



Fort Myers Beach Special Town Council

Diamondhead
Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes

Thursday, February 9, 2023

10:00 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. APPROVAL OF FINAL AGENDA

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

III. ADMINISTRATIVE AGENDA

A. Resolution 23-16; ITB-23-08-CD Estero Island Emergency Berm

Approve Resolution 23-16 entitled: A Resolution of the Town Council of the Town of Fort Myers Beach, Florida, Accepting the Ranking of Grubbs Emergency Services, LLC ("Grubbs") as the Top Ranked Responsible and Responsive Bidder to ITB-23-08-CD "Estero Island Emergency Berm"; Approving an Agreement Between the Town and Grubbs for the Construction of the Estero Island Beach Emergency Berm; Authorizing the Execution of the Agreement and Expenditure of Budgeted, Emergency, and/or Grant Funds by the Town Manager; and Providing an Effective Date

Town Attorney Herin, Jr. explained that the number two ranked bidder, Bergeron Land Development Inc. challenged the bid award; therefore, under the town code, the bid process was put on hold until the challenge was resolved. One way to resolve the matter was to throw out the bid and start from scratch. This action would not take any more time than it would to process the bid protest. Bergeron did not think that Grubbs met the minimum qualifications to do the work. Mayor Allers questioned what would happen if the results ended up the same the second time. Town Attorney Herin, Jr. replied that staff would have to ensure all bidders met the minimum qualifications. Mayor Allers questioned what the town could do to prevent this from happening again.

Michael Poff from Coastal Engineering reviewed credentials and resumes for

Grubbs. Since their subcontractor (ICS) was currently doing beach screening adjacent to the emergency berm, he recommended moving forward with them. They did not meet the criteria as the prime to demonstrate projects placing beach-compatible sand on the beach; however, Bergeron did not meet the criteria either. He noted they could add language to the evaluation criteria to allow bidders to qualify for the project. He indicated the challenge was working closer to the sea turtle nesting season.

Town Attorney Herin, Jr. described the timeline for the appeal process. He guessed the process could take 30 days or longer and the bid process could take less time. Town Attorney Herin, Jr. restated that the further they get away from the landfall of Ian, the less likely FEMA would rely on the emergency procurement process and reimbursement could be jeopardized. Interim Town Manager Wilkins questioned whether it was expeditious for the Council to conduct a hearing at their next meeting. He asked whether FEMA would request additional requirements if it gets pushed back past six months of the event. Mr. Poff replied that the town had to show true progress with the project to qualify for a time extension. He stated they would have to request an extension to finish the project anyway.

Town Attorney Herin, Jr. stated that the earliest the hearing could be scheduled would be the first meeting in March due to the timeline of the appeal process and giving notice to involved parties.

Mr. Poff questioned whether they could wait 10 days to see whether an appeal would be filed rather than throw out all bids today. He explained his idea and noted they would not lose any time in the process.

Environmental Projects Manager Chadd Chustz suggested sending out another bid while waiting to see if an appeal was filed.

Council Member Veach supported Mr. Poff's plan. Mayor Allers respectfully asked Bergeron to remove their protest. Mr. Poff noted that both companies were qualified to do the work, but neither showed they were bringing sand to the beach. Town Attorney Herin, Jr. stated he would contact Bergeron's attorney immediately after the Council made a decision.

Consensus was reached to move forward with the current process and not rebid. Town Attorney Herin, Jr. will contact the attorney. He confirmed that staff should move forward with a parallel track for a new bid document in case the protest was filed within 10 days.

Council Member Veach moved to adjourn the meeting; second by Council Member Woodson. Motion carried unanimously.

The meeting was adjourned at 10:25 a.m.

Minutes adopted, February 21, 2023; Motion by Mayor Allers and seconded by Council Member King. Passed 5-0.



Amy Baker, Town Clerk