



Fort Myers Beach Town Council

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

Minutes

Monday, January 10, 2022

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 Veach moved to approve the final agenda; second by Council Member Allers.

Motion carried unanimously.

V. PUBLIC COMMENT

Phil Winter, resident, discussed the lack of communication regarding several issues. He stated that he noticed traffic officers sitting in their cars instead of working and recycling containers were not being picked up by residents in a timely manner.

Tim Shadle stated that there were still problems with the pavers and the storm drains on Estero Blvd. He felt the increase for parking and short-term rental rates were too high and not advertised well enough.

Rose Larkin, resident, expressed concern regarding the lighting, the sail, canopies and coconut palms in the Times Square design. She noted that coconut palms were listed as invasive and hoped they would revisit the plans.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Chief Martin from the Fort Myers Beach Fire District reported that they maintained an ISO (Insurance Services Office) public protection Class 2 rating. Only 4% of fire departments and communities in the nation received the same classification. He thanked the Town, the Public Works Department and the Water Department for their partnership.

Mayor Murphy congratulated Council Member Veach for completing a course (IEMO II) offered by the Florida League of Cities.

Vice Mayor Hosafros noted that horticulture pickup might be delayed due to Covid. The town was giving away trees on January 21, 2022, at Bay Oaks between 9:00

a.m. and noon. She encouraged residents to register by January 14, 2022. She thanked the staff for preparing for New Year's Eve and cleaning up after.

Mayor Murphy congratulated Vice Mayor Hosafros for her enthusiasm in bringing attention to the free cupcakes.

Council Member Veach recognized All Island Water Sports for rescuing people on a swamped boat.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS**A. Marine Resources Task Force (MRTF)**

Steve Johnson, Chair of MRTF, reviewed four passed motions addressing pedestrian and vehicular safety and the municipal lighting ordinance; updating the vegetation ordinance; improving signage on the pump-out boat and providing cigarette disposal receptacles in Times Square.

VIII. APPROVAL OF MINUTES**A. December 6, 2021 Town Council**

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

Motion carried unanimously.

B. December 8, 2021 Management & Planning Session

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

Motion carried unanimously.

IX. PUBLIC HEARINGS**A. VAR20210073 6036-38 Estero Boulevard Pool Setback****Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback**

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: all Council Members disclosed a drive-by.

Eran Epstein, owner, stated that he was able to move parking to the front of his property to allow for a pool in the back.

Assistant Community Development Director Carl Bengé reviewed the variance request. He noted that the LPA (Local Planning Agency) recommended approval with additional conditions. One condition addressed obtaining permission from Lee County regarding driveway ingress/egress. Mr. Epstein stated that both his neighbors had the same driveway design he was requesting and had no problems.

Community Development Director Jason Green noted that staff approved the request with conditions. Vice Mayor Hosafros questioned changing the angle of the pool. Mr. Epstein replied that it was modeled after the neighbor's existing pool. Vice Mayor Hosafros noted it was not a de minimus request and Town Attorney Herin, Jr. stated that the neighbor's pool was not relevant to his variance.

Council Member Allers questioned changing the shape of the pool. Mr. Epstein stated he would work with the town.

Ms. Epstein stated they had seven children and a smaller pool would not work for their family. Council Member Allers suggested a 12-foot setback and Vice Mayor Hosafros agreed. Mr. Epstein countered with a 10-foot setback. Council Member Veach supported a 10-foot setback. Vice Mayor Hosafros stated that 10-feet was not de minimus. Council Member Allers supported a 10-foot setback.

Council Member Allers moved to approve the variance to include the rear setback at 10-feet plus the conditions of LPA and town staff; second by Mayor Murphy.

Council Member Veach discussed limiting the parking. Mr. Epstein noted they had four parking spaces under their house. Council Member Veach requested that they submit a parking plan. Council Member Allers stated that the County had already requested a parking plan.

The motion carried 3-2 by roll call vote with Vice Mayor Hosafros and Council Member Veach dissenting.

B. Ordinance 22-01; Minimum Setbacks for Large Homes and Lots

First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, ARTICLE III., DIVISION 3, SECTIONS 34-638 MINIMUM SETBACKS AND TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONS ZONING DISTRICTS; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on January 24, 2022 at 9:00 a.m.

Mayor Murphy read the title of the ordinance.

Community Development Planner Sara Propst reviewed the ordinance. She encouraged Council Members to read emails from an architect and a designer. She displayed slides with Option 2: Lot Percentages Examples and Building Massing Examples. She noted the LPA supported the proposal and not many lots would be affected by the changes.

Council Member Allers referred to packet page 40 regarding the size of garages. He stated that his truck would not fit in the garage and suggested increasing the square footage. Planner Propst indicated they could increase the depth. Council Member Veach felt they were giving property owners a lot and the proposed changes would allow them to do a lot more. He questioned whether they could require a maximum of 65 feet that could be enclosed on the ground floor. Planner Propst mentioned that 65 feet of the front facade could be enclosed and the remainder left open.

Vice Mayor Hosafros suggested adding a minimum side setback to prevent mechanical equipment from being located on a narrow side setback. Council Member Veach brought up requiring air conditioners to be on the roof.

Vice Mayor Hosafros noted they did not have an outside limit on how massive a residence could be. Mayor Murphy supported creating an outside limit.

Director Green indicated that other communities did have a maximum limit and he would provide that information along with an example of four lots backed up to one other.

Vice Mayor Hosafros moved to schedule the second reading and final adoption for February 7, 2022; second by Mayor Murphy.

No public comment.

Motion carried unanimously.

X. ADMINISTRATIVE AGENDA**A. Special Event- Concert Series.****FMB Community Foundation Special Event - #We Are FMB Concert Series at Santini Plaza**

Organizer Janeen Paulauskis noted the event would be held at Fish Tale Marina and she would work with the staff.

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

Motion carried unanimously.

B. TDC Grant Request FY23**Approve Tourist Development Council Grant Request for Fiscal Year 2023**

Town Manager Hernstadt indicated the preview of items had not changed. Council Member Atterholt thanked staff and the consultant for their work on the beach renourishment plan.

Vice Mayor Hosafros recognized Culture, Parks & Recreation Director Alison Giesen for improving their application process over the years.

Council Member Veach mentioned his reservations regarding beach renourishment; however, he did not object to the request.

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

Motion carried unanimously.

C. Resolution 22-01; Lee Tran Advertising Interlocal Agreement**Approve Resolution 22-01 authorizing the Town to enter into an Interlocal Agreement with Lee Tran for Advertising**

Mayor Murphy read the title of the resolution.

Council Member Allers moved to approve Resolution 22-01; second by Mayor Murphy.

Motion carried unanimously.

D. Resolution 21-60: Playground Equipment Purchase**Approve Resolution 21-60 authorizing the purchase of playground equipment and accessory items for Fort Myers Beach Elementary and Bay Oaks via a piggyback contract in an amount not to exceed \$320,280.**

Mayor Murphy read the title of the resolution.

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

Motion carried unanimously.

- E. Ratify the Town Manager's implementation of emergency repairs to the south water storage tank.

Ratify the Town Manager's implementation of emergency repairs to the south water storage tank.

Council Member Atterholt moved approval; second by Council Member Veach.

Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

No public comment.

XII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt addressed Mr. Winter's concerns regarding bathroom accesses and the performance of the officer at the base of the bridge.

Swings at Newton Park

Town Manager Hernstadt stated that they researched the particular swing design mentioned by Council Member Atterholt, but due to the custom design they were very expensive. Council Member Atterholt revealed they found a similar design at a more reasonable cost.

4th of July Parade

Town Manager Hernstadt questioned whether they should plan for a parade or just fireworks. Mayor Murphy added that they needed to talk about the Shrimp Festival and St. Patrick's Day parades. Town Manager Hernstadt noted those two organizations had not submitted their applications yet.

Mayor Murphy suggested that they submit their applications and wait to see what happens with the pandemic.

Pop-Up Volunteers

Town Manager Hernstadt questioned whether they were interested in waiving background checks for volunteers working at the pop-up events. Discussion was held concerning whether FGCU (Florida Gulf Coast University) required background checks for their students who volunteered in the community.

Consensus was reached to keep the background checks in place.

XIII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. stated he would forward the brief filed recently by Mr. Jamison. He noted that he would forward a copy of the town's appeal as soon as he received it. Town Attorney Herin, Jr. stated that due to scheduling conflicts he would be unable to participate in the next Town Council meeting but his associated Victor Sanabria would be filling in for him at the January 24th meeting for him.

Council Member Atterholt described an incident with the proprietor of the parking lot at Key Estero Plaza and questioned where the town stood regarding his compliance issues. Town Attorney Herin, Jr. replied that there was an active code enforcement case and the property continued to accrue daily fines. Town Manager Hernstadt stated that they were scheduled to discuss the policy regarding violators at their next M&P.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers noted the Horizon Council was holding their annual meeting next week and invited a representative from the Town to speak. Council Members agreed that Council Member Allers should present the report. Council Member Allers indicated that BORCAB (Bays Oaks Recreational Campus Advisory Board) needed two volunteers to participate in the Friends of Bay Oaks efforts to reestablish a 501(c)(3).

Vice Mayor Hosafros stated that they had 2,175 turtle disorientations last year in Florida.

Council Member Veach suggested following their own ordinance regarding uplighting trees at Bayside Park.

Town Manager Hernstadt commented that the parking fee increase had not gone into effect yet. Mayor Murphy suggested holding off on the increase. Council Member Veach and Vice Mayor Hosafros disagreed. Council Member Atterholt supported paying for what they wanted to accomplish, but there were a lot of unknowns in terms of costs to the town. He thought a fee increase was premature right now. Council Member Veach thought they should build up funds for contingencies. Vice Mayor Hosafros stated that they knew costs would increase and they should start saving funds even though they did not have an exact number. Council Member Atterholt preferred to present a specific spending plan to taxpayers before asking for increases. He commented that they did not know how much they were over budget for the three projects.

Town Manager Hernstadt responded that they were doing everything they could to stretch every dollar. He stated that they would have a new building at Bay Oaks in 2023-2024, but there were no funds at this point to furnish the building. He indicated that they did not know the costs until they were bid out in today's environment. Council Member Atterholt thought they should provide a rough estimate of where they were from a fiscal standpoint. Town Manager Hernstadt noted that they would discuss how to use the funds from the American Rescue Plan at the next M&P meeting, but there would still be holes to fill.

Council Member Veach discussed CB zoning restrictions, density and intensity. He described lean urbanism and creating templates.

Mayor Murphy reported that he met with the Commissioners and anticipated favorable results from the discussions regarding lighting along Estero Blvd. Mayor Murphy allowed public comment.

Tim Shadle stated there was a lot of opposition to the short-term rental increases. He didn't think the public attended meetings because they felt it didn't matter. He indicated that the short-term rental and parking increases should be held in escrow and not deposited in general funds. He said the biggest problem on the island was traffic and it needed to be addressed.

A. Vacation Rental Registration / Hourly Parking Rate

Council Member Allers disagreed with the increases and did not think it was a good policy to change fees because someone else did. He indicated that short-term rental owners felt they were paying to regulate themselves.

Council Member Allers questioned what the increase in short-term rental registrations would be used for. Mayor Murphy replied that the increase was to be used toward affordable housing. Council Member Veach noted that other municipalities were charging an average of \$500 for registering short-term rentals and he felt that \$300 was a bargain.

Council Member Allers stated that the initial fee for registering was to cover staff costs. If the short-term rentals doubled over the last couple of years, he would expect the rate to double. He felt that if the increase was to be used for affordable housing, the public should have the ability to provide input. Vice Mayor Hosafros commented that she thought they had adequate public input the first time the topic was discussed. She noted that rental owners were not at the meeting.

Council Member Allers mentioned the confusion surrounding parking downtown. Mayor Murphy was willing to reconsider holding off on the parking rate increase. Vice Mayor Hosafros countered that residents could purchase a very reasonably priced annual parking pass and tourists would absorb the increase. Town Manager Hernstadt brought up charging less for parking at Town Hall.

Council Member Allers stated that the increase in parking fees would affect employees who worked on the island and were not eligible for the parking pass. He suggested allowing employees access to free parking at Town Hall. Council Member Veach commented that businesses should provide parking for their employees, not the Town. He noted that the parking increase would be used for a parking app. Town Manager Hernstadt stated that the cost of the parking app sensors was surprisingly expensive.

No further action was taken on either rate increase.

XV. ADJOURNMENT

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

The meeting was adjourned at 12:54 p.m.

Minutes adopted, January 24, 2022; Motion by Council Member Allers and seconded by Council Member Veach. Adopted 5-0.



Amy Baker, Town Clerk