Fort Myers Beach Town Council

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

Minutes **Monday, November 20, 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; seconded by Council Member Veach.
The motion carried unanimously.

V. PUBLIC COMMENT

Ken Dabin, Sanibel, said he wanted to purchase the lot on the beach side of Chris Plourde's property at 7944/7946 Estero Blvd. Mr. Plourde noted that the property had been one lot but was separated into two lots around 1987. Mr. Dabin stated that he wanted to build a structure but needed zoning changes. He explained there would be 30 parking spaces underneath the building and most could be for public parking. A helipad could be built if the building was tall enough and Mr. Plourde felt there were four good options for the beach. Mr. Dabin added that his buildings were built to withstand winds of 280 mph.
Annie Neaf, resident and yoga instructor, looked forward to conducting classes on the beach again. She noted that the 30% split in fees was high for her low-revenue classes.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King individually recognized his colleagues on the council.
No items from other members.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

No items.

VIII. REORGANIZATION OF COUNCIL

A. Reorganization of Town Council

Selection of Mayor and Vice Mayor in accordance with the Town Charter.

Vice Mayor Atterholt nominated Dan Allers as Mayor.
The motion carried unanimously.
Council Member Veach nominated Jim Atterholt as Vice Mayor.
The motion carried unanimously.

IX. APPROVAL OF MINUTES

A. Town Council - November 6, 2023

Council Member King moved to approve the minutes; seconded by Council Member Veach.
The motion carried unanimously.

B. Management & Planning Session - November 9, 2023

Council Member King moved to approve the minutes; seconded by Council Member Veach.
The motion carried unanimously.

X. CONSENT AGENDA

Mayor Allers moved to approve the consent agenda; seconded by Council Member Woodson.
The motion carried unanimously.

A. Resolution 23-169; Town Manager Authority

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, GRANTING AUTHORITY TO THE TOWN MANAGER TO SIGN FEDERAL CONTRACTS ON BEHALF OF THE TOWN IN ACCORANCE WITH THE APPLICABLE LAWS AND REGULATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member King moved to approve the resolution; seconded by Council Member Woodson.
The motion carried unanimously.

B. Resolution 23-168; Old San Carlos Electrical Work

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN IN OCTOBER 2023 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVAL OF THE PROPOSALS RECEIVED FOR ELECTRIC RESTORATION WORK FOR OLD SAN CARLOS BOULEVARD STREET LIGHTING IN AN AMOUNT NOT TO EXCEED $56,500; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member King moved to approve the resolution; seconded by Council Member Woodson.
The motion carried unanimously.

C. Beach Access Easement to Satisfy Ordinance 18-04, TPI-FMB Rezoning, a Commercial Planned Development.

Accept a grant of easement of five (5) feet, as depicted in Exhibit A and provided for in the legal description, for an ADA-accessible beach access for public use and to satisfy conditions of approval in Ord 18-04, TPI-FMB Rezoning, a Commercial Planned Development.

Council Member King moved to accept the grant; seconded by Council Member Woodson.
The motion carried unanimously.

D. 5th Street public sidewalk easement for portions of private property along the south side of 5th Street and as required by the conditions of approval in Ordinance 18-04.

Accept a grant of easement of seven (7) feet, as depicted in Exhibit A and provided for in the legal description, for a sidewalk for public use and to satisfy conditions of approval in Ord 18-04, TPI-FMB Rezoning, a Commercial Planned Development.

Council Member King moved to accept the grant; seconded by Council Member Woodson.
The motion carried unanimously.

E. Public Use Agreement for Stairways, Bridge, Elevators, and Restrooms along the north and south side of Estero Boulevard.

Accept a Public Use Agreement, as depicted in Exhibit A and provided for in the legal description, to allow general public use of portions of private property such as stairways, bridge, elevators, and restrooms, as required by the condition of approval in Ordinance 18-04, TPI-FMB Rezoning, Commercial Planned Development.

Council Member King moved to accept the agreement; seconded by Council Member Woodson.
The motion carried unanimously.

F. <u>Special Event: Poinsettia Tree</u>

Request to hold a holiday event around the Poinsettia Tree at Times Square on Friday, December 1, at 5:30 p.m. Might include a special surprise guest!

Council Member King moved to approve the request; seconded by Council Member Woodson.
The motion carried unanimously.

G. <u>Special Event: Christmas Services Rental of Bayside Park 12/23/2023 4pm - 5pm</u>

Request to hold a Christmas Service at Bayside Park, December 23, 2023

Council Member King moved to approve the request; seconded by Council Member Woodson.
The motion carried unanimously.

H. <u>Special Event: New Years Eve 5K</u>

Request to hold a New Years Eve 5K, December 31, 2023

Council Member King moved to approve the request; seconded by Council Member Woodson.
The motion carried unanimously.

I. <u>Surplus Items</u>

Declare listed items as surplus and authorize staff to dispose of these items utilizing a municipal government auction service.

Council Member King moved to authorize; seconded by Council Member Woodson.
The motion carried unanimously.

J. <u>Additional funds for remodel of Bay Oaks Recreation Center</u>

Approve and allocate additional funds not to exceed $4,812.60 for additional work on the Bay Oaks Recreation Center to put in an annunciator panel and replace restroom walls. This will be a change order for the Bay Oaks Recreation Center awarded to C.E. Gleeson Contractors.

Council Member King moved to approve and allocate; seconded by Council Member Woodson.
The motion carried unanimously.

K. <u>Change Order #3, Bay Oaks Recreation Center</u>

Approve and allocate funds not to exceed $39,995.00 for additional work on the Bay Oaks Recreation Center to replace tile, mold remediation and dry wall of the restrooms. This will be a change order for the Bay Oaks Recreation Center awarded to C.E. Gleeson Contractors.

Council Member King moved to approve and allocate; seconded by Council Member Woodson.
The motion carried unanimously.

XI. PUBLIC HEARINGS

A. Ordinance 23-16; Small Scale Map Amendment for 21471 Widgeon Terrace

Second 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 ANDPROVIDING FOR AN EFFECTIVE DATE. Open the second public hearing and adopt ordinance

Mayor Allers read the title of the ordinance.

Community Development Senior Planner Jason Smalley reviewed the proposed ordinance and noted it would be sent to the state. Council Member Veach questioned why the property was wetlands in the 80s but not now. Senior Planner Smalley replied that the staff did not know, and approval of the amendment would be up to the state.

Attorney Sarah Spector from Roetzel & Andress represented the applicant and described the steps they took to get where they were.

No public comment.

Council Member King moved to approve the ordinance; seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Proposed 2024 Town Council Meeting Schedule

Approve the monthly schedule for Town Council meetings for calendar year 2024

Town Clerk Baker noted the proposed calendar was included in the packet for their approval. The M&P Session on February 8, 2024, was moved to February 15, 2024.

Council Member King moved to approve the calendar; seconded by Council Member Woodson.

The motion carried unanimously.

B. Resolution 23-159; Budget Amendment #2 - Fiscal Year End Adjustment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING BUDGET AMENDMENT #2 TO THE TOWN GENERAL FUND; AND OTHER TOWN FUNDS PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick utilized PowerPoint for his presentation. Slides displayed included FY23 Final Budget Adjustment; General Fund Expense Adjustments; Emergency Fund Revenue Adjustments; Emergency Fund Expense Adjustments; Bridge Loan & Capital Fund Adjustments; Capital Improvement Loan Fund Adjustments and Stormwater Fund & Water Fund Adjustments.

Council Member Woodson moved to approve the resolution; seconded by Council Member King.
The motion carried unanimously.

C. Resolution 23-138; Authorizing 6-Month Extension of Capital Improvement Loan Draw Down Period

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING CERTAIN AMENDMENTS TO LOAN DOCUMENTS RELATING TO A LOAN FROM FIRST FLORIDA INTEGRITY BANK, N/K/A FIRST FOUNDATION PUBLIC FINANCE, PREVIOUSLY MADE ON OR ABOUT NOVEMBER 18, 2020 FOR THE PURPOSE OF FINANCING THE REDEVELOPMENT OF CERTAIN TOWN-WIDE CAPITAL IMPROVEMENT PROJECTS, AS DESCRIBED THEREIN; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF SAID AMENDMENTS AS DESCRIBED HEREIN; PROVIDING FOR THE RIGHTS AND SECURITIES OF THE OWNER OF THE NOTE; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick reviewed the Capital Improvement Loan Extension. Town Manager Hyatt listed projects that would be covered by the funds and Operations and Compliance Director Frankie Kropocek added drainage projects.

Council Member Veach moved to approve the resolution; seconded by Council Member Woodson.
The motion carried unanimously.

D. Athletic Contractual Programs

AUTHORIZE THE TOWN MANAGER TO WAIVE THE 70/30 SPLIT FEES FOR ATHLETIC CONTRACTUAL PROGRAMS HELD AT BAY OAKS TEMPORARILY, UNTIL OCTOBER 31ST 2024

Town Manager Hyatt stated that the staff recommended waiving fees for ten months.

Council Member Veach moved to waive the fees; seconded by Council Member Woodson.
The motion carried unanimously.

E. Resolution 23-158; ITB-23-18-UT; Tier 1 Water and Stormwater Improvements

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, PROVIDING FOR THE TENTATIVE AWARD OF A CONTRACT TO ANDREW SITEWORK LLC., FOR THE CONSTRUCTION OF THE TIER 1 SIDE STREETS WATER AND STORMWATER IMPROVEMENTS PROJECT – GROUPS A, B, C, AND D (BID NO. ITB-23-18-UT), PURSUANT TO THE FLORIDA STATE REVOLVING FUND LOAN PROGRAM, SUBJECT TO FDEP APPROVAL; AUTHORIZING EXECUTION OF THE CONTRACT DOCUMENTS BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Utilities Manager Steve Matuska noted the project was being worked on before Ian and was funded by the state revolving fund. Eric Fey from Tetra-Tech utilized PowerPoint for his presentation. The first slide was Tier 1 Side Street Water and Stormwater Improvements; Central Side Street Location Map; South Side Street Location Map and Street Summary. Manager Matuska explained the nature of repairs in several areas. Mr. Fey stated the outfall improvements were a four-year, three-month project.

Ralph Andrew from Andrew Sitework stated that he could start promptly after the contract was approved. He explained that he would move the project forward as quickly as possible.

The presentation continued with a Summary of Previous Bid Proposals Received; Current Bid Proposals; Deductive Change Order for Clearing and Grubbing; Fiscal Impact and Recommendations. Mr. Andrew predicted that they would start the project in January.

Mark Brewer explained that additional grant money in the SRF (State Revolving Fund) program could result in principal forgiveness for portions of the project. He added that he did not have details yet, but the application deadline was January 1, 2024. Manager Matuska stated that the stormwater rates were insufficient, and a rate study would be ongoing for five years to spread out the cost.

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

The motion carried unanimously.

F. Resolution 23-157; ITB-20-08-UT; North Estero Phase 2, Parts 1 & 2 Water Main and Stormwater Improvements-Change Order 2

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING CHANGE ORDER NO. 2 TO THE AGREEMENT ITB-20-08-UT BETWEEN THE TOWN OF FORT MYERS BEACH AND MITCHELL & STARK CONSTRUCTION CO.; DECREASING THE CONTRACT AMOUNT BY $3,746,334.98; EXTENDING THE DATE FOR FINAL COMPLETION BY 727 DAYS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CHANGE ORDER; AND PROVIDING AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Mr. Fey explained the change order starting with the North Estero Phase 2 Parts 1 & 2 -Water Main and Storm Improvements; Part 1 Location Map; Part 2 Location Map; Project Summary; Financial Status and Recommendations.

Council Member King moved to approve the resolution; seconded by Council Member Veach.
The motion carried unanimously.

G. Resolution 23-156; RFQ-13-02-PW Estero Blvd Water Main Improvements **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING CHANGE ORDER NO. 2 TO AMENDMENT 10 OF THE DESIGN-BUILD AGREEMENT RFQ-13-02-PW BETWEEN THE TOWN OF FORT MYERS BEACH AND MITCHELL & STARK CONSTRUCTION CO.; DECREASING THE CONTRACT AMOUNT BY $2,954,436.07; EXTENDING THE DATE FOR FINAL COMPLETION BY 836 DAYS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CHANGE ORDER; AND PROVIDING AN EFFECTIVE DATE**

Mayor Allers read the title of the resolution. Mr. Fey explained the slide concerning Phase 4 Estero Blvd. Water Main Improvements; Location Map; Project Summary; Financial Status and Recommendations. Manager Matuska indicated the water and stormwater infrastructure was less than ten years old.

Council Member Veach moved to approve the resolution; seconded by Council Member Woodson.
The motion carried unanimously.

H. Resolution 23-161; STA #6, Beach Truck Haul Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #6 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS, INC. FOR ADDITIONAL DESIGN CONSTRUCTION PHASE SERVICES FOR THE ESTERO ISLAND BEACH TRUCK HAUL PROJECT, FOR A COST NOT TO EXCEED $135,540; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropocek stated that this resolution was for the consultants.

Mayor Allers moved to approve the resolution; seconded by Council Member King.
The motion carried unanimously.

I. Resolution 23-163; STA #7 Beach Truck Haul Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #7 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS, INC. FOR CONTINUING CONSTRUCTION PHASE SERVICES FOR THE ESTERO ISLAND BEACH TRUCK HAUL PROJECT, FOR A COST NOT TO EXCEED $47,810, AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropocek noted this was for the design phase of the project.

Council Member King moved to approve the resolution; seconded by Council Member Veach.
The motion carried unanimously.

J. Resolution 23-162; Beach Nourishment Project Bid Phase Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #8 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS, INC. FOR BID PHASE AND PRE-CONSTRUCTION SERVICES FOR THE ESTERO ISLAND BEACH RENOURISHMENT PROJECT, FOR A COST NOT TO EXCEED $30,880, AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropocek indicated it was for dredging and could start at the beginning of the new year.

Council Member King moved to approve the resolution; seconded by Mayor Allers.
The motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reported that the contract was executed with the Jacobs Group and their official start date was December 4, 2023. Three permit technicians, a building official, inspectors and plan reviewers will be brought in. The Town Hall trailers will be removed today and the agreement with the fire department was extended until December 31, 2023. The new trailers were coming in mid-December. The Bay Oaks rec center was being worked on and the grounds were being cleaned up. The new outdoor workout equipment should be installed within a couple of weeks. Renderings of the pool will be available to share soon. The street signs should go up soon and the handmade signs will be preserved at the Historical Society.

The county has not received the funding for the lighting project yet, but Town Manager Hyatt requested the contract so the town attorney can review it. Mayor

Allers stated that the priority was to install lighting in the Times Square area, then Estero Blvd. and the side streets last. FP&L (Florida Power & Light) estimated finishing the project would take a year. He suggested the information be added to the town's website. Town Manager Hyatt reported that the Lumen boxes were being removed.

Mayor Allers suggested that Tidal Basin attend an M&P to explain how its process works.

Discussions were being held regarding community policing. Vice Mayor Atterholt questioned whether the contract could include officers participating during rush hour to help mitigate traffic. He commented that directing traffic would not take away from their other responsibilities.

Mayor Allers indicated that the officers would not be on the island 24/7 and that it was important to manage expectations. Vice Mayor Atterholt thought they could triage and assist in one area without neglecting their other responsibilities.

XV. TOWN ATTORNEY'S ITEMS

Vice Mayor Atterholt brought up an issue with a resident who had an owner/builder permit and was prevented from renting their property. Town Attorney Vose commented that it was a state statute and that she would contact the Attorney General for their opinion.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King reported an opening on the Citizen Advisory Board with the MPO (Metropolitan Planning Organization). He will share the information with Communications Coordinator Jennifer Dexter to add to the town's website.

LeeTran stated that ridership decreased by 90% on Fort Myers Beach after the hurricane and they recovered about 30% since Ian compared to the same time in 2021. He suggested that some code changes be addressed sooner rather than later. Director Kropocek stated that he and Planner Propst were working on many changes to present after the first of the year.

Vice Mayor Atterholt confirmed that the EBIA (Estero Bay Improvement Association) beach access plans for the tiki hut will move forward. Director Kropacek will inform the EBIA.

Council Member Woodson noted that the LPA requested a joint meeting to discuss the three development agreement deviations. She questioned whether a date had been set. Town Clerk Baker had not been contacted about the schedule. Town Attorney Vose will forward the draft language she prepared. Council Member Woodson questioned when the Times Square area would be cleaned up. Director Kropocek will contact the property owners and inform them they must remove the debris by a specific date. If all the town's efforts fail, a lien would be put on the property. Town Attorney Vose described how the Special Magistrate's process could lead to a lien. A consensus was held to contact the offending property owners immediately.

Council Member Veach suggested that they pressure Lee County to put the crosswalk signs back up. He also suggested that the town install signs warning people of debris on the beach.

Mayor Allers asked the staff to contact Lee County regarding installing an illuminated crosswalk at Lenell Road. He requested that Director Kropocek look at the cost of CPD projects. Director Kropocek responded that he and Planner Propst had been working on a formulation to reduce the fees.

XVII. ADJOURNMENT

Council Member King moved to adjourn; seconded by Council Member Woodson. The motion carried unanimously.

The meeting was adjourned at 11:45 a.m.

Minutes adopted, December 4, 2023; Motion by Council Member King and seconded by Council Member Veach. Passed 5-0.

Amy Baker, Town Clerk