



Fort Myers Beach Town Council

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes Thursday, April 4, 2024 11:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Safford 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 Woodson.
The motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. PUBLIC HEARINGS

- A. Continued from April 1, 2024; Resolution 24-56, SEZ20230302 450 Harbor Court - Rude Shrimp

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20230302, REQUESTING CONSUMPTION ON PREMISES FOR A RESTAURANT WITH A BAR/ COCKTAIL LOUNGE THAT IS VISIBLE FROM THE EXTERIOR OF THE RESTAURANT PER SEC. 34-1264(B)(2)A.3., FOR THE PROPERTY LOCATED AT 450 HARBOR COURT; 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: Council Member King visited the property and received correspondence from several residents regarding the noise. The remaining council members have not received additional communication since Monday.

Community Development Planner Sarah Propst stated that she sent the agenda and backup materials to the applicant. She reviewed the background of the request as stated on the blue sheet. The staff received several letters of objection and support. Town Attorney Stuparich indicated that they were voting on the use of the outside bar with conditions. Planner Propst noted that the same conditions were applied to The Whale.

Lisa Lahners, applicant, requested a special exception. Council Member Woodson questioned whether she was okay with the conditions. She agreed and noted that speakers would be hard-wired and face the Matanzas Bridge. No public comment.

Planner Propst stated that no fees were required with the six-month review.

Council Member Woodson moved to approve the resolution with conditions, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote.

VII. ADMINISTRATIVE AGENDA**A. Fees****Discussion on Development Agreement or Site Plan with Deviations
Fees**

Town Attorney Stuparich stated there was not enough time to research neighboring communities, but existing fees charged for other types of applications were included in their packet. Planner Propst noted that currently, the same type of variances would be charged one fee while different variances would be charged separately. They would be charged separately if a special exception was requested, along with a variance. She indicated that Hillsborough charged \$2,500.00 for anything up to one acre and individual components were charged separately. She questioned whether the town was interested in charging the same. Mayor Allers wanted to make sure the staff's time was covered. Planner Propst did not fully understand the process. Town Attorney Stuparich explained that it depended on the size and complexity of the project. She stated that the criteria were basically the same as rezoning. She recommended that they determine a number and give direction to staff.

Council Member Safford thought negotiations would include requiring relief from parking and increasing height and density. He supported starting with a flat fee. Mayor Allers was not comfortable using square footage because there was a chance it would end up being smaller through negotiations.

Planner Propst was not clear on the role of staff and how much time would be required.

Town Attorney Stuparich indicated that the town manager would be involved in negotiations and that the staff would advise the town manager regarding what the code required. Mayor Allers questioned why there should be a separate fee if the review time with a development agreement was the same as a CPD (Commercial Planning Development). Town Attorney Stuparich suggested that the fee be comparable to a CPD if the development agreement required a rezoning. Planner Propst stated that the town's current fee for development agreements was \$5,000.00 and amendments were \$2,500.00.

Mayor Allers suggested a discussion regarding a sliding scale with \$5,000.00 to start. Planner Propst indicated another option was to require the applicant to put money into an account and pull from that when needed to cover staff expenses. She described the difference between using in-house staff and third-party entities. CPD costs started at \$8,000.00 with \$1,000.00 per additional acre. Planner Propst noted that one option was to determine costs after an initial project review.

Council Member Safford suggested that the cost of development agreements be half the price of a CPD. Mayor Allers remarked that it could be changed later, but he preferred to give staff more time for research. Town Attorney Stuparich agreed and added that staff was working on the application. Vice Mayor Atterholt felt that symmetry with neighboring communities and what they charged would be helpful.

Council Member Safford supported the draw system. Town Attorney Stuparich noted it could be more burdensome, but a volunteer system to deposit funds could be an option. Staff will research the topic.

B. FEMA National Flood Insurance Program (NFIP)

To authorize the Town Manager or his designee(s) to investigate the impact of FEMA's recent determination communicated to Lee County regarding a change in the National Flood Insurance Program CRS rating and to take any and all necessary steps to mitigate any potential financial impact on residents of Fort Myers Beach, and to authorize the Mayor to sign any and all needed documents to implement needed action.

Town Manager Hyatt stated that they had not received official notice from FEMA. He provided a timeline of communications from February 13, 2023, to now. Mayor Allers read the timeline into the record. Town Manager Hyatt read a list of 105 properties that FEMA identified and will provide it to the town clerk for the record. He indicated that the town did everything that FEMA required. Mayor Allers stated that the town was told in the beginning that as long as they followed procedures in place before the storm, they would be compliant with FEMA. He stated they were trying to get information regarding what they thought the town did wrong. Town Manager Hyatt noted that a representative in Atlanta told them that the decision was final and they did not have to answer questions.

Vice Mayor Atterholt moved to authorize the mayor, town manager and town attorney to take whatever action was necessary to reverse the decision, seconded by Mayor Allers.

The motion carried unanimously.

VIII. FINAL PUBLIC COMMENT

No public comment.

IX. ADJOURNMENT

Council Member King moved to adjourn, seconded by Mayor Allers.
The motion carried unanimously.

The meeting was adjourned at 12:16 p.m.

Minutes adopted as presented, April 15, 2024. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk