Fort Myers Beach Town Council

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

Minutes **Monday, November 2, 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. INVOCATION
Deputy Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA
Town Manager Hernstadt revealed that First Federal Integrity Bank requested that they defer Administrative Agenda Item D. until the November 16, 2020, meeting.
Vice Mayor Hosafros moved to approve the final agenda, removing item D. temporarily and adding a TDC projects request; second by Council Member Veach.
Motion carried unanimously.

V. PUBLIC COMMENT
Chris Schaab discussed his late submittal for his chair and umbrella permit and requested flexibility and compassion with his renewal.

Megan Heil, Chair of the Local Planning Agency (LPA), stated that LPA Member Forrest Critser volunteered to be part of the Historic Preservation Advisory Committee (HPAC). She noted they would review the enabling ordinance of the committee, and she requested a joint meeting with Town Council to discuss priorities. She explained why they requested a second reading for height and side setbacks. Town Manager Hernstadt commented that he would review where they were with the ordinance.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach thanked everyone for voting.

VII. PRESENTATION

Lobbyist Ronald L. Book

Mr. Book stated his goal was to make sure that they communicated to Town Council what was going on in Tallahassee before anyone else did. He described how COVID-19 affected the legislature and stated that virtual meetings ended November 1, 2020. He explained how meetings would move forward while the Capitol remained closed. He noted the public would not be allowed into the building unless they had a special pass and the current plan would continue until May of 2021. Mr. Book reviewed challenges ahead regarding a tort reform bill, a COVID-19 liability reform bill and the doctrine of sovereign immunity. He discussed the local political players' experience, the trust fund, future transportation and water projects, state reserves and CARES Act funds. He expected that pre-K-12 would be seriously underfunded in the future and that pension reform would be brought back.

Council Member Atterholt encouraged Mr. Book to bring up water quality funding. He described a letter-writing program for residents to contact their legislative members regarding water quality issues. Mr. Book replied that water quality had to be separated from climate change and messaging was important. He discussed money in politics and stated that both parties supported water quality issues.

Mr. Book stated that his representation for the Town was at the state level and would be happy to represent them at the federal level if requested.

Council Member Veach brought up releases from Lake Okeechobee and how it affected their water quality. Mr. Book remarked that his concern was justified.

Town Manager Hernstadt described his relationship with Mr. Book and felt they were fortunate to have him working for the Town. Mr. Book stated that they needed to pay attention after the election because there would be a new Chair of the Appropriations Committee, a powerful position.

VIII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Anchorage Advisory Committee (AAC)

Katherine Light, Chair of the Anchorage Advisory Committee (AAC), stated that they unanimously voted to pass their Strategic Plan. Council Member Atterholt questioned their vision statement. Chair Light explained their intent. She stated that the AAC recommended that Council consider pursuing the two-unit option at Harbor House for the upland services provider. Council Member Allers asked if the space at Harbor House would be adequate even with an expansion of the Mooring Field. Chair Light believed so. She noted the committee would review their rates in the next couple of months. Mayor Murphy stated that he would like to see a financial analysis before making a decision.

IX. APPROVAL OF MINUTES

A. October 15, 2020 Management & Planning Session

Correction on M&P Session 10-15-20: Council Member Veach ~~mentioned that~~ questioned whether they would have to pay a retainer for the prosecutor.

Vice Mayor Hosafros moved to approve both sets of minutes with the amendment for the October 15, 2020 minutes; second by Council Member Allers.

Motion carried unanimously.

B. October 19, 2020 Regular Town Council

Vice Mayor Hosafros moved to approve both sets of minutes with the amendment for the October 15, 2020 minutes; second by Council Member Allers.

Motion carried unanimously.

X. PUBLIC HEARINGS

A. VAR20200036: 5043 Williams Drive

Approve/ Approve with condition/ Deny VAR20200036 at a Parcel 5043 Williams Drive to Allow a Relief from LDC Table 34-3 for a Principal Structure Setback and from Sec. 34-1174 for an Accessory Structure Setback.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communication: Vice Mayor Hosafros and Council Member Allers - drive by and Council Members Atterholt and Veach - site visit. Mayor Murphy - none.

Assistant Community Development Director Carl Benge utilized PowerPoint for his presentation. Slides included: Property Information; Variance Requests; Staff Findings and Recommendations; LPA Recommendation; and Conditions of Approval. Council Member Veach confirmed that all structures existed.

James Reichlin, owner, stated that an architect recommended that they obtain variances before upgrading. He agreed with the conditions of approval and described the renovations.

Town Manager Hernstadt noted that the prior paperwork was not perfected and this was an opportunity to correct it. Mayor Murphy thanked Mr. Reichlin for straightening out the paperwork.

Council Member Allers moved to approve VAR20200036 with the staff and LPA recommendations and that the applicant met all the criteria for granting the variances, second by Council Member Veach.

Motion carried unanimously.

B. VAR20200052: 4690/4700 Estero Blvd

Approve/ Approve with conditions/ Deny VAR20200052 at a Parcel 4690/4700 Estero Boulevard to allow a variance from LDC Sec.34-1174 for Accessory Structures, to allow an accessory structure to be located closer to the street right-of-way than the principal structure

Ex parte communication: Vice Mayor Hosafros and Council Member Allers - drive by and Council Members Atterholt and Veach - site visit. Mayor Murphy - none.

Assistant Director Benge utilized PowerPoint for his presentation. Slides included: Property Information; Variance Request; Site Plan; Staff Findings and Recommendations and LPA Recommendations.

Vice Mayor Hosafros requested that the staff recommendations be prioritized in the resolution rather than the LPA recommendations. Town Manager Hernstadt stated that staff did not change their recommendations. Community Development Services Director Jason Green explained that the LPA eliminated condition 6 because they felt that the current 60-foot setback was sufficient. Vice Mayor Hosafros preferred that they put condition 6 back in the resolution.

Claudia Metcalfe, owner, stated that she would not install pavers on the property. She explained the intent of her design.

Fred Drovdlic from Waltrip Engineering represented Ms. Metcalfe. He displayed and explained slides of the North Western Facade; North Eastern Facade and the Site Plan.

No public comment.

Council Member Allers moved to approve VAR20200052 with the LPA recommended conditions; second by Council Member Veach.

Motion carried unanimously.

XI. ADMINISTRATIVE AGENDA

A. Sunset Celebration FY 21

Sunset Celebration Special Event Permit and Fees.

Town Manager Hernstadt reviewed the request and he noted that the merchants requested a rebate for the time spent under COVID-19 restrictions. He noted the credit would pay off the fee for 2021. Vice Mayor Hosafros noted this was not the only recurring event that was canceled and if they gave credit to one group, everyone should get credit. Town Manager Hernstadt felt they should do whatever they could to minimize the financial impact on them. Council Member Veach questioned the number of canceled recurring events. Town Manager Hernstadt replied that it would not affect their budget.

Council Member Atterholt moved to approve the Sunset Celebration Special Event Permit and Fees; second by Council Member Allers.

Motion carried unanimously.

Vice Mayor Hosafros moved that the Town in the same manner as set out in the above request, credit the fees for any organization that had a prior recurring event and reapplies for days missed; second by Council Member Atterholt. Motion carried unanimously.

B. Resolution 20-49; Mooring Field Strategic Plan

Motion to Approve Resolution 20-49, adopting the Mooring Field Strategic Action Plan

Town Manager Hernstadt reviewed the background of the document and noted that approving the plan did not mean that Council was obligated to approve every item in the plan.

Vice Mayor Hosafros moved to approve Resolution 20-49; second by Council Member Allers.

Motion carried unanimously.

C. Resolution 20-50; SRF Loan

Approve Resolution #20-50 authorizing the Town to finalize a loan agreement for the eligible Stormwater portions of the North Estero Phase 2 Part 2, Tier 1 Side Streets, and North Estero Phase 2 Part 1 projects and have the Town Manager finalize the application to the State of Florida Revolving Fund Loan.

Town Manager Hernstadt confirmed that they could separate a portion of it and use it for a grant application per Mr. Book. Utilities Director Christy Cory stated that they were working with the state regarding the hazard mitigation program and expected to receive a few stormwater grants.

Vice Mayor Hosafros moved to approve Resolution 20-50; second by Council Member Veach.

Motion carried unanimously.

D. Res 20-51: Town Wide Capital Improvements Projects

Resolution No. 20-51; A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING A LOAN FROM FIRST FLORIDA INTEGRITY BANK, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $10,000,000 FOR THE PURPOSE OF FINANCING THE REDEVELOPMENT OF CERTAIN TOWN-WIDE CAPITAL IMPROVEMENT PROJECTS, AS DESCRIBED HEREIN; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A TOWN OF FORT MYERS BEACH, FLORIDA CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2020 TO EVIDENCE THE TOWN'S OBLIGATIONS UNDER THE LOAN AGREEMENT, SUCH NOTE TO BE A LIMITED OBLIGATION OF THE TOWN, PAYABLE FROM AND SECURED BY A PLEDGE OF AND LIEN ON THE TOWN'S PUBLIC SERVICE TAX REVENUES AND IF EVER INSUFFICIENT TO PAY DEBT SERVICE ON THE NOTE, A PLEDGE OF AND LIEN ON THE TOWN'S COMMUNICATION SERVICE TAX REVENUES; PROVIDING FOR THE RIGHTS AND SECURITIES OF THE OWNER OF THE NOTE; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION

THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Hernstadt revealed that First Federal Integrity Bank requested that they defer item D. until the November 16, 2020, meeting.

E. TDC Projects for Grant Cycle FY21 22

Town Manager Hernstadt requested that Council review the list of projects and provide input. Council Member Veach suggested including six interpretive signs for beach accesses. Vice Mayor Hosafros agreed. Council Member Allers questioned adding the Times Square project and Bay Oaks. Town Manager Hernstadt replied that they could apply. Vice Mayor Hosafros noted that the Lee County Commissioners constrained what the funds could be spent on. She did not think the time was right to increase their request due to the decline in income. Council Member Veach discussed requesting funds for items included in projects that the Town was currently funding. Town Manager Hernstadt agreed that Lee County should be helping them fund projects. Vice Mayor Hosafros reiterated that it was not the time to request more money. She described projects that were not approved by the TDC.

Town Manager Hernstadt explained beach renourishment funding. Council Member Veach commented that he would like to add a kayak launch at Bay Oaks. Cultural Parks & Recreation Director Alison Giesen reported that the kayak launch was already vetted and was not approved. Vice Mayor Hosafros felt that the Times Square project would be a better request but not this year.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt questioned whether Council was interested in giving Mr. Schaub relief regarding his late application for a chair and umbrella permit. Consensus was reached to allow Mr. Schaub to resubmit his application.

XIV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. stated that they prevailed on the motions of summary judgment regarding the Jamison matter. He noted the property owner indicated he would potentially settle the dispute. He indicated that he would meet with outside Counsel concerning the Jamison matter and the dune walkover/Bert Harris Act matter.

XV. COUNCILMEMBERS ITEMS AND REPORTS

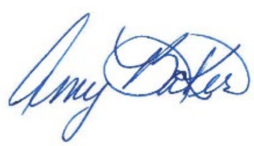
Council Member Veach questioned enforcing the mask mandate. Town Manager Hernstadt replied that staff was not trained to deal with confrontations with the public. Council Member Veach clarified that he meant establishments. Town Manager Hernstadt stated that business owners had to follow the ordinance. Mayor Murphy questioned whether the Town did a sufficient job of educating the public concerning the mask mandate. Council Member Veach

suggesting fining businesses whose employees were not wearing masks. Vice Mayor Hosafros did not want to micromanage the Town Manager. Town Attorney Herin, Jr. stated that staff would follow up if complaints were received. Mayor Murphy felt it was up to the Town Manager to enforce the ordinance.
Vice Mayor Hosafros indicated a hazardous waste collection was scheduled at Bay Oaks on Friday. She noted the hazardous waste collection would occur quarterly and she encouraged the community to participate.
Council Member Allers questioned whether they had any projects for Mr. Book. Town Manager Hernstadt explained the strategy and noted there should be a couple of projects that met the criteria.
Mayor Murphy requested an excused absence for the November 16, 2020 meeting. Vice Mayor Hosafros granted the request.

XVI. ADJOURNMENT

Mayor Murphy adjourned the meeting at 12:12 p.m.

Minutes adopted with changes, November 16, 2020; Motion by Council Member Veach and seconded by Council Member Atterholt. Passed 4-0, Mayor Murphy excused.



Amy Baker, Deputy Town Clerk