Fort Myers Beach Town Council

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

Minutes **Monday, June 3, 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 items C-I pulled from the Consent Agenda pulled for discussion, and items C and D on the Public Hearings switched, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

Bill Grady commented on the state of the Beach Baptist lot, Seagate and the Salty Crab.
Mike Miller talked about the London Bay project and their use of water taxis to their property and loss of visitors to other businesses on the island.
Jim Bougoulas thanked the Sheriff's office for directing traffic over Memorial Day. He encouraged Town Council members to work with the Sheriff's office or Lee County to extend the green light at Crescent to allow more cars to pass through.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt stated that members of the Chapel by the Sea church voted to dissolve. He reviewed historical facts about the church and shared pictures he took after the hurricane. He indicated that he asked the church for permission to display the dolphin stained glass window in the new Town Hall.

Council Member Woodson described the progress on the beach.

Council Member Safford congratulated Fort Myers Beach Strong for their reward from Southwest Florida, Inc.

Mayor Allers thanked Senator Scott for his comments at the press conference.

VII. PRESENTATIONS

A. Ron Book, Town Lobbyist Update

Mr. Book recognized two members of his firm. He thanked Mayor Allers, Town Manager Hyatt and others for their support. He noted he was cautiously optimistic regarding the budget and listed funds received by the town so far. He encouraged residents to write letters to the governor. Town Council members thanked Mr. Book.

B. Michael Allen, President - ReVitale Development

Mr. Allen utilized PowerPoint for his presentation on affordable housing. Slides included Executive Summary and Project Information, Property Overview, Conceptual Site Plan, Ground Level Building Plan - Conceptual, Second Level Building Plan - Conceptual, Third-Fifth Level Building Plan - Conceptual, Renderings - Conceptual, Income and Rental Limitations, Project Timeline - Residential, Development Team and Relevant Development Experience. Mr. Allen estimated that the project's total cost would exceed $30 million and he reviewed funding streams. The application deadline is June 26, 2024, for the multifamily new construction funds. He stated that the town would not be involved with an ownership structure if they chose not to. His firm would lease the land and be responsible for operations and liabilities. Mr. Allen explained why they were not required to have an audit and acknowledged that the town could stipulate an audit requirement in the lease. He described potential revenue-sharing scenarios with the town.

VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Public Safety Committee update

PSC member Jim Bougoulas described the emergency response system and noted it had limitations regarding connectivity with other entities. He indicated that they would continue with the current code red system and were interested in changing systems next year to line up with Lee County. He reviewed the results of the public safety survey and noted that 35 responses were received, but with the help of Beach Talk Radio, they now have 375 responses concerning safety. He added that the survey was still open for comments. PSC member Bougoulas discussed the bike safety master plan from 2017 and asked for support in participating in the upcoming R2P2 work. They also wanted to revisit the e-bike ordinance.

Town Council members supported their request to be involved with R2P2. PSC member Bougoulas noted they were brainstorming ideas to keep bikes off Estero Blvd.

Marine and Environmental Resources Task Force (MERTF) member Jennifer Rusk addressed corrections to the activity book. She will upload it to the town's website for review before she submits it for printing. She announced that the Fort Myers Beach Community Foundation awarded MERTF $3,500.00 for educational outreach.

B. Local Planning Agency Appointment

James Dunlap and Christi Thorton submitted applications. Town Clerk Baker noted she received a late application last Friday. Town Attorney Vose revealed that Ms. Thorton did not live in Fort Myers Beach.
Mr. Dunlap reviewed his background and experience. He was unanimously appointed to the LPA.

C. Audit Committee Appointment

Council Member King moved to appoint David Sandberg to the Audit Committee, seconded by Vice Mayor Atterholt.
The motion carried unanimously.

D. Bay Oaks Recreational Campus Advisory Board Appointment

Christopher Doyle summarized his experience and background and Ed Schoonover did not attend the meeting.
Council Member King moved to appoint Ed Schoonover to BORCAB, seconded by Council Member Safford.
The motion carried unanimously.

IX. APPROVAL OF MINUTES

A. Town Council - May 20, 2024

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

X. CONSENT AGENDA

Council Member Woodson moved to approve items A. and B., seconded by Council Member Safford.
The motion carried unanimously.

A. Resolutions 24-101 through 24-109; Extending State of Local 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 Woodson moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

B. Resolutions 24-110 through 24-118; Extending 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 Woodson moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

C. Resolution 24-119; Authorizing Extension of Angie Brewer Contract and STA #5

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANGIE BREWER & ASSOCIATES, LC TO EXTEND THE TERM OF THE CONSULTANT AGREEMENT FOR FUNDING MANAGEMENT SERVICES FOR SRF AND OR OTHER GRANTS AND LOANS AVAILABLE TO THE TOWN, TO JUNE 9, 2025, BY THE EXERCISE OF THE SECOND OF TWO ONE-YEAR RENEWAL OPTIONS; APPROVING SUPPLEMENTAL TASK AUTHORIZATION NO. 5 FOR THE UNINTERRUPTED CONTINUATION OF THESE SERVICES; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND SUPPLEMENTAL TASK AUTHORIZATION AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Council Member King pulled the item for discussion.
Finance Director Joe Onzick described the services that Angie Brewer provided. The total amount was $246,000.00 and would be funded by the SRF loan program.

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

D. Resolution 24-122; CDBG-DR Public Facilities Application Blight Resolution

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF $10,673,000.00 FOR THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND/OR INSTALLATION OF PUBLIC FACILITIES AND FOR RELATED PURPOSES.

Mayor Allers read the total of the resolution. Operations and Compliance Director Frankie Kropacek explained the reason for resolutions in items D. and E.

Council Member King moved to approve both resolutions, seconded by Mayor Allers.

The motion carried unanimously.

E. Resolution 24-121; CDBG-DR Critical Infrastructure Application Blight Resolution

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA DESIGNATING SPECIFIED AREAS IN THE TOWN AS BLIGHTED FOR THE PURPOSES OF APPLYING FOR A GRANT FROM THE LEE COUNTY CDBG-DR CRITICAL INFRASTRUCTURE AND PUBLIC FACILITIES PROGRAM FOR FUNDS IN THE AMOUNT OF $5,000,000.00 FOR THE NORTH ISLAND WATER TOWER AND FACILITY PROJECT AND FOR RELATED PURPOSES.

Operations and Compliance Director Frankie Kropacek explained the reason for resolutions in items D. and E.

Council Member King moved to approve both resolutions, seconded by Mayor Allers.

The motion carried unanimously.

F. Resolution 24-124; Accepting FDACS Contract #31125 Awarding the Town $37,500.00 To Procure and Plant 75 Native Trees and Palms

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CONTRACT #31125 AWARDING THE TOWN OF FORT MYERS BEACH $37,500.00 TO PROCURE AND PLANT 75 NATIVE TREES AND PALMS IN THE COASTAL AREA; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACT #31125; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Environment Projects Manager Chadd Chustz explained that the grant was applied for last year. He noted that the award did not allow Coconut palms because they were not considered native, so Royal palms or canopy trees were suggested.

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

The motion carried unanimously.

G. Resolution 24-199; Ratifying Emergency Crescent Street Outfall Repairs and Budget Adjustment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION BY THE TOWN REGARDING EMERGENCY CRESCENT STREET OUTFALL REPAIRS BY ANDREW SITEWORK IN THE AMOUNT OF $104,928.94; AND PROVIDING AN EFFECTIVE DATE.

Director Kropacek explained the reason for the resolution. Director Onzick stated the funding would be covered by the balance within the stormwater fund if it was not included in the original stormwater grant.

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

H. Resolution 24-125; RFQ-20-22-AD; Axis Infrastructure STA 13 - Impact Fee Study

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AUTHORIZATION #13 OF CONTRACT RFQ-20-22-AD BETWEEN THE TOWN AND AXIS INFRASTRUCTURE FOR AN IMPACT FEE STUDY, FOR A COST OF $85,065.00; AN PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager Hyatt noted they discussed the topic at a previous M&P session. Community Development Planner Sarah Propst stated that Axis would try to complete the study in seven months. Town Attorney Vose clarified that projects would be captured as long as developers came in for their building permits after the new fees were adopted. LPA Member Boan questioned whether a moratorium on issuing building permits could be put in place until the impact study is done. He felt that the town might be leaving money on the table during the interim period.

Council Member King moved to approve the resolution, seconded by Vice Mayor Atterholt.
The motion carried unanimously.

I. Resolution 24-123; Comprehensive Vulnerability Assessment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AGREEMENT #1 OF CONTRACT RFQ-22-25-AD BETWEEN THE TOWN OF FORT MYERS BEACH AND KIMLEY-HORN AND ASSOCIATES, INC. FOR A COMPREHENSIVE VULNERABLITY ASSESSMENT AND ADAPTATION PLAN FOR A COST OF $141,000; AUTHORIZING THE TOWN MANAGER TO EXECUTE SUPPLEMENTAL TASK ORDER #1 OF CONTRACT #RFQ-22-25-AD; AND PROVIDING FOR AN EFFECTIVE DATE.

Projects Manager Chustz explained the plan included in the agenda packet and noted it would take a year to complete.

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

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

Town Attorney Vose explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were property noticed and she swore in those providing testimony.

A. Ordinance 24-13; Unsafe Structures

Second reading and public hearing on proposed Ordinance 24-13 entitled: ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 “UNSAFE BUILDING ABATEMENT CODE” OF ARTICLE I “PROPERTY MAINTENANCE CODES” OF CHAPTER 6 “MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS” OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO AUTHORIZE NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY’S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the proposed ordinance. Town Attorney Vose explained the reason for the ordinance as stated on the blue sheet. Mayor Allers questioned the timeline. Building Official Joe Specht explained the process of identifying unsafe buildings. After notification, the properties had 30 days to address the issue and the town would work with them. If the property owner does not respond to the notification, the building will be demolished. Official Specht stated that the town attorney had initiated title searches and that notices would be sent out soon. Council Member Safford questioned when the information would be made public. Town Manager Hyatt replied that he would follow the direction of the town attorney before any information was published. Official Specht described what he looked for when visually inspecting buildings. He added that installing a fence around a derelict building would not be allowed.

Town Attorney Vose stated that as soon as a second person sees a document that has been prepared, it becomes a public record. Official Specht indicated that meetings would occur more than once a week to expedite the process and Town Attorney Vose added that they could schedule conference calls every day.
No public comment.

Council Member King moved to approve the ordinance, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

B. Ordinance 24-14; DCI 20230197; 841 Estero Blvd

2nd Reading and Final Public Hearing on proposed Ordinance 24-14 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 841 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-0050B.0010 FORT MYERS BEACH; PROVIDING FOR OTHER 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 proposed ordinance. Ex parte communications: Council Member King - none, Vice Mayor Atterholt – the topic came up at a recent neighborhood meeting, Mayor Allers - drove by the property many times, Council Member Woodson - knows the site, Council Member Safford - attended the same meeting as Vice Mayor Atterholt. The applicant confirmed receipt of the agenda and background materials.
Planner Propst reviewed the request as stated on the blue sheet.
Ken Gallander of The Neighborhood Company displayed the revised Master Concept Plan, which included the last deviation, elevations, and a building rendering. He estimated that permits would take six to nine months and construction would be a year from that date.
No public comment.

Vice Mayor Atterholt moved to approve the ordinance, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

C. Ordinance 24-15; DCI20230246, 125, 131-151 School Street and 2661-2681 Estero Boulevard

1st Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 125, 131-151 SCHOOL ST AND 2661-2681 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230; 19-46-24-W3-0020C.0270; 19-46-24-W3-0020C.0290 FORT MYERS BEACH TO ALLOW A MIXED USE DEVELOPMENT

INCLUDING LODGING, LIVE/WORK UNITS, RETAIL, AND RESTAURANT USES; PROVIDING FOR OTHER 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 June 17, 2024 at 9:00 AM

Mayor Allers read the title of the ordinance. Ex parte communications: Council Members Safford and Woodson - attended a neighborhood meeting and had conversations with the applicants; Mayor Allers and Vice Mayor Atterholt - attended a neighborhood meeting, had conversations with the applicants, received emails in support and against the project and had discussions with staff and Council Member King - attended a neighborhood meeting and received pro and con emails. The applicant confirmed receipt of the agenda and background materials.

Planner Propst reviewed the background of the request as stated on the blue sheet.

Vice Mayor Atterholt described implementing a DRAC (Do Not Rent A Car) incentive. Myerside would offer a $100.00 credit if guests use a car service from and to the airport on their return, but only if they stayed three days or more. He proposed that Myerside enter a lease with the town for five parking spots if they encourage medical professionals in the facility, five spots for a dentist and five spots for a physical therapist for a total of 15 spots.

Attorney Noel Davies from Davies Duke represented the applicants. He noted they were agreeable with Vice Mayor Atterholt's idea and would work with the town attorney. They were not prepared to commit to offering discounts for car services, but they would discuss the topic. He stated this was a CPD to CPD rezoning application, not a comprehensive plan amendment.

Pat Vanasse from The Neighborhood Company presented slides titled Background, Approved CPD, Winkler Subdivision and Background - Moving Forward.

Ken Gallander from The Neighborhood Company continued discussing Background & Request, Aerial Photo of the Property, Master Concept Plan, Discussion & Analysis, Renderings, Zoned Height, Density/Intensity Discussion, Transportation and Parking, Parking Analysis, Other Mitigation Discussion, LDC Sec. 34-85(b) and (c) and Sec. 34-216, Sec. 34-216(4) Deviations, Public Benefits Discussion and Conclusion.

Public comment:

Bill Grady, resident, discussed the history of the sidewalk on Connecticut St. and how he surveyed the neighbors. He stated that after surveying the neighborhood regarding this project, everyone supported it, especially the commercial aspect. The neighborhood was excited about the design and supported the project.

Jim Boan, resident, noted that although the LPA recommended approval, he did not think that condition seven accurately reflected the LPA's concerns.

The LPA was concerned about the parking and he felt the parking language in the presentation was ambiguous. The ideal situation would be a condition

that a parking alternative would be presented to the town council before permits are issued.
Sherri Debroski, resident, felt the applicants worked hard to meet the town's needs and it was essential to have health care professionals on the island. She was 100% in favor of the project and everyone she spoke to was too.
Public comment closed.

Council Member King moved to send the ordinance to a second reading on June 17, 2024, at 9:00 a.m., seconded by Council Member Woodson.

Vice Mayor Atterholt requested that his proviso be added regarding entering a lease with the town regarding five shared parking spots each for different medical professionals. He suggested adding that applicants can petition the town council if they secure another essential provider tenant. He also requested that his DRAC incentive be included for guests who use a car service.
Council Member Safford questioned whether they could commit to the five shared parking spaces. Town Attorney Vose noted there would be a license agreement. Council Member Safford felt that if the applicants committed to leasing 15 parking spots from the town, that would address the LPA's parking concerns. Vice Mayor Atterholt did not know if they would get credit for those parking spots until the applicants filled them. Council Member Safford explained why he did not think that DRAC was feasible for the owners. Vice Mayor Atterholt responded that the program was voluntary and no one was punished for not renting a car. It was an incentive to use a car service from and to the airport only. He did not see any downside to his idea. Council Member Safford thought it was a good idea, but he did not know how the town could dictate that they do it. Vice Mayor Atterholt stated that the applicant was asking for special consideration regarding density and height and they needed to offer a public benefit. He commented that he would push the same incentive on other developments that came before them. Council Member Safford described how difficult it would be to implement it. Council Member Woodson thought the amount was steep. Vice Mayor Atterholt responded that car services charge an average of $50-$75 from Fort Myers Beach to the airport.
Public comment reopened.
Mr. Vanasse suggested adding a chiropractor to the list of medical professionals. Vice Mayor Atterholt was not opposed to the suggestion if the council agreed. Town Manager Hyatt suggested leasing spacing for whoever came in, but Vice Mayor Atterholt did not want to remove the incentive. Town Manager Hyatt clarified that the town could lease the spaces for a fee if the applicant could not secure medical professionals. Planner Propst stated that the applicant did not think they needed the parking spaces and questioned whether they wanted to start off with the 15 spaces. She added that they had already agreed to research ways to encourage people not to bring their cars. She felt that they were putting the applicant at a disadvantage regarding DRAC.

Mayor Allers addressed the staff report that recommended approval except for the deviations. Planner Propst read from the staff report that stated staff finds the CPD with deviations meets the criteria. Mayor Allers noted that what the owners did with the property in the past was a yeoman effort and this project was the best looking on the island. He felt they were trying to fit a square peg into a round hole with many unanswered questions. He was stuck on the scale of the project and did not think 50% of the public benefits proposed were public benefits. He noted that allowing a 50% increase in density over what they could do by right compounded the traffic problem and hiring a car service still added traffic. He felt that people's brains were clouded by the design and what the facts were. He could not support the proposed project.

The motion carried 4-1 by roll call vote, with Mayor Allers dissenting.

D. Ordinance 24-16; DCI20240049 Amendment: 2301/2307, 2311 Estero Blvd and 111, 121 Mango St.

1st Reading and Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING AND RESTATING ORDINANCE NO. 22-06 TO AMEND THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., GENERALLY IDENTIFIED AS STRAP NUMBERS 219-46-24-W3-0110D.0010, 19-46-24-W3-0120E.0010, 19-46-24-W3-0120E.0020, AND 19-46-24-W3-0120E.0030 FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL AND DEVIATIONS, AND OTHER CLARIFICATION AS NECESSARY; PROVIDING FOR REPEAL, 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 June 17, 2024 at 9:00 AM

Mayor Allers read the title of the ordinance. Ex parte communications: All council members disclosed discussions with the owners except for Council Member King. All council members met with a neighborhood group and received emails regarding the view corridor or potential noise issues.

The property owners confirmed receipt of the agenda and background materials.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the blue sheet. He indicated that the LPA discussed reducing the site visibility triangle to a minimum of three feet rather than ten feet.

Certified planner Ken Gallander from The Neighborhood Company utilized PowerPoint for his presentation. Slides included Background & Request, Aerial Site, CPD Amendment to Resolution 22-06, Master Concept Plan, Discussion & Analysis, Findings & Conclusions, Construction Rendering, Existing Tiki Structures by Contractor, Deviations, Visibility Triangle, Photograph of Existing Conditions, Rendering of Tiki Structure with Landscaping on Existing Property and Conclusion. Senior Planner Smalley stated that the reduction in parking was 38% and explained how the bike rack credit was applied. He noted that the schedule of uses also proposed the use of a food truck full-time.

Mr. Gallander stated that the food truck would be temporary. He addressed the hours of operation of the restaurant and outdoor seating area and would like to maintain the hours from 7:00 a.m. to midnight, with the amplified music ceasing at 10:00 p.m. Council Member Woodson asked whether the outdoor food service would stop at 10:00 p.m. Mr. Gallander replied that they preferred to keep the indoor and outdoor food service consistent. He will speak with the owners and they will evaluate a revised condition. Council Member Safford questioned whether a bar would be in the outdoor area.

Applicant Mike Miller responded that they might in the near future, but it depended on how much room would be available. Senior Planner Smalley stated that the use of outdoor service and outdoor consumption was already proposed as one of the schedules of use and staff felt there was no need for additional special exceptions. Town Attorney Vose suggested adding it in.

Pat Vanasse from The Neighborhood Company stated that it was a restaurant, not a bar, and 50% of the proceeds had to be from food. Public comment:

Applicant Mike Miller addressed the noise and noted he took decibel meter readings at the grand opening. Although the readings were under the decibel readings, he understood that the neighbors could still hear the music. He explained how he figured out how to keep the level low enough so the neighbors would not hear the music. He described his vision for the restaurant and would make sound a priority. He stated he did not have a problem with stopping outdoor service at 10:00 p.m. He revealed that The Neptune across the street offered to provide additional parking temporarily.

He indicated that he hoped to open in October.

No public comment.

Pat Vanasse stated that the previous owner had a 30% parking reduction with overflow at the Neptune and since there was a lot of pedestrian and bicycle traffic, he felt it would function properly.

Mayor Allers moved to schedule the ordinance amendment for a second reading on June 17, 2024, at 9:00 a.m., seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

XIII. ADMINISTRATIVE AGENDA

A. Resolution 24-120; FY24/25 Tentative Millage Rate

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE OF .#### MILLS FOR FISCAL YEAR 2024-2025 OF THE TOWN OF FORT MYERS BEACH; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND BUDGET FOR THE FISCAL YEAR 2024-2025; AND PROVIDING AN EFFECTIVE DATE.

Finance Director Joe Onzick utilized PowerPoint for his presentation. Slides included Statutory Requirements, Context of Millage Rate Decision, Preliminary General Fund Budget, Ad Valorem Tax Calculation Based on Estimated Taxable Value and 0.9900 Millage Rate, Bridge Loan Calculation, Emergency Fund Reserve, Emergency Fund Reserve Target, Emergency Fund Reserve Funding and Emergency Fund Reserve Optional Funding.

Director Onzick suggested setting a millage rate of 1.03 because it aligned with the cost of living increase. Mayor Allers discussed raising it to 1.06 due to the uncertainty of receiving funds from the state. Council Member Woodson agreed and indicated they could always lower it if the funds came through. She stressed the importance of canal dredging and completing vital projects. Vice Mayor Atterholt stated that Town Manager Hyatt needed to make a better case for 1.06. The Town Council agreed to determine a rate on June 17, 2024.

Town Clerk Baker noted the September budget hearings were on September 9, 2024, and September 23, 2024, at 5:01 p.m.

Mayor Allers moved to table the resolution until June 17, 2024, seconded by Council Member King.

The motion carried unanimously.

XIV. FINAL PUBLIC COMMENT

No public comment.

XV. TOWN MANAGER'S ITEMS

Town Manager Hyatt noted that he and staff would meet on June 6, 2024, with the Lee County Sheriff's Office and the Fort Myers Beach Fire Department regarding hurricane preparedness. Cybersecurity training would take place soon, a town app about hurricane responses was in process and the town submitted the rest of the information to FEMA.

XVI. TOWN ATTORNEY'S ITEMS

No items.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Woodson requested an M&P conversation regarding tolls on bridges. She received support to add it in August.
Mayor Allers questioned whether members were interested in making a decision regarding the workforce housing presentation earlier in the meeting. Council members were uncomfortable making a decision by the end of the month.
No items from other members.

XVIII. ADJOURNMENT

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

The meeting was adjourned at 3:45 p.m.

Minutes adopted as presented, June 17, 2024. Motion by Council Member King and seconded by Council Member Safford. Passed 5-0.

Amy Baker

Amy Baker, Town Clerk