

**FORT MYERS BEACH
TOWN COUNCIL**

**Town Hall- Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, Fl 33931
August 29, 2006**

Special Town Council Meeting

3:32 PM

I. CALL TO ORDER

Members Present: Vice Mayor Don Massucco, Councilman Charles Meador, Jr., Councilman Bill Shenko and Councilman Garr Reynolds.

Absent: Mayor Dennis Boback

Town Staff Present: Town Manager Rachel Lambert. Town Attorney Anne Dalton, Community Development Director Jerry Murphy, Public Works Director Jack Green.

II. PLEDGE OF ALLEGIANCE:

All present stood for the recitation of the Pledge of Allegiance.

III. INVOCATION: The Invocation was given by Rachel Lambert.

IV. Discussion of possible action relative to Tropical Storm Ernesto:

Vice Mayor Massucco announced this special meeting will be taking place for Council to discuss the possible action which may be taken due to Tropical Storm Ernesto. Mr. Massucco reported the Town being under an alert level three since yesterday morning, and stated the Ordinance 06-12 gives them the opportunity to start early in the event a major event were to occur. Mr. Massucco asked Attorney Dalton to read the Resolution 06-15.

Ms. Dalton read the Resolution of the Town of Fort Myers Beach, Florida state of local emergency Resolution 06-15; whereas Chapter 252 Florida Statutes authorizes the wavier of procedures and formalities otherwise required of municipalities to take whatever prudent action is necessary to ensure the health, safety and welfare of the community in the event of a state of emergency and Florida Statutes 252.38 specifically authorizes municipalities to declare a state of local emergency; and whereas the Board of County Commissioners of Lee County, Florida issued a state of local emergency on August 29, 2006 recognizing the danger posed to the residents of Lee County Florida as a result of Tropical Storm and possible

Hurricane Ernesto, and whereas a quorum of the Town Council of Ft. Myers Beach has declared and proclaimed the aforesaid danger has created a state of local emergency affecting the health, safety and welfare of the Town as Defined in Town Ordinance 06-12 and Chapter 252 Florida Statutes and Ordinance 06-12 of the Town of Ft. Myers Beach Florida authorizes the Town to activate the Town's emergency plan and to take such emergency measures as authorized there under in the interest of the public safety, health and welfare of its citizens, including but not limited to ordering a mandatory curfew to Town when a state of local emergency has declared and proclaimed. Now therefore, they resolved that Section one, as a result of the serious threat posed by Tropical Storm Ernesto to the lives and property of the citizens of the Town of Ft. Myers Beach. The state of local emergency has hereby declared and proclaimed effective immediately within the territorial limits of the municipality Section two; as provided by Florida Statutes Chapter 525.38 Sub paragraph three, subparagraph A and Town Ordinance 06-12, the Town Council through the undersigned official hereby waives the procedures and formalities otherwise required by law of a municipality. Section three; The Town Council hereby waives the mandatory curfew set forth in Section seven of Town Ordinance 12. The Town Council will not impose a mandatory curfew at this time. Section four; The Town Council waives the prohibition set forth in Section seven of Ordinance 06-12 regarding the use of fresh water supplied by the County or local water company for any purpose other than cooking, drinking or bathing. Section five; this resolution of proclamation shall take effect immediately upon adoption before going resolution it was adopted by the Ft. Myers Beach Town Council present after reasonable notice upon being put through a vote. The result was as follows:

Vice Mayor Massucco suggested Council discuss the actions needed to be taken.

Councilman Meador suggested getting a report from the Town Manager and with whom Ms. Lambert has designated to keep up with the situation on what Lee EOC is looking at, and the Chief would be able to do that, as well as Captain Powell.

Ms. Lambert replied she had already relayed the latest report on Tropical Storm Ernesto which was issued by Lee County. Ms. Lambert also reported Lee County has declared a state of emergency, and also stated there were no shelters open, and none have been scheduled to open at this time. Ms. Lambert stated school and government offices are to remain open at this time. Ms. Lambert pointed out that Mr. Murphy has received updates prior to this meeting and stated they were looking at the possibility of declaring a state of emergency for Ft. Myers Beach.

Mr. Murphy reported at the EOC 3:00 o'clock briefing they announced the schools board facility would close at 5:00 PM today, and they would make a decision by 5:00 PM tomorrow on whether or not they will be open on Thursday, and stated they will be closed on Wednesday.

Discussion:

Councilman Meador clarified whether the schools would be open on Wednesday.

Mr. Murphy reiterated the schools would be closed on Wednesday, and stated the school board facilities would close starting at 5:00 PM tonight and then they will decide at 5:00 PM on Wednesday whether they would be open on Thursday or not.

Councilman Meador asked Ms. Dalton if one of the prohibitions is to sell alcoholic beverages under this ordinance.

Ms. Dalton replied not under this ordinance, but there is a provision under the Florida state statutes. Ms. Dalton pointed out there are only two items under the ordinance, which are curfew and the freshwater provision.

Councilman Meador suggested a change in Section one; result of the serious threat posed by Tropical Storm Ernesto and have it revised to read: as a result of the potential of a serious threat posed by Tropical Storm Ernest. Mr. Meador stated since it is a Tropical Storm based on what he has seen on the 2:00 PM National Weather Service, it is not anticipated to become a hurricane at this time, and is a minor change.

Councilman Shenko stated this Ordinance is the recommendations made by the Town Manger after having discussed it with EOC.

MOTION: Councilman Shenko made a motion that the Resolution be adopted with a change described by Mr. Meador. Councilman Meador 2nd the motion.

Discussion:

Councilman Reynolds asked Ms. Dalton if she will be writing another Resolution every time a state of emergency occurs. Mr. Reynolds was under the impression it was covered, and all they would have to do is declare an emergency on a given situation.

Ms. Dalton replied she has prepared a form Resolution to be used by the Town. She stated all it needs is the various names of the Tropical Storm

whether or not Council chooses to waive the curfew. Ms. Dalton stated the Resolution puts it into effect.

Councilman Reynolds stated if they would need to do a Resolution for each potential danger or storm etc.

Ms. Dalton replied no, and that there is a Resolution done every time Town Council chooses to declare a state of emergency.

Councilman Reynolds stated he believed they had covered all of this whether to call it special meeting or emergency meeting. Mr. Reynolds stated it would cumbersome doing a Resolution every time.

Ms. Dalton stated the process of Town Council to move forward with a disaster plan is through declaring a state of emergency, and further stated this is accomplished by a Resolution.

Councilman Reynolds asked Ms. Dalton who would do this in the case of her absence.

Ms. Dalton replied she has always been available, and the Town Clerk has a form Resolution.

Vice Mayor Massucco pointed out he has noticed differences in the Resolutions, and suggested it calls for a new one under each circumstance. Mr. Massucco agreed in accepting the Resolution with the suggested corrections.

Mr. Murphy stated Captain Powell is here as well as Chief Becker and if he had any questions to those agencies.

Vice Mayor Massucco opens for public comment.

- Chief Becker stated they have been tracking the storm since Sunday, identifying the Fire Fighters with 24-hours shifts. Chief. Becker stated on Monday they will start a recall process to begin the what-if scenarios. Chief Becker stated they want to be prepared for the worse case scenario and hope for the best. Chief Becker stated they have maintained evacuation potentials and have secured their stations. The Chief noted should the situation take place tonight, they would go fully operational in a disaster mode with all their resources up. He also stated tomorrow they will have increased staffing to help with the survey and mitigate any rescues or hazard they may identify.

Councilman Meador asked Chief Becker if there is anything the Town can do to assist them at this time.

- Chief Becker replied that they are pretty much where they need to be, they have access to disaster food supply and water and all has been secured.

Vice Mayor Massucco stated it's a comfort to know they are on top of things.

- Captain Powell stated they have additional staffing for tomorrow and they are prepared to go into a disaster mode as well.

Councilman Shenko asked Captain Powell if there is anything the Town can do to help.

- Captain Powell replied they have the lines of communications open, and they will meet together with Council as needed.

Vice Mayor Massucco Closed public Comment:

Mr. Jack Green asked Vice Mayor Massucco whether they may want to consider the Disaster Recovery Assistance contract. Mr. Green mentioned he spoke with Mr. Rockwell as to the status of this storm and stated they were prepared to make notice to proceed. Mr. Green stated he needs to notify Mr. Rockwell as soon as possible, as Mr. Rockwell has been requested by other communities east of us, but Mr. Green stated his first charge is the Town, as it is under the contract. Mr. Green recommended that they not issue notice to proceed at this point. Mr. Green asked whether Council would want to consider a parking moratorium based on the situation. As to the Mooring Fields, Mr. Green referred to Hurricane Wilma as they allowed people for safe harbor and stated they waived fees and insurance fees at that time.

Vice Mayor Massucco stated by waiving the insurance would mean just to welcome them to safety.

Mr. Green pointed out one of the requirements to take up a ball in the mooring field here in Town is to have adequate insurance for your vessel and liability.

VOTE: The motion was approved unanimously.

Councilman Meador suggested reconvening with Mr. Green tomorrow at 8:00 AM given the situation on the storm.

Mr. Green stated the one exception is the vessels coming in from the Gulf, where they would not be able to wait until the morning. Mr. Green stated what was done in the past as far as the fees being waived and gives them

one day prior to the storm to come in and 24-hours after passage they wouldn't have to pay to fees. Mr. Green stated he would like to notify the Harbor Master whether or not to allow vessels.

Vice Mayor Massucco asked if they have a consensus on this for Mr. Green.

Councilman Shenko proposed to leave all of the matters to the discretion of the Emergency Manager, and to be brought back to Council tomorrow morning. Mr. Shenko stated if the Emergency Manager feels they need to give Mr. Rockwell a notice to proceed tonight, to go ahead and do it and not to be second guessed by Council.

Ms. Dalton pointed out that Mr. Green has made a distinction as to the vessels coming from outside the area to hook up to one of the mooring field balls versus vessels that are at slips currently or in other dockage in the area and wanted to come in and hook up to one of the mooring field balls. Ms. Dalton stated that is a legal decision and is a legal distinction and she will try to get an answer tomorrow morning regarding that. Ms. Dalton states as stated by Councilman Shenko to provide the information to the Emergency Manager for her discretion.

Councilman Shenko stated they do have safe harboring in a storm, and they need to be as accommodating as they can.

Councilman Reynolds agreed with Councilman Shenko and to go ahead and let Mr. Green decide the emergency situation.

Councilman Shenko asked if Mr. Green had a recommendation on the parking moratorium, and asked if he felt it should be addressed or can it wait until tomorrow morning.

Mr. Green replied his direction was the perfect way to go, and when they have a better handle on the storm's potential, then they will make that call.

Mr. Murphy reported the last forecast had the highest Tropical Storm force winds from 8:00 to 9:00 AM tomorrow, and suggested for Council to take it into consideration for their meeting. Mr. Murphy stated they have been advising contractors to secure construction sites, and they have asked realtors to secure and remove real estate signs which can become projectiles.

Councilman Shenko asked if they were going to implement a reverse 911 and put people on notice.

Ms. Lambert stated if there was an evacuation they would implement the reverse 911, and then do all of their communications based on that. Ms.

Lambert stated they can also do this to inform the residents, stating they are in a state of emergency, but there is no evacuation.

Councilman Shenko stated he went into the website and was encouraged with what he saw, stating there is good information there. Mr. Shenko stated based on Ms. Lambert's recommendations and speaking with the Fire Chiefs, if Ms. Lambert felt it would be beneficial to do it, Mr. Shenko stated to do so; stating to Ms. Lambert, he didn't think she needed Council's direction. Mr. Shenko further stated he was very pleased with the information that was already put on the website.

Ms. Dalton suggested putting on record what the subject matter of that meeting would be for that special meeting.

Vice Mayor Massucco stated a continuation regarding Tropical Storm Ernesto.

V. PUBLIC COMMENT

VI. ADJOURNMENT

MOTION: Councilman Meador made a motion to adjourn the meeting. Councilman Shenko 2nd the motion.

VOTE: The motion passed unanimously.

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based. Please note: Agendas will be available on the Friday prior to this meeting at www.fmbeach.org.

Respectfully submitted,

Debbie Cardoso