



Fort Myers Beach Town Council

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

Minutes

Monday, November 1, 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

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

Motion carried unanimously.

V. PUBLIC COMMENT

Brandon Prince, Assistant Project Manager from Deangelis Diamond Construction (Margaritaville), was available to answer questions.

Ron Martin, the newly appointed Fire Chief for the Fort Myers Beach Fire Control District presented himself.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Allers thanked Bay Oaks and volunteers for Fright Night, and Beach Baptist for their Trunk or Treat event.

Vice Mayor Hosafros thanked Beach Baptist and the volunteers for their successful Trunk or Treat event.

Council Member Atterholt stated he and some of his fraternity brothers had a reunion and he thanked Maxine from the Wyndham, Mike from Pinchers, Al and Kathy Durrett from Fishtale, Craig, Christy, Jason and the wait staff from the Sandbar and Susan from Olivers. He thanked everyone for their hospitality.

Council Member Veach thanked Jennifer Rusk and her husband for installing a

little free library on Miramar. He encouraged people to contact him if they were interested in the program.

Mayor Murphy thanked Director Alison Giesen, staff and the fire department for Fright Night.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Anchorage Advisory Committee

Chair Katherine Light noted an outline of activities was provided in their packets. She reported that they were trying to include the dinghy dock under the bridge in the submerged land lease. Town Manager Hernstadt believed that the dock was in the town's riparian rights. Chair Light indicated that the office at the Harbor House opened on October 1, 2021, but restrooms, showers and laundry facilities were still leased out from Matanzas. A fob system will be used for patrons to access facilities. She noted that office hours would be monitored and adjusted if needed and she explained the Dockwa system. Chair Light stated that they did not expand their shower facilities by renting the office at Harbor House. It was a transitional location until a permanent solution was found. She reported that the pump-out boat would lose the dock at Matanzas soon. She questioned whether the Virginia site would be feasible, even though it did not have a seawall or a dock. Town Manager Hernstadt replied that they were exploring short-term alternatives.

Vice Mayor Hosafros supported utilizing the Virginia property to store the boat and noted they did not have to build a seawall. Town Attorney Herin, Jr. explained the right of use of the Virginia property.

Chair Light stated that the committee would be working on the Harbor Management and Strategic Plans over the next few months. She described Cruiser's Appreciation Day and noted they would no longer partner with Matanzas. She questioned whether the Council approved of AAC hosting the event next year. Chair Light received support. She questioned the Council's priorities for AAC. Mayor Murphy replied that they would get back with her.

VIII. APPROVAL OF MINUTES

A. October 18, 2021 Town Council

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

Motion carried unanimously.

IX. PUBLIC HEARINGS**A. Ordinance 21-06: Prohibition of Non-Marine Biodegradable Straws**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE VI OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "PROHIBITION OF PLASTIC STRAWS", TO PROHIBIT THE DISTRIBUTION OF NON-MARINE BIODEGRADABLE STRAWS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE. Second reading and final adoption.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly noticed. He noted the ordinance was modified to include "marine" in the definition of biodegradable. He indicated that Council could set the effective date.

Public comment:

The Phade representative stated that two of his competitors agreed to add marine biodegradable to their packaging.

Public comment closed.

Council Member Veach moved to approve Ordinance 21-06; second by Vice Mayor Hosafros.

Council Member Veach requested that businesses be allowed to use up their inventory. There was no objection.

Motion carried unanimously by roll-call vote.

B. Ordinance 21-07: Commercial Boulevard Zoning District

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, DIVISION 5, SUBDIVISION V, SECTIONS 34-701 THROUGH 34-708 "CB ZONING DISTRICT" TO CLARIFY WHAT CONSTITUTES AN EXISTING USE AND HOW AND WHEN THAT EXISTING USE CAN BE CONTINUED OR MODIFIED; TO ALLOW THE CONTINUATION OF EXISTING USES; PROVIDING FOR SEVERABILITY; CODIFICATION; ACRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on November 15, 2021 at 9:00 AM

Mayor Murphy read the title of the ordinance. Community Development Planner Sarah Propst reviewed the proposed new language. She stated that the ordinance would affect several areas in the CB district, not only the bank in Seagrape Plaza. Town Manager Hernstadt discussed intensity issues and previous uses of a parcel. Planner Propst explained that the CB zoning was not intended to be permanent and she had never seen language like that. She noted the ordinance was specific because the code listed financial institutions as offices, but not if they had drive-thru lanes. Council Member Allers

questioned the definition of small outdoor displays. Attorney Beverly Grady from Roetzel and Andress represented Robert Himmelstein, who owned the bank in Seagrape Plaza. She reviewed the history of commercial zoning and explained what the owner wanted to do with the property. Council Member Allers requested a definition of a small outdoor space. Attorney Grady replied that she could include a definition by the second reading. Council Member Veach brought up possible unintended consequences. Vice Mayor Hosafros explained that the change would make the code more normal because it was unusually restrictive. Council Member Atterholt stated that vacant buildings did not add value to the island and the ordinance could help develop vacancies. Council Member Allers discussed creating potential consequences and requested that staff look at other CB properties. Vice Mayor Hosafros agreed with the request. Planner Propst revealed that the comprehensive plan update would allow additional changes to the code to accommodate other parcels.

No public comment.

Vice Mayor Hosafros moved to schedule the second hearing of Ordinance 21-07 and final adoption on November 15, 2021, at 9:00 a.m. and that staff provides a list of CB properties on the island with a history of prior uses; second by Council Member Atterholt.

Motion carried unanimously by roll-call vote.

X. ADMINISTRATIVE AGENDA

A. ITB-21-16-PW Bayside Park Improvements

Approve and authorize the Town Manager to execute contract documents with Wright Construction for the Bayside Park Improvements in the amount of N.T.E. \$885,346 including \$44,267.30 contingency and appropriate and allocate additional funds from Fund 41 as necessary.

Vice Mayor Hosafros requested that coconut palms be replaced with native palms due to liability.

Vice Mayor Hosafros moved to authorize the Town Manager to execute the contract documents; second by Council Member Veach.

Paul Benvie from DRMP explained that there were slight changes to the overall project to help reduce costs. Shade sails were enlarged to reduce the number of poles for better visibility. The round stage was cost-prohibitive and was changed to an open amphitheater type. The number of trees stayed the same except one was removed due to the cost of moving it. He reviewed smaller changes in the design.

Vice Mayor Hosafros was disappointed that the tree was removed, especially since the Gumbo Limbo was the town tree. Town Manager Hernstadt stated that he would find a spot for a Gumbo Limbo in the Town.

Mr. Benvie indicated there was an open space for a veterans' memorial.

Motion carried unanimously by roll-call vote.

B. STA NO. 16 Addition Tier 1 Services

Authorize the Town Manager to approve STA NO. 16 for additional Tier 1 Services with Tetra Tech under Contract No. 20-22-AD for \$52,105.

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

Motion carried unanimously.

C. Clean Vessel Act Grant: Pump Out Boat Replacement

Authorize Town Staff to apply to the State for the Clean Vessel Act grant for the trade in and purchase of a replacement pump out boat from Pumpout USA in the amount of \$153,754.67 and authorize the Town Manager to execute contract documents. (Trade in value = grant match)

Town Manager Hernstadt stated that the grant required a 25% match, and the trade-in value of the pump-out boat covered the 25%.

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

Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

No public comment.

XII. TOWN MANAGER'S ITEMS

A. TPI / Margaritaville Construction Staging Plan

Town Manager Hernstadt referred to the diagram in the packet and felt it was the best approach.

Brandon Prince from Deangelis Diamond Construction stated their goal was to alleviate traffic on Estero Blvd. He indicated that they would try to limit congestion, but construction traffic would be continuous. Council Member Allers questioned whether they would shut down for holidays. Town Manager Hernstadt replied that they were on a tight schedule, but they would try to work with the Town.

B. Town Entrance Signs

Town Manager Hernstadt provided a sample design for the signs.

XIII. TOWN ATTORNEY'S ITEMS

No items.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Veach questioned whether they could create a finite time limit, or calendar, regarding accrued fines. Town Attorney Herin, Jr. explained the process to bring properties into compliance and noted that accrued fines eventually triggered a request to lien. He indicated they could file for foreclosure in some cases before the property was sold. Council Member Veach described a home that was sold with fines attached, but the seller did not have to pay the fines. The buyer had to resolve the situation with the town. Vice Mayor Hosafros stated that if they pursued legal action before a sale was in progress, the town would have to pay legal fees. Town Attorney Herin, Jr. stated that the statute allowed them to request a lien if the owner did not come into compliance within three months. He indicated that he and the staff would review current cases with large outstanding fines and report back to the Council.

Council Member Atterholt described replacing the bocci ball courts at Newton Park with a swing set. He shared a picture of the equipment. Vice Mayor Hosafros suggested that the swings could be added to the memorial bench program.

Vice Mayor Hosafros noted that the AAC voted to authorize staff to explore whether the Virginia property could be used as a place to store the pump-out boat. The majority of Council agreed, and Town Manager Hernstadt will research the feasibility.

Council Member Allers reported that the Lee County bomb squad was bringing their robot and bomb-sniffing dog for an outdoor presentation at the Woman's Club on Wednesday at 6:30.

Mayor Murphy stated that tomorrow was the opening day of softball season for 50 and over players and he was invited to throw out the first pitch.

XV. ADJOURNMENT

Council Member Veach moved to adjourn; second by Council Member Atterholt. Motion carried unanimously.

The meeting was adjourned at 11:27 a.m.

Minutes adopted, November 15, 2021; Motion by Vice Mayor Hosafros and seconded by Council Member Veach. Adopted 5-0.



Amy Baker, Town Clerk