



Fort Myers Beach Town Council

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

Minutes**Monday, April 15, 2024****9:00 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 with the entire consent agenda pulled for discussion, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Safford thanked the Community Foundation for the event on Saturday.

Council Member Woodson was glad that things were moving forward on the island.

Vice Mayor Atterholt recognized Chris King and others for picking up trash on the beach every morning.

Council Member King welcomed back 7-Eleven, and thanked the vice mayor for assisting.

Mayor Allers also thanked the Community Foundation and Mark Ashton for working over the weekend.

A. Presentation: Friends of the Mound House

Friends of the Mound House representatives presented a check of \$20,814.00 for the Mound House.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Steve Johnson, Chair of the Marine & Environmental Resources Task Force (MERTF), reported that MERTF made recommendations, including expanding the selection of plants for dunes, directing staff to determine whether the Resilient Lee plan will address the needs of the beach and if not, pursue a vulnerability assessment and to direct staff to work with Sanibel staff regarding a beach access design. Another recommendation to protect the EC (Environmentally Critical) zone was for the town council to discourage approval of variances for construction in the EC zone to prevent encroachment on the beach. He added that the vote included grandfathered structures that had been destroyed but did not include grandfathered structures that could be repaired.

VIII. APPROVAL OF MINUTES**A. Town Council - April 1, 2024**

Council Member King moved to approve the minutes, seconded by Council Member Woodson.

The motion carried unanimously.

B. Management & Planning Session - April 4, 2024

Council Member King moved to approve the minutes, seconded by Council Member Woodson.

The motion carried unanimously.

C. Town Council Special Meeting - April 4, 2024

Council Member King moved to approve the minutes, seconded by Council Member Woodson.

The motion carried unanimously.

IX. CONSENT AGENDA**A. Special Event: 4th of July Bridge Closure**

Approve closing of Matanzas Pass Bridge on July 4, 2024, from 10:00am to 11:30am for the parade, and from 9pm to 11:30pm for traffic coming on the island.

Culture, Parks & Recreation Director Jeff Hauge discussed the event and noted fireworks would start at 9:00 p.m.

Vice Mayor Atterholt moved to approve closing the bridge, seconded by Mayor Allers.

The motion carried unanimously.

B. STA #12; Axis Engineering

Approve Supplemental Task Authorizations #12 for continued Planning/Zoning services performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Town Manager Hyatt and Frankie Kropacek, Director of Operations & Compliance, explained the reason for the authorization.

Council Member King moved to approve the authorization, seconded by Council Member Safford.

The motion carried unanimously.

C. Resolution 24-74, Final Renewal of Environmental Engineering Firms Under RFQ-20-06-AD

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO EXTEND THE PROFESSIONAL SERVICES AGREEMENTS BETWEEN THE TOWN AND 1) COASTAL ENGINEERING CONSULTANTS, 2) COASTAL SYSTEMS INTERNATIONAL, 3) EDGEWATER RESOURCES, 4) HANS WILSON & ASSOCIATES, 5) TAYLOR ENGINEERING, AND 6) TURRELL HALL & ASSOCIATES, WHICH ARE THE ENVIRONMENTAL ENGINEERING FIRMS SELECTED UNDER RFQ-20-06-AD "ENVIRONMENTAL ASSESSMENTS AND MARINE ENGINEERING" FOR AN ADDITIONAL YEAR; AND PROVIDING AN EFFECTIVE DATE

Environmental Projects Manager Chadd Chustz explained the reason for the extension.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

D. Resolution 24-78; STA #11, Coastal Engineering Consultants, Inc.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #11 OF CONTRACT RFQ-21-09-EN BETWEEN THE TOWN AND COASTAL ENGINEERING CONSULTANTS, INC. FOR CONSTRUCTION PHASE SERVICES FOR SAND RENOURISHMENT FOR THE ESTERO ISLAND NORTH BERM TRUCK HAUL PROJECT, FOR A COST OF \$59,550; AN PROVIDING FOR AN EFFECTIVE DATE.

Projects Manager Chustz explained the reason for the resolution and noted the state was covering the costs.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

E. Resolution 24-77; Sole Source Steward Mine Materials

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A SOLE SOURCE PURCHASE AGREEMENT BETWEEN THE TOWN AND STEWART MINE MATERIALS FOR THE PURCHASE OF 53,000 TONS OF BEACH COMPATIBLE SAND FOR \$628,050.00 AS A SOLE SOURCE PROVIDER; AND PROVIDING FOR AN EFFECTIVE DATE.

Projects Manager Chustz explained the reason for the resolution and noted the state was paying for the sand and related costs.

Council Member King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously.

F. Resolution 24-73; Concrete Work for Bay Oaks Recreation Campus

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING EXPENDITURES IN EXCESS OF \$25,000 FOR CONCRETE WORK FOR BAY OAKS RECREATIONAL CAMPUS AND PROVIDING FOR AN EFFECTIVE DATE

Director Hauge explained that smaller projects were combined, which increased the total cost.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

G. Resolution 24-75, Restroom Trailer for Newton Beach Park

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE PURCHASE OF A PORTABLE RESTROOM TRAILER FROM READY2GO RESTROOM TRAILERS SALES LLC AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A PURCHASE ORDER IN THE AMOUNT NOT TO EXCEED \$70,256.62; AND PROVIDING FOR AN EFFECTIVE DATE.

Director Hauge explained that the restrooms had to be replaced and the TDC (Tourist Development Council) will cover the costs.

Council Member King moved to approve the resolution, seconded by Vice Mayor Atterholt.

The motion carried unanimously.

X. ITEMS REMOVED FROM CONSENT AGENDA

Addressed above.

XI. PUBLIC HEARINGS**A. Ordinance 24-08; Downtown Building Height**

First Reading and Public Hearing on an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SECTIONS 34-675 BUILDING SIZE TO 1) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON TIMES SQUARE AND BAYFRONT PEDESTRIAN PLAZAS, THE NORTH SIDE OF FIRST STREET, THE SOUTH SIDE OF ESTERO BOULEVARD BETWEEN OLD SAN CARLOS BOULEVARD AND THE MAIN PEDESTRIAN CROSSING; AND 2) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON LAGOON STREET, CRESCENT STREET, FIRST, SECOND, THIRD AND FIFTH STREETS (EAST OF SKY BRIDGE ONLY); PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on May 6, 2024 at 9:00 AM

~~Council Member King~~ Mayor Allers * as amended at the 5.6.24 meeting read the title of the resolution.

Community Development Planner Sarah Propst reviewed the background of the request as stated in the blue sheet. No public comment.

Council Member Woodson moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

B. Ordinance 24-06; Expedited Variance, Extension and Condition Review

First Reading and Public Hearing on an Ordinance entitled: 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, EXTENSIONS, AND SATISFACTION OF CONDITIONS OF PREVIOUSLY APPROVED LAND USE APPROVALS IF THE DECISION BY THE LPA IS UNANIMOUS AND THE TOWN CLERK DOES NOT RECEIVE A REQUEST BY ANYONE FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL WITHIN 10 BUSINESS DAYS AFTER THE LPA DECISION; A PUBLIC HEARING BEFORE THE TOWN COUNCIL IS REQUIRED FOR VARIANCES, EXTENSIONS, OR SATISFACTION OF CONDITIONS IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF ANYONE REQUESTS SUCH HEARING WITHIN 10 BUSINESS DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on May 6, 2024 at 9:00 AM

Mayor Allers read the title of the ordinance. Town Attorney Becky Vose explained the reason for the ordinance as stated in the blue sheet. Vice Mayor Atterholt thanked Town Attorney Vose for moving forward on the item. No public comment.

Vice Mayor Atterholt moved to approve the ordinance and send it to a second reading, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

C. Ordinance 24-04; Emergency Temporary Uses

First reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT TEMPORARY USES IN CERTAIN ZONING DISTRICTS IN RESPONSE TO, AND AS A PART OF THE TOWN'S RECOVERY EFFORTS FOLLOWING A NATURAL DISASTER OR OTHER EMERGENCY SITUATION: 1) BY A GOVERNMENTAL ENTITY FOR THE BENEFIT OF THE PUBLIC; 2) FOR RESIDENTIAL MANUFACTURED HOMES, MOBILE HOMES, MOTOR HOMES, RECREATIONAL VEHICLES OR OTHER TEMPORARY DWELLINGS FOR RESIDENTIAL PURPOSES; AND 3) FOR MOVEABLE COMMERCIAL STRUCTURES FOR THE DELIVERY AND SALE OF GOODS AND SERVICES TO THE PUBLIC; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on May 6, 2024 at 9:00 AM

Mayor Allers read the title of the ordinance. Town Attorney Vose reviewed the ordinance as stated in the blue sheet and noted that the ordinance only addressed residential and governmental entities. She will add a residential sunset clause.

Public comment:

A commercial contractor suggested adding proof of movement instead of a set amount of time for sunset.

Public comment closed.

Mayor Allers moved to approve the ordinance and send it to a second reading, seconded by Council Member King.
The motion carried unanimously by roll call vote.

D. Ordinance 24-11, Purchasing Policy Amendments

First Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 1 PURCHASING OF GOODS AND SERVICES POLICIES AND PROCEDURES OF ARTICLE V FINANCE OF THE TOWN OF FORT MYERS BEACH TO TRANSFER PURCHASING TO THE TOWN MANAGER OR DESIGNEE FROM THE FINANCE DEPARTMENT, TO INCREASE THE AUTHORITY OF THE TOWN MANAGER FOR PURCHASES OF GOODS AND SERVICES, TO CLARIFY EXISTING REGULATIONS, AND TO IMPLEMENT RECOMMENDATIONS PROVIDED TO THE TOWN BASED ON THE DISASTER READINESS ASSESSMENT AND ABATEMENT PLAN PREPARED BY THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on May 6, 2024 at 9:00 AM

Mayor Allers read the title of the ordinance. Director Kropacek reviewed the background of the request as stated in the blue sheet. He noted that the current purchasing policy was subpar compared to other municipalities and this ordinance allowed the town to be more competitive. He added that this update was recommended by FROC (Florida Recovery Obligation Calculation) and would increase the total points in the FROC program.

Legislative liaison Jason Freeman described the FROC program and noted it was a new initiation. He explained how points were awarded and indicated that the higher the score, the more money would be available upfront for public assistance. Director Kropacek specified how it would give the town manager more flexibility to perform day-to-day operations.

No public comment.

Finance Director Joe Onzick clarified that the changes provided consistency and Director Kropacek described how people were chosen to participate on Selection Advisory Committees.

Council Member King moved to approve the ordinance and send it to a second reading, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote.

E. Ordinance 24-12; Elections

1st Reading and Public Hearing on an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REAFFIRMING ITS PRIOR AMENDMENT OF THE QUALIFYING PERIOD FOR TOWN COUNCIL CANDIDATES FOR THE NOVEMBER 2024 ELECTION TO NOON ON THE 71ST DAY (JUNE 10, 2024) TO NOON OF THE 67TH DAY (JUNE 14, 2024) PRIOR TO THE AUGUST PRIMARIES TO BE HELD ON AUGUST 20, 2024; PROVIDING FOR SCRIVENER'S ERRORS; CONFLICTS OF LAW; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on May 6, 2024 at 9:00 AM

Mayor Allers read the title of the ordinance. Town Attorney Vose stated that the Supervisor of Elections requested the ordinance.

No public comment.

Council Member King moved to approve the ordinance, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

No items.

XIII. FINAL PUBLIC COMMENT

Christy Thorton provided a thumb drive and a handout was distributed. She described new routes to improve traffic flow to avoid choke points. She requested access to the bus lane over the bridge for electric vehicles and golf cars.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reported that an interview was scheduled for a new Harbormaster and one of the planners decided to take a job elsewhere. The budget calendar will be provided soon. More information regarding the strategic planning session on June 29, 2024, will be released in a day or two. A representative from FEMA (Federal Emergency Management Agency) will meet with staff tomorrow concerning the National Flood Insurance Program and the documents submitted. FEMA gave the town 30 days to provide additional information. Director Kropacek explained that a review of non-compliant structures was part of the issue. He stated that the new building inspector, Joe Specht, inspected structures and compiled a list of information on unsafe structures. Director Kropacek relayed his conversations with FEMA and indicated that a lack of communication was an issue.

Town Manager Hyatt stated that the federal government told the town not to make the list of unsafe structures public, but most people on the list have responded.

Those who have not responded will have their structures demolished and a lien placed on the property so the town can recoup losses. Director Kropacek stated that some properties in the database have come into compliance. He described the discrepancies between the FEMA list and the town list and noted that the FEMA list was not public.

Flood Plain Manager Kristin Schumacher revealed that the FEMA list was protected under the Federal Privacy Act of 1974, so information could not be released. The town's list was completely separate from the FEMA list.

Mayor Allers asked whether the town needed another building official to expedite inspections and Director Kropacek replied that they had resources to add another person. Mayor Allers questioned whether they could start the process with identified structures while continuing to compile the list. Town Attorney Vose indicated that the town had a letter ready to send out and that she would provide a copy at the next meeting.

Director Kropacek stated that the town was awarded \$1.5 million towards recovery planning through the CDBG (Community Development Block Grant) and the next bucket will be for low-income housing.

Projects Manager Chustz questioned whether the town would allow trucking sand 24 hours a day for approximately 75 days from the northern corridor north of the pier to the southern segment at the Wyndham. Town Manager Hyatt asked whether they could get a bid for 8-12 hours per day and another for 24 hours for a comparison. Town Clerk Baker replied positively.

Mayor Allers moved to instruct staff to get an option for daylight trucking, 24-hour trucking, length of time and cost, seconded by Council Member King.

The motion carried unanimously.

Director Kropacek described the flow of documents with Tidal Basin and noted he would have a report at the next meeting.

XV. TOWN ATTORNEY'S ITEMS

No items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford noted that Wade Sansbury from Maudlin & Jenkins did not recommend pursuing a forensic audit.

Council Member Woodson questioned whether residents could live on a ball in the Mooring Field. Vice Mayor Atterholt responded that there were a limited number of balls that generated funds for the town. Town Attorney Vose indicated she would look at the agreement with the state to determine whether that was allowed. Council Member Woodson said she would comment on the pier at the Lee County Commissioners' meeting tomorrow. She noted that Commissioner Sandelli encouraged her to speak, and council members agreed.

Vice Mayor Atterholt suggested adding a permitting discussion to a future M&P and a discussion from the vendor regarding the lighting details on Estero Blvd. He received support for both issues.

Mayor Allers suggested adding the bike ordinance to an M&P and Council Member Woodson agreed. He noted that letters from FDEM (Florida Department of Emergency Management) were being sent to residents and requested that FDEM be contacted and details put on the town's website. He questioned why the TDC did not consider Times Square a beach access. Town Attorney Vose will research state statutes. Mayor Allers explained why the traffic plan presented in public comments would not work. He suggested that they reach out to the county. Council Member King stated that FDOT (Florida Department of Transportation) had moved forward with implementation.

XVII. ADJOURNMENT

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

The meeting was adjourned at 11:48 a.m.

Minutes adopted as amended, May 6, 2024. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk