# Fort Myers Beach Town Council

**Council Chambers**
**2525 Estero Blvd.**
**Fort Myers Beach, FL 33931**

**Minutes** **Monday, March 6, 2017** **2:00 PM**

# FINAL

## I. CALL TO ORDER

The meeting was called to order at 2:00 PM by Mayor Dennis Boback

### A. Roll Call

Members present: Mayor Boback, Vice Mayor Hosafros, Council Member Cereceda, Council Member Gore and Council Member Shamp.

## II. INVOCATION

Town Clerk Mayher.

## III. PLEDGE OF ALLEGIANCE

## IV. APPROVAL OF FINAL AGENDA

Vice Mayor Hosafros moved to approve the final agenda as amended; second by Council Member Gore.

Motion approved; 5-0

## V. PUBLIC COMMENT

•Beverly Milligan, Executive Director of the Estero Island Taxpayers' Association (EITA), stated a survey was conducted and results showed that voters and taxpayers wanted downtown redevelopment, more downtown parking, the comprehensive plan updated and they supported the stormwater project. She thanked Vice Mayor Hosafros for her years of service. She invited everyone to the next meeting on March 14, 2017 at the Women's Club.

•Jacki Liszak, President of the Fort Myers Beach Chamber of Commerce, attended the groundbreaking of the LeeTran Trolley area in Summerlin Square. They projected completion by the end of the year.

•John Heim reiterated the need for localized water quality testing. He questioned why the Southwest

Florida Clean Water Movement was not invited to the Marine Resources Take Force (MRTF) work session after Mr. Heim asked to be included.

•Eddie Foster, resident, thanked Fort Myers Beach for the Murphy Award. She was chagrined by the article in The Observer. She discussed plastic versus paper straws and the harm plastic does to marine life and urged Fort Myers Beach to ban plastic straws and fine businesses who do not comply.

•Louis Monaco, resident, stated that his private street does not flood, they do not want it surveyed nor do they want stormwater control on the street.

•Leon Moyer commented that consensus was reached to give Town Attorney Turner direction to defend the Town was not a matter of record and if a motion or resolution was involved to spend more money, he thought it should be a separate action for Council to vote on.

## VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Cereceda recognized Jackie Liszak and Al and Kathy Durrett for hosting Danny Andrews and Congressman Rooney. She congratulated Vice Mayor Hosafros for her service, composure and critical thinking.

Council Member Gore recognized the Shrimp Festival's Kids Run, the Princesses had their Sunday social and she reviewed the upcoming Shrimp Festival schedule.

Vice Mayor Hosafros thanked Jackie Liszak and Al Durrett for hosting the Candidate's Night.

Council Member Shamp recognized that the Fort Myers Beach Little League celebrated their 61st season. She singled out Larry DeHays, Tucker Patton, Lee Melsek and Danny Cody. She noted that The Privateer celebrated its 50th anniversary by installing the historic plaque. She thanked Matt Noble, Principal Planner, for his involvement in the plaque program.

A. Historic Structure Recognitions - Plaque Program

**A request to award plaques to island structures which have been recognized by the Town's Historic Preservation Board.**

Council Member Shamp described the property on 1698 Estero Blvd. owned by Jacki Liszak and Scott Safford. She noted it had been the first library in Lee County. Council Member Shamp presented Ms. Liszak and Mr. Safford with the plaque. Ms. Liszak described how she decided to purchase the property and she thanked family and friends for their help.

Council Member Shamp described the property on 226/232 Ohio Avenue owned by Chris Skornicka. Mr. Skornicka was not in attendance to accept his plaque.

## VII. ADVISORY COMMITTEES ITEMS AND REPORTS

No reports.

## VIII. APPROVAL OF MINUTES

A. Town Council - Work Session - Feb 17, 2017 1:00 PM

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| **RESULT:** | **ACCEPTED [UNANIMOUS]** |
| **MOTION BY:** | Anita Cereceda, Council Member |
| **SECOND BY:** | Rexann Hosafros, Vice Mayor |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

B. Town Council - Work Session - Feb 21, 2017 2:00 PM

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| **RESULT:** | **ACCEPTED [UNANIMOUS]** |
| **MOTION BY:** | Anita Cereceda, Council Member |
| **SECOND BY:** | Rexann Hosafros, Vice Mayor |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

C. Town Council - Regular Meeting - Feb 21, 2017 6:30 PM

*Under Town Attorney's Items, consensus was reached to allow Town Attorney Turner to move forward to defend the Town.*

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| **RESULT:** | **ACCEPTED AS AMENDED [UNANIMOUS]** |
| **MOTION BY:** | Anita Cereceda, Council Member |
| **SECOND BY:** | Rexann Hosafros, Vice Mayor |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

## IX. CONSENT AGENDA

A. Resolution 17-04, Lake Okeechobee Regional Compact

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING AND APPROVING THE PARTICIPATION BY THE TOWN IN THE LAKE OKEECHOBEE REGIONAL COMPACT; SAID AGREEMENT BEING A JOINT EFFORT BY OFFICIALS IN A NINETEEN COUNTY AREA ENCOMPASSING THE NORTHERN EVERGLADES AND THE LAKE OKEECHOBEE WATERSHED TO WORK TOGETHER ACROSS JURISDICTIONAL BOUNDARIES TO CREATE, SUPPORT, AND ADVANCE A COMPREHENSIVE PLAN ADDRESSING ENVIRONMENTAL AND ECONOMIC CHALLENGES ASSOCIATED WITH DISCHARGES FROM LAKE OKEECHOBEE, AND TO DEVELOP A JOINT STRATEGIC PLAN TO SUCCESSFULLY MEET THOSE CHALLENGES; PROVIDING AN EFFECTIVE DATE.**

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| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOTION BY:** | Rexann Hosafros, Vice Mayor |
| **SECOND BY:** | Joanne Shamp, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

B. Special Event Permit Application - Mound House Membership Appreciation

**A Request for Approval for Membership Appreciation Special Event**

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| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOTION BY:** | Rexann Hosafros, Council Member |
| **SECOND BY:** | Joanne Shamp, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

C. Matanzas Harbor Management Plan

**Approve the draft Harbor Management Plan to be submitted to the Department of Environmental Protection (DEP) for review.**

Council Member Shamp clarified the insurance requirement and she suggested that boaters provide emergency contact information on the application. Mr. Baker, Director of Public Works, agreed. Mr. Baker thanked the Anchorage Advisory Committee for their hard work.

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| **RESULT:** | **ADOPTED AS AMENDED [UNANIMOUS]** |
| **MOTION BY:** | Joanne Shamp, Council Member |
| **SECOND BY:** | Anita Cereceda, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

D. Professional Services for Bayside Access Improvements

**Approve the Supplemental Task Authorization (STA) with Coastal Engineering Consultants to perform professional engineering services for bayside access improvements in the amount of $76,963.00.**

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| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOTION BY:** | Rexann Hosafros, Vice Mayor |
| **SECOND BY:** | Joanne Shamp, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

## X. PUBLIC HEARINGS

1. Ordinance 17-04 1st Reading and Public Hearing: Surplus Parking LDC Amendment

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE CHAPTER 34 TO CREATE SUPPLEMENTAL REGULATIONS APPLICABLE TO RENTAL OF DESIGNATED SURPLUS PARKING SPACES; PROVIDING FOR A DEFINITION OF "SURPLUS PARKING SPACES"; REQUIREMENT TO OBTAIN A USE PERMIT TO ALLOW RENTAL OF DESIGNATED SURPLUS PARKING SPACES; PROVIDING FOR SEVERABILITY; CONFLICTS OF LAW; CODIFICATION, SCRIVENER'S ERRORS; AND AN EFFECTIVE DATE. Move to a second and final hearing on March 20, 2017 at 6:30 PM.**

Mayor Boback read the title of the Ordinance.

Principal Planner Matt Noble stated that the Local Planning Agency deleted the survey requirement in Section 34. The framework was provided to regulate surplus parking and would allow the business owner to obtain a use permit to sell excess parking.

Mayor Boback clarified that the number of spaces would be determined, but they would not enforce which ones were rented. Mr. Noble replied that this provided a check that would allow the property owner to demonstrate that they did have excess parking beyond what was required by the Land Development Code (LDC) for that use. Council Member Gore did not support the Ordinance.

Council Member Cereceda agreed with deleting the survey requirement.

Council Member Shamp preferred that commercial businesses that have the minimum legal number of spots be allowed to charge for parking during specific months. She stated she would control the signage and she felt they should encourage bikes, walking and the use of the trolley. She was not sure it served the public good to use code enforcement in that fashion. Mr. Noble stated that certain provisions were deleted and code enforcement would not be involved.

Mr. Noble revealed that some businesses have been cited for their signage.

Vice Mayor Hosafros stated that the Ordinance did not go far enough. She suggested

that the number of extra spaces be identified, rented out and regulated instead of letting businesses rent all of their spaces.

Public Comment

•Leon Moyer questioned the definition of single purpose parking lots. He described parking in the right-of-way on Virginia and Ohio. He stated that enforcement was necessary and he read a section from the LDC regarding other uses of parking lots.

•Eddie Foster, resident, suggested that the handicapped parking be placed next to the ramp.

•Jacki Liszak, President of the Fort Myers Beach Chamber of Commerce, supported regulating a certain number of spaces and let the business owner decide what to do with their surplus parking. She supported requiring businesses to obtain identical surplus parking signs.

Public Comment Closed

Mayor Boback commented that the decision to rent parking was up to the business owner. He did not feel they should regulate how they use their businesses and he felt enforcement would be a nightmare.

Vice Mayor Hosafros stated enforcement was difficult in many areas and some landlords rented parking places, not necessarily the business owners.

Council Member Shamp mentioned controlling density.

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| **RESULT:** | **ADOPTED [3 TO 2]** |
| **MOTION BY:** | Anita Cereceda, Council Member |
| **SECOND BY:** | Rexann Hosafros, Vice Mayor |
| **AYES:** | Anita Cereceda, Rexann Hosafros, Joanne Shamp |
| **NAYS:** | Tracey Gore, Dennis Boback |

2. Resolution 17-03, Smoking Policy

**A request to adopt 17-03, a resolution establishing a Smoke-Free policy applicable to Town owned or operated public facilities and properties.**

Sean DePalma, Parks & Recreation Director, explained that tobacco was still in paragraph three because it was an informational guideline to get to the actual policy. The remainder of the document encompassed all other products included in the smoke-free policy. Council Member Gore cited changes and Council Member Cereceda suggested a clarification. Council Member Shamp appreciated Mr. DePalma's vision.

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| **RESULT:** | **ADOPTED AS AMENDED [UNANIMOUS]** |
| **MOTION BY:** | Rexann Hosafros, Vice Mayor |
| **SECOND BY:** | Joanne Shamp, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

## XI. ADMINISTRATIVE AGENDA

A. Supplemental Task Authorization #21 with Tetra Tech - Preliminary Design

**To approve Tetra Techs' Supplemental Task Authorization #21 for preliminary stormwater design for the remaining side streets of Estero Island in the amount of $393,578.**

Public Works Director Baker reviewed the 30% Plan and asked that Council approve the contract.

Council Member Gore asked why stormwater was not included in the potable water survey.

Brent Messner from Tetra-Tech replied that the survey in the contract was for the Laguna Shores area. Council Member Gore stated that she had the survey and stormwater was on the survey. Mr. Baker replied that Johnson Engineering had to manipulate their file to send to the Town and there would be a charge. He confirmed that the dollar amount in the contract included a survey and design. Mr. Messner stated that they could use the existing survey and they were being asked to approve which streets needed stormwater infrastructure.

Council Member Gore questioned why they did not take care of streets that flood first. Public Works Director Baker replied that they were trying to work with the County to figure out where the joint outfalls would be.

Mr. Messner stated that the 30% Plan provided drawings of the streets to show where the improvements would go.

Council Member Cereceda noted that it did not matter which streets flooded because they were all part of the system. They needed to know how much of their existing system could be salvaged and what kind of infrastructure had to be put into place. She supported moving forward with the Plan.

Council Member Gore disagreed that the whole system was linked. Mr. Baker explained how it was connected. Mr. Messner explained that private stormwater systems were being surveyed for potable water only.

Mr. Baker stated that the ideal 30% Plan would quantify the hot streets and where the joint outfalls would go. The survey portion would take about two months. Rob Phelan, Lee County DOT, stated that changing the outfalls would affect the design and permitting, which would prevent them from proceeding in Segment 2. Mr. Baker described the system on Miramar.

Council Member Shamp questioned the spacing between outfalls in the South end versus the North end. Mr. Messner replied that the County's 30% plan identified feasible outfalls, but the number of outfalls was increased as a result of the soil samples. Council Member Shamp questioned whether the County would pay for monitoring larger pipes. Mr. Phelan replied that the County would absorb the costs for their outfalls and they would work to minimize pipe sizes for the Town outfalls. Council Member Shamp questioned whether they could save money and accomplish what they need by not approving the 30% Plan. Mr. Phelan replied that the Plan was a critical tool to identify where problems were located. Interim Town Manager Steele stated that the information in the Plan was critical and if they do not proceed, they would be stuck.

Mayor Boback confirmed that they were not surveying the entire Island for stormwater. Mr. Messner stated that the Plan was an analysis of the streets. Vice Mayor Hosafros read the detailed scope of services.

Mr. Messner explained in detail what the Town would get for their money. Mr. Baker explained the timeline of the permitting process. Council Member Gore questioned how long it would take to fix the hot streets. Mr. Baker replied that it would be a year out due to permitting.

Mayor Boback questioned the cost of videotaping. Mr. Baker replied that $25,000.00 was in the budget but the system would cost between $100,000.00-$150,000.00.

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| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOTION BY:** | Anita Cereceda, Council Member |
| **SECOND BY:** | Rexann Hosafros, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

B. Amendment #8 of RFP13-02-PW, Mitchell & Stark

**To approve Amendment 8 of RFQ-13-02-PW for Phase 2 Joint Outfall Stormwater Side Street Improvements on 4 Streets in the amount of $2,129,578.26 and authorize the Town Manager to execute the amendment.**

Public Works Director Baker reviewed the four joint outfalls.

Council Member Shamp asked why the price of Hercules increased. Mr. Messner replied that it was due to the economy and road restoration. She asked whether they could use the gas tax for the roads. Interim Town Manager Steele replied that gas tax funds were being used for construction purposes and debt service.

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| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOTION BY:** | Rexann Hosafros, Vice Mayor |
| **SECOND BY:** | Anita Cereceda, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

C. Amendment #9 of RFP13-02-PW, Mitchell & Stark

**To approve Amendment 9 of RFQ-13-02-PW for Phase 2 for Potable Water Side Street Improvements on 4 Streets in the amount of $1,084,049.50 and authorize the Town Manager to execute the amendment.**

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| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOTION BY:** | Tracey Gore, Council Member |
| **SECOND BY:** | Anita Cereceda, Council Member |
| **AYES:** | Cereceda, Hosafros, Gore, Boback, Shamp |

D. Lease Agreement with Red Coconut

**To approve Red Coconut's Lease Agreement for Town Right of Way along Donora Boulevard and authorize the Town Manager to execute the agreement.**

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| **RESULT:** | **ADOPTED [4 TO 1]** |
| **MOTION BY:** | Joanne Shamp, Council Member |
| **SECOND BY:** | Rexann Hosafros, Vice Mayor |
| **AYES:** | Anita Cereceda, Rexann Hosafros, Dennis Boback, Joanne Shamp |
| **NAYS:** | Tracey Gore |

E. Town Manager Search

**A discussion of criteria to rank the applicants for Town Manager**

Interim Town Manager Steele suggested scheduling an additional Council meeting on March 13, 2017 to swear in new Council Members and to select applicants for the Town Manager position. He discussed options for ranking and choosing applicants using the same criteria.

Mayor Boback asked whether new Council Members would be allowed to vote for the Town Manger on March 13, 2107. Town Attorney Peterson replied in the affirmative.

Council Member Cereceda suggested contacting all Council Member candidates for their availability on March 13, 2017. Council Member Shamp questioned whether Council Member candidates would have enough time to review the applications.

Vice Mayor Hosafros agreed that they should be given more time.

Consensus was reached to not schedule a special meeting on March 13, 2017. A special meeting after the regular March 20, 2017 Council Meeting may be scheduled.

## XII. PUBLIC COMMENT

•Frank Wilisz, resident, thanked Council for listening to the concerns of Madison Court residents.

•Louis Monaco, resident, thanked everyone for their time. He discussed the increase in stormwater costs and road construction costs in the future.

•Leon Moyer discussed the hourly rates of Tetra-Tech employees and the cost of materials.

## XIII. ADGENDA MANAGEMENT

Agenda Management

*Add the next four roads to be worked on to a work session.*

*Add noise ordinance for the trash.*

*Add a facilitator to the session for new Council Members.*

*Add AIR group to the April 3, 2017 work session.*

*Add Old San Carlos and Times Square discussion to #17.*

*Delete the Harbor Management Plan.*

*Add LDC 6-14 on drainage to the April 21, 2107 regular meeting.*

*Add Newspaper Boxes to the April 21, 2017 work session.*

## XIV. TOWN MANAGER'S ITEMS

Interim Town Manager Steele questioned whether Council agreed with changing email domain name to fmbgov.com for $10.69 per year. Consensus was reached to move forward with the change.

## XV. TOWN ATTORNEY'S ITEMS

Town Attorney Peterson requested direction to move forward with litigating the lawsuit by Mr. Tezak. He requested approval to take over the case at the contracted rate of $150.00/hour. Consensus was reached by Council to move forward with defending the Town at the contracted amount.

Town Attorney Peterson indicated that Mr. Tezak had a long-term license agreement for four parking spaces. The agreement provided that rates could raise every five years. Mr. Tezak received notice of the new rates but he has not paid. The license agreement provided for a 60-day notice to terminate and he

asked that Mr. Tezak be put on notice.

Council Member Shamp felt that they should work something out with Mr. Tezak. Interim Town Manager Steele stated that there have been many meetings. Town Attorney Peterson noted that he could reach out and attempt to resolve the matter. Mr. Tezak proposed an easement in place of a license agreement, which was unacceptable. Council directed Town Attorney Peterson to try and work something out with Mr. Tezak.

## XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Shamp questioned the status of the Bahia Via resident's concerns about mud and silt runoff. Town Attorney Peterson indicated that Kara Stewart, Director of Community Development, was taking care of it. She reminded members of the Leadership Conference on April 7, 2017. Interim Town Manager Steele will check on the speed limit in canals. Council Member Shamp questioned whether they should add another Public Comment section to work session agendas. There was no support to add another section. She questioned whether MRTF should take up the issue of plastic cups and paper straws. Consensus was reached to direct MRTF to research. She questioned whether the County was making stormwater payments to the Town for Lynn Hall Park and Bowditch. Interim Town Manager Steele replied he would check.

Mayor Boback announced that Jacki Liszak from the Sea Gypsy Inn will have a Shrimp Fest party and donations will go to the Beach Kid's Foundation. He questioned the cost of the design for the projects at Delmar, Hercules and Coconut. Council Member Gore noted that the costs were the maximum price.

Council Member Gore informed staff that the intercom at the Little League did not work correctly. Interim Town Manager Steele will inform Mr. DePalma. She questioned whether the Mermaid was being moved to the Sunoco station. Interim Town Manager had not heard about it. She clarified that residents would have a say with stormwater in the future.

## XVII. ADJOURNMENT

The meeting was closed at 5:06 PM

Minutes adopted as presented March 20, 2017; Motion by Council Member Shamp, second by Council Member Cereceda; Passed 5-0.

Michelle D. Mayher CMC
Town Clerk