Fort Myers Beach Town Council

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

Minutes **Monday, January 9, 2023** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

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

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Mayor Allers stated that F under the Administrative Agenda was pulled.
Council Member Atterholt moved to approve the final agenda; second by Council Member Woodson.
Motion carried unanimously.

V. PUBLIC COMMENT

Samir Malviya, Vice President for procurement of Homebound, described his organization. He stated they were developing plans for homes and that he would be available for questions after the meeting.
Cynthia Shanosky, resident, commented that she would rebuild and questioned whether the town could create a building co-op to help control the costs.
Allen Shanosky, resident, brought up the old vibe of the beach. He proposed that the LPA (Local Planning Agency) form a sub-committee to address the appearance of homes. He suggested utilizing metal roofs and prohibiting flat roofs on residential structures. He urged the Council to begin steps to help control

construction costs.

Charles Eck, resident and representative of the Estero Bay Improvement Association complemented the Council for getting information out. He stated that the town's stormwater system was contaminated with sand and he was concerned about the outflows. He noted that Bay Beach was not compromised and was 60% occupied.

Tauheedah Mateen, U.S. Small Business Administration, stated the deadline to register with FEMA (Federal Emergency Management Agency) was in three days and urged people to submit their applications as soon as possible at a disaster or business recovery center at the Beach Baptist church. She noted that appointments were not necessary. She encouraged business owners who were denied reconsideration to visit a disaster and recovery center representative to review their applications.

Sharon Faircloth, owner of Holiday Water Sports, requested that the town issue licenses for personal watercraft, parasailing and beach chairs. She indicated she would be ready to open in the next couple of months. She requested that the town issue the licenses based on the site plan submitted in September with an affidavit to provide an updated site plan after they opened. She asked that fees be prorated, so they did not have to pay for the entire year.

Madeline Boyd, resident and owner of the Beach Bar, commented on the sand piles and debris on the sidewalks. She noted the sand at the I Street beach access was less expensive and darker than what she was required to use at the Beach Bar. She felt that everyone should have to use the same quality of sand. She mentioned the lack of a post office, street lights and access to the internet.

Tim Shadle, resident, suggested adding a parking garage on and off the island, widening the Matanzas Pass Bridge, consider different traffic patterns by making North and South 5th Streets one way and making Crescent Street one way up to South 5th and two lanes from there on. He suggested creating an architectural review board similar to Ocean Grove, NJ. He felt it was logical that lower levels of elevated homes remain open to allow a view of the gulf. He disagreed with the setbacks on larger lots.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt thanked the 300 people who participated in the beach cleanup. He noted more cleanups were being planned and thanked everyone for picking up trash on the beach.

Council Member Veach thanked the people who were cleaning up the mangroves on San Carlos island and thanked businesses who were working to bring recovery back to the island.

Council Member Woodson thanked the community for sending cards and letters.

Council Member King agreed with previous recognitions.

Mayor Allers thanked the town managers and staff and noted they were moving in the right direction.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

No items.

VIII. APPROVAL OF MINUTES

A. Town Council - September 22, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

B. Emergency Town Council - September 26, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

C. Town Council - November 14, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

D. Management & Planning Session - November 17, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

E. Joint Session Town Council & LPA - November 17, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

F. Town Council - November 21, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

G. Town Council - December 5, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

H. Management & Planning Session - December 12, 2022

Council Member King moved to approve the minutes; second by Council Member Veach.
Motion carried unanimously.

IX. PRESENTATION

Florida Power & Light: Estero Boulevard Street Lighting

Charlotte Miller introduced Eric Culling, FP&L LED Senior Representative. Mr. Culling distributed a presentation regarding lighting on Estero Blvd., side streets and new construction opportunities along Old San Carlos Blvd. Four requests from Town Council included Estero Blvd. conversion of sodium fixtures prior to Hurricane Ian, amber LED lighting on Estero Blvd., a review to change side streets to amber fixtures and a project to install new FP&L full maintenance lighting on Old San Carlos Blvd.

He noted there were 131 FP&L full maintenance high-pressure sodium fixtures on Estero Blvd. and converting the lights to LED amber-approved fixtures would require no up-front costs to the town. The monthly cost would be $5,450.00 for the amber lights. He stated the amber lights included in the tariff program should be approved around March 1, 2023, and the project completed by June 1, 2023. Mr. Culling noted that 78 new distribution poles would be needed to support the luminaires to meet the recommended 380 fixtures to achieve the lighting levels established by a lighting study and Town Council. The estimated cost for the inline distribution poles would be $20,000.00 and the budget figure would be approximately $1.56 million. The monthly costs for fixture rental, maintenance, and energy for 380 new amber LED fixtures were estimated to be $16,000.00 per month.

Vice Mayor Atterholt questioned why the town had to pay the entire cost of the replacement and thought that the amber lights were of no cost to the town under the tariff. Ms. Miller noted the storm recovery fee had to be approved by the Public Service Commission. She indicated that the cost Mr. Culling referred to was separate from storm recovery, but discussions were being held regarding picking up costs. Mayor Allers remarked that the point of the presentation was to get the Council up to speed regarding the project's total cost.

Mr. Culling clarified that FP&L did not have existing lighting from the end of the Lani Kai property back to Times Square because that section was town-owned. He explained how a $20,000.00 credit would be applied to the fixture removal costs. He discussed monthly billing estimate options under the tariff. He noted Council would have to determine whether the town wanted to increase lighting levels on the side streets by using a larger amber fixture or an equivalent amber fixture.

He addressed details of installing amber lighting on Old San Carlos Blvd. and noted that upfront costs to the town would be $50,000.00 with a monthly billing estimate of $1,550.00. Mr. Culling clarified that the total upfront cost of a full amber solution would be approximately $1.8 million to cover the entire length of Estero Blvd. The monthly bill for the town would be $28,000.00, which did not include assistance from any entity.

Mr. Culling stated that the town would have to make a decision regarding the conversion and installation along Estero Blvd. by February 15, 2023. Mayor Allers received support to add the topic to the M&P on January 12, 2023.

Ms. Miller and Mr. Culling will attend the meeting.

X. CONSENT AGENDA

Vice Mayor Atterholt moved to approve the Consent Agenda; second by Council Member Veach.

Motion passed unanimously.

A. <u>Resolution 23-03; H2 Solutions, LLC</u>

Resolution 23-03 approving nun pro tunc the Professional Services Agreement between the Town and H2 Solutions, LLC for Interim Town Manager services.

Vice Mayor Atterholt moved to approve the resolution; second by Council Member Veach. Motion carried unanimously.

B. Resolution 23-02; Extending Local State of Emergency

Approve Resolution Extending the Town Declaration of State of Local Emergency

Vice Mayor Atterholt moved to approve the resolution; second by Council Member Veach.
Motion carried unanimously.

C. Submerged Lands Lease

Approve Resolution 23-05 and Authorize the Mayor to execute the Submerged Land Lease renewal with the Department of Environmental Protection for the Mooring Field and Dinghy Dock and all associated documents.

Vice Mayor Atterholt moved to approve the resolution; second by Council Member Veach.
Motion carried unanimously.

D. SRF Loan Agreement DW360800 Amendment 4 - Payment Suspension

Authorize the Town Manager to execute Amendment 4 to SRF Loan Agreement DW360800 for the Town of Fort Myers Beach, which will suspend semiannual payment activities in the amount of $307,841.90 until November 15, 2024 while the Town focuses on hurricane restoration efforts.

Vice Mayor Atterholt moved to approve authorization; second by Council Member Veach.
Motion carried unanimously.

E. SRF Loan Agreement Amendment 5 - SW360830 - Payment suspension

Authorize the Town Manager to execute Amendment 5 to SRF Loan Agreement SW360830 for the Town of Fort Myers Beach, which will suspend semiannual payment activities in the amount of $109,091.77 until October 15, 2024 while the Town focuses on Hurricane restoration efforts.

Vice Mayor Atterholt moved to approve authorization; second by Council Member Veach.
Motion carried unanimously.

XI. PUBLIC HEARINGS

A. Ordinance 23-01; Signs

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 30 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH ENTITLED “SIGNS” TO PROVIDE FOR CONTENT NEUTRAL SIGN REGULATIONS AND TO ALLOW CERTAIN PORTABLE SIGNS, 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 January 23, 2023 at 9:00 AM

Town Attorney Herin, Jr. read the title of the ordinance.
Jason Green from Community Development reviewed the changes. Town Attorney Herin, Jr. added that the changes were made as required by the U.S. Supreme Court.
No public comment.

Council Member King moved to schedule the ordinance for a second reading on January 23, 2023, at 9:00 a.m.; second by Council Member Woodson.
Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. FY23-24 Legislative Appropriation Request

Authorize Town Manager to submit the FY23-24 Legislative Appropriation Request

Interim Town Manager Wilkins described the four requests, which included a town revenue replacement as high as $10 million. Accounting Manager Cheri Russ stated that ad valorem taxes were down 50% compared to last year and the town would not receive an anticipated 14% increase in property taxes. She indicated that the public service tax, which comprised of a 10% tax on every electric bill, could rebound in the future.
Interim Town Manager Wilkins noted the second request was for beach renourishment, the third to replace the Town Hall, and the fourth for street lighting at $1.5 to $2 million. He commented that he was working with the legislative delegation and the lobbyist.

Council Member Veach moved to authorize the interim Town Manager to submit the request; second by Council Member King.
Motion carried unanimously.

B. Lee County TDC FY24 Grant Request

Approve Lee County Tourist Development Council grant request for Fiscal Year 2024.

Director of Culture, Parks & Recreation Alison Giesen stated the grant request was $1,894,513.00, which was an increase of approximately $500,000.00 from last year. She noted that shade structures, temporary restrooms and a beach shower were replacement items for Newton Beach Park. She added that Times Square and Bayside Park did not qualify for TDC funds. She revealed that placing 10 portable restrooms at Palm Ave. and Newton Beach Park would cost approximately $8,426.00 for 28 days.

Council Member King moved to approve; second by Vice Mayor Atterholt.
Motion carried unanimously.

C. Resolution 23-08; TFMB & FMBFCD License Agreement

Adopt Resolution 23-08 approving a License Agreement with the Fort Myers Beach Fire Control District for the use of the property located at 2545 Estero Boulevard as a temporary Town Hall location.

Council Member Woodson moved to approve; second by Council Member Veach.

Motion carried unanimously.

D. Authorize Town Manager to refund $3,000 payments made by Laguna Shores residents for the proposed Laguna Channel Dredging Project. benefiting properties cost share.

Town Council authorization for the Town Manager to refund $3,000 payments made by Laguna Shores residents for the proposed Laguna Channel Dredging Project.

Vice Mayor Atterholt moved to authorize the refunds; second by Council Member Veach.

Motion carried unanimously.

E. Authorize and direct the Town Manager to participate in the Lee County Vulnerability Analysis Project "Waterway Infrastructure Risk & Resiliency - CDBG-MIT"

Authorize and direct the Town Manager and Town staff to participate in the Lee County Vulnerability Analysis Project "Waterway Infrastructure Risk & Resiliency - CDBG-MIT"

The recording started with Mayor Allers thanking Environmental Projects Manager Chadd Chustz.

Council Member Veach moved to authorize; second by Council Member Woodson.

Motion carried unanimously.

F. ITB-23-05-AD; Emergency Preparations for Temporary Relocation

Authorization to award the Emergency Preparations for Temporary Relocations to FMB Builders, Inc. as the low, responsive and responsible bidder in response to ITB-23-05-AD, in an amount not to exceed $985,860.00. Authorize the Town Manager to negotiate a final and best offer, and execute the contract documents.

Item pulled from agenda.

G. RFP-23-03-UT; Stormwater Maintenance and Repair

Accept the Town Managers recommendation to approve the Selection Advisory Committee's rankings in response to RFP-23-03-UT; "Stormwater Maintenance and Repair", and directing the Town Manager to enter into negotiations with Earthview, LLC, the top ranked respondent.

The Selection Advisory Committee's ranking recommendation:

1. Earthview, 2. **Shenandoah**, 3. APT

Council Member Veach requested that a summary of the selection process be provided in the future and interim Town Manager Wilkins agreed to do so.

Vice Mayor Atterholt moved to accept the interim Town Manager's recommendation; second by Mayor Allers. Motion carried unanimously.

H. RFP-23-07-AD Selection Advisory Recommendation

Accept the Town Managers recommendation to approve the Selection Advisory Committee's rankings in response to RFP-23-07-AD, "Disaster Recovery and Mitigation Consulting Services for incidents and Events", and directing the Town Manager to enter into negotiations with Tidal Basin, the top ranked respondent.

The Selection Advisory Committee's top 3 ranking recommendations:

1. Tidal Basin

2. Witt O'Brien's

3. Synergy Disaster Recovery

Interim Town Manager Wilkins stated that the intent was not to recommend Tidal Basin but to indicate the top three respondents. He recommended a thorough analysis. Town Attorney Herin, Jr. noted that the Town Council had the discretion to interview the top three firms before making a decision.

Vice Mayor Atterholt supported interviewing respondents and was comfortable with a recommendation from the Mayor and interim Town Manager. Mayor Allers preferred having a conversation with each firm and indicated that postponing a decision by two weeks was not an issue. Council Member Veach commented that he would like a summary from the advisory committee to understand how they made their decision. Council Member King agreed and noted that the selections differed from when the RFP was previously pulled. He questioned what transpired to make the change.

Council Member Woodson agreed with interviewing candidates.

Mayor Allers moved to table the RFP-23-07-AD recommendation and direct staff to invite the top three respondents to appear at the January 23, 2023, meeting for oral presentations; second by Council Member Veach.

Motion carried unanimously.

I. Amendment #1 to Beach Renourishment Professional Engineering Services Agreement

Adopt Resolution 23-07 approving the First Amendment to the Professional Services Agreement between the Town of Fort Myers Beach and Coastal Engineering Consultants, Inc. for Beach Renourishment Professional Engineering Services to include 2-CFR clauses.

Town Attorney Herin, Jr. read the title of the resolution. Project Manager Chustz stated the contract was the same, except the 2-CFR (Code of Federal Regulations) clauses were added to qualify for FEMA reimbursement.

Vice Mayor Atterholt moved to adopt the resolution; second by Council Member Veach.

Motion carried unanimously.

J. Emergency Contract Ratification - Coastal Maintenance & Restoration, Inc.

Town Council ratification of the existing emergency contract with Coastal Maintenance & Restoration, Inc.

Director Giesen stated that the contract needed to be ratified for emergency dry-out services for Bay Oaks and the historic structures at the Mound House.

Council Member Veach moved to ratify the contract; second by Council Member King.

Motion carried unanimously.

K. Emergency Contract Ratification - Conidaris Builders & Contractors, Inc., Lott-Agri Services, LLC, Universal Trax of South Florida, LLC, and Vetor Contracting Services, LLC

Town Council ratification of the existing emergency contracts with Conidaris Builders & Contractors, Inc., Lott-Agri Services, LLC, Universal Trax of South Florida, LLC, and Vetor Contracting Services, LLC.

Town Attorney Herin, Jr. stated that the scope of services was expanded with some existing contracts. Council Member Woodson suggested that the list of contractors be broadened. Town Attorney Herin, Jr. replied that the town was in the process of opening up competitive bidding. Cindy Davis, Interim Finance, stated the contracts were back out because the original emergency contracts did not meet FEMA reimbursement requirements.

Vice Mayor Atterholt moved to approve ratification of existing emergency contracts; second by Council Member Veach.

Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Interim Town Manager Wilkins commented that the curfew was reduced, parking fees were reinstituted and permitting hours were expanded. Community Development Director Steve Poposki explained that permitting was done online and it was a good idea for people to review the Frequently Asked Questions page before coming in. Interim Town Manager Wilkins stated that FEMA reimbursed staff for overtime. He added that he was inviting builders to work with the town regarding their permitting process.

Director Poposki remarked that demolition permits could be applied online and were required to verify that the sewer and water connections were capped.

Interim Town Manager Wilkins stated that personnel from Parks & Recreation were temporarily transferred to help with permits. Vice Mayor Atterholt questioned whether code enforcement could help people apply for permits onsite if they did not have a permit. Director Poposki replied that legally it was not possible in most situations, but he would look at the demo permit process. He noted that different permits took different amounts of time due to legal requirements. He commented that, in many instances, there was a lack of communication between property owners, contractors and the town. He reviewed the permitting process and encouraged property owners to contact the town with questions. He added that people could check the status of their permits online.

Interim Town Manager Wilkins stated that the town was working on a transition plan to submit to the state by February 15, 2023, describing how the town would transition state resources back to the town resources. The next meeting on January 23, 2023, will be held at Diamond Head. He noted that there were four days when the TDC and M&P meetings conflicted, and he was working to adjust the schedule.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. reminded Council Members that a shade meeting would be held after the lunch break and he was arranging a meeting with the interim Town Managers to discuss items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Atterholt stated that the USPS pledged to deliver two trailers for mail services, but there was no timeline for when they would be operational. He encouraged people to go online and check their change of address forms and renew the requests if they expired.

Council Member Veach indicated that the darker sand was the same as the beach sand. He commented that property owners had to be proactive with Comcast regarding internet connections. He noted that it was difficult for claw trucks to remove debris on the sidewalks due to conflicts with the power lines. He reviewed items he would discuss at the next M&P meeting. He reminded property owners that they could park an RV on their land while rebuilding but could not rent out their property for other RVs.

Council Member Woodson questioned whether short-term rental fees would be postponed or revised. Mayor Allers received support to discuss the item at the next M&P. Council Member Woodson asked whether they would have additional law enforcement regarding the lack of lighting on the streets. Interim Town Manager Wilkins said he would continue conversations with Captain Lalor regarding safety concerns.

Council Member King noted that beach raker Bill Perry suggested that a press conference be held to discuss the beach's cleanliness. Mayor Aller suggested that they discuss that at the next M&P meeting.

Vice Mayor Atterholt questioned whether it was feasible for Council Members to hold a press conference in front of CVS to pressure the corporation to work on opening their store. Town Attorney Herin, Jr. responded that the press conference would have to be noticed as a public meeting, but he suggested they not trespass on private property. He suggested they send a letter to CVS requesting an update.

Mayor Allers noted that advisory committees were interested in meeting again. He reminded everyone that parking fees were reinstated today and permitting hours were expanded. He added that state health inspectors were apparently giving businesses a hard time regarding cooking on outdoor grills. Town Attorney Herin, Jr. replied that he would look into the issue. Council Member King added that State inspectors were questioning building permits and Town Attorney Herin, Jr. commented that he would look into it.

Council Member Woodson received support to add an architectural review board discussion at the next M&P meeting.

XVII. ADJOURNMENT

Council Member King moved to adjourn; second by Mayor Allers.
Motion carried unanimously.
The meeting was adjourned at 12:34 p.m.

Minutes adopted, February 6, 2023; Motion by Mayor Allers and seconded by Council Member King. Passed 5-0.

Amy Baker, Town Clerk