



Fort Myers Beach Town Council

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

Minutes

Thursday, September 8, 2022

3:00 PM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Hosafros requested that B. be removed from the Consent Agenda for discussion.

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

Motion carried unanimously.

V. PUBLIC COMMENT

Forrest Critser, resident, discussed the history of his and Council Member Veach's involvement in creating a veteran's memorial.

Ellen Vaughan, resident, stated she had strong concerns regarding the increased fees.

Chris Weber of Mid-Island Water Sports discussed the history of PWVL licenses and increased fees over the years. He stated that he paid \$2,265.00 for his permit last year and if the proposed fees go into effect, he will have to pay \$16,525.00 for a permit next year.

Lisa Cabak, resident and small business owner, expressed concerns regarding the proposed increase in special events permits. She discussed the requirements for vendors at Santini Plaza and noted the Farmers Markets provided free advertising for the town and visitors spent money while on the island. She asked the Town

Council to vote no on the proposed fee increase.

Mathew Pleskovic, operator of Banana Boat Tours and Rides, discussed the proposed fee schedule. He was not against a nominal increase and suggested the town could come to a compromise.

Jennifer Rusk, resident, requested that the fee increase for Farmers Markets not be increased. She described activities surrounding the Farmers Markets and noted that some vendors were residents trying to make a living.

Trevor Hockett, representative of Paradise Parasailing, read an email from the owner regarding the proposed PAL fee increase from \$170.00 to \$1,200.00 per license. He questioned how the large increase was justified and noted he did not disagree with an increase but felt the proposed increase was extreme for one year.

Sharon Faircloth, owner of Holiday Water Sports, disagreed with the proposed fee increases for PWVL, PAL and BFVL licenses. She stated her total fees for those three permits last year were \$980.00, not including other permits. Under the proposed increases, her total would be \$8,400.00 per year. She stated the huge increase was a huge hardship for her business. She agreed with an increase, but not this much all at once. She asked that the proposed fee be reduced by at least 50%. She read an email from Rob Ramadan from Wyndham Water Sports. He was not opposed to an increase but questioned a proposed 1,200% increase in beach vending permits. He noted that proposed increases for other permits fell into the 8-10% range.

VI. LOCAL ACHIEVEMENTS, RECOGNITIONS & APPOINTMENTS

Council Member Veach noted the Island Hopper Song Writing contest was coming up.

Council Member Allers thanked the PSC (Public Safety Committee), residents, town staff, town manager, the fire chief and his staff and Commissioner Sandelli and his staff for their hard work in getting funding approved for a signal on Lenell Rd.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Anchorage Advisory Committee (AAC)

Katherine Light, Chair of the AAC (Anchorage Advisory Committee), reported that the Cruiser's Appreciation Day had been well attended at the new location near the dinghy dock. AAC was working on updating the Harbor Management Plan, which would be ongoing for some time. In June, town staff proposed increasing all fees by 32%. The daily fee for the Mooring Field is currently \$18.00, weekly \$106.00 and monthly \$322.00. With the increase, the daily fee would be rounded to \$25.00. In August, AAC voted to increase the fees across the board by 25%, resulting in \$23 per day, \$133.00 weekly and \$405.00 monthly. Chair Light strongly recommended keeping a weekly fee. Vice Mayor Hosafros noted that the Mooring Field had an 80% occupancy rate over the summer for the first

time. Chair Light added that they had a waiting list for the first time. Council Member Allers questioned whether the AAC considered charging by the foot. Chair Light replied that by the foot, prices were usually at a dock and not on a mooring ball. Council Member Atterholt questioned whether the AAC's fee recommendation would cover the cost of the facilities or whether the town's recommendation would. Town Manager Hernstadt replied that the town's recommendation was predicated on the amount of money the operation would need to meet its expenses in FY23, maintaining the same level of general fund support. He explained that the Mooring Field was handled differently than the typical 75-25% split for other town facilities.

Bay Oaks Recreational Campus Advisory Board (BORCAB)

Karen Woodson represented BORCAB (Bay Oaks Recreational Campus Advisory Board) and stated they recommended free membership for all full-time employees of the town. Bay Oaks staff was investigating the Silver Sneakers program.

BORCAB Member Woodson described the Friends of Bay Oaks and noted the program was defunct due to the lack of volunteers. She explained that grants could be applied through a 501(3)(c) designated group. Council Member Veach questioned whether BORCAB calculated how adding fees for residents would decrease membership. Town Manager Hernstadt replied that they wanted to encourage residents to purchase cross-over memberships for the pool and Rec Center. BORCAB Member Woodson stated that from August 2021 to July 2022, 10,453 check-ins were recorded at the pool and 15,450 at Bay Oaks.

VIII. APPROVAL OF MINUTES

A. August 15, 2022 Town Council

Council Member Allers moved to approve the minutes; second by Vice Mayor Hosafros.

Motion carried unanimously.

IX. CONSENT AGENDA

Council Member Allers moved to approve the balance of the consent agenda; second by Vice Mayor Hosafros.

Motion carried unanimously.

A. Resolution 22-28; Ann & Dan Hughes Loop

Ratification of Ann & Dan Hughes Loop at Mound House

Council Member Allers voted to approve ratification; second by Vice Mayor Hosafros.

Motion carried unanimously.

B. LCSO Outreach Trailer

Approval of a License Agreement with the Lee County Sheriff's Office for the use of the property located at 1054 Fifth Street (former Ocean Jewels property) as a community outreach center (subject to vacation for FDOT foot of the bridge road improvements.)

Vice Mayor Hosafros noted the charge to the Sheriff's Office would be \$1,150.00 per year and felt the fee was too low. Mayor Murphy agreed that it seemed low. Council Member Veach thought it incentivized the sheriffs to spend more time on the island. Mayor Murphy indicated the last outreach center was staffed with clerical staff. Council Member Allers responded that the center did help to deter and catch criminals. Vice Mayor Hosafros agreed with the outreach center but felt the fee was way too low compared to all the other proposed fee increases. She added that the Sheriff's Office was raising all their rates for the town and felt the town should double the fee to \$2,000.00 per year. Council Member Atterholt disagreed and stated the presence of the outreach center was a deterrence and he saw it as a positive. Town Manager Hernstadt reviewed the reason for the agreement and indicated the terms could be revisited if Council wished.

Council Member Allers moved to approve the agenda item for the Lee County Sheriff's Outreach; second by Council Member Atterholt.

Vice Mayor Hosafros and Mayor Murphy objected. Mayor Murphy stated that the Sheriff's picture on the side of the structure was larger than life and noted the town was providing free advertising for the Sheriff's campaign.

C. Clean Vessel Act Grant

Authorization to apply for and execute +/- \$39,435 grant agreement with the Florida Department of Environmental Protection for the Clean Vessel Act Grant for the Matanzas Pass Mooring Field.

Council Member Allers moved to approve authorization; second by Vice Mayor Hosafros.

Motion carried unanimously.

X. **PUBLIC HEARINGS**

A. Request for temporary storage of LeeTran vehicles during TPI construction

Authorize Temporary LeeTram Parking on FMB fire district property located at 2545 Estero Blvd (Topps) for up to seven months.

Town Manager Hernstadt explained that the item was under Public Hearing to allow the community an opportunity to share comments. He described why LeeTran needed to utilize the property temporarily.

Community Development Senior Planner Jason Smalley stated that LeeTran requested a waiver of the \$200.00 fee.

No public comment.

Council Member Veach moved to allow the temporary parking without a fee waiver; second by Vice Mayor Hosafros.
Motion carried unanimously.

B. Ordinance 22-12; Newton Park CPD Amendment

Ordinance 22-12 Newton Park CPD Amendment to Conditions of Approval and Adoption as an Ordinance

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: all Council Members disclosed receiving emails. Community Development Planner Sarah Propst stated that the town requested a modification to condition number seven of the resolution for the CPD regarding on-premise consumption of alcohol as stated on the blue sheet. She indicated the LPA (Local Planning Agency) recommended approval at their August 9, 2022, meeting.

Director Culture, Parks & Recreation Alison Giesen stated that the intent was to streamline the special event permit process for the consumption of alcohol at Newton Park, similar to the Mound House.

Mayor Murphy read the title of the ordinance.

No public comment.

Council Member Atterholt moved to move it to a second hearing on September 22, 2022, at 3:00 p.m.; second by Council Member Veach.
Motion carried unanimously by roll call vote.

XI. ADMINISTRATIVE AGENDA

A. Legal Services Contract Renewal

Authorize the Mayor to execute the annual renewal for Legal Services agreement with Fox Rothschild, LLP/John R. Herin Jr.

Council Member Veach moved to authorize; second by Mayor Murphy. Town Attorney Herin, Jr. reviewed his fee schedule per the agreement and noted the fees had not increased during his tenure. Council Member Allers stated that he preferred to find a local firm. Town Attorney Herin, Jr. reminded Council that no local firm submitted a proposal when he was hired. Motion carried 4-1 with Council Member Allers dissenting.

B. Lobbyist Ronald L. Book, P.A. Contract Renewal

Authorize the Town Manager to renew and execute an agreement in the amount of \$45,000 with the Town's State Lobbyist, Ronald L. Book, P.A.

Council Member Allers requested that Mr. Book update Council yearly in person. Town Manager Hernstadt will forward the request.

Vice Mayor Hosafros moved to authorize the Town Manager; second by Mayor Murphy.

Motion carried unanimously.

C. Local Option Gas Tax**Authorize entering into a Local Option Gas Tax Master Interlocal Agreement with Lee County to begin January 23, 2023.**

Town Manager Hernstadt reviewed the background of the agreement as stated on the blue sheet. He recommended that Council execute the agreement. Council Member Atterholt discussed a reduction of funds to the town and Budget Manager Cheri Russ stated the reduction would be approximately \$112,000.00 as of August 31, 2022. Council Member Atterholt questioned the total amount of money the town would receive additionally if they moved to the .99 millage rate. Budget Manager Russ replied that she would have that information at the budget meeting. Council Member Atterholt moved to authorize; second by Vice Mayor Hosafros.

Motion carried unanimously.

D. Special Event: Roar Offshore 2022**Approval request for Roar Offshore Special Event**

Tim and Cindy Hill from Roar Offshore stated they would request a reduction of fees again. Ms. Hill explained the increase in all their costs. Mr. Hill indicated that they were starting to run out of space due to the larger size of the event. He noted that he was asking for fee waivers from every entity involved, but no one had committed to lowering fees yet. Vice Mayor Hosafros suggested waiving 50% of the fees.

Vice Mayor Hosafros moved to approve the request with a 50% reduction in fees; second by Council Member Veach.

Motion carried unanimously.

Consensus was reached to approve the closure of the bridge for the parade.

XII. RECESS OF REGULAR MEETING

Recessed until 5:01 p.m.

XIII. PUBLIC HEARINGS - BUDGET ITEMS 5:01 PM TIME CERTAIN

Mayor Murphy called the meeting back to order at 5:04 p.m.

A. Resolution 22-29; FY22-23 Fee Schedule**Adopt the Town's Fee Schedule Commencing October 1, 2022 for the Fiscal Year 2022-2023**

Vice Mayor Hosafros suggested lowering the historical review fee from \$150.00 to \$50.00 to cover the cost of the plaque. Town Attorney Herin, Jr. clarified that the historical review category was a different designation and state law required an in-depth process. The historical recognition plaque would be set at \$50.00 and the historical review fee would remain at \$150.00.

Council Member Atterholt motioned that special event fees revert to \$100.00 per day and \$1.00 for each additional day.

Council Member Veach commented that there was a typo, and each additional day was \$10.00.

Council Member Atterholt amended his motion revert the special event fees to \$100.00 the first day and \$10.00 each additional day. Seconded by Council Member Allers to change the fee back to the status quo; second by Council Member Allers.

Council Member Atterholt discussed how the Farmer's Markets created a quality of place dynamic that was important to neighborhoods. Vice Mayor Hosafros preferred that the fee be raised some. She noted she received complaints concerning the Farmers Market and thought that town resources had been expended. Council Member Veach added he received noise complaints from the Farmers Market at Beach Baptist. He saw a need to increase fees for enforcement. Council Member Allers felt Farmer's Markets were an asset to the community. He referred to an email regarding Roar Offshore and the Shrimp Festival fees. Town Manager Hernstadt commented that the town had value and that people should contribute to the impact when they utilized the town's assets. Council Member Atterholt stated that the Farmer's Markets had an intangible value that could not be measured and did not want to discourage them from operating in the town. Council Member Veach mentioned the town subsidizing Farmer's Markets. Vice Mayor Hosafros felt that for-profit organizations should pay slightly more and non-profit groups should receive a discount or not have their fees increased. Council Member Allers did not think raising fees for enforcement made any sense because the fines created revenue. Council Member Veach agreed with charging \$10.00 for each additional day. Vice Mayor Hosafros proposed an increase to \$50.00 for each additional day.

Motion carried 4-1 with Vice Mayor Hosafros dissenting.

Council Member Veach suggested adding a weekly rate of \$135.00 to the Mooring Field fee schedule. Budget Manager Russ stated that the average stay at the Mooring Field was 67 days. Vice Mayor Hosafros supported the fees recommended by staff and the Council agreed.

Community Services Administrator Daphnie Saunders explained the development order fees.

Utilities Director Christy Cory described the town's fees for auto-pay with credit cards and related staff time. She stated that if customers signed up for auto-pay with their checking account, they would avoid charges.

Council Member Allers discussed increases for weddings at Bayside Park and beach accesses. Town Manager Hernstadt commented that the fees needed to be consistent at all venues.

Council Member Allers moved to change the \$350.00 fee per hour to \$150.00 per hour for Bayside Park and beach access wedding permit fees; second by Council Member Atterholt.

Director Giesen stated that wedding planners were using the beach accesses for a nominal fee and Newton Beach Park was not being used.

Town Manager Hernstadt noted that the town was trying to encourage people to use the facilities designed for those uses. Council Member Veach and Vice Mayor Hosafros supported keeping the fees as suggested by Director Giesen. Council Member Allers agreed with increasing the fees but supported finding a balance for people who could not afford the higher fees.

Town Manager Hernstadt suggested a limit of 10 participants or less to qualify for a lower wedding fee.

Motion denied 3-2 and Town Attorney Herin, Jr. suggested that Council Member Allers make another motion instead of offering an amendment.

Council Member Allers moved to keep fees as proposed for Bayside Park and beach access weddings and offer a discount of \$150.00 per hour for both entities for parties of 10 or less; second by Council Member Atterholt. Council Member Allers amended his motion to exclude Bayside Park; second by Council Member Atterholt.

Motion carried 4-1 with Vice Mayor Hosafros dissenting.

Council Member Allers discussed separating the personal watercraft and beach furniture vendor licenses. He felt that the beach furniture and personal watercraft licenses were two different things and questioned setting fees before the ordinance was approved. Town Attorney Herin, Jr. responded that there would be an increased enforcement cost to administer the regulation.

Council Member Allers suggested increasing the fee incrementally until enforcement costs are known.

Council Member Veach moved to adjust the fees to \$685.00 from \$1,200 in the table on page 265; second by Vice Mayor Hosafros.

Motion carried 4-1 with Council Member Allers dissenting.

Public comment:

Forrest Critser thanked Council and requested that Council Member Veach inform him of any future complaints.

Linda Miller thanked Council for freezing the fees and asked that complaints be forwarded.

Matthew Pleskovic noted they were discussing the chair license, the parasail license and the jet ski-wave runner license and questioned raising fees across the board. He questioned where the money was going to protect the industry.

Ginger Weber submitted three emails for the record. She noted that the PWVL and PAL fees were inside the ordinance, so until the ordinance was

changed, fees would remain the same. She discussed enforcing the beach furniture ordinance.

Sharon Magowan submitted email to Council Member Allers asking Council to vote no on the Special Event fee increase.

Public comment closed.

Council Member Veach brought up a resident fee at Bay Oaks. Director Giesen stated that non-residents doubled in membership and usage compared to residents with free memberships. Town Manager Hernstadt indicated that the fees were reviewed and adjusted by BORCAB three times. Director Giesen indicated that scholarships were available.

Council Member Veach moved to approve the Bay Oaks fees; second by Council Member Allers.

Motion carried unanimously.

Council Member Atterholt moved to approve the Mound House fees; second by Council Member Veach.

Motion carried unanimously.

Council Member Atterholt moved to approve the Newton Park fees; second by Mayor Murphy.

Motion carried unanimously.

Council Member Veach moved to approve what was submitted by staff for building and permit fees; second by Mayor Murphy.

Motion carried unanimously.

Council Member Veach proposed increasing short-term rental fees by \$100.00 per bedroom per year for workforce housing. Council Member Allers disagreed because the fees were initially imposed to cover administrative fees. Vice Mayor Hosafros stated that her neighborhood was gone due to short-term rentals and felt they needed to do something to get things under control. Raising the fees would mean more for enforcement and help with workforce housing. Council Member Allers brought up incentivizing homeowners to offer annual rentals rather than raising fees on one specific industry. Council Member Veach noted it was up to the town to get funds to create workforce housing, or it would not get done. He reviewed the proposed increase and indicated it could potentially yield close to one million per year. He explained that the goal was to develop a housing entity to manage the property. Council Member Atterholt questioned whether the funds could be protected. Town Attorney Herin, Jr. stated that the rate increase last year was restricted to workforce housing. Town Manager Hernstadt referred to the budget for the workforce housing line item. Mayor Murphy shared the same concerns as Vice Mayor Hosafros. He noted that a greater income stream for workforce housing told developers and others that the town was serious regarding opportunities.

Vice Mayor Hosafros moved to approve the fee schedule included in the notebook with the amendments previously voted on by this Council and add Council Member Veach's request to increase the short-term registration rental fee as stated; second by Council Member Veach.

Motion passed 4-1 with Council Member Allers dissenting.

Council Member Veach suggested increasing rental fees for Times Square Merchants to put towards community policing. Vice Mayor Hosafros stated that the discussion was a separate resolution and outside the agenda. Town Manager Hernstadt will add the item to a future agenda.

B. Resolution 22-30; FY23 Proposed Ad Valorem Millage

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, ADOPTING THE PROPOSED AD VALOREM MILLAGE RATE FOR THE TOWN OF FORT MYERS BEACH, FLORIDA FOR FISCAL YEAR 2022-2023 COMMENCING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023 FOR THE PURPOSE OF PROVIDING SUFFICIENT FUNDS FOR THE GENERAL FUND; SETTING THE SECOND AND FINAL BUDGET ADOPTION PUBLIC HEARING FOR THURSDAY SEPTEMBER 22nd, 2022 AT 5:01 P.M.; AND PROVIDING AN EFFECTIVE DATE.

Mayor Murphy read the title of the resolution.

Vice Mayor Hosafros moved to table Resolution 22-30; second by Council Member Veach.

Motion carried unanimously.

Vice Mayor Hosafros moved to put Resolution 22-30 back on the table; second by Council Member Allers.

Motion carried unanimously.

Vice Mayor Hosafros moved to adopt the proposed millage rate in Resolution 22-30 and set this for further hearing on Thursday, September 22, 2022, at 5:01 p.m.; second by Mayor Murphy.

No public comment.

Vice Mayor Hosafros read Section 2 into the record.

Motion carried unanimously.

C. Resolution 22-31; FY 22-23 Tentative Budget

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2022-2023 COMMENCING OCTOBER 1, 2022 AND ENDING ON SEPTEMBER 30, 2023; SETTING THE SECOND AND FINAL BUDGET ADOPTION PUBLIC HEARING FOR THURSDAY SEPTEMBER 22, 2022 AT 5:01 P.M.; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Murphy read the title of the resolution.

Town Manager Hernstadt noted that the add-on list assumed the additional money generated by a millage rate of .99. Vice Mayor Hosafros expressed concern regarding multi-year projects and putting the town in a bind.

Town Manager Hernstadt described recurring revenue streams for those projects. Council Member Allers preferred a deeper dive into the general core budget for potential savings. He felt it was important to put money aside for Bay Oaks FF&E and not raise taxes but absorb the fee they would generate from the millage increase.

Council Member Veach felt they could scale back beach renourishment since many people did not want to participate in the program. He discussed a timeframe for amber streetlights and crosswalks. Council Member Allers revealed that the amber fixture passed testing but was not in the tariff program yet. Lee County was in the process of designing the new fixtures for the crosswalks and the town's portion of the design would be \$350,000.00 to do the rest of Estero Blvd. Town Manager Hernstadt indicated that the town would budget \$500,000.00 per year to Lee County for the design and implementation of new lights on Estero Blvd.

Council Member Allers did not support raising the millage rate and felt the community would help raise funds for Bay Oaks. Council Member Atterholt felt the increased millage rate was appropriate to be fiscally responsible. He reviewed his total property tax bill and stated that for an additional \$25.50 this year for the Town of Fort Myers Beach section, he would get proper lighting on Estero Blvd., two additional community police officers and beach renourishment. He felt it was a reasonable proposal and had his support.

Council Member Veach discussed millage rates in surrounding municipalities.

Council Member Allers moved to table Resolution 22-31; second by Vice Mayor Hosafros.

Motion carried unanimously.

Council Member Allers moved to reopen Resolution 22-31; second by Council Member Veach.

Motion carried unanimously.

No public comment.

Vice Mayor Hosafros moved to adopt the tentative budget in Resolution 22-31; second by Council Member Veach.
Motion carried unanimously.

XIV. FINAL PUBLIC COMMENT

No public comment.

XV. TOWN MANAGER'S ITEMS

- A. Update on foot of the bridge landscaping
Town Manager Hernstadt reported that the county planned to proceed with an agreement with Margaritaville to assume maintenance responsibility.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. requested a shade meeting at a time and date to be arranged with the Town Clerk with regard to litigation involving the Sunset Grill Restaurant, case number 21-CV-0384JLV. The property owner submitted a proposed settlement offer. Town Attorney Herin, Jr. and outside counsel would like to discuss the matter with the Town Council.

Town Attorney Herin, Jr. requested a second shade meeting involving the same parties, case number 2017-CA-000219. The Settlement Agreement contained a provision that the town could go to court to enforce the settlement document and seek fines against the property owner for failure to comply with the settlement agreement.

Town Council agreed with the shade meetings.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers requested permission to attend the September 22, 2022, budget meeting via Zoom. Town Council approved his request.

Council Member Atterholt questioned the closure of Lover's Key State Park and whether there was harm to Fort Myers Beach. Town Manager Hernstadt replied that the county health department notified the state to close Lover's Key State Park. Council Member Atterholt read quotes from Former Presidents Regan and Kennedy to be etched on plaques by Luc Century for the proposed veteran's tribute. He described the monuments and noted they would be placed low to the ground with the American flag flying overhead.

Council Member Veach suggested adding pavers with names to honor veterans. Council Member Allers suggested creating a hologram at night.

No items from other members.

- A. Request to place Veteran's Tribute onto Agenda
Management See XVII.

XVIII. ADJOURNMENT

Council Member Allers moved to adjourn the meeting; second by Council Member Veach.

Motion carried unanimously.

The meeting was adjourned at 7:52 p.m.

Minutes adopted, September 22, 2022; Motion by Council Member Veach, seconded by Vice Mayor Hosafros. Adopted 5-0.

A handwritten signature in blue ink, appearing to read "Amy Baker".

Amy Baker, Town Clerk