



Fort Myers Beach Town Council

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

Minutes**Monday, August 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

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

Motion carried unanimously.

V. PUBLIC COMMENT

Elliott Kresse of Ajax Paving stated the signalized project was starting today at Times Square. He requested that the town allow them to perform flagging operations between 6:00 a.m. and 9:00 a.m. He also requested that the noise ordinance be relaxed while they were working.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Allers noted that Fire Chief Love might be leaving, and thanked him for his service. He congratulated TPI for the groundbreaking on Friday and thanked the Council Members who approved the project.

Vice Mayor Hosafros thanked the community for the back-to-school bash at Beach Baptist Church, sponsored by the Beach Ministerial Association. She thanked the Community Foundation and Kiwanis for sending volunteers and contributions.

Council Member Atterholt noted it was unique and special that the TPI developer lived in the community. He congratulated the Torgerson family for their dedication and passion for the community. He thanked everyone involved with the project. Council Member Veach echoed previous comments regarding TPI. He acknowledged the peak of turtle nesting season and thanked volunteers. He reminded people to fill holes and turn their lights off.

Mayor Murphy agreed with all the TPI comments. He hoped that the contractors and sub-contractors would have an accident-free project.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Marine Resources Task Force (MRTF) Member Mary Rose Spalletta reported that MRTF was charged with discussing the lighting project and the beach obstructions. She described the meetings with the Town's lighting consultant and noted that MRTF had objections. She indicated that Town Lighting was inaccurate regarding the benchmark cases presented. She stated not one stakeholder requested a dual-lighting fixture, yet Town Lighting was focused on that source. MRTF Member Spalletta stated that they could not find any data that showed amber lights were not safe. She noted that Town Lighting continued to push a dual-source light. She reported that the FDOT (Florida Department of Transportation) approved the use and safety of amber lighting and it was recommended for all areas of wildlife concern. MRTF requested that Town Lighting stop using the word "safer" when describing white light fixtures.

She described examples of a community using amber lights and a community that had to dim their bright white lights. The dual lighting source was not approved or commercially available. MRTF recommended that the town reject the dual light source recommendation and encouraged the Council to request that Town Lighting move forward with installing the amber light year-round.

MRTF discussed Ordinance 21-03 regarding beach obstructions and recommended that the storage site plans be reassessed. They supported 21-03 and suggested creating frontal dunes on properties so equipment could be stored behind them.

VIII. APPROVAL OF MINUTES

A. August 2, 2021 Town Council meeting

Modifications: Council Member Hosafros expressed disappointment that the massive house on near Aberdeen was not on the agenda.

Council Member Allers encouraged people to ~~support~~ contact Colonel Kelly regarding the 10-year Okeechobee plan...

Vice Mayor Hosafros moved to approve the minutes with the modifications; second by Council Member Atterholt.

Motion carried unanimously.

B. August 5, 2021 Management & Planning Session

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

Motion carried unanimously.

IX. PUBLIC HEARINGS

A. Temporary LeeTram Parking

Authorize Temporary LeeTram Parking on FMB fire district property located at 2545 Estero Blvd (Topps) for up to seven months.

Town Manager Hernstadt reviewed the background of the issue and the reason for the request.

Town Attorney Herin, Jr. swore in those providing testimony for this item and item B.

LeeTran Director Robert Codie thanked Fort Myers Beach on behalf of Lee County and LeeTran. He indicated they were expanding their services to help mitigate traffic congestion. He described how they reduced traffic flow on the north end of the island. He noted they continued to work on a dedicated transit lane to ease the pressure on Estero Blvd., but the infrastructure made it challenging. Director Codie stated that the tram route and time frame were restricted due to the grant funding. He indicated that changes outside the scope of the grant would come at a cost.

No public comment.

Vice Mayor Hosafros moved to approve the temporary use application; second by Council Member Veach.

Motion carried unanimously.

B. Resolution 21-39; VAR20210033 - 101 Gulf Drive

Recommend Approval/Denial of Variance 20210033 101 Gulf Drive Pool and Fence Location and Street Setback

Ex parte communications: Council Member Allers disclosed a drive-by. No disclosures by other Council Members.

Rick Dobbs, owner, stated that the LPA (Local Planning Agency) approved their request with conditions. He described his property lot and noted he received support from one of his neighbors but did not know the neighbor on the other side.

Assistant Community Development Director Carl Benge utilized PowerPoint for his presentation. Slides included: LPA Recommendations; Staff Findings and Recommendations; Property Information and Variance Request.

Assistant Director Benge stated the five-foot fence did not create visibility obstructions.

No public comment.

Council Member Veach moved to approve the variance with the recommendations and conditions by staff and the variance met the

requirements of the town development plan and the LDC; second by Vice Mayor Hosafros.

Motion carried unanimously.

X. ADMINISTRATIVE AGENDA

A. Resolution 21-38 - Staging on Seafarer's

Approve Resolution 21-38; License Agreement with Lee County temporary construction for Staging on Seafarer's for the Old San Carlos Boulevard Signalization Project.

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

Motion carried unanimously.

B. Mound House Restoration Repairs

As shown on the FY2021-2022 budget add on list. Approve the proposal from International Fine Art Conservation Studios Inc. for Mound House historic structure repairs estimated at \$47,730.

Vice Mayor Hosafros moved to approve the repairs; second by Council Member Atterholt.

Motion carried unanimously.

C. Island Hopper Songwriter's Festival

Special Event- Island Hopper Songwriter's Festival - Nervous Nellies is requesting to rent Bayside Park, cordon it off and have alcohol on Town property for an outdoor bar set up on their property. They will erect a small stage on their property and are requesting a waiver of the noise ordinance and to perform until 10pm. This event will run from September 24, 2021 from 6 pm-10 pm, September 25 from noon until 10 pm and September 26 from noon until 5 pm.

Town Manager Hernstadt stated that the event would not interfere with improvements to the park. Council Member Veach questioned whether there was a limit to the noise level. Town Manager Hernstadt replied that a complete noise waiver was requested. The bar would be set up on Nervous Nellies property and the neighbors would receive notice of the event.

Council Member Atterholt moved to approve the special event permits for the rental of Bayside Park during the Island Hopper Songwriting Festival; second by Council Member Allers.

Motion carried unanimously.

D. Special Event- Santini Plaza Farmers Market

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

Motion carried unanimously.

E. Special Event- Beach Baptist Farmer's Market

Special Event - Beach Baptist Farmer's Market

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

Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

No public comment.

XII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt reported the cost of installing cameras in town would be presented at the September meeting. He noted they were researching the difference between the noise generated by gas and electric leaf blowers. He has not received suggested changes from the Town Square Merchants yet regarding the rental of right of way in the square, but he expected information soon. He indicated that they would be speaking with the FDOT concerning the project at the base of the bridge. Town Manager Hernstadt revealed that the bridge might be more deteriorated than originally thought, but he hoped FDOT would move forward with the project on both sides of the bridge while assessing the condition. He stated that they were discussing the property on Virginia St. with the gentleman who requested information at the last meeting and would keep Council posted. He commented that Town Lighting would make their presentation at the September 16, 2021, M&P Session.

XIII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. reported that the trial court ruled in favor of the town regarding the Jamison case. It was expected that Mr. Jamison would appeal the adverse rulings against him to the Second District Court of Appeals, but Town Attorney Herin, Jr. was hopeful that the town would be successful. Discussion was held regarding the possible outcomes of the appeal.

The 1st Amendment case brought forward by Mr. LaCroix was denied and appealed. An injunction prevented him from being able to carry signs but not the bull horn. All briefs were filed, and the town was waiting for the ruling.

Vice Mayor Hosafros questioned whether they could formalize zoning in progress today regarding single-family residences on multiple lots. Town Attorney Herin, Jr. replied affirmatively and stated that new development applications would be subject to new regulations. Mayor Murphy was hesitant about voting on it until the public had a chance for input. Vice Mayor Hosafros replied that the public was on notice since it was discussed at a prior meeting. Mayor Murphy stated that it should be on the agenda according to policies and procedures, but Vice Mayor Hosafros disagreed and noted they just voted on an item that was not on the agenda. Council Member Atterholt requested the language of the motion put forth by Vice Mayor Hosafros. Town Attorney Herin, Jr. explained the legal difference between a moratorium and zoning in progress.

Vice Mayor Hosafros stated that her question to the Town Attorney was her motion and it had to do with single-family residential properties that were being built across multiple lots. She added that it did not involve commercial development. Town Manager Hernstadt explained the process if they did nothing today. The item would be discussed at an M&P, then go to the LPA and finally, two public hearings. He noted it might be November or December before new regulations were adopted. Applications submitted in the meantime would be put on hold until regulations were adopted. Town Manager Hernstadt added that if they voted for zoning in progress today, they could undo it at their next meeting.

Vice Mayor Hosafros moved to formalize zoning in progress regarding single-family residences being built across multiple lots.

Council Member Atterholt felt it would be helpful to include specific language in the agenda for the next meeting. He thought they had an obligation to give notice to the public for transparency and a broader buy-in.

Council Member Veach seconded the motion for discussion. He did not think it was that urgent and would prefer that they draw up specifics before voting.

The motion failed 4-1 with Mayor Murphy and Council Members dissenting. Town Manager Hernstadt will add the item to the next agenda.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Veach questioned whether Council would support the agreement with FGCU (Florida Gulf Coast University) to allow students to receive credit for their involvement with Town educational pop-ups. Town Attorney Herin, Jr. noted that the agreement did not include an indemnification clause. He indicated that he would contact FGCU regarding the issue.

Council Member Veach moved to allow the Town Attorney to modify the document and for the Town Manager to execute the agreement; second by Council Member Atterholt.

The motion carried 4-1 with Mayor Murphy dissenting.

Council Member Veach stated that MRTF requested that they direct Town Lighting to limit their options due to a potential conflict of interest with the dual-source lighting. Vice Mayor Hosafros was not comfortable with limiting their options at this point. Town Manager Hernstadt explained the scope of existing work with Town Lighting.

No items from other members.

XV. ADJOURNMENT

Council Member Allers moved to adjourn; second by Council Member Veach.

Motion carried unanimously.

The meeting was adjourned at 10:48 a.m.

Minutes adopted, September 9 2021; Motion by Vice Mayor Hosafros and seconded by Council Member Veach. Passed 5-0.



Amy Baker, Town Clerk