



Fort Myers Beach Town Council

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

Minutes

Thursday, September 22, 2022

3:00 PM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers (via ZOOM), Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

Motion carried unanimously.

V. PUBLIC COMMENT

Tim Shadle thanked the Council for their dedication. He addressed the short-term rental registration fee increase and workforce housing. He suggested that hotels and condos participate in a subsidized rental program for their workers, or the town could build multi-family units.

Tom Holavis from Distinctive Beach Rentals stated that they managed 400 rentals with 45 employees. He indicated their contribution would be almost \$250,000.00 in vacation rental fees this year. He commented that inflation affected his business too and requested that they rethink the fee.

John R. King, resident, discussed increased fees and the lack of transparency. He commented that condo owners were facing increases in fees and special assessments.

Rosanna Riley, realtor and vacation rental owner, discussed the increase in rental registrations and felt it was unfair.

Judy Haataja, resident, stated that workforce housing did not make sense for the town and she did not support the increase in short-term rental registrations.

Monica Tezak, resident, questioned the justification for the short-term rental registration increase. She commented that it was an illegal tax disguised as a fee and listed four factors of fees. She questioned who comprised the workforce and why hotels and restaurants were not contributing to a fund to help their employees. She discussed increasing the millage rate and remarked that inflation affected everyone.

Bob Oakes, vacation cottage owner, commented on the increase in vacation rental registrations. He noted there were other reasons for the lack of workforce housing. He indicated there were inequities between condos and single-family residences and requested that they take their time and revisit the increase.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach congratulated Council Member Allers the wedding of his family member. No items from other members.

VII. ADVISORY COMMITTEES ITEMS, REPORTS & APPOINTMENTS

No items or reports.

VIII. APPROVAL OF MINUTES

A. September 8, 2022 Town Council

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

Motion carried unanimously.

IX. CONSENT AGENDA

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

Motion carried unanimously.

A. Special Magistrate Agreement

Authorize the Town Manager to renew and execute an agreement with the Town's Special Magistrate, Myrnabelle Roche, for an additional year. Vice Mayor Hosafros moved to authorize; second by Council Member Veach. Motion carried unanimously.

X. PUBLIC HEARINGS**A. Ordinance 22-12; Newton Park CPD Amendment**

Second reading and public hearing on proposed Ordinance 22-12 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 09-24, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 4650 ESTERO BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Murphy read the title of the proposed ordinance. Ex parte communications: no disclosures. Town Attorney Herin, Jr. swore in those providing testimony.

Community Development Director Jason Green reviewed the reason for the proposed ordinance. The findings and conclusions did not change from the original approval.

No public comment.

Council Member Veach moved to approve Ordinance 22-12; second by Mayor Murphy.

Vote by roll call was unanimous.

B. Ordinance 22-13; Fee Schedules by Resolution

First reading and public hearing on proposed ordinance 22-13 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ESTABLISHING A NEW SECTION 1-13 OF CHAPTER 1 OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE ADOPTION, AMENDMENT AND IMPLEMENTATION OF FEES AND FEE SCHEDULES BY RESOLUTION UNLESS PROHIBITED BY STATE LAW OR THE TOWN CHARTER, PROVIDING FOR CODIFICATION, CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. Open the

first public hearing and schedule the Ordinance for second reading and adoption for Monday, October 3, 2022 at 9:00 AM

Mayor Murphy read the title of the proposed ordinance.

Town Manager Hernstadt reviewed the purpose of the ordinance as stated on the blue sheet. Mayor Murphy clarified that by doing this by resolution instead of an ordinance, it would be easier and cheaper to change the fees in the future.

Council Member Atterholt noted that the ordinance process costs more, but two public hearings provided the community opportunities to be educated, to have input and to provide notice.

Vice Mayor Hosafros commented that the resolution made it easier to lower fees too.

Council Member Veach indicated that the jet skis and parasailers had fees embedded in their ordinance. He felt the resolution provided more transparency because all the fees would be in one place.

Town Manager Hernstadt noted that fees in ordinances were difficult to review due to the large book of ordinances. He suggested considering fees by resolution and holding as many hearings as needed before changing fees. Council Member Atterholt questioned whether it was difficult to create a list of ordinances containing fees. Town Manager Hernstadt replied that one person would have to read the entire code book to find fees.

Council Member Allers agreed with having public hearings to give the public two opportunities to speak. He supported adding language to require at least two public comment sessions for the public to provide input.

Council Member Veach supported having the fees in one place versus having to modify several ordinances.

Council Member Atterholt could support a modification that required two hearings for all fee increases.

Town Manager Hernstadt stated that he could bring back an additional document that set forth a policy for fee reviews. The document would be codified.

Vice Mayor Hosafros commented that they would have to review the code to make sure all the fees were included in the schedule. Town Manager Hernstadt responded that he was not concerned with finding all the fees in the code because the fees would be identified during the course of business when people paid their fees.

Council Member Atterholt questioned whether they could require two hearings, properly noticed, when changing fees. Mayor Murphy stated that the notice would be the first hearing.

Town Manager Hernstadt explained the difference between an official public notice versus having one hearing versus two hearings to change something. Council Member Veach suggested making the fee schedule part of the budget process.

Council Member Atterholt discussed the confusion regarding the lack of a second hearing on the proposed short-term rental increase. He described the workforce housing short-term rental discussion in Key West.

Council Member Veach reminded Council that he brought up the proposed registration increase four or five times last year.

Council Member Allers questioned whether the town could be at legal risk for changing fees already agreed upon in ordinances. Attorney Sanabria replied that this proposed ordinance would supersede prior ordinances including the fee schedule.

Vice Mayor Hosafros stated that the proposed ordinance could not retroactively affect anything, it was to govern prospective actions.

No public comment.

Vice Mayor Hosafros moved that proposed Ordinance 22-13 be scheduled for a second hearing on Monday, October 2, 2022, at 9:00 a.m., second by Council Member Veatch.

Motion carried 4-1 with Council Member Atterholt dissenting.

XI. ADMINISTRATIVE AGENDA

A. RFP-22-21-FIN; Financial Auditing Services

Approve the Selection Advisory Committee's recommendation in response to RFP-22-21-FIN, Financial Auditing Services, and authorize the Town Manager to negotiate and execute an agreement with Mauldin & Jenkins to provide independent external auditor services in compliance with Florida law.

Mayor Murphy stated the Audit Committee was presented with two proposals and the Audit Committee unanimously approved Mauldin & Jenkins.

Council Member Atterholt moved to approve the recommendation; second by Council Member Allers.

Motion carried unanimously.

XII. RECESS OF REGULAR MEETING

Recess until 5:00 p.m.

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

A. Resolution 22-32; Final FY2022-2023 Ad Valorem Millage Rate

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, ADOPTING THE FINAL 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; AND PROVIDING AN EFFECTIVE DATE.

Mayor Murphy read the title of the resolution.

Council Member Veatch moved to table the millage rate; second by Vice Mayor Hosafros.

Motion carried unanimously.

Vice Mayor Hosafros moved to put the millage rate back on the table; second by Council Member Veatch.

Motion carried unanimously. Public comment:

John R. King, resident, was disappointed because people in condo associations were facing huge state-mandated increases in building reserves and safety issues. He was upset regarding the increase and noted not everyone had a homestead exemption.

Public comment closed.

Mayor Murphy stated that the Town Council does hereby adopt the final operating ad valorem millage rate for fiscal year 2022-2023 at .99 mills, which is .99 for each \$1,000.00 of assessed valuation. The current year rollback rate is .8368 mills and the final operating millage rate is 18.31% greater than the rollback rate and this final millage rate is necessary to fund the final budget including the additional projects and services previously discussed in the last discussion.

Vice Mayor Hosafros moved to approve the millage rate at .99; second by Council Member Veatch.

Motion by roll call carried unanimously.

B. Resolution 22-33; Final FY2022-2023 Budget

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2022-2023 COMMENCING OCTOBER 1, 2022 AND ENDING ON SEPTEMBER 30, 2023 AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Murphy read the title of the resolution.

Council Member Allers questioned why \$40,000.00 was taken from funds allocated for additional police patrols over holiday weekends and put towards community policing. Town Manager Hernstadt replied that it might take care of itself during discussions. Council Member Allers wanted to ensure that funds were not taken away from holiday patrols because it was separate from community policing.

Vice Mayor Hosafros supported community policing as long as the tax increase paid for the projects on the add-list. Council Member Veatch felt they should consider holding off on funding some items until next year. Council Member Allers indicated that some things from the add-on list could be cut so they did not have to increase the millage rate. He felt there were ways they could make up the \$171,000.00 and still get what they wanted. Town Manager Hernstadt explained that funds available for the add-on list included the increase in short-term rental fees last year but were limited in where the money could be used. Council Member Allers questioned why money allocated for workforce housing was listed in the add-on list. Town Manager Hernstadt responded that he could cross it off the list and adjust the total available funds. Council Member Veatch added that it was just a way to display the information.

Council Member Allers questioned whether the increase in parking fees was included in the \$1.4 million line item. Town Manager Hernstadt replied affirmatively. Council Member Allers suggested providing more details next year regarding what the fee increases would be used for. He discussed taking \$171,000.00 from Bay Oaks to save money for the taxpayers.

Vice Mayor Hosafros stated that she was willing to pay an additional \$20.00 a year to get everything the community wanted. Council Member Allers agreed but indicated all the increases added up. Vice Mayor Hosafros reminded him that the community was affluent and residents wanted the items on the add-on list.

Council Member Veach did not think they had to allocate \$500,000.00 for the amber lights. He suggested they spend money on the design but wait until the next budget cycle to fund the lights. Vice Mayor Hosafros felt they should put the money aside so they could install the lights as soon as the design was complete. She did not support waiting another 18 months for lights.

Town Manager Hernstadt stated the total of the add-on list would be reduced by approximately \$161,000.00 if the millage rate stayed at .95. Council Member Veach mentioned cutting the number of personnel for the new Bay Oaks building and taking half out of street lighting in the spirit of compromise to avoid increasing the millage rate. Vice Mayor Hosafros noted that she had already compromised by voting for community policing. She reiterated that a minimal tax increase would accomplish everything on the list. Council Member Veach commented that he was not convinced about community policing because of the lack of details.

Town Manager Hernstadt indicated the \$10 million loan balance was roughly \$8 million. He explained how Bay Oaks was budgeted and reminded everyone that costs would increase next year.

Council Member Atterholt noted the town would lose \$112,000.00 annually on the gas tax agreement. He was comfortable rolling the rate back after they took care of the significant expenditures, particularly beach renourishment and lighting on Estero Blvd. He indicated they would be gaining additional revenue once Margaritaville came online from a property tax standpoint and felt they should pay for what they needed now.

Council Member Allers stated that although many fee increases were outside the Town Council's control, everything on the add-on list was under their control. He added that he was willing to negotiate projects on the list.

Council Member Veach pointed out that community policing did not have unanimous support from the Council and was a compromise. Vice Mayor Hosafros felt that since everyone was giving up something to get something, they should move forward with the add-ons for a very minimal amount.

Council Member Atterholt felt they did a good job of compromising on community policing, but if they lost community policing, he would have difficulty voting for the budget and the modest millage rate increase. He indicated that the items on the list had support from most of the community. He stated that his taxes would increase to \$25.50 per year and cover beach renourishment, Estero Blvd. and community policing.

Mayor Murphy did not believe the town should even pay for lighting Estero Blvd. and did not support community policing, but he was willing to compromise for the greater good.

Council Member Veach stated that if Council Member Allers did not vote for a rate increase, he would not vote for community policing. Mayor Murphy added that Council Member Allers did not give up anything. Council Member Allers responded that he voted for things in the past that he did not support 100% but did so to support other Council Members. He did not appreciate the ultimatum from Council Member Veach and was doing what he believed was in the community's best interest. Council Member Allers continued to

try to persuade Town Council to vote for community policing without increasing the millage rate. In contrast, Town Council Members continued to bring up compromises made. Vice Mayor Hosafros questioned why four Council Members should have to move for Council Member Allers. Council Member Allers eventually agreed to vote for the millage rate increase. Vice Mayor Hosafros moved to table the budget and move back to the table the millage vote; second by Mayor Murphy. Motion carried unanimously. Vice Mayor Hosafros moved that the budget be placed back on the table; second by Mayor Murphy.

Public comment:

John R. King, resident, hoped the Town would look at federal grants for community policing.

Public comment closed.

Town Manager Hernstadt stated that the \$485,000.00 grant from the state should be incorporated into the budget.

Vice Mayor Hosafros withdrew her previous motion and made a new motion incorporating the \$485,000.00 into the budget; second by Mayor Murphy.

Motion by roll call vote carried unanimously.

XIV. FINAL PUBLIC COMMENT

Leah Greg, resident, commented on the short-term rental registration fee increase discussion earlier. She requested that they be more transparent in the future.

Terry Persaud, owner of Sunset Beach Grill, discussed current issues with the town. He stated he had tried to compromise with the town and would send information to Council Members. He gave the information to Attorney Sanabria instead.

XV. TOWN MANAGER'S ITEMS

No items.

XVI. TOWN ATTORNEY'S ITEMS

No items.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers clarified that Sanibel does not pay the Lee County Sheriff's Office for deputies and they were reimbursed a fee for their SRO officer.

Council Member Veach stated that the Island Hoppers started tomorrow on the beach.

No items from other members.

XVIII. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn; second by Council Member Veach.

Motion carried unanimously.

The meeting was adjourned at 6:58 p.m.

Minutes adopted, January 9, 2023; Motion by Council Member King and seconded by Council Member Veach. Passed 5-0.



Amy Baker, Town Clerk