

FORT MYERS BEACH TOWN COUNCIL

**TOWN HALL-COUNCIL CHAMBERS
2523 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA
NOVEMBER 20, 2006**

AGENDA	Regular Town Council Meeting	6:30 PM
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I. CALL TO ORDER

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

Absent: None

Town Staff Present: Town Attorney Anne Dalton, Town Manager David Sallee, Community Development Director Jerry Murphy, Public Works Director Jack Green, Finance Director Evelyn Wicks.

II. PLEDGE OF ALLEGIANCE: All present stood for the recitation of the Pledge of Allegiance

III. INVOCATION: Deacon “Scoop” Kiesel, Church of the Ascension

IV. PUBLIC COMMENT: Please note that public comment will be heard at the time the agenda item is discussed.

V. PROCLAMATIONS, Recognitions and Special Presentations:

A. Mulholland Stewardship Award Presentation.

Mayor Boback announced the Mulholland Stewardship Award to Mary & Douglas Williamson, and Kathleen & Randall Williamson.

Ms. Dalton proceeded with the presentation.

B. Proclamation Estero Bay Aquatic Preserve.

Mayor Boback announced approving the Proclamation for Estero Bay Aquatic Preserve.

MOTION: Councilman Shenko made a motion to approve the Proclamation for Estero Bay Aquatic Preserve. Vice Mayor Massucco 2nd the motion.

VOTE: The motion passes 5-0.

Mayor Boback directed Ms. Dalton to read the Proclamation for Estero Bay Aquatic Preserve

Ms. Terry Cain, Board Member of the Estero Bay Buddies received the award and thanked members for this recognition.

VI. CONSENT AGENDA

A. Authorize Mayor and Staff to Execute Professional Services Supplement Agreement with Spikowski Planning Associates.

B. Special Events Permit Application- Island Arts Foundation, 4th Annual Seaside Jazz and Blues Festival

MOTION: Councilman Meador made a motion to approve the consent agenda. Councilman Shenko 2nd the motion.

Discussion:

Councilman Reynolds pointed out that the consent agenda was to authorize for professional services, and this was a normal procedure.

Mayor Boback responded that Mr. Sallee has presented an agenda item summary as his first time around.

Council members had no questions or comments for discussion.

Mayor Boback questioned where the music is going to be played for the festival.

Jo List responded that the music would be behind the cottage.

VOTE: The motion passes 5-0.

VII. INTRODUCTION OF THE FOLLOWING ORDINANCE:

A. Ordinance 06-22, Amending Ordinance 06-01, Anchorage Advisory Committee.

Mayor Boback directed Ms. Dalton to proceed with Ordinance 06-01.

Ms. Dalton read the introduction Ordinance 06-01, Anchorage Advisor Committee, and asked Council for direction to move the Ordinance forward for hearing.

Mayor Boback opens public comment:

- Mike Ratliff, Chairman of the Anchorage Committee made comments regarding the Anchorage Advisory Committee.

Mayor Boback closes public comment:

MOTION: Vice Mayor Massucco made a motion to move forward Ordinance 06-01, Anchorage Advisory Committee. Councilman Meador 2nd the motion.

Discussion:

VOTE: The motion passes 5-0. Ms. Dalton announced the next hearing date: December 4, 2006 at 6:30 PM.

VIII. READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCES:

A. Ordinance 06-19, Amending Charter, Elections.

Ms. Dalton read Ordinance 06-19, Amending Charter, Elections.

Mayor Boback opens public comment:

- Tom Babcock suggested to Council to consider separating both Elections issues into two referenda.

Mayor Boback closes public comment:

MOTION: Councilman made a motion to adopt Ordinance 06-19. Vice Mayor Massucco 2nd the motion.

Discussion:

Vice Mayor Massucco pointed out that most of the recommendations were made by the Charter Review Commission, but states that it is time to have the people vote on these recommendations.

Councilman Shenko agreed to split them into two; doing a four-year and a plurality, and to see what the voters think of it.

Councilman Meador pointed out that it would save the taxpayers' money having a four-year term, as suggested by Councilman Shenko.

Councilman Reynolds expressed not being in favor of open seats, stating he preferred having the top two, and then having a runoff. Mr. Reynolds also suggested having these separate.

Mayor Boback agreed with Councilman Shenko regarding the plurality. Mayor Boback pointed out that there was a lot of work put into this by the Charter Review Commission, and it merits the response of the voters. Mayor Boback also agreed in separating them.

AMENDED MOTION: Councilman Meador amended his motion with the deletion of the Special Elections. Vice Mayor Massucco amended his 2nd.

Councilman Shenko pointed out that he cannot support this motion due to the language written in the Charter.

Councilman Reynolds suggested moving this forward until Ms. Dalton has the opportunity to state the language accordingly.

Mayor Boback pointed out by separating these issues into three Ordinances, it may slim the chance of meeting the time table and thus, the items will not make the referendum.

Ms. Dalton suggested contacting the Supervisor of Elections to see whether they can get an extension, or Council could hold a special meeting.

AMENDED MOTION: Councilman Meador amended his motion Section 5.07 to read , that should more candidates qualify than there are seats open for Election, those candidates shall participate in a regular Election. Vice Mayor Massucco amended his 2nd.

Councilman Shenko requested three Resolutions, three Ordinances, and three Charter questions for the Council to know what they are passing in order to put it on the ballot.

Councilman Meador agreed with Councilman Shenko in having three separate Ordinances.

Councilman Reynolds was not in favor of voting on something that was not specific.

Ms. Dalton asked for direction regarding which question will refer to each Ordinance.

VOTE: The motion fails 3-2. Mayor Boback, Councilman Shenko and Councilman Reynolds dissenting.

Ms. Dalton asked Council for direction whether they wanted to continue the Hearing, or she could bring back the amendments in a hard copy, or split it into three Ordinances,

Councilman Reynolds suggested moving forward with Ms. Dalton's recommendations.

MOTION: Councilman Reynolds made a motion to allow Ms. Dalton to proceed with three different issues with three Ordinances. Councilman Shenko 2nd the motion for purposes for discussion.

Councilman Shenko questioned if it was possible continuing this Hearing, but to bring it back with three Ordinances instead of one.

Ms. Dalton announced that there would have to be a separate introduction, and a separate Hearing on the other two Ordinances. She added that Council can withdraw the motion and make a motion to reconsider Ordinance 06-19.

Councilman Shenko suggested having one Ordinance for each issue, "term, Election date and plurality."

Vice Mayor Massucco agreed going with the three Ordinances.

Councilman Meador suggested making a motion to reconsider.

MOTION: Mayor Boback made a motion to reconsider Ordinance 06-19. Councilman Shenko 2nd the motion.

Discussion:

Councilman Reynolds suggested leaving the Ordinance as is, until there is more clarity on the issue.

Vice Mayor Massucco expressed that the questions have to be presented to the voters, and they should settle the matter.

Councilman Shenko expressed they have Charter amendments before them that are not complete, and Mr. Shenko is unable to support it.

Councilman Meador questioned Ms. Dalton if Ordinance 06-19 meets the criteria.

Ms. Dalton responded Ordinance 06-19 deals to the Election process. Ms. Dalton suggested Council to continue this meeting to a date certain, and she will modify section seven.

Councilman Reynolds suggested adding to the referendum if the voters would approve seven members as opposed to five members.

VOTE: The motion passes 3-2. Councilman Shenko and Councilman Reynolds dissenting.

Ms. Dalton announced next Hearing date on December 4, 2006 at 6:30.

B. Ordinance 06-20, Utility Funding.

Ms. Dalton read Ordinance 06-20, Utility Funding.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

MOTION: Vice Mayor Massucco made a motion to accept Ordinance 06-20 as presented. Councilman Meador 2nd the motion for purpose of discussion.

Discussion:

Councilman Meador pointed out the need to have the voters' approval for the utility funding. Councilman Meador recommended in lieu of what they currently have, Mr. Meador suggested the entire summary to be changed as follows: "The Town Council is authorized to obtain or extend the existing financing in excess of 36-months in connection with the Town's water utility, and for capital improvements necessary in connection with the operation and maintenance of."

Vice Mayor Massucco agreed on the 36- months, and pointed out that this would leave the door open in the written to purchase real property.

Councilman Shenko pointed out that the Ordinance does allow for them to purchase real property, but it doesn't mention refinancing the water utility. Mr. Shenko expressed that he would like to see refinancing the existing obligation, limiting capital improvement to a certain dollar amount and indicate that it would apply to a merged or reorganized water system.

Mayor Boback agrees that it should be limited to the water utility, and presenting it to the voters.

AMENDED MOTION: Councilman Meador amended his motion for specific language to the water utility for capital improvement and operation. Vice Mayor Massucco amended his 2nd.

Councilman Reynolds suggested a term limit on financing of three or six years instead of leaving it open.

Mayor Boback questioned Ms. Dalton how to address who owns the water utility.

Ms. Dalton responded that the water utility is a municipal corporation, and added the financing could be structured where it would not be a Charter violation.

Councilman Meador suggested the water utility currently owned by Public Works Services Inc.

VOTE: The motion passes 3-2. Councilman Shenko and Councilman Reynolds dissenting.

IX. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS:

Vice Mayor Massucco referred to the Turkey Testicle Festival, adding that it was a success.

Councilman Reynolds referred to the Town Hall site. Mr. Reynolds spoke of MRTF, and recommended Ms. Joann Shamp for the committee. Mr. Reynolds also spoke of beach access #22 where there is no handicap ramp, and brought it to Mr. Green's attention to have something done about having a ramp in the beach accesses. Mr. Reynolds referred to special events and approving them impromptu. Mr. Reynolds brought up planting trees on the beach accesses, indicating that it is taking away the enjoyment for the viewers. Mr. Reynolds suggested deleting the capital letters on the agenda.

Councilman Meador expressed that they undo having the special events permits come before Council, and would prefer that it be handled administratively. Mr. Meador suggested soliciting different proposals for planners.

Councilman Shenko announced he will ask as an agenda item discussion on the Lee Transit Authority.

Mayor Boback directed Mr. Sallee for the meeting with Mr. Meyers to have the existing number of units ready for Council.

X. TOWN ATTORNEY'S REPORT:

A. Salty Sam's Marina, Request for Direction.

Ms. Dalton referred to a letter she received from Douglas Szabo, Counsel for Salty Sam's Marina who has requested a meeting between the Town and Salty Sam's Marina regarding to the operation of the Matanzas Mooring Field.

Councilman Meador pointed out in their previous meeting they did not resolve anything other than, being told to write out a check.

Councilman Shenko responded they are still being charged for the Mooring Field, and doesn't believe a meeting will accomplish anything.

Vice Mayor Massucco responded they have nothing to lose by talking.

Councilman Reynolds responded that he was not in favor of the Marina sending them bills the Town was never obligated to. Mr. Reynolds agrees that they should not pay anything further.

Mayor Boback agreed with Council since the last visit with Mr. Henderson, and does not believe another meeting would be fruitful.

XI. TOWN MANAGER'S REPORT:

A. Approval of Monthly Financial Report.

Council Shenko referred to the Beach Nourishment as a Budget item.

Evelyn Wicks, Finance Director responded the Town Hall acquisition is budgeted for \$1.4, the revenue, expenditures and the investments are reserved for Beach Nourishment.

Vice Mayor Massucco asked Ms. Wicks if next month YTD will be cumulative for October and November.

Ms. Wicks responded yes for October and November.

Councilman Reynolds asked for a break down for expenditures and assets.

Ms. Wicks responded they have presented this as an idea to get Council response on what they need.

Councilman Meador referred to the DRA stating that it is out of range.

Mayor Boback suggested having a month actual expenditure and a budgeted amount for that month. Mayor Boback suggested expanding YTD, actual, YTD budget.

B. Advise Whether the Town of Fort Myers Beach Should Appeal The Federal Flood Insurance Study (FIRM.)

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

Mr. Sallee asked for Council's direction regarding the appeal.

MOTION: Councilman Shenko made a motion to move forward with the appeal. Vice Mayor Massucco 2nd the motion.

Discussion:

Councilman Meador pointed out that he was in favor of moving forward with this appeal as long as it does not involve any additional costs.

Councilman Shenko expressed he had the same concerns regarding whether there is additional attorney fees or if it was Mr. Tomasello's report with an administrative cover sheet.

Ms. Dalton announced there are no attorney fees.

Vice Mayor Massucco agreed that is the way to go.

Councilman Reynolds expressed that they will be wasting their time.

VOTE: The motion passes 5-0.

C. LPA Request for Direction to Proceed With Review of Beach Furniture and Lot Coverage.

Ms. Dalton announced to Council Resolution 2006-19 is a request by the LPA.

Mr. Sallee announced the LPA is requesting for Council's direction regarding whether or not they should review the lot coverage restrictions on Chapter 14 and 27.

Mayor Boback opens public comment:

- Andrew DeSalvo resident presents Council Resolution to allow lot coverage up to 25%.

Mayor Boback closes public comment:

MOTION: Councilman Shenko made a motion to move forward for the LPA to review Lot Coverage restrictions in the Residential Conservation Zoning District. Councilman Reynolds 2nd the motion.

Discussion:

Vice Mayor Massucco and Councilman Reynolds had no comments for discussion.

Councilman Meador pointed out that the LPA needs to provide Council with more background, but is in favor to move forward.

Councilman Shenko expressed that he is in favor for the LPA to be revisited, but agrees with Councilman Meador the LPA needs to come back with a more restrictive interpretation.

VOTE: The motion passes 5-0.

Ms. Dalton announced to Council Resolution 2006-20 is another request by the LPA.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

MOTION: Councilman Meador made a motion to table this request until they have further explanation from the LPA as to what specifically they have in mind with the changed proposals. Councilman Shenko 2nd the motion.

Discussion:

Councilman Shenko responded he would like to know what the LPA had in mind before moving this forward.

Vice Mayor Massucco responded he would like more information regarding the issue.

Mayor Boback also would like to have more information regarding this issue. Mayor Boback also suggested the LPA looking into the four-wheeler used to move the beach furniture around in.

VOTE: The motion passes 5-0.

D. Authorization of Senior Project Manager Position

Mr. Sallee recommends Council the need of adding the position of Senior Project Manager and

MOTION: Councilman Shenko made a motion to authorize funding for one Senior Project Manager for the Public Works Department as outlined in the memo by Mr. Sallee and to be funded outlined in the memo by Mr. Green. Vice Mayor Massucco 2nd the motion.

Discussion:

Vice Mayor Massucco agrees that this would expedite Public Works, and be helpful to Mr. Green.

Councilman Reynolds expressed his concern of the growing staff, and not having the space to place them in.

Councilman Meador questioned if the position of the Senior Project Manager will include water utility.

Mr. Sallee responded that the position will oversee the management firm that operates the water utility.

Councilman Shenko expressed he is in support of the Senior Project Manager Position.

VOTE: The motion passes 5-0.

XII. FINAL PUBLIC COMMENT: Public comment at this time is heard on any item and/or issue of concern

Mayor Boback opens public comment:

- Eddie Foster resident spoke about Chapel by the Sea, and the safety of the residents.
- Dan Parker read Section 316.640 Sub 4-A of the Florida State Statute.
- Tom Babcock resident discussed issues concerning Resolution presented this evening. Mr. Babcock asked for feed-back regarding Ordinance 06-19.

Mayor Boback closes public comment:

XIII. ADJOURNMENT

MOTION: Councilman Meador made motion to adjourn. Vice Mayor Massucco 2nd the motion.

VOTE: The motion passes 5-0.

Mayor Boback adjourned the meeting at 9:34 PM

NEXT MEETING: December 4, 2006 at 6:30 PM.

NOTE: This meeting is televised live on Comcast Channel 11.

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

Town Clerk

Date