Fort Myers Beach Town Council

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

Minutes **Monday, November 16, 2020** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Present: Vice Mayor Hosafros, Council Member Allers (via phone due to illness), Council Member Atterholt and Council Member Veach.
Excused: Mayor Murphy.

II. INVOCATION

Deputy Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member Veach moved to approve the final agenda; second by Council Member Atterholt.
Motion carried 4-0; Mayor Murphy excused

V. PUBLIC COMMENT

Phil Winter expressed concerns about communication with some Town employees.

Chris Schaab commented on public hearing documents and an application submitted on September 30, which had four deficiencies. He mentioned selectively enforcing the ordinance since the vendor received a permit on November 4. He noted that Lee County and the State issued fines for missing deadlines. He discussed government ethics and felt some vendors received preferential treatment.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Atterholt recognized local newspapers coverage of Veteran's Day. He thanked veterans for their service.
Vice Mayor Hosafros recognized Michelle Mayher's service as Town Clerk to the

Town of Fort Myers Beach. She wished her well in her retirement.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

No reports.

VIII. APPROVAL OF MINUTES

A. November 2, 2020 Town Council

Amendment: XI. A. The motion by Vice Mayor Hosafros and seconded by Council Member Atterholt carried unanimously.

Council Member Veach moved to approve the minutes with the change that the vote for XI.A. be recorded as unanimous; second by Council Member Atterholt.
Motion carried 4-0; Mayor Murphy excused.

IX. ADMINISTRATIVE AGENDA

A. FY2019-2020 Re-Appropriation

Approve Re-Appropriation FY2019-2020 - 2nd reading

Town Manager Hernstadt explained that the loan for the stormwater utility was not needed and was not implemented. The building services department ran a deficit due to the TPI project, but most of the deficit would be removed after the permits were paid.
Town Manager Hernstadt introduced the new Finance Director Walter Pierce. He stated that Robert Lange would assist with the transition until December 31, 2020. Mr. Pierce reviewed his experience. He agreed with the re-appropriation and stated it was a normal procedure.
Vice Mayor Hosafros read the title of the resolution.
Council Member Veach moved to approve the second reading for the re-appropriation of the FY2019-2020 and the adoption of Resolution 20-52; second by Vice Mayor Hosafros.
Motion carried 4-0; Mayor Murphy excused.

B. 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 stated this was the final step to implement the loan for the capital improvement projects, including Bay Oaks, Times Square and Bayside Park. He described three options set forth by the bank. Council Member Atterholt questioned which option was recommended. Town Manager Hernstadt replied that bifurcating the loan was the easiest option and he was confident that they could pay for Times Square improvements outside of the loan. He estimated that Times Square improvements would be $1.5 million. Council Member Atterholt questioned borrowing $9 million instead of $10 million. Town Manager Hernstadt responded that they did not have to spend the entire $10 million. Town Attorney Herin added that the loan was similar to a line of credit. Council Member Atterholt questioned whether funds would be drawn from the Town's reserves. Town Manager Hernstadt replied that funds from Irma's damage were anticipated and they had been setting money aside for the project.

Town Manager Hernstadt replied to Council Member Allers and clarified that Times Square lease revenue went into the general revenue fund. He indicated that how the money was used was up to the discretion of Council. Council Member Veach discussed project creep. Vice Mayor Hosafros agreed with paying for improvements outside of the loan. She questioned whether they would have to amend the resolution regardless of which option they chose. Town Attorney Herin explained why they would not have to amend the resolution. Town Manager Hernstadt addressed project creep and noted that Council had to approve all expenditures.

Town Attorney Herin pointed out that the loan documents generically included Times Square. If the loan were bifurcated (one for taxable and one for non-taxable), the loan documents would not have to be changed. Council would have to vote on their preferred option and whether to enter into the loan agreement.

Attorney Rhonda Bond-Collins represented First Florida Integrity Bank and agreed with the Town Manager and Town Attorney's explanation. She noted that because it was a private use issue, the Times Square piece could not be financed with tax-exempt bond proceeds. Council Member Atterholt discussed the broader public good involved with the Times Square renovation. Attorney Bond-Collins stated that the draw-down loan was for a three-year period and the maximum amount was $10 million.

Vice Mayor Hosafros moved to instruct staff that no proceeds from the loan would be used for the private use section parts of the Times Square improvement project and that they would be spending funds out of other parts

of the budget to pay for the private use sections of the Times Square project; second by Council Member Veach.
Town Attorney Herin stated that public funds were not used for private use because they charged rent.
Vice Mayor Hosafros read the title of the resolution.
Council Member Veach moved to approve Resolution 20-51; second by Vice Mayor Hosafros.
Motion carried 4-0; Mayor Murphy excused.

C. Proposed 2021 Town Council Meeting Schedule
Approve the monthly schedule for Town Council meetings through June 2021
Consensus was reached to move two Management & Planning meetings to Wednesday, April 7, 2021, and Wednesday, June 9, 2021, due to a conflict with TDC (Tourism Development Council) meetings. The item will appear as a resolution on the next agenda.

X. FINAL PUBLIC COMMENT

No public comment.

XI. TOWN MANAGER'S ITEMS

Town Manager Hernstadt brought up scheduling a joint meeting with Advisory Committee Chairs. Vice Mayor Hosafros suggested discussing a date at their M&P meeting on January 21, 2021. Town Manager Hernstadt reviewed the deadline policy for beach vendor permit applications.

XII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin stated that they could continue the reorganization vote to the next meeting because they did not have a full Council present.
Council Member Allers moved to continue reorganization to the December 7, 2020 meeting; second by Council Member Veach.
Motion carried 4-0; Mayor Murphy excused.
Rules and Procedures will be changed and included in the next agenda as a Consent Item. Vice Mayor Hosafros suggested that Town Attorney Herin review the Rules and Procedures and update any outdated items. She received consensus from Council Members.
Town Attorney Herin will follow up with individual Council Members regarding the Jamison litigation status and the Bert Harris Claim case.

XIII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers questioned the status of the interlocal agreement with Lee County concerning the pedestrian/bicycle markings on the sidewalks and whether the Public Safety Committee would be permitted to provide input regarding crosswalks at the base of the bridge. Town Manager Hernstadt will follow up.
Council Member Atterholt questioned adding the Times Square clock and the

arches to a future M&P agenda. Council Members agreed to add both items. Council Member Veach noted that the coronavirus had surged in the area and encouraged everyone not to let their guard down. He was disappointed that trees were removed in the Bayside Park design and he thought the monument was uninspiring. He suggested that the monument be moved to keep the landscape intact and redesign the monument to create more impact. Town Manager Hernstadt commented that he would direct the design team to do whatever they decided. Council Member Veach suggested adding shade trees with the monument underneath. Town Manager Hernstadt expressed concern regarding the sight line with the current monument placement. He stated that he would direct the design team to replace palms with shade trees and to redesign the monument. He encouraged Council Members to submit ideas. Council Member Atterholt encouraged island veterans to submit ideas. Council Member Veach requested an update regarding the street light RFQ. Town Manager Hernstadt replied that they did not receive any response because the vendors did not see the project as viable. After sending the RFQ out again, he anticipated receiving a proposal. Council Member Atterholt offered to be the contact person with FP&L and suggested that an FP&L senior representative be invited to a Town Council meeting. Town Manager Hernstadt commented that FP&L was focused on moving lighting underground for hurricane protection. He reminded Members that Estero Boulevard was county-owned. Town Manager Hernstadt will contact FP&L and Council Members agreed to appoint Council Member Atterholt as the contact person with FP&L. Council Member Atterholt discussed the status of 5G implementation. Council Member Veach described the Community Resource Advisory Board (CRAB) and encouraged the community to submit applications.

Vice Mayor Hosafros questioned whether applications were received for the Nuisance Abatement Board. Deputy Town Clerk Baker replied that she received six applications. Town Manager Hernstadt stated that vacancies would be posted on the website. Vice Mayor Hosafros questioned whether Members agreed with moving forward with the side setback and height ordinance. All Members agreed. Town Manager Hernstadt stated that the ordinance would be brought back for Council's final review and approval. Vice Mayor Hosafros questioned whether Members supported directing lobbyist Mr. Book to represent them at the Federal level at no additional cost. All Members agreed. Vice Mayor Hosafros supported Council Member Atterholt's letter-writing campaign and correspondence with Mr. Book. All Members agreed. Vice Mayor Hosafros wished everyone a Happy Thanksgiving.

XIV. ADJOURNMENT

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

Motion carried unanimously.

Vice Mayor Hosafros adjourned the meeting at 11:13 a.m.

Minutes adopted, December 7, 2020; Motion by Council Member Allers and seconded by Vice Mayor Veach. Passed 5-0.

Amy Baker

Amy Baker, Deputy Town Clerk