



Fort Myers Beach Town Council

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

Minutes

Wednesday, August 7, 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, seconded by Council Member Safford.

The motion carried unanimously.

V. PUBLIC COMMENT

Ellen Vaughan, resident, reported that the Friends of the Mound House would host the Island Hopper event on Saturday, September 28, 2024.

Ramona Kaiser, resident, stated that Sterling flooded a lot and the drain with a new duckbill across the street from her did not work. There was another drain and duckbill across the canal, but the water went over her seawall. She indicated that another drain was supposed to be installed in her yard, but it did not make sense to her because of the other drains. She suggested it would be better to drain the water to the back bay.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King recognized the town manager and all the staff for their hard work preparing for and cleaning up after Debby.

Council Member Atterholt recognized Council Member Woodson, the Lee County Commissioners and all those involved for their work on the pier. He listed several items that were falling into place on the island and he recognized all those involved for helping to make things happen.

Council Member Safford mentioned the improved communication and thanked

~~Council Member Atterholt recognized Council Member Woodson, the Lee County Commissioners and all those involved for their work on the pier. He listed several items that were falling into place on the island and he recognized all those involved for helping to make things happen.~~

~~Council Member Safford mentioned the improved communication and thanked Communications Coordinator Nicole Berzin for pushing out information. Mayor Allers agreed with Council Members Safford and King. He thanked the staff for being well organized.~~

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Chair of the Marine and Environmental Resources Task Force (MERTF) Steve Johnson corrected previous recommendations. New recommendations included prioritizing mangrove propagation as a community benefit and requesting permission to approach the beach school to begin discussions regarding the curriculum. Town Council Members granted permission. Mayor Allers suggested that MERTF contact Clearwater regarding seawalls or boardwalks to protect the island.

A. Dr. Traci Kohler - Fort Myers Beach Elementary School Update
Cancelled

B. Barrier Island Resiliency Development Project
Len Januzik from J&L Resources, Inc., and ~~Attorney~~ Tom Sylke from Electric Island Systems proposed a project for the town to harden the beach. He utilized PowerPoint for his presentation. Slides included Presenting Organizations, Ultimate Goal, Interdependency Matrix, Hardening the Grid Using MicroGrids, How Important is the Grid, How Does All This Relate to Florida, Fort Myers Beach Location - Southern Florida, Mainland Substation Feeding Fort Myers Beach, Street View Feeders, Fort Myers Beach Street Map, Why a Hardened MicroGrid in Fort Myers Beach Now, What is the Benefit to Fort Myers Beach, Summary of Benefits, The Fort Myers Beach MicroGrid will be Resilient to, The Process, Structures of the MicroGrid, Small MicroGrid Installation, Medium MicroGrid Installation, Scoping Study Task List and Next Steps in Process.

VIII. APPROVAL OF MINUTES

A. Town Council - June 17, 2024

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

The motion carried unanimously.

IX. CONSENT AGENDA

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

The motion carried unanimously.

- A. Resolutions 24-137 through 24-141; Extending Local State of Emergency for 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 24-142 through 24-146; 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. Resolutions 24-155 through 24-158; Extending Local State of Emergency Tropical Storm Debby

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY 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.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS**A. Ordinance 24-18; DCI20240143, 1668 I Street (Beach Bar)****Continuance Requested by Petitioner:**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REQUEST TO REZONE THE PROPERTY LOCATED AT 1668 I STREET, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W4-0070B.0110 FORT MYERS BEACH, FROM DOWNTOWN TO COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, WITH DEVIATIONS, FOR A BAR AND RESIDENCE; 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 resolution. Community Development Senior Planner Jason Smalley stated that the petitioner requested a continuance to August 19, 2024.

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

The motion carried unanimously.

B. Review of SEZ20230126, 163 Old San Carlos

An annual review of approved resolution 23-87 for special exception SEZ20230126 that allows temporary outdoor consumption on premises with retail use at 163 Old San Carlos Boulevard.

Senior Planner Smalley reported no new code issues, violations or permits on either of the lots in the past year. Owner Susie Bahan stated that no permit applications were submitted because insurance was still in litigation. After her property is sold in Texas, she will begin repairing the building. She noted her tiki bar was open on Fridays and Saturdays. Council Member Woodson indicated that the music was too loud. Ms. Bahan replied that she would turn it down at 10:00 p.m.

Vice Mayor Atterholt moved to extend the special exception for six months, seconded by Mayor Allers.

The motion carried unanimously.

C. Ordinance 24-17; Advisory Committees

1st Reading and Public Hearing of an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2 "PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2 "ADMINISTRATION" AND SECTION 34-113 "COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3 "LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY; ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES; ADDING A PROVISION TO SECTION 34-113, REGARDING THE MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on August 19, 2024 at 9:00 AM.

Mayor Allers read the title of the resolution. Town Attorney Nancy Stuparich stated that due to substantive changes, this was coming back as a first reading. She reviewed the changes. Council Member Safford pointed out a change that was not made in Exhibit A.

No public comment.

Council Member King moved to move it to a second reading, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. FY2023 Audit Report

Accept FY2023 Audit Report Prepared by Mauldin & Jenkins

Finance Director Joe Onzick reported that the FY2023 audit was clean and there were no findings. He thanked the finance department's persistence and dedication along with the administrative staff. The Audit Committee recommended that the Town Council accept the report. Director Onzick stated that he was impressed with Maudlin & Jenkins and noted they were very patient, flexible, accommodating and very thorough. He added that there was no evidence that a forensic audit was necessary.

Council members thanked Director Onzick and his team for their hard work under difficult circumstances.

Council Member King moved to accept the audit report, seconded by Mayor Allers.

The motion carried unanimously.

B. Second Amendment ROW Agreement, Bandes Construction Co.

Authorize the Mayor to execute Amendment #2 to the previous Non-Exclusive Right of Way Agreement with Bandes Construction Company, Inc. to extend the agreement for two additional months under the same terms and conditions.

Operations & Compliance Director Frankie Kropacek explained that the extension was needed to redo the elevator pit.

Council Member King moved to authorize, seconded by Council Member Woodson.

The motion carried unanimously.

C. Resolution 24-135; CDBG-DR Excessive Force Policy

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING POLICY PROTECTING INDIVIDUALS ENGAGED IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Deputy Clerk Jason Freeman indicated that the county requested the resolution be included with application materials for the CDBG grants.

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

The motion carried unanimously by roll call vote.

D. Resolution 24-136, 2025 F-ROC Participation

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER TO EXECUTE THE 2025 PARTICIPATION REQUEST AND RENEWAL FORM FOR THE FLORIDA RECOVERY OBLIGATION CALCULATION (F-ROC) PROGRAM; AUTHORIZING THE TOWN MANAGER OR THEIR DESIGNEE TO EXECUTE AND SUBMIT RELATED DOCUMENTS NEEDED TO IMPLEMENT AND ADMINISTER THE PROGRAM INCLUDING THE DISASTER READINESS ASSESSMENT AND ABATEMENT ACTIVITIES; PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Deputy Clerk Freeman reported that the town's scores in Category A increased from 37 to 54 and from 38 to 55 in Category B. He explained that the increased scores translated to more upfront funding and obligated projects. He noted that they would continue to make improvements to increase the scores.

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

The motion carried unanimously by roll call vote.

E. Resolution 24-147; BCC TD Fund Grant Agreement FY25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE MAYOR OR TOWN MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS FOR RECEIPT OF TOURIST DEVELOPMENT TAX FUNDS IN THE AMOUNT \$1,262,550.00 FOR BEACH AND SHORELINE MAINTENANCE; AUTHORIZING THE MAYOR OR TOWN MANAGER TO EXECUTE ANY RELATED DOCUMENTS NEEDED FOR RECEIPT OF THE FUNDING; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Environmental Projects Manager Chadd Chustz described how the funds would be used. Director Kropacek listed items that were already approved.

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

The motion carried unanimously by roll call vote.

F. Resolution 24-148; FDEP Hurricane Restoration Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AMENDMENTS TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION HURRICANE RESTORATION REIMBURSEMENT GRANT TO FUND THE ESTERO ISLAND BEACH RENOURISHMENT AND HURRICANE RECOVERY PROJECT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Projects Manager Chustz explained that a local match was not required and they had to submit documentation as soon as possible because the grant was on a first-come, first-served basis. Michael Poff from Coastal Engineering described how the beach renourishment company kept the pipeline from breaking and the submerged pipeline would be assessed once the conditions improved. The survey for the north segment would be repeated to evaluate the sand. The berm would be rebuilt and the dune plans were being put out to bid. Mr. Poff explained the renourishment and emergency berm replacement process and asked people not to walk past the fence for safety. He stated that the sand blown to other areas would be sifted when necessary and put back on the beach.

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

The motion carried unanimously by roll call vote.

G. Resolution 24-149, Budget Amendment #3 - Allocation of FY23 Savings to Emergency Reserves

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING BUDGET AMENDMENT #3 TO THE TOWN GENERAL FUND AND EMERGENCY FUND; PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick used slides to explain the reason for the amendment. He proposed that they transfer \$2 million from the general fund to the emergency fund and displayed a slide showing what that would accomplish.

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

The motion carried unanimously by roll call vote.

H. Resolution 24-150; Temporary \$8 Million Interfund Loan to Purchase Building

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING TEMPORARY INTERFUND LOAN TO PURCHASE PROPERTY FOR NEW TOWN HALL; PROVIDING AUTHORITY; EFFECTIVE DATE.

Director Onzick reviewed the background of the request utilizing slides. Council Member King moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

- I. Resolution 24-151; Budget Amendment #4 - Authorizing ARPA Funds for Emergency Outfall Repairs

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING 1) THE USE OF \$104,929 OF AMERICAN RESCUE PLAN ACT ("ARPA") FUNDS TO REIMBURSE THE STORMWATER FUND FOR EMERGENCY EXPENDITURES INELIGIBLE FOR REIMBURSEMENT BY FEMA; AND 2) AMENDMENTS TO THE FISCAL YEAR 2024 BUDGET RELATED TO THIS REIMBURSEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Director Onzick reviewed the background of the request.

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

The motion carried unanimously by roll call vote.

- J. Resolution 24-152; Budget Amendment #5 - Allocation of Community Enhancement Fund Balance

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING BUDGET AMENDMENT #5 TO THE TOWN GENERAL FUND AND OTHER TOWN FUNDS; PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick reviewed the background of the resolution.

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

The motion carried unanimously by roll call vote.

- K. Resolution 24-153; Budget Amendment #6 - Purchase of New Town Hall and Acceptance of Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING ACCEPTANCE OF FLORIDA DEPARTMENT OF COMMERCE GRANT FOR NEW TOWN HALL AND RELATED BUDGET ADJUSTMENT (#6); PROVIDING AUTHORITY; EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick explained that they did not have the document yet and requested that the issue be rescheduled.

Mayor Allers moved to reschedule the resolution to August 19, 2024 to 9:00 a.m., seconded by Council Member Safford.

The motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reported that FEMA letters regarding the National Flood Insurance Program would be sent to policyholders. He indicated that teams were assessing the damage from Debby and he cautioned about the increase in traffic. Director Kropacek discussed the possibility of an underground storage tank to relieve the burden on Bahia Via.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich summarized the recent Special Magistrate Hearing.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford questioned whether the town would get help after Debby. Town Manager Hyatt replied that information was being collected.

Director Kropacek reported that funds from the CDBGR would probably be used to rebuild the pool.

Council Member Woodson acknowledged John Richard's parking lot and hoped it would become a model. She questioned whether they could change the start of the regular meeting on September 23, 2024, to 3:00 p.m. instead of 9:00 a.m.

Town Manager Hyatt noted that they could start the regular meeting at 5:30 p.m. after the budget meeting. He received support.

Vice Mayor Atterholt suggested exploring acquiring the Strandview property next to Newton Park through the Florida Land Trust. Council members supported the idea. Town Manager Hyatt described partnering with the Florida Land Trust.

Council Member King raised complaints about the bullhorns and portable speakers in Times Square. Town Attorney Stuparich will research amendments to the noise ordinance. Council Member King noted that he was now the Treasurer of the Southwest Florida League of Cities.

Mayor Allers questioned cleaning up the wrack line after the storm. Projects Manager Chustz replied that they had the equipment to do it.

Mayor Allers spoke to a contractor about potentially building a parking garage on the old town hall property. He received approval to proceed with the discussions.

XVII. ADJOURNMENT

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

The meeting was adjourned at 12:31 p.m.

Minutes adopted as amended, August 19, 2024. Motion by Council Member King and seconded by Council Member Safford. Passed 5-0.



Amy Baker, Town Clerk