



Fort Myers Beach Town Council

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

Minutes

**Tuesday, February 16,
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

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

Motion carried unanimously.

V. PUBLIC COMMENT

Phil Winter, resident, reviewed why Fort Myers Beach was not included in the TopTen list of beaches. Comments included traffic problems, pets on the beach, lack of restrooms, trash, lack of signage for sidewalks, poor communication, and the concrete media in Times Square.

Mark Ludvigson, builder, commented on changes in the building department. He noted the application process changed again and there was a lack of communication. He described pricing errors and the difficulty of contacting anyone in the department or receiving a response. Mayor Murphy advised him to leave his contact information with Town Clerk Baker.

Terry Persaud, owner of Sunset Beach Tropical Grill, distributed information to Council Members. He requested a sign-off for his liquor license to sell on-premises. He explained the Summary Judgement, the Final Judgement and reviewed past issues. He suggested that they reach an agreement.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Allers wished Betty Simpson a belated happy birthday and thanked her for her work.

Vice Mayor Hosafros thanked the Fort Myers Beach Community Foundation for their fundraising event.

Mayor Murphy also wished Betty Simpson a happy birthday. Council Member Veach echoed previous comments.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Steve Johnson, Chair of the Marine Resources Task Force (MRTF), indicated they recommended changes to the model sea turtle ordinance. Mayor Murphy stated they received the changes and it would be added to a future M&P Session agenda.

VIII. APPROVAL OF MINUTES

A. Town Council - February 1, 2021

Town Council - February 1, 2021

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

Motion carried unanimously.

B. Management & Planning Session - February 4, 2021

Management & Planning Session - February 4, 2021

Council Member Veach moved to approve the minutes; second by Council Member Allers.

Motion approved unanimously.

IX. PRESENTATION

A. Florida Power & Light (FPL)

Presentation by Florida Power & Light (FPL) regarding their roadway lighting plans to address the balance between safety and environmental wildlife protection.

Bob Horswood, Director of LED Lighting Solutions from FPL, utilized PowerPoint for his presentation. He reviewed how they addressed turtle sensitive lighting. Slides included: FPL is the largest energy company in Florida; FPL is committed to delivering America's best energy value; FPL is making Florida a clean energy and sustainability leader; FPL's Turtle Lighting Evolution; FPL's Partnership with FWC for Better Options; FPL's New Turtle Friendly Street Light Options; Requesting a Turtle Friendly Street Light and Requesting a Turtle Friendly Light - Customer Owned.

Council Member Atterholt questioned whether he had comments regarding Fort Myers Beach specifically. Director Horswood replied that FPL was not in the design business; they provided lights. He stated that FPL would put whatever lights they wanted wherever they wanted. He indicated that they would work directly with engineers or consultants. Council Member Atterholt

commented that the perception was that they were not responsive to the Town's needs. He questioned whether they could help find something unique for their specific situation. Director Horswood replied that they would have to work together and determine what the Town needed. He stated that they had 60 different lights to choose from. Council Member Atterholt hoped that they would present something helpful to Fort Myers Beach.

Vice Mayor Hosafros commented that two years ago, they were told turtle-friendly lights were not available under the tariff program. Director Horswood responded that three turtle-friendly lights were now available under the program.

Council Member Veach questioned how their biggest light performed compared to the current lights on the beach. Director Horswood replied that their RSW-XL was the largest turtle-friendly light they found on the market. Vice Mayor questioned whether they installed those lights in other areas of Florida. Director Horswood responded that he would forward a list of towns. Mayor Murphy questioned whether they could obtain a sample light. Director Horswood replied that a lighting agreement would have to be signed first. He described the light used in the Town of Palm Beach. Mayor Murphy noted he would call their Mayor.

Council Member Allers stated that they did not receive any new information. He questioned whether they were aware of the gravity of their situation. He questioned whether FPL would maintain lights on their poles provided by another company. Director Horswood replied negatively. He stated that the turtle lights they offered seemed to be acceptable in other coastal communities. He noted that the dual lights had a control issue and the manufacturer was working on a solution. Council Member Allers questioned public safety with the three turtle lights offered. Director Horswood replied that they did not work as well for pedestrian safety. He noted more fixtures would have to be installed, or the white lights would have to be shielded. Council Member Allers questioned why they took the stance of you can have this or this, but not both. Director Horswood responded that they had to request what they needed and FPL would try to meet their needs with the lights they had.

Council Member Veach questioned how the tariff program worked. Director Horswood replied that they could convert their high-pressure sodium lights right away with no out-of-pocket costs. Council Member Veach questioned whether additional lights would be covered. Director Horswood responded that poles and installation would come with the lights, but an additional payment was required in certain situations. Council Member Veach questioned whether FPL would maintain their existing lights if the Town purchased lights from a separate entity. Director Horswood replied affirmatively but stated that they do not allow another company to put lights on their poles. He described how the three lights performed in different situations.

Council Member Allers questioned whether any of the lights had a CRI (Color Rendering Index) on them. Director Horswood explained the CRI and

indicated the high-pressure sodium lights had a CRI of about 20, white LEDs were between 70 and 80 and he guessed turtle-friendly lights were around 10-20. Vice Mayor Hosafros verified that lights on Estero were on about every other pole. She stated that they could increase lights without adding poles and she questioned whether that would be sufficient. Senior Representative Eric Culling from FPL replied that they could add lights under the tariff, but it was up to them to determine sufficiency. He discussed foot candles, spacing and set-backs regarding current poles. He stated that they would comply with recommendations from a consultant.

Town Manager Hernstadt requested a list of coastal communities that used the three turtle lighting options. Director Horswood replied affirmatively.

Mayor Murphy indicated that they would have a mutual dialogue with Rob Phelan and Lee County officials.

He stated that there had to be a collaboration between the County and the Town. He thanked FPL for their presentation.

Town Manager Hernstadt explained that the County provided a basic level of services and the Town was responsible for lighting upgrades. He stated that the FPL option would be the cheapest because of the existing poles. Council Member Allers discussed existing lighting technology and stated a solution was out there, but it came with a cost. Mayor Murphy reiterated that they had to work with the County.

X. CONSENT AGENDA

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

Motion carried unanimously.

A. Disposition of Surplus Items

Declare listed items as surplus and authorize staff to dispose of these items utilizing a municipal government auction service.

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

Motion carried unanimously.

B. RFP-18-20-PW; Miscellaneous Supplies Renewal #1

Authorize the Town Manager to exercise the first of two renewals in the Professional Services Agreement for On-going Uniform, Mats and Miscellaneous Janitorial Supplies with UniFirst for one year as allowed in the original contract. This is the first of two annual renewal options.

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

Motion carried unanimously.

XI. ADMINISTRATIVE AGENDA**A. RFQ-20-06-AD: Laguna Shores Channel Dredge Permitting & Design**

Approve STA #2 with Hans Wilson & Associates to initiate Permitting & Design for Laguna Shores Channel Dredge in response to RFQ-20-06-AD; allocate and appropriate \$10,000 from the \$18,000 budgeted from Town Council contingency funds and authorize the Town Manager to execute the documents.

Vice Mayor Hosafros questioned whether the neighborhood agreed to participate at the previous percentage split. Town Manager Hernstadt replied that it was hard for them to commit without knowing the final cost. He noted that the neighborhood approached the Town to get the work done.

Council Member Allers moved to approve STA #2; second by Council Member Veach.

Motion carried unanimously.

B. WCIND Grant Request

Authorize the Town Manager or his designee to submit a grant application to West Coast Inland Navigational District (WCIND) for Law Enforcement Grant Requests for marine patrol and enforcement.

Vice Mayor Hosafros moved to approve authorization; second by Mayor Murphy.

Motion carried unanimously.

C. Community Pool Water Slide Replacement

Authorize the Town Manager to waive the procurement policy and execute an agreement with A OK Playgrounds in the amount of \$98,433 to replace the water slide at the Fort Myers Beach Community Pool. Allocate and appropriate funds necessary for purchase from Capital Budget.

Vice Mayor Hosafros moved to authorize; second by Council Member Allers. Cultural Parks & Recreation Director Alison Giesen explained that the lowest bidder did not have a comparable product.

Motion carried unanimously.

D. Resolution 21-05, Mitchell & Stark Change Order 1

Authorize the Town Manager to execute the final balancing Change Orders with Mitchell and Stark for Estero Boulevard Water Main RFQ-13-02-PW.

Council Member Atterholt moved to authorize; second by Council Member Allers.

Motion carried unanimously.

- E. Resolution 21-06; Mitchell & Stark Change Order 2
Authorize the Town Manager to execute the final balancing Change Order with Mitchell and Stark for Estero Boulevard Water Main RFQ-13-02-PW.
Council Member Atterholt moved to authorize; second by Council Member Allers.
Town Manager Hernstadt pointed out an error in the amount of days.
Council Member Atterholt amended his motion to include the change; second by Council Member Allers.
Motion carried unanimously.
- F. Resolution 21-07; Mitchell & Stark Change Order 1
Authorize the Town Manager to execute the final balancing Change Order with Mitchell and Stark for Estero Boulevard Water Main RFQ-13-02-PW.
Council Member Veach moved to authorize; second by Council Member Allers.
Motion carried unanimously.
- G. Resolution 21-08; Mitchell & Stark Change Order 1
Authorize the Town Manager to execute the final balancing Change Order with Mitchell and Stark for Estero Boulevard Water Main RFQ-13-02-PW.
Council Member Atterholt moved to authorize; second by Council Member Allers.
Motion carried unanimously.
- H. Resolution 21-09: Phase 4 Joint Outfalls
Authorize the Town Manager to execute the final balancing Change Order with Mitchell and Stark for Phase 4 Joint Outfalls ITB-17-24-PW. Phase 4 Joint Outfalls with a decrease in contract amount of \$674,992.72.
Effective date of final Change Order: February 16th, 2021.
Council Member Veach moved to authorize; second by Council Member Allers.
Motion carried unanimously.
Utilities Director Cory Christy revealed a total savings of \$7.1 million.

I. Resolution 21-10; Angie Brewer & Associates, LC

Authorize the Town Manager to execute an agreement between The Town of Fort Myers Beach and Angie Brewer & Associates, LC, piggybacking the Collier County Agreement per the Town procurement ordinance. Angie Brewer & Associates, LC. will provide State Loan Funding and related grant management services to include Planning, Application, Administration, Compliance and Program Management Services for the SRF Program or other grant and/or loan funding sources.

Vice Mayor Hosafros moved to approve Resolution 21-10; second by Council Member Veach.

Motion carried unanimously.

J. Resolution 21-11; North Estero Phase 2, Part 2 SRF Loan Agreement

Authorize the Town Manager to execute loan agreement between SRF and The Town of Fort Myers Beach.

Vice Mayor Hosafros moved to approve Resolution 21-11; second by Council Member Atterholt.

Motion carried unanimously.

K. Resolution 21-12; North Estero Phase 2 Part 2 Change Order

Authorize the Town Manager to execute Change Order 1 for Phase 2 Part 2 Water-SW Technical Services During Construction, increasing the cost amount by \$42,144.00 on proposal 240-000-0111 with Angie Brewer & Associates, LC.

Council Member Allers moved to authorize; second by Vice Mayor Hosafros.

Motion carried unanimously.

L. Resolution 21-13: Phase 2 Part 1 Water-SW Technical Services

Authorize the Town Manager to execute an agreement for Phase 2 Part 1 Water-SW Technical Services During Construction in the amount of \$126,423.72 on proposal 240-000-0113 with Angie Brewer & Associates, LC.

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

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

Approve contract with REDD Inc, DBA Town Lighting Engineers for the design-bid-build process in response to RFP-21-03-PW-Lighting Consultant up to the amount of \$185,000; allocate and appropriate funds from Reserves and authorize the Town Manager to execute the contract documents with Town Council's consideration.

Council Member Allers moved to authorize; second by Vice Mayor Hosafros. Town Manager Hernstadt reviewed the contract. Public Works Director Chelsea O'Riley provided background on the firm. Town Manager Hernstadt explained why they needed to hire a lighting consultant. Vice Mayor Hosafros stated this was the first time the Town hired someone to conduct the study.

Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

A. Authorize the expansion of scope for the beach renourishment and request TDC grant funds

Authorize the expansion of scope for the beach renourishment project to include Central and South Beach Segments designated as Critically Eroded by the FDEP. Request \$50,000 in additional TDC Grant funds to allow for concurrent design and permitting of the extension providing for time and cost efficiencies.

Town Manager Hernstadt stated that with Council's approval, staff would bring back the item for consent at the next meeting. Consensus was reached to move forward.

XIV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. addressed the comments from Mr. Persaud and noted he would work with him regarding consumption on-premises. He emphasized that he did not have direct contact with Mr. Persaud. Town Manager Hernstadt added that Mr. Persaud copied numerous individuals in his communications.

A. COVID-19 Emergency Declarations

Town Attorney Herin, Jr. explained the proposed Emergency Declaration #8. He questioned whether they wanted to incorporate Emergency Declaration #7 regarding facial coverings and social distancing. He noted that special events could be added.

Mayor Murphy moved to eliminate prior Emergency Declarations that the governor superseded (1 through 6) and they retain their local ordinance requiring face coverings and social distancing, including in all businesses and special events would be left to the discretion of the Town Manager. No second.

Vice Mayor Hosafros pointed out that they just received the proposal yesterday. She supported the policy to continue to allow the Town Manager to use his discretion for special events. Discussion was held regarding appealing denial of special events. Mayor Murphy amended his original motion to remove the language regarding special events. Town Attorney Herin, Jr. stated that Emergency Declaration #7 was still in effect.

Mayor Murphy moved to eliminate prior Emergency Declarations (1 through 6) that the governor superseded, and they retain their local ordinance requiring face coverings and social distancing, including all businesses; second by Vice Mayor Hosafros.

Council Member Allers did not support the Declaration due to the availability of vaccines and continued education. Mayor Murphy stated that they were in a unique situation due to the coronavirus variants in Florida. He indicated they were not out of the woods and they should continue to be vigilant to ensure the situation did not reverse. Council Member Atterholt supported CDC guidelines, but he did not support the Declaration because fines could not be collected. Council Member Veach described the variants and noted they had to get the numbers down regardless of the vaccines.

Town Manager Hernstadt noted they wanted to work cooperatively with everyone, but they had to do what was best for the residents. Mayor Murphy commented that several business owners supported a mask mandate.

Motion carried 3-2 with Council Members Allers and Atterholt dissenting.

B. Beach Access Bathroom Policy

Town Attorney Herin, Jr. reviewed the resolution. Vice Mayor Hosafros suggested adding in residential neighborhoods after the words, public beach access points. Mayor Murphy read the title of the resolution, including the addition.

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

Motion carried unanimously.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Atterholt shared an ad campaign encouraging people to support clean water by contacting their legislators. He thanked everyone involved. He received support to add a discussion regarding complaint-driven enforcement at a future M&P Session.

Council Member Allers received support to discuss the green bicycle lane marking and red crosswalk at on North Estero at Carlos Circle at a future M&P Session.

Town Manager Hernstadt encouraged members to visit the site. He noted they were looking at installing directional signs where the bicycle lane merged onto the sidewalk. Council Member Allers commented that the No Wake signs would be reinstalled. He requested that boaters and jet ski operators slow down.

Vice Mayor Hosafros reminded everyone to ride their bicycles with traffic. Mayor Murphy discussed dodging electric bicycles on sidewalks and reminded citizens that electric bikes were not allowed on sidewalks. He stated that the St. Patrick's Day parade was canceled again this year.

No items from other members.

XVI. ADJOURNMENT

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

The meeting was adjourned at 11:49 a.m.

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



Amy Baker, Town Clerk