



## **Fort Myers Beach Town Council**

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

**Minutes**

**Monday, January 24, 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 Vice Mayor Hosafros.

Motion carried unanimously.

##### **V. PUBLIC COMMENT**

Kathy Light, resident, commented regarding the acquisition of the property on Tropical Shores and Chapel St. She was concerned because Resolution 22-04 gave the Town the right to do whatever it wanted with the property and not necessarily for the upland service facility.

Jay Light, resident, explained that the Town did not have to go through the regular variance process like other property owners. He noted the lot on Chapel St. was zoned residential. He commented that the "whereas" and "other appropriate uses" clauses in the resolution terrified him. He discussed how moving the trash transfer station behind the building affected property owners on Chapel St. He asked the Town to be cautious with the property and noted some neighbors would be negatively affected.

Chris Mosteiro, resident, discussed drainage issues on 3rd St. He stated that he had not received a solution regarding the flooding on the street and said it was worse than ever. He stated that if the Town could not get an easement to install drains, they should at least fix the road to remove the water.

## **VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Vice Mayor Hosafros thanked everyone who participated in the free tree event on Friday, January 21, 2022. She noted it was well organized and they gave out more trees than expected.

Council Member Veach commended MRTF (Marine Resources Task Force) for their beach walk with FWC (Fish & Wildlife Conservation Commission) and everyone who participated in the tree event.

No items from other members.

## **VII. ADVISORY COMMITTEES ITEMS AND REPORTS**

### **A. Bay Oaks Recreational Campus Advisory Board (BORCAB)**

BORCAB Member Bruce Butcher reported that the cupcakes at the Towns birthday party was a success. He noted that the committee had met Chris Bornfleth, the new Campus Manager for Bay Oaks. He indicated that they had to address the labor shortage at Bay Oaks. He commented that BORCAB was pleased with the Town Manager's report regarding the sequence of development for the project. He noted the addition of a bike repair station at the new entrance of Bay Oaks had a lot of support along with shade trees and hydration stations around the campus.

He noted that the Friends of Bay Oaks has been re-established and received \$1,700 from the Putt and Pub Crawl event.

Town Manager Hernstadt discussed the timeline of the project and stated it should start sometime in May.

## **VIII. APPROVAL OF MINUTES**

### **A. January 10, 2022 Town Council meeting**

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

Motion carried unanimously.

### **B. January 13, 2022 Management & Planning Session**

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

Motion carried unanimously.

**IX. CONSENT AGENDA**

Vice Mayor Hosafros moved to approve the consent agenda; second by Mayor Murphy.

Motion carried unanimously.

A. RFP-18-20-PW; Miscellaneous Supplies Final Renewal

**Authorize the Town Manager to exercise the last renewal in the Professional Services Agreement for On-going Uniform, Mats and Miscellaneous Janitorial Supplies with UniFirst for one year as allowed in the original contract.**

Vice Mayor Hosafros moved to approve authorization; second by Mayor Murphy.

Motion carried unanimously.

**X. PUBLIC HEARINGS**

A. Ordinance 22-03; Bicycle and Vehicle Safety Amendments

**First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III “BEACH BICYCLE AND VEHICLE SAFETY OF CHAPTER 28 “TRAFFIC AND VEHICLES” OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, REQUIRING SAFETY EQUIPMENT ON ALL RENTAL OR LOANED BICYCLES OPERATED WITHIN THE TOWN’S JURISDICTION AS REQUIRED BY STATE LAW; AND PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER’S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on February 7, 2022 at 9:00 AM**

Mayor Murphy read the title of the ordinance.

Public comment:

Bruce Butcher, resident, was very excited regarding the ordinance. He described the importance of bells and lights, especially around construction areas.

Jay Light, resident, suggested that sheriff deputies get out of their vehicles and walk around the town to be more visible to people.

Public comment closed.

Council Member Allers noted that John Goggin, former Chair of the PSC (Public Safety Committee) suggested that they add language regarding a speed limit on the sidewalk and create a list of appropriate Town ordinances to give to all rental agencies.

Mayor Murphy brought up riding bicycles on sidewalks. Council Member Veach indicated that bicyclists had to follow the same rules as pedestrians. Acting Town Attorney Victor Sanabria stated that bicycles had to follow the rules of the road when riding on roads and he would research rules for riding on sidewalks. He added that including a speed limit on sidewalks might be hard to enforce, but he would research the issue.

Council Member Allers questioned wording that made bicycle renters liable for not using bells or lights. Attorney Sanabria explained that the ordinance put the responsibility on the owners to equip the bicycle, but users who refused to use the devices were responsible for their behavior. Vice Mayor Hosafros felt they had to add language after the word compliance to be more precise. Town Manager Hernstadt suggested adding "compliance with 28-81."

Vice Mayor Hosafros was more concerned regarding the lack of helmets.

Council Member Allers moved to continue Ordinance 22-03 to the second reading on February 7, 2022, at 9:00 a.m.; second by Vice Mayor Hosafros. Motion carried unanimously.

## **XI. ADMINISTRATIVE AGENDA**

### **A. Special Event: 64th Annual Shrimp Festival**

#### **Approval for the 64th Annual Shrimp Festival**

Town Manager Hernstadt noted the application was in their packet. Lion's Club members Yelle and McCarthy introduced themselves and indicated they were glad to be back. The only difference this year was the addition of a couple of community groups. Lion Club member McCarthy described the event and stated that details were on their website.

Vice Mayor Hosafros moved to approve the special events permit for the 64th Annual Shrimp Festival; second by Council Member Allers. Motion carried unanimously.

### **B. STA #13: Construction of Mooring Field Expansion**

**Approve Supplemental Task Authorization #13 with Coastal Engineering Consultant's Inc., in the not to exceed amount of \$29,450 for Professional Engineering Services for the Mooring Field Expansion Construction, which includes construction plans and specifications, bidding assistance, construction management services and coordination, and authorizing the Town Manager to execute the Supplemental Task Authorization and expend budgeted funds.**

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

Motion carried unanimously.

C. Execute CVA Grant for Pump Out Boat Procurement

**Approve Resolution 22-02 authorizing the Town Manager to execute the Clean Vessel Act grant agreement and the purchase of a new pump-out boat from Pumpout USA in an amount not to exceed \$159,100.00, utilizing the trade-in value of the existing boat as grant match and authorizing the Town Manager to execute contract documents.**

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

Motion carried unanimously.

D. Resolution 22-04; Land Acquisition

**Approve Resolution 22-04, Authorizing the execution of a purchase and sale agreement between Gordon Zeng and the Town for the purchase of 2 parcels of land adjacent to Town Hall, appropriating and allocating funds for the purchase, and authorizing the Mayor, Town Manager and Town Attorney to take all necessary steps to close the Town's purchase of the property described as folio #'s 10227569 and 10574347.**

Vice Mayor Hosafros moved to approve Resolution 22-04 for discussion; second by Mayor Murphy.

Vice Mayor Hosafros stated that the resolution did not give the Town power to change the official use of a property. Attorney Sanabria agreed. Vice Mayor Hosafros added that she thought the location would be good for the Town. Town Manager Hernstadt noted that the Town would apply for an FWC grant and any other eligible grants. Town Manager Hernstadt explained that the Town has a \$400,000.00 contingency, \$300,000.00 in transitional funds and approximately a \$3 million in renewal replacement fund. He believed that replacement items could be stretched out to six months without hurting the Town and \$300,000.00 could be used from the fund. He added that the Town would not be able to fund any new initiatives for the remainder of the fiscal year.

Mayor Murphy questioned whether the Town would have to go through the same process that other developments went through. Town Manager Hernstadt replied affirmatively and used Bayside Park as an example.

Council Member Atterholt questioned whether the Mooring Field was a break-even proposition. Town Manager Hernstadt replied that it was when occupancy was up. He discussed upgrading amenities to bring more patrons to the mooring field and indicated that the goal was to break even.

Mayor Murphy stated that the purchase price of \$1 million had been negotiated by Public Works Director Chelsea O'Riley under the supervision of Town Manager Hernstadt, and the Town saved a substantial amount of money on the purchase because of her negotiation.

Motion carried unanimously.

- E. Resolution 22-03; American Rescue Plan Act funds priorities/uses  
**Approval of Resolution establishing the Town's prioritization of ARPA funds for: any loss of general fund revenues due to the impacts of COVID-19, water and stormwater exclusively at Bay Oaks Recreational Campus, Times Square and Bayside Park, and Town wide Water projects.**

Vice Mayor Hosafros moved to approve Resolution 22-03; second by Council Member Atterholt.

Council Member Atterholt read the last "whereas" on packet page 133 and questioned whether town-wide water projects included drinking water but not stormwater projects. Town Manager Hernstadt noted they could add potable water to distinguish. Council Member Veach questioned whether they should include the new parcel in the resolution. Town Manager Hernstadt replied that if it became an issue, they could amend the resolution. Council Member Allers suggested they keep their minds open regarding other priorities. Town Manager Hernstadt replied that they could add items after water. Council Member Allers brought up upgrading broadband capabilities.

Motion carried unanimously.

- F. Control Solutions Variable Frequency Drives for Moss Marina Station pumps including installation and training.

**Authorize the Town Manager to approve the purchase of potable water pump control systems VFD (variable frequency drives) for the pumps located at Moss Marina pump station.**

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

- G. Vehicle Purchase: 2022 Ford Transit

**Authorize the Town Manager to approve the Utilities Department to purchase a 2022 Ford Transit from Step One Automotive Group, Ford Crestview, as per state contract 25-0000-21-STC for \$29,512.00.**

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

## **XII. FINAL PUBLIC COMMENT**

No public comment.

### **XIII. TOWN MANAGER'S ITEMS**

Town Manager Hernstadt reported that the Town has been researching the addition of charging stations for electric vehicles. Equipment could be purchased and the Town could sell the electricity or work with FP&L to install stations at FP&L's cost at Town locations and FP&L would sell electricity. The town received an agreement to create four spots in high-density locations. He identified potential spaces on Center St. Vice Mayor Hosafros commented that FP&L would use the Town's property but the Town would get nothing for it. Town Manager Hernstadt replied that they would be providing an amenity for the public. He added that charging spaces cost approximately \$50,000.00. Vice Mayor Hosafros received support to add it to an M&P session.

Town Manager Hernstadt discussed the drainage issues on 3rd St. and the lack of easements. They were bringing in a second engineer to review the situation and provide recommendations. Utilities Director Christy Cory indicated she had been looking at the issues on 3rd St. and communicating with the residents. She stated residents on Harbor St. refused to allow the Town to install an outfall. They reached out to Moss Marina regarding connecting to their system. Moss Marina suggested the Town build them a pier, a seawall and other items. Director Cory stated that they were not able to connect to the Old San Carlos drainage system either. Town Manager Hernstadt guessed that what Moss Marina wanted would cost the town approximately \$500,000.00.

Vice Mayor Hosafros brought up introducing eminent domain in negotiations with property owners. Council Member Allers questioned why the engineering firm was not responsible for fixing the problem. Town Manager Hernstadt replied that they needed an engineer to identify what the engineering firm did wrong before trying to recoup the money. He stated that the bottom line was that they would take care of the drainage problem.

### **XIV. TOWN ATTORNEY'S ITEMS**

#### **A. Special Magistrate Compliance Report**

Attorney Sanabria stated the list contained 14 code enforcement liens and the orders were final. He noted there were two options: foreclosing on the liens or filing an injunction to force the property owners to bring properties into compliance. He indicated the first step was to run a title search on each property before evaluating which option was more appropriate. He explained the foreclosure process and stated the mortgage holder was paid first along with any other lien holders. If there was any money left, the Town could get paid. If the property was unencumbered, the Town would be in a better position to recoup funds. With injunctive relief, the court would issue an order compelling them to bring their property into compliance. If the property owner refused, they would be in violation of a court order and the court would sanction them.

Town Manager Hernstadt noted that title searches involved a cost and they needed some guideline thresholds. Council Member Veach supported taking the next steps. Council Member Atterholt questioned what other communities were doing to address the problem. Attorney Sanabria replied that the goal

was to bring properties into compliance and there were different ways to do that. He explained that a foreclosure action did not mean that they had to foreclose on the property. Council Member Atterholt questioned why nothing was done with the liens before now. Town Manager Hernstadt replied that attempts have been made to work things out with property owners first, but the list contained property owners who were not working in good faith. Council Member Atterholt questioned the best practices utilized by others.

Attorney Sanabria responded that every municipality was different, but usually, code enforcement worked with the property owner to bring them into compliance even after the lien was approved. If the property owners refused to cooperate, most took enforcement action. Town Manager Hernstadt reported that some of the property owners on the list were making money off their violations.

Vice Mayor Hosafros noted the list of 14 included five different properties. Consensus was reached to move forward with title searches. Mayor Murphy described the Nature View Court violations and suggested they start with them to provide some relief to the neighborhood. Council Member Veach disagreed and felt they should approach it objectively. He brought up short-term rental owners who did work on their property without a permit. He questioned potential harm to renters. He suggested they come up with a process to treat everything equally and research what other communities did. Council Member Allers questioned whether they could involve the fire department concerning unsafe structures. Town Manager Hernstadt will check with the fire department. Attorney Sanabria stated the town did not know that they were unsafe because they were not inspected. He agreed that if there was a known issue, the fire department could get involved.

Mayor Murphy stated his opinion regarding Nature View Court was based on repeated calls from that neighborhood and site visits.

## **XV. COUNCILMEMBERS ITEMS AND REPORTS**

Council Member Atterholt referred to an email sent to everyone from condos at the south end regarding sidewalks. The email sender suggested they advertise beach accesses in the area. Vice Mayor Hosafros responded to the email sender to inform him that the beach access in question did not belong to the public. Town Manager Hernstadt stated that staff would take a look at the area.

Vice Mayor Hosafros researched affordable housing and noted that Sanibel's CHR (Community Housing & Resources) was created in 1979 and currently has 74 rental units in 11 locations, including a 12-unit complex designated for seniors.

Council Member Veach added that it was part of state law that they have a housing element in their comprehensive plan.

No items from other members.

**XVI. ADJOURNMENT**

Vice Mayor Hosafros moved to adjourn the meeting; second by Council Member Veatch.

Motion carried unanimously.

The meeting was adjourned at 11:13 a.m.

Minutes adopted, February 7, 2022; Motion by Council Member Allers and seconded by Vice Mayor Hosafros. Adopted 5-0.



Amy Baker, Town Clerk