



Fort Myers Beach Town Council

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

Minutes

Monday, February 7, 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

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

Motion carried unanimously.

V. PUBLIC COMMENT

Lee County Supervisor of Elections Tommy Doyle reported that 85% of the voters on Fort Myers Beach voted by mail, and 75% of voters voted before election day. He stated they reduced precincts to 100 and Fort Myers Beach would have one precinct and one voting site. An early voting site will open on Bass Road to mitigate crowds and voting sites will have three or four tabulators instead of two. Council Member Atterholt questioned whether they could have a site on the north end and one on the south end. Council Member Veach mentioned rule changes to mail-in voting and brought up potential confusion among voters. He felt that one voting site would not be adequate. Supervisor Doyle replied that every vote by mail request expired at the same time and they would continue to push voting by mail and early voting. He stated that the voting site would be at Chapel by the Sea. Vice Mayor Hosafros suggested that they be very careful regarding the location and noted that St. Peters would be a good mid-island compromise. Supervisor Doyle discussed the popularity of voting by mail and early voting. He added that he would take their suggestions under consideration.

Mayor Murphy questioned whether the early voting site in North Bonita on the Estero line would remain open. Supervisor Doyle replied affirmatively.

Attorney Sara Spector from Roetzel and Andress represented Persaud Properties. She reported that due to a settlement agreement with the town, the houses on 3050 and 3056 Estero Blvd. were under contract and closing would take place as soon as the final certificate of completion was issued. She stated that Persaud Properties also owned two properties on 1028 and 1046 Estero Blvd. that had liens attached to them. She requested that the homes on 3050 and 3056 Estero Blvd. be released from the liens so the homes could be sold as contemplated by the settlement agreement.

Dawn Thomas, Chair of the Public Safety Committee (PSC), addressed bicycles, scooters and sidewalks from Coconut Point up to the north end. She noted that more people were on the sidewalks and there was a battle for space between bikers and walkers. She requested input to help alleviate the situation and an update on the lighting plan.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veach thanked Chapel by the Sea for hosting the FDOT (Florida Department of Transportation) event regarding the base of the bridge design. No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Steve Johnson, Chair of the Marine Resources Task Force (MRTF), requested that the name of MRTF be changed to Marine and Environmental Resources TaskForce (MERTF) to better reflect their scope. Jennifer Rusk, MRTF Member, provided an update regarding the pop-up events and displayed handouts distributed. She thanked everyone for their support and noted that they would be at the Shrimp Fest Parade in Lynn Hall Park. She invited Town Council Members to volunteer at the pop-up booth.

VIII. PROCLAMATIONS

A. 100th Birthday Celebration

Mayor Murphy read a proclamation recognizing his father, John E. Murphy's 100th birthday. February 26, 2022, was proclaimed as John E. Murphy day.

IX. PRESENTATION

A. Florida Power & Light - Electric Charging Stations

Peter Martinez from Florida Power and Light (FPL) reviewed their EVolution program regarding electric charging stations. He utilized PowerPoint for his presentation. Slides included: Electric Vehicle Outlook; New EVs Coming to Market; Switching to an EV; FPL Evolution is bringing 1,000 charge ports to our customers; EV Charging 101; Becoming an FPL EVolution Partner

benefits you and your community; Partnering with FPL is easy; FPL's fast charging facilitates charging opportunities in metro areas; FPL's fast charging network makes it easier to drive electric; FPL EVolution Fast Charge Installations; Existing Site Hosts Partners and Driving toward FPL EVolution. Discussion was held regarding managing charging stations on public streets and the potential loss of revenue. Council Member Atterholt questioned whether FPL would be responsible for upgrading the stations under the 10- year agreement. Mr. Martinez replied that the software would be upgraded and the language in the agreement did not prohibit them from upgrading the stations. Town Attorney Herin, Jr. noted that a section in the agreement allowed FPL to remove the chargers at their discretion. Mr. Martinez responded that they had no intention of removing charging stations before the 10-year mark, but the Florida Public Service Commission requested the language be included in the agreement. Town Attorney Herin, Jr. indicated that the town could request the removal of charging stations if they became obsolete. Mr. Martinez commented that he would verify that point. Town Manager Hernstadt stated that he would present an option on Thursday where the town owned, operated and maintained the charging stations. Town Attorney Herin, Jr. indicated there was a provision in the agreement that provided for additional replacement equipment. He agreed to forward the agreement to Council Members before Thursday.

The presentation concluded with Proposed Location - 200 Old San Carlos Blvd. Parking Lot. Mr. Martinez noted that private shopping centers made a lot of sense.

X. APPROVAL OF MINUTES

A. January 24, 2022 Town Council

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

Motion carried unanimously.

XI. CONSENT AGENDA

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

Motion carried unanimously.

A. Historic Recognition Signage

Approve updated Historic Recognition Signs with new logo

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

Motion carried unanimously.

XII. PUBLIC HEARINGS

A. Resolution 22-05: VAR20210112 - 50 Aberdeen Ave.

Approve/Approve with Conditions/Deny VAR20210112, a variance to allow the principal structure and elevated pool to encroach 10 feet into the 25 feet street setback at 50 Aberdeen Avenue.

Mayor Murphy read the variance. Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: all Members disclosed a drive-by or a walk-by.

Planner Fred Drovdic from RVI Planning and Landscape Architecture represented Ken and Candace Kochenour. PowerPoint slides included: 50 Aberdeen Ave.; Introductions; Location Map; Property Overview; Site Plan; Variance Request; Site Plan; Property Overview; LDC Overview and Variance Criteria.

Community Development Director Jason Green reviewed the variance request, existing conditions and LPA recommendations. He summarized LPA conversations concerning the view corridor. He indicated that the neighbors did not voice objections.

Public comment:

Bruce Pieratt on Gulf Island Drive, supported their request. Public comment closed.

Vice Mayor Hosafros moved that based on the information in the staff report and the testimony presented before them, the applicant has not met the standards set forth in the Comprehensive Plan and the Land Development Regulations for the requested variance and she moved for denial of the variance; second by Council Member Allers.

Council Member Veach discussed corner lots and consistency. Town Attorney Herin, Jr. stated that each variance request was reviewed individually, and the issue was not the view corridor. Council Member Allers did not think it was a de minimus request.

Motion carried unanimously.

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

Second 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.

Mayor Murphy read the title of the ordinance.

Community Development Planner Sarah Propst noted that she received an email to be discussed at the end of her presentation. She reviewed two options and displayed Side Setbacks with 15% Lot Width, Additional Examples and Building Massing Examples. She noted comments from an architect and a designer were included in their packets.

The changes recommended by staff were in the strike through and underline format. She noted changes from the last meeting were double underlined. Planner Propst indicated the earlier email concerned corner lots. She stated that the 15% side setback would apply to all lots but a 50-foot wide lot would not be affected because the side setback would still be 7.5 feet. Director Green addressed homes that were in the process of being designed and how the new regulations would affect them. Town Manager Hernstadt added that they would review them on a case-by-case basis.

Vice Mayor Hosafros questioned whether they could pass the ordinance today with the understanding that at a future meeting they would adjust table 34-1 with additional advertising. Town Attorney Herin, Jr. replied affirmatively. Council Member Veach commented that he was uncomfortable applying the side setbacks to corner lots. Director Green indicated that the street impact was the same but the depth of corner lots was a unique condition they would have to consider.

Public comment:

Nate Johnson from Potter Homes stated it was a big deal for builders, developers and clients and they had three properties they were working on. He suggested that they talk through the ordinance with architects, builders and developers before voting on the ordinance.

Nicole Pieratt agreed with Mr. Johnson and noted that corner lots would be shrunk drastically.

Public comment closed.

Vice Mayor Hosafros moved to approve Ordinance 22-01 noting that it did not include table 34-01 that needed additional advertising with the past to make it consistent at a future date; second by Council Member Veach.

Council Member Allers supported tabling the ordinance so they could discuss the 7,500 square foot area with builders and address concerns regarding corner lots. Council Member Atterholt was comfortable moving forward.

Motion carried 4-1 by roll call vote with Council Member Allers dissenting.

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

Second Reading, Public Hearing and Adoption: 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.

Mayor Murphy read the title of the ordinance.

Town Attorney Herin, Jr. noted they added specific language that included a requirement for lighting and was reflected by double underlines.

No public comment.

Council Member Veach moved to approve Ordinance 22-03; second by Council Member Allers.

Vice Mayor Hosafros discussed alcohol consumption on the island and fatalities. Mayor Murphy suggested they add it to a future agenda and invite Captain Lalor.

Motion carried unanimously by roll call vote.

D. Ordinance 22-04; Motorized Micromobility Devices

First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTIONS SECTION 28-19, SECTION 28-82, AND SECTION 28-84 OF CHAPTER 28, "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, TO DEFINE AND REGULATE MOTORIZED MICRO- MOBILITY DEVICES; 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 March 7, 2022.

Mayor Murphy read the title of the ordinance. Town Manager Hernstadt stated that the code had to be updated to include one-wheel motorized vehicles.

Council Member Veach moved to continue it to a second reading; second by Vice Mayor Hosafros.

Council Member Allers questioned whether they could add a medical exemption for pedal-assisted bicycles. Vice Mayor Hosafros expressed support. Town Attorney Herin, Jr. replied that he would look into it and bring back changes to address the issue. He suggested not bringing it back for a second hearing until the end of the legislative session due to potential preemption. Council Member Veach wanted to continue, and Vice Mayor Hosafros agreed. Council Member Veach discussed ADA vehicles and the difficulty of enforcing bicycles.

Motion carried unanimously.

XIII. ADMINISTRATIVE AGENDA

A. CrowderGulf Contract Renewal

Approve and authorize the Town Manager to execute Renewal #3 (of 3) to the CrowderGulf Agreement for Disaster Recovery Services.

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

Motion carried unanimously.

B. Thompson Consulting Contract Renewal

Approve and authorize the Town Manager to execute renewal #3 (of 3) to the Thompson Consulting Agreement for Disaster Debris Monitoring Services.

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

Motion carried unanimously.

XIV. FINAL PUBLIC COMMENT

No public comment.

XV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that residents on Pearl St. wanted to plant the free trees, from the tree giveaway, at the end of the street adjacent to the bay. He noted they received one email in support and one objecting to the location. Vice Mayor Hosafros indicated there were more than two people who supported planting the trees in that location. She thought whoever objected did so because they believed the trees would obstruct their view. She added that people who objected threatened to vandalize the trees if they were planted.

Town Manager Hernstadt pointed out that Cultural Parks & Recreation Director Alison Giesen would be looking at rate adjustments to cultural programs at a future date.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. noted that Attorney Sanabria might be sitting in for him during the M&P Session on Thursday.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers met with property owners on Santos Rd. regarding drainage issues. He reported that the road had not been constructed correctly, he described hazardous repairs made to help alleviate the situation. He questioned whether they could add the topic to an M&P. Vice Mayor Hosafros suggested having an independent expert evaluate the situation before they add it to an agenda. Council Member Allers agreed. Town Manager Hernstadt noted he discussed the issues with residents on Santos Rd. and informed them that an expert would inspect the situation. Council Member Allers mentioned the 2003 Fort Myers Beach Waterways Group that tried to implement an island-wide dredging program. He suggested adding it to an M&P for further discussion. Mayor Murphy supported him. Council Member Allers discussed moving forward with lighting on Estero Blvd. Mayor Murphy stated that he made phone calls and was waiting to hear back.

Vice Mayor Hosafros was against the request to lift liens on two of the Persaud properties. Council Member Veach agreed and noted that compliance with the other properties was never mentioned. Town Attorney Herin, Jr. explained that the Town had the leverage to negotiate with the property owner to come into compliance with his four other properties before the two unencumbered properties could be sold. Vice Mayor Hosafros brought up motorized parachutes on the south end of the beach. She questioned whether the FAA (Federal Aviation Administration) regulated them. Town Attorney Herin, Jr. will research the issue.

Council Member Atterholt questioned whether they were waiting for the county to make a decision on lighting Estero Blvd. He noted the Town had to take action themselves if the County was not going to participate. Mayor Murphy replied that he was not sure what stage they were in. He questioned how the Town could move forward on a road they did not own. He stated it was the county's responsibility and he was assured that they would participate. Council Member Atterholt questioned whether they should individually petition the commissioners in writing or attend their meetings. Mayor Murphy did not think it would hurt. Town Manager Hernstadt suggested they find out what their strategy was and find out how to support their efforts. Council Member Allers stated that it needed to be done before another life was lost. He noted they did not even give the commissioners a plan. Town Manager Hernstadt disagreed and indicated the County did have information regarding the costs. He added that they could always pick up the phone if they had questions. Council Member Allers reiterated that they needed a decision from the commissioners. Mayor Murphy commented that they were discussing numbers.

Council Member Atterholt questioned whether they could gather data concerning rental properties to help them create better policy. Council Member Veach noted data was available in the monthly departmental reports. Council Member Atterholt described accessing specific data to help the public understand what was happening to the island regarding all rentals. Vice Mayor Hosafros agreed and noted that the personality of her street changed because of short-term rentals.

Town Manager Hernstadt agreed to engage with the consultant to provide the data. Vice Mayor Hosafros suggested sharing the short-term rental registration list with the Lee County Appraisers Office so they could compare it to owners who claimed a homestead exemption. Town Manager Hernstadt revealed that a Lee County Housing Specialist was scheduled to attend the second meeting in March. Vice Mayor Hosafros questioned whether she had support to share the rental registration information with the Appraisers Office. Town Attorney Herin, Jr. agreed with Vice Mayor Hosafros. Council Member Atterholt suggested that the Town Attorney contact the Appraisers Office to find out who to send the information to and whether it would be helpful. Vice Mayor Hosafros agreed. Council Member Veach suggested they have a conversation regarding a better enforcement plan surrounding housing and short-term rentals encroaching into areas where short-term rentals were not allowed. Vice Mayor Hosafros supported having a discussion. Council Member Veach suggested having another discussion regarding corner lots. Vice Mayor Hosafros agreed.

Council Member Veach discussed changing the name of MRTF. Council Member Atterholt liked the change and felt the name change better described their focus. Vice Mayor Hosafros agreed. Mayor Murphy discussed the history of Mr. Mulholland and MRTF. Town Attorney Herin, Jr. referred to the code and stated they would have to adopt an ordinance to change the name. Vice Mayor Hosafros agreed with adopting an ordinance and noted MRTF's responsibilities were very broad. Town Attorney Herin, Jr. will bring back a draft of an ordinance.

Mayor Murphy discussed the fishing pier under the bridge and wanted to reconsider taking it over if the Florida Department of Transportation (FDOT) agreed to turn it over to the town. He spoke to an engineer in charge of the pier and was told that assuming maintenance did not cost that much. The engineer revealed that the pier was sound but the steps needed work and they would be repaired before giving it to the Town. The engineer noted that Lee County maintained the pier on the other side. Vice Mayor Hosafros questioned why they removed the steps if repairing them did not cost much. Mayor Murphy was not sure. Council Member Veach supported getting additional information. Town Manager Hernstadt stated the steps were dangerous, so they contacted the state. The state provided an estimate to repair the steps but stated they would not repair them unless the town agreed to maintain the pier. Town Manager Hernstadt noted the town did not maintain other bridge structures. Mayor Murphy brought up an interlocal agreement. Town Manager Hernstadt suggested they invite the engineer to a future meeting to explain the costs involved. Mayor Murphy agreed. Vice Mayor Hosafros suggested requesting the estimate from the state before they do anything else. Town Manager Hernstadt commented that the state agreed to repair the steps but he would contact Lee County for information on maintenance costs.

Mayor Murphy reminded everyone that the memorial service for Dan Hughes was on Saturday, February 26, 2022, at 11:00 a.m. at Saint Rafael's Church. He congratulated Betty Simpson for turning 90 next week and described her many accomplishments. He thanked her for her years-long service and wished her a happy birthday.

XVIII. ADJOURNMENT

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

The meeting was adjourned at 1:08 p.m.

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



Amy Baker, Town Clerk