



Fort Myers Beach Town Council

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

Minutes**Monday, December 5, 2022****9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Veatch and Council Member Woodson.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Atterholt moved to approve the final agenda; second by Mayor Allers. Motion carried unanimously.

Mayor Allers added FDOT (Florida Department of Transportation) representatives to the agenda.

V. PUBLIC COMMENT

Dave Lawrence, resident, commented that his 50' x 60' lot and others were deemed not buildable because they were non-conforming lots. He stated that he was not informed of any ordinance change. He questioned what could be done. Mayor Allers replied that the LPA (Local Planning Agency) would discuss setbacks at their next meeting on Tuesday, December 6, 2022.

Katherine Butler, resident, noted the ordinance was changed on June 7, 2021, and she cited the amendment. She questioned how something like that could be passed without the residents' knowledge.

Lawrence Black, resident, was told his lot was also non-conforming and non-buildable.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt mentioned that he hesitated to single people out when so many deserved recognition. He commended the pioneer spirit of the community and amazing acts of heroism. He praised the business community and their entrepreneurship in moving the island forward. He thanked the volunteers who participated in the beach cleanup on Saturday.

Council Member Veach thanked the 150 people who helped clean the beach and noted more cleanups would be organized in the future. He thanked everyone for putting the poinsettia tree together.

Council Member Woodson thanked all the organizers and volunteers for the many activities over the weekend.

Council Member King thanked everyone for taking care of themselves and helping others. He recognized the toy drive for the Beach Kids Foundation and thanked business owners for working hard to open and stay open. He thanked Town Clerk Baker and the Town Council for all they did and were doing.

Mayor Allers thanked Public Works Director Jason Freeman and staff for the poinsettia tree. He thanked the anonymous family who donated 400 poinsettias and Joe Orlandini for putting up a palm tree as a base for the poinsettias. He thanked the Emergency Management Director, John Ward from Clay County, for his input, time and guidance.

Victoria Peters, Community Liaison from FDOT, introduced Matanzas Pass Bridge Project Manager Chris Speese and his supervisor, Sean Pugh. Mr. Speese noted that Phase 4 should be completed in a week. He requested a letter or email from the town stating that the town was willing to move forward with the property transfer to Lee County to facilitate the construction of Seafarer's interchange improvements. Council Member Veach questioned the status of funding to help with the road in Times Square. Mr. Speese replied that he would have to investigate the grant with leadership. Director Freeman indicated that the Ocean's Jewel property on the corner was from TPI and another element of the redesign of the foot of the bridge.

Vice Mayor Atterholt noted the potential interest in having a pedestrian overpass from Margaritaville to Times Square and suggested that Mr. Speese keep a flexible mindset regarding how that could be accomplished. He questioned when the town would start to see some movement on the ground concerning the base of the bridge project. Mr. Speese responded that the activity should begin next June or July. A consensus was reached to move forward with the project and to send the letter. Liaison Peters replied to Council Member Veach and indicated that the pavers for Times Square were bumped to 2024. Director Freeman added that he was working with Liaison Peters regarding the grant for the project.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

No items.

VIII. ADMINISTRATIVE AGENDA

A. State Personnel- John Ward Briefing

State Personnel- John Ward Briefing

Mr. Ward reviewed his experience and noted that he was impressed with the teamwork within the community. He listed the number of responders and agencies who assisted with the recovery and noted there were over 2,500 rescues. Out of 3,200 structures, just over 2,200 had light to moderate damage and over 900 were destroyed. He stated the storm surge was 8-18 feet. He added that the employees were phenomenal and performed a multitude of services, including processing building applications, assessing residential and commercial buildings, distributing ice and water and responding to over 12,500 resident contacts. He summarized that Tidal Basin was the current recovery contractor for 30 days and described their role as preparing projects to be submitted to the state and FEMA for reimbursement. He noted that the town had to find a recovery contractor for the next few years. He explained FEMA's A-G categories of damage and indicated there was a commitment of \$7.6 million for a project. He listed the individual figures for different areas and noted the total estimated cost of damage was \$75 million.

Council Member Veach questioned whether the debris at Bay Oaks would be removed and covered by FEMA before the deadline. Mr. Ward replied that the debris would still be removed after the deadline and reimbursement would change to 90% from FEMA and 10% local, which generally would be split at 5% from the town and 5% from the state. He added that he was discussing with the state about covering the town's 5%. He indicated that the state picked up the tab for all but approximately \$150,000.00 of the debris removal. Mr. Ward stated that the town would not suffer financially from the debris removal.

Mr. Ward encouraged residents and businesses to sign up at landebriscleanup.com for property adjusters to assess their properties and be in the queue before the 180-day deadline. Building Official Steve Poposki explained that a demo permit was required for all demolition and fees were waived. Mr. Ward explained the responsibility of the county, town and state concerning debris removal. Council Member Woodson questioned the process of removing all the debris from Bay Oaks. Mr. Ward responded that they needed to discuss where to put it.

Jennifer Boyett, External Affairs at Comcast, provided a map that divided the town into three areas. She noted the first two sections in the north and middle were predominately (90%) restored as of now. She suggested people who do not have service in those two areas call Comcast at 1-800-Xfinity or use the Xfinity app. The last section to receive service was the south end between Coconut Drive and Albatross Street, which will be restored by December 8, 2022. She informed customers that they would not be charged for lack of service or missing equipment.

Kim Pressano, Director of Field Operations at Century Link, explained how their equipment was damaged and had to be rebuilt. She indicated that a temporary trailer was at their old location. She stated that copper customers

were out of service and fiber customers would be restored and rebuilt. Lou Spano ran the engineering and construction and noted they were a month into the design and engineering process. He indicated that 4,800 single-family homes were in the design process and typically, it would take 3-6 months to put shovels in the ground, but they were doing all they could to accelerate the timeline. He described the improvements to service when the structure was rebuilt.

Brandon Miller, Public Affairs and Permitting Manager, encouraged the community to contact him with questions.

Charlotte Miller, FP&L (Florida Power and Light) External Affairs Manager, stated that calls and emails regarding power should be sent to her. She noted that people needed to lift the main breaker switch before contacting FP&L or the town. She explained that it could be up to five days before power was restored in some cases, but typically within one to two days. She suggested electricians throw the breaker in case issues were on the customer side of the meter. Mayor Allers questioned bills for people on the budget billing program even if people were not living in their homes. Ms. Miller replied that people with incorrect bills should contact the customer service department. Council Member Woodson explained that people on the budget billing program had to contact FP&L to get off the budget billing. Ms. Miller agreed they had to contact customer service.

Mr. Ward will meet with Communications Coordinator Jennifer Dexter to post the data he listed on the website. Council Member Veach questioned whether people could have FEMA trailers on the beach. Mr. Ward replied that he and the Mayor were in discussions with FEMA but could not go into details yet.

B. Reject the Selection Advisory Committee's recommendation in response RFP-23-01-AD

Reject the Selection Advisory Committee's recommendation in response to RFP-23-01-AD, Disaster Recovery Consultant Services and to authorize the Town Manager to reissue the RFP to include the State recommendations to the Disaster Recovery Consultant Services solicitation.

Mayor Allers noted that the state recommended that the bids be rejected and the RFP (Request for Proposal) be rewritten and sent back out. He stressed that the decision had nothing to do with the Selection Committee or the selected company. Mr. Ward explained that the RFP was being rewritten to increase the scope of work for the future.

Vice Mayor Atterholt moved to reject the Selection Advisory Committee's recommendation; second by Council Member King.

Motion carried unanimously.

Mayor Allers read the title of Resolution 22-42.

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

Motion carried unanimously.

IX. FINAL PUBLIC COMMENT

None

X. TOWN MANAGER'S ITEMS**A. Financial Report**

Accounting Manager Cheri Russ stated that purchase orders in place were \$15 million, primarily for emergency work. Approximately \$5 million of the purchase orders were paid out and \$10 million was obligated to be paid. The majority of the expenses came from water utility repairs. Payroll expenses for overtime and double time were \$450,000.00 and FEMA would not reimburse the double time of approximately \$150,000.00. Revenues to date were insurance claims for just over \$3 million. Another company handled insurance and the town was insured for flooding and property for about \$19 million. Anticipated revenues through FEMA and expedited projects were estimated at \$15 million, the town will receive half up front and the check should arrive this week.

Interim Town Manager Holley explained that staff vacancies were a significant challenge. He stated it would be several months before the town would have accurate loss information. He did not see a crisis in the town's financial situation.

Environmental Project Manager Chadd Chustz stated that the red tide alert was rescinded, but the bad news is that the US Army Corp was increasing releases from Okeechobee. He indicated that the red tide persisted at the Sanibel lighthouse and was intense at Sarasota. He noted that water quality testing with the environmental lab in Lee County had not resumed. He will follow up with FGCU (Florida Gulf Coast University) to determine what they tested for after the hurricane. Council Member Woodson questioned whether there was anything they could do regarding the releases. (Recording skipped.) Project Manager Chustz commented that Town Council could send a letter to the US Army Corps. Consensus was reached for Project Manager Chustz to resume testing the water.

Interim Town Manager Holley noted that staff were working out of trailers and pushing to get the modular buildings in. He mentioned there were few options to house staff and the Bay Oaks bids were due on December 8, 2022. He indicated that the trailers were not conducive to meeting with the public and he was looking at relocating some staff to one of the two tents. He stated the library did not work because there were no elevators and the space on the third floor was the only option. He added that the green building was very expensive without a functioning elevator.

Interim Town Manager Holley indicated that Community Service Administrator Daphnie Saunders had stepped down and Steve Poposki was now the Interim Director for Community Development. He noted that the vacancy would be advertised. He described a letter that will be sent to residents regarding substantially damaged structures. Interim Director Poposki stated that they had to send the letter per the state and the National

Flood Insurance Program. The letter described how the property was substantially damaged with directions on how to appeal the assessment. He indicated the letter would be sent to over 500 addresses.

Vice Mayor Atterholt questioned the property tax bill and wondered whether people should pay it now to utilize the discount or wait. Interim Town Manager Holley replied that he should know more later in the week. He thought residents who paid the bill would get a credit or refund. He noted there was work in progress to provide ad valorem relief.

Interim Director Poposki described the demo process and noted a permit was needed with fees waived. He said there was a lot of information on the website and people could email or call the main line with questions. Council Member Woodson questioned the timeline for permitting. Interim Director Poposki responded that it generally took three to four weeks, depending on the permit. He explained the process for obtaining a residential interior remodel permit and noted that it took longer. He suggested people read through the FAQs and the application instructions. Council Member Woodson questioned whether a notary was required. Interim Director Poposki replied that the notary requirement was waived.

Interim Town Manager Holley indicated that Interim Director Popski would create an organizational chart for staffing to meet the town's demand. He noted that they needed more staff, but he did not know how much help they would receive from the state yet. Vice Mayor Atterholt discussed means testing the permit fee waiver. Council Member Woodson suggested that more permitting information be communicated to residents every week.

Interim Town Manager Holley stated that a Town Hall meeting was scheduled for Friday at 6:00 p.m., December 09, 2022, at the Town Hall tent. He noted that a hazard mitigation grant was available to the town and hoped that Council would bring forward suggested projects for the grant program by their meeting in January.

Mayor Allers brought up the Interim Town Manager's contract and noted many unexpected changes. Town Attorney John Herin, Jr. explained the minimum insurance requirements and questioned whether Council wanted to waive that requirement. He added that H2 Solutions also wanted some indemnification language tweaked. Vice Mayor Atterholt questioned the exposure for the town if the insurance requirement was waived. Town Attorney Herin, Jr. explained that the town would be held liable if either of the Interim Town Managers got into a car accident. Vice Mayor Atterholt questioned whether Interim Town Manager Holley had automobile insurance coverage. Interim Town Manager Holley responded that his truck was covered. Town Attorney Herin, Jr. stated that the mutual indemnification provision was better than nothing, but he preferred the insurance requirement.

Mayor Allers moved to direct the Town Attorney to finalize the contract with Mr. Wilkins and Mr. Holley, consistent with the discussion held today; second by Vice Mayor Atterholt.

Motion carried unanimously.

- B. Legislative Delegation Meeting
See above discussion.
- C. Foot of Matanzas Pass Bridge Discussion
Addressed under Local Achievements.

XI. TOWN ATTORNEY'S ITEMS

- A. Requesting authorization to discuss pending litigation
Town Attorney Herin, Jr. read the first authorization request and noted another authorization request concerned the Jamison litigation. Discussion was held regarding scheduling the meeting.

Mayor Allers moved to have the Town Attorney work with the Town Clerk to schedule a shade meeting in the Jamison vs. Town of Fort Myers Beach, FL case pending the 2nd District Court of Appeal 2D212723; second by Council Member King.

Motion carried unanimously.

Mayor Allers moved to instruct the Town Attorney to work with the Town Clerk to schedule a shade meeting for January 9, 2023, for the Rood case; second by Council Member Veach.

Motion carried unanimously.

XII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Veach brought up rebuilding Times Square and felt they needed a discussion of options. He received support to add the topic to the next M&P. He questioned whether they wanted to discuss installing 5G towers.

Council Member Woodson questioned the status of the liquor container permitting approval process. Town Attorney Herin, Jr. explained the state criteria and noted that no one had submitted the necessary information to the town. Director Green stated that businesses that had approval for consumption on-premise were not affected. Vendors who wanted to serve alcohol in units without approval for consumption on premises violated the Land Development Code. He noted it was a town issue and Council could discuss a special exemption process. Mayor Allers did not object to allowing businesses with containers to put their units at sites with approval for consumption on-premise. Consensus was reached to allow containers on sites with approved consumption on premises.

Council Member King noted there were no trash containers at the portable restrooms. He questioned where they were in bringing Bay Oaks online. Mayor Allers replied that they were moving forward and he would have more information soon. Council Member King brought up reappointing Advisory Committee Members. Town Attorney Herin, Jr. stated that members had to undergo the reappointment process.

Mayor Allers brought up the lack of a post office. Vice Mayor Atterholt will contact a senator from Florida who has jurisdiction over the post office. He hoped to have

someone from the post office provide an update at their meeting on December 12, 2022. He brought up the idea of putting the post office in the new Town Hall. Mayor Allers indicated that FEMA was trying to find alternate solutions to house people since trailers were not allowed in a flood zone. Mayor Allers stated that he had one of the flags from TPI and encouraged suggestions about what to do with the flag.

XIII. ADJOURNMENT

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

The meeting was adjourned at 12:05 p.m.

Minutes adopted, January 9, 2023; Motion by Council Member King and seconded by Council Member Veach. Passed 5-0.



Amy Baker, Town Clerk