



Fort Myers Beach Town Council

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

Minutes

Monday, August 2, 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 final agenda; second by Vice Mayor Hosafros.

Motion carried unanimously.

V. PUBLIC COMMENT

Dave Maiser, resident requested that the Town Council review and overrule a decision made by Steve Wick concerning a marine construction permit. He described the background of the issue.

Gordon Curren addressed the same issue and stated that they wanted to rebuild what was on the canal before demolition.

Joshua Maxwell, Chief Engineer with Turrell, Hall & Assoc. spoke on behalf of Harbour Pointe Condominiums docks. He reviewed the permitting process and stated that they received a permit through Stokes Marine to rebuild the piers, so Stokes demolished the existing piers. The revision for shorter finger piers was denied and caught them by surprise. He noted they would have left the finger piers alone if they knew they would be denied. He requested permission to build out to the existing pre-empted area.

Mike Kayusa, attorney for John Surfus. He noted that Mr. Surfus was interested in purchasing 286 Virginia from the Town. He questioned the next step. Mayor Murphy directed him to the Town Manager and Town Attorney.

Sharon Faircloth, the owner of Holiday Water Sports, requested that Ordinance 21-03 be amended. She explained how the language in Sec. 32-113 could put her business and others in peril. She requested that the language be changed to the language in Articles 1 and 2 in Chapter 14, which passed in 2002. She indicated that the new language required businesses to move their equipment off the sand at night. Ms. Faircloth discussed the lack of storage and parking for their equipment and the amount of time it would take to move their equipment every day. She requested that Council place the item on the August 16, 2021, agenda. Tony Wallis from Stokes Marine discussed the Harbour Pointe docks and described the reduced footprint of their current plan. He requested that the permit denial be reviewed.

John Gucciardo from TPI requested approval of a permit for a groundbreaking ceremony on August 13, 2021. He stated they would follow all CDC guidelines. He indicated the event would be streamed on their Facebook page.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Atterholt thanked the citizens who participated in the lighting study. He mentioned the situation in Cuba.

Council Member Hosafros announced that the Beach Ministerial Administration was holding a back-to-school bash on August 11, 2021. She noted those interested in donating should contact the local churches, except for the Church of Ascension, and details would be forthcoming.

Council Member Allers thanked everyone who spent time and energy with the lighting consultants.

Mayor Murphy presented Council Member Veatch with a letter of recognition for completing a course for newly elected municipal officials with FLC University.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

- A. Cultural and Environmental Learning Center Advisory Board (CELCAB)
Chair Barbra Hill reported that CELCAB voted to recommend \$9,000.00 to fund new programs at Mound House and Newton Beach Park, and support a \$9,000.00 match from The Friends of the Mound House. She explained that they needed to fund new programs and events. Chair Hill also requested that Director Giesen be permitted to participate in the Leadership Lee program, which brought the total budget request to \$10,000.00.
- B. Public Safety Committee (PSC) Chair John Goggin read a report summarizing the results of the public safety survey. The top three issues were pedestrian safety, the homeless population and bike traffic. He provided details of sub-issues under the categories. He stated that the PSC recommended that the Council appropriate funding for community policing services in the 2021-22 budget. The majority felt that the number of officers to be contracted should be left up to the Council, but many felt that two officers would not be sufficient. He provided examples of how community policing would operate on the beach. He discussed crosswalks, bike lane markings, bike lights and audible devices, electric bikes and motorized vehicles on sidewalks and jaywalking. Chair Goggin requested the Council's consent to invite all organizations who assist the

homeless population to meet and explain their services. A meeting would allow each organization to coordinate its efforts to provide services more holistically and educate the public. Council Member Hosafros stated that the Beach Ministerial Association was already offering services to the homeless population. Chair Goggin suggested meeting with Council Member Hosafros to discuss the intent. Chair Goggin discussed the street lighting consultant's presentation at the recent joint PSC and MRTF (Marine Resources Task Force) meeting. The PSC determined there were insufficient data points to make an informed decision on which option was best. He discussed five options presented by the consultants and explained why they were problematic.

Chair Goggin concluded that overall the community felt safe. He noted that other issues raised were forwarded to the Town Manager.

Anchorage Advisory Committee (AAC) Chair Katherine Light supported renewing the contract with Matanzas Inn.

VIII. APPROVAL OF MINUTES

A. June 7, 2021 Town Council minutes

Change the following on Packet Page 14: Council Member Atterholt ~~questioned~~ suggested naming something to honor Dan Hughes.

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

Motion carried unanimously.

B. June 9, 2021 Management & Planning Session minutes

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

Motion carried unanimously.

IX. CONSENT AGENDA

Council Member Atterholt moved to approve the consent agenda; second by Council Member Hosafros.

Motion carried unanimously.

A. Children's Vision and Learning Month

Proclamation: Children's Vision and Learning Month

Council Member Atterholt moved to approve the Proclamation; second by Council Member Hosafros.

Motion carried unanimously.

B. Resolution 21-33: A/V Upgrades to Council Chambers

Adopt Resolution 21-33:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN COUNCIL TAKEN IN REGULAR SESSION ON JUNE 7, 2021 REGARDING THE REPLACEMENT OF THE TOWN'S AGING AUDIO VIDEO EQUIPMENT USED TO RECORD AND BROADCAST THE TOWN'S PUBLIC MEETINGS IN AN AMOUNT NOT TO EXCEED \$283,550.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Atterholt moved to adopt Resolution 21-33; second by Council Member Hosafros.

Motion carried unanimously.

Town Clerk Baker stated that all the infrastructure was in and they were waiting on the equipment.

X. PUBLIC HEARINGS

A. Ordinance 21-05: TECO Franchise Agreement

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA GRANTING TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE NATURAL GAS FRANCHISE AGREEMENT TO USE THE PUBLIC RIGHTS OF WAY OF THE TOWN OF FORT MYERS BEACH FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE; AND REPEALING PRIOR ORDINANCE. Second reading and final adoption.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated that it was properly advertised.

Christopher Lopez, Director of External Affairs for TECO People's Gas, was available to answer questions. He noted the service went south down to Junkanoo, but they had plans to line the entire island in the future. He indicated it might be difficult to get a 10-year contract approved. He requested a minimum of 20 years or a 10-year contract with two 5-year auto-renewals. He could not provide details regarding capital costs, but he would get back to them concerning projected costs.

No public comment.

Town Manager Hernstadt supported the 10-year contract with 5-year renewals as long as they were subject to review and approval by Council.

Council Member Hosafros moved to adopt Ordinance 21-05, amending Section 4 to the renewal years as discussed with the 5-year renewals and changing Section 7 from 10 to 14 days; second by Council Member Allers. Motion carried unanimously.

XI. ADMINISTRATIVE AGENDA

A. Resolution 21-35: LCSB Shared Use Interlocal

Adopt Resolution 21-35 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.

Council Member Hosafros moved to adopt Resolution 21-35; second by Council Member Veach.

Motion carried unanimously.

B. Authorize Town Manager to Execute Grant(s) for FY 21-22

Authorize the Town Manager to appropriate, allocate funds and execute grant documents for the following three grants: Clean Vessel Act Grant, Tourist Development Council Grant and the West Coast Inland Navigation District Grant for the 2021-2022 Fiscal Year.

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

Motion carried unanimously.

C. Replacement of Utility Vehicle

Authorize the replacement of Utility Truck in the amount of \$49,366.00 from Duval Fleet utilizing the State Procurement Contract; allocate the old utility truck as surplus to be auctioned at Royal Auction Group (estimated value \$9,000) and authorize the Town Manager to execute contract documents.

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

Motion carried unanimously.

D. Purchase and Install Marina Pumps

Authorize the purchase and installation of two new pumps for the Marina Booster Station in the amount of \$120,062.00.

Council Member Veach moved to authorize; second by Mayor Murphy.

Motion carried unanimously.

E. Roar Offshore Boat Races

Special Event- Roar Offshore Boat Races to be held October 7-9, 2021

Town Manager Hernstadt noted that the application was essentially the same as it was two years ago, except that the County was more restrictive regarding the use of their facilities. He added that the group requested that the open container law be waived again this year. Council Member Hosafros questioned the lack of port-a-johns on the beach. Cindy and Tim Hill, promoters for the event replied that they did not have permission from Lee County to use their property. Town Manager Hernstadt indicated that the Town would work with the promoters to find a suitable location(s).

Council Member Veach questioned their use of lights. The Roar

representative replied that the lights would be located at the pits. Town Manager Hernstadt clarified that the event did not have all the required approvals yet.

Council Member Hosafros moved to approve the special event permit contingent upon all approvals being received and the parties working to place the same number of bathrooms that were on the Lee County property before in a similar location, to be coordinated with the Town Manager; second by Council Member Allers.

Motion carried unanimously.

F. Poker Walk

Special Event - Walk the Arches - Poker Walk to be held October 2, 2021 Jamie Kouba, Vice President of Restore Fort Myers Beach Arches Inc., reviewed the history of the arches and their organization. She noted that the group needed to raise approximately \$80,000.00.

Council Member Atterholt moved to approve the event; second by Council Member Veach.

Motion carried unanimously.

G. 3rd Annual Rock the Arches

Special Event - 3rd Annual Rock the Arches Music Festival to be held April 23, 2022

Jamie Kouba, Vice President of Restore Fort Myers Beach Arches Inc., described the event.

Council Member Atterholt moved to approve the event; second by Council Member Hosafros.

Motion carried unanimously.

H. Rugby on the Beach

Special Event - Rugby on the Beach to be held August 7, 2021 Council Member Hosafros noted that field number two looked like it was behind private residences. She commented that in the past they disrupted property by the Red Coconut.

Council Member Hosafros moved to approve the event with the condition that they obtain approval from adjacent property owners; second by Council Member Atterholt.

Motion carried unanimously.

I. Groundbreaking Celebration

Special Event - TPI Groundbreaking Celebration is scheduled for August 13, 2021.

Jackie Liszak, Executive Director of the Fort Myers Beach Chamber of Commerce and Vice President of Fort Myers Beach Friends of the Arts, described the event as stated in the application. She noted attendees were limited due to construction, but the public was invited to attend on the beachside.

Council Member Hosafros moved to approve the permit; second by Council Atterholt.

Motion carried unanimously.

J. RFP 20-24-PW: Municipal Anchorage (Upland Services)

Authorize the Town Manager to execute, allocate and appropriate funds for Upland Services for the Town's Mooring Field with Estero Bay Hotel Company dba Matanzas Inn in response to RFP-20-24-PW, Municipal Anchorage (Upland Services).

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

Motion carried unanimously.

K. Resolution 21-37, Transfer of property from TPI to TFMB

Adopt Resolution 21-37

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING THE OFFER OF TPI-FMB I, LLC TO CONVEY THE REAL PROPERTY LOCATED AT 1054 FIFTH STREET, FORT MYERS BEACH FL. 33931 (STRAP NO. 24-46-23-W3-00206.0050) TO THE TOWN, AND AUTHORIZING TOWN STAFF TO TAKE ALL STEPS NECESSARY TO COMPLETE THE TRANSFER OF THE PROPERTY TO THE TOWN OF FORT MYERS BEACH; AND PROVIDING AN EFFECTIVE DATE

Council Member Veach moved to authorize staff to take all steps necessary to complete the transfer; second by Council Member Hosafros.

Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt did not see an issue with the revised permit for slips and docks at Harbour Pointe, but the code did not allow staff to approve the permit. He commented that the Council could direct him to approve the permit or require that they go through the public process for variances.

Council Member Allers moved to direct the Town Manager to process the application; second by Council Member Atterholt.
Motion passed unanimously.

Town Manager Hernstadt reported that FDOT (Florida Department of Transportation) would update them concerning the foot of the bridge design sometime this month.

A. Town Attorney evaluation

Town Manager Hernstadt noted that the Town Attorney's evaluation was due by the end of this fiscal year.

XIV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. commented that he would be available to meet with Council Members in regards to his review.

He stated that bicycle bells and lights were required by Florida state law.

Town Attorney Herin, Jr. explained that without a homeowner's association, the Town would have to obtain approval from individual property owners to transfer ownership of their beach access. He stated that the Town was working with several current condominium and homeowner associations to take over ownership to obtain funds for beach renourishment projects.

Town Attorney Herin, Jr. described the process to discover who had control of certain beach accesses where ownership was not determined. Council Member Hosafros supported spending funds to continue to pursue that avenue. She suggested that they send a letter to the residents of Sandpiper Village to call a meeting regarding turning over their beach access to the town. Town Attorney Herin, Jr. agreed to send letters.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers suggested using Bay Oaks and the Town's parking lot for metered parking on weekends and holidays. Council Members agreed to add it to an M&P. He reported that the County was still working on marking bike lanes. He noted that Town Lighting was meeting with Lee County this week for their input on lighting Estero Blvd. Council Member Allers suggested creating educational videos to post on the Town's website for visitors. Council Member Veach suggested creating a brochure for vacation rental companies. Council Member Allers questioned adding Ms. Faircloth's issue to an M&P. Council Members supported adding it to the August 5, 2021 agenda. Council Member Allers questioned who to contact regarding vegetation growing over the sidewalk on Estero Blvd. Town Manager Hernstadt stated that he would bring it up at their next meeting with the Estero project team. Council Member Allers encouraged people to support contact Colonel Kelly regarding the 10-year Okeechobee plan by contacting the Captains for CleanWater website. The deadline for comments is August 4, 2021.

Council Member Hosafros expressed disappointment that the massive house on near Aberdeen was not on the agenda. When she contacted Director Green regarding that house, he informed her that a second house was planned and larger than the first. She questioned why they were not presented with anything. Town Manager Hernstadt commented that the LDC (Land Development Code) consultant would be at the next M&P. Council Member Hosafros distributed a draft ordinance from Sanibel regarding gas-powered blowers. She received support to add it to the next M&P agenda.

Council Member Atterholt stated that Times Square Merchants were interested in updating their lease agreements. A liaison for the merchants should make suggested changes to the current lease and submit to Town Manager Hernstadt for review with the attorney.

Council Member Veach questioned adding a condominium recertification process to a future M&P. Council Member Hosafros suggested sending it to the LDC review consultant. Town Manager Hernstadt commented they would add it to the next M&P. Council Member Veach questioned reverting to social distancing at Council meetings per the CDC guidelines. Council Members agreed with social distancing and a mask recommendation for meetings until CDC guidelines change. Council Member Veach received support to move forward with a workforce housing initiative.

Mayor Murphy discussed the meeting with local mayors and the Army Corp of Engineers to discuss the plan for Lake Okeechobee. He described touring the C43 facility and recommended the tour. He noted that articles regarding C43 and LOSOM (Lake Okeechobee System Operating Manual) appeared in the Sunday newspapers.

- A. Resolution 21-36 - Council Policies and Procedures Manual
Update Town Council Policies and Procedures Manual to reflect changes by Councilors
Town Attorney Herin, Jr. mentioned some changes. Council Members Veatch, Hosafros and Atterholt pointed out errors and suggested additional changes or clarifications. Town Attorney Herin, Jr. will make the changes.
- B. Town Manager evaluation - not discussed.
- C.

XVI. ADJOURNMENT

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

The meeting was adjourned at 12:05 p.m.

Minutes adopted with changes, August 16, 2021; Motion by Vice Mayor Hosafros and seconded by Council Member Atterholt. Adopted 5-0.

A handwritten signature in blue ink, appearing to read "Amy Baker".

Amy Baker, Town Clerk