



Fort Myers Beach Town Council

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

Agenda

Monday, September 23, 2024

6:00 PM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**
- VIII. APPROVAL OF MINUTES**
 - A. Town Council - September 9, 2024
 - B. Town Council Budget Hearing - September 9, 2024
- IX. CONSENT AGENDA**
- X. ITEMS REMOVED FROM CONSENT AGENDA**
- XI. PUBLIC HEARINGS**
 - A. Resolution 24-189; SEZ20240200, 6500 & 6502 Estero Privateer
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240200 TO ALLOW REPAIRS TO A RETAINING WALL IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6500 AND 6502 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

- B. Resolution 24-187; SEZ20240024, 1400 Estero Blvd, Lani Kai
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVE/ APPROVE WITH CONDITIONS/ DENY SPECIAL EXCEPTION FOR 1400 ESTERO BLVD, LANI KAI RESORT TO REBUILD PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING TO PRE-IAN CONDITION FULLY IN THE EC ZONING.
- C. Resolution 24-190; 3030 Shell Mound FMB Art Association
**Request to continue to a date certain of October 7, 2024 at 9:00 AM
A RESOLUTION VACATING AN UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND ACCEPTING AND APPROVING A COMPARABLE REPLACEMENT EASEMENT TO BE LOCATED ON THE SAME REAL PROPERTY, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A SECOND AMENDED AND RESTATED UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN COUNCIL TO ACCEPT THE SECOND AMENDED AND RESTATED UTILITY EASEMENT AND AGREEMENT; DIRECTING CLERK TO RECORD THIS RESOLUTION; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.**
- D. Ordinance 24-27; DCI20240155, 2545 & 2555 Estero Blvd., FMB Fire Control District
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 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.
- E. Ordinance 24-28; CPD20240015 1836 & 1840 Estero Blvd - EIBC
**Request to continue to a date certain of October 7, 2024 at 9:00 AM
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A TOWN OF FORT MYERS BEACH ORDINANCE, AND APPROVING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT REZONING FOR THE PROPERTIES LOCATED AT 1836 AND 1840 ESTERO BLVD. (LESS THE AREA WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT), GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W4-03200.00CE AND 19-46-24-W4-03200.1010 FORT**

MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

F. Ordinance 24-26; CB Zoning District Amendment

First reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED "USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT" IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on October 7, 2024 at 9:00 a.m.

G. Ordinance 24-20; DCI20240130 Margaritaville Signs

Request to Continue to a date certain of October 7, 2024

First Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; 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 23, 2024 at 6:00 PM.

H. Ordinance 24-17; Advisory Committees

**Request to continue to a date certain of October 7, 2024 at 9:00 AM
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.**

I. Resolution 24-178; Updating Town Council Procedure and Policy Manual

**Request to continue to a date certain of October 7, 2024
A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA,
AMENDING SECTIONS 2 AND 5 OF THE TOWN’S POLICIES AND
PROCEDURES MANUAL TO MAKE IT CONSISTENT WITH ELIGIBILITY
REQUIREMENTS FOR MEMBERS OF THE TOWN’S AGENCIES,
BOARDS, COMMITTEES AND COMMISSIONS AND TO UPDATE
REFERENCE TO REQUIRED FINANCIAL DISCLOSURE FORMS; AND
PROVIDING FOR AN EFFECTIVE DATE.**

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

**Second and Final Reading of 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.

K. Ordinance 24-25; Public Camping or Sleeping

Second Reading and Final Public Hearing on proposed Ordinance 24-25 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH BY CREATING SECTION 16-1 "PUBLIC CAMPING OR SLEEPING ON ANY PUBLIC PROPERTY, PUBLIC BUILDING, OR PUBLIC RIGHT-OF-WAY PROHIBITED," AND AMENDING ARTICLE IV OF CHAPTER 32, TO REMOVE SECTIONS 32-70 "APPLICABILITY," 32-71 "INTENT," AND 32-72 "PROHIBITED"; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

L. Ordinance 24-30; Unsafe Building Code Appeals

Request to continue to a date certain of October 21, 2024 at 9:00 a.m. Second Reading and Final Public Hearing on proposed Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

M. Ordinance 24-24; Building Coverage Instead of FAR

Second Reading and Public Hearing of an ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS

ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

XII. ADMINISTRATIVE AGENDA

- A. Ratification of Mayors signatures and changes to resolution
Motion to ratify the Mayor's signature and the changes made to Resolution 24-183 which was approved on September 9, 2024
- B. CDBG-DR Public Facilities and Critical Infrastructure Awards
Accept CDBG-DR Funding awards in the amounts of up to \$8,336,753.00 and \$4,681,844.90 for the projects submitted to the Public Facilities and Critical Infrastructure CDBG-DR programs.
- C. Lobbyist Ronald L. Book, P.A. Contract Renewal
Authorize the Town Manager to renew and execute an agreement in the amount of \$45,000 with the Town's State Lobbyist, Ronald L. Book, P.A.
- D. Contract for Sale, 6221 Estero Boulevard
Authorize the Mayor or Town Manager to sign all needed closing documents and for both to sign the closing statement approving the final expenditure of Town funds for the property at 6221 Estero Boulevard.

- E. Settlement Agreement (131 Estero, LLC)
Proposed settlement agreement between the Town of Fort Myers Beach, Florida, and Kaminskiy at 131 Estero, LLC, the Owner of 131/133 Estero Blvd.
- F. Bandes Construction 3rd Amendment
Authorize the Mayor to execute Amendment #3 to the previous Non-Exclusive Right of Way Agreement with Bandes Construction Company, Inc. to extend the agreement for one additional month under the same terms and conditions.

XIII. FINAL PUBLIC COMMENT**XIV. TOWN MANAGER'S ITEMS****XV. TOWN ATTORNEY'S ITEMS****XVI. COUNCILMEMBERS ITEMS AND REPORTS****XVII. ADJOURNMENT**

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.