Fort Myers Beach Town Council

Council
Chambers2525
Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Monday, October 18, 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 MayorHosafros.
Motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Hosafros welcomed the snowbirds and reminded them to take it slowon Estero Blvd.
Council Member Veach thanked the Chamber for the boat races and thanked thepeople who counted birds on the same day.
No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Bay Oaks Recreational Campus Advisory Board (BORCAB)

Chair Betty Simpson reported that BORCAB was excited about the 60% design plan and thanked Council for their support. She noted they needed volunteers for Fright Night. She extended a special thank you to Public Works Director Chelsea O'Riley and Ed Ryan for fundraising for candy and supplies and thanked the community for their contributions.

VIII. APPROVAL OF MINUTES

A. October 4, 2021 Town Council

Vice Mayor Hosafros moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

B. October 7, 2021 Management & Planning Session

Vice Mayor Hosafros moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

IX. PRESENTATION

A. <u>FMB Camera Project - Flock Safety</u>

Town Manager Hernstadt stated that another vendor, Greenwire, could notattend but was scheduled for their next meeting.
Todd Troutman from Flock Safety in Atlanta stated he handled all the law enforcement accounts for his company. He noted they started in 2017 working with Homeowners' Associations and installing license plate recognition cameras to monitor entrances and exits. He described how the cameras worked and indicated they were infrastructure-free and ran on solar power. He reported that Lee County Sheriff's Office (LCSO) already had their software and was installing cameras. He stated the cameras were motion operated and included hotlist alerts for stolen vehicles. The cameras were $2,500.00 per year, per camera and Flock maintained the cameras.
Council Member Atterholt questioned the deterrence piece. Mr. Troutman replied that word of mouth among criminals was a deterrent and some agencies put out press releases and installed signage. He mentioned that the cameras could help with marketing efforts by identifying out-of-state license plates.
Council Member Allers questioned whether Flock recommended locations to install the cameras. Mr. Troutman replied affirmatively and gave examples ofwhere they would place cameras. Council Member Allers asked whether the cameras captured vessel numbers on boats. Mr. Troutman responded affirmatively and noted their cameras would be installed on a bridge in Charleston, SC and a marina in Port St. Lucie, FL.

Council Member Atterholt questioned how people's privacy was protected. Mr. Troutman replied that data was stored for 30 days and was only accessible by the LCSO. He added that the LSCO would share data with other law enforcement agencies.
Council Member Allers questioned whether they had mobile cameras. Mr.Troutman responded that the Flock software could be added to an in-car video.

X. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by CouncilMember Allers.
Motion carried unanimously.

A. Proposed 2022 Town Council Meeting Schedule

Approve the monthly schedule for Town Council meetings for calendar year 2022

Vice Mayor Hosafros moved to approve the monthly schedule; second byCouncil Member Allers.
Motion carried unanimously.

B. Submerged Land Lease - Mooring Field

Authorize the Mayor to execute the Submerged Land Lease with the Department of Environmental Protection for the Mooring Field, which includes the expansion west of Matanzas Pass Bridge and all associated documents.

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

C. RFP-21-19-TC Fireworks Displays

Accept the Selection Advisory Committee's rankings and authorize theTown Manager to execute a Professional Services Agreement with Zambelli Fireworks for the Town's Firework Displays as needed in response to RFP-21-19-TC in the not to exceed amount of $22,000.000 for a 20-minute firework display.

Vice Mayor Hosafros moved to accept the SAC rankings; second by CouncilMember Allers.
Motion carried unanimously.

XI. PUBLIC HEARINGS

A. Ordinance 21-06; Prohibition of Plastic Straws

First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE VI OF CHAPTER14 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED “PROHIBITION OF PLASTIC STRAWS”, TO PROHIBIT THE DISTRIBUTION OF NON-BIODEGRADABLE STRAWS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on November 1, 2021 at 9:00 AM

Mayor Murphy read the title of the ordinance.

Brad LaPorte, CEO of WinCup, Inc. and inventor of Phade straws, utilized PowerPoint for his presentation, which was included in the packet. He described the PHA polymer and discussed competitors' compostable straws. He explained why the words "marine biodegradable" were important in the ordinance.

Environmental Services Project Manager Chadd Chustz stated that adding marine biodegradable to the ordinance would not solve the littering issues, but the straws would be less of a threat to the environment. Town Manager Hernstadt discussed why marine biodegradable criteria made enforcement easier. Council Member Atterholt questioned whether paper straws and PLA straws were still legal. Project Manager Chustz replied that some plastic straws not allowed under the old ordinance would be allowed under the new ordinance and paper straws were not allowed under the new ordinance.

Town Manager Hernstadt noted that they could give businesses time to gothrough their inventory.

Vice Mayor Hosafros questioned whether there was a marine biodegradable paper straw. Mr. LaPorte replied affirmatively. Town Attorney Herin, Jr. stated that he needed help defining marine biodegradable with some kind ofbenchmark. He questioned whether the window to comply was 90 days.

Public comment:

Marine Resources Task Force (MRTF) Chair Steve Johnson noted that the Phade straw took a little longer to break down than paper straws, but the window was very narrow and the benefits far outweighed the potential downfall. He hoped the technology would expand to other products becausethe product was superior in a marine environment.

Public comment closed.

Mayor Murphy had no opposition to adding marine biodegradable to the ordinance.

Vice Mayor Hosafros moved to schedule Ordinance 21-06 to the second reading and final adoption to November 1, 2021, with the changes as discussed; second by Council Member Atterholt.

Motion carried unanimously.

B. VAR20210063 16 Pepita Street

Approve/Approve with Conditions/Denial of VAR20210063 - a variance from Table 34-3, 25 feet rear waterbody setback, for a reduction of 8 feet8 inches.

Town Attorney Herin, Jr. swore in those providing testimony for the subsequent three variances. Ex parte communications: Vice Mayor Hosafros - drive-by and conversation with LPA Member and Council MemberAllers did a boat-by. No disclosures from other members.

Jim Bougoulas, owner, described why the variance was needed. PowerPoint slides included: Purchased Property; Setbacks; Hardship; Design and Encroachment on Rear Waterbody Setback; LPA Approved the Request with Conditions; Updated Site Drawing from LPA Approval with Conditions; Front & Left Side Elevation View; Rear & Right-Side Elevation View; LDC Sec. 34- 87; Similar Irregular Lot and Approvals from Neighbors. Mr. Bougoulas stated that he did not receive any opposition letters. Community Development Director Jason Green utilized slides including Variance Request and LPA Recommendations. He stated that staff recommended denial of the request because it was new construction, and the design could be changed to meet setbacks.

Discussion was held regarding future encroachment with the addition of a pool. Mr. Bougoulas stated that they could fit a pool in the back without requesting another variance in the future.

No public comment.

Council Member Veach stated that it was not de minimus because they coulddesign it to fit in the box. Vice Mayor Hosafros indicated that the LPA moved them back and was down to one encroachment instead of three. She was willing to allow them to encroach on one corner as long as they agreed not to come back with a variance for a pool or other accessory structures. Council Member Allers agreed with Council Member Veach, but since they moved back, he was comfortable moving forward with Vice Mayor Hosafros's condition.

Council Member Atterholt moved to approve VAR20210063 including the conditions of the LPA as well as the Vice Mayor's proviso including the pool and any other use that has to comply with setbacks and the applicant met the criteria in code as set forth by the staff report; second by Council Member Allers.

Motion carried unanimously.

C. VAR20210064 3240 Shell Mound Blvd

Approve/Approve with conditions/Denial of VAR20210064 - 3240 ShellMound Blvd, a request to reduce the required accessory structure (pool) setback from five to two feet in the rear and side yard (or from five to four feet in the rear or side yard).

Town Attorney Herin, Jr. stated that all three hearings were properly noticed. Ex parte communications: Vice Mayor Hosafros drove by and had a discussion with an LPA member. No disclosures from other members.
Owner Armand McCormick stated they purchased their house last year and would like to add a pool. He described the property and noted they wanted to move the pool back to allow for room to walk around the pool. Council Member Atterholt questioned whether the neighbors approved. Mr. McCormick replied that he could not contact one neighbor, but there was no opposition from others.
Director Green reviewed the variance request and site plan. The LPA recommended a one-foot encroachment into the side and rear setbacks with conditions. Staff recommended denial for the pool to encroach the side and rear setbacks by three feet. He noted they could design the pool to fit the setback.
Vice Mayor Hosafros questioned where the pool pump would be located. Director Green did not see the site plan and was not sure. She was concerned that the noise from the pump would intrude on the neighbor. Mr. McCormick stated that it was not his primary residence and he was comfortable with the LPA conditions.
The size of the pool was discussed. Mr. McCormick indicated that the diagram was not to scale. The design of the pool was passed around to Council Members.
According to code, owner Sarah McCormick stated that the pool was less than 500 square feet and did not require a drainage plan. Director Green agreed and commented that he did not know the elevation of the property.

Council Member Allers moved to approve VAR2-210064 with the conditions put in by the LPA, that the pool equipment should be on the house or garageside of the pool and that it was consistent with the criteria for granting the approval; second by Vice Mayor Hosafros.
Motion carried 4-1 with Council Member Veach dissenting.

D. <u>VAR20210066 4969 Estero Blvd Accessory Structure in front of a principalstructure</u>

Approve/Approve with Conditions/Denial VAR20210066 - 4969 Estero Blvd, to allow an accessory structure (pool) in front of a principal structure.

Owner Armando Barba stated that he wanted to put a pool on the side of theirproperty.
Director Green reviewed the Property Information; Variance Request; Site Plan; LPA Recommendations; Staff Findings and Recommendations of Approval with Conditions.
No public comment.
Ex parte communications: All Council Members performed a drive-by.

Council Member Allers moved to approve VAR20210066 with the staff recommended conditions and it met the criteria in the code for the granting ofthe variance; second by Council Member Veach.
Motion carried unanimously.

XII. ADMINISTRATIVE AGENDA

A. <u>Restroom Trailer - Palm Avenue Beach Access</u>

Approve Resolution 21-58, allocate the funds for the purchase of a restroom trailer from Ready2Go Restroom Trailers for Palm Avenue Beach Access in the amount of $70,600 utilizing Tourist Development Council funding, as budgeted in FY22 budget, piggybacking Florida Sheriff's Associate Contract, FSA20-EQU18.0 Heavy Equipment.

Vice Mayor Hosafros moved to approve Resolution 21-58; second by MayorMurphy.
Motion carried 4-0. (Council Member Veach stepped out of Chambers.)

B. <u>Fencing Equipment Purchase</u>

Approve Resolution 21-57, allocate and appropriate funds for the purchase of fencing equipment and accessory items for Fort Myers Beach Elementary and Bay Oaks in the amount of $36,140 as budgeted in FY22 budget, piggybacking Lee County's Contract, RFP160553DKR Contract Number.

Vice Mayor Hosafros moved to approve Resolution 21-57; second by CouncilMember Veach.
Motion carried unanimously.

C. Concrete Work Bay Oaks/School Street

Approve Resolution 21-51, Impact fees for Bay Oaks Sidewalks, Allocate and appropriate Road Impact Funds and appropriate a contract with Scott Commercial Contracting, LLC. for concrete construction work and accessory items for Bay Oaks front parcel and School Street sidewalk in the amount of $32,879 in the FY22 budget, piggybacking Lee County's Contract, B190074JJB - Concrete Flat Work Sidewalks, Curbs, Gutters and other Related Items Contract.

Vice Mayor Hosafros moved to approve Resolution 21-51; second by MayorMurphy.
Motion carried unanimously.

D. Concrete Work Fort Myers Beach Elementary School

Approve Resolution 21-56, allocate and appropriate funds for contracting with Scott Commercial Contracting LLC for concrete construction work and accessory items for Fort Myers Beach Elementary School in the amount of $27,758 as budgeted in FY22 budget, piggybacking Lee County's Contract, B190074JJB - Concrete Flat Work Sidewalks, Curbs, Gutters and other Related Items Contract.

Council Member Veach moved to approve Resolution 21-56; second by ViceMayor Hosafros.
Motion carried unanimously.

E. FPL Lights Downtown

Authorization to install roadway lighting on Crescent Street, First Street, Second Street, Third Street and 5th Street in conjunction with the Downtown Sidewalks Project.

Town Manager Hernstadt requested feedback concerning the type of lighting and lighting spacing. Council Member Veach recommended that the lighting downtown be consistent with Estero Blvd. lighting. Vice Mayor Hosafros agreed with consistency and supported amber lights. Public Works Director Chelsea O'Riley stated that FP&L had an amber light available in the tariff program. Council Member Veach commented that FP&L's amber light was very low and would affect the design.

Vice Mayor Hosafros moved to approve the authorization; second by Mayor Murphy.
Motion carried unanimously.

F. <u>To allocate and appropriate funds and approve the Supplemental Task Authorization #1, in the not to exceed amount of $212,000 for design andpermitting of the Estero Island Shoreline Protection Project</u>

Approve, allocate and appropriate funds for Supplemental Task Authorization #1, in the not to exceed amount of $212,000 for design and permitting of the Estero Island Shoreline Protection Project including additional geophysical surveys, access study, State funding requests, permit processing, final design, and stakeholder meeting administration. The Town is financially responsible for 14% of $204,000 or $28,560, plus $8,000 for the southern segment beach access feasibility study.

Michael Poff from Coastal Engineering Consultants reviewed the second phase of the project, included in the packet. He stated they had developed a comprehensive management plan for the entire island. He noted they would submit permit applications to the agencies this November and anticipated a starting date in early 2023. Mr. Poff indicated they had to determine ownership of the Critical Wildlife Area (CWA) in the southern end. He estimated that if the state did not have ownership of the area, the town would be charged approximately $3-4 million for the south end. If it were deemed state-owned, the cost to the town would be zero. He stated they could put together a funding matrix for the town if needed.

Mr. Poff commented that the total cost for a Cadillac project to last 10 years would be approximately $23 million. He stated that construction in the CWA would depend on timing. He utilized PowerPoint for his presentation. Slidesincluded: Design Plan: North; Model Results: Central; Design Plan: Central; Design Plan: R198-R202; Typical Design Section; Non-Critically Eroding Segment: R200-R203; Model Results; South Versions 1 and 2; Design Plan: South; Non-Critically Eroding Segment: R207-R210; Borrow Area Design; Borrow Area Typical Sections; Pipeline Corridor Design and Summary.

Vice Mayor Hosafros moved to approve the supplemental task authorization; second by Council Member Atterholt.
Motion carried unanimously.

G. <u>Tier 1 Water and Stormwater SRF Supplemental Task Authorization ABA</u>

Authorize the Town Manager to execute an agreement for Tier 1 (17 side streets) - Water and Stormwater SRF Technical Services During Construction in the amount of $157,050.00 on proposal 240-000-0114 with Angie Brewer & Associates.

Vice Mayor Hosafros moved to authorize the Town Manager; second byCouncil Member Veach.
Motion carried unanimously.

H. Resolution 21-52: Estero Boulevard Lighting Recommendation

Approve Resolution 21-52, Estero Boulevard Roadway Safety Lighting Recommendation ratifying the decision made at the October 7th Management and Planning Session to recommend to Lee County to install amber lighting along Estero Boulevard that functions as an arterial roadway in its day to day use and authorize the Mayor to coordinate implementation.

Council Member Allers moved to approve Resolution 21-52 that they received today with the changed wording from what was originally in the packet; second by Vice Mayor Hosafros.

Council Member Veach distributed his changes and additions to the resolution. Town Manager Hernstadt revealed that the original resolution contained a cut and paste error. Vice Mayor Hosafros did not have a problem with adding Council Member Veach's additions. Council Member Allers disagreed that the changes were needed. Mayor Murphy supported theadditions.

Vice Mayor Hosafros moved to approve Resolution 21-52 with the modified "Whereas" clauses and make sure they used the substitute Resolution; second by Council Member Veach.
Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

MRTF Chair Steve Johnson stated that the FWC was considering using a broadcast application of Roundup in their management recommendation. MRTF requested a resolution or prohibition to discourage the use of glyphosate in the EC zone. He noted that MRTF unanimously voted to recommend that Council consider narrow-band amber lighting solutions when adding or replacing roadway lighting on the island. He commended Council for passing Resolution 21-52.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt reported that they were short-staffed due to staffmembers recently losing family members to Covid-19.
He questioned whether a Member of Council or a staff member was interested in participating in the Fire Department's Strategic Plan session. Consensus was reached to extend an invitation to the Chair of the Public Safety Committee.
Council Member Atterholt requested an update on guidance from the state regarding the Covid stimulus package. Town Manager Hernstadt replied that they were monitoring what other municipalities were doing and exploring options. He suggested that Council Members create a list of items for funding.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. reported that they were not 100% successful with contacting property owners regarding beach access. He will verify that the letters were mailed.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Veach stated that over 1,400 birds were on a sandbar over the weekend and children chased the birds. He requested that they install FWC signs telling people to leave the birds alone. Consensus was reached to install the signs. Council Member Veach suggested revisiting the water sports and chair rental ordinance at a future M&P. He received support to discuss the topic. Council Member Veach discussed getting rid of sandspurs without using glyphosate. He suggested a mechanical method or spraying salt water instead. He revealed that the Native Plant Society was considering moving the perennial peanut into the invasive category.

Vice Mayor Hosafros brought up scheduling a joint meeting with the LPA. Town Clerk Baker will schedule the meeting. Vice Mayor Hosafros commented on developers removing all the trees on properties when demolishing homes. She received support to add a discussion at a future M&P.

Mayor Murphy thanked the Chamber of Commerce for putting on the boat races. He announced that Gordon Flip Harvey had passed. Mayor Murphy reviewed his life, spirit and contributions to the community. He sent condolences to his wife and family.

No items from other members.

A. <u>FMB Camera Project</u>

Initial discussion of FMB camera project documentation from Flock Safety and Greenwire (at time of publication of the agenda, Greenwire had not been confirmed to be in attendance).

Discussed above.

XVII. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn; second by Mayor Murphy.Motion carried unanimously.

The meeting was adjourned at 12:42 p.m.

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

Amy Baker

Amy Baker, Town Clerk