MINUTES

Monday, June 16, 2014

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

I. CALL TO ORDER

Mayor Cereceda called to order the June 16, 2014 Regular Meeting of the Town Council at 6:33 p.m. Present along with Mayor Cereceda: Vice Mayor Andre and Council Members Hosafros, Mandel, and Stockton. Also Present: Town Manager Stilwell, Town Attorney Rooney, Finance Director Wicks, Public Works Director Baker, Planning Coordinator Overmyer, Parks & Recreation Director Norton, and Town Clerk Mayher.

II. INVOCATION – Rev. Alice Macrum

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Andre requested to add the Supplemental Task Authorization with Tetra Tech to the Consent Agenda.

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

VOTE: Motion approved; 5-0.

V. PUBLIC COMMENT – Any Items

Public Comment opened.

Kevin Ruane, Mayor of Sanibel, thanked the Town for their support with water quality issues. He offered an update on water quality issues (i.e. Lake Okeechobee releases, low-flow and high-flow issues, 'adopt a protocol', etc.); and on the upcoming construction of the C-43 West Basin Reservoir. He requested the support of Council for the Mayor to sign a letter on behalf of the Town regarding water quality issues [look at adoptive protocols and risk assessment by the Army Corps of Engineers].

Amy Loughrey, representing the Fort Myers Beach Soccer Club, requested a fee waiver for the Fort Myers Beach Soccer Club's Soccer Camp at the Bay Oaks from July 28th to August 1st.

Public Comment closed.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Andre questioned the basis for charging the FMB Soccer Club this year.

Parks & Recreation Director Norton reported last year was the first year the event was under Town control and Town Council did waive the fees last year. He noted the fees were $50 for four hours and indicated he would get a more accurate fee waiver amount for Council.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Audit Committee Rodwell requested Council approve and authorize the additional duties/functions of the Committee as discussed earlier today during the Joint Session/Work Session:

- Monitoring the audit – insuring the audit was on schedule, be aware of potential problems, and illegal acts that required immediate action.
- Review the financial statements prior to the completion of the audit – emphasis was on changes in the financials compared to the prior year.
- Review the results of the audit - in order to understand problems identified by the auditor and to provide background for resolution of problems.
- Evaluate proposed corrective action and insure that corrective action was carried out.
- Evaluate auditor performance – identify and recommend improvements in the auditor's performance (reoccurring function annually).
- Water Utility Policies and Procedures – requested approval for the Committee to be able to complete the policies and procedures Member Steele was working on already.
- Estero Boulevard Stormwater System – financing for the project; investigation by the Committee regarding potential State funding available for stormwater systems.

Mayor Cereceda questioned how the Council should handle the request since it was not an Agenda Item.

Town Attorney Rooney noted due to the requirements of Senate Bill 50 approved last year, as it pertained to public comment, it would be best to bring the matter back at the Council's next meeting in August to allow public comment on the subject policy matter.

Mayor Cereceda indicated the request from the Audit Committee would be placed on the next Council meeting in August.

CRAB Vice Chair Weeg offered a Committee report from their last meeting; and noted they received concerns from two residents about any future work at the Coconut Drive bay access. She reported the Committee also received concerns from a resident on the passive park at Delmar.

MRTF Vice Chair Weeg reported Tom Babcock served on the Estero agency on bay management as a representative of the Civic Association; however, the civic organization no longer existed. She questioned how Mr. Babcock could continue to serve on the Estero agency on bay management.

Discussion was held regarding if Mr. Babcock could continue to serve on the Estero Bay Management Agency and how the agency reported to the Southwest Florida Regional Planning Council.

Town Attorney Rooney recommended that the request be investigated further as it pertained to the Planning Council's charter and the interlocal agreement.

CELCAB Member Smith offered an update of the Board's accomplishments at their May meeting such as but not limited to their Strategic Plan (i.e. scheduling a tentative opening date for the Mound House and museum, determination of volunteers needed, opening of a bookstore, kayak tours, lecture series, etc.). She thanked the Mayor for her participation with the meeting about 216 Connecticut Street.

CELCAB Chair Hill noted that she learned the Mound House historical text developed by the Town's consulting firm was in the process of being finalized for the fabrication and installation on wall panels; and noted the draft text had not been presented to CELCAB for review. She added that CELCAB's historical advisor obtained a copy of the draft text and noted errors and omissions. She requested a halt to the efforts being done by SEARCH Inc. on the interpretative text panels.

Mayor Cereceda requested Town Manager Stilwell meet with CELCAB Chair Hill on the matter.

VIII. APPROVAL OF MINUTES

A. May 19, 2014 Town Council Meeting Minutes
B. May 19, 2014 Town Council Work Session Minutes

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

VOTE: Motion approved; 5-0.

IX. CONSENT AGENDA

Walk-On Item: Supplemental Task Authorization with Tetra Tech

A request to authorize and modify Supplemental Task Authorization No. 4 with Tetra Tech, Inc. to coincide with the current Mitchell & Stark contract which would allow Tetra Tech, Inc. to continue to assure proper inspection, review, and observations of Phase II of the 2014 Water Project.

A. July 4th Celebration in Times Square
A request to authorize open containers of alcohol within the area of Times Square.

MOTION: Council Member Mandel moved to approve the Consent Agenda (Walk-On Item and Item A); second by Council Member Hosafros.

VOTE: Motion approved; 5-0.

X. ADMINISTRATIVE AGENDA

A. Resolution 14-15, Adopting the Tentative Operating Ad Valorem Millage Rate
A request to approve the Resolution setting the tentative operating ad valorem rate for tax year 2014/15 and set the first Public Hearing to consider the final millage rate and adopt the budget for FY2014/2015 for Tuesday, September 2, 2014 at 6:30 p.m.

MOTION: Council Member Mandel moved to approve Resolution 14-15 setting the tentative operating ad valorem rate at _____ mills for Tax Year 2014/2015 for the Town of Fort Myers Beach, in compliance with the State of Florida TRIM requirements and set the first hearing to consider the final millage rate and adopt the budget for Fiscal Year 2014/2015 for Tuesday, September 2, 2014 at 6:30 p.m. and the final budget hearing is scheduled for Monday, September 15, 2014 at 6:30 p.m.; second by Council Member Stockton.

Discussion was held regarding the tentative operating ad valorem millage rate.

Finance Director Wicks noted the millage rate last year was .7530 and that leaving the tax levy at that rate this year was reasonable; however, in future years Council may want to consider increasing the millage rate a little as more capital projects get underway.

Discussion ensued regarding increasing the tentative operating ad valorem rate now in anticipation of upcoming capital projects.

Finance Director Wicks explained how the tentative millage rate could go no higher than what was set tonight, but could be reduced at the public hearings when considering the final millage rate.

Discussion continued concerning increasing the tentative operating ad valorem rate now in anticipation of upcoming capital projects for aging infrastructure; upcoming fees for residents that were not included in the TRIM notice.

Finance Director Wicks explained when the TRIM notice go out with the same millage rate as last year it would still appear to be a tax increase because property values have increased.

Discussion was held regarding the differences between 'user fees' and 'ad valorem taxes'.

AMENDMENT: Vice Chair Andre moved to "fill in the blank on the motion at **.7530** mills; second Council Member Mandel.

VOTE: Amendment approved; 5-0.

Mayor Cereceda announced the next vote would be on the main motion.

MOTION: Council Member Mandel moved to approve Resolution 14-15 setting the tentative operating ad valorem rate at .7530 mills for Tax Year 2014/2015 for the Town of Fort Myers Beach, in compliance with the State of Florida TRIM requirements and set the first hearing to consider the final millage rate and adopt the budget for Fiscal Year 2014/2015 for Tuesday, September 2, 2014 at 6:30 p.m. and the final budget hearing is scheduled for Monday, September 15, 2014 at 6:30 p.m.; second by Council Member Stockton.

VOTE: Amendment approved; 5-0.

B. Special Event Permit Application – 2nd Annual Summer Solstice Party 2014
A request to approve the 2nd Annual Summer Solstice Party 2014 Special Event to be held on Tuesday, June 24, 2014 at Nervous Nellie's and Bayside Park and authorize open containers of alcohol in the designated area of the right-of-way.

Public Comment opened.

Steve D'Angelis, Manager of Nervous Nellies, described the event and reported that Gator Country radio was bringing singer, Kelly Pickler, to the event; therefore, he requested to amend the application because due to Kelly Pickler's appearance the event was expected to triple to 1,000. He added that he had made arrangements for additional crowd control support.

Discussion ensued regarding details and specifics of the event such as but not limited to location of the proposed tent, vendors, stage, and amplification equipment; crowd overflow in Bayside Park; open containers of alcohol in the designated are of the right-of-way; hours of the performances and event [including set-up]; the requested amendment for attendance from 300 to 1,000; a change to the event hours from 8:00 pm. to 9:00 p.m.; and event crowd control and law enforcement personnel and ambulance.

Council Member Hosafros expressed her preference for more written information about an event within the application (i.e. such as the application(s) submitted by the Chamber of Commerce) in the future.

Council Member Mandel requested clarification for a specific event ending time.

Steve D'Angelis, Manager of Nervous Nellies, requested an ending time of 9:30 p.m.

Mayor Cereceda noted her concerns that would impact nearby neighborhoods regarding the event as it pertained to parking/traffic and restroom facilities.

Steve D'Angelis, Manager of Nervous Nellies, reported there would be portable restrooms on their property.

Mayor Cereceda reported she spoke with LCSO Captain Powell regarding safety issue that could be associated with the event (i.e. traffic). She expressed her displeasure with the fact that the event was advertised prior to receiving approval by the Town. She requested Nervous Nellies and other businesses plan events better in the coming year.

Discussion ensued regarding increasing crowd control and law enforcement presence.

Steve D'Angelis, Manager of Nervous Nellies, stated he would contact Captain Powell about the event, if necessary, he would be agreeable to hiring an additional deputy and a car.

Council Member Hosafros questioned, if during the event law enforcement presented a request for additional law enforcement personnel, would Mr. D'Angelis be willing to do so.

Steve D'Angelis, Manager of Nervous Nellies, responded in the affirmative.

Discussion was held concerning the special event permit process within the LCSO and the LCSO Division of Details for large events.

Public Comment closed.

MOTION: Council Member Hosafros moved to approve the permit as amended; with an expected number of participants of 1,000, the end time was not to exceed 9:30 p.m., and the promise made by Mr. D'Angelis that he would discuss the number of law enforcement necessary and abide by the LCSO recommendations; second by Vice Mayor Andre.

Council Member Stockton noted she did not approve of the event end time of 9:30 p.m. and expressed her belief the Applicant was not prepared for the event.

Discussion was held concerning the ending time for the proposed event.

VOTE: Motion approved; 4-1 (Council Member Stockton dissenting).

Recess: 7:41 PM Reconvene 7:50 PM

C. Lani Kai Sign Variance

A request to waive the application fees for Lani Kai's three sign variances at the cost of $2,000 each for a total of $6,000.

Planning Coordinator Overmyer reported in late April the Town received applications for three new variances to allow for the replacement of non-conforming signs which included a request that the fees be waived. He reviewed prior approval the applicant received to allow a sign 9' 7" in height and 1'7" away from the Estero Boulevard right-of-way.

Town Attorney Rooney clarified that the request before Council was for a fee waiver of the application fees.

Council Member Hosafros noted that the Town was currently in litigation with the applicant.

Planning Coordinator Overmyer reported that the applicant's counsel informed him today that this would be "a partial settlement".

Town Attorney Rooney recommended the Town Council should not grant the fee waiver; and stated he would schedule an Executive Session on the litigation to determine Council's course of action or strategy.

Council Member Hosafros expressed her belief that the matter should not have come before Council due to the pending litigation.

Public Comment opened.

No speakers.

Public Comment closed.

Town Attorney Rooney noted the code allowed for a process of a fee waiver request.

MOTION: Vice Mayor Andre moved to deny the request; second by Council Member Stockton.

Mayor Cereceda questioned if there were criteria for a request to waive fees for a variance.

Planning Coordinator Overmyer explained it was atypical to request a zoning fee waiver.

VOTE: Motion approved; 5-0.

D. Appointment(s) to Advisory Committees
A request to consider appointments to vacancies on some of the advisory committees from various letters of interest recently received.

Town Clerk Mayher reported since the Agenda Packet was given to Council there had been a few changes:

- Receipt of a vacancy on BORCAB; and David Anderson submitted a letter of interest for appointment which was his preference over the PSC.
- Pete Frye withdrew his letter of interest for appoint to LPA, MRTF or PSC.
- Letters of interest were received for CELCAB; however, there was currently no vacancy.

Discussion was held concerning how and when the Town became of the vacancies.

MOTION: Council Member Mandel moved to appoint Glen Thompson to MRTF, Cathryn Condon to CRAB, Anthony Scopel to PSC, and David Anderson to BORCAB; second by Vice Mayor Andre.

VOTE: Motion approved; 5-0.

Council Member Hosafros queried the number of the CELCAB members.

Town Clerk Mayher explained how there was a committee member on both BORCAB and CELCAB who was not meeting the required meeting attendance per the ordinance. She reported BORCAB took action; however, to her knowledge she did not believe the same action had been done by CELCAB.

XI. PUBLIC COMMENT – Agenda Items

Public Comment opened.

No speakers.

Public Comment closed.

XII. TOWN MANAGER'S ITEMS

A. Summary of Items

Town Manager Stilwell discussed the request from the Florida League of Cities requesting a designee for their committees.

Discussion was held regarding Council Member Mandel's earlier indication that he desired to remain as the Town's designee to the Finance & Taxation committee; and it was agreed he should remain as the designee.

Council Member Mandel suggested a 'back-up' person for his role on the committee.

Council Member Hosafros offered to be Council Member Mandel's 'back-up' for the Florida League of Cities Finance & Taxation Committee. She suggested appointing a designee to the Environmental and Natural Resources Committee.

Discussion was held regarding the meeting schedule for the FLC various committees, Council's schedule, and who would be able to attend the meetings for the Environmental and Natural Resources Committee.

Mayor Cereceda stated she would speak with Mayor Ruane of Sanibel about the Environmental and Natural Resources Committee, and she would be the Town's designee if needed. She noted she could not attend the November committee meeting.

Council Member Hosafros offered to be the Mayor's back-up person when she was not serving for Council Member Mandel.

Planning Coordinator Overmyer discussed the "dock issue" at the property located at 391 Palermo Circle and noted a verbal compliance agreement was agreed upon to bring the existing dock into compliance by removing or moving some of the existing dock to meet the required setback. He added this would permit filling in the area where the small access area was located to the width of the dock to meet the definition of a marginal dock.

Town Attorney Rooney added there had been a complaint at the subject property not related this matter the Planning Coordinator described, but led staff to find an existing non-conforming dock that pre-existed the current owner of the property. He reviewed the work done to the subject dock; a 2011 permit; a non-compliant floating dock that would be removed; and the existing dock. He reported there was another issue concerning a fishing pier/observation deck and the matter would come before Council in August for an interpretation of code.

XIII. TOWN ATTORNEY'S ITEMS

A. Summary of Items

Town Attorney Rooney clarified that the fee waiver request [Lani Kai signs] discussed earlier was not allowed by code. He requested approval to schedule an Executive Session prior to Council's hiatus.

Consensus was for Town Attorney Rooney to proceed with scheduling an Executive Session as requested.

XIV. COUNCILMEMBER ITEMS AND REPORTS

Council Member Mandel – recounted the prior Council's decision to negotiate with the nearby church to utilize their parking for Mound House overflow parking.

Council Member Hosafros – noted she and Council Member Stockton attended the Institute of Elected Municipal Officials and offered a brief synopsis of their training.

Vice Mayor Andre – questioned the addition of a fee waiver policy on a Work Session agenda.

Parks & Recreation Director Norton explained the FMB Soccer Club request would include a $500 rental fee; and noted the camp itself charged $150 for half a day and $205 for a full day per child.

MOTION: Vice Mayor Andre moved to approve the request to waive the fees for the Fort Myers Beach Soccer Club at the Bay Oaks from July 28-August 1, 2014; second by Council Member Stockton.

VOTE: Motion approved; 5-0.

Vice Mayor Andre – questioned the status of the ad hoc committee for the Seafarer's property.

Discussion ensued regarding the ad hoc committee for the Seafarer's property; and whether or not to have a committee or group to look at the entire downtown district.

Town Attorney Rooney requested direction as to whether or not the Council wanted a CRA downtown.

Consensus was to direct the Town Attorney that they did want him to move forward with a CRA for the downtown for their consideration.

Vice Mayor Andre – questioned the status of the water taxis.

Town Attorney Rooney indicated he was still awaiting a response from the County.

Vice Mayor Andre – questioned the status of the ETrack-It training.

Planning Coordinator Overmyer reported staff received a proposal from CRW last week and ETrack-it should go live soon.

Vice Mayor Andre – questioned the status of the requirement for surveys.

Planning Coordinator Overmyer reported staff was working on language to present to the LPA at their August meeting concerning the survey requirements.

Council Member Stockton – questioned the dock issue at 319 Palermo Circle. e 391

Town Attorney Rooney reviewed the expected actions to occur at 319 Palermo Circle. e 391

Council Member Stockton – discussed redevelopment in Delray Beach where she attended her training at the Institute of Elected Municipal Officials. She added Delray Beach was a unified town where businesses, government, and residents worked together. She mentioned she saw a segment on pubic official's liabilities and recommended the Council watch it at a meeting. She questioned a separate director at the Mound House.

Town Manager Stilwell reported the Town was addressing the matter.

Council Member Stockton – pointed out the increased boat traffic that would happen with the Summer Solstice event.

Mayor Cereceda – recapped highlights and summarized the meeting on 216 Connecticut Street. She told of the Connecticut Street neighborhood concerns; the overall opinion of the residents at the meeting was for the Town to sell the subject property; people who later came to her upset that the invitations to the meeting were addressed only to the general neighborhood of the Mound House because "*it was their Mound House too*". She talked about prior discussions about creating additional parking on the Mound House property. She added that there was about an equal amount of people interested in seeing 216

Connecticut Street left as an open lot as there were people who wanted the site sold. She pointed out it was instrumental that the Mound House had a leader that would bring the project to fruition and that the parking issue was addressed.

Discussion was held regarding the Mound House; 216 Connecticut Street; other potential sites for overflow parking; and commercial intrusion into a residential neighborhood.

Vice Mayor Andre requested 216 Connecticut Street to be placed on a Work Session agenda.

Mayor Cereceda acknowledged CELCAB Member Smith in the audience.

CELCAB Member Smith asked for direction on the matter of the member with the attendance issue.

Town Clerk Mayher explained the Board needed to discuss the matter, take a vote, and then send a letter informing the member of the Board's action.

Mayor Cereceda discussed the noise ordinance and noted Captain Powell believed the ordinance would be a great tool for the Town. She noted that Mr. Nocera, Mr. Durrett, and Mr. Lalo were good resources for CRAB as it related to groups that do annual permits. She indicated that Council would like CRAB to come up with a process to streamline the ordinance and come up with a process for applicants who have annual events that could file an application in a "blanket" way. She discussed her perspective on being 'passionate' about the Town and 'relationships' between current and the prior council members.

Council Member Stockton questioned if the Charter Review Commission had met.

Town Clerk Mayher responded in the negative; and added that they were still working to come up with a mutually convenient date since some members were out-of-town.

Town Attorney Rooney reported an alternate for the Charter Review Commission was not permissible.

XV. AGENDA MANGEMENT

Town Clerk Mayher noted the list included in the Council packet should have had the Charter Review Commission removed; the Seasonal Sign Permits should read "**to** the LPA"; and questioned if Council intended to bring for the Town's vision, mission statement, and goals at the August 18th meeting for adoption.

Consensus was to place the matter on the next Work Session agenda after August 18th.

Town Clerk Mayher stated she would add 216 Connecticut Street to the Work Session Agenda Management.

Mayor Cereceda noted the Fort Myers Beach Film Commission was given to CRAB and remained on the Council's Radar List; and requested direction from CRAB.

Town Clerk Mayher questioned the status of Outdoor Display.

Planning Coordinator Overmyer reported the issue was on track; and the LPA heard it and made a recommendation to Council which would be presented to Council at their August 18th meeting.

Town Attorney Rooney reported that he would be scheduling an Executive Session on the Lani Kai litigations within the next two weeks.

Town Manager Stilwell reported he would be contacting Captain Powell regarding the number of deputies for the Summer Solstice event; he would be working on the dock issue; he would follow-up on the ETrack-It update; investigate the comments regarding Delray Beach; and address the Mound House issues.

Mayor Cereceda pointed out the need to select a Grand Marshall for the Fourth of July Parade.

Consensus was to ask A.J. Bassett and Fran Santini to be co-Grand Marshalls for the parade.

Town Clerk Mayher questioned if Council intended to take action on the request from CELCAB regarding SEARCH, Inc.

Town Manager Stilwell stated he would speak with Chair Hill about the matter.

Parks & Recreation Director Norton clarified that the draft text was not approved and it was on his desk. He added staff would be contacting individual people about the draft text as required by a grant; and the draft text would receive the proper vetting.

Vice Mayor Andre pointed out the importance of the Town Hall lease on the Agenda Management List.

XVI. ADJOURNMENT

Mayor Cereceda adjourned the meeting at 8:40 p.m.

Adopted 8-18-14 (With)/Without changes. Motion by Cindie Chandler

Vote: 5-0 Pg 10 of 12

Michelle D. Mayher, Town Clerk

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