



Fort Myers Beach Management & Planning Session

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

Minutes

Thursday, August 5, 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. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Lee County Update

An update of Lee County projects on Fort Myers Beach

Rob Phelan from LDOT (Lee County Department of Transportation) stated that Council Members received an update yesterday. He expected more paving later in the month. He noted that Lee County met with Town Lighting consultants and discussions were ongoing. He described the arterial lighting program and noted Estero Blvd. did not fall into that program; however, the County was committed to providing standard lighting at crosswalks. Additional crosswalk devices were not included in the lighting criteria. He indicated that Estero Blvd. was classified as a local road, but he did not know the lighting standard.

B. Comprehensive Plan Update Status

Town Comprehensive Plan Update Status

Town Manager Hernstadt reviewed specific topics the Corradino Group would address.

Community Development Administrator Daphnie Saunders discussed the Surfside condominium collapse in Miami and reviewed the State Statute for recertifying buildings. She distributed a press release from Miami Dade county and noted that the legislature would likely take up the issue when they reconvene in September. Mayor Murphy felt it would be a good idea to

start an inventory of threshold buildings. Vice Mayor Hosafros suggested they contact their lobbyist before taking any action. Town Manager Hernstadt will contact Mr. Book. He discussed protection from liability issues by having the state run the process rather than the town. Town Attorney Herin, Jr. explained the 40-year recertification requirement in Miami Dade and Broward counties.

Mayor Murphy noted that individual condominiums could inspect their own buildings in the meantime. Town Manager Hernstadt commented that they would meet with the condominium associations to discuss their plans. Council Member Veach encouraged condominium dwellers to contact the Town Council regarding their thoughts and whether they felt safe.

Community Development Director Jason Green presented updates on the Comprehensive Plan (Comp Plan) and Land Development Code (LDC).

Eddie Ng from The Corradino Group utilized PowerPoint for his presentation. Slides included: Agenda and Plan Structure, Format. Mr. Ng requested approval to reorganize the plan. Council Member Hosafros agreed with a reorganization. Mr. Ng continued the presentation with: Major Conditions/Areas of Concern.

Council Member Atterholt identified water quality, COVID and traffic as three areas of concern. He brought up adding pedestrian overpass bridges, pedestrian railings to channel pedestrians to crosswalks and parking apps, among other suggestions. He stated they had to challenge the thinking that there was nothing they could do about traffic. Director Green brought up the level of service for different categories and noted there was nothing in the comp plan that set those levels moving forward. Mr. Ng discussed a framework for COVID and general public health policies.

Council Member Veach commented that they did not control some identified issues and questioned adding those items to the comp plan. Town Manager Hernstadt replied that they needed to look at opportunities. Mr. Ng discussed traffic issues in other coastal communities.

Vice Mayor Hosafros stated they needed to look at the structural parts of the LDC and Comp Plan before doing anything else. She indicated that organization, repetition and conflicts in both documents had to be the first priority.

Mr. Ng continued with Housing Affordability; Background and Challenges and Supply-Side vs. Demand-Side. Discussion regarding granny flats, efficiency units, short-term rentals and density ensued. The presentation continued with Main Street/Commercial Approach; Recent State Legislation; Property Rights Element; Peril of Flood/SLR/Vulnerability Assessment; Impact Fees and Elements. Mr. Ng offered to meet with individual Council Members for feedback.

Mayor Murphy recognized and thanked those who were originally involved with creating the state-of-the-art Comp Plan and he agreed that it needed to be updated to reflect changes over the years.

Director Green continued with slides listing Expressed Concerns and Front and Side Elevations of houses on multiple lots. Council Member Allers felt

people should have a chance to provide their input regarding the massing of properties. Council Member Atterholt welcomed further discussion. Vice Mayor Hosafros stated that they needed to address massing issues as soon as possible outside of the LDC and Comp Plan review. Council Members agreed to add the topic to the next agenda for further discussion.

C. Ordinance 15-01: Noise

Council discussion: amending Noise Ordinance with consideration to gas powered leaf blowers

Mayor Murphy noted that Council Member Allers left at 1:17 p.m.

Vice Mayor Hosafros stated she would like gas-powered leaf blowers banned and noted that some operators used ear protection while operating them.

Town Attorney Herin, Jr. indicated other jurisdictions had banned them. Town Manager Hernstadt noted that the town used both gas and electric blowers.

Council Member Atterholt suggested that town staff discuss the difference between gas and electric blowers. Town Manager Hernstadt remarked that they could conduct a demonstration. Vice Mayor Hosafros noted that Sanibel already did the research when they implemented their ordinance. Town Manager Hernstadt indicated that he would provide specifications for both models. Consensus was reached for Town Attorney Herin, Jr. to draft an ordinance.

Vice Mayor Hosafros brought up blowing leaves and other materials on Estero Blvd. Town Manager Hernstadt replied that they could add language to address the issue.

D. Metered Parking

Council discussion: adding night and weekend metered parking at Town Hall and Bay Oaks parking lots

Town Manager Hernstadt stated that 25 metered spaces could be available at Town Hall and 95 at Bay Oaks. He added that it would cost approximately

\$1,000.00 for Town Hall and \$2,000.00 for Bay Oaks, primarily for signage. He noted that it would be a temporary situation while Margaritaville construction was ongoing. Council Member Veach did not think people would find Bay Oaks to park there. Consensus was reached to move forward with parking at Town Hall on weekends and holidays.

E. Ordinance 21-03; Sea Turtle Conservation

Council discussion: Review of Sea Turtle Ordinance

Environmental Services Project Manager Chadd Chustz utilized PowerPoint for his presentation. Slides included: TFMB New Sea Turtle Ordinance (No. 21-03) and Sec. 32-113; TFMB Existing LDC Chapter 14 - Environment and Natural Resources and Sec. 14-5 Beach furniture and equipment; Previous Sea Turtle Ordinance (No. 98-03-, 02-01) and Summary of TFMB Code and Ordinance. He noted that the code regarding PWC (Personal Watercraft Code) storage at night during sea turtle nesting was not consistent between the new sea turtle ordinance and the existing PWC Code. He displayed photos of turtle nests around jet skis and false crawls.

Council Member Allers questioned what generated the change. Project Manager Chustz replied that the state released a sea turtle model ordinance, which prompted the change.

Town Attorney Herin, Jr. explained why reverting to the previous Sea Turtle Ordinance would not violate the model state ordinance. He noted that enforcement and liability issues were at the federal level because sea turtles were protected under the Endangered Species Act. Town Manager Hernstadt stated that it was not a language problem; it was an enforcement problem. He added that the new language was clearer and the old language would not improve the situation.

Council Member Hosafros noted that more people were on the beach, which exacerbated the situation. She indicated that tourist season and turtle season overlapped now. She wondered whether they should have fewer chairs available to rent in the summer. Council Member Veach questioned whether the town would be liable if a sea turtle was harmed due to the lack of enforcement. Town Attorney Herin, Jr. replied affirmatively and read the law. Council Member Atterholt questioned why they could not go back to the original language. Project Manager Chustz replied that the new language was clearer. Council Member Allers stated that it was a violation under both versions and the question was whether to enforce the ordinance. Town Attorney Herin, Jr. agreed and noted that not enforcing the ordinance exposed the town to liability.

Vice Mayor Hosafros questioned whether Eve Haverfield from Turtle Time could continue to be a mediator to resolve situations. Town Attorney Herin, Jr. replied affirmatively and noted that Ms. Haverfield continued to be involved. Vice Mayor Hosafros questioned whether they could make that a formal policy. She received consensus. Council Member Atterholt questioned whether the trash cans on the beach were in violation of the ordinance. Town Manager Hernstadt replied that they probably were and would be addressed. Project Manager Chustz indicated that he was working with FWC (Fish & Wildlife Conservation) regarding the height of the trash cans from the sand.

Mayor Murphy questioned whether Sharon Faircloth's permit was in jeopardy. Town Manager Hernstadt replied negatively but added they had to follow the ordinance.

(Recess)

F. Proposed Draft FY21-22 General Fund Budget Discussion**Council comments on Proposed Draft FY2022 General Fund Budget and Add-on List**

Town Manager Hernstadt reviewed reserve recommendations and elements of the add-on list. He stated the total add-on list was \$2,496,900.00, which left an unencumbered balance of \$24,800.00. Council Member Veach requested security cameras that were live-streamed and accessible by the Sheriff. Vice Mayor Hosafros preferred to use funds from community policing for cameras. She supported linking the cameras to the Sheriff's Department and giving them control over public record issues. Town Attorney Herin, Jr. discussed the difference between a live feed and a recording. Vice Mayor Hosafros suggested they meet with the Sheriff's Department. Council Member Veach commented that he posed the camera question to them and they preferred that the town install the camera and the Sheriff's Department would access it. Town Manager Hernstadt noted he would research the issue.

Council Member Veach questioned setting a precedent by matching the cost of dredging Laguna Shores. Vice Mayor Hosafros indicated they previously subsidized dredging. Town Manager Hernstadt will investigate the history of matching funds for dredging projects.

IV. AGENDA MANAGEMENT

A. Agenda Management

Add FGCU agreement to a future agenda. Add traffic discussion to a future M&P.

V. ADJOURNMENT

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

The meeting was adjourned at 2:06 p.m.

Minutes adopted, August 4, 2021; Motion by Vice Mayor Hosafros and seconded by Council Member Atterholt. Passed 5-0.



Amy Baker, Town Clerk

