



Fort Myers Beach Town Council

17650 San Carlos Blvd. (former SkipOne Seafood
Restaurant / adjacent to Smugglers Cove
Adventure Golf) Fort Myers Beach, FL 33931

Minutes

Thursday, October 20, 2022

2:00 PM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Council Member Atterholt.

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

Tom Torgerson, resident, stated that Margaritaville did not suffer structural damage. He requested a resolution in the future for a permanent rebuild of the cigar hut at grade level or portable trailers.

Mike Seclaris, resident, described what was happening on the island and noted that things were starting to flow. He felt the town was in over its heads regarding disaster response.

Karen Woodson, resident, thanked Town Council for the meeting. She questioned whether residents had to submit structural and electric inspection reports to request water services.

John R. King, resident, felt that there was no plan or leadership and decisions were made without public input or the Fort Myers Beach government. He indicated that Town Council should have held special meetings and not let other authorities take over.

Cassius Upton, resident, stated that the codes had to remain in place. He noted they did not need big development on the beach.

Shae Rohling, resident, questioned whether residents were allowed to hire professionals for electrical and mold mitigation who were not on the Fort Myers Beach recommended list but were licensed by the state.

Camden Ashmore questioned information regarding permitting requirements and the FEMA 50% rule restrictions.

Holly Quick, resident, questioned who was responsible for removing a home on top of her house so they could start rebuilding. Mayor Murphy responded that he expected an answer from the state and the federal government within 72 hours. Gisele McKenzie Linscott, resident, requested clarification on structure validity and electrical. She thought her home was safe, but she was unsure who to contact.

Jason Ingreem, from Mango Ritas, felt that no one provided answers to questions. People did not have internet access, so they could not get information.

Jennifer Rusk, resident, questioned when the debris would be removed and when the town would have water.

Robert Lazzell, resident, stated he wanted answers to his questions about water and sewage, electricity, daily updates, plan for debris removal, mail service and working people who cannot get to the island on Mondays and Tuesdays. Mayor Murphy stated that debris removal was being handled by Lee County and questions should be directed to them.

Bob Miller requested clarification regarding the 50% rule and whether it was cumulative. He described two people who dug through his trash to sell items at a flea market. He stated that those people were not residents and he noted he was not asked for his ID when he drove on the island.

Chris Patricca from the Lee County School Board stated that students temporarily returned to school at San Carlos Elementary School. She indicated that she did not know whether the beach school would have to be refurbished or completely torn down and rebuilt. She noted that the school board would keep residents informed and encouraged the community to contact Dr. Kohler or herself with questions.

Kathy Korn, resident, represented the board from Fairview Isles. She questioned the validity of a map that showed condemned houses. She asked about the disaster plan for Fort Myers Beach, tax bills and where to pick up their mail. She commented that Sanibel had an excellent plan. Mayor Murphy stated that the governor was creating a plan for tax relief and the mail was being sent to Jet Loop Rd. in Fort Myers.

Patrick Vanasse, resident and LPA member, commented that the Florida Chapter of the American Planning Association was willing to help the town. He felt it was important to have public workshops in the future.

Susan Elliot, resident, thanked Town Council for the meeting. She described her experience after the hurricane. She mentioned the lack of help and noted that no one checked to determine whether they were safe. She complained about the debris on Coconut Drive and stated that she never saw a diver in the bay and quiet boats were not driving up and down the mangroves looking for people. She suggested that Town Council should contact Lee County and report back to the

community. She remarked that people were trying to scoop up properties and should not be allowed on the island. She stated that all her trees were cut down when she returned to the island.

Mike McDonnell, homeowner, offered his experience to help the town. He suggested they work at night and not close the island on Mondays and Tuesdays. He stated they should have daily meetings and communicate better. He questioned who decided to shut down basic human services for residents while non-residents took advantage of the situation.

Mike Marcam, resident, stated that there was no security on the island and hurricane passes were not checked to get on the island. He described the difficulty of getting a permit and questioned how they could get the power back. He indicated that he had his inspection reports and asked who or where he was supposed to submit his reports.

Lisa Lagemann, resident, questioned whether they could get trailers for permitting to speed things up. She suggested going through Lee County for permits for the next couple of years. She noted that FP&L was using her lot for staging and she questioned why FP&L did not have their trailers with washers and dryers and showers on the beach. She asked why FEMA and the governor were not at any meetings.

Rick Loughrey, resident, stated he was looted three times by people who did not belong on the island. He was upset about the permitting process. Mayor Murphy responded that the town was being supplemented with hundreds of people to assist staff.

Leah Gregg, with two properties on Matlacha, stated that the permitting process for her roof took three days. She suggested unincorporating and letting Lee County take over the town's management.

Alexandra Bryant, resident, asked whether their questions could be answered at next Tuesday's meeting. Mayor Murphy replied affirmatively.

Dr. John Albert, resident, stated the permitting process was terrible and contractors would not work on Fort Myers Beach.

Ron Bennett, resident, stated that the island was opened up to everyone and there was a disconnect between the beach and Lee County. He commented that residents only should be allowed back.

Tim Shadle, resident, discussed access to the island. He came back at 4:00 a.m. on Sunday and was allowed back after showing his ID, but he thought there should be a better system for access to the residents and workers who needed to be there. He wished the town and Lee County would cooperate better and suggested that the Commissioner speak to the audience. Mayor Murphy replied that the Commissioner was welcome to talk at any time and that the town cooperated with the county daily.

Mike Homewood, Fort Myers, thought that FP&L and the County should be at the meeting to answer questions.

Kathy Kova, resident, questioned whether there was a plan for organizing resources coming to the island.

Fred Murphy, resident, stated there was power on the island. He commented that residents rescued people before search and rescue showed up. He added that they needed sewer and water.

Sylvia Slaven, resident, requested that the governor and sheriff attend the meeting next Tuesday to hear residents' voices.

Jennifer Walker thanked Town Council and said she saw them on the island. She noted that residents on legacy lots should be allowed to rebuild the footprint that existed before the hurricane.

Diana McDonald represented property owners on the beach and stated it was hard to get contractors on the island because the town was closed Mondays and Tuesdays.

Betty Russell questioned the map that showed her house as being possibly demolished. Mayor Murphy suggested that she show the map to the Town Clerk. Lee County Commissioner Ray Sandelli stated that he spoke every day with the Town Council. He remarked that he took notes and would put together resources to answer questions. He guaranteed that the county was doing everything it could and was convinced that the beach would be better. He indicated that he would look at the map regarding demolitions.

VI. ITEMS FOR DISCUSSION

A. Extension of Declaration of State of Local Emergency

Town Attorney Herin, Jr. described the resolution. Town Clerk Baker read the title of the resolution.

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

Motion carried unanimously.

B. Restoration of Fort Myers Beach

Town Manager Hernstadt stated that Department Managers would provide updates.

Public Works Director Jason Freeman gave a debris update and noted that temporary debris sites were at Bay Oaks and Lovers Key. Town Manager Hernstadt indicated that more trucks would be added to help remove debris. Director Freeman stated that piles of debris were being monitored and added to a database to track debris in real-time. Town Manager Hernstadt commented that a map should be available next week. He noted that debris was being removed from the right of way and the town would receive guidance from the state and FEMA regarding commercial properties. He provided his email for questions. Director Freeman reminded residents to separate their debris to help with removal.

Utilities Director Christy Cory stated that the town received water from Bonita Springs Utilities on October 10 and that her crew had made it down to Bowditch two days ago. She noted the main was pressurized and the next section would be side streets and they would go street by street to inspect the mains. She reported that Miami-Dade was helping and the staff was working seven days a week.

She explained that Lee County owned the wastewater system and described how it worked. She commented that no one was billed for water or stormwater services and the town would not turn on meters for homeowners who canceled their service.

Town Manager Hernstadt explained that a structural engineering report was required to prevent their homes from being demolished and to be safe. An electrical inspection was needed to prevent anyone from getting electrocuted when the water was turned on. Council Member Veach questioned uncapped sewer lines where homes no longer existed. Town Manager Hernstadt noted that Lee County would have to monitor sewer lines once the water was turned on. Council Member Allers thanked Director Cory and her team for their hard work from day one. Director Cory described how they would move forward and indicated that almost all meters were shut off. Town Manager Hernstadt explained that the town would reach out to homeowners once the water was ready to be turned on. Mayor Murphy thanked Director Cory and Miami Dade Utilities.

Community Services Administrator Daphnie Bercher Saunders described how her office was processing structural engineer reports and electrical inspections. She stated that she did not have 300 electrical permits waiting to be processed. She explained how to find information on the town's website and how important it was for contractors to be registered with the town. She added that conditional permits would be issued for contractors not registered with the town, but the contractor would have to register before a final permit was issued. Mayor Murphy questioned when staff would be able to address individual residents' situations. Town Manager Hernstadt responded that the town would develop a plan to address individual issues and report back on Tuesday.

Town Attorney Herin, Jr. stated that the town went to an electronic system before the hurricane to streamline the permitting process. The review that staff had to conduct had to go through the procedures set forth by the legislators. He explained that the courts of Florida would not protect homeowners who hire unlicensed contractors. Council Member Veach reported that the Lee County Building Industry Association would have an open house with builders on November 3, 2022, from 5:00 p.m. to 7:00 p.m. at Cypress Lake High School. The information will be posted on the Fort Myers Beach Facebook page.

Community Development Director Jason Green explained the 50% rule meant the value of the structure, not the land or other items. He noted the property appraiser linked a letter to properties on their website that breaks down the value of the structure as of January 1, 2022. He explained that the 50% rule was there because of an agreement with FEMA regarding the Community Rating System (CRS), which provided an insurance discount. For a structure value of \$100,000.00, add 20% and divide by half, which would be

\$60,000.00. The cost for repair would be \$60,000.00 and any amount over that required the structure to be elevated and built to the current code.

Council Member Veach indicated that the 50% rule did not apply to homes

above flood elevation. Director Green noted that the town had to enforce the 50% rule to comply with FEMA and the CRS. Mayor Murphy added that all information was online and printed materials were available at the Town Hall. Town Attorney Herin, Jr. explained that FEMA and the National Flood Insurance Program set the rules and the town had to follow the regulations or residents would lose the insurance discount.

Council Member Allers requested an explanation regarding the map with colored dots. Director Green did not think the map determined 50% for homes. He described the town's damage assessment process and noted the colored dots were only estimates. New employee Steve Poposki explained the permitting process and the cost of elevating structures. Director Green stated that the town was prohibited from doing a phasing approach to get around the 50% rule and the house had to be habitable. Council Member Veach added that elevating homes would also save residents on flood insurance. Mr. Poposki addressed appealing the property appraiser's value if the homeowner disagreed and stated that residents could hire a private certified appraiser to provide a valuation before the hurricane. Town Manager Hernstadt reported that 100 properties had electricity.

Town Manager Hernstadt stated that restrooms, showers, laundry, water and emergency food would soon be available at the Beach Baptist Church, Santini Plaza and two other locations. He explained that the most significant expense was debris removal and the town arranged with Lee County to take over the task. He described the FEMA reimbursement process. He indicated that he asked the bank if the town could use the loan meant for the new building at Bay Oaks to rebuild Town Hall instead. The town submitted insurance claims for insured properties and asked the bank to establish a line of credit for the town, which could be \$5 million. Town Manager Hernstadt noted the town would apply for a \$5 million loan from FEMA. He estimated that the town should have more than enough money to rebuild.

VII. FINAL PUBLIC COMMENT

Amy Loughrey, resident, thanked Town Council. She noted her house was condemned and received a letter from the Lee County Property Appraiser (LEEPA) that her structure was worth \$960,000.00. However, Flood Plain Coordinator Kristin Schumacher stated that the value of her structure was \$304,000.00 based on the website, not the value listed in the letter. Town Manager Hernstadt will confirm which value was correct.

Kathy Kova, resident, stated that three trucks picked up debris at her home but they could not get to the rest of the street because it was blocked by vehicles. Nina Bearcar, resident, questioned whether the 50% rule applied to commercial properties. Town Manager Hernstadt replied affirmatively.

Rick Loughrey, resident, questioned contractors being licensed on Fort Myers Beach. Director Green replied that contractors must be registered with the town, but registration was waived until the final permit. Mr. Lowry discussed contractors having to list every nut and bolt to rebuild homes and the cost of materials. Town Attorney Herin, Jr. stated that the federal government created the rules.

John Cameron, resident, stated that the town could waive its extra rules and

regulations to keep costs down.

Mike Martin, resident, questioned whether his electrical contractor could do the work without a pre-approved permit. Town Manager Hernstadt suggested that he check with the building official at the back of the room. He questioned whether the governor could make a deal for a discount on building materials to rebuild the town. Mayor Murphy replied that he would check.

Dr. John Albert, resident, suggested that general prices for electrical contractors and structural engineers be listed on the website. Town Manager Hernstadt responded that the town provided contractor information but would not get involved with pricing.

Jennifer Rusk, resident, questioned whether contractors licensed in other states were allowed to work in Florida. Mr. Poposki replied negatively and noted the state would prosecute out-of-state contractors.

Rachel Rose Danvie, resident, confirmed that FEMA extended debris removal reimbursement to 60 days. Town Manager Hernstadt responded that the county and state would ask for another extension.

VIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that Council had to decide whether to rebuild the existing Town Hall, take the Community Center building and build it on Town Hall property or take the Community Center building and put it on the front of the fire department property, or design a new Town Hall from scratch. Mayor Murphy suggested adding the topic to the next agenda. Town Manager Hernstadt thought it would be best to replace Town Hall.

Mayor Murphy thanked Town Council, staff and everyone at the meeting.

IX. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. explained that the state took over so the town did not have to pay for cleanup costs.

A. 190 Tarpon / 2020-CA-5031 Settlement Agreement

Town Attorney Herin, Jr. stated the case was negotiated prior to the hurricane and the town received a portion of the excess funds in the amount of approximately \$125,000.00.

Vice Mayor Hosafros moved to approve the settlement agreement; second by Council Member Veach.

Motion carried unanimously.

X. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers suggested that department heads submit daily reports on their progress. He questioned adding items to a future agenda, such as allowing campers on properties, allowing food trucks on properties, getting employees back to work and reviewing the permit pass process. Town Manager Hernstadt commented that the Sheriff's Dept. would not screen people coming back to the island and the town would have to pay for people to screen everyone. Council Member Allers disagreed and wanted to look into help from the state to screen everyone before entering the island. Vice Mayor Hosafros stated that after Irma,

people would run over screeners without a badge and a gun to return to the island. Council Member Allers responded that he wanted to discuss the issue. He suggested discussing sections for processing permits similar to debris removal so more than one person could deal with permits.

Vice Mayor Hosafros addressed using her phone for internet access with a hotspot. She mentioned that she reached out to a county commissioner two weeks ago and never heard back. LEEPA was creating a list of damaged property and homeowners could register with LEEPA to get on the list.

Council Member Atterholt suggested that the Town Attorney research utilizing the public comment period to answer questions on the spot. He mentioned creating kiosks with information to help homeowners through processes. He brought up a request from a homeowner with an unlivable structure who needed water and electrical hookups for a temporary RV while rebuilding. Town Manager Hernstadt replied that Town Council would have to discuss a policy to allow people to live in campers before addressing site-only permits. Town Attorney Herin, Jr. responded to Council Member Atterholt and noted that Town Council could vote to suspend or modify rules for public comment.

Council Member Veach brought up having charrettes with departments for people to ask questions directly instead of taking time during public comment. Council Member Veach agreed to discuss temporary campers and food trucks as soon as possible. He mentioned coming up with ideas to help businesses. He encouraged everyone to stay away from water and to apply for FEMA assistance. He suggested expediting modifications to the CE zoning district to help with redevelopment.

Mayor Murphy took part of the responsibility for the lack of communication the week and a half after the hurricane. He explained that there were plans in place and the search and rescue teams were in charge for the first 10 days. The unified command team, including the Town Council, then took over to manage the disaster. He indicated that the New York Fire Department was now running the show in tandem with other teams. Goals and objectives were set and reviewed every day. He was proud and grateful to be working with everyone and stated that everyone needed to be patient and kind to each other.

XI. ADJOURNMENT

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

The meeting was adjourned at 5:44 p.m.

Minutes adopted, November 17, 2022; Motion by Council Member Allers, seconded by Mayor Murphy. Adopted 5-0.



Amy Baker, Town Clerk