



Fort Myers Beach Town Council

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

Minutes

Monday, November 6, 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

Council Member King moved to approve the amended final agenda with Item E. pulled for review; second by Council Member Veatch.
Motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Veatch stated that the opening of the baseball field was great. He shared a story of a BASE officer, Armando, who helped people who locked themselves out of their vehicle.

Council Member Woodson indicated she was excited regarding various businesses opening.

Vice Mayor Atterholt reported that the school would be finished on November 29, 2023, but would likely open on December 5, 2023, with a program and ribbon-cutting. Tentative plans are for the students and teachers to march to the school from Bay Oaks. He reviewed the timeline and encouraged everyone to help cheer them on. Tours of the school will be conducted after the ribbon ceremony.

Council Member King recognized Town Manager Hyatt's six-month anniversary. He indicated the baseball field opening was a great night. He thanked Major

League Baseball, Scott's and 7-11 for their contributions, Fort Myers Beach Community Foundation for the concession stand equipment, ICS Materials, Minnesota Twins, Mighty Mussels, Coca-Cola, Beach Talk Radio, Gator Country, Culture Parks & Recreation Director Hauge, and all the staff who contributed. He thanked HR Manager Talissa Oliveira for the employee activities.

Mayor Allers welcomed Tunaskin back and noted that a new business called Mr. Waves would open soon.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Cultural and Environmental Learning Center Advisory Board (CELCAB) Chair Barbara Hill reviewed the board's mission statement. CELCAB members thanked the Town Council for their support and for bringing Mound House back to life. Director Hauge, Museum Manager Knight and the staff were thanked for their hard work. She thanked the Friends of the Mound House for their support. CELCAB looked forward to seeing Newton Beach Park redeveloped, including a swing set and an entrance sign on Estero Blvd. CELCAB recommended that the park be renamed and several names were mentioned for consideration. She welcomed ideas from the community. Chair Hill described the relationship with the state to maintain the park. Council Member Veach brought up installing a memorial for the hurricane.

VIII. APPROVAL OF MINUTES

A. Town Council - October 16, 2023

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

Motion carried unanimously.

IX. CONSENT AGENDA

Council Member King moved to approve the remainder of the Consent Agenda; second by Council Member Veach.

Motion carried unanimously.

A. Resolutions 23-139 through 23-143; Extending Local State of Emergency-Hurricane Ian

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Motion carried unanimously.

- B. Resolutions 23-144 through 23-148; Extending Declaration of State of Local Emergency-Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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

Motion carried unanimously.

- C. Resolution 23-136; Statewide Mutual Aid Agreement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A STATEWIDE MUTUAL AID AGREEMENT WITH FLORIDA DIVISION OF EMERGENCY MANAGEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Motion carried unanimously.

- D. Resolution 232-150; Restroom Trailer - Palm Avenue Beach Access

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A COOPERATIVE PURCHASE AGREEMENT BETWEEN THE TOWN AND READY2GO RESTROOM TRAILERS IN AN AMOUNT NOT TO EXCEED \$66,256.62, UTILIZING SOURCEWELL, AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, EXPEND FUNDS, AND TAKE ALL APPROPRIATE ACTIONS TO PURCHASE A REPLACEMENT RESTROOM TRAILER; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Motion carried unanimously.

- E. FMB Community Foundation Flag design

Review and approve flag design produced by vendor for the FMB Community Foundation to use as a fundraiser. Proceeds from the sale of the flags are to be used to donate to beach causes.

Mayor Allers noted that the design was on page 86 of the packet.

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

Motion carried unanimously.

- F. Public Safety Motorola Radio Purchase
Approve the purchase of radios for Town operations and emergencies
Council Member King moved to approve the purchase; second by Council Member Veach.
Motion carried unanimously.
- G. LeeTran Seasonal Tram
Authorize Temporary LeeTran Parking on property located at 2545 Estero Blvd for up to six months.
Council Member King moved to authorize; second by Council Member Veach.
Motion carried unanimously.
- H. Special event - Re-occurring Concert Series at Bayside Park
Approve the request for the Bayside Concert Series on Sundays from 4-7pm in Bayside Park with the approval of waiver for open container for the permit.
Council Member King moved to approve the request; second by Council Member Veach.
Motion carried unanimously.

X. PUBLIC HEARINGS

- A. Ordinance 23-16; Small Scale Map Amendment for 21471 Widgeon Terrace
First Reading and Public Hearing on Proposed Ordinance 23-16 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, FOR A PORTION OF THE PROPERTY LOCATED AT 21471 WIDGEON TERRACE AND PART OF THE ADJACENT COMMON ELEMENT PROPERTY OF FLAMINGO HARBOR CONDOMINIUM, FORT MYERS BEACH; PROVIDING FOR 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 November 20, 2023 at 9:00 AM
Mayor Allers read the title of the ordinance. Community Development Senior Planner Jason Smalley reviewed the reason for the ordinance as stated on the blue sheet.
Attorney Zachary Liebetreu from Roetzel & Andress represented the applicants. He stated that the DEP confirmed there were no wetlands in the area and the condo association approved their request to use a small portion of the common element for the pool. He noted the history of the request was included in the packet of information. Council Member Veach questioned where the report stated there were no wetlands. Attorney Liebetreu replied that the area on the east side of the property would remain wetlands.

No public comment.

Council Member King moved the item to second reading on November 20, 2023, at 9:00 a.m.; second by Mayor Allers.
Motion carried unanimously by roll call vote.

B. Resolution 23-135; VAR20230175, 5137 Estero Blvd,

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230175 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING FOR THE PROPERTY LOCATED AT 5137 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Ex parte communications: all members disclosed familiarity with the property and applicants, but no conversations were had regarding the resolution. Town Clerk Baker swore in those providing testimony.

Senior Planner Smalley reviewed the background of the request as stated on the blue sheet. He explained the issue of connecting the house to the garage. Flood Plain Manager Kristin Schumacher noted that the owners were allowed to keep the garage as an accessory structure since the house was destroyed. However, the garage was not flood-compliant, so it could not be attached to the house.

Kara Stewart represented the applicants and indicated the house would be located close to where the original structure was before the hurricane. She explained why it made sense to locate the house where the applicants proposed.

No public comment.

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

Motion carried unanimously by roll call vote.

XI. ADMINISTRATIVE AGENDA

A. Resolution 23-151; Change Order #3, Grubbs Emergency Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A CHANGE ORDER BETWEEN THE TOWN AND GRUBBS EMERGENCY SERVICES FOR INCREASING CONTRACT TIME 60 DAYS AND INCREASING CONTRACT PRICE \$1,250,392.00.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropocek indicated the additional funds were for repairs and maintenance from Ian. Environmental Project Manager Chadd Chustz explained the difference in the quality of sand and noted it was compatible with FDEP (Florida Department of Environmental Protection) standards and would be diluted with native sand. Council Member Veach questioned why they were not waiting for the renourishment project.

Project Manager Chustz replied that these were two separate projects and the permitted area for the dredged sand was limited. He explained why the town needed the sand and noted that he would forward the Coastal Construction report to the Town Council for details. He corrected the figures on the financial impact.

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

Motion carried unanimously.

B. Resolution 23-153; ICS Materials

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 1, 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE No. 102423-01 IN THE AMOUNT \$220,059.39; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Projects Manager Chustz explained the reason for the resolution and indicated it would not cost the town anything.

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

Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hyatt recognized the staff for an excellent job supporting the town. He noted that a gentleman from the Jacobs Group conducted 27 inspections on his first day and the in-house plan reviewers would be in town as needed. A building official would be brought in along with three permit technicians. Mayor Allers questioned whether the Jacobs Group could meet with a contractor to discover any breakdowns in the town's processes. Town Manager Hyatt replied affirmatively. Council Member Veach brought up the former Town Attorney's opinion that the town could not meet with contractors and he shut down the conversation. Vice Mayor Atterholt asked Town Attorney Vose to follow up and she agreed to look into the issue.

Vice Mayor Atterholt discussed the addition of staff and Mayor Allers stated that streamlining the permitting process was a high priority for him. Director Kropocek explained how they worked out a preliminary way to alleviate issues with the process.

Town Manager Hyatt distributed his annual report required by the Charter and noted he would continue the practice. He added that the report was on the website. He stated the town received a \$1.195 million grant from FEMA for the emergency berm and \$398,547.00 from the state.

Director Kropocek indicated the Town Hall trailers should be delivered within the next two weeks on the Bay Oaks property. He described how they were preparing for the trailers.

Town Manager Hyatt noted that a case would be opened against Century Link concerning their destroyed boxes. He reported that Century Link told him they were installing underground conduits throughout the island to serve customers. Century Link indicated they would send their plans to Town Manager Hyatt soon. Director Hauge stated that the fireworks would be lit from a barge off the pier at midnight and would not cost the town anything. The Bay Oaks building should be energized today. The before and after-school programs were in place and adult programming was in the works. The big ball field was being worked on and Director Hauge would provide details at the next meeting.

Barbara Hill provided an update on the veteran's memorial.

XIV. TOWN ATTORNEY'S ITEMS

No items.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King reported that FDOT (Florida Department of Transportation) planned to add eight bus shelters by 2025 and LeeTran would repair existing shelters. The Condo Association of Fort Myers Beach will request that the state delay the implementation of the mandatory reserve funding in relation to the legislation surrounding the Surfside condo collapse. He asked that the Town Council send a letter in support. Vice Mayor Atterholt supported the effort. Mayor Allers agreed and asked that Town Manager Hyatt add it to the list.

Vice Mayor Atterholt stated that people requesting owner/builder permits had to sign an affidavit that they would not rent or sell their homes for one year after the permit closed. He questioned why that occurred and if there was a benefit to reducing or suspending the timeline. Town Attorney Vose replied that the state statute had been in place for a long time and was clear. Town Engineer Steve Poposki explained the reasoning behind the statute. Vice Mayor Atterholt questioned whether they could ask the state lobbyist to help a resident obtain a liquor license for her new business. Mayor Allers responded that the lobbyist was aware of the situation. Council Member Veach questioned advocating for one particular business. Vice Mayor Atterholt replied that her situation was unique, and she applied for a liquor license before Ian. Town Manager Hyatt noted that she contacted him, and he had told her to call the lieutenant governor's office. He added that her current application was different from her original application and that might have been the problem. Director Kropocek stated they were meeting with the Bureau of Licensing to discuss her issue and another one. Vice Mayor Atterholt commended everyone for their contribution to the annual report. Director Kropocek addressed the change of direction concerning enforcement. BASE

(Beach and Street Enforcement) will be called Neighborhood Services with an emphasis on helping and educating the community.

Council Member Woodson provided an update on the pier and Let's Go FMB activities. The survey results created by Let's Go FMB found that 98.5% of the respondents wanted an improved pier. Another meeting with Lee County will be held on Thursday to discuss the results of the survey.

Council Member Veach suggested that they meet with church representatives regarding plans for their properties. He received support to add them to an M&P. Mayor Allers indicated that Lee County would clean the porta-potties more often with increased visitors. He stated that he and others met with legislators in Tallahassee and thanked them for the funds received.

XVI. ADJOURNMENT

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

The meeting was adjourned at 11:15 a.m.

Minutes adopted, November 20, 2023; Motion by Council Member King and seconded by Council Member Veach. Passed 5-0.



Amy Baker, Town Clerk