



Fort Myers Beach Town Council

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

Minutes**Monday, February 1, 2021****9:00 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

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

Motion carried unanimously.

V. PUBLIC COMMENT

Carol Teddeo commented that the meeting concerning the Big Carlos Pass Bridge was frustrating. She noted questions were not answered and she questioned how the Commissioners could vote in favor of the bridge when so many people were against it.

Tom Duschene agreed with Ms. Teddeo. He did not support the new bridge.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Atterholt read a newspaper article regarding the state budget for water quality projects.

Council Member Veach appreciated the people administering vaccines.

No items from other Members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

No items.

VIII. APPROVAL OF MINUTES**A. Joint Session w/BORCAB - January 11, 2021**

On page 3, Council Member Veach stated "half again as much."

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

Motion carried unanimously.

B. Town Council - January 11, 2021

Strike the following sentence on page 4: Vice Mayor Hosafros suggested that someone motion to ban selling fireworks and flaming floating lanterns, or Chinese lanterns at Publix.

Change Publix comment to Public comment on page 4.

Clarification on page 5: After a recess, Vice Mayor Hosafros moved to place the Publix proposed ordinance back on the table.

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

Motion carried unanimously.

C. Town Council - January 19, 2021

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

Motion carried unanimously.

D. Joint Session w/Committee Chairs - January 21, 202

Chair Goggin noted that lights were about \$1.20 each and 100 lights would be around \$1,000.00.

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

Motion carried unanimously.

E. M & P Session - January 21, 2021

At the end of A., Council Member Veach indicated that bells and lights would be purchased for resale.

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

Motion carried unanimously.

IX. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Council Member Allers. Motion carried unanimously.

A. Appointment to BORCAB

Appoint new member to fill the one vacancy on the Bay Oaks Recreational Campus Advisory Board

Vice Mayor Hosafros moved to approve the appointment of Rebecca Guidry; second by Council Member Allers. Motion carried unanimously.

B. SWFL Resiliency Compact

Town Council authorization for voluntary, no cost participation in the proposed Southwest Florida Resiliency Compact

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

Motion carried unanimously.

X. ADMINISTRATIVE AGENDA

A. Resolution 21-02; Harbor Management Plan

Approve Resolution 21-02; Update of the Town's Harbor Management Plan.

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

Motion carried unanimously.

B. Resolution 21-04, FL Boating Improvement Plan

Approve Resolution 21-04, Florida Boating Improvement Program; Adoption of a Resolution from the Town Council of the Town of Fort Myers Beach, Florida authorizing the Town Manager or the Town Manager's designee to apply for and administer a grant from the Florida Boating Improvement Program for funds in the amount of up to \$200,000 for the appropriate 19 mooring ball field expansion; Authorizing the Town Manager or designee to execute related documents providing an effective date.

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

Motion carried unanimously.

C. RFQ-20-26-PW CEI Intersection Improvements

Approve contract with AECOM Technical Services, Inc. for construction inspection services to (RFQ-20-26-PW) CEI Intersection Improvements in the amount of \$75,572.82 and authorize the Town Manager to execute the contract documents upon FDOT contract approval.

Council Member Veach moved to approve the contract; second by Mayor Murphy.

Motion carried unanimously.

D. Envestnet Retirement Solutions (ERS) Pension Plan

Approval of the acquisition of the Towns Pension Plan from Mass Mutual to Envestnet Retirement Solutions (ERS)

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

Motion carried unanimously.

E. Deferred Compensation Plan

Approval of the acquisition of the Towns Deferred Compensation Plan from Mass Mutual to Envestnet Retirement Solutions (ERS)

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

Motion carried unanimously.

F. Nuisance Abatement Board

Discussion on the next step in the implementation of the Nuisance Abatement Board

Town Manager Hernstadt questioned whether the current number of applicants was adequate for consideration.

Vice Mayor Hosafros questioned whether every Member selected someone to apply. She revealed that she chose Jan Fleming. Mayor Murphy did not ask anyone to apply. Vice Mayor Hosafros questioned whether they could move forward.

Town Attorney Herin, Jr. stated that Jane Plummer submitted an application; however, she was already serving on the Local Planning Agency (LPA) and would have to decide which board she preferred to sit on. Another individual participated on an advisory committee, but since the committee did not have substantive powers, it did not fall under case law regarding dual office holding. Discussion was held regarding whether the ordinance stated that each member had to nominate a person and vote on the two extra people.

Council Members Allers and Atterholt felt the list of people was a good group who expressed interest and took the time to apply. Council Member Atterholt stated that he selected Dawn Thomas and some applied purposely in case a Council Member did not select someone.

Town Attorney Herin, Jr. read the ordinance that stated each Council Member shall appoint one member and two members shall be appointed at large collectively by the Town Council. Council Member Atterholt questioned whether they could proceed if one Council Member did not select a person.

Town Attorney Herin, Jr. replied affirmatively. Council Member Atterholt and Vice Mayor Hosafros agreed that Jane Plummer would probably not give up her LPA seat. Council Member Veach stated that he did not recruit anyone, but he would choose Anita Cereceda. Council Member Allers picked Tre Gillette. Mayor Murphy indicated he would like a couple more selections.

Town Attorney Herin, Jr. noted that they could vote today and Mayor Murphy could add an appointment later. Vice Mayor Hosafros suggested they vote on the two remaining open spots.

Vice Mayor Hosafros moved to proceed with an election of the two at large members from the three remaining candidates Charles Meador, Monica Schmucker and Karen Woodson; second by Council Member Atterholt. Motion carried unanimously.

After a voice vote, Monica Schmucker and Charles Meador were chosen. Ms. Schmucker was designated Chair.

NAB members are: Anita Cereceda, Jan Fleming, Tre Gillette, Dawn Thomas, Charles Meador and Monica Schmucker.

G. Arch Location

Town Council recommendations to Lee County of two locations for a scaled down, single arch replica of the original arches previously located on San Carlos Island.

Council Member Atterholt commented that Lee County Commissioners requested that Town Council support the two locations for the arch as described on the blue sheet.

Vice Mayor Hosafros moved to recommend the two locations but were open to other possibilities if those two were not appropriate; second by Council Member Atterholt.

Town Manager Hernstadt questioned whether Council wanted to send a letter to Commissioner Sandelli or the County Manager with a copy to the Commissioner. Council Members agreed to send a letter to Commissioner Sandelli with copies to Commissioners and the County Manager.

Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

Carol Teddeo commented on ongoing construction with the new bridge. She questioned whether work was going to be done on Matanzas Bridge. She wished the Commissioners would listen to residents who did not want the high bridge.

XII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that the County was working on a utility assistance program for financially challenged people due to COVID-19. The County questioned whether the Town was interested in running the program or preferred that the County administer it. Town Manager Hernstadt suggested that they allow the County to run the program on the Town's behalf. Council Members agreed.

Town Manager Hernstadt noted a follow-up discussion would be held soon regarding a turtle-friendly lighting product for rental properties on the beach. Vice Mayor Hosafros questioned whether a test program with the company's product at a location of their choosing would be feasible. She noted that they would not cite them while trying out the lights for a season. Town Manager Hernstadt replied that he would bring up the idea at the discussion and report back.

XIII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. noted that the Town's mask mandate was found constitutional by the 4th District Court of Appeal. He stated that the language would be included in the proposed Emergency Order 8.

He addressed the dune walkover dispute and the Bert Harris Claim. He indicated that the property owners' counter-offer would be evaluated and he would follow up with Council Members individually. He stated that conversations between the property owners and Council Members were permissible. If they preferred not to receive communications, he would contact their attorney and suggest that all correspondence be forwarded to him.

Council Member Atterholt questioned whether panhandling was illegal on Fort Myers Beach. Town Attorney Herin, Jr. replied that aggressive panhandling was illegal.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers mentioned comments from constituents concerning how they were treated in Town Hall.

Council Member Veach described Sanibel's fertilizer ordinance and he requested permission to direct MRTF (Marine Resources Task Force) to look into their program. He received support.

Mayor Murphy discussed the dune walkover case. Vice Mayor Hosafros did not think it was appropriate to discuss negotiations because they were in a lawsuit. Town Attorney Herin, Jr. suggested that they wait to discuss the issue until after his scheduled phone call with outside counsel and after contacting the FDEP (Florida Department of Environmental Protection).

Mayor Murphy stated that they spent over \$500,000.00 already and there was a possibility that the Town would lose the critical wildlife area if they were successful with their quiet title suit. He suggested they ask the other side if they were willing to drop the quiet title suit. Town Attorney Herin, Jr. agreed to present the question.

A. Big Carlos Pass Bridge

Big Carlos Pass Bridge discussion regarding a joint effort with the City of Bonita Springs

Mayor Murphy stated that he attended the recent bridge meeting to gain more support to oppose the design. He commented that after their brief discussion at the M&P, Bonita Springs thought they were not interested in supporting their opposition to the bridge. He questioned the cost analysis provided by the County and whether the numbers were real. He questioned whether Council was interested in endorsing the City of Bonita Springs preference for a lower bridge.

Council Member Allers attended the meeting and felt the decision was already made. He thought that the previous Council did send a letter of support to Bonita Springs. He noted he would support Town Council's decision, but he did not feel that a letter would make a difference. Mayor Murphy noted that the previous Council did send a letter to Bonita Springs, but he felt that a joint letter from two Councils would be considered.

Council Member Veach attended the meeting and agreed that it seemed the decision was made. He noted that they bent over backward to minimize the effect on the Fort Myers Beach side. He noted a retired civil engineer friend thought the numbers were realistic. He cited the benefits of having a taller bridge. He did not see the benefit of going against the County Commissioners.

Council Member Atterholt watched the meeting live. He did not think he could support the option of repairing the existing bridge for 20 years. He described the difficulty of walking or riding a bicycle on the existing bridge. He would support a lower bridge with the amenities of the new bridge. Mayor Murphy replied that he brought up that option, but at some point, the two lower bridge options were eliminated. He noted that a fixed lower bridge was never discussed.

Vice Mayor Hosafros noted that because the bridge was part of the Intercoastal Waterway, it had to be accessible for higher boats. She was not in favor of a joint effort with the City of Bonita Springs.

Mayor Murphy commented that since there was no support, he would make the necessary calls to Bonita Springs. He encouraged people to keep opposing the bridge if there were so inclined.

XV. ADJOURNMENT

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

The meeting was adjourned at 10:24 a.m.

Minutes adopted, February 16, 2021; Motion by Council Member Allers and seconded by Vice Mayor Hosafros. Passed 5-0.



Amy Baker, Town Clerk