



FORT MYERS BEACH TOWN COUNCIL

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

MINUTES

October 4, 2010

9 AM

I. CALL TO ORDER

Mayor Kiker called the meeting to order at 9:02 a.m. Present with Mayor Kiker was Vice Mayor Raymond, Council members Babcock and Mandel, Town Manager Stewart, Town Attorney Humphrey and Town Clerk Michelle Mayher. Council member List was absent.

II. INVOCATION – Deacon Scoop Kiesel, Church of the Ascension

III. PLEDGE OF ALLEGIANCE

All stood for Pledge of Allegiance

IV. APPROVAL OF FINAL AGENDA

Mayor Kiker asked if a representative from Waste Management could speak just before public comment with a consensus approval from Council.

Lindsay Sampson, Director of Lee County Solid Waste Division addressed Council regarding the new contract with the Town. Mr. Sampson also introduced Jim Souter with Veolia. Mr. Souter indicated the new pickup days would be yard waste and recycling on Wednesdays and garbage pickup up moved from Tuesday to Thursday.

In response to council member Babcock's question regarding whether a smaller container was available, Mr. Sampson responded that there is only the one size, however all recycling could go into that one container with no sorting necessary. It was indicated the maximum size for a regular garbage can would be a 35 gallon can which equates to 50 pounds. It was also noted there were no plans at present to move toward automated collection on regular garbage.

A discussion began on communication between the Town and Waste Management, the issue of numerous properties with frequent check outs

and garbage at the street for pickup for extended periods of time. Mayor Kiker voiced his concern with a Wednesday, Thursday pickup schedule for the beach and again stated his desire for better communication.

Public Comment Opened

▪ **Joanne Shamp** spoke applauding the Council's desire for a Monday pickup and reminded everyone of the new ordinance for lids on trash cans, stating she would like to see communication with the trash haulers regarding the handling of the cans and lids.

Public Comment Closed

V. PUBLIC COMMENT

Public Comment Opened

▪ **Ed Scott** addressed Council regarding the misrepresentation in the local paper of his previous statements to Council. He indicated he was not a new resident, but a new resident owner on the island. Mr. Scott spoke regarding the danger from falling coconuts and asked Council to consider the threat from Coconut palms.

Public Comment Closed

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

None

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

None

Public Comment Opened

No Public Comment

Public Comment Closed

A. Appointment(s) to Anchorage Advisory Committee

MOTION: Councilmember Mandel made a motion that Robert Beasley and Katherine Light be reappointed to the Anchorage Advisory Committee and that Joshua Tuyls and Ryan Crown be added for the 2010 vacancies with a second by Vice Mayor Raymond.

VOTE: Motion passed 4 to 0 Council member List was absent.

B. Appointment(s) to Bay Oaks Recreational Campus Advisory Board

▪ **Karen Haengel** addressed Council and answered questions regarding her choices for volunteering.

▪ **Betty Simpson** addressed Council regarding her desires to serve the Town.

MOTION: Vice Mayor Raymond made a motion to reappoint Becky Bodnar, Tom Mizwa and Betty Simpson with a second by Councilmember Babcock

VOTE: Motion passed 4 to 0 Council member List absent

C. Appointment(s) to Community Resource Advisory Board

MOTION: Councilmember Babcock made a motion to accept Jim Rodwell, Mark Ludvigsen, Pamela Koch, Mary Greer and Karen Haengel with a second by Vice Mayor Raymond.

VOTE: Motion passed 4 to 0 Council member List absent.

D. Appointment(s) to Cultural and Environmental Learning Center Advisory Board

▪ **Becky Bodnar** addressed Council voicing her support to approve Betty Simpson for both committees.

▪ **Margaret Weslow** spoke in favor of the committee maintaining experience, withdrew her name from consideration and indicated she would still be a volunteer and be happy to work anywhere she could.

MOTION: Councilmember Babcock moved to accept Betty Simpson, Barbara Anderson Hill, Ceel Spuhler and Cherie Smith to represent CELCAB.

FAILED: Motion failed for lack of second.

After a question from Vice Mayor Raymond, Marti Weslow officially requested her name be removed from the list for CELCAB, allowing her just to continue volunteering at the Mound House.

MOTION: Councilmember Babcock moved to accept Betty Simpson, Barbara Anderson Hill, Ceel Spuhler and Cherie Smith to represent CELCAB. Second by Vice Mayor Raymond.

VOTE: Motion passed 4 to 0 Council member List absent.

E. Appointment(s) to Local Planning Agency

MOTION: Vice Mayor Raymond made a motion to retain Mr. Ryffel,

Joanne Shamp and Bill Van Duzer and to add Mr. Zuba; Second by Council member Babcock.

MOTION: Motion passed 4 to 0 Council member List absent.

F. Appointment(s) to Marine Resources Task Force

MOTION: Council member Babcock made a motion to accept Jeff Werner, Roger Johnson and Julie Schwab to represent MRTF; Second by Council member Mandel.

VOTE: Motion passed 4 to 0 Council member List absent.

VIII. APPROVAL OF MINUTES

A. September 7, 2010

B. September 7, 2010 Work Session

Public Comment Opened

No Public Comment

Public Comment Closed

MOTION: Vice Mayor Raymond made a motion to approve minutes with a second by Councilmember Babcock

VOTE: Motion passed 4 to 0 Councilmember List absent.

G. Bay Oaks Recreational Campus Advisory Board Presentation on Signage and Banners

▪ **Tom Mizwa** representing Bay Oaks addressed Council to update them on signage and banners for Bay Oaks. Mr. Mizwa spoke regarding a monument sign to locate Bay Oaks as well as special events with across street banners.

Special event banner location possibilities were coming onto the island, at Bay Oaks and at the south end. No permitting issues were found and the estimated costs was around \$6,000 to install the system, which was a pulley system.

There was consensus from Council to move forward with additional fact finding for the special event banner systems.

Mr. Mizwa provided information regarding a monument sign and identification for Bay Oaks, noting the difficulties in locating a site that would be effective.

There was consensus from Council for a liaison from Council to work with the committee and have a meeting with the library to discuss signage for the library as well as Bay Oaks.

- **Becky Bodnar** spoke regarding the signage and the differences between the directional signs and monument signs.

IX. CONSENT AGENDA

- A. Authorization to Begin Negotiations with Softrim Corporation for RFP-10-01-AD
- B. Authorization to Apply for Grants for BORC Club Rec Programs
 - 1) National Garden Association
 - 2) Captain Planet Foundation

MOTION: Vice Mayor Raymond moved to approve the Consent Agenda with a second by Council member Babcock.

VOTE: Motion passed 4 to 0 Council member List absent.

Recess: 10:40 AM

Reconvene: 10:53 AM

X. ADMINISTRATIVE AGENDA

- A. Approval of Road Resurfacing Contract

Public Works Director, Cathie Lewis reviewed information on resurfacing of Town roads deemed ready for resurfacing with a contract for \$91,216.25 from Southwest Utility Systems, Inc.

MOTION: Council member Mandel made a motion to approve the contract with Southwest Utility Systems, Inc. for milling and resurfacing various Town roadways in an amount of \$91,216.25 with a second by Council member Babcock.

VOTE: Motion passed 4 to 0 Council member List absent.

- B. Update on North Estero Landscape Plan

Town Manager Stewart reviewed previous discussions by Council and staff on the needed increase in funds regarding Coconut palms, the use of cabbage palms and the possibility for other types of palms to be used.

Public Works Director Lewis reviewed the findings on irrigation and salt tolerance issues for the palm species being considered as well as the issues with the trees interfering with the FPL lines.

Public Comment Opened

- **Ed Scott** commented on royal palms being used at various locations around the island and encouraged Council to use the royal palms in the project.
- **Carleton Ryffel** indicated he was concerned with the lack of irrigation for the Royal Palms and felt the ambiance of the island was consistent with coconut

palms.

▪ **Karen Haengel** felt the use of Coconut palms was exposing the Town to lawsuits and then questioned irrigation costs and the necessary trimming of coconut palms.

Public Comment Closed

Town Manager Stewart stated there was no irrigation proposed for the trees.

Council discussed their thoughts on the various types of palms, the costs depending on the type and/or number of trees to be used in the project. Conversation continued on maintenance of the different trees as well as consideration for investing in a water truck.

MOTION: Council member Babcock moved to replace coconut palms with royal palms following the original plan with a cost of \$38,591.00 with a second by Councilmember Mandel.

VOTE: Motion passed 4 to 0 Council member List absent.

C. Parasail Ordinance Interpretation

Town Manager Stewart indicated it was time for the parasail vendors to renew their licenses, stating there had been one company located in front of the property now owned by the County, with the County wanting all current tenants moved from the property. Paradise Parasail had been located at the property and wanted to move to another location, however after reading the codes in Chapter 27 [of the LDC], it was indicated the move could not be made. Mr. Stewart turned the floor over to the Town Attorney to further explain the situation.

Town Attorney Humphrey addressed Council noting there was not clarity in the Code provisions. Mr. Humphrey reviewed the findings of his office as well as information researched by Attorney Beverly Grady for Paradise Parasail and recommended confirming the license for Paradise Parasail. Attorney Humphrey also recommended amending the code to accurately reflect the intent that has been followed over the years.

Town Manager Stewart felt it important to note that the action grew from a request to transfer an existing license that had been on the beach for at least 15 years. Town Manager Stewart then went on to discuss conforming locations.

Town Attorney Humphrey reminded Council they were being asked to consider transferability of the 7 licenses.
Council member Babcock questioned the issues of transferability along

with conforming locations.

Attorney Beverly Grady representing Paradise Parasail addressed Council and agreed they questioned the issue of transferability indicating she concurred with the opinion of Town Attorney Humphrey.

Public Comment Opened

- **Clarissa Blair** representing Renalli Parasail for Patrick Renalli read a letter on his behalf addressing Council, stating Renalli Parasail had requested a transfer in September of 2006 and it was not granted due to LDC number 27-55 and felt the current request should be held to the same standards.

- **Bill Perry** addressed Council and explained the reason for 6 parasail licenses and one grandfathered license, indicating the grandfathered license was for Patrick Renalli. Mr. Perry reviewed the parasail business on the island from before the Town was incorporated.

- **Beverly Grady** for Paradise Parasailing stated the company had been on the beach for 18 years and licensed every year.

Town Attorney Humphrey thanked Mr. Perry for the history he provided and noted 7 licenses had been vested and reminded Council again they were only there to look at transferability.

Public Comment Closed

MOTION: Council member Mandel made a motion to approve the concept of 7 vested licenses that may be transferred according to the Town's code with a second by Council member Babcock.

VOTE: Motion passed 4 to 0 Council member List absent

MOTION: Council member Mandel made a motion to amend the existing Land Development Code to provide clarification; Second by Council member Babcock.

Council member Babcock wanted to see clarification in the word grandfathered, were any of the 7 grandfathered licenses could be transferred to a new owner at an existing site even if nonconforming, could be transferred to a new location but must be a conforming site, any non grandfathered PAL's could be issued until the number of PAL's dropped below 7, definition of conforming not be closer than 500 feet of the business, business location to business location not property line.

Vice Mayor Raymond chose to wait until the Town's attorney brought it back to Council, however would like to see 'grandfathered' removed.

Councilmember Babcock felt there was still an issue to be addressed as to whether it was a conforming site to assist the applicant. Town Manager Stewart felt using a consistent property address from property line to property line the best method to be utilized.

VOTE: Motion passed 4 to 0 Councilmember List absent

Recess: 12:30 PM

Reconvene: 12:40 PM

Change of agenda to allow for Town Attorney's Items, permitting Mr. Humphrey to leave early due to illness.

XI. TOWN ATTORNEY'S ITEMS

Town Attorney Humphrey requested an attorney/ client session for Council's next meeting as the Town had received a proposal for settlement regarding the SWF Management, Inc. vs. Town of Fort Myers Beach. Mr. Humphrey did note that there was a Hearing scheduled for October 11th so Council could wait until that time.

It was decided to schedule a closed session before the next Council meeting for case 10-CA-000486 for SWF Management, Inc vs. Town of Fort Myers Beach and then if need be it could be canceled.

Town Manager Stewart stated that would be an evening meeting on October 18th, so it could be scheduled for 5:45 p.m. with the Council Meeting beginning at 6:30 p.m.

Mr. Humphrey also stated the sign ordinance should be completed to review with LPA and Council the following week.

D. Town Manager Evaluation

MOTION: Vice Mayor Raymond made a motion to offer Mr. Stewart the position of Town Manager; Second by Council member Babcock.

VOTE: Motion passed 4 to 0 Council member List absent.

Town Manager Stewart noted he was pleased and thanked Council for the chance to work for Council and the Town.

Council member Mandel would be working with Town Manager Stewart to develop an agreeable contract.

XI. TOWN MANAGER'S ITEMS

- Laguna Shores/Dredging

Continuing to work with DEP, seagrass evaluation necessary with an approximate cost of \$7,500

- Employee Appreciation Luncheon, 2 employees with 5 year awards, Nicole Olsen and Amanda Anderson and 1 ten year award, Town Clerk Michelle Mayher.
- Grant Applications, provide parameters for Council to consider to allow Administrative decisions on grant applications

XIII. COUNCILMEMBER'S ITEMS AND REPORTS

Council member Mandel

- Attended Coastal Advisory Committee meeting along with Keith Laakkonen
Commented on discussions at the meeting, especially on the subject of beach renourishment.

Vice Mayor Raymond

- Commented on the trolley lane topic and the article in the morning's News-Press regarding the issue, stating his desire for the Town to be included in decisions.
- Congratulated Town Manager Stewart on his singing competition
- Florida League of Cities Regional Meeting attendance
- Attendance in Kissimmee for the Growth and Transportation Committee for Florida League of Cities

Council member Babcock

- Commented on approach procedures for FAA from Southwest Regional Airport and his continued conversations with same and asked to be the representative from the Town with a consensus from Council to do so.

Mayor Kiker

- BP oil spill, thanking Council member Mandel and Town Manager Stewart for their work concerning the issue
- Buccaneer property clean up as well as expedited methods to deal with foreclosed or abandoned property.

Town Manager Stewart stated they had had a recent code enforcement hearing and code enforcement was now active on the island and would be enacting a better tracking method to keep the situations from moving to the extreme.

- Beach Nourishment, questioning the time frame

XIV. AGENDA MANAGEMENT

To be discussed at afternoon work session.

XV. RECAP OF ACTION ITEMS

- Set up meeting with Lee County Solid Waste to discuss changes
- Bay Oaks banners and monument sign.

- Recommendations to allow Administrative approval of certain grants
- Work with Town Attorney for recommended language for parasail/personal water craft ordinance
- Laguna Shores grass survey
- Working with BOCC for Town's involvement regarding transportation issues
- Work with Councilmember Mandel and Town Attorney for new contract

XVI. PUBLIC COMMENT
Public Comment Opened
No Public Comment
Public Comment Closed

XVII. ADJOURNMENT

MOTION: Council member Mandel moved to adjourn with a second by Vice Mayor Raymond.

VOTE: Motion passed 4 to 0 Council member List absent

Meeting Adjourned at 1:34 p.m.

Adopted 11-1-10 With/Without changes. Motion by Babcock/List
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Vote: 5-0


 Michelle D. Mayher, Town Clerk

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