



Fort Myers Beach Town Council

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

Minutes

Tuesday, January 19, 2021

10:00 AM

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 moved to accept the agenda; second by Council Member Atterholt.

Motion carried unanimously.

V. PUBLIC COMMENT

Town Clerk Baker read an email from the Fort Myers Beach Lions Club questioning whether Council would consider reviewing a Shrimp Festival permit. Steve Johnson, resident and Chair of MRTF (Marine Resources Task Force), supported entering into negotiations with the lighting design engineer.

Barbara Hill, BORCAB (Bay Oaks Recreational Campus Advisory Board) Member, thanked Council for moving the project forward.

Karen Woodson, BORCAB Member, commented that they needed to work together to complete the project. She noted that BORCAB would like to see a more detailed plan.

Lee Melsek, BORCAB Member, requested that Council defer moving forward with the building presented. He requested that BORCAB be allowed to meet with DRMP to design a nicer building for members of the community. He stated it was not the right building and it was in the wrong place.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach expressed condolences for Joe Coviello, Mayor of Cape Coral.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Katherine Light, Chair of the AAC (Anchorage Advisory Committee), requested that Council approve the Upland Service Provider. She reiterated that the units were for sale to the general public.

VIII. PRESENTATION

A. Southwest Florida Regional Resiliency Compact

Southwest Florida Regional Resiliency Compact

Mike Savarese, Ph.D., faculty member and scientist from Florida Gulf Coast University, introduced himself. The PowerPoint presentation was included in the packet of information. Due to time constraints, Mr. Savarese described the concept of the compact. The intention was to bring local communities together as an alliance to deal with climate problems. He discussed successful compacts throughout the state and listed local municipalities that signed on to their compact. Mr. Savarese indicated that signing the compact did not obligate them to do anything other than to participate in conversations. He noted it was a non-binding agreement and the organization did not have authority to make decisions. He provided examples of how the compact would work.

Mayor Murphy supported the compact and recommended joining the group.

IX. APPROVAL OF MINUTES

No minutes.

X. CONSENT AGENDA

No agenda.

XI. PUBLIC HEARINGS

A. Ordinance 20-17 Special Events

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 6, 14, AND 34 OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE regarding Special Events, REVISING CHAPTER 22 OF THE FORT MYERS BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE. Second reading and final adoption.

Vice Mayor Hosafros read the title of the ordinance. Town Attorney Herin stated that the item was properly advertised. Director Green reviewed changes. Vice Mayor Hosafros noted that the LPA recommended that a stricken portion be added back to the ordinance even though it was addressed in another section of the code. Town Attorney Herin explained why the LPA recommended keeping the section and he supported the recommendation.

No public comment.

Council Member Allers pointed out minor errors on Pages 23 and 35. Vice Mayor Hosafros brought up concerns by the Woman's Club regarding limiting special events to six times a year. Town Manager Hernstadt replied that he told representatives of the Woman's Club to meet with him to discuss how they envisioned using the club in the future.

Council Member Atterholt moved that Ordinance 20-17 be adopted by the Council as amended; second by Council Member Allers.

Motion carried 4-0 with Mayor Murphy excused.

B. Ordinance 20-19; Height and Setback Requirements

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE DEFINITIONS IN THE FORT MYERS BEACH LAND DEVELOPMENT CODE AND AMENDING DIVISION 3 OF ARTICLE III OF CHAPTER 34, OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE, ENTITLED "EXPLANATION OF PROPERTY DEVELOPMENT REGULATIONS FOR ALL ZONING DISTRICTS" REVISING HEIGHT AND SETBACK REQUIREMENTS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND PROVIDING FOR AN EFFECTIVE DATE. Second reading and final adoption.

Vice Mayor Hosafros read the title of the ordinance. Town Attorney Herin stated that the matter was properly advertised. Director Green reviewed changes to the document.

No public comment.

Council Member Allers identified an error on Page 66.

Director Green stated they had the option to delay the effective date to educate the public. Town Manager Hernstadt added that their Public Information Officer submitted press releases and a newsletter after every meeting regarding decisions by Council.

Council Member Atterholt discussed enhancing view corridors on the Island. Council Member Atterholt moved the passage of Ordinance 20-19 as amended by Director Green effective in 30 days; second by Council Member Allers.

Motion carried 4-0 with Mayor Murphy excused.

XII. ADMINISTRATIVE AGENDA

A. Adopt Resolution 21-01 for an Interlocal agreement

Adopt Resolution 21-01 for an Interlocal agreement with the School Board of Lee County for the use of Bay Oaks Recreational Campus facilities for a collaborative shared use agreement for the students of Fort Myers Beach Elementary School throughout the school year.

Town Attorney Herin stated that the resolution was the second part of the land transfer agreement already approved. Council Member Allers moved to approve Resolution 21-01; second by Council Member Veach.

Motion carried 4-0 with Mayor Murphy excused.

B. Bay Oaks Campus Redevelopment

Determinations regarding the Bay Oaks Campus Redevelopment

Cultural Parks & Recreation Director Alison Giesen reviewed the history of events. She noted she previously distributed a spreadsheet of information. She stated that they were unable to serve the community right now due to space limitations. The current building design met their programming needs but not all future needs.

Town Manager Hernstadt stated there was room on the campus for a standalone amphitheater. A new 16,500 square foot gym would be attached to the left wing of the building in the future. Council Member Allers questioned whether they wanted to move forward with the design and incorporate future phasing plans. Council Member Atterholt supported the idea. Council Member Veach suggested that they plan the phasing after the first phase was completed. Town Manager Hernstadt commented that including the future gym and standalone amphitheater would not be difficult to accommodate. He clarified that the standalone amphitheater could potentially be located on the current gym site after it was moved.

Council Member Allers moved to direct staff to move forward with the current design as is and add a site plan for BORCAB to review for potential phases 2 and 3; second by Vice Mayor Hosafros.

Council Member Veach suggested that an acoustical engineer be involved in the amphitheater design and convert some paid parking to turf.

Town Manager Hernstadt noted those ideas were expressed to the consultant and he encouraged Council Member Veach to submit the balance of his list. Motion carried unanimously.

Mayor Murphy left to attend Mayor Coviello's memorial and will pass along condolences from Council.

C. Land & Water Conservation Grant Application

Authorize the Town Manager to apply for the Land and Water Conservation Fund Program Grant for Bay Oaks Park Redevelopment.

Town Manager Hernstadt felt they had the foundation for a viable project and would meet the grant criteria.

Council Member Allers moved to authorize the Town Manager to apply for the grant; second by Council Member Veach.

Motion carried 4-0 with Mayor Murphy excused.

D. RFP-21-03-PW; Lighting Consultant

Review rankings of the design-bid-build process in response to RFP-21-03-PW-Lighting Consultant, and discussion of next steps.

Town Manager Hernstadt stated that they had selected a consultant. He noted that FP&L agreed to make a presentation at their February 16, 2021 meeting. He questioned whether Council wanted to wait for FP&L before moving forward. Vice Mayor Hosafros commented that despite what FP&L presented, they still needed a consultant. Council supported moving forward with the lighting consultant.

E. FMB Little League Agreement

Authorization to enter into an agreement for Facility Use with FMB Little League

Town Attorney Herin stated that he reviewed Florida agreements regarding language for COVID-19 waivers for governmental facilities. He added the waiver to the Little League agreement and other Town agreements. The Little League asked that the Town reconsider the item.

Council Member Atterholt questioned whether there was time for the Town Attorney and the Little League to negotiate language. Town Manager Hernstadt replied that the Little League wanted to start immediately. Town Attorney Herin noted that removing the waiver would put the Town at risk. He read the waiver for participants in after-school activities at the Lee County School District and stated that the specific language was found in many waivers.

Vice Mayor Hosafros moved to approve the agreement as the Town Attorney recommended, second by Council Member Veach.

Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that representatives from the Florida Department of Transportation (FDOT) were scheduled to discuss the status of the foot of the bridge project on March 1, 2021. He noted that a public meeting would probably be scheduled soon after. He reminded Council Members that the joint meeting with Committee Chairs was coming up.

Town Manager Hernstadt stated that the Town submitted an application for six signs regarding manatees to the FWCC (Fish & Wildlife Conservation Commission) for their review. He expected to hear from them in the next 45 days. Town Manager Hernstadt noted that delaying the Times Square project for a year allowed the Town to pursue grant opportunities. He added that they were working with the FDOT design team to develop a schedule for the work.

Town Manager Hernstadt commented that construction on Palermo started at 7:00 a.m. Council Member Atterholt noted that residents on Palermo supported overnight construction.

Town Manager Hernstadt indicated that he would add the Southwest Florida Regional Resiliency Compact to an upcoming agenda.

Town Manager Hernstadt remarked that he would forward the plan detail for the traffic light at Old San Carlos to Council Member Veatch.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin stated that the League of Cities was handling the LaCroix case. Town Clerk Baker indicated they received seven applications for the Nuisance Abatement Board. Town Manager Hernstadt explained that they were waiting for more applications. Council Member Atterholt expressed his preference to move forward. Vice Mayor Hosafros supported garnering a couple more applications. Town Manager Hernstadt suggested that he distribute the current applicants for discussion at the M&P Session. Council Members agreed. Town Attorney Herin stated that he was available to assist the Board with its organizational meeting, but a third party would advise the Board. Vice Mayor Hosafros requested that Council Members identify their applicants.

A. COVID-19 Emergency Declarations

Town Attorney Herin reviewed Executive Orders from the State and the Town's Emergency Declarations. He questioned whether Council wanted to modify the Declarations to allow certain special event permits. He noted that the governor allowed gatherings of up to 50 people but the CDC guidelines still recommended no more than 10 people in a group. Mayor Murphy recommended maintaining the mask mandate. Council Member Veatch supported the mask mandate but not large special events.

Town Attorney Herin, Jr. addressed the governor's ambiguous language in the Executive Orders. Council Member Allers reviewed the special event process and questioned when they would allow special events. He supported masks, but he also supported letting businesses decide whether to wear masks.

Vice Mayor Hosafros agreed with Mayor Murphy and Council Member Veach. She suggested they create an Emergency Declaration 8 so staff knew how to answer questions.

Council Member Atterholt respected the majority of Council.

Town Attorney Herin will bring back proposed Emergency Declaration 8 for review at the next Council meeting.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers sent condolences to the Coviello family. He reminded members that the Big Carlos Bridge discussion was scheduled for January 28, 2021, from 5:00-7:00 p.m. at Bay Oaks.

Vice Mayor Hosafros questioned whether Council was interested in drafting a letter of support regarding Sanibel's state legislative priorities. Council Members agreed to add it to a future agenda. Vice Mayor Hosafros awarded a gold star to the Finance Department for the best monthly staff report. She reminded everyone that the next Hazardous Waste Collection day was February 5, 2021, from 8:00 a.m. to noon at Bay Oaks. She brought up the historic cottage and reminded Council not to forget about placing the cottage. Town Manager Hernstadt will follow up. Vice Mayor Hosafros questioned what they wanted to do concerning the Shrimp Festival application. Town Attorney Herin, Jr. suggested that they adopt Emergency Declaration 8 regarding special events first. Vice Mayor Hosafros would deny the application and she suggested that the Lion's Club contact Mayor Murphy. Council Member Veach would not approve the application. Town Manager Hernstadt and Council wished Town Clerk Baker a happy birthday. Council Member Atterholt praised BASE for decreased revenues and using education instead of enforcement measures. He thanked Town Manager Hernstadt for good accounting measures.

XVII. ADJOURNMENT

Council Member Allers moved to adjourn the meeting; second by Vice Mayor Hosafros.

The meeting was adjourned at 12:52 p.m.

Minutes adopted, February 1, 2021; Motion by Vice Mayor Hosafros and seconded by Council Member Veach. Passed 5-0.



Amy Baker, Town Clerk