Fort Myers Beach Town Council

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

Minutes **Monday, January 23, 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

Council Member King moved to approve the final agenda; second by Council Member Woodson.
Motion carried unanimously.

V. PUBLIC COMMENT

Cindy Johnson, resident, commented on protected areas and species and stated the town had to abide by state law regarding lighting.
Steve Johnson, resident, encouraged the Council to finish appointing members to advisory boards. He questioned why the town needed additional density and did not want Estero Blvd. to end up as a mall. He added that the community would like to provide input on density.
Madeline Boyd, resident and co-owner of the Beach Bar, was concerned regarding the debris remaining on the sand and sidewalks. She wished someone would address the issue.
Joe Orlandini, resident, requested that a member of Council be a liaison with property owners concerning rebuilding Times Square. He noted trucks were needed to haul the debris from the weekend.
Sim Mayer, resident, commented on setbacks. He distributed a survey of his former house in his neighborhood. He stated that his home fit perfectly in his lot and asked that the code be adjusted for property owners with smaller lots.

Terry Persaud, owner of the former Sunset Beach Grill, noted the lots had been cleaned up and trucks were needed to haul away the trash. He hoped everyone could get together soon to discuss rebuilding Times Square.

Ken Pariser, resident, commented that his former home was on a small lot and he requested the opportunity to rebuild on his lot.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt thanked Mayor Allers for meeting with legislators last week and encouraged residents to thank their legislative representatives. He commended Mayor Allers and interim Town Manager Wilkins for acquiring four new permitting officials from the state.

Council Member Veach commended Vice Mayor Atterholt for securing the temporary Post Office. He acknowledged the LPA (Local Planning Agency) for their long meeting and hard work last week. He recognized TPI for their topping-off ceremony and thanked the crew for cleaning up the mangroves.

Council Member Woodson commented that the TPI topping-off ceremony was heartwarming, and more businesses were opening daily. She commended all the people on the island who were working hard.

Council Member King recognized AmeriCorps for helping people clean their homes and Diamond Head Resort for hosting their meetings. He thanked the Mayor and Vice Mayor for all their hard work and what they had achieved.

Mayor Allers thanked Diamond Head and TPI. We welcomed Snug Harbor and the Beach Bar. He reviewed his meeting in Tallahassee last week and thanked the delegates and others. He thanked the Vice Mayor for his hard work getting the mail service back.

VII. APPROVAL OF MINUTES

None

VIII. CONSENT AGENDA

Council Member Veach moved to approve the consent agenda; second by Mayor Allers.

Motion carried unanimously.

A. <u>Resolution 23-09, 23-10 and 23-11; Extending the Town Declaration of State of Local Emergency</u>

Approve Resolutions Extending the Town Declaration of State of Local Emergency for the period January 16, 2023 - January 22, 2023, January 23, 2023 - January 29, 2023 and January 30, 2023 - February 5, 2023

Council Member Veach moved to approve the resolutions; second by Mayor Allers.

Motion carried unanimously.

IX. 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.

Mayor Allers read the title of the ordinance. Town Attorney Herin, Jr. reviewed the reason for the ordinance and noted it complied with the recent court decision.
No public comment.

Vice Mayor Atterholt moved to approve Ordinance 23-01; second by Council Member King.
Motion carried unanimously by roll call vote.

X. ADMINISTRATIVE AGENDA

A. Oral Presentations: RFP-23-07-AD; Disaster Recovery

1. To receive presentations from the three disaster consulting firms recommended by the selection committee; and

2. To rank and select one of the three firms and authorize the Town manager to enter negotiations with the top ranked firm.
- Synergy Disaster Recovery
- Tidal Basin
- Witt O'Brien's

Joe Gross, VP of Synergy Disaster Recovery, introduced Tracey Doyle, Director of Client Relations, and John Zakian, Subject Matter Expert. He stated that his firm was small and had a lot of experience, which allowed them to give the town their complete attention. He reviewed their success with Hurricane Michael. He noted that he would personally be on the beach and would put a team together to meet their needs. He indicated that one of the hurdles the town would face would be scheduling available funds and spending them correctly. Mr. Zakian managed the long-term recovery strategy for Galveston after Hurricane Ike. Ms. Doyle added that she used to live in Fort Myers Beach and stated she was developing a strategy to create a standardized recovery process and would be involved with the town.
Mr. Zakian reviewed his experience. He stated the most significant challenge they would face was patience and he felt it would take between five to ten years before everything was done. He agreed that the immediate challenge was being inundated with potential funding and with FEMA (Federal Emergency Management Agency) and HUD (Housing and Urban Development). He noted there were other federal grant programs that the town could apply for and Synergy would assist. He described GrantWorks,

which partnered with his firm. He commented that the U.S. Department of Agriculture had several housing and community facilities programs available for application. He described the disaster grant programs from the Economic Development Association (EDA), which just passed in 2023. He added that the EDA recently announced funds were available to staff a disaster recovery coordinator who would be on the ground for three to four years. Mr. Zakian reviewed how his company would help the town obtain disaster funds. He stated that he worked with FEMA as a coordination group supervisor and coordinated all the federal grant programs and services in Birmingham after the tornados in 2011.

Mr. Gross said the team would start with approximately three to four people. Ms. Doyle noted they experienced handing off from one company to another and Mr. Gross described a local experience after Irma. He stated he would choose this team if a disaster occurred in his town.

Daniel Craig, CEO and founder of Tidal Basin, thanked the town for partnering with them since Hurricane Ian. He stated he was formally the head of recovery at FEMA and his firm had significant experience in the disaster business. He reviewed the staff and noted the firm was full of FEMA and state executives. Mr. Craig pointed out that Carlos Castillo would be the senior executive assigned to the town and was also a former head of recovery at FEMA. He indicated that long-term recovery would take multiple years and debris was the number one issue. He stated that a portion of the funds was recoverable through FEMA's public assistance program.

Alyza Supriana, Program Manager, stated that the cost under the emergency contract was $150,000.00 for their staff and training town employees.

Mr. Craig described how they handled public assistance, post- and pre-mitigation, accounting, grant management and review. He stated members of his firm were in Tallahassee every few weeks and they were the PMO for housing recovery in the state of Florida.

Stephen McGrail, Project Manager, reviewed his experience in emergency management throughout the country and commented that he had served as an elected official. He stated that Tidal Basin has a team who could help solve the town's problems. Mr. Craig explained why Mr. McGrail had recently arrived at the beach rather than at the beginning of the disaster.

Ms. Supriana referred to her PowerPoint presentation and reviewed current projects on the beach, Florida house and senate appropriations and recovery impact. She stated that one of the challenges for the town was the newness of the staff, but Tidal Basin was able to bring in staff and fill the gaps. Mr. Craig added that debris and bridge issues and making the town more resilient in the future were additional challenges. He reiterated that debris removal was the number one issue. He explained the reasons why recovery would take years. He stated that he would choose this team if a disaster occurred in his town.

Matthew Urchal, Managing Director at Witt O'Brien's, stated that the town's recovery would require advocacy and persistence. Jeff Kottcamp commented that he grew up in the area and noted the legislature was

committed to bringing back the community.
Mr. Urchal introduced Arvin Copeland, Project Executive, Laurie Carley, Emergency Manager and Kristen Martin, Mitigation Supporter. He highlighted funding and recent legislation in his presentation. He mentioned weaving funding resources together to maximize potential and detailed other programs available to expedite recovery. He described how the town could guide recovery and indicated they needed partners. He stated that his team had the proficiency to help them work with the state and federal government. He reviewed previous investments in the town pre-disaster. He remarked that the town should not build what they could not sustain; they should make educated decisions about what they could insure and determine how to weave multiple funding sources. He discussed resiliency funding opportunities.
Ms. Martin focused on incorporating resilience into the recovery process and building the town back to be more resilient and sustainable. She reviewed how her company maximized mitigation funding post-disaster, identified resilient actions, strategies to combine mitigation funding and how to build back better.
Mr. Urchal mentioned opportunities to develop public-private partnerships and the benefits of their model. He stated that Ms. Carley would be involved on the ground and he and Mr. Copeland would be available. Ms. Carley reviewed her experience in Florida.
Mr. Urchal described how he would manage the recovery of Times Square and how it could sustain future events. He indicated they were working with Charlotte County, Tampa and Venice. He commented that his firm's costs were variable and they could have as many or as few people on the ground as the town needed. He described their dashboard for long-term recovery planning. He stated he would choose this team if a disaster occurred in his town.

Mayor Allers questioned who interim Town Manager Wilkins would select. Interim Town Manager Wilkins ranked Tidal Basin and Synergy Disaster Recovery one and two and Witt O'Brien's number three. He explained that Tidal Basin offered the depth that the town needed and, since they were already working with the town, he did not want to change firms.

Council Member King moved to table Administrative Agenda A Oral Presentations for RFP 23-07-80 Disaster Recovery, at which time we will come back after our next Administrative Agenda B item; second by Council Member Veach.
Motion carried unanimously.
Mayor Allers reopened RFP 23-07-80.
Town Clerk Baker revealed that Tidal Basin ranked number one. Town Attorney Herin, Jr. explained that the firm with the least number of points ranked number one. Tidal Basin scored an 8, Synergy Disaster Recovery scored 10 and Witt O'Brien scored 11.

Council Member King moved to accept the ranking and direct the interim Town Manager to negotiate a contract with Tidal Basin to bring back to the Town Council as soon as possible for approval.
Motion carried unanimously.

B. Resolution 23-06 re On-Going Professional Services Agreements for Environmental Assessments and Marine Engineering

Adopt Resolution 23-06 approving the First Amendments to the Continuing Services Agreements or Environmental Assessments and Marine Engineering Professional Services between the Town of Fort Myers Beach and Coastal Engineering Consultants, Coastal Systems Int'l, Edgewater Resources, Hans Wilson & Assoc., Taylor Engineering and Turrell Hall & Assoc. to include 2-CFR clauses.

Mayor Allers read the title of the resolution. Interim Town Manager Wilkins stated that including the 2-CFR clauses was required for FEMA compliance.

Council Member Veach moved to approve Resolution 23-06; second by Vice Mayor Atterholt.
Motion carried unanimously.

C. Tidal Basin Contract Extension

Authorize Town Manager to execute the second amendment to the Tidal Basin agreement for an additional 30 days.

Vice Mayor Atterholt moved to authorize the Interim Town Manager; second by Council Member King.
Motion carried unanimously.

XI. FINAL PUBLIC COMMENT

Bill Perry provided an update on the status of the beach. He felt that the beach was clean and piles needed to be removed. He started to do restoration of properties and indicated there would be some destruction to dune vegetation. He discussed the situation with Environmental Project Manager Chadd Chustz and Eve Haverfield from Turtle Time and remarked that he would try to minimize the damage. He informed his clients that if they rebuilt their houses, they would be required to create a new frontal dune and properties with standing homes would have to mitigate the dunes by replanting them. He asked for patience and stated there would eventually be new dunes. He added that he would not charge the town for filling in the ruts made by the dump trucks. He suggested that they hold a press conference on the beach once he was done with grooming. Mayor Allers thanked Mr. Perry, his son and the Webers for going above and beyond to help the community.

Mr. Urchal thanked the Council for the opportunity and consideration and asked that they keep them in mind for the future.

XII. TOWN MANAGER'S ITEMS

Interim Town Manager Wilkins noted that the state added four people to the permitting department, for a total of eight people to help expedite the process. The ad valorem check for $1.43 million was received and in the bank. He indicated that the revenue stream was 73-74% of ad valorem revenues. The Mound House grounds, restrooms and museum store were open and permit fees started on Monday. He mentioned that a water quality link was now on the website and would be simplified soon.

Interim Town Manager Wilkins questioned whether Council wanted to discuss the letter concerning legal services. Council Member Woodson clarified that she met with John Miller and John Agnew from Boy Agnew Potanovic Miller and Council Member King was not at that meeting. She described a cultural change and doing things differently with transparency moving forward.

Council Member Woodson moved to initiate a 30-day notice for Fox Rothchild and move forward with researching, interviewing and hiring new legal counsel; second by Council Member King.

Vice Mayor Atterholt questioned whether they should initiate an RFP first to see if they could find good local counsel before giving notice. Interim Town Manager Wilkins replied that there was a procedure for soliciting new services. Town Attorney Herin, Jr. stated his ethical obligation was to the Town Council and he reviewed the process of hiring a new firm. He confirmed that at the end of the 30-day notice, his firm would vacate the position and if the town had not selected a replacement by then, the town would be without a town attorney. Council Member Woodson amended her motion.

Council Member Woodson moved to initiate the RFP for the purpose of finding additional firms that would qualify for the community's needs and wants and to request a different attorney from Fox Rothchild to be present and to handle the town as the lead attorney as the contract was with Fox Rothchild, not Mr. Herin, Jr.; second by Council Member King.

Council Member Veach voiced his concerns regarding the process. He stated that Council Member Woodson violated the policies and procedures by independently soliciting legal firms. He felt a change came at a huge cost with the loss of institutional knowledge. He did not have any reason to distrust the town attorney and stated that his legal services were admirable, and he had been honest and forthright. He did not think change just for change's sake was healthy for the town and he felt they should follow the policies and procedures as written. Council Member Woodson stated that it was her personal feeling.

Council Member King seconded the motion and explained that another attorney referred the firm to him, and an email exchange was initiated. Council Member King was told that Council Member Woodson requested a proposal from the firm. Council Member Veach reiterated his serious concerns. He felt it was a disservice to the town attorney and the town and he questioned the motivation for the change.

Mayor Allers acknowledged that he voted not to renew the town attorney's services last time. He supported starting the RFP process and felt that the town attorney should remain in the seat until they decided to make a change.
Vice Mayor Atterholt commented that it was well-known that having local counsel had been discussed in the past. He supported the RFP for local counsel but felt it would be a mistake to move forward before securing a new firm.

Council Member Woodson amended her motion to move forward with an RFP immediately for local counsel, and if and when they found that, they would address the 30-day notice with Fox Rothchild; second by Mayor Allers.

Council Member Veach noted that the town attorney did not have to be local to be effective. Council Member King questioned the definition of local. Vice Mayor Atterholt felt that leaving local vague gave them flexibility.

Motion carried 4-1, with Council Member Veach dissenting.

XIII. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. stated that a bid protest was filed regarding the repair and retrofit of Bay Oaks. One of two things had to happen: the Council would have to direct staff to schedule a hearing before the Council to hear the bid protest and send a notice to the bid protester and all the other respondents to allow them to participate. Alternatively, the Council could direct staff to engage the services of a third-party hearing officer to conduct a hearing and make a recommendation to the Council for ratification. He noted that the bid protester could file an appeal in both circumstances. He indicated that one of the remedies would be to cancel the bid and rebid it. He felt the procurement process would probably take the same amount of time as a rehearing. Town Attorney Herin, Jr. remarked that the nature of the bid dispute was more procedure than substance.
Mayor Allers supported canceling the bid and sending it back out for rebid.

Council Member Veach moved to rebid the Bay Oaks refurbishment contract; second by Council Member King.
Motion carried unanimously.

Town Attorney Herin, Jr. stated that he hoped to have a resolution soon regarding the Key Estero property. He noted that he would like to meet with interim Town Manager Wilkins to update him on the different cases and schedule shade meetings. He added that he would verify ownership of the Sea Grape Plaza property.
Town Attorney Herin, Jr. stated that his job was to help the Town Council accomplish what they wanted to achieve for the community. He remarked that he was available 24/7, regardless of where he was.

XIV. COUNCILMEMBERS ITEMS AND REPORTS

Vice Mayor Atterholt suggested that Project Manager Chustz and Engineer Michael Poff provide an update regarding the easement requests for beach renourishment. Interim Town Manager Wilkins will submit an update regarding the Mooring Field at the next meeting. Council Member Veach indicated that they no longer had an upland facility, but the field may be used for storage. Vice Mayor Atterholt questioned whether they wanted to require a second appraisal from the residents. Town Attorney Herin, Jr. explained how he thought the provision came about and did not believe that a second appraisal was required. He added that it could be handled at the administrative level. Interim Town Manager Wilkins commented that he would follow up with Vice Mayor Atterholt. Vice Mayor Atterholt questioned whether the Town Council would be willing to consider an impact fee on new construction to offset some of the fiscal disparities of the beach school student costs until the enrollment was increased. He added that the impact fees would be applied to the capital costs, not to operating costs. Town Attorney Herin, Jr. explained how an interlocal agreement would be created to transfer impact fees to the school board. Mayor Allers received support to add the discussion to the next M&P meeting. Vice Mayor Atterholt remarked that he sent a letter urging CVS and the property owner to provide a timeline for their return. He questioned whether the Town Council would agree to hold a press conference at the CVS on February 6, 2023, at 1:00 p.m. Vice Mayor Atterholt revealed that CVS was committed to returning to the beach, but he wanted them to provide a definitive timeline. Mayor Allers was hesitant to hold a press conference. Council Member King suggested sending a letter to CVS from Town Council.

Council Member Veach suggested a meeting with FEMA, DEP and Times Squares businesses. He received support to add a discussion about density issues to an M&P meeting. He compared metal roofs to concrete tile roofs and questioned whether they wanted to discuss it at an M&P meeting. Mayor Allers suggested sending it to the LPA. Council Member Veach received support to add a discussion at an M&P meeting regarding corner lot zoning on beach accesses. He described a specific type of survey of the beach before and after the hurricane by FGCU (Florida Gulf Coast University).

Council Member Woodson questioned the status of licensing and fees for short-term rentals, PALs and PWVLs. Town Attorney Herin, Jr. replied that nothing changed with the licensing fees and he was not aware of any business having an issue.

Council Member King brought up reappointment requests for advisory committees. Town Clerk Baker stated that the reappointments could be brought back to the Council at any time. Council Member King questioned the status of Bayside Park and Mayor Allers replied that he did not have an update yet. Council Member King questioned when debris would be removed from the canals on the south end. Mayor Allers responded that access was an issue and discussions were ongoing. Council Member Atterholt suggested adding a link on the website's front page for permits.

Mayor Allers brought up reoccurring fees on water bills for houses no longer standing and described a large bill he received due to an unknown broken pipe in their backyard. Interim Town Manager Wilkins explained that fees were not charged for disconnected services. Vice Mayor Atterholt verified that stormwater fees were still being charged.
Council Member Veach brought up non-conforming lots and easements. Mayor Allers responded that the LPA was aware of the issue.

XV. ADJOURNMENT

Council Member King moved to adjourn; second by Mayor Allers.
Motion carried unanimously.
The meeting was adjourned at 12:54 p.m.

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

Amy Baker, Town Clerk