

NOTE: A request form is available from the Deputy Town Clerk; please fill it in and return it prior to the start of the meeting if you would like to speak during public comment. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please turn off or mute your cell phone or pager at the start of the meeting. Thank you.

**TOWN OF BAY HARBOR ISLANDS
MORRIS N. BROAD COMMUNITY CENTER
1175 95TH STREET
BAY HARBOR ISLANDS, FL 33154**

**REGULAR COUNCIL MEETING
REVISED
AGENDA**

March 8, 2023

STATEMENT OF DECORUM

All comments must be addressed to the Council as a body and not to individuals. Any person making a racial or slanderous remark or who becomes boisterous while addressing the Town Council, staff, etc. shall be barred from the audience by the presiding officer. No profanity, shouting, heckling, verbal outbursts, or disruptive behavior in support of or opposition to a speaker or his/her remarks is permitted. Please mute or turn off your cell phone or other electronic devices at the start of the meeting. Failure to do so may result on being barred from the meeting. Persons exiting the Chambers shall do so quietly.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

1. Proclamation - Judge Marcia G. Cooke

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

TOWN MANAGER'S REPORT:

COUNCIL REPORTS: Each Council Member will be afforded two (2) minutes to make their reports.

PUBLIC COMMENT

COMMITTEE REPORTS:

CONSENT AGENDA: Set for approximately 7:55 p.m. (Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.)

2. **Consideration and Approval** of a Resolution adopting Title VI Plan update for the Town of Bay Harbor Islands. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (42 U.S.C. Section 2000d). Enclosed is a copy of the Town of Bay Harbor Islands Title VI Program.

**A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE
TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING TITLE VI
PLAN UPDATE FOR THE TOWN OF BAY HARBOR ISLANDS, FLORIDA,
PROVIDING FOR AN EFFECTIVE DATE.**

3. Approval of Council Meeting Minutes:
 - A. September 28, 2022 Special Council Meeting
 - B. October 19, 2022 Regular Council Meeting
 - C. November 3, 2022 Special Council Meeting
 - D. November 28, 2022 Regular Council Meeting
4. **Consideration and Approval** to piggyback off the Seminole County Sheriff's Office/Contract with HG2 Emergency Lighting to outfit (5) new police vehicles with emergency lights and equipment in the amount of \$52,245.25, pursuant to Section 2-1(6) of the Town Code. Enclosed are the piggyback documents.
5. **Consideration and Approval** of a request to go out to bid for CRS (Community Rating System) re-certification review services.

STAFF RECOMMENDATION: Approve

POLL VOTE

PUBLIC HEARING

- ~~6. **Consideration** of a request to the Town Council of the Town of Bay Harbor Islands, Florida, appealing the actions of the Design Review Board regarding the Site Development Application for a proposed single-family residence for 1270 99th Street, Bay Harbor Islands, Florida; pursuant to Section 5-13.1(b) of the Town Code. Enclosed is the Town Planner's Staff Report and other supporting documents.~~

~~**STAFF RECOMMENDATION:** Council's Discretion~~

~~**POLL VOTE**~~

7. Discussion for the purpose of hearing public comments with respect to an application for variances from Sections 23-12(6)(a)(iii), 23-12(6)(v), 23-12(8), and 23-12(6)(a)(x) of the Town Code to construct a boat dock facility at 1135 103rd Street, Tract F, Bay Harbor Islands, by property owner BH Investment, LLC. Enclosed is a copy of the Town Planner's Staff Report, the variance application, and other supporting documents.

8. **Approval or Denial** of variance requests for the property located at 1135 103rd Street. In accordance with Section 2-22 of the Town Code, the Town Council shall determine whether to grant or deny the application for a variance. An affirmative vote of five (5) Council Members is necessary in order to grant the variances requested, and decision of the Town Council is final. If the requests are granted, the decision of the Town Council shall be recorded in a Resolution to be prepared by the Town Attorney. It should be noted that any approval of the Town Council is subject to other requirements of the Town Code, Miami-Dade County Code, The Florida Building Code, FEMA, or any other applicable governing agencies.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

ORDINANCES ON SECOND READING:

ORDINANCES ON FIRST READING:

9. **Consideration** and **Approval** of an Ordinance on First Reading amending Sections 18-1 through 18-4 of the Town Code delegating the authority for issuance of Permits for work in the Public Right-of-Way from the Town Clerk to the Town Engineer. Enclosed is a copy of the proposed Ordinance and code provision.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 18, ARTICLE 1 OF THE TOWN CODE ENTITLED "STREETS AND SIDEWALKS", REVISING SECTIONS 18-1 THROUGH 18-4 PERTAINING TO THE ISSUANCE OF PERMITS FOR WORK WITHIN THE PUBLIC RIGHT-OF-WAY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; AND AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Approve

POLL VOTE

10. Consideration and Approval of an ordinance on First Reading modifying Section 23-11(A)(6) of the Town Code to increase the allowable building height in the RD Single-Family Residential District. Sponsored by Mayor Joshua Fuller. Enclosed are the Town Planner's Staff Report, the proposed ordinance, and a sample Building Height Table.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO ALLOWABLE BUILDING HEIGHT IN THE RD SINGLE FAMILY AREA; AMENDING CHAPTER 23 ENTITLED ZONING AND PLANNING; AMENDING ARTICLE 1 ENTITLED ZONING REGULATIONS; AMENDING SECTION 23-11 ENTITLED LAND DEVELOPMENT REGULATIONS; AMENDING SECTION 23-11(A)(6) TO INCREASE THE ALLOWABLE BUILDING HEIGHT TO ADJUST FOR POTENTIAL FLOODING AND OCCUPANT USABILITY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

11. **Consideration and Approval** of an ordinance on First Reading amending Chapter 5, Section 5-23.01(f) of the Town Code pertaining to meetings of the Design Review Board. Sponsored by Council Member Bruder.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 5 OF THE TOWN CODE, ENTITLED "DESIGN REVIEW BOARD", BY REVISING SECTION 5-23.01(f) PERTAINING TO MEETINGS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

DEFERRED ITEMS:

TOWN MANAGER ITEMS: *(Town business items requiring Council approval)*

12. **Consideration and Approval** of a Resolution amending the Building Permit Fee Schedule set by Resolution No. 2270 to establish a reduced fee for applicants that choose to use a "Private Provider" for Building Plan Review and Inspections, as per Florida Statutes, Section 553.791. Enclosed is a copy of the fee schedule and legislation.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

13. **Consideration** of a request by Kane BH Property 1, LLC for modification of the Parking Trust Agreement approved at the February 1, 2023 Town Council Meeting for application of a fee of \$20,000 per space, instead of the \$35,000 per space approved to be paid into the Parking Trust for development of the property at 9555 Bay Harbor Terrace. Sponsored by Council Member Robert Yaffe. Enclosed is a copy of the request.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

14. **Consideration and Approval** of funding for the Design-Build Project BHI-228- 92nd Street Dog Park Extension. Enclosed is a copy of Waypoint Proposal.

STAFF RECOMMENDATION: Approve

POLL VOTE

15. A request by Bay Harbor Islands Property Owner II LLC, owner of the properties located at 9431, 9461, and 9481 East Bay Harbor Drive (The LaBaia North Project), to modify the TDR contract approved by the Town Council on June 22, 2022, to reduce the number of TDRs from the 46 approved to 31, due to modifications to the project. Enclosed is the Town Planner's Staff Report and other supporting documents.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

16. **Consideration and Approval** of a private TDR Transaction for the transfer of three (3) dwelling units from (9201 West Bay Harbor Drive) to NIDO Multi-family Development (9880-9900 West Bay Harbor Drive). Enclosed are a copy of the Town Planner's Staff Report, the TDR Application, contract, Site Plans, and other supporting documents.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

17. **Consideration** and **Approval** of a TDR transaction for the transfer of two (2) TDR units from the Town-owned "pool" of TDR units to the future NIDO Multifamily Development project to be located at 9880-9900 West Bay Harbor Drive. Enclosed are copies of the TDR application and applicant's Letter of Intent. This item is linked to [Item #16.](#)

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

DISCUSSION ITEMS:

18. **Discussion** regarding an amendment to Sections 23-1, 23-4, and 23-5 of the Town Code to regulate the location of Real Estate Sales Centers in the town. Enclosed is the Town Planner's Staff Report and a draft ordinance.
19. **Discussion** and **Possible** action regarding the lease with Sunshine Gasoline Distributors, Inc. for operation of the gasoline service station. Enclosed is a copy of the lease agreement.
20. **Discussion** and **Possible** action regarding zoom meetings.
21. **Discussion** and **Possible** action regarding continuation of the Arts Festival.
22. **Discussion** and **Possible** action regarding Town Hall Facilities.
23. **Discussion** and **Possible** action regarding Section 23-12 (15)(e) iii of the Town Code regarding projections into setback areas. Sponsored by Council Member Bruder. Enclosed are copies of the Code provisions.

ADJOURNMENT: Approximately 10:00 p.m.

Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.