



Fort Myers Beach Management & Planning Session

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

Minutes

Thursday, October 15, 2020

9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Stormwater Presentation

Stormwater Presentation by Tetra-Tech

Timothy Vanderwalker and Danny Nelson from Tetra Tech provided a history of stormwater on the utilizing a PowerPoint presentation. Kaye Molnar, President Cella Molnar & Associates, noted that she provided updates to the community and has addressed trash in the construction zone.

B. New Year's Eve Fireworks

Initiate New Year's Eve Fireworks planning and permitting.

Town Manager Hernstadt questioned whether or not the Town should hold a fireworks display on New Year's Eve. Mayor Murphy stated that the pandemic was resurging and a vaccine was not imminent. Town Manager Hernstadt indicated that they would lose approximately \$10,000.00 if they did not hold fireworks by December 31, 2020. Vice Mayor Hosafros suggested contacting the company for alternative locations to keep people spread out.

Council Member Veach suggested working with the vendor to defer the fireworks to next year. Town Manager Hernstadt stated that he would contact the company and provide more information by the next meeting.

C. Discussion of Ordinance Prohibiting Turtle Sales

Review draft ordinance prohibiting the sale of turtles in the Town

Town Attorney Herin stated that the FWCC (Fish & Wildlife Conservation Commission) indicated that the Town had no jurisdiction to prohibit the sale of turtles. They provided a link for information to report wildlife violations.

Town Attorney Herin revealed that the business selling the turtles received a permit from FWCC. Turtles smaller than four inches were regulated by the FDA (Food and Drug Administration). Council Member Allers suggested writing a letter to the business owner requesting that they stop selling the turtles. Council Member Veatch reported that the business owner appeared at a MRTF meeting and was open to educating the public. Vice Mayor Hosafros requested that they preempt the FWCC with the FDA because selling turtles less than four inches was prohibited at the federal level. Town Attorney Herin noted that he would look into it and report back. Robert Howell noted that he spoke to the owner of the shop selling the turtles, Mitch, about coming up with educational ideas. He thanked Council for contacting the FDA.

D. Criteria for Murals

Criteria for Murals - draft ordinance to LPA for review and recommendations

Community Development Services Director Jason Green provided a draft ordinance. Vice Mayor Hosafros noted that murals were an expanding area of litigation and she did not support spending legal fees to make case law. She stated that it was a complicated issue because rules had not been written yet. Council Member Allers agreed that liability was an issue. Town Attorney Herin added that one person's idea of art could be offensive to another and the First Amendment further complicated it. Discussion was held regarding obscenity, graffiti and sign regulations. Vice Mayor Hosafros noted that sign regulations were already litigated in the courts. She brought up creating a mural program with guidelines. Council Member Allers questioned including murals in the sign ordinance. Town Attorney Herin replied that some jurisdictions suggested that mural regulations stand-alone from sign regulations. Vice Mayor Hosafros suggested deferring the issue to the consultant reviewing the code. Town Attorney Herin suggested they could prioritize the issue for the consultant. Vice Mayor Hosafros and Council Member Allers did not support sending it to the LPA. Council Member Atterholt referred to existing murals and felt that it was a solution searching for a problem.

E. Nuisance Abatement Board

Discussion of implementation of the Nuisance Abatement Board Town Attorney Herin stated that the first step would be to notice two at-large positions. Vice Mayor Hosafros noted that qualifications had to be stated and an application would have to be filled out. Consensus was reached to advertise the positions, use the advisory committee application and add a NAB box to the form.

Discussion was held concerning the roles of the Nuisance Abatement Board attorney and prosecutor. Town Attorney Herin did not object to being either the Nuisance Abatement Board attorney or the prosecutor and suggested that an associate from his firm, Fox Rothschild & Assoc., could function in the other role. Town Manager Hernstadt noted that they would have to advertise whichever role the Town Attorney did not take. Vice Mayor Hosafros did not support hiring a member from the Town Attorney's law firm. Council Member Veach asked if they would have to pay a retainer for the prosecutor.

Council Member Allers questioned whether the Public Safety Committee (PSC) could investigate complaints before moving to the investigation portion. Town Attorney Herin responded that it was not in the ordinance, but they could add it. Vice Mayor Hosafros did not support involving the PSC. Council Members Veach and Allers supported Town Attorney Herin as the prosecutor. Vice Mayor Hosafros preferred hiring someone else as the prosecutor; otherwise, the public could perceive that the Town was after them.

Discussion was held regarding who initiated complaints, what comprised documentation and verification of complaints.

IV. AGENDA MANAGEMENT

October Agenda Management

Vice Mayor Hosafros questioned scheduling another hazardous waste collection. Town Manager Hernstadt responded that dates have been arranged with Lee County and they would be advertised.

Council Member Veach was interested in installing native plantings in the ROW in front of The Whale. He received support to work with the Native Plant Society, MRTF, Master Gardeners or similar groups.

Council Member Allers questioned whether the PSC should work with the Sheriff and Fire departments to monitor calls. Town Manager Hernstadt replied that they received monthly reports from the Sheriff and Fire Departments and he would share those reports with whoever needed them.

V. ADJOURNMENT

Mayor Murphy adjourned the meeting at 12:12 PM.

Minutes adopted with changes, November 2, 2020; Motion by Vice Mayor Hosafros and seconded by Council Member Allers. Passed 5-0.

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

Amy Baker, Deputy Town Clerk