

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 mute or turn off your cell phone or electronic devices 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

February 21, 2024
7:00 PM

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 in being barred from the meeting. Persons exiting the Chambers shall do so quietly.

SPECIAL NOTICE

A Regular Meeting of the Town Council of the Town of Bay Harbor Islands will take place in-person and virtually through the Zoom platform, on Wednesday, February 21, 2024, at 7:00 p.m.

“In an effort to provide greater public access and comment on pending matters, the Town of Bay Harbor Islands is providing a Zoom link to enable members of the public to comment on pending items on the Town Council agenda. Zoom access is provided under the same terms and conditions as in-person access, including length of time and decorum. Anyone desiring to be heard may utilize the Zoom link. However, members of the public must understand that the provision of Zoom access for comments is a courtesy, not a vested right, and that access is provided subject to the availability and functionality of the Town’s equipment. There is no guarantee that internet service will be reliable or that the Town’s equipment will function as intended. In the event that the Zoom access is unavailable or interrupted for any reason, the Town Council meeting will still proceed forward, and will not be stopped or rescheduled in any regard. Those wishing to be absolutely certain that their comments are heard by the Town Council should present themselves in person at the Council meeting and seek recognition, or alternatively, should submit their comments in advance of the meeting in writing to the Town Clerk, and ask that they be read into the record, subject to the above terms and conditions, such as length and decorum. The validity of any actions taken by the Town Council will in no way be affected by the use or functionality of Zoom access for comments.”

Zoom Meeting Link: <https://us06web.zoom.us/j/87877295960>
Meeting ID: 878 7729 5960

To request to speak during Public Comment, please utilize the “raise your hand” Zoom feature on your electronic device. You will be recognized at the direction of the Zoom Meeting Host.

In addition, any member of the public who does not wish, or is unable to participate through the Zoom video conferencing platform, but would still like to participate can do so by listening to the meeting as it happens by dialing the Toll-free numbers below:

US Toll Free Numbers: 877 853 5247 or 888 788 0099
For higher quality, dial a number based on your current location:
US: 1 305 224 1968 or 1 646 558 8656 or 1 301 715 8592

Meeting ID: 878 7729 5960
Participant ID: Press the # key.

To request to speak: Dial *9 on your telephone device to activate the “Raise your Hand” feature on the Zoom platform.

Members of the Public can also submit their request to speak and/or comments via email to the Office of the Town Clerk at yhamilton@bayharborislands-fl.gov prior to 4:00 p.m. on the day of the meeting.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

1. Proclamation - Colorectal Cancer Awareness Month.
2. Proclamation - Problem Gambling Awareness Month
3. Introduction of New Police Officer Alexander Alvarez

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

There is a three (3) minute time limit for each speaker during public comment and a two (2) minute time limit for each speaker during all other agenda items. Your cooperation is appreciated in observing the three (3) minute rule. If you have a matter you would like to discuss which requires more than three (3) minutes, please arrange a meeting with the Town Manager or appropriate administrative official. A request form is available from staff; please fill it in and return it to the Town Clerk prior to the start of the meeting if you would like to speak during public comment. Please come forward to the podium, give your name and address, and the name and address of the organization you are representing if any.

COMMITTEE REPORTS:

4. Parks & Recreation Committee January 24, 2024, Meeting Report - Chair Kathleen Kennedy
5. **Ratification and Approval** of reduction of fines as mitigated by the Litigation Committee for 1060 95th Street and 1080 95th Street, pursuant to Section 5 3/4-16 of the Town Code. The Special Magistrate imposed a fine of \$307,450.00 for various Code violations. At its meeting on February 7, 2024, the Litigation Committee reduced the fine to \$75,000.00, subject to approval of the reduction by the Town Council, with the conditions that they rehab the existing structures within the existing envelope and footprint of the buildings. If the properties are sold or redeveloped in a different way, prior to the issuance of a final Certificate of Occupancy, the amount forgiven would have to be paid to the Town.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

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.)*

6. **Consideration and Approval** to increase the Police Department's personnel in furtherance of the delivery and efficiency of the Police Dispatcher services by hiring three (3) additional Full-Time Police Dispatchers. Sponsored by Council Member Stephanie Bruder. Enclosed are the supporting documents.
7. **Consideration and Approval** to piggyback off the Seminole County Sheriff's Office/Contract with HG2 Emergency Lighting to outfit (3) new police vehicles with emergency lights and equipment for \$34,388.00, pursuant to Section 2-1.2 of the Procurement Ordinance. Enclosed are the piggyback documents.
8. **Consideration and Approval** of a Resolution approving Change Order No. 1 to a contract between the Town and Engineering Control Systems, Corp. dated February 2, 2023 for BC-158 Shepard Broad Causeway Rehabilitation Project Bridge 875101. The Change Order is for the amount of \$196,594.00 for services needed by FPL, for Installation for Exploratory Hand Digging, and Hydro Excavation to Connect Existing FPL Conduit to the New Pull Box at the Shepard Broad Causeway, plus the purchase and installation of FPL Conduit and Cable. Enclosed are the supporting documents.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING CHANGE ORDER NUMBER 1 TO THE AGREEMENT WITH ENGINEERING CONTROLS SYSTEMS CORP FOR THE SHEPARD BROAD CAUSEWAY REHABILITATION PROJECT BRIDGE NO. 875101; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR EXPENDITURE OF FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

9. **Consideration and Approval** of a Resolution approving Change Order 1 to BC – 158 – Rehabilitation of Broad Causeway Bridge # 85101 contract in the amount of \$94,275.87 with BCC/Lakes Engineering Controls Systems Corp for repair of the Broad Causeway West Relief Bridge (BC – 158 – Rehabilitation of Shepard Broad Causeway Bridge # 85101) for additional Construction Inspection Services. Enclosed are the supporting documents.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING CHANGE ORDER NUMBER 1 TO THE AGREEMENT WITH LAKES ENGINEERING FOR INSPECTION SERVICES ON THE SHEPARD BROAD CAUSEWAY BRIDGE REHABILITATION PROJECT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR EXPENDITURE OF FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

10. **Consideration and Approval** of Resolution awarding a competitively bid contract to Kearns Construction Company, the lowest responsible, responsive bidder, in the amount of \$363,400.00, pursuant to RFP No. 5-1015-PW-0-2023/FVR-BHI Artificial Reef - Marine Park Construction, in accordance with Section 2-1.1 of the Procurement Ordinance; and approving Budget Amendment No. 1 for \$113,400.00 for the additional cost of the project. Enclosed are the supporting documents.

**A RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF BAY HARBOR ISLANDS, FLORIDA,
AWARDING A COMPETITIVELY BID CONTRACT
TO KEARNS CONSTRUCTION COMPANY,
PURSUANT TO RFP NO. -5-1015-PW-0-2023/FVR BHI
ARTIFICIAL REEF – MARINE PARK
CONSTRUCTION; APPROVING BUDGET
AMENDMENT NO. 1 TO FISCAL YEAR 2023/2024
BUDGET PROVIDING THE BALANCE OF FUNDS
FOR THE PROJECT; PROVIDING INCORPORATION
OF RECITALS, PROVIDING FOR
IMPLEMENTATION; AND PROVIDING FOR AN
EFFECTIVE DATE.**

11. **Consideration and Approval** to terminate the Town Shuttle Bus services with Limousine of South Florida (LSF), add a Freebee On-Demand Vehicle through Beefree, LLC, and adopt Freebee's SSPP and SPP operating procedures. Enclosed is the Freebee System Safety Program Plan.
12. **Consideration and Approval** of a Demolition Design Contract with Chen Moore and Associates in the amount of \$77,350.00, in order to continue with Phase II of Town Hall demolition. Enclosed are the demolition plans.
13. **Consideration and Approval** of a Resolution for the Fourth Extension of the Lease Agreement between Sunshine Gasoline Distributors, Inc. and the Town of Bay Harbor Islands to May 31, 2024, for operation of a motor fuel service station and convenience store at 1501 Broad Causeway, Bay Harbor Islands, Florida. Enclosed are the proposed resolution and the Lease Extension agreement.

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR
ISLANDS, PROVIDING FOR THE APPROVAL OF THE FOURTH LEASE
EXTENSION AGREEMENT BETWEEN THE TOWN OF BAY HARBOR
ISLANDS AND SUNSHINE GASOLINE DISTRIBUTORS, INC., A
FLORIDA CORPORATION; PROVIDING FOR INCORPORATION OF
RECITALS; PROVIDING FOR AN EFFECTIVE DATE.**

14. **Ratification of Approval** of emergency authorization in accordance with Section 2-1.3 of the Town's Emergency Procurements provisions for the Shepard Broad Causeway Bridge. Further approving Change Order No. 2 to a contract between the Town and Engineering Control Systems, Corp. dated February 2, 2023 for an approximate amount of \$347,545.00, which includes \$22,651.00 for repair design and approximately \$324,894.00 for the additional construction work. Enclosed are the supporting documents.
15. **Consideration and Approval** of the staff recommendation to select the alternative repair design for replacing the first and last span (Slabs 1 and 5) and rehabilitation of the remaining spans of the bridge that would cost approximately \$1,952,701.00 for repair of Shepard Broad Causeway West Relief Bridge (BC-161 West Relief - North Miami - Bridge No. 875105 repair alternative). Enclosed are the supporting documents.

16. **Consideration and Approval** of a resolution pursuant to FS 106.07(2)a(2) providing for electronic filing of campaign reports. Enclosed is a copy of the proposed resolution.

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, PROVIDING FOR THE APPROVAL AND ADOPTION OF ELECTRONIC CAMPAIGN FINANCE FILING REQUIREMENTS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

17. **Consideration and Approval** of a resolution authorizing the Town, and any individual Member of the Town Council, who chooses to do so, to participate as plaintiffs, in the lawsuit against the new Florida financial disclosure law (Form 6) being brought by the legal firm of Weiss Serota Helfman Cole +Bierman, PL. If approved, the Town and/or Council would join in a lawsuit over the new state law that requires local elected officials to Complete Form 6, a detailed financial disclosure form. Sponsored by Council Member Robert Yaffe.

A RESOLUTION OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AUTHORIZING PARTICIPATION IN LITIGATION SEEKING A DECLARATION THAT THE PROVISIONS OF SECTION 112.144(1)(d), FLORIDA STATUTES, THAT REQUIRE MUNICIPAL ELECTED OFFICIALS TO FILE FORM 6 FINANCIAL DISCLOSURE FORMS IS UNCONSTITUTIONAL AND INVALID; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

18. **Ratification and Approval** of emergency authorization in accordance with Section 2-1.3 of the Town's emergency procurement provisions for the purchase of an emergency power generator for the Bay Harbor Islands Police Department in an amount not to exceed \$160,415.00. Sponsored by Council Member Stephanie Bruder.

STAFF RECOMMENDATION: Approve

POLL VOTE

ORDINANCES ON SECOND READING:

19. **Consideration and Approval** of an ordinance on second reading amending Chapter 5 of the Town Code, entitled Buildings and Construction, by creating Section 5-26 to provide for Site Development Plan Exemption for Town Projects. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO BUILDING AND CONSTRUCTION ACTIVITIES; AMENDING CHAPTER 5 BUILDINGS AND CONSTRUCTION, ARTICLE I, BY CREATING SECTION 5-26 ENTITLED "SITE DEVELOPMENT PLAN EXEMPTION FOR TOWN PROJECTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

20. **Consideration and Approval** of an ordinance on second reading amending Section 5-6 of the Town Code to provide for appeal after payment of code violations. Sponsored by Council Member Robert Yaffe. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATING TO APPEAL AFTER PAYMENT OF CODE VIOLATIONS; AMENDING CHAPTER 5 ENTITLED "BUILDINGS AND CONSTRUCTION", ARTICLE I, SECTION 5-6 ENTITLED "DEVELOPMENT FEES, PERMITS – REQUIRED, FEES TO BE PAID; PENALTY FOR NONCOMPLIANCE" RELATING TO APPEAL AFTER PAYMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

21. **Consideration and Approval** of an ordinance on second reading amending Sections 1-2, 2-21, 18-24, 2-1.1, 53/4-8, 23-16.1, and 18-25 of the Town Code defining "Publication" of Public Notice in order to provide a definition of and remove the requirement for newspaper publication. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING SECTION 1-2 DEFINING "PUBLICATION" OF PUBLIC NOTICE; AMENDING SECTION 2-21 "NOTICE OF PUBLIC HEARING"; SECTION 18-24 "NOTICE OF PROPERTY OWNER'S FAILURE TO CONVERT FACILITIES"; SECTION 2-1.1 "PROCUREMENT LIMITATIONS; COMPETITIVE BIDDING"; SECTION 5¾-8. "CONTENTS AND SERVICE OF NOTICE"; SECTION 23-16.1 "MORATORIUM"; AND SECTION 18-25 "CONVERSION OF FACILITIES OF THE TOWN CODE; LIEN; RECORDING; REDEMPTION"; AND SIMILAR ORDINANCES OF THE TOWN CODE; IN ORDER TO PROVIDE A DEFINITION OF PUBLICATION AND REMOVE THE REQUIREMENT FOR NEWSPAPER PUBLICATION, PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

22. **Consideration and Approval** of an ordinance on second reading amending the Town Code of Ordinances by adding a section to be numbered 14-18, entitled "Hate Crimes". Sponsored by Council Members Isaac Salver and Stephanie Bruder. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES BY ADDING A SECTION TO BE NUMBERED 14-18, ENTITLED "HATE CRIMES - CONSIDERATION OF EVIDENCE OF PREJUDICE WHILE COMMITTING OFFENSE"; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

ORDINANCES ON FIRST READING:

23. **Consideration and Approval** of an ordinance on first reading amending Section 5 3/4-16 of the Town Code of Ordinances to change the name of the Litigation Committee to Mitigation Committee. Sponsored by Council Member Robert Yaffe.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING SECTION 5 ¾-16 OF THE TOWN CODE RENAMING THE LITIGATION COMMITTEE TO THE “MITIGATION COMMITTEE”; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

- ~~24. **Consideration and Approval** of an ordinance on First Reading amending Section 23 12 of the Town Code entitled "General Provisions" by revising Section 23 12(26) to add padel ball to the outdoor recreational game court facilities allowed in the Town, modifying fencing regulations and providing for noise mitigation to accommodate this sport. Sponsored by Vice Mayor Fuller and Council Member Stephanie Bruder. Enclosed is the proposed ordinance.~~

~~**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE BY AMENDING SECTION 23 12 ENTITLED GENERAL PROVISIONS; AMENDING SECTION 23 12(26) RELATED TO OUTDOOR RECREATIONAL GAME COURT FACILITIES TO CLARIFY AND EXPAND THE TYPES OF GAME COURT FACILITIES ALLOWED AND TO MODIFY FENCING ALLOWANCES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**~~

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

~~**POLL VOTE**~~

25. **Consideration and Approval** of an ordinance on first reading amending Sections 5-20 and 5-23 of the Town Code regarding the contents of preliminary site development plans. Sponsored by Council Member Teri D'Amico. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO BUILDING AND CONSTRUCTION ACTIVITIES; AMENDING CHAPTER 5 ENTITLED BUILDINGS AND CONSTRUCTION, ARTICLE I, SECTION 5-20 ENTITLED “CONTENTS OF PRELIMINARY PLAN, PENALTY FOR NONCOMPLIANCE”, AND SECTION 5-23 ENTITLED “TIME FOR SUBMITTING OF FINAL WORKING PLANS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

DEFERRED ITEMS:

26. ~~Approval of the following Council Meeting Minutes:~~
- ~~A. Special Council Meeting March 14, 2023~~
 - ~~B. Special Council Meeting May 1, 2023~~
 - ~~C. Regular Council Meeting June 14, 2023~~
 - ~~D. Special Council Meeting June 28, 2023~~
 - ~~E. Special Council Meeting July 27, 2023~~
 - ~~F. Regular Council Meeting August 8, 2023~~
 - ~~G. Special Council Meeting August 21, 2023~~
 - ~~H. First Budget Public Hearing September 13, 2023~~
 - ~~I. Regular Council Meeting September 13, 2023~~
 - ~~J. Final Budget Public Hearing September 27, 2023~~
 - ~~K. Special Council Meeting September 27, 2023~~
 - ~~L. Regular Council Meeting October 11, 2023~~

STAFF RECOMMENDATION: Approve _____ **POLL VOTE**

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

27. **Discussion** and **Possible** action regarding support of Miami Water Keeper organization through attendance at the March 5, 2024 event at the Rusty Pelican Panel regarding discussion with community leaders to talk about the South Florida's coral reefs and solutions to make the community more resilient. Enclosed is the invitation and information on the organization.

DISCUSSION ITEMS:

28. **Discussion** and **Possible** action regarding non-renewal of the contract for the art festival. Sponsored by Mayor Elizabeth Tricoche.
29. **Discussion** regarding maintenance of construction sites before 9:00 a.m. Sponsored by Council Member Robert Yaffe.

ADJOURNMENT: Approximately 11:00 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.