



Fort Myers Beach Town Council

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

Minutes**Monday, May 16, 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 (via Zoom).

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

Jennifer Rusk, Marine Resources Task Force (MRTF) member, provided an update concerning the pop-up events and noted they have held over 100 events.

Carol Newsome, resident, commented on the side streets flooding. She noted that Sterling flooded at high tide and whenever it rained. She questioned why Sterling was in the fourth tier when her house flooded.

Cindy Johnson, resident, stated she lived on Seminole Way and it flooded too. She requested that someone from the town investigate the situation.

Steve Johnson, resident, commented that Sterling and Seminole were managed by swales. He requested that the streets be moved up from tier four.

John Heim discussed water and air quality studies.

Tim Shadle questioned the Town Council's idea of a reasonable fee for renting affordable workforce housing. He felt the new property behind Town Hall would be a good location for workforce housing. He commended Town Council and staff for their work.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**A. Mulholland Stewardship Award**

Mayor Murphy described the John Mulholland Stewardship Award and presented it to Cindy Johnson.

No additional achievements or recognitions.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS - MARINE RESOURCES TASK FORCE (MRTF)

Steve Johnson, Chair of MRTF, previously distributed a list of priorities and commented on new and ongoing initiatives. He described a South Florida Water Management District model ordinance from 2020 and noted that Town Council had not determined whether to adopt it. He received approval from Town Council to move forward with the model ordinance and to review the Longboat Key sea turtle ordinance. Council Member Atterholt discussed recycling cigarette butts and a possible ban on smoking on the beach. Chair Johnson remarked that MRTF would research both topics. He discussed the lack of enforcement regarding lights and the sea turtle ordinance. He indicated that MRTF members visited properties with tinted windows and MRTF voted to rescind their previous recommendation regarding window tints. Except for new construction and replacement glass, the new recommendation was to follow the normal variance process when dealing with hardships. MRTF recommended that the Town continue to list more resources to help with enforcement, continue the 15% window tint requirement with replacement windows and new construction and continue to enforce the sea turtle ordinance. MRTF supported a more proactive approach to fining people for non-compliant lights.

VIII. APPROVAL OF MINUTES**A. May 2, 2022 Town Council**

Amendments: The vote under Public Hearing C. mistakenly listed Council Member Atterholt as Vice Mayor. On page 8, clarify that Council Member Atterholt intended to bring the ordinance back for consideration, not to change it.

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

Motion carried unanimously.

B. May 5, 2022 Management & Planning Session

Amendment: Remove "Council Member described Sanibel's land trust. He noted that a land trust was unnecessary if the town wanted the property owned by an entity that" at the end of page 1.

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

Motion carried unanimously.

IX. CONSENT AGENDA

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

Motion carried unanimously.

A. Historic Preservation Advisory Board Appointment

Appointment of Karyn Slomski to the Historic Preservation Advisory Board (HPAC)

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

Motion carried unanimously.

B. Resolution 22-20; Mound House / Bay Oaks Donations

Approve Resolution 22-20 accepting donations from the Fort Myers Beach Community Foundation, Kiwanis Club and Friends of Bay Oaks and directing the Town Manager to appropriate the donations to be used for Mound House Summer Camp Scholarships and Bay Oaks Teen and Youth programs including summer camp scholarships.

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

Motion carried unanimously.

X. PUBLIC HEARINGS

A. Ordinance 22-11, Sea Turtle Conservation

First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE V OF CHAPTER 32 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEA TURTLE CONSERVATION", PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on June 6, 2022 at 9:00 a.m.

Mayor Murphy read the title of the ordinance.

Public comment:

Eve Haverfield of Turtle Time stated there were 11 nests. She described how the 15% window tint helped the turtles and discussed why the turtles were important.

Erin Koster from PGT Industries noted that Longboat Key was installing a 45% window tint. PGT did not have an opinion regarding the 15% tint but noted it was conservative with no actual proof in studies. She added that installing a window tint on an existing window might void the manufacturer's warranty or create heat stress cracks in the glass. She discussed adding an additional tinted film to windows with a manufactured tint. She provided samples of 45% and 15% tints and noted a significant difference between tints.

Bill Althoff, President of Shamron Beach Condominiums, commented on the 15% window tint and indicated that additional window tint should not be required because there were only six turtle disorientations last year. He compared turtle disorientation data from other counties and did not see a correlation between the strength of the window tint and disorientations. He supported issuing fines based on measuring light infractions with a calibrated instrument. He stated that everyone wanted to protect the turtles.

Dave Vieceli remodeled condos with 45% glass, but other owners were putting off installing glass until the ordinance was finalized. He noted they followed the state statutes, and it was not beneficial to go to 15%.

Mary Rose Spalletta, resident, Turtle Time member and MRTF member, discussed the sea turtle population worldwide. She described the sea turtle's sensitive eyes with lights and turtles getting stuck under furniture left on the beach. She stated that humans had a responsibility to keep sea turtles alive.

Cindy Johnson, resident and Turtle Time volunteer, stated that she knocked on doors and asked people to turn their lights off during hatchings. She indicated that just one light could cause a disorientation and she noted that the Longboat Key ordinance had not been updated. She commented that it was up to the Town Council to protect the turtles. Broward County recommended the 15% tint even though it was not in their ordinance.

Jim Reiter from Jeld Wen Windows and Doors stated there was not enough science yet to prove that the 15% windows were the way to go and they supported more testing.

Jennifer Manning, resident, described a turtle hatching that did not go well because a house behind the nest was completely lit up.

Public comment closed.

Council Member Atterholt acknowledged there was a problem and property owners had an obligation to be respectful of marine life. He thought the Town had to be more aggressive in enforcing violations against people who were not being respectful. He commended Pink Shell for upgrading their windows. He stated the solution was to close blinds or shades and comply. He supported aggressively enforcing the ordinance. He felt it was fair that new construction was required to install 15% windows but thought that property owners should be allowed to comply and have the proper enforcement.

Vice Mayor Hosafros stated that she moved to hold off on the ordinance at the last meeting to gather additional information. She attended the Pink Shell demonstration of the two tints and did not think the 15% glass was a catastrophe, as some described. She will not vote for the ordinance today.

Council Member Allers indicated he did not notice a difference between the tints at Pink Shell. He noted that the FWC (Fish & Wildlife Conservation) recommended the 15% tint, but it was not required. He encouraged the condos to install 15% windows.

Council Member Veach stated that the 15% glass produced less light and reduced the likelihood of disorientations. He supported creating a restrictive ordinance and allowing variances for special cases.

Council Member Allers moved to move Ordinance 22-11 to a second reading on June 6 at 9:00 a.m., go back to 45% for replacement windows and to include an awareness clause that Town Council believes that protecting sea turtles was critical and staff was directed to enforce the code fully; second by Council Member Atterholt.

Discussion ensued regarding stricter enforcement methods.

Motion carried 3-2, with Vice Mayor Hosafros and Council Member Veach dissenting.

XI. ADMINISTRATIVE AGENDA

A. 2022 Citizen of Distinction

The Town has received the nomination of Patrick (Pat) McKeown for the annual Fort Myers Beach Citizen of Distinction Award in the area of Arts and Culture for his authoring of the history of the Mound House book "*Crown Jewel of Fort Myers Beach The Mound House*".

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

Motion carried unanimously.

B. Audit Committee Appointments

The Audit Committee currently has three vacancies on their 7 member board. Fort Myers Beach residents Michael Hauser, Jack Leson, Sherry Misgen and Barbara Puffer are each requesting to be appointed to one of the seats.

Town Council Members voted unanimously to appoint Michael Hauser, Sherry Misgen and Barbara Puffer.

C. Resolution 22-21; Laguna Shores Channel Dredge Assessment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA PROPOSING THE ESTABLISHMENT AND FUNDING OF THE LAGUNA SHORES DREDGING ASSESSMENT AREA WITHIN THE AREA OF THE TOWN DESCRIBED HEREIN FOR THE PURPOSE OF PAYING THE COST OF THE LAGUNA SHORES CANAL DREDGING PROJECT; PAYING OTHER PROJECT, FINANCING AND COLLECTION COSTS; MAKING CERTAIN FINDINGS AND DETERMINATIONS OF SPECIAL BENEFIT AND THE LOGICAL RELATIONSHIP BETWEEN THE DREDGING PROJECT AND THE BENEFIT RECEIVED; SPECIFYING THE TOTAL ESTIMATED CAPITAL COST OF THE DREDGING PROJECT; SPECIFYING THE UNIT OF MEASUREMENT FOR, AND THE ESTIMATED MAXIMUM AMOUNT OF

SAID ASSESSMENT TO BE LEVIED AGAINST EACH PARCEL WITHIN THE DESCRIBED AREA; SPECIFYING THE NUMBER OF YEARS SAID ASSESSMENT IS TO BE LEVIED; ALLOWING FOR THE PREPAYMENT OF THE SPECIAL ASSESSMENT; PROVIDING FOR ANNUAL ADJUSTMENTS TO THE AMOUNT OF THE ASSESSMENT IF NECESSARY; PROVIDING FOR CERTAIN OTHER AUTHORIZATIONS AND DELEGATIONS OF AUTHORITY IN RELATION THERETO; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the resolution.

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

Motion carried unanimously.

D. ITB-22-10-EN; Laguna Shores Channel Dredge Contract

Authorize the Town Manager to enter into an Agreement with Arbor Tree & Land, Inc., the low, responsive, and responsible bidder to ITB-22-10-EN to perform the Laguna Shores Channel Dredge Project ("Project") in an amount not to exceed \$585,905.00 and expend budgeted funds for the Project.

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

Motion carried unanimously.

E. 2022 Estero Island Beach Monitoring

Approve Supplemental Task Authorization #14 with Coastal Engineering Consultants Inc., in the amount of \$47,013 for Professional Engineering Services to conduct annual monitoring of beach profiles along the shoreline of Estero Island and authorizing the Town Manager to execute the Supplemental Task Authorization and expend budgeted funds.

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

Motion carried unanimously.

F. BORC Additional Services

Approve Supplemental Task Authorization #14, in the not to exceed amount of \$109,886 for additional work on the Bay Oaks Redevelopment project and Community Pool and authorize the Town Manager to execute the Supplemental Task Authorization with DRMP Inc.

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

Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt noted that MRTF requested staff assistance and questioned whether Town Council approved. Town Council agreed to allow staff to assist. Town Manager Hernstadt reviewed the tier system for the stormwater project and noted that tier one streets would be under construction soon. He indicated that Sterling could be moved into tier two and listed ways to try to mitigate the flooding in the meantime. Mayor Murphy requested that they be elevated to tier two. He stated that water was coming back out of the drain on Curlew. Town Manager Hernstadt responded that staff would inspect the duckbills and remove any debris. He added that staff would also check the condition of swales on streets with similar issues.

Utilities Director Christy Cory stated that Sterling could be added to tier one with a change order. She noted that Bahia Via was also added to tier one and the swales were inspected. She thanked those who immediately gave easements to the town.

XIV. TOWN ATTORNEY'S ITEMS

No items.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Atterholt noted that the town's projects were approved by the TDC (Tourist Development Council), but the beach renourishment piece was not part of the agenda and would go through the beach reserve trust fund because of the size of the ask. Negotiations between the town and the county were ongoing. Vice Mayor Hosafros and Council Member Atterholt agreed to let Lee County hold off implementing \$1.4 million for crosswalks until the town had a broader solution. Council Member Allers questioned how long they wanted to wait. Council Member Atterholt recommended waiting until June to see if the fixtures were approved.

Mayor Murphy suggested having a joint meeting with the County Commissioners to hash everything out. Council Member Atterholt agreed.

Town Manager Hernstadt will request a meeting. Council Member Veach requested more information regarding getting more money upfront, but less every year versus less money upfront, but more every year. Council Member Allers agreed to wait until June.

Council Member Veach questioned information regarding the movie made on the beach. Town Manager Hernstadt replied that the group did not receive a special event permit and staff were trying to track down what happened. Council Member Veach thanked Pink Shell and Charley's Boathouse for being good corporate citizens. He also thanked Council and staff for accommodating him to participate in the meeting.

Vice Mayor Hosafros questioned contacting LeeTran regarding the status of adding benches and other items to the bus stops. Town Manager Hernstadt replied that LeeTran was in the middle of their budget process, but he would contact them for an update.

Council Member Allers thanked the Pink Shell and described their elevated trash cans on the beach closer to the water. He noted that Chief Martin would draft a letter regarding the Lenell crosswalk.

Mayor Murphy thanked Bill from Pink Shell and noted that Pink Shell was considering improving their cottages for employee housing. Council Member Veach suggested that staff work on zoning for workforce housing.

Town Manager Hernstadt encouraged Council Members to submit topics to discuss at the joint meeting with Lee County.

A. Annual Review of Town Manager

Council Member Allers spoke in private to the Town Manager and nothing had changed.

Council Member Atterholt felt that one of the Town Manager's strengths was managing the ongoing construction projects, but he would like to see more relationship building and better communication with the county. He encouraged the Town Manager to continue to tell the town's story.

Council Member Veach felt that the Town Manager had a good skill set for where the town was with the infrastructure projects. He appreciated what he was doing, particularly the grants he secured to save taxpayers money. He supported the Town Manager.

Mayor Murphy was very pleased with the Town Manager's performance. He agreed that the Town Manager should blow his horn more often about the positive things going on in the town. He mentioned his salary and felt he should be at the top of the range.

Vice Mayor Hosafros stated that she received positive feedback from town employees regarding the Town Manager's performance. She appreciated his choices in filling positions and the good relationship with employees. She suggested that Town Council set new strategic plan goals. She was pleased to see progress with the budget process over the years.

XVI. ADJOURNMENT

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

The meeting was adjourned at 11:39 a.m.

Minutes adopted as presented, June 6, 2022; Motion by Council Member Veach, seconded by Council Member Allers. Adopted 5-0.



Amy Baker, Town Clerk