



Fort Myers Beach Town Council

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

Minutes**Monday, May 17, 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

Deputy Town Clerk Jason Freeman.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member Atterholt moved to move B. from the Consent Agenda to the Administrative Agenda; second by Vice Mayor Hosafros.
Motion carried unanimously.

V. PUBLIC COMMENT

Janet Kernan questioned why the Town denied a permit for Beach Talk Radio to host their program at Times Square. She discussed inconsistency at Town Hall. Jesse Hallman, resident, questioned inconsistency in the permitting process. He discussed the 10-foot setback. He requested an extension of the 7.6-foot setback for his property. He described what he was going through and asked for consistency in the zoning and where he could find the rules.

Tommy Kohler from the Lighthouse Resort questioned the proposed sidewalk from Crescent St. and Third St. to connect to Old San Carlos. He stated that the sidewalk would eliminate their parking on Third St. He indicated that Public Works Director Chelsea O'Riley provided photos of the area.

he noted they supported the sidewalk but did not want to lose their parking and suggested that the sidewalk be ground level.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach recognized Casey Bishop for her American Idol appearance. Mayor Murphy agreed and read a Proclamation naming Tuesday, May 18, 2021, as Casey Bishop Day in the Town of Fort Myers Beach. Council Members agreed with the Proclamation. He recognized Tuna Skins for their fishing tournament.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

No items.

VIII. CONSENT AGENDA

- A. Florida Department of Environmental Protection Clean Vessel Act Grant for the Matanzas Pass Mooring Field

Authorization to apply for and execute an approximately \$41,000 grant agreement with the Florida Department of Environmental Protection for the Clean Vessel Act Grant for the Matanzas Pass Mooring Field.

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

- B. Approval of STA No.10 to Contract No. RFQ-20-06-AD for Beach Monitoring & Survey Work

Approve STA No.10 to Contract No. RFQ-20-06-AD for monitoring & surveying the beach profile along the entire length of Fort Myers Beach, and survey the burrow area offshore of North Estero Island, and allocating \$15,000 from Town Hall Remodeling Project 088 for project funding.

Moved to the Administrative Agenda for discussion.

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

Town Manager Hernstadt discussed how it related to the next item on the agenda. He stated that monitoring and surveying the beach was not covered by TDC (Tourist Development Council) funds but beach renourishment was. Michael Poff from Coastal Engineering provided beach renourishment details. Motion carried unanimously.

IX. PUBLIC HEARINGS

- A. Ordinance 21-04: Text Amendment to LDC Sec 34-3273, Residential uses and setbacks on non-conforming lots and 34-268 Administrative Setback variances
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, SECTION 34-268 ADMINISTRATIVE SETBACK VARIANCES AND SECTION 34-3273 GENERAL REQUIREMENTS FOR RESIDENTIAL USES ON NON-CONFORMING LOTS; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 7, 2021 at 9:00 AM

Town Attorney Herin, Jr. read the title of the ordinance. Director of Community Services Jason Green reviewed changes to the ordinance. No public comment. Mayor Murphy moved to move it to a second reading on June 7, 2021, at 9:00 a.m.; second by Vice Mayor Hosafros.
Motion carried unanimously.

- B. VAC 20210035, Vacation of a portion of School Street Right-of-Way **Authorize the vacation of a portion of Town right-of-way on School Street to the Lee County School Board.**

Town Attorney Herin, Jr. explained the reason for vacating the portion of Town right-of-way.
Council Member Atterholt moved to authorize the vacation; second by Vice Mayor Hosafros.
Motion carried unanimously.

X. ADMINISTRATIVE AGENDA

- A. Mooring Field / Upland Services

Mooring Field Upland Services Site Discussion

Town Manager Hernstadt provided slides and hard copies from Coastal Engineering. Slides included: Potential Amenity Property Overview; Pros and Cons of Site 1 on 131/133 Estero Blvd.; Pros and Cons of Site 2 at Harbor House; Pros and Cons of Site 3 at San Carlos Maritime Park and Pros and Cons of Site 4 at Virginia Ave. Town Attorney Herin, Jr. stated that he was very reluctant to consider the property on Virginia Ave. due to the lack of a plat dedication. Slides continued with Pros and Cons of Site 5 at Chapel Street Lots; Pros and Cons of Site 6 at Tops Grocery Property 2545 Estero Blvd. and Pros and Cons of Site 7 at Bay Oaks.

Council Member Allers supported looking into the Chapel Street lots. Vice Mayor Hosafros felt they would get residential pushback and she supported investigating Site 1. Council Member Allers suggested continuing discussions regarding Site 2. Council Member Veach felt Site 1 had potential. Sites 4 and 6 were eliminated.

Town Manager Hernstadt explained that funds originally set aside for the Bayside Park building were used in Times Square. Council Member Veach

indicated that he was not of fan of investing money off-Island or building on leased land concerning Site 3. Town Manager Hernstadt will research the remaining sites.

Council Member Veach questioned whether grant money from the federal government could be used. Vice Mayor Hosafros did not think it would qualify under the guidelines.

B. North Estero Phase 2 Side Streets STA

Authorize the Town Manager to execute a Supplemental Task Authorization for Tetra Tech not to exceed \$241,780 for North Estero Phase 2 Side Streets additional services for Water and Stormwater improvements and CEI under Contract No 14-15-PW.

Vice Mayor Hosafros moved to authorize the Town Manager; second by Council Member Atterholt.

Motion carried unanimously.

C. RFQ-21-09-EN Beach Renourishment Professional Services Professional Services Agreement

Authorize the Town Manager to execute the Professional Services Agreement in response to RFQ-21-09-EN for Beach Renourishment in the not to exceed amount of \$170,000 and appropriate and allocate the funds to be reimbursed by the TDC.

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

Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

Jesse Hallman stated that the property on Virginia Ave. was used to store old building materials and it was an eyesore. He questioned whether the property would be sold. Janet Kernan thanked Council Member Atterholt for bringing up evaluating Town Manager Hernstadt.

XII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt noted that Virginia Ave. would be secured. He listed dates for future hazardous waste collections at Bay Oaks. He indicated that an outside summer camp group requested the use of the Bay Oaks pool. He commented that they could interfere with residents' use, but it had been done in the past. Town Manager Hernstadt confirmed that Mr. Hallman was caught up in the middle of the code change. He questioned whether Council wanted to modify the rules for him. Vice Mayor Hosafros requested clarification. Director Green explained that there were two parts to his request. Mayor Murphy felt that they needed more information from the property owner.

Council Members agreed they needed more information and Mr. Hallman was directed to go through the normal process of requesting a variance. Town Manager

Hernstadt discussed Mr. Kohler's request concerning the sidewalk and parking. Council Members agreed with a compromise to allow cars to back up over the sidewalk. Town Manager Hernstadt will investigate the situation at SOB (Smokin' Oyster Brewery.) He stated that Council could allow additional uses at Times Square or any other public place regarding the Beach Talk Radio program. He indicated that Ed Ryan applied for a street performer but was denied. Vice Mayor Hosafros stated that Beach Talk Radio was a business and not a street performer. Selling merchandise and advertising was not allowed. Council Member Atterholt discussed first amendment rights and bringing the community together. Council Member Allers questioned where to draw the line. Town Manager Hernstadt stated that the content of the program had nothing to do with anything and they either complied with the code or did not. Council Member Veach noted that the commercial aspect made it a problem.

XIII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. forwarded the Town Manager's contract to Council Members including the evaluation form.

He stated that failing to conduct the Manager's evaluation before the end of May did not void his contract.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers stated that the Sheriff's Dept. would meet with Beach Baptist tomorrow concerning using their site. He indicated that the parking lot between Wynn's and the Lighthouse Tiki was owned by the Town and might work. Vice Mayor Hosafros reported that the TDC went to the second level to approve their projects and the next step was approval from the Lee County Commissioners. She discussed Chicago bringing in feral cats to keep their rat population down.

Mayor Murphy stated they were observing the blue-green algae situation in Lake Okeechobee carefully. He encouraged the community to keep up the pressure on elected officials. He noted that the Proclamation for Casey Bishop would be framed and sent to her.

Council Member Veach described red tide readings and respiratory issues. He questioned whether the Town was maintaining the property on Virginia Ave. Town Manager Hernstadt replied that they were considering controlling access to the site. He noted the neighborhood could adopt the lot for a park.

XV. ADJOURNMENT

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

The meeting was adjourned at 11:01 a.m.

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



Amy Baker, Town Clerk