

**FORT MYERS BEACH  
TOWN COUNCIL  
Town Hall – Council Chambers  
2523 Estero Boulevard  
Ft. Myers Beach, FL 33931  
May 1, 2006**

**I. Call to Order**

Mayor Dennis Boback called the meeting of the Town Council to order on Monday, May 1, 2006, at 6:30 p.m.

**Members Present:** Mayor Dennis Boback, Vice Mayor Don Massucco, Councilman Garr Reynolds, Councilman Charles Meador, and Councilman William Shenko, Jr.

**II. Pledge of Allegiance**

**III. Invocation**

The invocation was given by Deacon “Scoop” Kiesel, Ascension Church.

**IV. Public Comment**

Public Comment was heard at the time the agenda was discussed.

**V. Consent Agenda**

**Resolution 06-02 MPO Agreement**

The Town Manager read the MPO Agreement which was to authorize the Mayor to sign the agreement with the MPO. Councilman Shenko moved that the Council authorize the Mayor to sign the agreement. A short discussion followed and the motion was granted by a 5-0 vote. Vice Mayor Don Massucco indicated that the Town Manager, Rachel Lambert, had told them that Damon Grant had resigned as representative to the MPO and she wants to have Brad Case represent the Town in Damon Grant’s absence. That was agreed.

**VI. Administrative Agenda**

Public Hearings:

1. Curfew Ordinance 06-10

Councilman Shenko told the Council that they could go by the state ordinance, which was the ordinance that they had before them, or they could use the Town Magistrate, which would need an interlocal agreement with the Sheriff's Department to see how it would be enforced.

Town Attorney Anne Dalton advised the Council that one choice would be to go through the County courts, but there would be a charge for that and she did not know what the charge would be at this time. On the other hand, she indicated that the Town does not currently have an interlocal agreement with the Sheriff about this matter.

No one had any public comment.

Anne Dalton, Town Attorney, read the ordinance. Councilman Meador moved that the Council adopt Ordinance 06-10 with the elimination of section 6 on enforcement. Motion was seconded by Councilman Shenko. Motion passed unanimously.

## **2. Committee Application Extension-Ordinance 06-11**

Anne Dalton, Town Attorney, read the ordinance.

No one had any public comment.

Mayor Boback moved to pass the ordinance as it is. Motion was seconded by Councilman Meador. Motion passed unanimously.

## **B. Dinghy Dock Recommendations.**

### **1. Memorandum of Agreement for Navigation and Occupation of OSC Boulevard Right-of-Way – Hans Wilson**

Jack Green, Public Works Director, explained that this is not for action this evening. It concerns the dingy docks at Snug Harbor. Mr. Wilson explained what the proposal includes.

Michael Poff gave the update from Coastal Engineering. There are four kinds of use for the docks: handicap access, Water Taxi, Dinghy docks, and a safety vessel access.

Jack Green's memo suggests that the group build a smaller dock that would accommodate about half as many dinghys as proposed. He is looking for direction from the Council.

No action was taken.

### **C. Report on 1130 Estero Blvd. – Jimmy B’s**

Jerry Murphy reported on a memo regarding this property. (See attached memo.)

#### **PUBLIC COMMENT**

**Beverly Grady** spoke on behalf of Dave Meyers.

Public comment closed.

Councilman Shenko moved to grant Jimmy B’s a special events permit to operate within the structure above the ground floor from now until the Council meets with Mr. Meyers. It means the parking lot cannot be used under this motion. Motion was seconded by Vice-Mayor Massucco. Motion failed 3-2, with Councilmembers Meador, Boback and Reynolds dissenting.

Councilman Reynolds moved for reconsideration of Councilman Shenko’s motion. Motion failed for lack of a second.

### **D. Town Committee Appointments**

All committees except the LPA are for five to seven members. Mayor Boback commented that Councilmembers are not required to vote for seven. While the votes were being tabulated, the Council moved onto the next agenda item.

## **VII. Public Hearing Land Use**

Continuation of Administrative Appeal  
CDS/Dockside Inn

The applicant, Doug Speirn-Smith addressed the Council, detailing the issues that were of concern, specifically the schematics relating to the windows, pool amenities and ancillary uses. Councilman Meador made the motion that the appeal be withdrawn and that staff recommendations as modified by the applicant be approved. Councilman Shenko seconded. Motion passed unanimously 5-0.

Committee appointments were still being tallied, so Council moved on to Town Attorney’s items. Attorney Dalton mentioned a meeting that was held with Salty Sam’s in an attempt to resolve outstanding issues, yet were unsuccessful. Council directed Attorney Dalton to order an audit, and negotiate the past due amounts.

The Town Manager, Rachel Lambert, completed tallying the votes for the committee appointments and read the results into the record. A tie-breaker vote was necessary for the LPA and the MRTF. Councilman Shenko

motioned to readvertise and solicit applications for the MRTF. Seconded by Councilman Reynolds. Motion passed 3-2 with Councilmembers Boback and Meador dissenting. Councilman Shenko motioned to accept the committee appointments as stated and cap the membership at the respective members. Seconded by Councilman Reynolds. Motion passed unanimously.

## **VII. Council Members Items and Reports**

Councilman Meador had no items.

Councilman Shenko mentioned the Crescent Street bypass , and a liability amount associated with Beach Renourishment.

Councilman Massucco moved to reschedule two meetings in July in order to free up the month of July for a recess. Seconded by Councilman Reynolds. Motion failed 3 -2 with Councilmembers Meador, Shenko and Boback dissenting.

Councilman Reynolds talked about several persons thinking the issue of the homeless would be on the agenda and it is not. It will not be on the agenda until the end of May.

Attorney Dalton felt that the agreement should be signed before the end of May.

Councilman Reynolds said that the County has said that they would like to put a crosswalk at the beginning and end of Santini Plaza and that they are going to put a light there.

Why is the Town paying the County to light Estero Blvd.?

Mayor Boback said the County Commissioners would meet with the Council at Town Hall on May 22, 2006 at 9:00 a.m. He said that the Town Manager should get in touch with the Commissioners and see if another date can be arranged.

## **VIII. Town Manager's Items**

Rachel Lambert noted that the usual website has gone down and it is now being posted at the County site, so you can at least get the agenda items. Part of the website has been rebuilt but the staff has to rebuild all of the files. They have hired new maintenance workers but need more.

The Land Use meeting will be May 8, but she will be doing a report from the Clerk's office and thinks the men who worked with the staff will also be present. It will be at 3:00 p.m. on May 8, 2006.

They are now looking for a new transcriber.

Projects that are on hold include the Newton Park development, canal dredging projects, some of the maintenance projects, NPDS program.

Jack Green reported on temporary shoring project of seawall at end of Old San Carlos. This is a county project. Town seawall is threatened. What do we do now?

Council directed Jack to talk to a contractor to find out what can be done for a minimal amount.

Request for hourly rate upgrade to \$250 hour from Bob Burandt Anne Dalton, Town Attorney, said he was being paid \$125 hour. Councilman Meador moved that the Council pay him the contractual rate of \$125 hour. Motion seconded by Councilman Shenko. Motion passed 4 –1 with Vice Mayor Massucco dissenting.

Rachel asked for the Council approval of the inter Local Agreement for beach Access maintenance. Councilman Shenko moved to approve the agreement. Motion seconded by Massucco. Motion passed 5 – 0.

#### **IX. Town Attorney's Items**

None.

#### **XI. Final Public Comment**

**Pat Smith** complimented the Council on the conduct of the meeting. She discussed the Salty Sam's Marina contract.

**Becky Warner** discussed the Advisory Committee. It is one short of enough.

**Ceel Spuhler** thanked the Council for putting her back on CELCAB. She praised Jeff Werner.

**Doris Kovac** thanks Mayor Boback and the Council.

#### **XII. Adjournment**

Mayor Boback adjourned the meeting at 11:52. (5 ½ hrs.)

**Respectfully submitted,**

**Jean F. Matthew**  
**Co-authored Michelle Mayher**