



Fort Myers Beach Town Council

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

Minutes

Monday, September 9, 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 A. and D. under Public Hearings continued, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

Ron Fleming, resident, commented on the quality of the sand from the beach renourishment. He noted shells, rocks and shards in the sand. He encouraged council members to inspect the sand at Shell Point.

Steve Johnson, resident, asked the council not to proceed with item I. under Public Hearings concerning the new FAR (Floor Area Ratio). He felt the residents should have the opportunity to provide input.

Jennifer Rusk, resident, found a dead female sea turtle on the beach. A new development was draining the water from their pool into the drain on her street and she was concerned about flooding issues. She took a video of the interaction and stated the town needed help with code enforcement staffing because of the backlog. She felt it was important to stick with the Comprehensive Plan (Comp. Plan) and Land Development Code (LDC).

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Safford encouraged people to attend Revive the Vibe this Saturday.

Council Member Woodson commented that the ribbon-cutting ceremony for the newly built house on Hibiscus was outstanding.

Vice Mayor Atterholt recognized the town leadership and staff regarding the \$13+ million from Lee County's CDBG-DR (Community Development Block Grant Disaster Recovery) funding. Town Manager Hyatt and Operations & Compliance Director Frankie Kropacek discussed how the funds would impact the town.

Council Member King recognized the public works staff for cleaning the area between the sidewalk and the curb. He thanked Danielle DiBona and Shanette Thomas at Bay Oaks for assisting the Paralympic athletes so they could practice for their pickleball tournament. He thanked Jacob for fixing the sound issues.

Mayor Allers thanked the staff for their work with the CDBG-DR funding.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Cultural and Environmental Learning Center Advisory Board (CELCAB) Chair Barbara Hill commented on redeveloping Newton Beach Park. She noted that CELCAB was reviewing the draft of the new collections management policy. The strategic plans for the Mound House and Newton Park needed an update and she requested that the plans be part of the town's strategic plan conversation. She indicated that Phase 1 of the Mound House was underway, but Phase 2 needed funding. She discussed the accreditation of the Mound House and stated it would be one of two accredited museums in Southwest Florida.

VIII. APPROVAL OF MINUTES

A. Emergency Town Council - August 5, 2024

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

The motion carried unanimously.

B. Town Council - August 19, 2024

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

The motion carried unanimously.

IX. CONSENT AGENDA

Council Member Safford pointed out that the date on pages 38, 43, 48 and 53 should be September 9, not August 9.

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

The motion carried unanimously.

- A. Resolutions 24-162 through 24-165; 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

- B. Resolutions 24-166 through 24-169; Extending Local State of Emergency for 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

- C. Resolutions 24-170 through 24-173; Extending Local State of Emergency for 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly noticed and she swore in those providing testimony. Mayor Allers reported a conflict with the Margaritaville item and will submit the appropriate paperwork.

A. Resolution 24-xx; VAR20240100, 51 Pearl Street

Applicant has requested a continuance to a later date. A RESOLUTION OF THE TOWN OF FORT MYERS BEACH APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 13 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 12 FEET, A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND BALCONY AND ANOTHER VARIANCE OF 15.11% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 55.11% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Continued to a later date.

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

Second reading and Public Hearing on proposed Ordinance 24-18 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.

Mayor Allers read the title of the ordinance. Ex parte communications: Council Member Safford and Mayor Allers spoke to the owner and visited the site. No disclosure from other members. The applicant confirmed receipt of the agenda and background materials.

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

Jim Ink represented the client and noted that the new structure would have one residential unit instead of two.

Greg Boyd, owner, described the vibe of his establishment.

Mr. Ink estimated it would take 18 months to complete construction. No public comment.

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

The motion passed unanimously by roll call vote.

C. Ordinance 24-20; Margaritaville

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.

Mayor Allers read the title of the ordinance. The property owner 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.

Ex parte communications: Council Member King visited the site; Council Member Woodson spoke to the owner and Council Member Safford visited the site. There were no disclosures from other members.

Tom Torgerson, applicant, stated that although permits were approved, one sign had to be relocated due to the location of the gas line and the other was at the request of Lee County for safety reasons.

Public comment:

Lynne Dagnese did not think the signs should be so high. She agreed that the sand was terrible and commented on allowing high-rises all over the island.

Public comment closed.

Vice Mayor Atterholt asked Mr. Torgerson whether he considered installing signs informing the public that the pedestrian overpass was available for everyone. Mr. Torgerson replied that signs were ordered and would be installed in a couple of weeks.

Vice Mayor Atterholt moved the ordinance to a second reading on September 23, 2024, seconded by Council Member King.

The motion carried 4-0 by roll call vote, with Mayor Allers abstaining.

D. Ordinance 24-10; Comprehensive Plan Adoption Hearing

Continued from August 19, 2024

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.

Continued to a later date.

E. Ordinance 24-17; Advisory Committees

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.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich explained that the grandfather provision was added for advisory committee members who would not be eligible to reapply based on the changes in the ordinance. Vice Mayor Atterholt stated that one committee member would not be eligible to reapply, but he had extensive knowledge and experience. Council Member King suggested that registered voters, property owners and residents of 33931 be eligible to serve on committees. Council Member Safford agreed but stated the Audit Committee and the LPA (Local Planning Agency) members must be voters on the island. A consensus was reached to remove the grandfather provision.

Public comment:

Terry Cain commented that people from all over Lee County used to be able to participate on the advisory committees.

Public comment closed.

Council Member King moved to continue the hearing on September 23, 2024, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

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

Mayor Allers read the title of the resolution. Town Attorney Stuparich stated the resolution would be changed to reflect the change in the previous item.

Council Member King moved to continue the hearing to September 23, 2024, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

- G. Ordinance 24-19; Amendment for Immobilization Payment Options
First 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 23, 2024 at 6:00 PM.

Mayor Allers read the title of the ordinance. Operations & Compliance Manager Thomas Yozzo reviewed the background of the request as stated on the blue sheet. He noted the only change was the method of payment. Mayor Allers clarified that vehicles would not be towed for an expired meter. Public comment:

Danielle Martin, owner of Angel Towing, clarified that nothing else changed but the payment method.

Public comment closed.

Council Member King moved the ordinance to a second reading on September 23, 2024, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

H. Ordinance 24-25; Public Camping or Sleeping

First Reading and 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. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

Council Member Allers read the title of the ordinance. Town Attorney Stuparich explained that a new Florida law was passed regulating public camping and sleeping on public property.

No public comment.

Council Member King moved the ordinance to a second reading on September 23, 2024, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

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

First 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. Open the public hearing and set the second reading and final hearing for September 23, 2024 at 6:00 PM

Mayor Allers read the title of the ordinance. Planner Propst reviewed the background of the request as stated on the blue sheet. She confirmed that it would only affect single-family and two-family detached homes. Mayor Allers clarified that the ordinance would only affect the calculation of the size of the home that could be built.

No public comment.

Council Member King moved the ordinance to a second reading on September 23, 2024, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

J. Emergency Ordinance 24-29; Unsafe Building Appeals

First and Final Reading and Public Hearing on proposed Emergency Ordinance entitled: AN EMERGENCY 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 NON-CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the emergency ordinance. Town Attorney Stuparich reviewed the background of the request as stated on the blue sheet. She noted that the interlocal agreement with the Lee County Board of Appeals expired in 2017 and this ordinance would be effective immediately. She described the process of red-tagging buildings and indicated the timeline was between two and four weeks.

No public comment.

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

The motion carried unanimously by roll call vote.

K. Ordinance 24-30; Unsafe Building Code Appeals

First Reading and 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. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich reviewed the background of the request as stated on the blue sheet. No public comment.

Council Member King moved the ordinance to a second reading on September 23, 2024, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

L. Resolution 24-180; Schmucker Special Magistrate Second Amendment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE AGREEMENT FOR SPECIAL MAGISTRATE SERVICES BETWEEN THE TOWN AND MONICA SCHMUCKER, TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; ADDING REQUIRED STATUTORY PROVISIONS RELATED TO COERCION OF LABOR OR SERVICES TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Attorney Stuparich reviewed the background of the request as stated on the blue sheet and noted that state law required the addition of the last phrase in the title.

No public comment.

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

The motion carried unanimously by roll call vote.

M. Resolution 24-181; DOAH First Amendment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE ADMINISTRATIVE LAW JUDGE SERVICES BETWEEN THE TOWN AND DEPARTMENT OF ADMINISTRATIVE HEARINGS TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL'S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Attorney Stuparich reviewed the background of the request as stated on the blue sheet. No public comment.

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

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA**A. Resolution 24-177; STA 38 Carlos Circle**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE STA 38 IN THE AMOUNT OF 145,990.00 WITH TETRA TECH UNDER CONTRACT NO. 22-25-AD FOR TIER 1 PROJECT CARLOS CIRCLE AND ANY ASSOCIATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek stated that this would allow Tetra Tech to draft an engineering plan to address the flooding issues.

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

The motion carried unanimously by roll call vote.

B. Resolution 24-179; Town Hall Emergency Elevator Repairs

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE EMERGENCY ACCEPTANCE AND PURCHASE BY THE TOWN MANAGER OF SERVICES FROM GENERAL ELEVATOR SOLUTIONS IN THE AMOUNT OF \$139,553.00 FOR THE COMPLETION OF A HYDRAULIC ELEVATOR MODERNIZATION FOR THE NEW TOWN HALL BUILDING; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek commented that the elevator should be repaired by the beginning of the year.

Vice Mayor Atterholt moved to approve the resolution utilizing ARPA (American Rescue Plan Act of 2021) funds, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

C. Special Event: Revive the Vibe Fest 2024

Requesting approval of a special event permit for the Revive The Vibe Fest 2024 on Saturday, September 14, 2024. Requesting approval to close First through Third Streets off of Old San Carlos Blvd, allowing for open containers and allowing amplified sound, contingent upon approval of the Lee County Sheriffs Office and FMB Fire District.

Director Kropacek revealed that the organizers requested mechanical items to be added to the special event permit on Friday. The Lee County Sheriff's Office (LCSO) and the FMB Fire District must approve the items before the permit can be issued.

Zoe Wright, President of the FMB Revival nonprofit, described the event and explained that the mechanical items were offered for free at the last minute. Council Member Woodson verified that the town would not be liable for potential injuries from the mechanical bull.

Mayor Allers moved to approve the special event permit with the condition upon the amendment, seconded by Vice Mayor Atterholt.
The motion carried unanimously by roll call vote.

D. FY24-25 Benefit Renewal

Town of Fort Myers Beach Insurance Plan Year 24-25 Renewal Overview

Human Resources Manager Talissa Oliveira reviewed the renewal details as stated on the blue sheet. She noted the total increase for medical insurance was approximately \$64,500.00 and the vision and supplemental plans did not increase. She added that the increase was \$18,000.00 less than they anticipated. Manager Oliveira explained that she was investigating an app to implement tax-free health savings and she was implementing a wellness program in January.

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

The motion carried unanimously by roll call vote.

E. Authorize Auditor Engagement Letters

Authorize the Town Manager to execute the Engagement Letters with Mauldin & Jenkins to provide independent external auditor services for Fiscal Year 2024.

Finance Director Joe Onzick stated that this was the third year of the contract and the cost was \$51,000.00 with an additional fee of \$5,000.00 for a single FEMA audit.

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

The motion carried unanimously by roll call vote.

F. Town CEMP Administrative Updates

Town Comprehensive Emergency Management Plan (CEMP) Administrative Updates and Input

Legislative Liaison/Deputy Clerk Jason Freeman reviewed the CEMP as stated on the blue sheet. He noted that the reentry plan would be posted on the town's website. The reentry procedure was discussed.

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

The motion carried unanimously by roll call vote.

G. Angela Crist - USF Institute of Government

Town Council Strategic Planning Proposal Input

Town Manager Hyatt reviewed the second phase and noted the cost was \$225,427.60. The cost could be covered by ARPA funds if utilized by the end of the year. Input included moving the community focus groups to a time when most of the community was in town.

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

The motion carried unanimously by roll call vote.

H. Resolution 24-182; Implementing FEMA letter dated July 19, 2024

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DIRECTING THE TOWN MANAGER TO IMPLEMENT ALL REQUIREMENTS SET FORTH IN A LETTER DATED JULY 19, 2024, FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (“FEMA”); AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek reviewed the background of the request as stated on the blue sheet. He noted that FEMA directed that all temporary structures within two blocks north of Estero and all shipping containers used by construction companies at the condos be removed by November 18, 2024. Structures included anything that could not be towed by a light-duty truck. He added that the town would be on probation if the directive was not followed. Storage pods on lots could remain if rebuilding plans were on file with the town and the directive did not apply to people with residential temporary use permits on the other side of Estero two lots in. Director Kropacek stated that code personnel had started contacting people who were affected. Mayor Allers suggested including a map of the affected areas with the press release. Director Kropacek stated that the town hall trailers were compliant.

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

The motion carried unanimously by roll call vote.

I. 24-183, Resolution Authorizing Town Manager to Sign FEMA CDL Application

A RESOLUTION TO AUTHORIZE THE TOWN MANAGER OF THE TOWN OF FORT MYERS BEACH, TO REQUEST A LOAN UNDER THE COMMUNITY DISASTER LOAN PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR A MAXIMUM AMOUNT OF \$4,081,357, TO DRAW UPON IF NEEDED TO FUND ESSENTIAL GOVERNMENT SERVICES AS A RESULT OF LOST REVENUES, TO RECEIVE AND MANAGE THESE FUNDS, AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick utilized slides to explain the Authorization to Sign the FEMA CDL Application.

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

The motion carried unanimously by roll call vote.

XIII. FINAL PUBLIC COMMENT

Terry Cain thanked the town council and staff for their hard work. She commented on the incident command system and indicated that the state of FL had one of the best systems.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reminded political candidates not to place signs in the right-of-way.

Culture, Parks & Recreation Director Jeff Hauge indicated the joint meeting with CELCAB had to be moved to September 18, 2024. All council members were available.

Director Kropacek stated that starting September 1, 2024, all building application materials will be submitted to the town clerk 14 days before the LPA and town council meetings.

Senior Planner Smalley stated that the thatch roof and cover over the stairs at Margaritaville will be approved administratively unless otherwise directed. All council members approved.

XV. TOWN ATTORNEY'S ITEMS

No items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford recognized the Island Pancake House and encouraged people to visit.

Council Member Woodson requested a sign at Crescent and 5th Ave. to direct people to North Estero. Director Hauge revealed that signs would be installed in the next few days.

Vice Mayor Atterholt indicated that the sand should be inspected if it is riddled with shells. Environmental Projects Manager Chadd Chustz stated that the coastal engineer was doing quality control testing and shells were to be expected. He added that the sand was from the same borrow area used in 2011. Vice Mayor

Atterholt questioned whether old wells had to be capped before permitting new wells. Director Kropacek replied positively and stated that regulations had to be followed. Vice Mayor Atterholt questioned whether performance metrics were linked to the strategic plan. Town Manager Hyatt replied positively.

Council Member King commented that the town's website was problematic and difficult to navigate. He questioned whether they were considering a new system. Town Manager Hyatt replied that they would investigate options.

Mayor Allers questioned the status of the etched glass with the Chapel by the Sea. Vice Mayor Atterholt replied that prospects for the glass had diminished, but nothing was definite. Mayor Allers was talking about permitting when the recording skipped. Director Kropacek responded that discussions with the county were ongoing. Mayor Allers asked Town Clerk Baker to research the date the town took over permitting from Lee County.

He encouraged the staff to get a second opinion regarding the infrastructure Tetra Tech was putting in the ground. He received consensus. He noted that some people were doing work without a permit in easements and questioned what the town could do. Town Attorney Stuparich responded that they had to research the easement documents and litigation might be necessary.

Vice Mayor Atterholt questioned whether Tetra Tech could provide their opinion to compare and contrast with the third vendor. There were no objections. Director Kropacek stated a vendor was working to keep drains clear, but he was revisiting their services. He preferred to have the service in-house.

XVII. ADJOURNMENT

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

The meeting was adjourned at 1:06 p.m.

Minutes adopted as presented, September 23, 2024. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Allers Daniel Lee</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Town of Fort Myers Beach Council</i>	
MAILING ADDRESS <i>5485 Avenida Pesquera</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Fort Myers Beach</i>	COUNTY <i>Lee</i>	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>9/9/24</i>		NAME OF POLITICAL SUBDIVISION: <i>Fort Myers Beach Town Council</i> MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Dan Allos, hereby disclose that on 9/9, 20 24:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, Tim Ryan;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Margaretville change to MCP for sewage. I have a business contract with Margaretville.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

9/9/24
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.