



Fort Myers Beach Town Council

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

Minutes

Monday, April 17, 2023

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

Mayor Allers stated that item A under Public Hearings had been pulled from the agenda at the applicants request.

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

V. PUBLIC COMMENT

No public comment.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt thanked the CFO's office for the insurance village event being held at DiamondHead on Tuesday, April 18, 2023, from 9:00-5:00. He encouraged property owners to attend if they had issues with insurance companies. He noted that a list of insurance companies attending was posted on the town's website.

Council Member Veatch thanked crews who were cleaning the mangroves.

Council Member Woodson noted that The Whale opened over the weekend and thanked Matt Caldwell for his presentation at the Chamber lunch last week.

Council Member King thanked Mom's Restaurant for the cinnamon rolls at the reopening of the Mound House and thanked MoJoe's Coffee Bar for the coffee and bagels. He added that residents that could not use their property as intended, should contact the Lee County Tax Appraiser's Office regarding the refund/rebate and taxes.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Chair of the Marine and Environmental Resources Task Force (MERTF) Steve Johnson provided a report. He noted that MERTF requested permission to proceed and complete the three projects they were working on before Hurricane Ian. Mayor Allers questioned whether the town had a fire restriction ordinance. Town Attorney Herin, Jr. was unaware of an ordinance and interim Town Manager Wilkins felt an ordinance would probably help the code enforcement authorities. Chair Johnson questioned whether sewer pipes could be checked for leaks and whether the Town Council wanted MERTF to follow up. Council Member Veatch indicated that Key West had an ordinance concerning sewer pipes and wondered whether a similar ordinance would work for the town. Vice Mayor Atterholt recommended that the town's utility director discuss inspecting lines with Lee County. Chair Johnson commented that he saw Lee County inspecting the lines on Estero Blvd. but not on other streets.

Chair Johnson reported that the pop-up tent events were running again, and he thanked the Beach Talk Radio listeners for contributing to the Amazon wish list for the events. He singled out Jason Ingram from Mango Rita's. He stated that the dark skies model ordinance was pending and the MERTF pamphlet was not a priority. The rubble from the Big Carlos Pass Bridge used to create a new offshore artificial reef is now complete.

Chair Johnson questioned who was addressing rebuilding the beach accesses and the scours issue. He commented that unpermitted activities on the beach, like tearing out the mangroves and box-blading the beach, occurred. Vice Mayor Atterholt questioned whether FEMA funds were available to give away trees and native vegetation like the town had in the past. Interim Town Manager Wilkins replied that he was unsure about FEMA, but grants were available. Chair Johnson commented that MERTF was involved with the last tree donation. He agreed that MERTF would make recommendations concerning where the town needed vegetation. Vice Mayor Atterholt wondered whether the town had funds left over from Lee County to maintain the right-of-way on Estero Blvd. Mayor Allers added that the amount was \$800,000.00.

VIII. PRESENTATION

A. Crowder Gulf

Debris recovery, future debris collection and the condition of Bay Oaks Recreational Campus.

Crowder Gulf Regional Manager, Barton Holmes, utilized PowerPoint for his presentation. He explained that Crowder Gulf was a private company and the town already had a contract in place to remove debris, which helped speed up the recovery and FEMA reimbursement processes.

Slides included: Bay Oaks Recreation Complex on October 2, 2022, October 31, 2022, and November 28, 2022. He explained why they had to create a debris pile on the Bay Oaks property before moving it to the final destination. Slides continued with Bay Oaks Recreational Complex on April 16, 2023. He noted that Thompson Engineering took a soil sample and Mr. Holmes was waiting for the results. He displayed slides with various data regarding debris removal so far and stated he had never seen a similar concentration of debris and destruction in his eight years of experience. Mr. Holmes will provide the data in his presentation to the town for their website.

Mr. Holmes indicated that the state extended right-of-way debris pickup and Crowder Gulf still had trucks collecting debris. He noted that another contractor was taking care of private property debris removal. He clarified that his company would remove any debris pushed to the right-of-way, although Lee County instructed them not to collect any more debris on Estero Blvd. He stated that his contract with the town initially expired last week, but it was extended for 60 days. He asked property owners on side streets to be patient and indicated the debris would be removed soon. He was working with Lee County DOT (Department of Transportation) concerning asphalt removal. He explained that the eligible debris was any debris generated by Ian and pushed to the town-maintained right-of-way. He requested that owners not put debris in bags because workers had to cut open the bags to identify the contents.

IX. APPROVAL OF MINUTES

A. Town Council - April 3, 2023

Council Member King moved to approve the minutes; second by Council Member Woodson.

Motion carried unanimously.

B. Management & Planning Session - April 6, 2023

Council Member King moved to approve the minutes; second by Council Member Woodson.

Motion carried unanimously.

X. CONSENT AGENDA

Council Member King moved to approve the consent agenda; second by Council Member Woodson.

Motion carried unanimously.

A. Special Event - Mother's Day 5K Run in Times Square

Special Event - Mother's Day 5K Run in Times Square

Council Member King moved to approve the event; second by Council Member Woodson.

Motion carried unanimously.

B. Resolution 23-34; Lee County Beach Cleanup

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE TOWN AND LEE COUNTY, FLORIDA, FOR THE PURPOSE OF REIMBURSEMENT FOR THE CLEANUP OF FISH AND MARINE LIFE WASHING UP ON BEACHES CAUSED BY RED TIDE; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Council Member King moved to approve the resolution; second by Council Member Woodson.

Motion carried unanimously.

C. Resolution 23-35 Fee Schedule Amendment

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING AND IMPLEMENTING, BY REFERENCE, THE FY2022-2023 TOWN WIDE FEE SCHEDULE. UNLESS PROHIBITED BY STATE LAW OR THE TOWN CHARTER, PROVIDING FOR CODIFICATION, CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

Council Member King moved to approve the resolution; second by Council Member Woodson.

Motion carried unanimously.

XI. PUBLIC HEARINGS

A. Ordinance 23-07; Rezoning of 2545 and 2555 Estero Boulevard

1st Reading and Public Hearing on proposed Ordinance 23-07 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA PERMITTING REZONING FROM CPD, COMMERCIAL PLANNED DEVELOPMENT TO IN, INSTITUTIONAL FOR A PROPERTY LOCATED AT 2545 AND 2555 ESTERO BOULEVARD FORT MYERS BEACH, PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on May 3, 2023 at 9:00 am. This requires a supermajority vote.

Pulled from agenda at request of the applicant.

XII. ADMINISTRATIVE AGENDA**A. Resolution 23-36; Andrew Hyatt Employment Agreement**

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF THE EMPLOYMENT AGREEMENT BETWEEN THE TOWN AND ANDREW HYATT AS TOWN MANAGER, ATTACHED AS EXHIBIT "A;" AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.

Interim Town Manager Wilkins noted the contract was extended to two years. Town Attorney Herin, Jr. spoke about the notice provisions being standardized for 120 days regarding Mr. Hyatt renegotiating and extending his contract and tendering his resignation to give the Council time to extend and negotiate or to accept the resignation and look for a replacement. Interim Town Manager Wilkins added that the provision did not affect severance. Town Attorney Herin, Jr. explained the compensation calculation per the State of Florida for salaried employees at a certain executive level.

Mr. Hyatt commented that he was not a clock watcher. He intended this position to be his last and would live on the beach.

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

Motion carried unanimously.

Mr. Hyatt will start on May 1, 2023, and Interim Town Manager Wilkins will assist with the transition until May 15, 2023.

B. RFQ-22-25-AD; Ongoing Misc. Professional Services

Approve and authorize the Town Manager to execute contracts with the top ranked firms under each category for Ongoing Miscellaneous Professional Services.

Town Attorney Herin, Jr. explained the procurement process and stated this step had to be followed under state law. The item will be tabled to the next meeting because the information was not included in the packet or published.

XIII. FINAL PUBLIC COMMENT

Terry Persaud, resident, thanked everyone for the job they were doing to put the town back together. He requested that they try to resolve their differences regarding ongoing legal matters. He noted he would forward a settlement agreement to the town attorney, and he distributed a letter to Council members.

XIV. TOWN MANAGER'S ITEMS

Interim Town Manager Wilkins expected the Town Hall to be demolished within the next week or two. An RFP (Request for Proposal) will be sent out soon for Bayside Park. Town Attorney Herin, Jr. stated that the contractor hired for Bay Oaks decided to negotiate modifications to the contract, although they knew the terms when they accepted the offer. He explained the legal process if Gleeson chooses not to sign the contract, but he did not think it would come to that. All members of the Council agreed not to negotiate with the contractor.

The stormwater project was approximately 50% complete and expected to be finished by the end of May. FEMA will reimburse for the project.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. noted that the Adam LaCroix litigation had been resolved. The League of Cities paid Mr. LaCroix's attorney's fees as part of the settlement and Mr. LaCroix dismissed all claims against the Town. Town Attorney Herin, Jr. will send the settlement terms to Council members.

An appeal to the beach dune walkover matter was filed and the town was coordinating its defense with attorneys for Mr. Kroemer and Mr. Rood. Town Attorney Herin, Jr. will keep the Council posted.

Town Attorney Herin, Jr. reported that the town received a claim regarding a stormwater construction project that may have damaged private property. The League of Cities was covering the matter and researching the claim. The issue will be resolved as soon as possible to avoid further costs.

Town Attorney Herin, Jr. thanked the Council and community for supporting the proposed draft interlocal agreement to rebuild the elementary school. He has a conference call tomorrow with the Lee County School Board's general counsel to attempt to finalize the draft. He hoped to bring the document back next week for approval.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King questioned the status of rebuilding Times Square. Council Member Veach noted that he was part of the Resilient Lee group and they recommended creating a master plan for downtown and San Carlos Island. He indicated that the town had to work with Lee County regarding Times Square. He commented that Resilient Lee was meeting on May 4, 2023, after the M&P session. Council Member Woodson, liaison to the Horizon Council, commented that Commissioner Sandelli supported the county and town's involvement with the ULI (Urban Land Institute) for planning. Mayor Allers added that he met with county staff to discuss visioning and moving forward with ULI. Council Member Veach received support to add ULI to a future M&P. Interim Town Manager Wilkins questioned whether they were interested in inviting Haggerty to present at an M&P regarding CDBG-DR funds and how to coalesce all the activities. He also invited FEMA to attend the May 4, 2023, M&P to hear their input.

Council Member Woodson questioned whether the Council was interested in a 4th of July parade. Mayor Allers received support to add it to an M&P. Council Member Woodson noted that there were no signs regarding parking along Palermo and people were parking on both sides of the street for The Whale event. She thanked a beach patrol member who did a great job directing people to move their cars without issuing any tickets. She commented that the town had to install signs on at least one side of the street.

Council Member Veatch noted that projects needed to be entered into the Resilient Lee portal and an action plan had to be developed. He received support to add workforce housing proposals to the next M&P. Mayor Allers supported creating an action plan. Council Member Veatch questioned whether there was interest in creating a marina zoning district. Mayor Allers replied that the Corradino Group and Sarah were given directions regarding marina zoning at the joint meeting with the LPA. Council Member Veatch suggested codifying the water ordinance at a future meeting. He received support to add a discussion to an M&P concerning requiring an inspection of sewer lines when rebuilding houses. He thought the town could raise money for a tree giveaway if funds were unavailable. He questioned what happened to the right-of-way on part of Caroline St. Mayor Allers suggested contacting the fire department for assistance.

Vice Mayor Atterholt shared information from an interview with Anita Cereceda regarding the history of the Town Hall. He stated that the mural was not salvageable, but the artist was still in the area.

Mayor Allers stated that the parking app was still causing issues and questioned whether they were interested in inviting the software company to a meeting to answer questions. He received support.

XVII. ADJOURNMENT

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

The meeting was adjourned at 11:30 a.m.

Minutes adopted, May 1, 2023; Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk