Council and the public about why the Town did not require surveys either before the fact or for as-built after the fact. He indicated the Land Development Code and the Building Code did not allow the Town to do so. He asked if Council wanted to direct staff to require surveys; pointed out that a blanket requirement would cause even people with a re-roof to obtain a survey; and the approximate cost of a survey was \$750 for the first survey and if elevations were added then the cost was higher. He added that a survey for an as-built was approximately the same cost. He explained Council could limit a survey requirement to new construction, room additions, and pools; and how a 'benchmark' could be used for construction of pools. He explained what a 'benchmark' was and how it could be established (i.e. the crown of the road or the slab).

Discussion was held concerning potential changes to the Florida Building Code in 2015; and the use of surveys for as-built construction.

Ken Miller, Building Safety Services Coordinator, recommended surveys be required for new construction, room additions or matters that increase the impervious footprint a survey and then the site plan should be based on that survey.

Interim Town Manager Stilwell asked if the Council wanted "to do something different" then they should request staff to bring back alternatives for Council consideration at a Work Session.

Discussion was held regarding discussing the matter further at a Work Session.

Interim Town Manager Stilwell indicated the matter would be discussed further at the May 19, 2014 Work Session.

G. Employment Agreement, Town Manager

A request for approval of the employment agreement for Town Manager.

Council Member Stockton reviewed the findings of her research on employment contracts for city/town managers from other municipalities. She expressed her preference to have a long-term town manager. She suggested during the probationary period to have a performance review (i.e. 3 months).

Town Attorney Rooney explained the Council could approve the employment contract and he could add Council Member Stockton's suggestion concerning the probationary performance review.

Council Member Mandel suggested the Town Manager could present to Council a list of his goals and objectives, Council could present their list of goals and objectives for the Town Manager, and then meet to mesh them together.

Discussion was held concerning the vehicle allowance; and deferred compensation.

Town Attorney Rooney stated the employment agreement would reflect the changes requested at the last Council meeting.

Council Member Stockton noted the changes should include amending the proposed contract from six months to 90 days under Intent Not to Renew and the deferred compensation (\$7,000 on an annual basis to a 457 Deferred Compensation Plan). She questioned if there should be a cap on the accrual of annual leave.

Town Clerk Mayher reported last year the Town adopted a new Personnel Manual which addressed personal leave.

Town Attorney Rooney explained the Town Manager was paid at the Director Level under the Town's Personnel Manual.

Discussion was held concerning a cap on personal leave time.

Vice Mayor Andre suggested adding the previously discussed idea of a 'retreat' to be included in Section 5, Performance Evaluation.

Town Attorney Rooney noted the proposed changes to the employment agreement:

- Change to the termination date to 90 days under Intent Not to Renew
- Deferred compensation

Discussion was held concerning a 'retreat' for Council; setting goals and objectives for staff; and the rules regarding personal leave as written in the Personnel Manual.

**MOTION:** Council Member Hosafros moved to approve the employment agreement for the Town Manager with the previously discussed amendments regarding termination and deferred compensation; second by Mayor Cereceda.

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

### **XIII. PUBLIC COMMENT**

Public Comment opened.

No speakers.

Public Comment closed.

Town Clerk Mayher noted the recipient for the Proclamation had not arrived.

Presentation of proclamation was postponed to a future meeting when the recipient could be present.

### **XIV. TOWN MANAGER'S ITEMS**

A. Mound House Update – no items.

### **XV. TOWN ATTORNEY'S ITEMS**

Town Attorney Rooney – no items.

### **XVI. COUNCILMEMBER ITEMS AND REPORTS**

Council Member Mandel – reported at the MPO meeting they voted to accept federal funds for the bridge at the south end. He recognized a recent article in the Sand Paper newspaper about elevated pools and noted there were some inaccuracies that he would like to address at a future time.

Council Member Hosafros – reported she had been contacted by AIR (airport noise group) to request 15 minutes at the second Work Session in May. She thanked the Town employees who have been introducing her to the workings of the Town.

Vice Mayor Andre – questioned the status of 'historic plaques'.

Town Manager Stilwell reported the plaques were located and they would be presented to Council at a future Work Session to obtain direction on the matter.

Vice Mayor Andre – questioned the status of the Town Hall signs.

Town Manager Stilwell reported the signage would be installed by May 1<sup>st</sup>.

Vice Mayor Andre – questioned the status of the artifacts from the Mound House.

Town Manager Stilwell explained the artifacts that were discussed a few years ago, had been located and were in-hand; however, questions remained if all the artifacts had been inventoried properly. Staff was in the process of inventorying the subject artifacts. He explained the artifacts were not ‘lost’ rather they were stored and not labelled properly.

Discussion was held concerning the artifacts and recommendations from SEARCH Inc. regarding the artifacts.

Vice Mayor Andre – questioned the status of the Investment Policy.

Town Manager Stilwell stated he would investigate the issue and report back to Council.

Vice Mayor Andre – reported Viva 500 had been ‘scrubbed’ in favor of the opening of the Mound House. He commented about the audit and material misstatements; and he proposed the Audit Committee be allowed to view the audit before sending it to the outside auditor.

Council Member Hosafros stated the Audit Committee had discussed Vice Mayor Andre’s suggestion and she believed the Committee was preparing to bring that issue along with some other recommendations to the Council.

Vice Mayor Andre – questioned the status of water taxis.

Town Attorney Rooney explained he brought the matter to the attention of the County Attorney who has begun to investigate the matter along with the Lee County Department of Transportation; and added he would follow-up on the matter.

Vice Mayor Andre – suggested looking at the other issues related to personal watercraft in the future (i.e. tethered in the morning, all equipment off the beach at certain times, etc.).

Discussion ensued regarding personal watercraft vendors and safety issues.

Vice Mayor Andre – reported he received information from the Southwest Florida Regional Planning Council and distributed copies to Council.

Discussion continued regarding personal watercraft vendors and the upcoming second hearing of the PAL-PWVL Ordinance; and it was decided to bring Vice Mayor Andre’s concerns to MRTF.

Council Member Stockton – questioned the topic of leasing and/or purchasing the existing Town Hall.

Mayor Cereceda explained the matter was expanded from investigating leasing to include the potential for purchasing the subject building.

Discussion ensued regarding the potential to lease/purchase of the existing building; and the lack of or limited alternate locations available on the beach for a Town Hall.

Council Member Stockton – requested Council’s approval for her to begin research on the possibility of creating a dog park in the Town.

Discussion ensued concerning the possibility of creating a dog park in the Town.

Mayor Cereceda explained if Council Member Stockton wanted to investigate the creation of a dog park that she should move forward with her endeavor.

Council Member Stockton – requested Council define their position as a ‘liaison’ to the committees.

Discussion ensued concerning the role of a Council Member as a ‘liaison’ to a committee; and how ‘liaisons’ can be whatever Council wanted the position to become or what the committee wanted the ‘liaison’ to become.

Mayor Cereceda – requested to schedule another Executive Session on May 5, 2014 at 1:00 p.m. She asked for an update on the idea of conducting a retreat.

Town Clerk Mayher reported she heard back from four of the five Council Members, most felt the retreat should be held on-island, not at Town Hall, and should use a volunteer facilitator, if available.

Mayor Cereceda – explained she would like to have the retreat sooner than later. She stated she would like to have Council take another comprehensive look at the Estero Boulevard Improvement Project; and noted she believed the timeline was too long.

Council Member Mandel recounted when Commissioner Kiker and County staff had appeared before the prior Council regarding the Estero Boulevard Improvement Project.

Mayor Cereceda – explained she had contacted Commissioner Kiker about coming back before this Council regarding the Estero Boulevard Improvement Project and indicated he and County staff was more than willing to do so.

Town Manager Stilwell would arrange for the presentation to Council.

Mayor Cereceda – thanked Council Member Mandel for his work on behalf of the Town in Tallahassee.

## **XVII. AGENDA MANGEMENT**

No discussion.

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

No discussion.

**XIX. ADJOURNMENT**

Motion by Vice Mayor Andre; second by Council Member Stockton. Meeting adjourned the meeting at 8:55 p.m.

Adopted 519-14 With/Without changes. Motion by Hassefus/Andre

Vote: 4-0 (Mandel excused)

Michelle D. Mayher  
Michelle D. Mayher, Town Clerk

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