Fort Myers Beach Town Council

Bay Oaks Recreation Center
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes **Monday, August 19, 2024** **9:00 AM**

ORDER OF BUSINESS

DRAFT

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 amended final agenda, seconded by Council Member Woodson.
The motion carried unanimously.

V. PUBLIC COMMENT
Bill Veach, resident, congratulated Jennifer Rusk and MERTF (Marine and Environmental Resources Task Force) for creating the activity book. He noted that he received many complaints regarding replacing planted spaces with fabric and rock and discussed creating impervious surfaces.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS
Council Member Safford recognized Al Durrett and his family and described Mr. Durrett's character.
Council Member Woodson echoed Council Member Safford's comments. She stated that the activity book was fun and very educational. She recognized Town Manager Hyatt and his team for their hard work and persistence regarding purchasing the new Town Hall.

Vice Mayor Atterholt (partially inaudible) indicated that St. Rafael's did a good job restoring the church. He recognized Council Member Safford for laying sod and helping to clean up the area. The church will hold a ceremony on Friday, August 23, at 11:30 to announce an Ian memorial plaque and garden.

Council Member King thanked the town manager, staff and attorneys for securing the new Town Hall and recognized Sen. Martin and Rep. Botana for helping to secure the funds.

Mayor Allers stated that Mr. Durrett was a one-of-a-kind person. He thanked the staff for filling the hole on the beach and reminded people not to dig holes.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Jennifer Rusk, MERTF member, presented the activity book for children and listed where they were available. The beach school received 175 last week. She thanked Town Manager Hyatt, staff and MERTF for assisting with the creation.

The pop-up events will continue every other Saturday in September at the Farmer's Market. She noted that she would reapply to participate in MERTF. She described Mr. Durrett and mentioned he was her first friend on the island and would be sorely missed in the community.

A. Tidal Basin Update

Adrian LaBlanc described the role of Tidal Basin. He stated that eight projects were obligated at just under $20 million and they were working on an additional 22 projects at $28 million. The state is now reviewing the obligated projects. Mr. LaBlanc indicated that they were applying for $50 million in total. He explained the obligation process and noted the categories were work to be completed and work completed. FEMA will provide a fixed-cost estimate for the pool and the town could agree with the figure or offer a counteroffer. He described the difference between a PA project and a 428, a fixed-cost offer program. He listed the current projects that FEMA obligated and pending projects. He provided a list of all the projects.

Diedrik Bissett from hazard mitigation noted there were 47 applicants for elevation and 59 applicants for reconstruction. He described the 404 program and noted it was a separate bucket of money. He stated it was imperative that work not be started before the projects were approved. He indicated that all required paperwork had been submitted to FEMA and was under review. Additional details were on the website.

VIII. APPROVAL OF MINUTES

A. Town Council - August 7, 2024

The paragraph at the bottom of Page 5 was repeated on the top of Page 6. Len Januzik represented his company, J&L Resources Inc. Although Tom Sylke is an attorney, he did not participate in that capacity; he represented his company, Electric Island Systems.

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

B. Management & Planning Session - August 7, 2024
Council Member King moved to approve the minutes, seconded by Council Member Safford.
The motion carried unanimously.

IX. CONSENT AGENDA

No items.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that the agenda item was properly noticed, and she swore in those providing testimony.

A. Ordinance 24-17; Advisory Committees

**** ITEM TO BE RESCHEDULED TO SEPTEMBER 9, 2024 9:00 AM MEETING DUE TO ADVERTISING REQUIREMENTS**

Second Reading and Final 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.

Rescheduled to September 9, 2024, at 9 00 a.m.

B. Ordinance 24-18; DCI20240143, 1668 I St, Beach Bar

First reading and Public Hearing on proposed Ordinance 24-19 entitled: 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. Open the public hearing and schedule for second reading and final adoption on September 9, 2024 at 9:00 AM.

Mayor Allers read the title of the resolution. Ex parte communications: Council Member Safford - familiar with the property; Council Member Woodson - familiar with the property; Mayor Allers - familiar with the property and conversations with the applicant; Council Member King - knows where the property is located; and Vice Mayor Atterholt - none. The applicants confirmed receipt of the agenda and background materials.

Community Development Planner Sarah Propst reviewed the background of the request as stated in the blue sheet. She noted the LPA (Local Planning Agency) unanimously recommended approval.

James Ink represented the applicants and noted they were asking for one deviation. Slides in his presentation included Request Statement, South Downtown, Future Land Use Plan, Current Survey, Master Site Plan, Property Regulations, Schedule of Uses, Deviation Request, The Neighborhood, Conditions and Request Statement.

Mayor Allers pointed out that they were decreasing density.

Greg Boyd, owner, described the structure's interior and noted that the restrooms and cooler would be on wheels for easy evacuation. He expected construction to take eight months to complete.

No public comment.

Council Member Safford moved to approve the ordinance and send it to a second reading on September 9, 2024 at 9:00 a.m., seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote.

C. Ordinance 24-19; Amendment for Immobilization Payment Options

1st Reading and Public Hearing on proposed Ordinance 24-19 entitled AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED

VEHICLES; 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 September 9, 2024 at 9:00 AM.

Rescheduled to September 9, 2024 at 9:00 a.m.

D. Ordinance 24-10; Comprehensive Plan Adoption Hearing

Second Reading, Adoption and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, AND THE CAPITAL IMPROVEMENTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

Mayor Allers read the title of the ordinance.
Public comment:
Jim Ink represented the Woman's Club and noted that their property may be changed to commercial boulevard. He wanted to ensure that the change did not create a problem with existing entitlements.
Bill Veach, resident, discussed the multiplier regarding the density of commercial properties by right. He indicated that corresponding LDC (Land Development Code) changes went along with the plan and cautioned that until the changes were made, a window was open.
Public comment closed.

Council Member King moved to continue to September 9, 2024, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Resolution 24-160; Estero Island Shore Protection Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AUTHORIZING TOWN STAFF TO SUBMIT A FUNDING REQUEST TO FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ESTERO ISLAND SHORE PROTECTION PROJECT; AND AUTHORIZING LOCAL MATCHING FUNDS FOR FUNDING RECEIVED FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution.
Environmental Projects Manager Chadd Chustz described the reason for the request.

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

B. 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; APPROVING A GRANT AGREEMENT WITH THE STATE OF FLORIDA; APPROVING A REQUIRED BUDGET ADJUSTMENT (#6); AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.
Finance Director Joe Onzick presented the resolution to accept the $8 million grant from the state of Florida to fund the new Town Hall. Slides included Grant & Budget for Town Hall, Funding Sources and Uses of Funds. Town Attorney Stuparich stated that the funds were in the escrow account and the documents from the seller were being reviewed. The money would be wired to the seller and the deed would be recorded. Once the deed is recorded, the property will officially be under town ownership. Director Onzick explained that more funds were probably coming from the insurance company. Town Manager Hyatt confirmed that the town was underinsured before Hurricane Ian and noted that the town would be fully insured after all assets were identified.

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

C. Resolution 24-159; ICS Materials Inc, TS Debby Beach Cleanup

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN AUGUST 9, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.
Projects Manager Chustz noted that the scour near the pier would be filled soon. He indicated he had before-and-after photos of the clean-up.

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

The motion carried unanimously by roll call vote.

D. STA 14; GIS Mapping and Technical Support

Approve Supplemental Task Authorizations #14 for GIS Mapping and Technical Support, in the amount of $36,000, performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Town Manager Hyatt indicated the process was necessary to get the town GIS mapped. Planner Propst explained the GIS process and stated the current mapping may not be accurate and needed to be cleaned up.

Council Member King moved to approve the authorization, seconded by Mayor Allers.
The motion carried unanimously by roll call vote.

E. STA 15, Continued Planning & Zoning Services

Approve Supplemental Task Authorizations #15 for continued Planning/Zoning services performed by Axis Engineering, and authorize the Town Manager to execute the required documentation.

Town Manager Hyatt stated that the authorization was a continuation of supplemental payment. Planner Propst explained that she was paid through pass-through costs.

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

F. Town Hall Purchase

Approve an amendment to the Commercial Contract entered into on May 29, 2024,as amended on July 17, 2024, by and between the Town of Fort Myers Beach (“the Buyer”) and 6231 Estero LLC, (the “Seller,” “Owner” or “Exchanger”) for the purchase of the property for the new town hall for the purpose of amending the existing terms and conditions of the agreement between the parties as follows: 1) to document the Owner’s intent to do a like-kind tax-deferred exchange in accordance with IRC Regulation Section 1.1031(k)-1; (2) to permit assignment of the contract, as amended, to the qualified intermediary; and (3) to ensure the Buyer will be held harmless with no additional expense as a result of the exchange; and (4) extension of the Closing Date.

The item was removed because the seller changed their mind.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt noted that the voting machines had been delivered and the Council Chamber was locked until tomorrow. The top two floors of the new Town Hall needed slight changes, with the first floor requiring the majority and the building would be painted. The adjacent parking lot would be elevated for storm control. He will present the Strategic Planning Proposal at the next M&P. The lighting project has started, the beach renourishment is ongoing, and the Tier 1 project continues. He felt that the town would receive more insurance money. The FDOT (Florida Department of Transportation) started the bridge project and Town Manager Hyatt noted there were no flag people to stop traffic. He will contact them to express his concerns. He discussed the traffic pattern at Margaritaville and indicated they would continue to work with FDOT.

Mayor Allers moved to give the Town Manager discretion to do what he needed to open the town-owned area behind the Surf Style shop or underneath the bridge for the FDOT project, seconded by Council Member Safford.
The motion carried unanimously.

Vice Mayor Atterholt received several inquiries regarding proper landscaping by the wavy wall. Town Manager Hyatt will meet with the Garden Club. Deputy Clerk Jason Freeman reviewed options for funding the purchase of the Strandview property next to Newton Beach Park.
Town Manager Hyatt stated that Council members would be sworn in at the new Town Hall and he hoped to have Council meetings on the second floor by the first of the year.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich questioned whether Council members wanted her to draft an ordinance prohibiting public sleeping and camping due to new legislation. She received consent. She will follow up with Town Manager Hyatt regarding the CRA. She was working on a legal way to address the street preacher. Town Attorney Stuparich stated that she was still working on the e-bike issue.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford stated that a ribbon cutting for a new home will be held on Wednesday at 4:00 p.m. at 122 Hibiscus. On Friday, August 30, 2024, the Chamber will be hosting a mini-masters tournament. September meeting dates and times were clarified.
Council Member Woodson commented on Seagate's public meetings and noted that residents rudely interrupted the speaker multiple times. She felt the meetings should be respectful and was embarrassed by the community's behavior.
Mayor Allers described the Florida League of Cities conference.
No items from other members.

XVII. ADJOURNMENT

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

The meeting was adjourned at 11:37 a.m.

Minutes adopted as presented, September 9, 2024. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.

Amy Baker

Amy Baker, Town Clerk