

C. Proposed Ordinance: Expedited Variance Review

This item is for discussion only:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-232 "REQUIRED HEARINGS" OF DIVISION 5 "PUBLIC HEARINGS AND REVIEW" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" TO REQUIRE ONLY ONE PUBLIC HEARING BEFORE THE LOCAL PLANNING AGENCY ("LPA") FOR VARIANCES EXCEPT IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF THE TOWN CLERK RECEIVES A REQUEST BY ANYONE FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL WITHIN 10 DAYS AFTER THE LPA DECISION; A PUBLIC HEARING BEFORE THE TOWN COUNCIL IS REQUIRED FOR A VARIANCE IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF ANYONE REQUESTS SUCH HEARING WITHIN 10 DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Town Attorney Stuparich described the reason for the ordinance and highlighted specific language. She stated that the proposed ordinance was limited to variances only. She indicated that the agenda would contain information regarding appeals. The ordinance would apply to residential and commercial property owners. A consensus was reached to send it to the LPA (Local Planning Agency) for review.

D. Ordinance 23-05; Temporary Housing / Temporary Governmental Use Facilities in Specified Zoning Districts

This item is for discussion only:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE PLACEMENT OF TEMPORARY HOUSING AND TEMPORARY GOVERNMENTAL USE FACILITIES IN SPECIFIED ZONING DISTRICTS OF THE TOWN, PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, SUNSETTING OF THIS ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Stuparich indicated that the ordinance was brought back for further discussion to clarify what was previously approved. Mayor Allers thought the intent was to allow commercial property owners to operate a commercial business on their property. He questioned whether the business had to be the same as what was there before the hurricane or whether any business could operate on the property.

Regarding residential trailers on properties, Mayor Allers felt that three years was enough time for residents to have a plan to rebuild. Council Member Safford added that there was a year-long wait list for people elevating their homes. Director Kropocek indicated that a state mitigation document for people in the elevation program was still being discussed after 18 months. He suggested that the town contact people in the program to start working with them. Council Member Woodson clarified that people who reached the deadline date and then decided to sell their property could not stay in a trailer

on their property until it sold. Town Attorney Stuparich indicated that language addressing extenuating circumstances was in the ordinance. Regarding commercial businesses, Council Member Safford brought up existing businesses operating from trailers on property they do not own, like Mom's or La Ola. He questioned whether they should set up a zone for businesses to operate. Mayor Allers stated that pre-lan businesses like the Beach Bar were in control of what they were doing because they owned the land. He questioned how to address pre-lan businesses operating on someone else's property. The last category was new businesses in trailers that rented property from owners who lost their businesses. Council Member Safford was not against food trucks and wondered about setting up a designated area for them.

Mayor Allers questioned whether members favored a hard deadline to end portable businesses on commercial property. Council Member King questioned setting it up as they did for residents and revisiting extenuating circumstances. Council Member Woodson would allow exemptions for pre-lan existing businesses, but she did not support new businesses renting property in prime areas. The Sunset Grill was a restaurant, but the new business on the property had nothing to do with food. She felt a preference had to be made for pre-lan businesses that were building back. Mayor Allers brought up existing businesses that decided to lease their property to a completely different business to bring in revenue while they were in the process of rebuilding. He had a problem with the town dictating what businesses and commercial property owners could put on their land, whether they intended to build it back or not. Council Member Safford commented that new businesses in trailers may become successful enough to open a brick-and-mortar business somewhere on the island.

Vice Mayor Atterholt noted that some people liked the trailers while others wanted to encourage brick-and-mortar businesses. He thought the town hall property would be an interesting location for food trucks, especially during off season. He questioned whether they wanted to encourage new businesses that filled a need in the town, such as providing haircuts or a mobile health clinic. If they wanted brick-and-mortar businesses, the town had to find a way to incentivize those.

Council Member King discussed a brick-and-mortar restaurant going out of business in Iowa because of the food trucks. He questioned whether a food truck zone at the town hall property would compete with brick-and-mortar restaurants. Council Member Safford felt the food trucks might not do as well in the summer because of the lack of air conditioning.

Mayor Allers raised FEMA regulations and questioned whether allowing mobile food trucks would impact the town's flood insurance rating. Town Attorney Stuparich responded that she would do some research.

Mayor Allers brought the discussion back to how long the temporary use should be allowed. Council Member Safford suggested that businesses and residents building back should not be affected. He felt that places like Mom's who rent the property should be handled differently, although a trailer could not be there forever. Mayor Allers stated that they could not force the

property owner to build a building and someone would be negatively affected. He supported giving commercial and residential the same timelines and added they needed to review other ordinances to make sure there was no conflict.

Mayor Allers described the Heavenly Biscuit operation and noted that the property was too small to make a building feasible. He did not have a problem allowing them to stay on the property with their mobile trailer and questioned building that into code to allow those uses. Vice Mayor Atterholt stated that the owner of Santini Plaza would allow food trucks in his parking lot only until the brick-and-mortar restaurants opened. Director Kropocek noted that Cape Coral and Fort Myers had the same issue, so they allowed food trucks to operate in a specific area. He will contact those municipalities for more information. A consensus was reached to recommend the same timeframe for commercial and residential to demonstrate they were moving forward.

Vice Mayor Atterholt questioned what the town could do to encourage the owner of Key Estero and Sea Grape to make them hospitable to businesses on the island. Town Attorney Stuparich was unsure of the issues at those properties other than the parking lots.

Mayor Allers discussed the ordinance that prohibited mobile vendors but allowed the temporary use. He asked whether they could add conditions for temporary use. Town Attorney Stuparich thought the distinction was that temporary use would not be allowed under normal circumstances. Because they were in a build-back mode, they would make an exception to allow some uses not currently available for a limited time. She will draft an ordinance to address the issues discussed.

IV. AGENDA MANAGEMENT

A. March 2024

Add a discussion about Crescent Park.

Add a discussion concerning the permitting process.

Invite Chris Holley and/or Ron Book to a regular meeting for a legislative recap.

Farmer's Market vendors encroaching on businesses in Times Square was discussed.

V. ADJOURNMENT

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

The meeting was adjourned at 11:16.

Minutes adopted as presented, March 18, 2024. Motion by Council Member King and seconded by Council Member Allers. Passed 5-0.



Amy Baker, Town Clerk