Fort Myers Beach Town Council

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

Minutes **Monday, March 21, 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

Dave Nussbaum, President of Island Winds Condominiums, commented on the beach renourishment proposal. He stated their beach was a beach of accretion, not a critical erosion beach. He noted the proposal recommended that an erosion control line extend through their beach, which meant they no longer gained access to accretion on their property. He suggested that the town not pursue the matter. He discussed water ponding on the beach and noted it was not a critical issue but a nuisance. Property owners did not support bringing in sand to eliminate ponding.

Patty Rittinger, resident, read a letter from Gulfview Manor regarding beach renourishment. Residents requested that their beach not be classified as a critical erosion beach by the FDEP (Florida Department of Environmental Protection) beach because it did not erode. Residents were not in favor of an erosion control line and did not want to lose control of the property seaward of the line. They did not need additional sand. Ponding was not an issue that required taxpayer money to remedy, as property owners maintained their beach for years without taxpayer dollars. Ms. Rittinger suggested that eroding properties be taken care of rather than adding sand to their beach.

George Repetti, resident, agreed with previous commenters. Erosion control would take control away from residents. He discussed the erosion control line and indicated it did not make sense for the residents at Island Winds because their beach accreted.

Jay Light, resident, discussed the attempt to build an upland facility at Bayside Park and renting the two units at Harbor House instead of purchasing them. He commented on staffing an office and noted boaters only needed restrooms, showers and a laundry facility. He suggested the town build those facilities above the old bank drive-through at Town Hall.

Gloria Abramoff, resident, did not support using their canal as a waterway for the boats in the Mooring Field. She described wildlife in the mangroves and noted the mangroves provided protection from storms. The canal was too shallow, the plan was costly and there were other places to build a facility. She urged the council to vote against the project.

Todd Zaccanelli, resident, stated he did not support an upland facility on Tropical Shores Way because of increased traffic and trash in their canal. He requested that the council not vote on the plan.

Star Sherwood, resident, was 100% opposed to an upland facility being built at the end of their canal. She stated she was not against a facility for boaters, but she did not want one in her neighborhood. She indicated that gas and oil could leak into the canal and wildlife would be affected. She stated the neighborhood would be anxious and afraid due to the increased traffic all hours of the day and night.

She read the mission statement from the Town Council's Policy and Procedures Manual. Ms. Sherwood urged them to explore other possibilities.

Melanie Emmerich, resident, questioned how residents with boats would get in and out of their canal due to increased traffic. She commented on the shallow and narrow canal. She was against building a facility on any residential canal when commercial properties were on the bayside. She brought up losing privacy, security and a peaceful life.

Harvey Staley, resident, agreed with Ms. Emmerich.

Mike Ratliff, resident and AAC (Anchorage Advisory Committee) member, spoke as a resident. He asked that the council reflect upon their decision to reject the Bayside Park location for the upland services in favor of the property along the canal in the Tropical Shores neighborhood. He compared the positives and the negatives of each location expressed by other commenters. He supported building the faculty at Bayside Park and noted it would cost less money, be more practical, have a minimal effect on neighbors, and serve both residents and mariners.

Lori Kensinger, resident, commented on destroying the natural environment in the canal and destroying the neighborhoods' sense of security and privacy.

David Jensen, resident, discussed the degradation of some of the residential communities. He stated the canals were beautiful but shallow. He did not support removing mangroves or the increased traffic. He felt the decision was rushed and other options were not adequately reviewed. He mentioned locating a facility at

Bay Oaks.
Tim Shadle thanked Town Council, Town Manager, Town Attorney and staff for many things. He questioned their decision to purchase land for an upland service provider without more input from the public. He mentioned the impact on the neighborhood and felt the facility should be located in a more commercialized setting. He commented on Estero Blvd. and indicated the pavers would have to be maintained and repaired before eventually being replaced. He felt the county should continue ownership of Estero Blvd. regarding the lighting project due to the expense and liability issues. He supported pouring concrete or pavers between the curb and sidewalk rather than trees or grass.
Penny Jarrett, resident, did not support the upland services facility on Tropical Shores Way. She described how the community helped one another and felt for the residents' concerns regarding the disruption and invasion of their privacy. She implored the council to reconsider relocating the facility to a more appropriate location.
Ellen Vaughan, resident, thanked Town Council for their service. She questioned why the town decided to take the upland services provider in-house. She stated that Friends of the Mound House was holding their annual fundraiser from 7:00-9:00 p.m. at the Mound House on April 8, 2022, and tickets were $75.00. She encouraged everyone to attend.
Jennifer Rusk, resident, stated that Bowditch Point Park and Lynn Hall Park were installing amber lights and she requested that the council send back the lighting plans for Bayside Park and Times Square. She asked Town Council to expedite the name change for MRTF (Marine Resources Task Force). She marked the first anniversary of the pop-up events. She thanked the town, community and volunteers for supporting her and the pop-up events. She questioned whether anyone thought about including a permanent structure for community outreach programs in Times Square.
George Kormos, resident, explained why he did not support the upland services facility on Tropical Shores Way. He felt the neighborhood was being railroaded and no one did the homework to determine how many boats would use the canal. He requested that they vote no on applying for the grant.
Marty Weit, resident, stated that the upland facility was commercial, but their canal was residential. He brought up Bowditch Point and Snug Harbor as locations. He indicated the vote needed to be no.
Larry Abramoff, resident, indicated that putting the upland services facility at the end of their canal did not make financial or common sense. He stated they supported a facility for the Mooring Field, but not in their neighborhood. He listed other locations in commercial districts and noted even if the town subsidized the facility, the town would still save money. He commented on the increased traffic on the canal and the loss of privacy. He asked that they vote no to apply for the grant.
Wayne Murrah, Board Member for Carlos Point Homeowner's Association, stated the association opposed the beach renourishment project.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Allers congratulated the Shrimp Fest and Mayor Murphy for the St. Patrick's Day parade. Vice Mayor Hosafros thanked Chris Holder from Public Works and Nello Cernoia for assisting with a cormorant rescue. She noted that Nello was retiring and recognized him for his seven and a half years with the town.

Council Member Veach recognized the Shrimp Parade and the Mound House fundraiser. He noted it was a good cause and thanked Ellen Vaughn for organizing the event.

Mayor Murphy brought up the waterspout at the Lani Kai and noted there was minor damage.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Steve Johnson, Chair of MRTF, reported that MRFT recommended that the town provide consistent lighting throughout the downtown commercial district. He read the entire motion from the March 9, 2022 meeting.

Katherine Light, Chair of the AAC, stated that they spent three and a half years discussing the upland services provider facility. She noted that the AAC was frustrated regarding the purchase of the property because they were not able to vet the property. She displayed a pro and con chart concerning different properties. She indicated that operations were brought in-house in September of 2018. She noted that the property on Virginia was discussed, but AAC members were concerned that the neighborhood would not want it in their backyard. Chair Light discussed their support for the Bayside Park location before the neighbors voted it down. She indicated the property on Tropical Shores was purchased and AAC has been unable to make a pro and con list for the property.

Council Member Veach indicated he would appreciate the AAC's advice regarding the new property.

VIII. APPROVAL OF MINUTES

A. March 7, 2022 Town Council meeting

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

B. March 10, 2022 Management & Planning

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

IX. PRESENTATION

A. <u>Beach Renourishment Project</u>

Presentation: Coastal Engineering Consultants update on the Beach Renourishment Project

Michael Poff utilized PowerPoint for his presentation. Slides included: Estero Island Shore Protection Project Update; Outline; Overview of Project; Beach

Fill Design; Design Plan: North; Design Plan: Central; Design Plan: R-198 to R-202; Typical Design Section; Non-Critically Eroding Segment: R-200 to R-203; Design Plan: South; Permit Status; Funding; Cost Sharing/Grant Opportunities; Public Access; Contracting; Pay Down Schedule; Erosion Control Line; State Policy; ECL Approval Process; Easements; Construction Easement Definition Sketch; Construction Details; Pipeline Corridor & Landing; Pipeline Corridor South; What to Expect and Post-Construction Requirements.

X. CONSENT AGENDA

Council Member Veach moved to move Resolution 22-09 forward in the agenda; second by Council Member Atterholt.
Motion carried unanimously.

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

A. Special Event: Newton Beach Park

Special Event Application for Private Anniversary Party at Newton Beach Park on May 29, 2022

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

~ Council Member Atterholt left the meeting at 12:28 p.m. ~

XI. PUBLIC HEARINGS

A. RES 22-12, SEZ 20210129 Consumption on Premise for Outdoor Seating at 6241 Estero Boulevard (Charley's Boathouse)

Approve/Approve with Conditions/Deny Resolution 22-12, granting a Special Exception authorizing the extension of use of the restaurant's COP to allow service to an outside area (830 sq ft) within 500 feet of a dwelling unit at Charley's Boathouse.

Mayor Murphy read the title of the resolution. Attorney Sanabria stated that it was property advertised and he swore in those providing testimony.
Paul Joeckel, applicant, stated that they had to redesign their parking lot due to the expansion of Estero Blvd. He created a patio to encourage people to eat outdoors during the pandemic and then learned he needed a license to serve in that area. He did not receive objections from the neighbors.

Town Manager Hernstadt described the improved parking lot. Mayor Murphy requested that Mr. Joeckel install two stop signs at the exit with "No Entrance" on the back of the signs. Mr. Joeckel agreed and suggested signs be installed like the Fish House. Vice Mayor Hosafros commended Mr. Joeckel for improving the property and stated he was a good neighbor.

Council Member Allers questioned how alcohol would be served. Mr. Joeckel replied that the service staff would have to use the restaurant's back door. Director Green stated that the staff and the LPA recommended approval.

Council Member Veach moved that, based on the information in the staff report and the testimony presented, the applicant has met the standard set forth in our comprehensive plan and land development regulations for the requested use and special exception and therefore move approval of Resolution 22-12; second by Vice Mayor Hosafros.
Roll call vote.
Motion carried unanimously.

B. Ordinance 22-04; Motorized Micromobility Devices

Second Reading and Final 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.

Mayor Murphy read the title of the ordinance. Attorney Sanabria stated the hearing was properly advertised.
Town Manager Hernstadt reviewed the reason for the ordinance as stated on the blue sheet.
No public comment.
Vice Mayor Hosafros moved to approve Ordinance 22-04; second by Council Member Veach.
Roll call vote.
Motion carried unanimously.

C. Ordinance 22-08; Election Qualifying Period

First Reading and Public Hearing for proposed Ordinance 22-08: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE QUALIFYING PERIOD FOR TOWN COUNCIL CANDIDATES FOR THE NOVEMBER 2022 ELECTION AND FUTURE ELECTIONS; PROVIDING FOR SCRIVENER'S ERRORS; CONFLICTS OF LAW; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
Open the first public hearing and schedule for second reading and final adoption on April 4, 2022 at 9:00 AM

Mayor Murphy read the title of the ordinance. Town Manager Hernstadt noted that the action was generated from a request by the Supervisor of Elections to synch up elections.
No public comment.

Vice Mayor Hosafros moved to move Ordinance 22-08 to a second reading and final adoption on April 4, 2022, at 9:00 a.m.; second by Council Member Veach.
Motion carried unanimously.

XII. ADMINISTRATIVE AGENDA

A. Resolution 22-10 - Approving Piggyback Contract with Vetor Contracting Services, LLC

Adopt Resolution 22-10, approving a piggy-back contract for utility repairs with Vetor Contracting, LLC pursuant to Collier County's competitively procured contract, ITB # 20-7771 for emergency and routine utility repairs.

Mayor Murphy read the title of the resolution. Town Manager Hernstadt reviewed the reason for the resolution.
Vice Mayor Hosafros moved to adopt Resolution 22-10; second by Council Member Veach.
Motion carried unanimously.

B. Status Report on Laguna Shores Dredging Project

Status Report on Laguna Shores Dredging Project

Town Manager Hernstadt stated bids were received and contractors agreed to hold the price for a specific time. It
was now up to residents of Laguna Shores to come back to Town Council with a plan for how they would fund their share. He indicated he would contact the representative of Laguna Shores today and inform him of the deadline. Consensus was reached to move forward.

C. Resolution 22-09, FBIP Grant Application, Grant Agreement and Grant Administration

Adopt Resolution 22-09, authorizing the Town Manager or designee to apply for, execute related grant application and grant agreement documents, and administer a grant from the Florida Boating Improvement Program for funds not-to-exceed $3,000,000 for the construction of upland services for the Mooring Field Operations; providing an effective date.

Vice Mayor Hosafros moved to adopt Resolution 22-09; second by Council Member Veach for discussion.

Council Member Veach noted the resolution was to apply for the grant this year. If they did not apply for the grant this year, things would stop moving forward. Town Manager Hernstadt stated it was not good practice to apply for a grant they knew they would not use. He added that the property's purchase price would potentially be used as a match for the grant.

Vice Mayor Hosafros questioned what could be built on the property if it was not used for upland services. Community Development Director Jason Green noted that potentially four homes could be built on the west side of the property and offices could be built on the east side. He indicated the zoning was RC on the east side and RM on the west side. Vice Mayor Hosafros suggested there could be more intensity of building than what the town was proposing. Director Green discussed density calculations in different zoning districts. Vice Mayor Hosafros stated the fire department was building on the canal next to the property. She commented that The Dolphin Inn was at the end of another canal and the boat traffic was not a problem. She added that the AAC did do their homework and explored options for several locations. She explained that there were reasons why some locations would not be feasible. Vice Mayor Hosafros felt they should apply for the grant. Council Member Allers voted against the Bayside Park location because he did not think an upland service provider should be located in a park. He took his pontoon boat down the canal at high tide and was able to turn around easily. He stated that taxpayers would have to pay for the building without gaining anything. He felt there were too many unanswered questions and the current facilities served the purpose. He did not support applying for the grant. Town Manager Hernstadt described the current situation with the upland facilities and noted they were subject to the whims of the landlord. He stated they were leasing Harbor House from Matanzas. Vice Mayor Hosafros added that the current location would not be adequate if and when the Mooring Field was expanded. Town Manager Hernstadt indicated the town would have to find a permanent location for the facility in the near future. Council Member Atterholt explained that he voted against the location at Bayside Park because the view of the bay would have been obstructed. He was concerned about damage to the people's faith in the system because it happened so abruptly. He did not support the proposition and would vote no. Council Member Veach described his conversations with residents in the neighborhood and felt many concerns could be addressed. He felt there could be more disturbance in the canal from private developers. He commented that using the $1 million purchase price to get a $3 million grant was fiscally responsible. He listed the pros of the facility being near Town Hall. He stated he supported moving forward with the grant. Mayor Murphy noted there were other possibilities for the property.

Motion denied 3-2 by roll call vote, with Council Members Allers, Atterholt and Mayor Murphy dissenting. ~~4-1 by roll call vote with Council Member Allers dissenting.~~ *Amended April 4, 20221 TC meeting (Approval of Minutes).

D. Resolution 22-11; Participation in Program for Public Information (PPI) for Community Rating System (CRS)

Adopt Resolution 22-11, authorizing the Town's participation in the multi-jurisdictional Program for Public Information documents as part of the Town's Community Rating System (CRS) efforts under the National Flood Insurance Program (NFIP).

Mayor Murphy read the title of the resolution.

Council Member Allers moved to adopt Resolution 22-11; second by Council Member Veach.
Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated he was working with FPL and the lighting consultants to schedule a meeting with Town Council.
The Lee County workforce housing staff was unable to attend the meeting today and would reschedule.

XV. TOWN ATTORNEY'S ITEMS

No items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Hosafros questioned whether Council Members were interested in Sabal Palms as an alternative to Coconut Palms in the Times Square project. Two Council Members agreed to plant Sabal Palms and Mayor Murphy agreed to find an option. Vice Mayor Hosafros questioned whether the town was responsible for inspecting the dock at Nervous Nellies after a portion of it collapsed. Town Manager Hernstadt replied that he would send out an inspector. Vice Mayor Hosafros questioned whether they should require that condominiums inspect their buildings or whether they wanted to stay out of it. Mayor Murphy suggested that they meet with the Fire Department for their input. Council Member Veach agreed to include the topic in a future M&P agenda. Vice Mayor Hosafros warned people in condominiums to start taking the lighting regulations seriously. Town Manager Hernstadt stated that staff would inform condominiums of violations before turtle season.
No items by other members.

XVII. ADJOURNMENT

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

The meeting was adjourned at 1:05 p.m.
Minutes adopted as amended, April 4, 2022; Motion by Vice Mayor Hosafros seconded by Council Member Veach. Adopted 5-0.

Amy Baker, Town Clerk