



Fort Myers Beach Management & Planning Session

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

Minutes

Thursday, November 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. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Presentation: Bonita Estero Rail Trail

Ms. Deb Orton, President - Friends of BERT (Bonita Estero Rail Trail) Ms. Orton utilized PowerPoint for her presentation. Slides included Who We Are, What We Do, BERT Video, About BERT, Rail Corridor Funding Strategy - Partial List, Benefits BERT Will Bring, Florida Gulf Coast Trail, Florida Gulf Coast Trail Lee County Segment and What Happens Next. Ms. Orton asked the council to vote to endorse the project. The Town Council endorsed the project and Town Attorney Stuparich will draft a resolution. Town Attorney Stuparich described Trail Town and Ms. Orton elaborated. Natalie White of Schenkel Shultz Architecture described how BERT benefited Southwest Florida.

B. Public Benefits

Summary of LPA discussion of public benefits

Town Attorney Stuparich stated that the LPA (Local Planning Agency) requested a joint meeting to discuss the summary in the agenda packet. Vice Mayor Atterholt suggested adding essential, semi-essential services and early entrance as categories. Council Member Safford indicated there had to be a delta if they used a formula. Council Member Woodson noted that overall economic benefits and transportation were also discussed at the LPA meeting. She suggested adding monetary investment to keep the canals and waterways dredged and clean. Mayor Allers was not a fan of the point system

because smaller developments may be unable to provide what larger developments could. He described how water ferries were a public benefit if the visitors paid for them rather than taxpayers. Town Manager Hyatt indicated he would try to schedule a meeting next week.

C. Development Agreements with Deviations - Notice Requirements

Discussion regarding

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING RESOLUTION 24-73, CONTAINING THE PROCEDURES FOR DEVELOPMENT AGREEMENTS WITH DEVIATIONS TO CLARIFY THAT THESE DEVELOPMENT AGREEMENTS ARE HOME RULE DEVELOPMENT AGREEMENTS AND TO AMEND RELATED NOTICE REQUIREMENTS FOR CONSISTENCY WITH NOTICE REQUIREMENTS IN SECTION 2-98 AND CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; AND PROVIDING AN EFFECTIVE DATE.

Town Attorney Stuparich read the title of the resolution and noted the item would be on the November 18, 2024 agenda. She indicated that the resolution had nothing to do with Seagate and was focused on procedures. She highlighted the changes in the document and described the differences between the notice requirements for a statutory development agreement and notice requirements for a planned development approval. She added that the changes were for consistency. Town Attorney Stuparich referred to page 31 regarding beginning the negotiation process.

Mayor Allers stated the town manager was not a planner, but the development agreement allowed him or his designee to make negotiations non-binding to bring to the council. The CPD (Commercial Planned Development) process allowed the staff to make a recommendation before going to the LPA and then to the town council. He felt that the development agreement circumvented the LPA process. He added that there was a lot of flexibility and latitude for developers but not the town and questioned what they could add to give the town more teeth. Town Attorney Stuparich replied that staff should have a clearer direction after special and public benefits were clarified in the joint meeting. Mayor Allers questioned where the guardrails were in the development agreement when special or public benefits were met. Town Attorney Stuparich responded that a formulation could be recommended based on the guidelines at the joint meeting.

Patrick Vanasse, resident and former LPA member, stated that initially, the LPA looked for a streamlined process to get smaller projects approved. He felt that the resolution was fine, and the town had the opportunity to ask what they wanted during negotiations because the town council made the final decision. Developers had to justify that the benefits commensurate with the ask. He noted the guardrails were the LDC and comp plan if the development agreement was incompatible with them. Mr. Vanasse questioned whether making the ordinance more stringent would conflict with Senate Bill 250. Town Attorney Stuparich will research the Bill.

Mayor Allers preferred that the town manager and staff provide a recommendation before it went to the LPA and the town council. Town Attorney Stuparich read the language to add to the resolution. Vice Mayor Atterholt suggested that approvals or denials be based on a subjective decision, pro or con. Council Member King wondered whether an LPA recommendation became a crutch, and he did not do as much work as he should. He also mentioned that it became a ploy to attack the council for not following the LPA recommendations. Mayor Allers added that the resolution had to be consistent with everything else and clarifying why decisions were made was key. Town Attorney Stuparich will add language to 3.2.3 and 3.3.1.

D. Electric Bikes

Discussion Regarding the Town's Bicycle Ordinance and Electric Bicycle Regulations

Town Attorney Stuparich reviewed Florida statutes regarding e-bikes as stated on the green sheet. She noted that there was no definition of assisted bicycles and the town's code did not specifically reference electric bicycles, although the statute does. She asked for direction on what they would like to see.

Council Member Safford was fine with electric bikes on sidewalks, but he felt the fine for bad behavior had to be higher. Rental companies would have to provide a brochure with the penalties included. Mayor Allers suggested that short-term rentals add the rules to their information.

Council members agreed to discuss e-bikes on sidewalks and the beach. Council Member Woodson favored e-bikes with speed limits because many people use bikes as their primary transportation. She questioned the list of prohibited vehicles and said she did not want golf carts on sidewalks.

Vice Mayor Atterholt indicated that law enforcement agencies did not have the equipment to gauge speed, which made enforcement challenging. He referred to the memo by Philip Miglioratti included in the packet. Mr.

Miglioratti suggested they pass pedestrians at a speed that allowed them to maintain control of the bike and use audible notifications when approaching from behind. Vice Mayor Atterholt agreed that code enforcement had to have the tools to deal with bad behavior.

Council Member King questioned who would enforce it. He would like to go forward with it and study pedestrians' concerns, whether e-bikes or regular bikes. He would like to revisit the issue in a year when data is available.

Mayor Allers stated that bikes going in the wrong direction could be enforced. Operations & Compliance Manager Thomas Yozzo stated they could not do a forced stop, so they had to call the LCSO (Lee County Sheriff's Office). He added that people generally complied, so they rarely had to call LCSO. He was allowed to inform bicyclists if they were traveling in the wrong direction.

He voiced concerns regarding liability issues with allowing bikes on the beach.

Mayor Allers felt that most people would not ride e-bikes on the beach because of sand damage. He noted there were no accidents in five years and agreed with revisiting it in a year.

Manager Yozzo indicated that adding language similar to Mr. Miglioratti's would allow him to stop people and ask them to slow down. Mayor Allers was okay with that language because it would help with potential liability litigation. Vice Mayor Atterholt shared his experiences riding his bike on the beach and avoiding people, wildlife and little kids. He mentioned bikes disrupting serene walks on the beach. Mayor Allers brought up people who could not walk on the beach anymore but could use e-bikes to get where they needed to go.

Manager Yozzo pointed out that enforcement was first-person. The ranger or officer had to observe the violation. He stated that the beach should be a safe space for children because they did not pay attention, and parents were not looking out for speeding bikes.

Council Member King wondered if they were trying to solve a problem that did not exist, especially since there had not been an accident in five years. Council Member Safford questioned whether they could allow riding on the beach during the off-season. Manager Yozzo replied that he would be worried about subjective enforcement.

Town Attorney Stuparich will come back with language to change the ordinance. Town Manager Hyatt added that they would work on creating a safety brochure. Council Member Safford suggested that the Public Safety Committee draft it. Manager Yozzo recommended that bikes be allowed on sidewalks with a directional provision. He felt the beach was a dangerous space for e-bikes. Mayor Allers was fine with keeping the beach the way it was. Vice Mayor Atterholt was a hard no on the beach. A consensus was reached to leave the beach as is and send the matter to the Public Safety Committee.

E. Certification of Vote of Appointed Advisory Board Members

Discussion regarding

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 5 OF RESOLUTION 23-182 AS AMENDED BY RESOLUTION 24-178, TO INCLUDE CERTIFICATION OF THE VOTE BY THE TOWN COUNCIL BEFORE A VOTE TO APPOINT MEMBERS TO THE TOWN'S ADVISORY BOARDS, COMMITTEES, AGENCY AND COMMISSIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Stuparich read the title of the resolution and reviewed the changes as stated on the green sheet. She discussed section 5, regarding the method of voting. Concerns were raised about the lack of transparency. She proposed that council members announce who they voted for, and the town clerk or deputy clerk would record the votes on an Excel spreadsheet so the public could see how the votes were calculated. She suggested that ties be added back to the pot and vote on those who were left. Regarding ties, Council Member Woodson suggested that people who did not receive a vote be excluded from the pot.

Town Attorney Stuparich said they would go back and vote again on MERTF (Marine and Environmental Task Force) on November 18, 2024, and also go through the votes for other committees.

F. Fireworks**A discussion regarding New Years Eve fireworks.**

Culture, Parks & Recreation Director Jeff Hauge stated they had a contract for the fireworks and the barge, but the funding did not come through. Due to the barge, the cost was about \$80,000. Town Manager Hyatt indicated he would meet with Finance Director Onzick to find the funds. Director Hauge noted that the alternative was not to have them. Council members supported fireworks on New Year's Eve. Donations were welcome.

G. Downtown Lights**At Council's request, a discussion about light pole decorating along Estero Blvd.**

Mayor Allers described decorating electric poles but asked if power would be available.

Director Hauge received three quotes for replacing the lights and the electrical system at Bayside Veteran's Park. The plan was to redo all the wiring, pull the pavers and redo the conduit, including down Old San Carlos. He did not have a timeline. Town Manager Hyatt stated that the repairs were considered an emergency and reimbursable by FEMA (Federal Emergency Management Agency). The work will be done as soon as possible.

IV. AGENDA MANAGEMENT

A. November 2024

The joint meeting with the LPA will be on November 13, 2024, at 8:30 a.m.

V. ADJOURNMENT

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

Minutes adopted as presented, November 4, 2024. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk