



Fort Myers Beach Management & Planning Session

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

Agenda

Wednesday, December 11, 2024

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. R2P2 Final Report Presentation

Presentation of the Coastal Florida Recovery and Resiliency Partnership Project (R2P2) Report

B. Leasing Town ROW for Private Property use

Leasing of Town right-of-way for private use

C. Code of Ethics

A review of the Town Code of Ethics policy

D. Advisory Committee Appointments

Discussion of a draft resolution: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 5 OF THE TOWN COUNCIL'S POLICIES AND PROCEDURES MANUAL AS RECENTLY AMENDED BY RESOLUTION 24-246 TO CLARIFY THE SELECTION PROCESS IN THE EVENT OF A TIE VOTE FOR APPOINTMENT OF A QUALIFIED INDIVIDUAL AND TO ESTABLISH A LIMIT ON THE NUMBER OF WAIVERS AN APPOINTED INDIVIDUAL MAY REQUEST; AND PROVIDING FOR AN EFFECTIVE DATE.

E. Advisory Committees

DISCUSSION: Qualifications for Appointment to Advisory Committees, Boards and Agencies

IV. AGENDA MANAGEMENT

A. December 2024

V. 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.

1. **Request:**

Meeting Date: December 11, 2024

Presentation of the Coastal Florida Recovery and Resiliency Partnership Project (R2P2) Report

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

5. **Background:**

Presentation from the R2P2 team on their final report

For more information on the project, please visit: <https://www.coastalflr2p2.com/town-of-fort-myers-beach>

Attachments:

1. Coastal+FL+R2P2+Report_Fort+Myers+Beach_112024_compressed

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

nancy stuparich, Town Attorney

Date: December 04, 2024

Amy Baker, Town Clerk

Date: December 05, 2024

Andy Hyatt, Town Manager

Date: December 05, 2024

Town of Fort Myers Beach

Coastal Florida Recovery and Resiliency Partnership Project (R2P2)

COASTAL FLORIDA RECOVERY AND RESILIENCY PARTNERSHIP PROJECT (R2P2)



Fort Myers



Fort Myers Beach



Sanibel

Prepared For



THE TOWN OF FORT MYERS BEACH

Managed By



U.S. ENVIRONMENTAL PROTECTION AGENCY

Prepared By



HORSLEY WITTEN GROUP
SUSTAINABLE DESIGN & RESILIENCY

DOVER, KOHL & PARTNERS
town planning

DOVER, KOHL & PARTNERS
TOWN PLANNING & URBAN DESIGN

Spikowski
Planning

SPIKOWSKI PLANNING ASSOCIATES
PLANNING & IMPLEMENTATION

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What is the Coastal Florida Recovery and Resiliency Partnership Project (R2P2)?

The Recovery and Resiliency Partnership Project (R2P2) is a community-focused U.S. Environmental Protection Agency (EPA) Disaster Recovery program that provides free technical assistance to communities impacted by a major disaster declaration. The R2P2 Technical Assistance aims to improve a community's resilience to future flooding events, improve protection of natural resources, and increase long-term sustainability.

The program's goal is to develop a set of community-driven conceptual designs that reflects a participating community's vision for long-term recovery and can be used to leverage federal, state, nonprofit, or other funding resources for implementation.

The Coastal Florida R2P2 supports three communities: The City of Fort Myers, the Town of Fort Myers Beach, and the City of Sanibel. These communities were severely impacted by Hurricane Ian in September 2022 and are closely connected spatially across the impact area. Each community maintains a strong independence in setting local resilience goals but recognizes the value in partnering with county, state, federal, and non-governmental organizations in their long-term recovery planning.



FEDERAL AND STATE PARTNERS



Hurricane Ian in Southwest Florida

Arrival of Hurricane Ian

Hurricane Ian made its first Florida landfall over the barrier island of Cayo Costa during the afternoon of September 28, 2022 (Figure 1). Ian weakened slightly before it struck land at an estimated wind speed of 130 knots (about 150 miles per hour), making it a Category 4 hurricane at landfall.

Due to a southward shift in the track of Ian as it approached southwest Florida, the actual landfall was near the southern end of the forecast cone of uncertainty, surprising those residents who assumed Ian would land closer to the center of the cone. The ultimate track of Ian is shown on Figure 2.

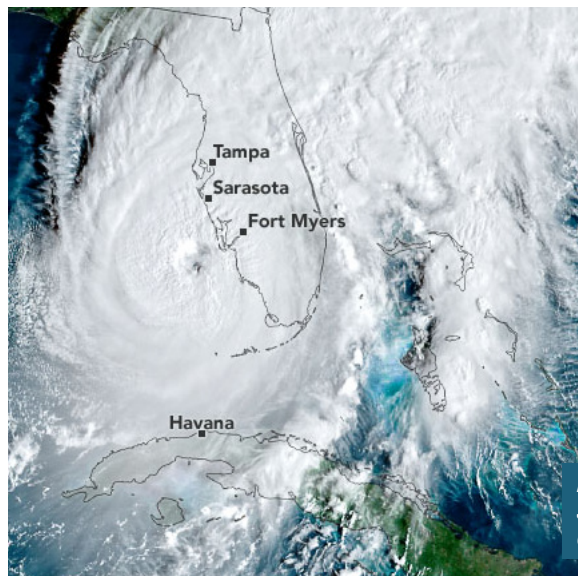


Figure 1. Satellite image of Hurricane Ian, September 28, 2022 (source: National Oceanic and Atmospheric Administration)

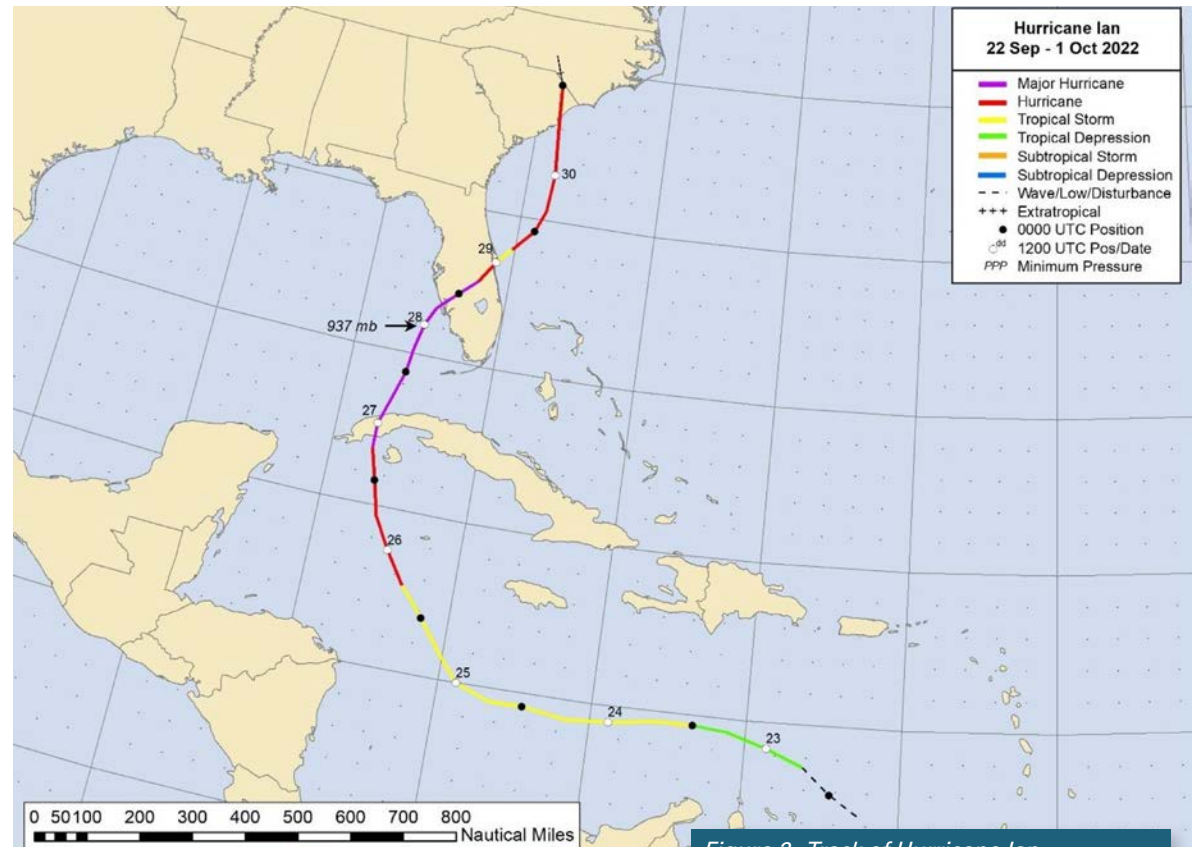


Figure 2. Track of Hurricane Ian (source: National Hurricane Center Tropical Cyclone Report-- Hurricane Ian (AL092022), April 3, 2023)

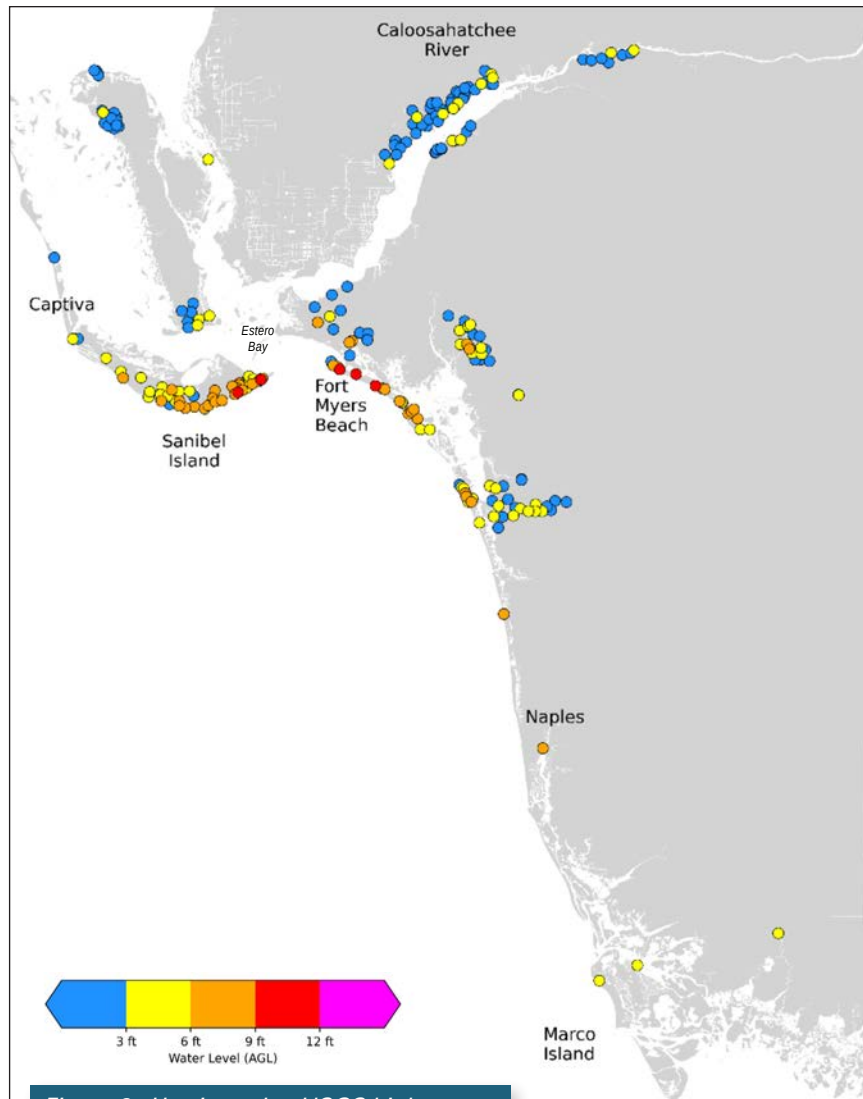


Figure 3. Hurricane Ian USGS high water marks (source: National Hurricane Center Tropical Cyclone Report-- Hurricane Ian (AL092022), April 3, 2023)

Storm Surge and Rainfall

Southwest Florida is extremely vulnerable to storm surge. The Gulf of Mexico is shallow and the land in Southwest Florida is very low lying and includes a number of barrier islands, which are comprised of naturally shifting sands. Coastal storms with significant storm surge can push waters up and over the coastal barrier islands, resulting in extensive property loss, erosion of beaches, damage to coastal habitats, and infrastructure.

The exact track of Hurricane Ian, its strong winds, and its large size all contributed to its devastating impacts. Ian produced a catastrophic storm surge along the southwest coast of Florida, most heavily affecting areas just south of landfall, especially Sanibel and Estero Islands, but also rivers and bays such as the Caloosahatchee and Estero Bay.

High water marks reported by the United States Geological Survey (USGS) are shown in Figure 3. Storm surge watches and warnings were in effect well in advance of tropical-storm-force winds.

The first evacuation orders for coastal Lee County were issued on September 27 at 7:00am, with additional orders issued at 8:45am and 1:45pm. Only a small number of people traveled to public shelters during that day. At 6:30pm, with landfall expected around 3:00pm the next day, residents were formally requested to arrive at shelters by 8:00pm that evening or to "shelter in place."

The heaviest rainfall from Ian occurred just north of Ian's track, sparing the areas subject to the highest storm surge from also experiencing torrential rains as Ian passed.

Two years later, Hurricane Helene's storm surge flooded Fort Myers Beach again, despite Helene's eye never being closer than 200 miles offshore. Two weeks after Helene, Hurricane Milton struck Florida's west coast and flooded Fort Myers Beach yet again. These events were yet another severe blow to a community still struggling to recover from the devastation caused by Hurricane Ian. Both surges were much lower than that what Fort Myers Beach experienced during Hurricane Ian, but provide a clear warning about the severity that Fort Myers Beach should expect from future hurricanes.

Hurricane Ian and Hurricane Charley

Many residents of southwest Florida had experienced the landfall of Hurricane Charley in 2004. Charley made landfall in almost the same location as Ian, with a similar intensity of 130 knots (150 miles per hour). However, the impacts of these two hurricanes on southwest Florida were very different.

The eye of Hurricane Charley was very small, limiting its most severe wind damage to a much smaller path across northern Pine Island, Charlotte Harbor, Punta Gorda, and Port Charlotte. Charley's storm surge was considerably less severe; maximum surge heights were reported to be 6 to 7 feet on Sanibel and Estero Islands, 4.2 feet in Estero Bay, and 3.5 feet along the Caloosahatchee in Fort Myers. Experience with Hurricane Charley was deceptive for people who were expecting comparable impacts from Hurricane Ian (Figure 4).

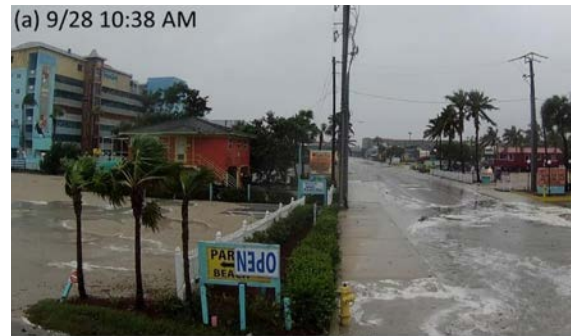


Figure 4. A timeline of images taken from video footage of a single location along Estero Boulevard as Hurricane Ian passed over Fort Myers Beach on September 28, 2022. (source: National Hurricane Center Tropical Cyclone Report-- Hurricane Ian (AL092022), April 3, 2023, image credit Matt Olson)



Overview of Fort Myers Beach

Government

The Town of Fort Myers Beach was formed in late 1995. Before then, Estero Island was governed as part of unincorporated Lee County. The town's municipal boundary includes all of Estero Island but not San Carlos Island or other adjoining islands (Figure 5). The town is governed by five council members who are elected at-large. Council members choose a mayor from among their ranks. A town manager runs the day-to-day affairs of the town and answers directly to the council and mayor.

Population

The town's permanent population in 2020 was 5,582, living in 3,497 households. Since the town had a total of 9,460 housing units, that leaves 5,963 housing units (about 63%) that were not occupied by permanent residents. Most of those units are occupied by seasonal residents or visitors; some were vacant during the 2020 census. Even before Hurricane Ian, the town's permanent population had been decreasing, down from 6,277 permanent residents in 2010 and 6,561 in 2000.

The town is a long-time tourist destination, largely based on its seven miles of sandy beach and its vibrant, welcoming atmosphere. Tourism in the town was accommodated by about 4,123 hotel/motel rooms and vacation rentals prior to the storm. The sandy beach remains today, but due to Hurricane Ian, many businesses supporting tourism have not yet been able to rebuild and reopen.

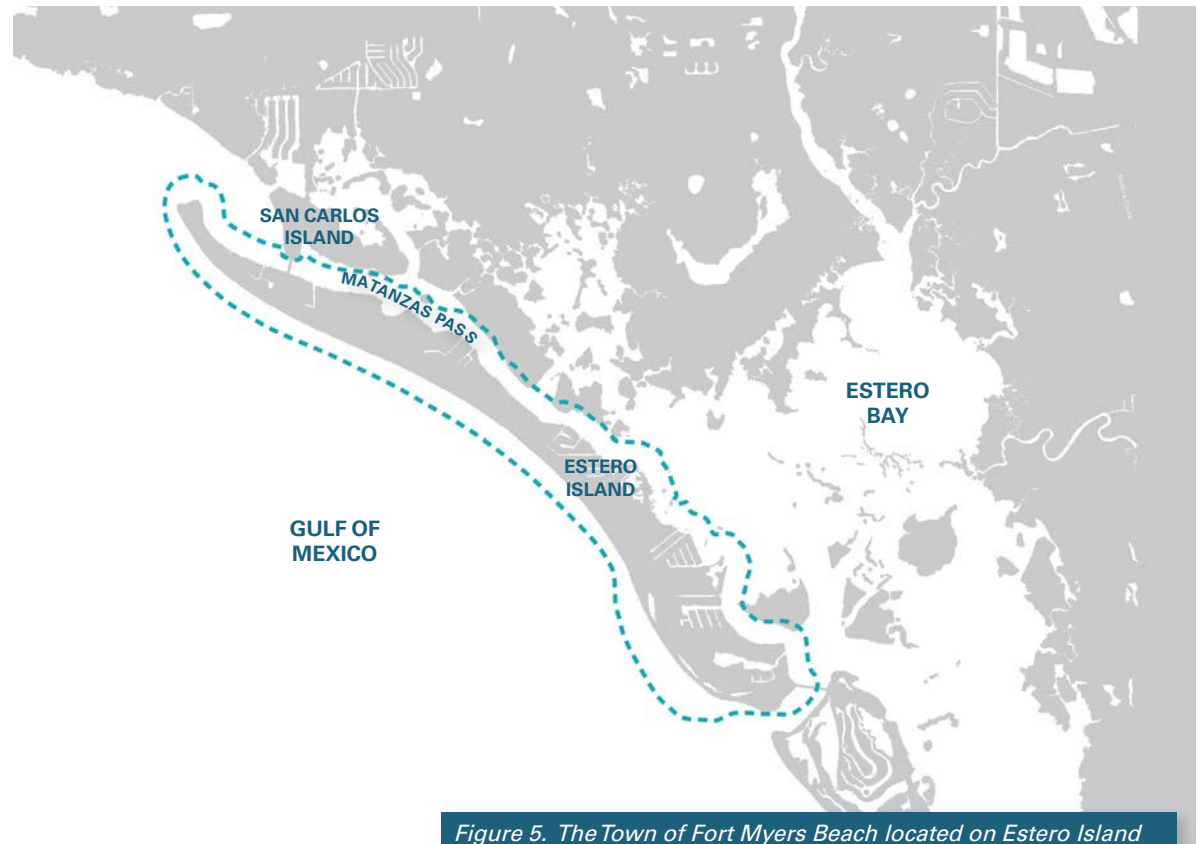


Figure 5. The Town of Fort Myers Beach located on Estero Island

Land Area, Topography, and Floodplain

The land area of the Town of Fort Myers Beach, measured above Mean Sea Level, is about 2.8 square miles, located entirely on the coastal barrier island known as Estero Island. The elevation of land on the island is very low. Not surprisingly, the entire island sits within the floodplain delineated by FEMA as having a 1% chance of flooding in any given year, also known as the 100-year floodplain. In addition, much of the island, particularly on the Gulf of Mexico shoreline, is within the velocity zone (VE Zone) where waves during a flood are anticipated to be higher than 3 feet. With the more frequent and powerful storms that are occurring in this area and across the southeastern US, it is evident that this area has a significant flood and wind risk that challenges the community's recovery and resilience process.

Demographic Summary

The following table compares basic demographic data about permanent residents of the town with the same data for Lee County and for the state of Florida as a whole. Fort Myers Beach permanent residents have a higher median income, are far less likely to be employed, and are much older than county or state residents generally.



Figure 6: View looking south along Estero Boulevard, 6 months after Hurricane Ian (source: USA Today, Ricardo Rolon, March 23, 2023)

	Fort Myers Beach	Lee County	State of Florida
Median household income (2022)	\$87,204	\$71,072	\$69,303
Employment rate (2022)	32.8 %	51.3 %	56.8 %
Median age (2022)	66.6	49.5	42.7

Source: U.S. Census Bureau

Physical Effects from Hurricane Ian

Damage and Casualties

The Town of Fort Myers Beach suffered a direct hit from Hurricane Ian and was one of the hardest hit areas anywhere along its path. Sixteen people died and about 540 residents were rescued from the storm.

Buildings and Housing

All structures in the town were affected to some extent, with 1,046 homes and businesses deemed by the town to be “substantially damaged” and another 2,100 deemed to be “partially damaged.” The town has long been known for its older wood-frame cottages, hundreds of which were destroyed by Ian. Structures in the blocks closest to the Gulf of Mexico and facing Matanzas Pass were damaged most severely by a combination of storm surge, wave action, and high winds (Figures 6 and 7).

Eighty percent of homes in the town were built before 1990; older homes rarely meet current building codes and most are less resilient to natural disasters than newer homes. Many homes of all ages were completely inaccessible through October 2022 as FEMA and fire district representatives conducted search, rescue, and recovery efforts. Many taller condominium buildings that appeared to withstand the storm still required extensive repairs, especially to elevators, wiring, and rooms on lower floors. Many of these buildings cannot be occupied even two years after Hurricane Ian.



Figure 7. Aerial view of damage after Hurricane Ian (source: Wilfredo Lee, Associated Press, September 29, 2022)



Cost of Damage

NOAA estimates that Hurricane Ian was the third-costliest hurricane on record in the United States and the most expensive to ever strike the State of Florida, causing \$112 billion in overall damages, with more than \$109 billion of that amount occurring in Florida.

Utilities, Water, and Wastewater

Hurricane Ian caused a complete loss of electric service in the town, since poles and overhead powerlines were destroyed by high winds and the storm surge. By mid-November 2022, 1,179 properties had their power restored.

The Town of Fort Myers Beach is served by public water and sewer. The storm surge inundated the public water supply system, particularly equipment and piping near ground level, which are maintained by the town and supplied with water from the mainland by Lee County Utilities. Running water began to be available to some streets in late October 2022.

Flooding and Debris

As Hurricane Ian's storm surge engulfed the island, the stormwater system was overloaded. Drain outlets, swales, and channels were filled with water, sand, and/or debris, thereby limiting the conveyance of flood water even after the surge had ebbed. Manmade and natural debris kept beaches, homes, and commercial buildings from being accessible for weeks and even months. Sediment and debris washed into the island's many navigable canals; town officials have estimated that over 255,000 cubic yards of sediment will need to be dredged from the canals.

Damage to Businesses

The destruction caused by Hurricane Ian initially closed all businesses (Figure 8). Prior to Ian, there had been 82 restaurants and bars operating on the island; some have managed to reopen. Before Ian, there had been about 1,916 hotel/motel rooms and 2,207 vacation rentals within the town; as of late summer 2024, 2,478 of those (60%) had reopened. The Margaritaville Resort near Times Square, which was elevated significantly above ground surface and which was under construction when Ian hit, suffered only minor damage; it was able to open in late 2023. The main grocery store (Publix) and pharmacy (CVS) reopened in

2023. Marinas have reopened. There are still no banks or medical facilities (for example, urgent care) on the island. Some stores at Santini Plaza, a shopping center at the south end of the island, began reopening in late 2024 despite additional flooding from Hurricanes Helene and Milton.

Public, Natural, & Cultural Sites

Many of the town's key community and tourist sites experienced significant damage:

- Approximately 2 to 2.5 feet (in elevation) of sand eroded from the surface of the beaches.



Figure 8. Extensive destruction and debris after Hurricane Ian (source: Bobby Pratt, September 29, 2022)

- The Fort Myers Beach Pier at Times Square was destroyed; only concrete pilings remain.
- Town Hall was damaged beyond repair; the building has since been demolished.
- The Fort Myers Beach mooring field on the bay side of the island experienced debris deposition, sunken vessels, the loss of mooring systems, and the loss of the dingy dock.
- Bayside Park was mostly destroyed (but has since been rebuilt and renamed Bayside Veterans Park).
- The Bay Oaks gymnasium, part of the

town's recreation complex, took on 8 to 10 feet of water but was not destroyed. This recreation complex was used as an island-wide debris staging site for several months after Ian and continued to have debris and materials on-site for over 18 months post-Ian; it is currently the site of an interim Town Hall in modular buildings.

- Mound House, a museum that sits atop a 2,000-year-old Calusa Indian mound on the highest point on the island, suffered flood damage but is now operational.
- Newton Beach Park and its historic cottage were completely washed away.

The site was used for material storage and staging for the emergency berm and beach renourishment projects. A new beachfront park will be built on this site.

- Fort Myers Beach Elementary School has remained a focal point for the community even as enrollment has decreased as the Town's population has shifted toward more part-time residents and vacation properties. The school reopened in November 2023 after it was closed by Hurricane Ian, but had to close again after flooding from Hurricane Milton in late 2024.



Figure 9. Shortly after the storm, residents created hand-painted street signs to replace those lost in the storm.



Figure 10. Bayside Veterans Park was dedicated on the one year anniversary of the storm.

Beach Recovery Efforts

A key priority for the Town of Fort Myers Beach has been to “restore and maintain critically eroding shorelines” through “engineered beach design” in an effort to mitigate storm damage, enhance recreational space, and improve critical coastal habitats for threatened and endangered species.

The Town has completed or was in the process of completing several projects in the years since Hurricane Ian, bringing in mined or dredged sand to install, repair, or construct berms at various stretches along the island. Projects were funded from various federal, state, and local sources, including

FEMA, the Florida Department of Emergency Management, the Florida Department of Environmental Protection, Lee County Tourism Development Council, and the Town of Fort Myers Beach.

As efforts progressed, Hurricane Helene brought significant storm surge and high winds destroying much of the constructed berms, depositing large amounts of sand onto Estero Boulevard (Figure 11). Town Staff noted that the berm did help to dissipate wave energy brought by the storm but that the storm surge height exceeded that of the berm, causing much of it to be washed away.

Spirit of Community

While the damage caused by Hurricane Ian was extensive, the community spirit to come together, to help one another, and to rebuild beloved island homes and businesses has been evident throughout recovery efforts. Countless stories of neighbors helping neighbors and community efforts to build back a stronger, more resilient Fort Myers Beach are reflective of the town’s long legacy of town-building and local pride. Continued efforts to respect the character of the place while building back is essential to maintaining the beach community that so many treasure.



Figure 11. Storm surge from Hurricane Helene caused much of the sand from engineered berms to be washed on to Estero Boulevard (source: Andrew West, The News-Press/USA Today Network, September 2024)



Figure 12 The clock was unveiled one year after the storm. (source: Andrew West, The News-Press, September 28, 2023)

R2P2 Planning Process

Initial discussions and communications between EPA, FEMA, and Fort Myers Beach staff and leadership began immediately following Hurricane Ian. A consultant team was brought on board by EPA, with funding from FEMA, to support Fort Myers Beach with technical assistance. This team helped the town and Federal Agencies to refocus the initial list of project ideas and needs, and quickly visited the town and the potential project sites in March 2024. The team then developed some ‘food for thought’ based on the site visits and discussions, and brought that material back to the community of Fort Myers Beach during several days of open design meetings hosted at the interim Town Hall in June 2024. The Town and consultant team hosted a Community Input Session on the evening of June 12, 2024, with a full house of over 50 people in attendance. This was followed by a two-day open studio at Town Hall during which residents were invited to drop in or attend project-specific meetings to discuss their questions and bring forward ideas. A public survey was published online for 3 weeks following the June open studio, garnering responses from 75 people.

For more information on the **Community Engagement Process**, please see the **Appendix**.



Figure 13. From bay to beach, the R2P2 planning team worked with town leaders to identify project goals, constraints, and potential solutions.

Community Goals

The premise of the Recovery and Resiliency Partnership is that outside technical assistance can help the Town of Fort Myers Beach meet its post Hurricane Ian recovery and/or resilience goals, particularly those that aren't being addressed through existing activities and available funding.

Initially, the town was asked to identify potential projects that might help meet these goals. The federal partners and consulting team worked with town officials and other stakeholders to narrow the list to those where technical assistance could be most valuable to the town and most responsive to immediate or longer-term needs.

Prior to embarking on technical analyses, public engagement, identification of options, and preparation of conceptual designs, the focus areas in Figure 14 below and further described on the following page, were selected with the Town of Fort Myers Beach as the most promising places to benefit from the R2P2 technical assistance.



Figure 14. Project focus areas selected to advance community goals

1

Could We Move Around Town Without Our Cars?

For many decades, traffic on Fort Myers Beach has come to a standstill during peak travel periods, seemingly defying every solution that could be imagined to eliminate this congestion. A number of minor improvements have been made over the years; however, useful improvements seem to encourage more driving, since the congestion never goes away.

Thriving cities often face their own version of the same basic problem — too many cars, not enough space. Since solutions that encourage more driving can be futile, successful solutions tend to involve other ways for people to move around, such as public transit, encouraging people to walk or bike when they can do so instead of driving. One potential solution is to keep popular or essential destinations close to residential areas, such as grocery stores and health care services.

Finding ways to better connect at a personal scale, between and across neighborhoods, making it easier to participate in local patterns of life on Fort Myers Beach, is also a mechanism for improving the community bonds that improve local resilience.

How might these solutions, or others, work under Fort Myers Beach's unique conditions? How might alternative transportation connections and nodes be incorporated into the redevelopment of private and public lands following Hurricane Ian. **This report presents a connectivity map that identifies promising mobility ideas for the town's future.**

2

When Can We Enjoy the Beach Again?

Estero Island is blessed with abundant waterfront, much of it easily accessible to the public via dedicated beach and water access points, a fishing pier into the Gulf, a waterfront nature preserve, and numerous public parks.

Public access to the beach and coastal resources has been greatly impaired due to severe damage from Hurricane Ian. Restoration work is ongoing by Lee County for its pier, nature preserve, and county parks. The beach itself is being rebuilt to replace lost sand. Due to its multitude of other critical storm-related priorities, the Town of Fort Myers Beach is much less able to focus on rebuilding its parks.

Newton Beach Park and its historic cottage were completely washed away. This is a beloved and well used town park that supports Fort Myers Beach residents and visitors alike. It needs to be completely rebuilt, standing as a vacant sandy parcel almost 2 years following Hurricane Ian. **This report offers design ideas for a post-Ian Newton Beach Park.**

3

Is There a More Resilient Future for Fort Myers Beach?

The Town of Fort Myers Beach was approaching full build-out under its Comprehensive Plan decades before Hurricane Ian. The town's plans and codes encourage redevelopment in a few central areas, such as Old San Carlos Boulevard, but otherwise limit development to fairly low levels due to the town's risky coastal location and its perennially congested streets.

Hurricane Ian resulted in the destruction of so many buildings in the town that it can feel like there is a clean slate and that anything is possible for the future. However, other than the short-term reduction in traffic on Estero Boulevard, the underlying conditions that led to previous limitations are just as relevant — and undoubtedly more urgent now that early stages of the long-term trends of increasingly strong storms have become so apparent.

Most buildings facing the popular pedestrian plaza at Times Square were completely demolished by Ian. Services offered in those buildings, plus the pier and the public facilities in adjoining Lynn Hall Park, combined to create the vibrancy and popularity of Times Square, enjoyed equally by residents and visitors. **This report explores alternative futures for the next iteration of Times Square, in an effort to assist Fort Myers Beach in bouncing back from the damage of Hurricane Ian while also adapting to change and reducing risk from future hazards. This is the very definition of a more resilient future.**

Island-Wide Mobility and Connections

Existing, Planned, and Possible

Fort Myers Beach is dependent on Estero Boulevard as the single continuous street connection running the length of the island. From 2015-2022, Lee County rebuilt Estero Boulevard from Margaritaville to Big Carlos Pass, and the Town rebuilt it from Old San Carlos to Bowditch Point. The reconstruction added separated bicycle lanes for a long section with a notable exception for the stretch between Times Square and the Red Coconut site (a previous RV park along Estero Boulevard). Within this key stretch large sidewalks were incorporated on both sides of the road, but a limited public right-of-way width precluded the addition of bike lanes separate from the road and sidewalk.

The Town continues to work toward improvements that help reduce vehicle trips on Estero Boulevard, encouraging walking, bicycling, trolley use, and parking improvements to reduce vehicular congestion. This includes the adoption of the Town of Fort Myers Beach Bicycle + Pedestrian Master Plan. The graphics labeled as 'planned' on the map are proposed in the Master Plan.

The following strategies emerged from the R2P2 process to build on the City's connectivity momentum:

1 Mobility Improvements

Opportunities for comfortable pedestrian/ bike path networks parallel to Estero Boulevard are shown, especially connecting the gap between Times Square, the Mound House, and Red Coconut where Estero Boulevard lacks separated bicycle lanes.

2 Water Taxi / Ferry

A water taxi would provide another means of transportation within Fort Myers Beach, also connecting to San Carlos Island and potentially Sanibel. Water taxi stops must be aligned with pedestrian/bicycle networks on the island to enable safe and comfortable travel to-from and along the northern inland side of Fort Myers Beach without a car.



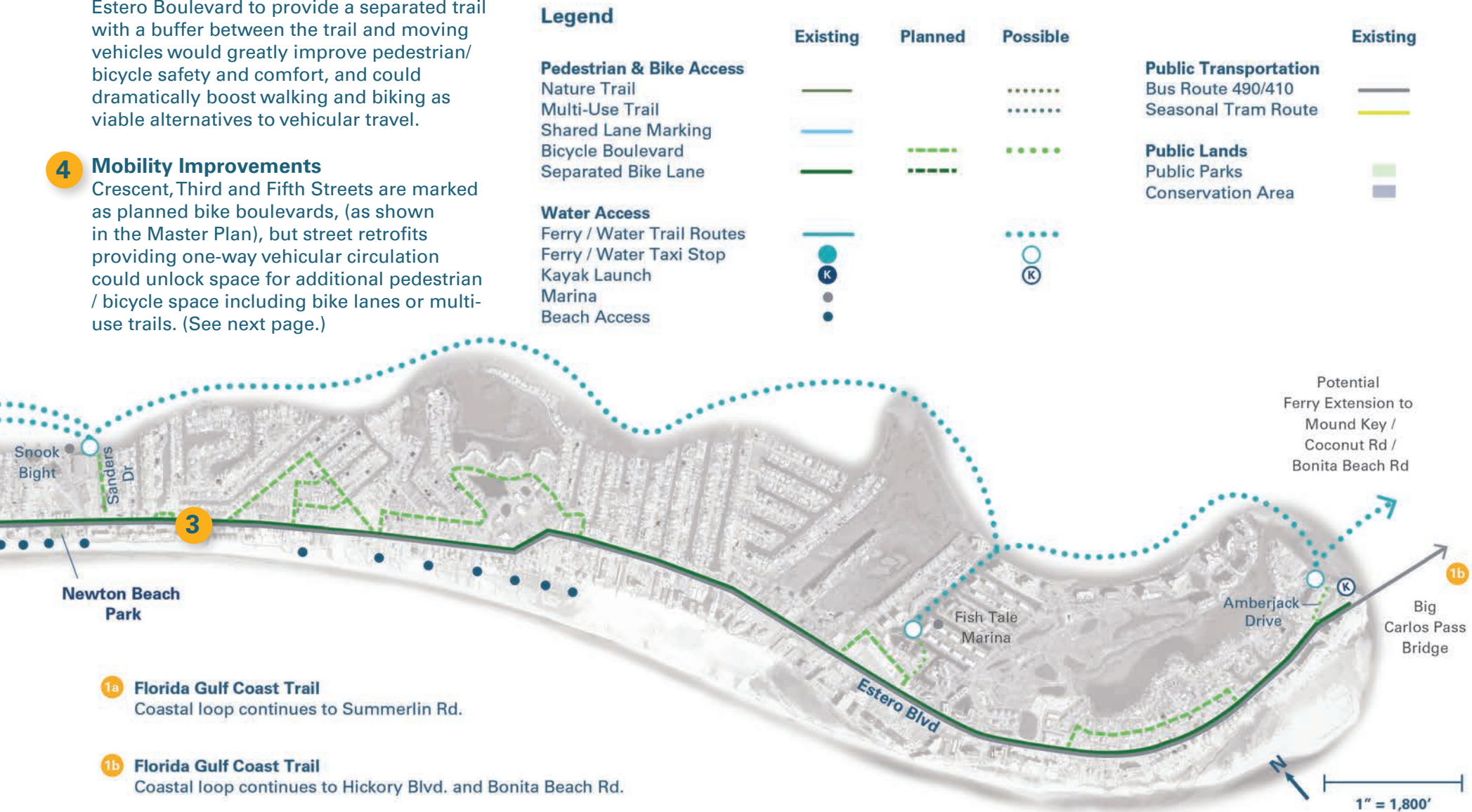
3 Future Estero Blvd. Improvements

Southeast of the Red Coconut site, retrofit of Estero Boulevard to provide a separated trail with a buffer between the trail and moving vehicles would greatly improve pedestrian/ bicycle safety and comfort, and could dramatically boost walking and biking as viable alternatives to vehicular travel.

4 Mobility Improvements

Crescent, Third and Fifth Streets are marked as planned bike boulevards, (as shown in the Master Plan), but street retrofits providing one-way vehicular circulation could unlock space for additional pedestrian / bicycle space including bike lanes or multi-use trails. (See next page.)

Figure 15. Island-wide Mobility Map





A Estero Boulevard Near Primo Drive

A major pinch point on Estero Boulevard is just past the Margaritaville elevated pedestrian crossing and beach access point 36/Primo Drive. This location has a limited right-of-way (ROW) without an alternative beach route. Any additional traffic calming that can be incorporated into this location should be utilized such as street trees and vehicular lane narrowing. Additionally, the Town should explore possible opportunities with adjacent property owners to obtain additional right-of-way width that could be used to further improve the streetscape.

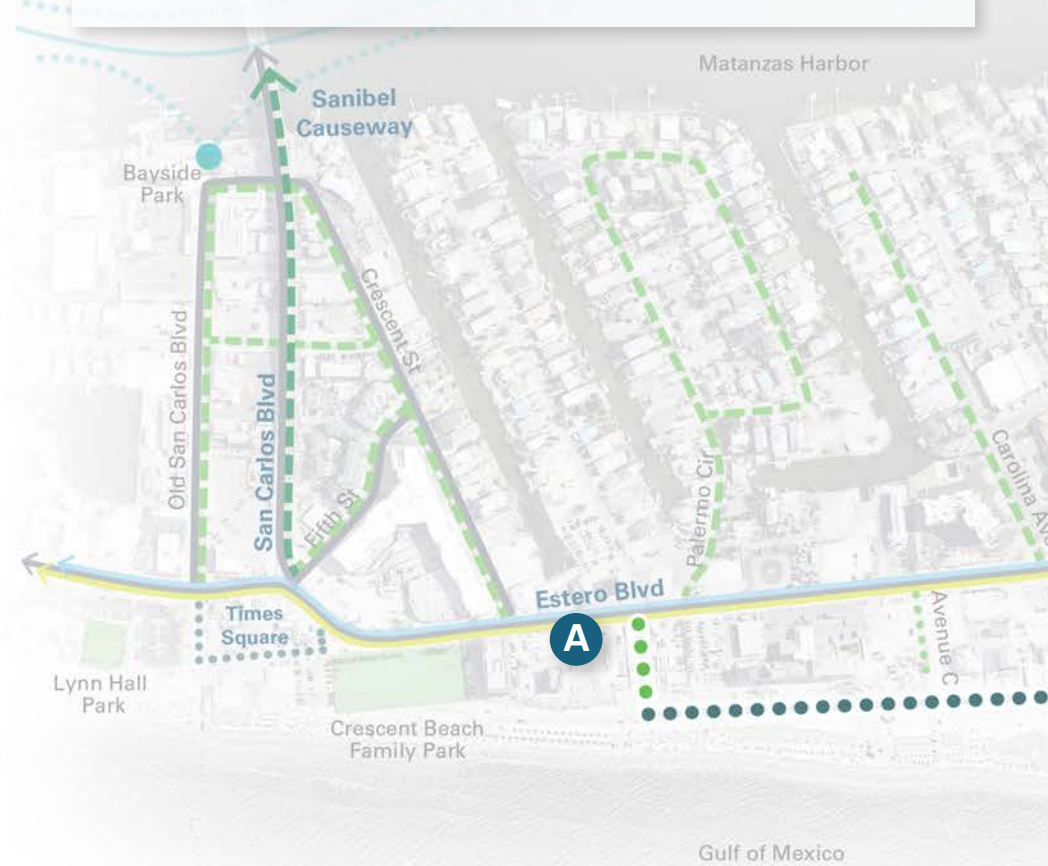
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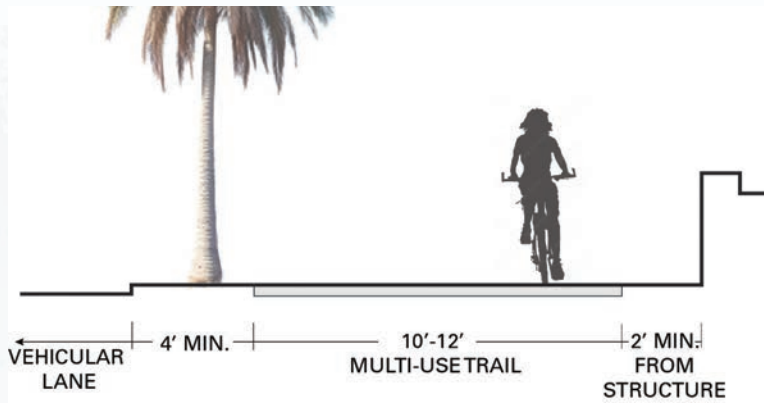
	Existing	Planned	Possible
Pedestrian & Bike Access			
Nature Trail	—		•••••
Multi-Use Trail			•••••
Shared Lane Marking	—		
Bicycle Boulevard		—	•••••
Separated Bike Lane	—	—	
Water Access			
Kayak Launch	Ⓚ		
Public Transportation			
Bus Route 490/410	—		
Seasonal Tram Route	—		
Public Lands			
Public Parks	■		
Conservation Area	■		



B Beach Trail

If a paved path is not possible, then mats can be used for beach trails.



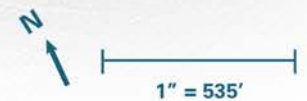


C Multi-use Trail

The multi-use trail should be a minimum of 10 feet wide, ideally 12 feet wide with at least a 4 foot buffer between the trail and any vehicular lanes. There should be a minimum of 2 feet between the edge of the path and any structure such as a wall.



Figure 16. The “Times Square to Red Coconut” is a critical missing mobility link because existing conditions on Estrero Boulevard are too narrow to accommodate bicycle infrastructure or wider sidewalks. Parallel connections within the network can provide for additional ways to safely and comfortably travel without a car.



Options for Future Estero Boulevard Improvements

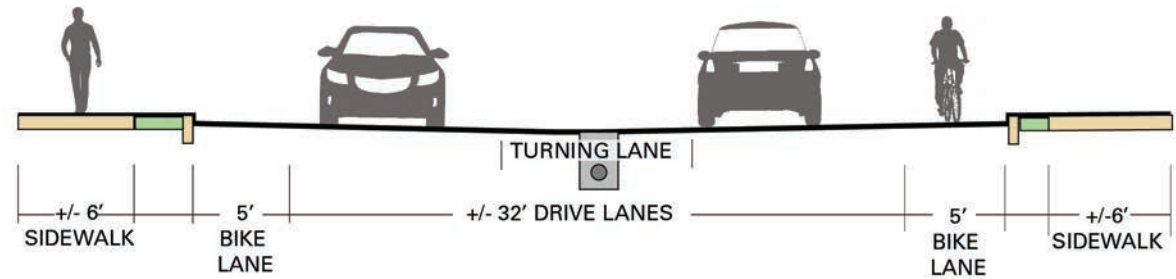


Figure 17. Existing Conditions: Estero Boulevard east of Red Coconut site includes one vehicular and bike lane in each direction, and sidewalks on both sides. The ROW width is generally 60', widening to 70' in some areas.

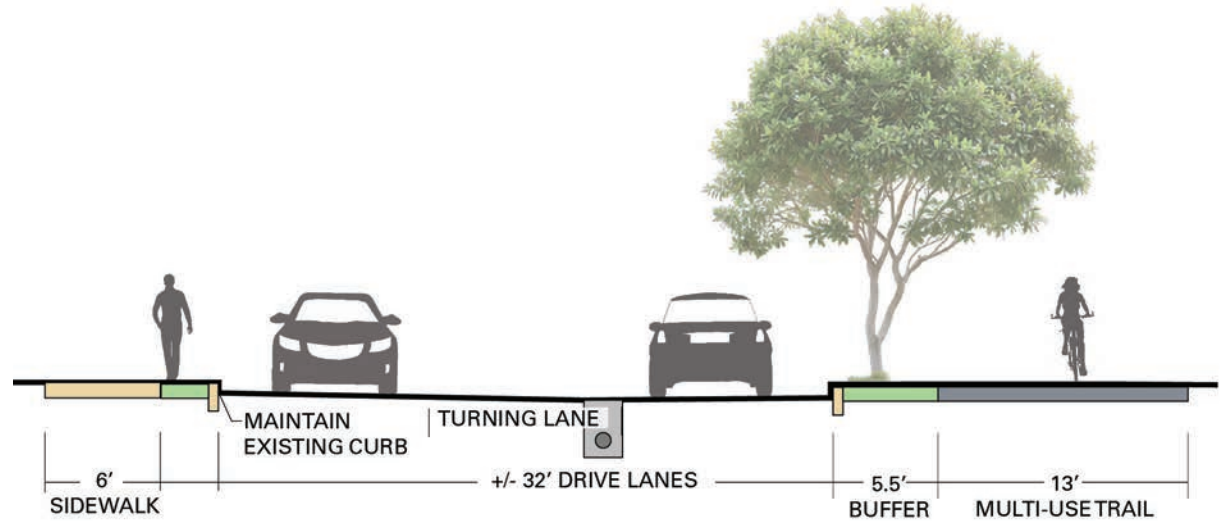
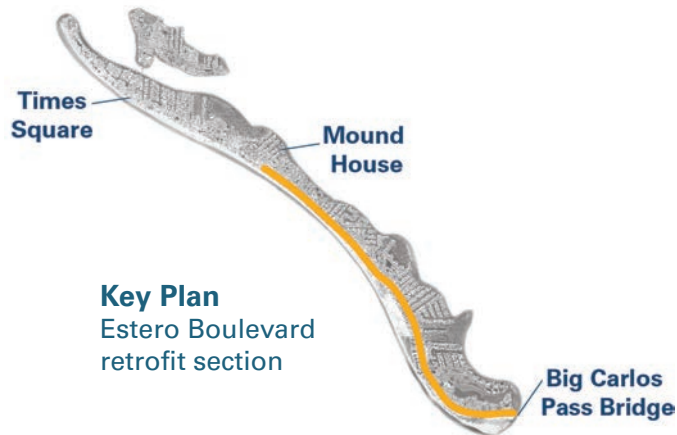


Figure 18. Option 1: Combining both bike lanes into a single buffered multi-use path provides for more comfortable pedestrian/bike space with limited impact to existing pavement and curbs. Driveway entrances can be constructed sloping up to the path to prevent an uncomfortable undulating surface. Additionally, street trees planted in the landscape buffer could provide shade further improving the pedestrian/bike experience.

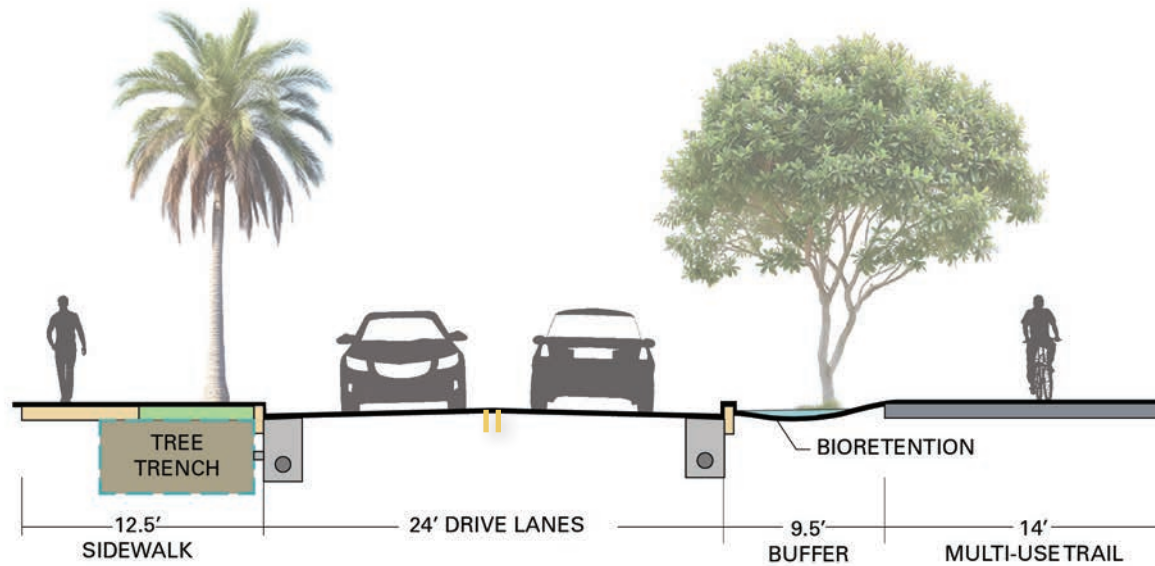


Figure 19. **Option 2:** Eliminating the center vehicular turn lane where possible provides additional room to add landscape and green stormwater infrastructure elements such as tree trenches and bioretention into the buffer spaces. This option shifts the curb on both sides of Estero Blvd to repurpose existing pavement.

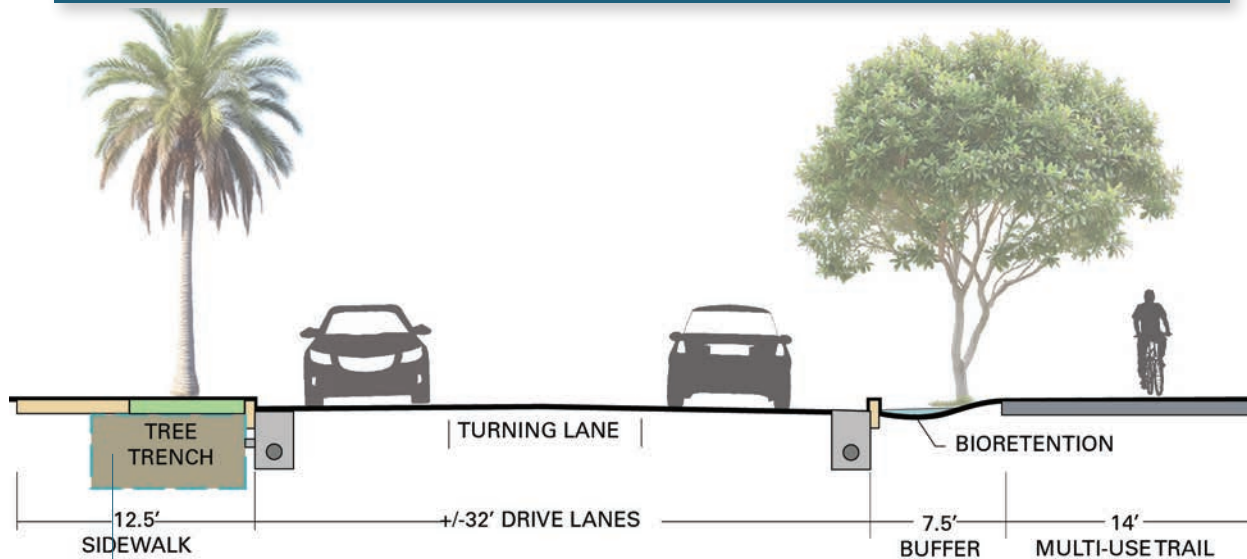


Figure 20. **Option 3:** In areas with a wider ROW the road could incorporate a center turning lane, a multi-use path with better green buffer, and a wider sidewalk. This option may introduce conflicts with existing features (signs, utilities, etc) requiring relocation as well as additional property owner coordination if the ROW extends past the existing back of sidewalk.

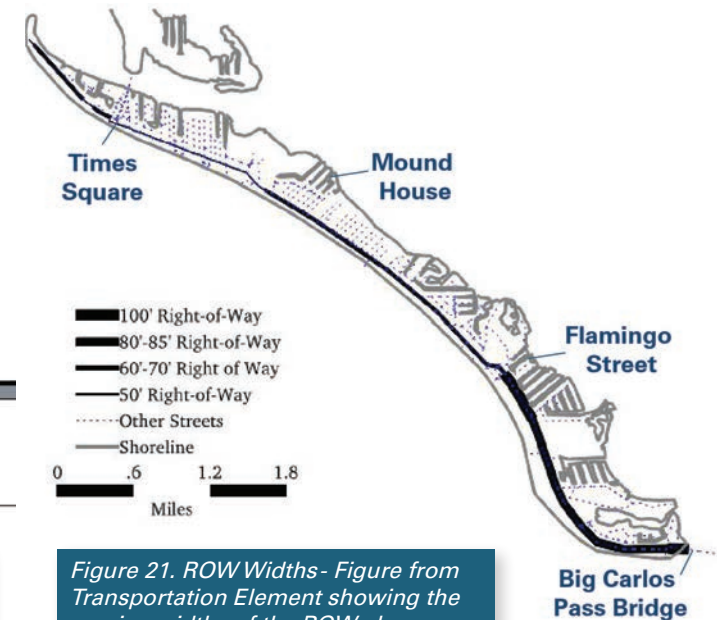


Figure 21. ROW Widths- Figure from Transportation Element showing the varying widths of the ROW along Estero Boulevard.

Possible Water Taxi Stop and Water Access: Southeast End of Estero Blvd

Key Plan

Launch & ferry stop locations



This location provides opportunity for access to the water from Amberjack Drive. A kayak launch could allow for exploration of Buccaneer Lagoon and a water taxi dock would connect the east end of the island with the rest of Fort Myers Beach.



Figure 23. Existing conditions mangrove area



Figure 22. Existing conditions (source: Daniel Spikowski)



Figure 24. Existing conditions Amberjack Drive



Figure 25. Sample image of a boardwalk in mangrove

Legend

- | | | |
|---|--|---|
|  Approx. Mangrove Area |  Sidewalk |  Bike Rack |
|  Existing Pavement Edge |  Boardwalk |  Signage |
|  Proposed Pavement Edge |  Fence |  Planting Island |
|  Traffic Flow |  Bike Boulevard |  Bioretention |

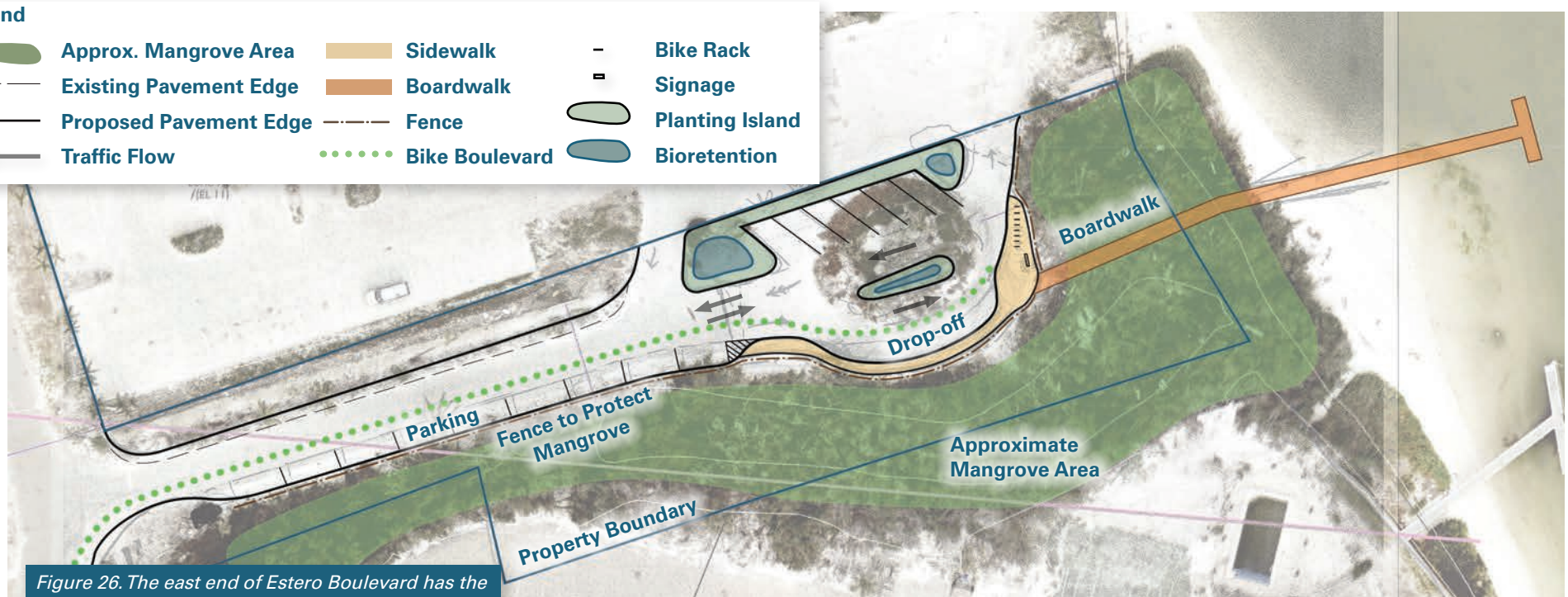


Figure 26. The east end of Estero Boulevard has the potential for a kayak launch and water taxi stop

Newton Beach Park

Challenge

Newton Beach Park was a beloved community gathering space in the center of Fort Myers Beach. During Hurricane Ian the park was leveled, losing the historic structure, gathering pavilions, and vegetation. Following the storm the park was a vital asset, acting as a staging area for sand to continue with ongoing beach renourishment and to construct an emergency berm along the beach. The berm was made with beach sand placed to a height of about six feet above the high water line to mitigate higher waters during smaller storms. However, as Fort Myers Beach starts to move past the initial recovery stages the community is ready to have their community park back.

What We Heard

As beach nourishment has been wrapping up, town staff and the town's Cultural & Environmental Learning Center Advisory Board (CELCAB) have been envisioning how the park should be recreated. Passive recreational and educational components are desired; both are required by grant conditions applied by the Florida Communities Trust when it provided major funding to acquire the property in 2003. The site also has a historic component as the residence of Jim and Ellie Newton, also known as Seven Seas cottage. The town is interested in honoring this history but does not want to recreate the historic structure that was destroyed during the storm. Additionally, many of the amenities that were previously present are desired with room for improvements. This



Figure 27. Newton Beach Park – Images of Existing Conditions taken in 2023 and 2024 following damage and cleanup from Hurricane Ian (source: Daniel Spikowski)

includes restroom facilities, ADA access to the beach, shade structures, opportunities for events and improved stormwater management.

During the Design Workshop two diagrammatic concepts were developed to help explore how spaces could be used in the park and initiate discussion. Using these two concepts, and a fresh basemap, a breakout meeting was held to discuss the park design.

Stakeholders expressed desire for the ability to hold large events, to allow for revenue generation was highlighted as an important

feature for the park. The importance of ADA accessibility to the beach is a priority, especially since Newton Beach Park was one of the few places on island someone with limited mobility could more easily get to the beach. The need for restrooms was stressed but the constraint that the entire park is within the VE Zone means any closed structure would need to be raised over elevation 15. Additionally, the group expressed interest in native plants and bringing back the small circular huts, but was not interested in re-fabricating the historic residence that was destroyed during the storm.



Figure 28. Newton Beach Park in January 2021, prior to Hurricane Ian



Figure 29. "Food for thought" concept designs developed for discussion during the Design Workshops

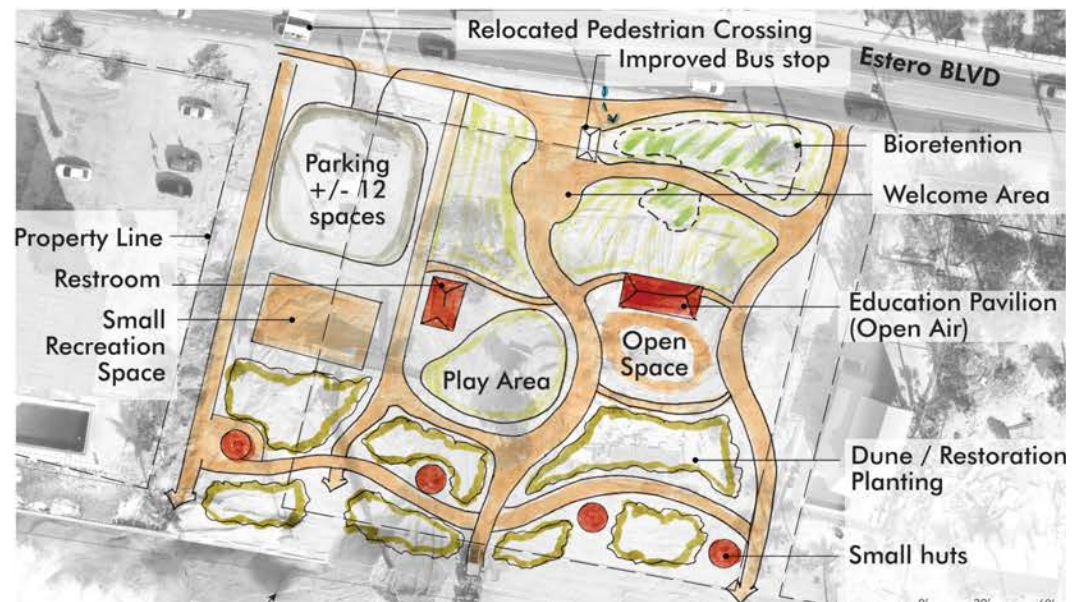
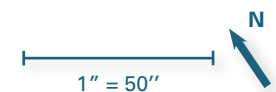




Figure 30. Newton Beach Park was destroyed by Hurricane Ian in September 2022. Depicted is the new possible park design focused on ADA accessibility, community gathering space, and regrading of the site to include stormwater amenities that will filter and infiltrate stormwater runoff on-site during more frequent, smaller storms.

Legend

- Canopy Trees
- Palm Trees
- Bioretention
- Water Flow
- Boardwalk
- ADA Accessible Boardwalk
- Pedestrian Path
- Secondary Pedestrian Path
- Parking: Special Pavement for Events
- Pavilion
- Beach Huts
- Portable ADA Compliant Restroom
- Outdoor Rinse Station
- Parking Entrance Sign
- Park Signage
- Contour Lines
- 100 Person Tent
- Parking Spaces
- Zone VE Line



Recovery & Resilience Options

This site provides a wonderful opportunity to connect the public to the beach, while providing amenities to support the enjoyment of the outdoors, make the shore more accessible to all people, and support community connections and small gatherings. Current flood maps and recent storm impacts from Hurricane Milton and Helene highlight just how prone the property is to coastal flooding coastal and how unsuitable it is for the construction of enclosed structures or buildings. The

proposed park design at this location respects these limitations and aims to limit the risk to property damage costs by maintaining open spaces, incorporating stormwater management for frequent, smaller rainfall events, and including temporary portable restroom facilities.

Implementation

Design of the park should receive additional community input and will need to be further refined. Planning level costs for the park were completed in the fall of 2024 and estimate

approximately 2 million dollars to build the design shown. This includes assumptions about what types of materials will be used and details need for construction. A contingency was also built into the cost to act as a safety factor for unknowns for this level of design. The costs will need to be updated at the design advances and if needed, a strategy for phasing can be implanted.



Figure 31. Potential future Newton Beach Park - view from entrance on Estero Boulevard towards the beach

Times Square

Challenges

Until 1996, the pedestrian plaza known as Times Square was a public street, at one time the main entrance to Fort Myers Beach. An L-shaped plaza was created by one of Lee County's community redevelopment agencies shortly after the town incorporated. Cars were prohibited; the asphalt street and parking spaces were replaced with colorful pavers, coconut trees, and an iconic clock. The town allowed adjoining businesses to use part of the public plaza for outdoor seating and to display merchandise. Along with the pier and other public facilities in adjoining Lynn Hall Park, the "new" Times Square became even more vibrant and popular, enjoyed equally by residents and visitors.

After the plaza was built, most of the commercial buildings remained in place despite their serious physical decline. The town has always allowed those buildings to be rebuilt with their same floor space but elevated, without any on-site parking required. However, most lots were so small that the space needed for stairways and elevators would erode the already small floor area. Hurricane Ian completely demolished every building facing the main pedestrian walkway in Times Square. Since then, many of the trees and the clock have been replaced, and temporary food and beverage service has been available. But there are no new buildings, even in the permitting stage; reconstruction of an enlarged pier remains many years away. An active weekly farmers market has been the main reminder of the former character of Times Square but will potentially be relocated due to further damage to Times Square from Hurricane Milton.



Figure 32. Images of Times Square prior to Hurricane Ian (top left image circa 1960).

The essential
question remains:

Can the popular appeal of
the former Times Square
be recreated at this
prime location?



Figure 33. Meeting to discuss the future of Times Square at the Design Workshop.

What We Heard

The rebirth of Times Square was the most-discussed subject during the R2P2 public meetings held at Fort Myers Beach in June 2024. Most participants would like to see Times Square recreated as the people-place it had been; however, there was very little discussion about the risks of rebuilding at this location and no consensus as to how rebuilding might be facilitated or regulated or how new buildings at Times Square might look and how much larger they might be than the previous buildings.

A group of Times Square landowners had begun preparing their own rebuilding concept not long after Ian struck. This group made an initial public presentation of their latest concept the same week as the June R2P2 public meetings.

The R2P2 planning team presented a preliminary series of six options for the future of Times Square at its first public presentation. Refined versions of those options are presented in the next section of this report.

Shortly after both presentations, the consulting team and town staff invited the Times Square landowners and other interested parties to discuss similarities and difference among the options and explore the opportunities and many obstacles that each possible scenario for Times Square's future would face.

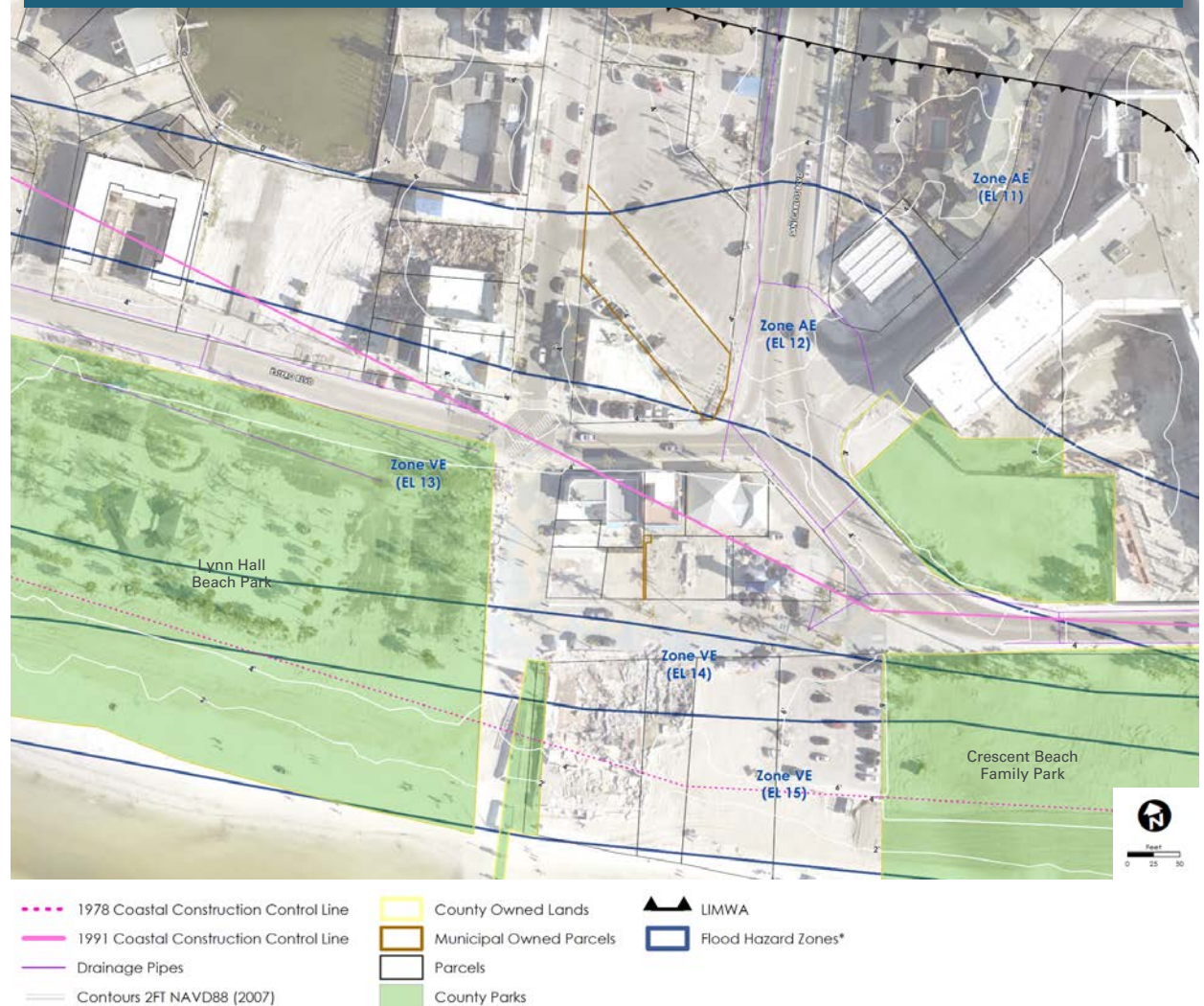
Recovery and Resilience Options: Times Square

There are many challenges to rebuilding Times Square. First, lots are small and ownership is fragmented. Before Ian, that was a benefit, allowing multiple small businesses to serve the public; now, the small lots are an impediment to rebuilding. Second, new buildings are heavily regulated. Although the town's zoning allows owners to rebuild if elevated, there are several inherent challenges, including:

- Federal floodplain regulations greatly restrict what a business can do with enclosed space at ground level under an elevated building especially when located in the highest risk flood zones.
- The high cost of redevelopment under these restrictions is even more difficult to justify in Times Square where the town does not allow the ground level to be used for parking.
- State officials have a second level of building regulations because Times Square lots are seaward of the state's 1991 coastal construction control line. This is manageable for larger-scale redevelopment, but is a hurdle of unknown magnitude to small businesses like those that had made Times Square so vibrant.

If rebuilding turns out to be impractical, either for regulatory or economic reasons, what other future could there be for Times Square? Part or all of the land could

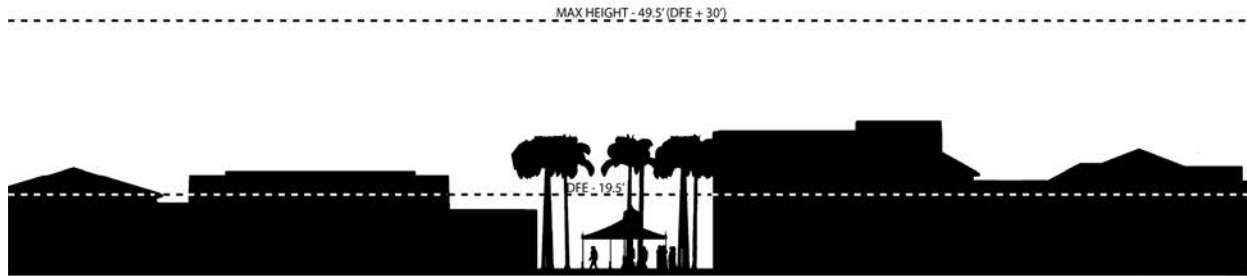
Figure 34. Base map illustrating key features of the existing conditions in Times Square, including topography, municipally-owned land, coastal construction line, and Limit of Moderate Wave Action (LiMWA).



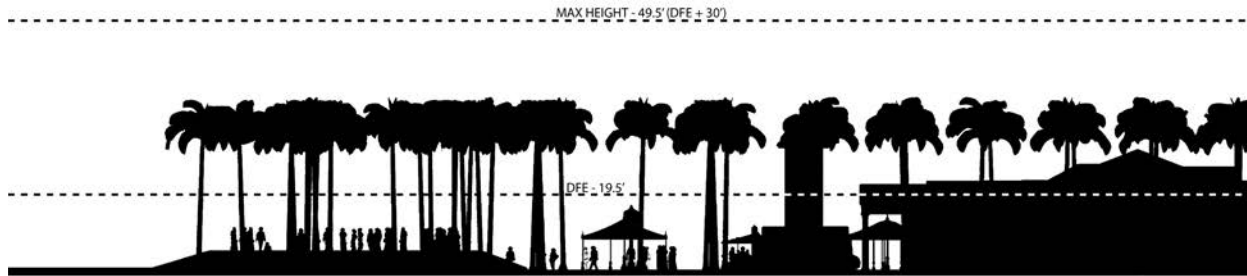
*Note: The entire map area is within 1% annual chance flood hazard. Flood Zone base flood elevations are referenced to NAVD88.

Additional Note:

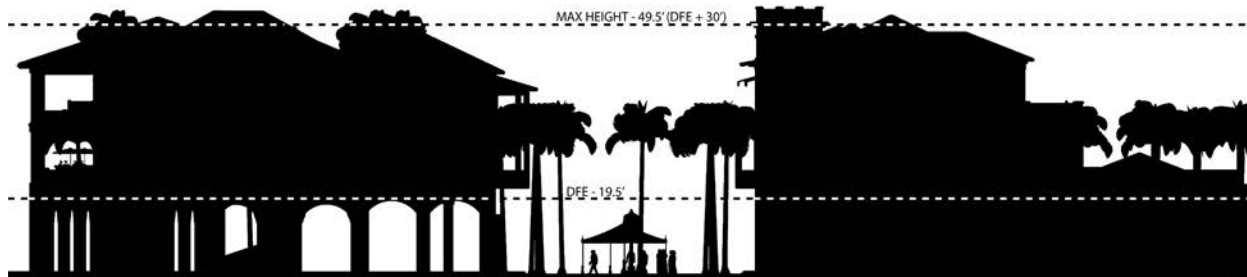
The entire map area is within the Coastal High Hazard Area as defined by the State of Florida as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. This is different than the Coastal High Hazard Area as defined by FEMA, which is the VE Zone in this area.



Before Hurricane Ian



See Option 1 (pg 34)



See Option 4 (pg 40)

Figure 35. Series of cross sectional silhouettes based on selected options presented on the following pages that help to illustrate the relative scale of the Times Square public walkway to surrounding buildings. DFE means 'design flood elevation,' which often is slightly higher than the 'base flood elevation' shown on floodplain maps.

be acquired and left unbuilt, becoming expansions to Lynn Hall Park and Crescent Beach Family Park or being restored to natural dune conditions. Or regulations could be modified slightly to allow private business uses similar to those that existed before Hurricane Ian to operate without expensive elevated buildings, for instance combining permanent shade sails like those at Bayside Veterans Park with temporary/movable kitchens and shops on private lots. These approaches are illustrated in Option 1 on the following pages.

In addition to the no-build alternative, the planning team explored a range of rebuilding options for Times Square. Options 2 and 3 show buildings on one side of the public walkway but no buildings on the other side. Option 4 shows buildings on both sides. These options are reasonably consistent with current town regulations and they maintain the key components that have been central to the character of Times Square: the existing public walkway, the clock, and easy access to the pier and both county parks. Option 5 also has buildings on both sides, but it would relocate and elevate the public walkway so it would be closer to the beach, and it would allow parking under the new buildings.

These options illustrate a wide range of futures for Times Square. Each option on the following pages includes a site plan and general 3D model to demonstrate building massing and form along with explanatory notes. The model is sufficiently realistic so the public can understand how that option might actually look, without suggesting a specific architectural character.

Option 1: Park on Beachfront; Temporary/Movable Businesses Landward

Option 1 envisions the beachfront side of the walkway being acquired for public park space. The public walkway could have shade sails like those at Bayside Veterans Park. The landward side could be activated with temporary/movable businesses and might also include some public park space. Town regulations would need to be modified slightly to allow merchants to use vehicles that can be easily moved during storm warnings but which are no longer classified by the town as “transient merchants” or “mobile vendors” and, for floodplain purposes, would not be considered “structures” like buildings or shipping containers that, by law, must be elevated.

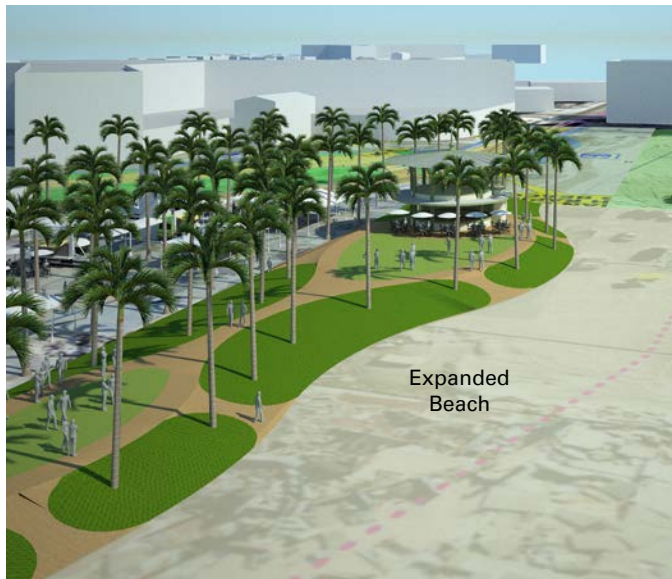


Figure 36. Option 1, Illustrative Concept (left) and Plan View (above)



A existing walkway maintained

B shade sails / temporary retail

C temporary dining/ seating

D waterfront park with natural beachfront vegetation

E access to pier

Figure 37. Option 1, Conceptual 3D Building Forms

Note: Detailed architectural design will be part of future applicant proposals

Option 2: Park on Beachfront; Buildings Landward

Option 2 also envisions the beachfront side of the walkway being acquired for public park space; but the landward side would have new buildings that meet current regulations. The historic Times Square walkway would remain. In this scenario, property owners could work together to coordinate access to upper floors (i.e., have shared stairs and elevators). Possible uses for the shaded ground level space include temporary retail and open restaurant seating. On the upper level, outdoor open space can be provided in addition to habitable indoor space; this open space could accommodate patio seating and provide scenic views of the gulf without exceeding floor area ratio (FAR) zoning requirements.



Figure 38. Option 2, Illustrative Concept (left) and Plan View (above)



Figure 39. Option 2, Conceptual 3D Building Forms

A existing walkway maintained

B shade sails / temporary retail

C temporary dining/ seating

D waterfront park with natural beachfront vegetation

E access to pier

F new buildings: 1 or 2 stories above flood elevation; coordinated stair and elevator access

G ground floor base could be used for shaded temporary retail or open restaurant seating

Option 3: Buildings on Beachfront; Park Landward

Option 3 envisions the beachfront side of the walkway having new buildings that meet current regulations; the landward side would be acquired for public park space, potentially still allowing some temporary/movable businesses. The historic Times Square walkway would remain.

Similar to Option 2, this scenario would require coordination amongst property owners to accommodate access to upper floors and plan for use of open, shaded ground floor space under the elevated structures. As illustrated in the renderings, uninterrupted coastal views from patio seating or open walkways could be a prominent feature of the seaward coordinated development.



Figure 40. Option 3, Illustrative Concept (left) and Plan View (above)



Figure 41. Option 3, Conceptual 3D Building Forms

A existing walkway maintained

B shade sails / temporary retail

C food trucks/ seating

D opportunities for new waterfront views

E access to pier

F new buildings: 1 or 2 stories above flood elevation; coordinated stair and elevator access

G ground floor base could be used for shaded temporary retail or open restaurant seating

Option 4: Buildings on Beachfront and Landward Sides

Options 4 envisions new buildings that meet current regulations on both sides of the existing walkway. The historic Times Square walkway would remain, the buildings on both sides would visually define the public space. It would be important that the ground floor level is creatively activated to retain the iconic legacy of Times Square.



Figure 42. Option 4, Illustrative Concept (left) and Plan View (above)



Figure 43. Option 4, Conceptual 3D Building Forms

A existing walkway maintained

B opportunities for new waterfront views

C access to pier

D new buildings: 1 or 2 stories above flood elevation; coordinated stair and elevator access

E ground floor base could be used for shaded temporary retail or open restaurant seating

F new buildings front both sides of walkway

Option 5: Buildings on Beachfront, Landward, and Walkway

Options 5 envisions all property owners on both sides of the walkway working together on a coordinated plan in a manner not allowed under current regulations. This could provide a large area for concealed ground floor parking, and could provide a new waterfront public space. This option would require the town to agree to a dramatic change in how pedestrian circulation has historically worked at Times Square and to agree to allow parking there.

Creatively setting some upper floor habitable areas back more than others could shape new dining areas and public spaces to create a unique sense of place for a new elevated Times Square.



Figure 44. Option 5, Illustrative Concept (left) and Plan View (above)



Figure 45. Option 5, Conceptual 3D Building Forms

A elevated public waterfront walkway replaces existing ground-level walkway

B buildings 1 to 2 stories above flood elevation; consolidated development area over existing walkway

C access to pier

D entrance to concealed parking at ground level

E ground floor base could be used for shaded temporary retail or open restaurant seating

F potential waterfront park and elevated walkway (which could be in exchange for allowing development over existing walkway)

Comparing Options

The analysis and review of design options for the redevelopment and rebuilding of Times Square is important for this very unique collection of parcels. But this area is just one of many where redevelopment projects will be seeking approval from the town in the near future. The difficult underlying question will be repeated: how much is too much? While the energy to rebuild is paramount to recovery, it is the town's duty to ensure that new buildings will comply within FEMA flood standards that dictate how high a new building must be elevated and how the space below that building can be used. On other critical questions, only the town has the authority to decide – such as how tall and large a new building can be, and how that building might affect its neighbors and the larger community.

Times Square's location in Flood Hazard Zone VE (a "velocity" zone) means that wave action and fast-moving water can cause extensive damage during storm surges, as demonstrated so vividly during Hurricane Ian. Times Square and the private lots around it are as highly susceptible to damage as anywhere at Fort Myers Beach. Parts of some lots at Times Square are seaward of the 1978 Coastal Construction Line and cannot be rebuilt at all. Lots on the landward side of that line are hardly any safer; the most resilient option is to leave as much as possible unbuilt and make it available for public use. Without funding to acquire enough sensitive land, town leaders are charged with responding as best they can to development proposals without making an already risky situation even more so.

Figure 46. Existing Conditions



Figure 47. Option 1: Park on Beachfront; Temporary/Movable Businesses Landward



SIMILAR TO HISTORIC TIMES SQUARE



RESILIENCE



PUBLIC ACCESSIBILITY



FOOD/DRINK/RETAIL DESTINATIONS



Figure 48. Option 2: Park on Beachfront; Buildings Landward



SIMILAR TO HISTORIC TIMES SQUARE



RESILIENCE



PUBLIC ACCESSIBILITY



FOOD/DRINK/RETAIL DESTINATIONS



Figure 49. Option 3: Buildings on Beachfront; Park Landward



Figure 50. Option 4: Buildings on Beachfront and Landward Sides



Figure 51. Option 5: Buildings on Beachfront, Landward, and Walkway



In the late 1990s, residents and town officials worked together to shape a Comprehensive Plan for the recently founded Town of Fort Myers Beach. While adjustments have been made over the years and others are pending, over-arching principles have remained constant: to establish clear and consistent rules governing both public and private sector development to integrate community design and livability and to avoid even further overdevelopment of a sensitive barrier island served by a single through street.

As redevelopment options are explored further by the town, individual property owners will continue to assess their own development objectives and their tolerance for risk before investing in this vulnerable area. Opportunities for building back Times Square are possible, but the costs will be high and the uncertainty is great, both for property owners and for the town at large.

Old San Carlos Boulevard

Challenge

Located immediately north of Times Square, along the base of the Matanzas Pass Bridge, Old San Carlos Boulevard has the potential to become the downtown heart of the island. The street had been the main entry for cars onto Estero Island until it was bypassed by the Sky Bridge in 1978. After incorporation, the Town of Fort Myers Beach decided to make the street a signature public space, in effect an extension of Times Square, by reconfiguring the street to provide wide sidewalks, street trees, and parallel parking. The Town also changed development regulations to allow buildings right up to the sidewalk. Twenty years later, this area has become a center of community and visitor activity. As recovery and rebuilding efforts continue, there is a unique opportunity to further improve this central street as an even more vibrant beach-to-bay connection.

What We Heard

With most buildings at Times Square destroyed, retail and commercial activity has begun shifting toward Old San Carlos Boulevard. Lively, open-air restaurants line the street and shopfronts are starting to re-open as recovery and reinvestment returns to the area. From potential infill development on vacant parcels to streetscape improvements (replace lights, street trees, street furniture, etc.), there are numerous opportunities to build back an even more complete Old San Carlos Boulevard.

Figure 52. Base map illustrating key features of the existing conditions along Old San Carlos Boulevard, including topography, municipally-owned land, coastal construction line, and Limit of Moderate Wave Action (LiMWA).



*Note: The entire map area is within 1% annual chance flood hazard. Flood Zone base flood elevations are referenced to NAVD88.

Additional Note:
The entire map area is within the Coastal High Hazard Area as defined by the State of Florida as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. This is different than the Coastal High Hazard Area as defined by FEMA, which is the VE Zone in this area.

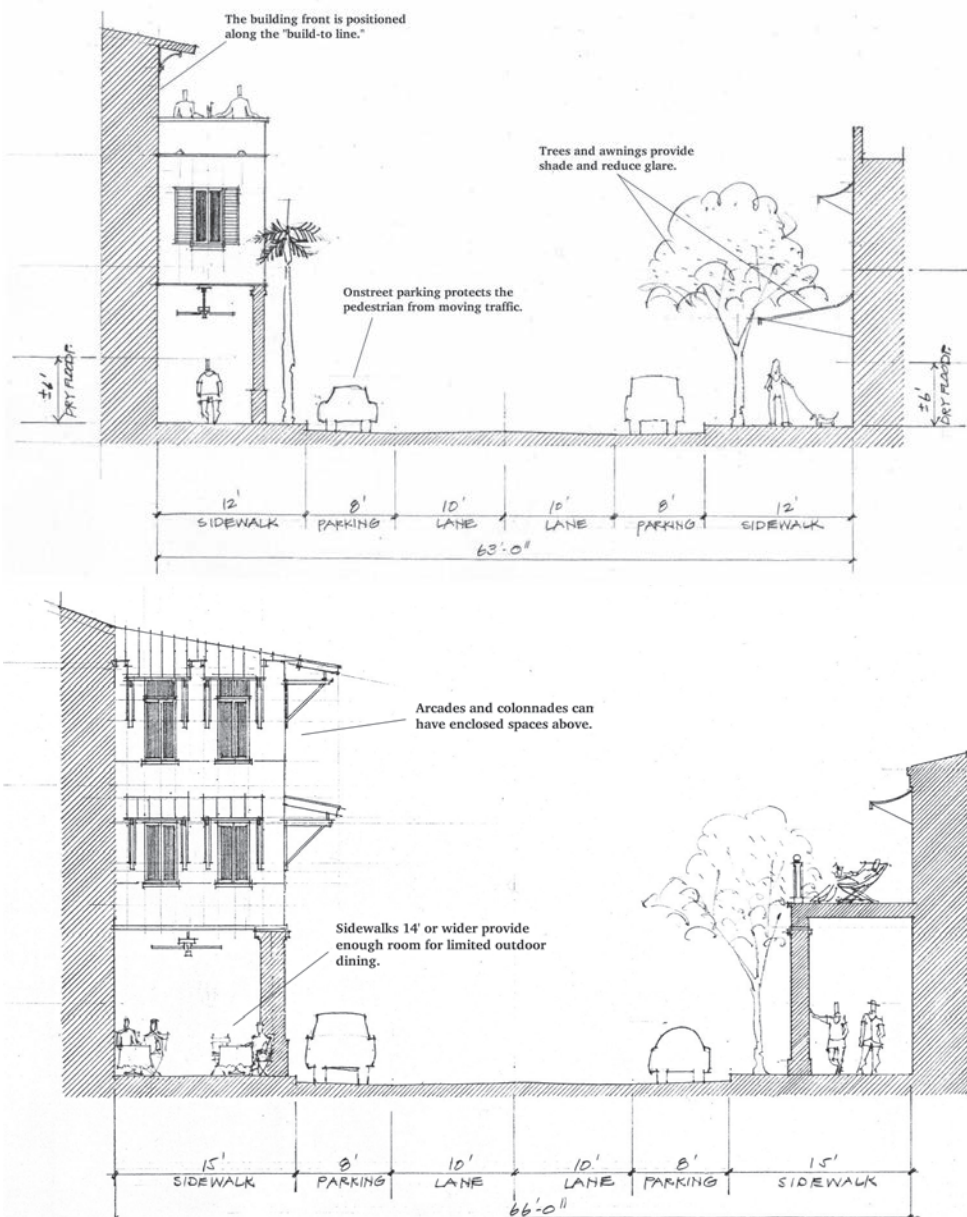


Figure 53. Design standards in the town's land development code provide for street-oriented buildings that provide shade and protect pedestrians from the elements, as shown in this diagram from the 1999 "Old San Carlos- Crescent Street Master Plan"

Bayside Veterans Park

Bayside Park was a parking lot only 25 years ago before being converted into a park by the Town of Fort Myers Beach. Extensive Bayside Park improvements were completed a few weeks before Hurricane Ian hit Fort Myers Beach on September 28, 2022. The storm destroyed much of the park, but Bayside Park was one of the first community spaces to be restored and rebuilt and then renamed Bayside Veterans Park. Located at the north end of Old San Carlos Boulevard overlooking Matanzas Pass, Bayside Veterans Park is home to weekly concerts, community events, and daily enjoyment for residents and visitors alike. The park was re-dedicated on the one-year anniversary of the storm and has become a notable public space that represents the resilient spirit of Fort Myers Beach.



Recovery and Resilience Options: Old San Carlos Boulevard

Old San Carlos Boulevard is located just outside of the most restrictive FEMA zone (VE), thus allowing expanded redevelopment options. The street and adjoining parcels are located in the FEMA AE zone; even though about 45% of the parcels are within the Limit of Moderate Wave Action (LiMWA) line, the Florida Building Code allows ground-level commercial space along Old San Carlos if that space is “dry floodproofed” (an allowance that does not apply to Times Square itself). The benefit of dry floodproofing in this area is that buildings do not have to be elevated; the ground floor of non-residential and commercial buildings can be modified to be watertight so as to protect against flood waters entering the structure, with their interiors remaining open to the sidewalk and visible to pedestrians during non-storm periods.

Land development codes and commercial design standards are already in place to define building placement and to shape the street as a signature public space. Presently, Old San Carlos Boulevard offers a pedestrian-friendly streetscape with several buildings fronting the street, wide sidewalks, crosswalks, and narrow lanes resulting in slower moving vehicles. Additional enhancements to the streetscape would help to encourage further use by residents and visitors alike. Several recommendations are depicted on the next page and could include

improved street and pedestrian lighting, improved tree canopy through shade trees, opportunities for art installations, among others.

Due to its location outside of the VE zone, town regulations had allowed for buildings to be one story taller than at Times Square (although due to recent changes to town codes, Times Square buildings are now allowed that same extra story).

By combining dry floodproofing, modest building expansions, additional streetscape enhancements, more of the original Times Square atmosphere can be recreated along Old San Carlos Boulevard.



Figure 54. Existing Conditions on Old San Carlos Boulevard at 3rd Street.



A

high-visibility crosswalk

B

improved street and pedestrian-scale lighting

C

shade canopies and cafe seating create pedestrian-friendly atmosphere

D

new street-oriented buildings

E

improved tree canopy through additional shade trees on intersecting streets

F

opportunities for local art installations and other cultural expression

Figure 55. What if? The concept sketch for Old San Carlos Boulevard at 3rd Street demonstrates the possibility of filling in vacant land with new street-oriented buildings while properly scaled streetscape improvements shape this important public space.



Appendix

Community Engagement Process

Engagement Opportunities

Community engagement was a central component of the R2P2 planning process. In Fort Myers Beach, a multi-day workshop was held in June 2024 to gather input about draft concepts for enhanced resiliency and connectivity throughout the island. The Town and planning team worked together to make the community aware of the opportunities to participate and share their ideas.

At the onset of the project, a dedicated website was created to share information (www.coastalflr2p2.com). Here, residents and other stakeholders could learn about the larger initiative, stay updated on upcoming events, and participate in an online survey to help the planning team better understand the thoughts and considerations of the community.

In-person community events included a Community Input Session and an Open Design Studio. These events, along with the online survey were promoted through printed flyers and posts on the town's website and social media platforms.

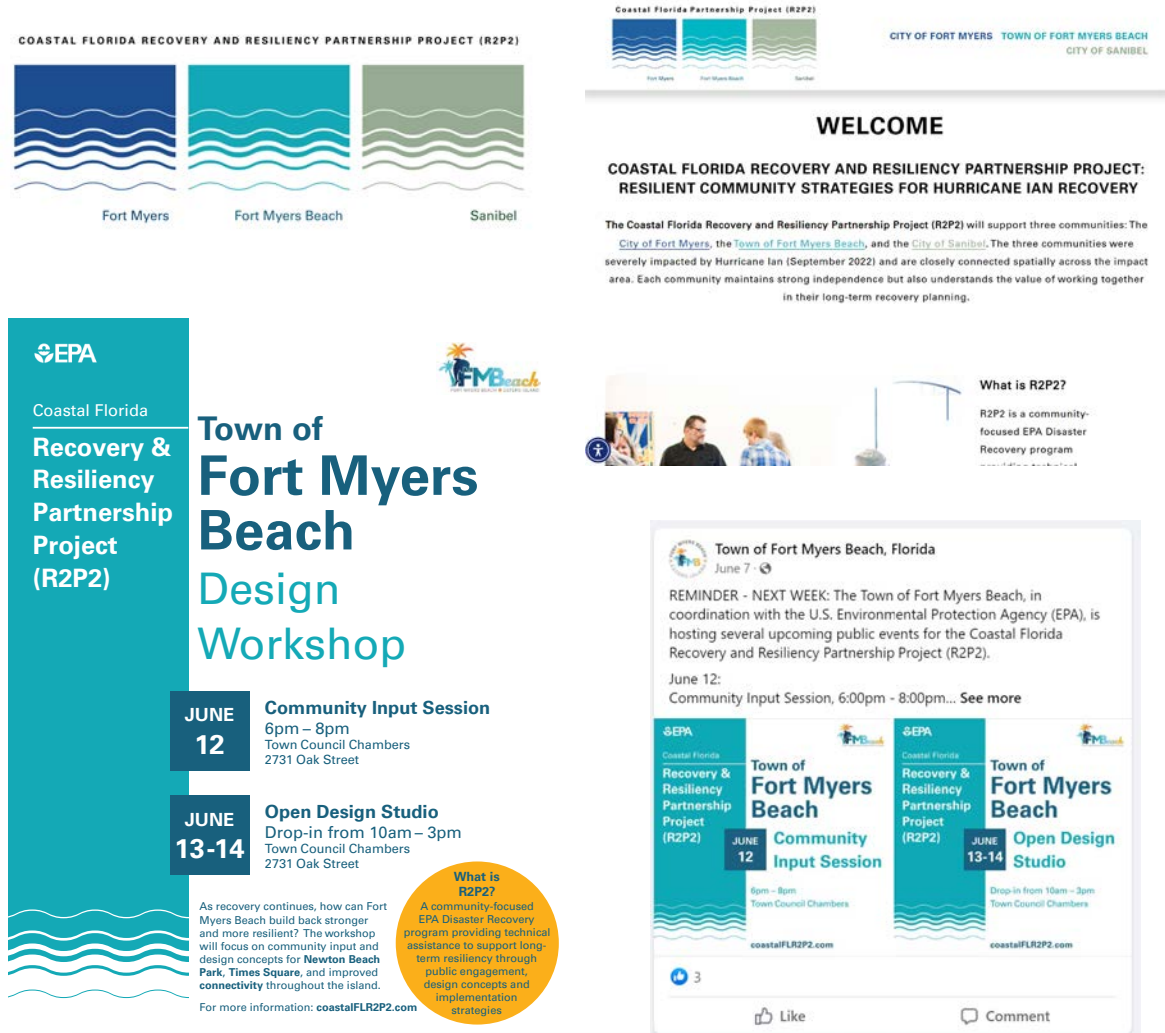


Figure 56 (Clockwise). Project logo, website, social media post example, and events flyer. A common logo was created to identify R2P2 work for the three coastal Florida municipalities, with a unique color scheme dedicated to Fort Myers Beach.

Community Input Session

The project team hosted an in-person Community Input Session on June 12, 2024. This event was live streamed and recorded by the town officials.

Held in the Town Hall Council Chambers, the event welcomed over 50 attendees for a presentation about the R2P2 technical assistance program, a summary of the island's project focus areas, and initial ideas for these areas. Following the presentation, attendees had an opportunity to ask questions and then view exhibits of initial ideas, with planning team members stationed to answer questions and take initial feedback.

This session provided information and an open forum to begin gathering feedback to assist the planning team in the conceptual design process, and ultimately shape the recommendations presented in this report.



Figure 57. Photos from the Community Input Session, including presentations by the project team and open house.

Open Design Studio

For the two days following the Community Input Session, the planning team held an Open Design Studio. Continuing to operate in the Town Hall Council Chambers, doors were open to the public for anyone to stop by and see what the team was working on, ask questions, and offer suggestions.

Additionally, the planning team coordinated and met with several stakeholder groups to gather insights from particular interest groups or special topics. Meeting topics included Newton Beach Park, Times Square, the Red Coconut site, and Town-wide Connectivity with participants including property owners, developers, business owners, Chamber of Commerce representatives, individual members of the Town Council and Local Planning Agency, and Town staff.

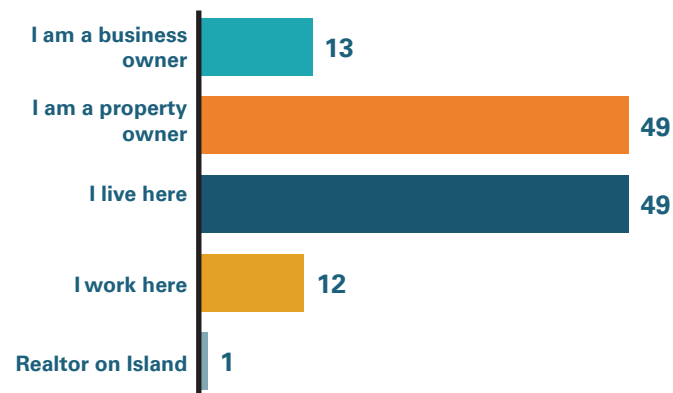


Figure 58. Photos from the Design Studio, including meetings with Town Planning staff, local property owners, and other community stakeholders

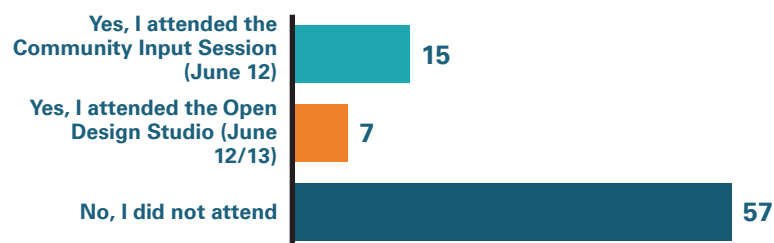
Online Survey

Following the Community Input Session, an online survey was shared with the community to further capture thoughts and feedback. Over the course of 21 days from June 12th - July 1st, a total of 75 respondents completed the survey providing a broader range of sentiments than were offered at the input session. Graphic summaries of the results of the survey are provided on the following pages, along with key takeaways.

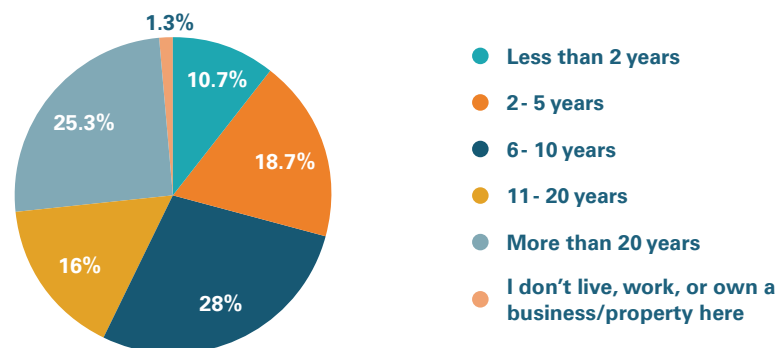
What best describes your interest in Fort Myers Beach? (check all that apply) [N = 75]



Did you attend the Design Workshop? (check all that apply) [N = 75]



If you live, work, or own a business/property here, for how long have you done so? [N = 75]

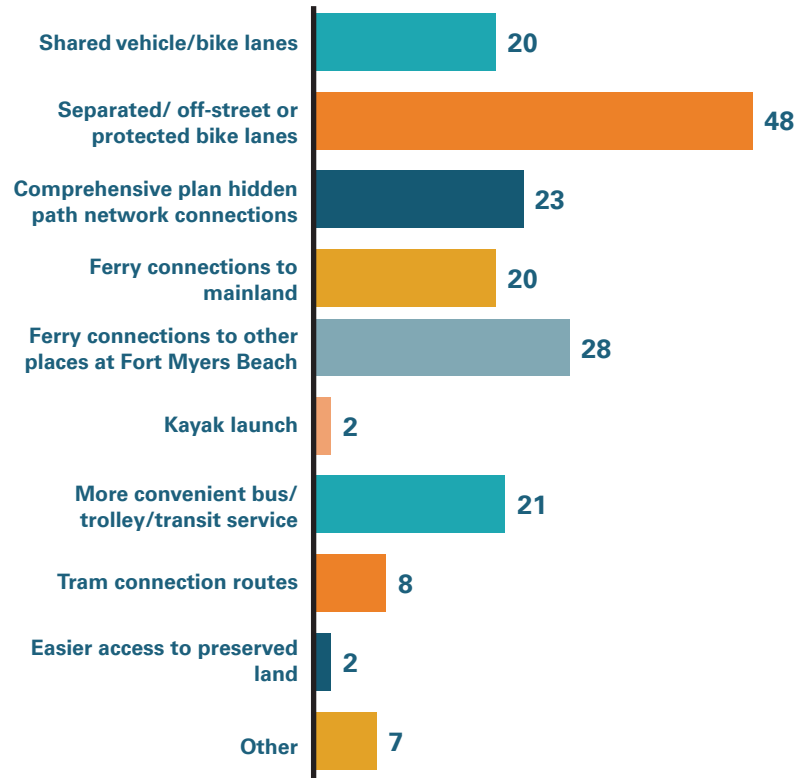


Island-wide Connectivity

There was strong support for separated/off-street or protected bike lanes (48 selections), a common consideration that was expressed during the Design Workshop as well. Other priorities included ferry connections both throughout Fort Myers Beach (28) and to the mainland (20) as well as hidden path network connections as detailed in the comprehensive plan (23) and a more convenient bus/trolley/transit service (20).

When asked about locations that are difficult to navigate and why, respondents identified biking challenges, particularly between the Red Coconut and Times Square area as well as traffic congestion as the two main issues. More specifically, biking is unsafe along Estero Boulevard where the lane is shared with vehicles but also in sections with a narrow bike lane. Traffic congestion makes travel by car very difficult for everyone, particularly reaching one end of the island from the other during peak season. Others also noted Estero Boulevard as being dangerous for pedestrians most notably at the base of the bridge but everywhere due to poor visibility at night and a shortage of walkovers or other/safer crossings.

Which connections are a top priority for you? (Pick up to 3) [N = 74]



Are there any connections missing that you suggest should be added to the map? What/where? [N = 11]

park & ride
 safer route through times square
 path from lovers key to summerlin
 bike lane along first mile of fort myers beach
 new bonita springs to fort myers beach trail
 shared path over bridge
 publix
ferry stops
 public restrooms

Are there specific locations in town that are challenging to navigate, or destinations that are challenging to get to? Tell us what is challenging about them (walking, biking, driving, taking transit or other). [N = 44]

22 MENTIONS

BIKING CHALLENGES

- Biking from Red Coconut to Times Square is dangerous due to the lack of bike lanes
- Biking north of the bend at the library and south near the Catholic Church is risky due to aggressive drivers
- The bike lane on Estero Blvd is too narrow, especially near the Red Coconut and Times Square area

17 MENTIONS

TRAFFIC CONGESTION

- It's difficult to get to the north end from the south end by car and vice-versa, especially during the season
- The light at Margaritaville and the crosswalk at Estero and Old San Carlos Rd. create significant congestion
- Public transit does not shorten the trip from south to north end as it runs with traffic

9 MENTIONS

PEDESTRIAN SAFETY & ACCESSIBILITY

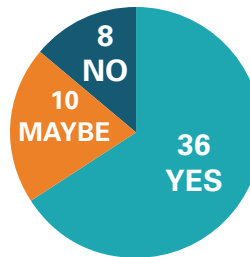
- Crossing the street at the base of the bridge to go to Cold Stone is dangerous due to poor lighting and jaywalking
- Pedestrian walkovers and safer crossings, particularly at Newton Beach and beach access points, are needed
- People often ignore the overhead walkway at Crescent Street, leading to long traffic delays

7 SUGGESTIONS

SAFETY, MOBILITY, & ACCESSIBILITY

- Create off-road bike paths between Red Coconut and Times Square
- Improve beach access to be more handicap-friendly
- Consider adding a ferry option to alleviate traffic from the south end to the north end

Would you use a ferry?
What would be the most important stops? What would make you more or less likely to use it? [N = 60]



More than half of respondents answered that they would use a ferry if one existed, with the frequency/timing of stops being the biggest factor for why they would or would not use the ferry followed by parking and access convenience. The most popular stops mentioned were the Mainland and Bayside Park/Times Square followed by Santini Plaza, marinas, as well as other restaurants, bars, and shops.

MOST MENTIONED STOPS

Mainland to Times Square/Bayside Park
Santini Plaza
Marinas | Restaurant, Bars, and Shops
Publix Area | Moss Marina
Doc Ford's Area | FishTale Marina | Mound House

MOST MENTIONED REASONS

Frequency of Stops/Timing
Access and Parking Convenience
Ability to Bring Bikes Onboard
Connections/Destinations | Cost | Special Pass or Pricing for Residents
Cleanliness

In a few short sentences, describe your vision for the return of Newton Beach Park [N = 50]

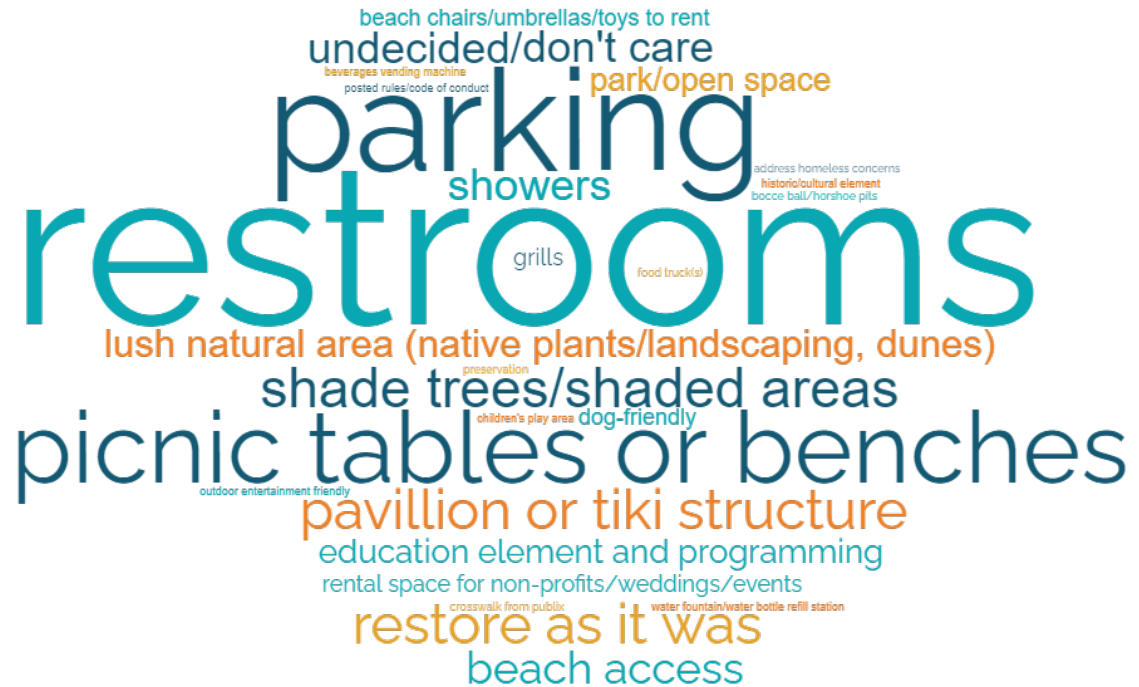
Newton Beach Park

As residents look forward to the return of Newton Beach Park, several elements were described as important to see, including public restrooms, ample parking, and picnic tables or benches. Other mentions included lush natural areas, a pavilion or tiki hut, showers, and educational space/programming. Several respondents also wished to see Newton Beach restored to its original form.

Future Rebuilding

Features that are important to respondents as part of future rebuilding and improvements included a wide variety of responses. Of the options available, most important was to “include architectural design consistent with traditional beach character” which could include shaded porches/terraces, pitched rooflines, and other pedestrian scale elements. Next was to “prioritize view of the water” followed by “ensuring buildings are designed to minimize the risk of damage from coastal flooding and storm surge.”

When asked what elements would best enhance the connection between Bayside Park and Times Square along Old San Carlos Boulevard, the top three responses included shade trees (56) followed by pedestrian lighting (46) and then benches and streetscape furniture (45).

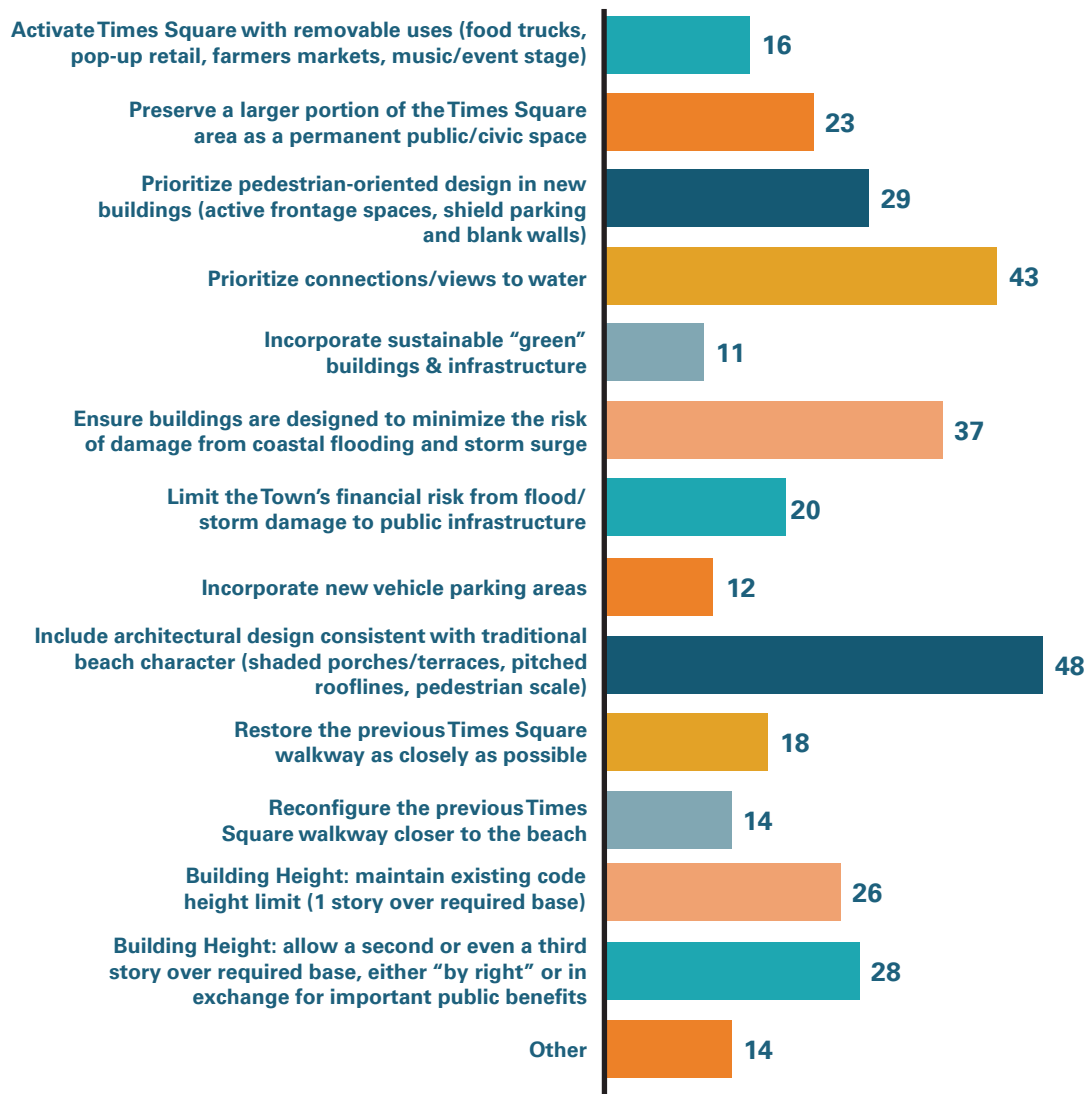


Recovery

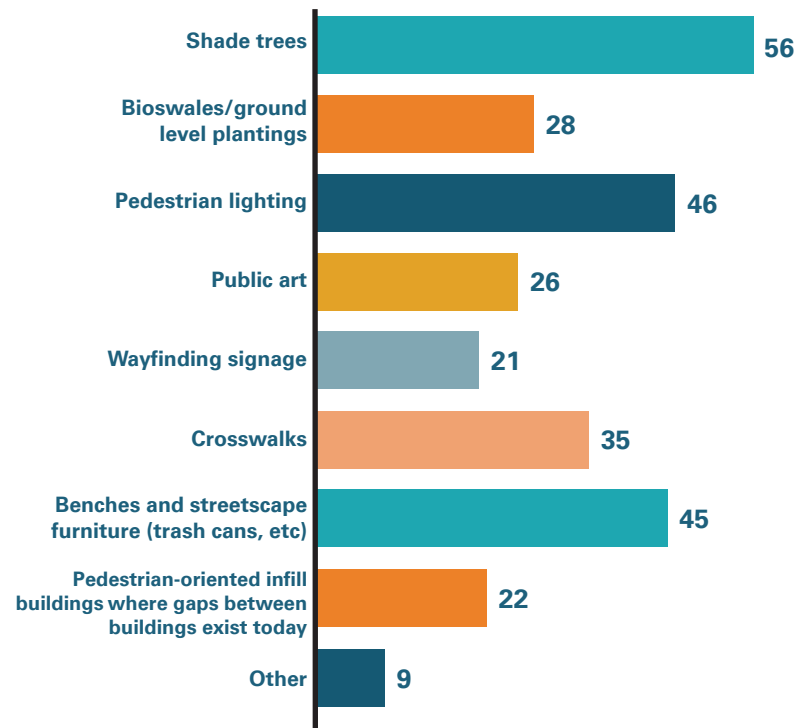
With regards to respondent concerns as recovery continues, the most noted topics included traffic and parking, speed of recovery, and over-development/density. More specifically traffic concerns involved congestion, particularly during peak season and traffic flow near Times Square. Respondents were also concerned that slow and inflexible approval processes were delaying recovery progress, which could also negatively impact the return of commercial businesses. Last, respondents saw over-development as not aligning with the historic charm of Fort Myers Beach and putting further strain on existing infrastructure.

Finally, respondents were asked what they were most looking forward to as recovery continues, which revealed a strong sense of positivity amongst the community. Most notably, respondents looked forward to the return of residents and visitors, a stronger sense of community, infrastructure upgrades, improved resiliency, a renewed Times Square, and safer conditions for cyclists and pedestrians.

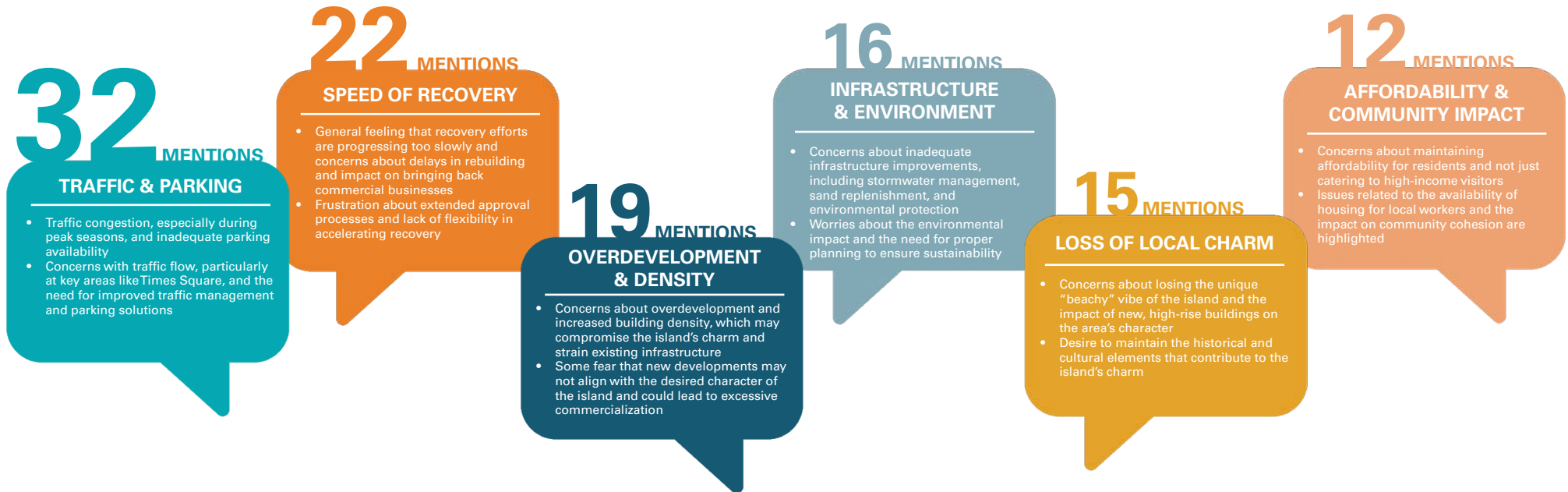
**With anticipated future rebuilding and improvements to this area,
what features are important to you? (check all that apply) [N = 75]**



**To enhance the connection between Times Square
and Bayside Park, what should be included along
Old San Carlos Boulevard and surrounding area?
(check all that apply) [N = 74]**



What concerns do you have as recovery continues? [N = 56]



What are you most looking forward to as recovery continues? [N = 52]

"A fresh, new Times Square...Final recovery of properties and businesses. FMB can become one of the most desirable areas to live and visit in SWFL...More shops and restaurants...Smart growth with infrastructure first with traffic concerns at the heart of any need development. A mixed use path must be incorporated to reduce traffic... Just moving forward. We can't get it back so let's make it better! Onward....Attracting visitors who respect the environment and will support the residents vibe...Something in the south end...Building back more resiliently so we can recover faster...more opportunity for social gatherings at Time Square and down Old San Carlos...A community with open space on beach side ...Bike paths off Estero...Improved resiliency and upgrade development...Sand and dunes to protect city...Local, specialized businesses...Residents coming back and community rebuilding for the residents...A new FMB with all of the Vibe that the LPA and Town Counsel demand!...Bringing back FMB better and stronger than ever before...A beachy vibe with enhanced construction methods to ward off/mitigate future disasters...Rebuilding the pier...Return of Santini Plaza...Not so many condos or high buildings on beach...A solution to some of our traffic problems"

Implementation Framework

Fort Myers Beach Implementation Framework	Lead	Potential Funders & Partners	Timeframe
Island-Wide Mobility and Connections			
Identify highest-priority projects (e.g. new parallel bike/pedestrian paths; improved biking facilities; new kayak launches; etc.)	Town Council	Lee County DOT; Lee County MPO; Florida DOT; "Safe Streets and Roads for All" grant from U.S. DOT	Immediate (1-2 years)
Assemble funding for highest priority projects	Town Manager	[project-dependent]	Immediate (1-2 years)
Initiate detailed design process and create construction drawings	Town Manager	[project-dependent]	Mid-Term (3-4 years)
Select contractor and authorize construction	Town Manager	[project-dependent]	Mid-Term (3-4 years)
Identify next tier of priority projects	Town Council		Mid-Term (3-4 years)
Newton Beach Park			
Locate funding to design and rebuild Newton Beach Park	Town Manager	CDBG-DR (Lee County); Tourist Development Council (Lee County)	Immediate (1-2 years)
Initiate detailed design process and create construction drawings	Culture, Parks & Recreation Dept. (Town)	CELCAB	Immediate (1-2 years)
Select contractor and authorize park construction	Culture, Parks & Recreation Dept. (Town)		Mid-Term (3-4 years)

Fort Myers Beach Implementation Framework	Lead	Potential Funders & Partners	Timeframe
Times Square			
Locate funding to restore & improve Times Square pedestrian plaza including paving, drainage, lighting, and ADA compliance	Town Manager	CDBG-DR (Lee County); Tourist Development Council (Lee County); Florida DOT	Immediate (1-2 years)
Direct preparation of Town Land Development Controls (LDC) amendments that would allow temporary/movable businesses on private lots at Times Square	Town Council	[none]	Immediate (1-2 years)
Draft LDC amendments for temporary/movable businesses and advertise LPA and Town Council public hearings	Community Development (Town)	Chamber of Commerce	Immediate (1-2 years)
Seek funding for flood mitigation buyouts (willing sellers only)	Town Manager	FEMA hazard mitigation grant; FEMA BRIC grant (Building Resilient Infrastructure and Communities); FEMA flood mitigation assistance grant; Trust for Public Lands; Chamber of Commerce	Immediate (1-2 years) Mid-Term (3-4 years)
If future development is pursued at Times Square, encourage communication between property owners, the Town and the community to create an open dialogue and understanding about existing Town development standards, sustainability goals and best practices, desired form and scale, and public space / public access	Town Manager	Property Owners	Immediate (1-2 years) / Ongoing
Prioritize sustainability, walkability, and public space / accessibility when evaluating future development proposals; the options illustrated in this report can be used to inform potentially desired design features and considerations	Community Development Town Council	[none]	Immediate (1-2 years) / Ongoing

Fort Myers Beach Implementation Framework	Lead	Potential Funders & Partners	Timeframe
Old San Carlos Boulevard			
Locate funding to replace lighting along Old San Carlos	Town Manager	CDBG-DR (Lee County)	Immediate (1-2 years)
Select vendor and authorize installation of new lighting	Town Manager	CDBG-DR (Lee County)	Immediate (1-2 years)
Increase shade by exploring opportunities to include shade trees along Old San Carlos and extend public improvements to intersecting streets	Public Works (Town), Community Development	CDBG-DR (Lee County); Chamber of Commerce	Immediate (1-2 years)
Incorporate public art that reflects the Town's beach character as part of streetscape improvements; ideas include murals at street crosswalks / intersections, or creatively-designed street furnishings.	Public Works (Town)	CDBG-DR (Lee County); Chamber of Commerce	Immediate (1-2 years)

**For questions or comments,
please contact:**



William A. Drew Parker, CFM, GISP

Region 4 Disaster Mitigation and Recovery Coordinator
Land, Chemicals, and Redevelopment Division
U.S. Region 4 | 61 Forsyth St SW | Atlanta, GA 30303
parker.william@epa.gov
404.562.9778

COASTAL FLORIDA RECOVERY AND RESILIENCY PARTNERSHIP PROJECT (R2P2)



1. **Request:**

Meeting Date: December 11, 2024

Leasing of Town right-of-way for private use

Why the action is necessary:

Staff needs direction on how to proceed with requests for leasing Town ROW.

What the action accomplishes:

If Town Council is amenable to the leasing of Town-owned property, staff will bring forward a Resolution at a future meeting.

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Other / Resolution

5. **Background:**

Staff have received a few inquiries into the ability for private commercial-use property owners to lease Town-owned right-of-way for private use. Direction from the Town Council is necessary to determine a process for these requests to proceed. An example of this is prior to Hurricane Ian the Town approved the leasing of parking spaces along Ohio Avenue. The adjacent property owner had a long-standing agreement, first with Lee County and then with the Town of Fort Myers Beach, to use space within the Town-owned right-of-way for parking. (See Exhibit A) The current property owner is seeking to continue leasing the parking spaces. A new agreement would be necessary to continue the arrangement. Staff needs direction on whether the Town Council would agree to lease Town spaces to a private property owner for private use. If such an agreement is possible, what cost (if any) should be applied? Additionally, are there other conditions to such an agreement (e.g. time period, use, liability insurance) that the Town Council would prefer?

Attachments:

1. Leasing of Town ROW memo 12.5.24
2. Exhibit A: Past Parking Agreement with 1901 Estero Blvd.

Financial Impact:

Resolution 18-20 has established a Right of Way (ROW) fee for parking spaces of \$100/space for the first calendar year, and \$50/space for subsequent years if a complete application and payment is submitted to the Town no later than November 30th for each subsequent year. This fee was reaffirmed via Resolution 24-186 as part of the Fee Schedule that was approved on September 23, 2024 as part of the budget approval process. The fee may be amended at the will of the Town Council.

6. **Alternative Action**

Provide direction to staff

7. **Staff Recommendations:**

8. **Recommended Approval:**

Date: November 22, 2024

Frankie Kropacek, Operations & Compliance Director

Date: November 24, 2024

nancy stuparich, Town Attorney

Date: November 26, 2024

Amy Baker, Town Clerk

Date: November 27, 2024

Joe Onzick, Finance Director

Date: November 27, 2024

Andy Hyatt, Town Manager



**Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT**

To: Town Council
From: Jason Smalley and Judith Frankel, Community Development
Date: December 5th, 2024
Re: Leasing of Town ROW

BACKGROUND

Staff has been approached several times by different private property owners regarding the ability to use Town-owned right-of-way (ROW) space. Exhibit A shows a historic example of a ROW agreement between the Town and the commercial development at 1901 Estero Blvd. The ROW along Ohio Avenue had been used for vehicle and bicycle storage by the abutting property. The current property owner is seeking to redevelop the property, but their proposal is dependent on the use of the Ohio Ave ROW for parking. Staff wanted to bring the question of ROW leasing to the Council before allowing the project proposal to proceed. If the Town Council does not desire to lease Town ROW the project proposal would need to be reconsidered to accommodate on-site parking.

DISCUSSION POINTS

The below topics should be considered in providing direction to staff:

- Will the Town Council permit the leasing of Town ROW for private use? Are the circumstances limited?
- What rate/cost is appropriate? If the ROW is to be used for private parking is there a rate per parking space?
 - Town Council could consider the income generated by Town-operated parking in determining the value of a parking space.
- What is the length of time for such an agreement? Should payment be made annually?
 - If the applicant is relying on ROW lease to provide required parking a long-term lease would be most appropriate.
- Should the use of Town ROW be restricted to parking or are there other potential uses?
- Will Liability Insurance be required?
- Will there be other requirements for lease agreement?

Town of Fort Myers Beach
2525 Estero Boulevard
Fort Myers Beach, FL 33931
(239) 765-0202
www.fmbgov.com



Invoice

DATE	INVOICE #
1/10/2022	1005

Billing Address
YEAA LLC
14511 Stirling Rd.
Southwest Ranches, FL: 33330

Service Address
Ohio
Fort Myers Beach, FL 33931

Charge Date	Charge Code	Description	Quantity	Unit Price	Amount	Sales Tax
1/10/2022	ROW-FY2022	4 ROW Parking Spaces FY2022 - Ohio	9.00	100.00 -	\$900.00	X

Town of Fort Myers Beach - Permits

#02-855 5/24/22, 10:44 AM
Sale Served by fmbfrontdesk
Transaction #1789550205242211861

1 x Town ROW Other 424.00

Subtotal 424.00

Total 424.00

VISA 4015 424.00

Name YAHAW/ODED

Approval Code 02683G

Amount 424.00

Total Charged 424.00

I agree to pay the above total amount
according to the card issuer agreement.

Signature _____

2525 Estero Blvd
Fort Myers Beach, FL 33931
United States
239-765-0202
fmbpermits@fmbgov.com

www.fmbgov.com

COPY

fun rentals

Sales Tax: \$54.00
Total: \$954.00



Private Use of Right-of-Way Permit Application (Private Use of Public Streets, Parking in Public Right-of-Way)

Must Be Existing Location As Of December 31, 1995 (Town Incorporation Date)

Upon approval, a separate Agreement may be required between the Applicant and the Town. All permits must conform to that as set forth in Resolution 18-20 (attached). It is the obligation of the permit holder to renew by November 30th for the next calendar year. Failure to do so will revert new payment back to \$100.00 per space.

Business Name: yeaa Contact Person: oded yahav
Business Address: 1901 estero Blvd fort myers beach 33931
Mailing Address: 14511 Stirling Road Southwest Bonches 33330
Email Address: endocentbeachwear@gmail.com Telephone Number: 305-684 6845
Strap #: _____

SUBMITTAL REQUIREMENTS

Survey or Drawing of Property

Dimensions

Proof of Liability Insurance With Town as Additionally Insured

Hold Harmless Agreement

Proof of Same Business Prior to Town Incorporation

Applicant Signature (owner/authorized agent)

oded yahav
Typed or printed name

5/16/22
Date

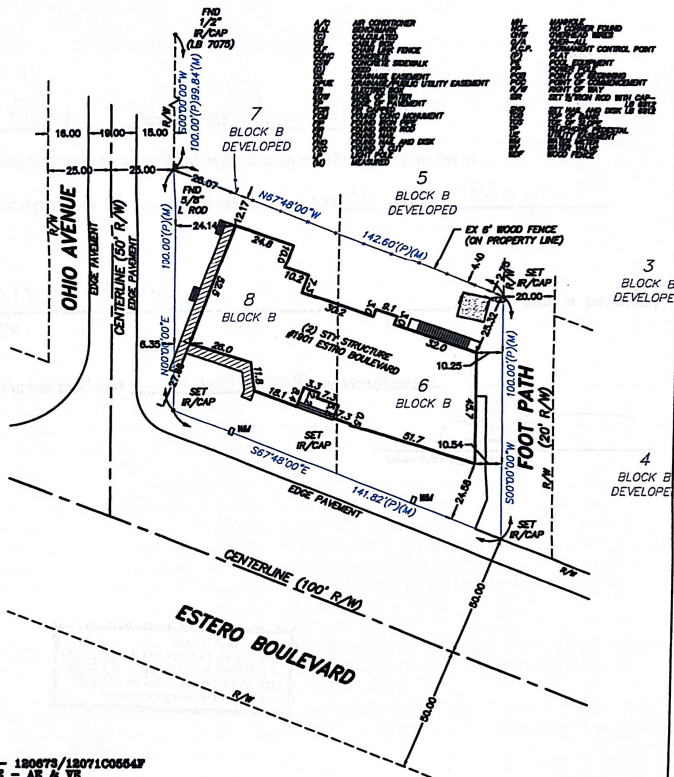
OFFICE USE ONLY

PERMIT NUMBER _____ VALID CALENDAR YEAR _____
APPROVED BY COMMUNITY DEVELOPMENT DIRECTOR _____ DATE _____
APPLICANT FEE PAID: YES NO AMOUNT PAID _____
PAID BY: CASH CREDIT CARD CHECK (CHECK NUMBER _____) NUMBER OF SPACES _____

**BOUNDARY AND LOCATION SURVEY OF
1901 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA, 33931**

LEGAL DESCRIPTION:

Lots 6 and 8, Block B, Gulf-Bay-Vista, according to the plat thereof as recorded in Plat Book 8, Page 68, Public Records of Lee County, Florida.



FEMA MAP - 180673/12071C0564F
FLOOD ZONE - AE & VE
RAISE ELEV. 15' & 14' HAYD88'

☒ SURVEYED ☒ RECONSTRUCTED ☒ RECONSTRUCTED

(C) 2020 BASIS OF BEARINGS IS R/W LINE (USING PLAT BEARING OR ASSUMED) UNLESS NOTED OTHERWISE.
FLORIDA ADMINISTRATIVE CODE STATES IF LOCATION OF EASEMENTS OR RIGHTS OF WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR - IF FENCES ARE SHOWN, DISTANCES INDICATE APPROXIMATE DISTANCE ON OR OFF PROPERTY - OVERHANGS AND UNDERGROUND FOUNDATIONS OR UTILITIES HAVE NOT BEEN LOCATED AS PART OF THIS SURVEY.
(T) UNLESS STATED OTHERWISE THIS SURVEY IS AN AS-BUILT SURVEY SHOWING VISIBLE IMPROVEMENTS IN RELATION TO SURVEY MARKERS FOUND

**AFFORDABLE
SURVEYS
727-415-8306**

OWNED BY KNOW IT NOW, INC.
2011 HENDERSON AVENUE
DUNEDIN, FL 34608 TFL

CERTIFIED EXCLUSIVELY TO:
ODED YAHAV

I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND CORRECT
USING FIELD SURVEY PREPARED UNDER MY DIRECTION AND IS
NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE
AND SEAL, OR A HANDWRITTEN SEAL AND SIGNATURE.
DATE OF FIELD SURVEY 07/19/2020
BILL HYATT
Surveyor & Engineer License #3331
LE 9012

ILLUMINATED
20000.00
14000.00

FLORIDASURVEYORS.COM



Oded Yanav

Typed or printed name of Property Owner

STATE OF Florida COUNTY OF Broward

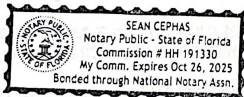
The foregoing Instrument was certified and subscribed before me by means of

☒ physical presence OR ☐ online notarization, this 16 day of May
2022

by Oded Yanav who is personally known to me

OR ☐ who has produced Drivers license as identification.

Notary Public Signature





HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

4000 (Applicant) assumes all risks in the operation and maintenance of the permitted area during the term of the permitted use. Applicant is solely and accepts that it is solely responsible and answerable for any and all accidents or injuries to persons or property arising out of or caused pursuant to Applicant's use of the permitted area. Applicant agrees to maintain the permitted area in good repair and in a neat and clean condition. Applicant agrees to follow all state, federal and local laws and ordinances relating to the use of the permitted area during the term of the permit.

4000 (Applicant) agrees to defend, indemnify and forever hold the Town of Fort Myers Beach, Florida, its officers, agents, officials and or employees from all claims, for any loss, damage or injury of any kind or character whatsoever without limitation, including reasonable attorney's fees, sustained by any person or property whatsoever kind and or nature, whether direct or indirect, as a result and in relation with the use of the permitted area; including, but not limited to, the defense of any claim and any and all costs in any judicial or quasi-judicial proceedings and for any and all damages or penalties of any kind or nature.

4000 (Applicant) agrees to vacate the permitted area after reasonable notice to allow the Town or any Town-authorized contractor to make repairs within the permitted area; or, utilities located within the permitted area. Applicant agrees to hold the Town harmless for any disruption, loss or termination of business during the repair period.

4000 (Applicant) agrees that it has obtained any required insurance and has listed the Town of Fort Myers Beach, Florida as an additional insured on said policy and that a certificate of endorsement has been made a part of said insurance policy. A copy of the Certificate of Insurance will be given to Town upon the Town's request. The Town intends that said insurance shall provide a source, in addition to the Applicant, from which the Town may seek payment of the Applicant's liability for both its own negligence, as well as actual or alleged negligence of the Town and or the cost to the Town of defending any such claims.

APPLICANT ACKNOWLEDGES THAT THIS HOLD HARMLESS AND INDEMNIFICATION AGREEMENT HAS BEEN READ AND IS UNDERSTOOD FOR ITS CONTENTS AND SIGNING THIS DOCUMENT IS A FREE ACT.

Applicant agrees that this Agreement is intended to be as broad and inclusive as permitted by the laws of Florida and that if any portion thereof is held invalid, it is agreed that the balance with continue, notwithstanding, in full force and effect.

I, [Signature] (Property Owner), hereby certify that

[Signature] is my authorized agent/representative of the property described herein. All answers to the questions in this registration and any supplementary information attached to and made part of this registration is honest and true.

Signature of Property Owner



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/12/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER FLINSCO 2950 W Cypress Creek Rd #200 Fort Lauderdale FL 33309	CONTACT NAME: Laura Cintron PHONE: (A/C No. Ext): 754-210-4456 FAX (A/C No.): E-MAIL: ADDRESS: laura@flinSCO.com PRODUCER CUSTOMER ID #:
INSURED YEAA LLC 151 N. Nob Hill Rd suite 455 Fort Lauderdale FL 33324	INSURER(S) AFFORDING COVERAGE INSURER A : Northfield Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSUR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC	☒ ☐	WS475369	08/10/2021	08/10/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	☐ ☐				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DEDUCTIBLE \$ RETENTION \$	☐ ☐				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	Y/N ☐ N/A ☐				WC STATUTORY LIMITS ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Total annual premium is \$100.00

Insured location : 1901 Estero Blvd , Fort Myers FL 33931

CERTIFICATE HOLDER

CANCELLATION

FMB TOWN HALL
 2525 ESTERO BOULEVARD
 FORT MYERS BEACH , FL 33931

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Laura Cintron

1. **Request:**

Meeting Date: December 11, 2024

A review of the Town Code of Ethics policy

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Excerpt Employee Manual - Code of Ethics
2. Excerpt Council PnP
3. Statutes & Constitution _View Statutes _ Online Sunshine 112.311 F.S.
4. Code of Ordinances - Sec. 4-01
5. Code of Ordinances - Sec. 2-488

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

nancy stuparich, Town Attorney

Date: December 03, 2024

Amy Baker, Town Clerk

Date: December 05, 2024

Andy Hyatt, Town Manager

Date: December 05, 2024

VIII. RESPONSIBILITIES OF PUBLIC SERVICE

Public Purpose

Public employees are employed for the benefit of the public. They are bound to uphold the Constitution of the United States, the Constitution of the State of Florida, Federal and State laws, as well as the rules and regulations of the Town to foster respect for all levels of government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that their public and private affairs should be above reproach.

All employees owe a duty of loyalty to the Town and all programs developed to attain the policies and objectives of the Town Council and the Town Manager. Employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

Employees shall not exceed their authority or breach any law or duty, or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law or by the officially recognized confidentiality of their work.

Code of Ethics

Town employees are expected to maintain high standards of conduct and to conduct themselves in a manner that positively reflects on them, their co-workers, supervisors, administrators, elected officials, and the Town's reputation. Employee conduct should be always considered during working hours; whenever serving on official Town business; in any capacity as a representative of the Town; or when speaking on behalf of the Town as an authorized or appointed Town representative. Employees are expected to use good judgment and integrity keeping in mind the expectations that the public has of its employees.

Town employees shall follow the standards outlined by the Florida Commission on Ethics and Sec. 112.313, Fla. Stat., (outlined below) which were established in the interest of providing the highest levels of professional service to the public and the communities served by public employees. Employees violating the Code of Conduct/Ethics may be subject to disciplinary action, up to and including discharge.

The standards include that:

1. No Town employee shall disclose confidential information gained by reason of their official position, nor shall they otherwise use such information for their personal gain or benefit.
2. No Town employee shall have personal investments in any enterprise, which will create substantial conflict between his/her private interest and the public interest.
3. No Town employee shall purchase any County Tax Certificate or Tax Deed. (The intent of this rule is to avoid any appearance of a conflict of interest on the part of either the Town or the employee.)
4. Nothing in this section shall prohibit voluntary donations or the exchange of gifts of nominal commercial value between or amongst Town employees or public officials on special occasions or established holidays. A special occasion, as contemplated in this

section, includes those times when it has been regarded as customary to give a gift, such as a birthday, a wedding, the birth of a child or a grandchild, adoption, a graduation, a promotion, permanent departure from the workplace or community, hospitalization, the loss of a loved one, retirement, or similar occurrences.

5. No employee shall accept, or agree to accept, either directly or indirectly, any favor, gift, loan, fee, service, or other item of value, in any form whatsoever, from any organization or individual, if the employee knows or reasonably should know that it is intended to reward or influence the employee in the performance or nonperformance of his or her appointed duties. Violation(s) of this standard shall be considered a very serious breach of the Code of Ethics/Standards of Conduct and it is presumed that the appropriate discipline for violation(s) of this standard shall be discharge, absent compelling mitigating circumstances.
6. Nor does this section prohibit Town employees from participating in fund-raising activities for charitable purposes or the receipt of unsolicited advertising or promotional materials, of nominal commercial value, from an individual or entity that is not currently in a contractual relationship nor likely to be in a contractual relationship with the Town.
7. Nominal commercial value means anything with a value of less than \$50.00 in the marketplace.
8. No Town employee shall serve as a member of the Town Council's Advisory Boards or Committees, to reduce any potential perception of conflict of interest by the public.
9. Employees may not serve in a decision-making capacity for any entity that received funding (either directly or indirectly) from the Town Council, including grant funding. Prior to an entity making a request for funding from the Town Council, any employee serving the requesting agency in a decision-making capacity must resign from that position. Town Council, may with good cause shown, waive this restriction upon a super majority vote.

Fraud, Waste, Abuse and Whistleblower Protection

The Town has established internal controls that will provide for the detection, prevention, and a system for reporting fraud, waste, and abuse.

Definitions:

- **FRAUD** - refers to any dishonest or fraudulent act that includes, but is not limited to, forgery or alteration of any documents; misappropriation of funds, supplies, etc.; improper handling or reporting of money or financial transactions; profiting by self or others as a result of inside knowledge, destruction or intentional disappearance of records or property; accepting or seeking anything of material value from vendors or persons providing services or materials to the Town for personal benefit; and/or any similar or related irregularity.
- **WASTE** - refers to the unnecessary incurring of costs because of inefficient practices, systems, or controls.
- **ABUSE** - refers to violations and evasion of departmental regulations that weakens the effectiveness and efficiency of operations.

Employee Responsibilities:

It is the policy of the Town that "employees shall demonstrate and be dedicated to high ideals of honor and integrity so as to merit the respect, trust and confidence of the Town's citizens, county

EXHIBIT “A”

7. Avoid the use of abusive, threatening, or intimidating language or gestures directed at colleagues, residents, or staff.
8. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest.
9. Respect all local, state, and federal laws, rules, and other regulations.
10. Electronically submit completed financial disclosure forms via the Florida Commission on Ethics website by the specified deadline.
11. Publicly acknowledge the adopted position when asked about a decision of Town Council.
12. Read the Town Comprehensive Plan and follow its directives in all decision-making processes for the Town.
13. Follow the procedural and substantive requirements of the LDC.

Code of Ethics:

Members should ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the residents served by the Town Council and by promoting public confidence in the integrity, independence, ability and impartiality of Town Council.

1. Members shall not convey the impression that they can influence the outcome of a decision of Town Council and shall not attempt to use their office to direct or influence staff recommendations, the Town Manager or Town Attorney without the concurrence of the Town Council.
2. Members shall discharge their duties and responsibilities without favor, bias or prejudice toward any person or group. Members should not allow personal or business relationships to impact upon their conduct or decisions in connection with Town Council business and shall not lend their influence towards the advancement of personal interests, towards the advancement of the interests of friends or business associates or other conflict of interest situations.
3. Members shall avoid creating the appearance of impropriety by refraining from engaging in private discussions with an applicant – or their representatives about specific upcoming Town Council quasi-judicial agenda items unless the ex parte communication is disclosed as required. If a member receives a private written, telephonic or electronic communication about an agenda item, the member will promptly forward the information to the Town Manager and the Town Clerk, or to the member’s Town e-mail account so that it may be shared with all other members and filed with the Town official records to comply with the Public Records Law requirement. Any private written, telephonic, or electronic communication about an agenda item, must be submitted to the Town Clerk prior to the commencement of the Town Council meeting at which the agenda item is discussed or it cannot be mentioned or read by any member unless otherwise allowed by majority vote of the Town Council.

EXHIBIT “A”

4. No member shall communicate, receive, send, or solicit any private written, telephonic, or electronic communication during a Town Council meeting if disruptive to the orderly conduct of the meeting, unless it pertains to an emergency situation (example: audio or video feed of Council meeting not working properly).
5. Members shall refrain from any private discussion of Town Council business, or matters that could come before the Town Council, with other members per the requirements of Florida’s Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
6. Consistent with Florida law, Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during Town Council proceedings. Florida law prohibits the spouse or minor child of that member from soliciting or accepting these as well, and the Member shall be vigilant in ensuring compliance from those family members. Members should contact the Town Attorney or the Florida Commission on Ethics if they have any questions about compliance with Florida law as to gifts.
7. A member whose personal employment or business relationship with a person or entity that is subject to a recommendation of Town Council shall seek the advice and counsel of the Town Attorney, if such relationship could conceivably influence the members’ impartiality during Town Council discussion of the subject. The provisions of Chapter 112, Florida Statutes and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determinations.
8. Members shall remain vigilant against deviations from Town Council policies and procedures.

As a legislative and quasi-judicial body, Town Council must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, the Town Charter, Town code and LDC, and apply to legislative and quasi-judicial actions. The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be unreasonable, arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, the Town Code and LDC that provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

EXHIBIT “A”

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others. Key overarching principles to keep in mind are that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the Town Council provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

Assignment of a Town Council Representative:

Town Council may choose to assign a member to lead a project or assess an issue. The Town Council Representative, or often called a “Point Person” may be assigned to do fact-finding and/or research, recommend a course of action and report back to Town Council for direction. Final decisions are made by a majority of Town Council.

Sunshine Issues:

Members of Town Council and all Town advisory committees, boards and agencies are subject to the Sunshine Law (F.S. 286.011). This means that any gathering of, or communication between, two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action taken by communication through a spouse or other go-between.

Town Council members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or civic groups regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met. These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor’s backyard barbeque. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

The 2024 Florida Statutes

[Title X](#)
PUBLIC OFFICERS, EMPLOYEES, AND
RECORDS

[Chapter 112](#)
PUBLIC OFFICERS AND EMPLOYEES: GENERAL
PROVISIONS

[View Entire
Chapter](#)

112.311 Legislative intent and declaration of policy.—

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(2) It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.

(3) It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and past or pending legislative and executive actions at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

(4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

(5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

(6) It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.

History.—s. 1, ch. 67-469; s. 1, ch. 69-335; s. 1, ch. 74-177; s. 2, ch. 75-208; s. 698, ch. 95-147.

- (a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large.
- (b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.
- (c) Each member of the council shall be a resident of the town and a registered voter and shall have resided within the corporate limits of the municipality for a minimum of 1 year prior to qualifying for election.
- (d) The council are elected officials who are accountable to the citizens at regularly held elections and who are subject to recall as provided by law. The citizens, through these processes, have the opportunity to elect, reelect, or dismiss their elected officials whose promise of performance or actual performance in office best reflects the policies which the citizens desire to implement in the government of the town.
- (e) Policy making is the sole prerogative of the elected council. Administrative staff, whether hired or appointed under terms of this charter, is subordinate to the elected officials, whose power derives from the consent of, and election by, the citizens of the town.
- (f) Except as otherwise prescribed herein or provided by law, legislative and police powers of the town shall be vested in the council, including the establishment of boards, commissions, and committees. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the municipality by law.

(Ord. No. 07-06, § 2, 9-10-2007; Res. No. 16-13, § 3(Exh. A), 4-4-2016)

All town officials and employees shall adhere to the code of ethics for public officers and employees, adopted by the Florida Legislature as F.S. ch. 112, pt. III, as amended from time to time ("ethics code"). In the event of a conflict between any term, condition or requirement in this section and the ethics code, the ethics code shall be followed.

- (1) *Failure to follow proper purchasing procedures.* It is a violation of this division for any employee to order, contract for, or purchase any materials, supplies, or services except in strict compliance with all purchasing procedures as provided herein or as established by the town manager or designee.
- (2) *Solicitation or acceptance of gifts.* No town official or employee may solicit or accept anything of value from any vendor or bidder, including gift, loan, reward promise of future employment, favor, or service, based upon any understanding that the actions of said official or employee would be influenced thereby.
- (3) *Doing business with the town.*
 - a. No employee or public official acting in his/her official capacity may either directly or indirectly purchase, rent, or lease any realty, goods, or services for the town from any business entity or which he/she or his/her spouse or child is an officer, partner, director, or proprietor or in which such official or employee or his/her spouse or child, or any combination of them, has a material interest.
 - b. No town official or employee, acting in a private capacity, may rent, lease, or sell any realty, goods, or services to the town.
- (4) *Unauthorized compensation.* No town official or employee or his/her spouse or minor child may, at any time, accept any compensation payment, or thing of value when that person knows, or with the exercise of reasonable care, should know, that it was given to influence action in which the official or employee was expected to participate in his/her official capacity.
- (5) *Conflicting employment or contractual relationship.* No town official or employee may have or hold any employment or contractual relationship with any business entity that is doing business with the town; provided however, that this section may not be construed to prevent any officer or employee from accepting any other employment or following any pursuit that does not interfere with the full and faithful discharge of the officer or employee's duties in his/her employment with the town.
- (6) *Contingent fees.* No town official or employee may be retained, or retain a person, to solicit or secure a town contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.
- (7) *Confidential information.* No town official or employee may disclose or use any information not available to members of the general public and gained by reason of his/her official position for his/her personal gain or benefit of any other person or business entity.
- (8) *Penalties.* Violation of any provision of this section may subject the officer or employee to discipline in the form of one or more of the following:
 - a. *In the case of a town official:*
 1. Forfeiture of office as provided in the town Charter.
 2. Restitution of any pecuniary benefit received because of the violation committed.

- b. *In the case of a town employee:*
1. Dismissal from employment, provided that if the employee is found guilty of willful violation, then dismissal from employment is mandatory.
 2. Suspension from employment for not more than 90 days without pay.
 3. Demotion.
 4. Reduction in salary level.
 5. Oral or written reprimands or warnings.
 6. Any discipline imposed shall be subject to the town's personnel rules.

(9) *Contracts voidable.* If a violation of any of the prohibitions contained in this section occurs, then the contract involved may, at the option of the town, be declared null and void or voidable.

I have read, understand and acknowledge the Town's purchasing policy and my responsibilities under this policy as a Town Employee. I acknowledge that if I have questions I will contact the Town Manager.

Name	Date

(Ord. No. 17-01, § 1(Exh. A), 2-6-2017; Ord. No. 24-11, § 2(Exh. A), 5-6-2024)

1. **Request:**

Meeting Date: December 11, 2024

Discussion of a draft resolution: A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 5 OF THE TOWN COUNCIL'S POLICIES AND PROCEDURES MANUAL AS RECENTLY AMENDED BY RESOLUTION 24-246 TO CLARIFY THE SELECTION PROCESS IN THE EVENT OF A TIE VOTE FOR APPOINTMENT OF A QUALIFIED INDIVIDUAL AND TO ESTABLISH A LIMIT ON THE NUMBER OF WAIVERS AN APPOINTED INDIVIDUAL MAY REQUEST; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Other

5. **Background:**

Resolution 24-246 was adopted by the Town Council at its meeting on November 18, 2024. Later in the meeting, the Town Council expressed a desire to revisit its procedures related to tie votes for appointment of eligible individuals to committees. In the meantime, a question has also come up regarding how many waivers can be given to an individual requesting multiple appointments.

Attachments:

1. Draft Resolution Related to Tie Votes for Appointment & Waivers
2. 24-246, Amending Section 5 of the Town's Procedures 10-31-2024 - BVNS
3. Sample Waiver - 24-220, Advisory Committee Waiver for Membership to Multiple Committees Final

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____	Date: December 04, 2024
nancy stuparich, Town Attorney	
_____	Date: December 04, 2024
nancy stuparich, Town Attorney	
_____	Date: December 05, 2024
Amy Baker, Town Clerk	
_____	Date: December 05, 2024
Andy Hyatt, Town Manager	

RESOLUTION NUMBER 24-XXX

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 5 OF THE TOWN COUNCIL’S POLICIES AND PROCEDURES MANUAL AS RECENTLY AMENDED BY RESOLUTION 24-246 TO CLARIFY THE SELECTION PROCESS IN THE EVENT OF A TIE VOTE FOR APPOINTMENT OF A QUALIFIED INDIVIDUAL AND TO ESTABLISH A LIMIT ON THE NUMBER OF WAIVERS AN APPOINTED INDIVIDUAL MAY REQUEST; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on November 18, 2024, the Town Council Section 5 of its Policies and Procedures Manual related to the Council’s selection of advisory board, agency and committee members; and

WHEREAS, the Town Council desires to further amend Section 5 related to procedures in the event of a tie vote and a request for a waiver to allow participation on multiple committees; and

WHEREAS, adoption of this Resolution promotes public participation and enhanced transparency in the best interest of the Town and its residents.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing “Whereas” clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. Revisions to Section 5 of the Town Council’s Policies and Procedures Manual, as amended in Exhibit “A,” are approved.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Council Member _____ and seconded by Council Member _____, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
Karen Woodson, Council Member	_____
Scott Safford, Council Member	_____
John R. King, Council Member	_____

ADOPTED this ____ day of _____ 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2024.

EXHIBIT “A”

5. Town Advisory Committees, Boards and Agencies Standing Advisory Committees

Council Selection of Advisory Board, Agency, and Committee Members:

Advertising: All advisory committees are listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial Disclosure) is required by the Florida Commission on Ethics.

Openings: In the event of an opening for an advisory board or committee, Town staff will list the opening on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. Whenever possible, committee selection will be scheduled 30 days after proper notification. Advertising in local newspapers can be considered if approved by the Town Manager. Committee candidates will be encouraged to appear for interviews during the selection process.

Voting:

1. Each Council member makes selections, marking no more than the total number of seats available (or writes the names down), and signs his or her ballot. Each Council member and the Mayor, or the Town Clerk, publicly announce the votes cast. The Town Clerk records each vote and announces the number of votes each individual received.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff vote consisting only of the individuals who received a tie vote. ~~of the remainder of candidates who were not otherwise selected and received at least 1 vote.~~
4. Once the Town Clerk announces the results, and the Mayor will ask for a motion to certify the results. Once the votes have been certified, Council will vote to appoint the individuals, who have been chosen in accordance with the above procedure.
5. Thereafter, the Council should consider waiver of the prohibition against serving on more than one Town advisory board, commission, agency or committee, if applicable. A waiver can be granted for a maximum of ___ appointments to allow greater opportunities for participation by qualified individuals.

Effective Date of Appointment and Follow Up:

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager or designee is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available on-line from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>)

Ad Hoc Committees:

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc Committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. Where possible, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum, and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
 - Notice
 - Location Requirements, such as ADA compliance
 - Agendas
 - Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

RESOLUTION NUMBER 24-246

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.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on January 22, 2024, the Town Council amended its Policies and Procedures Manual by approval of Resolution 23-182 and again on October 28, 2024 by Resolution 24-178; and

WHEREAS, the Town Council desires to now further amend Section 5 of its procedural rules to include a vote certifying the results following a public announcement of each vote cast to be followed by appointment of individuals receiving the most votes to provide greater transparency to the appointment process; and

WHEREAS, adoption of this Resolution promotes public participation and enhanced transparency in the best interest of the Town and its residents.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing "Whereas" clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. Revisions to Section 5 of the Town Council's Policies and Procedures Manual, as amended in Exhibit "A," are approved.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Council Member _____ and seconded by Council Member _____, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	_____
Jim Atterholt, Vice Mayor	_____
Karen Woodson, Council Member	_____
Scott Safford, Council Member	_____
John R. King, Council Member	_____

ADOPTED this ____ day of _____ 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2024.

EXHIBIT “A”

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Advertising: All advisory committees are listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial Disclosure) is required by the Florida Commission on Ethics.

Openings: In the event of an opening for an advisory board or committee, Town staff will list the opening on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. Whenever possible, committee selection will be scheduled 30 days after proper notification. Advertising in local newspapers can be considered if approved by the Town Manager. Committee candidates will be encouraged to appear for interviews during the selection process.

Voting:

1. Each Council member makes selections, marking no more than the total number of seats available (or writes the names down), and signs his or her ballot. Each Council member and the Mayor publicly announce their votes. The Town Clerk records each vote and announces the number of votes each individual received.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff consisting of the remainder of candidates who were not otherwise selected.
4. Once the Town Clerk announces the results and the Mayor will ask for a motion to certify the results. Once the votes have been certified, Council will vote to appoint the individuals, who have been chosen in accordance with the above procedure.

1. ~~Each Council member makes selections, marking no more than the total number of seats available (or writes the names down), and initials his ballot.~~
2. ~~Those receiving the most votes are selected to seats available.~~
3. ~~If there is a tie for any number of seats still left open, there will be a runoff consisting only of the persons who are tied.~~

Examples of voting procedure:

First Ballot:

~~_____ Seats available — 9~~
~~_____ Candidates — 15~~
~~_____ Votes on First Ballot: Results of First Ballot~~
~~_____ 3 get 5 votes apiece 3 are elected~~
~~_____ 3 get 4 votes apiece 3 are elected~~

~~_____ 4 get 3 votes apiece 4 go on a second ballot~~
~~_____ 3 get 2 votes apiece 3 are eliminated~~
~~_____ 2 get 0 votes apiece 2 are eliminated~~

~~There would be a second ballot containing only the names of the four candidates who got three votes. Council would vote for three candidates. This process would be repeated in case of a tie until all seats are filled. A variation on this method of voting is that after the first ballot, if there is a tie which prevents all the seats from being filled, the runoff would consist of all the unselected candidates, not just the ones involved in the tie.~~

- ~~4. _____ The ballots are given to the Town Clerk, who conducts the tallying and announces the results.~~
- ~~5. _____ Once all selections are made, Council adopts a motion containing the new members' names.~~

Effective Date of Appointment and Follow Up:

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager or designee is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available on-line from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>)

Ad Hoc Committees:

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc Committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. Where possible, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum, and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
 - o Notice
 - o Location Requirements, such as ADA compliance

- Agendas
 - Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

RESOLUTION NO. 24-220

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
FORT MYERS BEACH, FLORIDA, WAIVING THE
PROHIBITION OF MEMBERSHIP ON MULTIPLE BOARDS OR
COMMITTEES UNDER SECTION 2-98 OF ARTICLE IV OF THE
TOWN'S CODE OF ORDINANCES; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Section 2-98 of Article IV of the Town of Fort Myers Beach Code of Ordinances states that a member may not be a member of another Town of Fort Myers Beach board or committee unless this prohibition is specifically waived by the Town Council during their appointment; and

WHEREAS, during the Town Council meeting on October 21st, 2024, the Town Council appointed members to the Town Council's advisory committees; and

WHEREAS, included within the Town Council's appointments were multiple members who were or were also appointed to serve on more than one committee; and

WHEREAS, those individuals appointed to serve on more than one committee require waiving of the prohibition of membership on multiple boards or committee to maintain their appointment and membership on their respective committees; and

WHEREAS, approval of this Resolution is in the best interest of the Town of Fort Myers Beach; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

Section 1. The above recitals are true and correct, and incorporated herein by this reference and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council of the Town of Fort Myers Beach hereby waives the prohibition of membership on multiple boards or committees set forth in Section 2-98 of Article IV. of the Town's Code of Ordinances for those appointed during the October 21st, 2024 Town

Council meeting. A list of those specific members and their committee memberships is attached to this Resolution as Exhibit A.

Section 3. This resolution will take effect immediately.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member King and seconded by Council Member Safford, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 28th day of October 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

Vose Law Firm, Town Attorneys

This Resolution was filed in the Office of the Town Clerk on the 4th day of November 2024.

EXHIBIT A

**Advisory Board and/or Advisory Committee Members
who are on more than one Advisory Board/Committee as of October 2024**

MEMBER NAME	ADVISORY BOARD / COMMITTEE NAME
Barbara Hill	• Bay Oaks Recreational Campus Advisory Board (BORCAB) • Cultural and Environmental Learning Center Advisory Board (CELCAB)
Jennifer Rusk	• Anchorage Advisory Committee (AAC) • Marine and Environmental Resources Task Force (MERTF)
Edward Schoonover	• Anchorage Advisory Committee (AAC) • Bay Oaks Recreational Campus Advisory Board (BORCAB)
Betty Simpson	• Bay Oaks Recreational Campus Advisory Board (BORCAB) • Cultural and Environmental Learning Center Advisory Board (CELCAB)

1. **Request:**

Meeting Date: December 11, 2024

DISCUSSION: Qualifications for Appointment to Advisory Committees, Boards and Agencies

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

ITEMS FOR DISCUSSION

3. **Requirement/Purpose:**

Other

5. **Background:**

The Town Council adopted Ordinance 24-17 on October 28, 2024. At its meeting on November 18, 2024, the Town Council expressed a desire to revisit the adopted qualifications and provide direction if additional changes are needed. A copy of Ordinance 24-17 is attached.

Attachments:

1. 24-17, Advisory Committees Qualifications Signed

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**

_____	Date: December 04, 2024
nancy stuparich, Town Attorney	
_____	Date: December 04, 2024
nancy stuparich, Town Attorney	
_____	Date: December 05, 2024
Amy Baker, Town Clerk	
_____	Date: December 05, 2024
Andy Hyatt, Town Manager	

ORDINANCE NO. 24-17

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 AGENCY, BOARDS, COMMITTEES OR COMMISSIONS, AND ADDING A VOTING REGISTRATION REQUIREMENT FOR MEMBERS OF THE LOCAL PLANNING AGENCY AND AUDIT COMMITTEE; ELIMINATING DUPLICATIVE AND UNENFORCEABLE LANGUAGE; 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.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on June 6, 2024, the Town Council held a discussion regarding the proposed changes to the Code of Ordinances of the Town of Fort Myers Beach, specifically as it pertains to the required criteria, qualifying individuals for service on the Town’s agencies, boards, committees or commissions; and

WHEREAS, on June 17, 2024, the Town Council held a first reading of Ordinance 24-17 and gave direction to the Town Attorney to revise Ordinance 24-17 to add a grandfather provision; and

WHEREAS, the revisions proposed by the Town Council resulted in a substantial change to the title of Ordinance 24-17, necessitating a second first reading of the Ordinance; and

WHEREAS, on August 7, 2024, the Town Council held a second first reading of this Ordinance and gave full and complete consideration to the request of the proposed ordinance, the recommendation of staff, the documents in the record, and the testimony of all interested persons. The Town Council directed staff to schedule a second reading on August 19, 2024, which was rescheduled to September 9, 2024, due to the advertising requirements under Chapter 166, Florida Statutes; and

WHEREAS, on the 9th day of September, 2024, the Town Council held a second reading of this Ordinance and, after giving full and complete consideration to the request of the proposed ordinance, the recommendation of staff, the documents in the record, and the testimony of all interested persons, the Town Council requested a continuance of the second reading to September 23, 2024 (which was thereafter continued again to October 7, 2024), and directed the Town Attorney to make additional changes to the Ordinance, removing the grandfather provision, including a requirement that all members of the Town's Audit Committee and Local Planning Agency must be registered voters within the Town's jurisdiction, and leaving property ownership as the only required criteria, qualifying an individual for service on all other Town's boards, agencies, commissions or committees; and

WHEREAS, changes to the advertised title necessitated another first reading of the proposed ordinance to amend Sections 2-94 and 2-96 as directed by the Town Council, at the October 7, 2024 Town Council meeting, which was continued to October 21, 2024 as a result of the state of emergency declared in the State of Florida due to Hurricanes Helene and Milton; and

WHEREAS, on October 21, 2024, the Town Council held the first reading of this Ordinance and, upon discussion, decided to add language to Section 2-94 to clarify that the list of preferred qualifications for the members of the Town's boards, agencies, commissions or committees included individuals who have a Fort Myers Beach postal code; and

WHEREAS, the Town further desires to amend Section 34-113 of the Town's Land Development Code to add a provision regarding the filing of mandatory annual financial disclosure by the members of the Town's local planning agency, as required by Florida Commission on Ethics; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the 30th day of September, 2024, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, the Town Council determined that adoption of the ordinance as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. 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” of the Code of Ordinances of the Town of Fort Myers Beach, Florida, as well as 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 Town’s Land Development Code, are hereby amended to read as follows:

Sec. 2-94. - Qualifications and appointments of members.

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission shall give preference to a registered voter within the town’s jurisdiction, ~~or a property owner within the town’s jurisdiction,~~ individuals with specialized experience or knowledge, individuals who have shown interest in the subject matter, or individuals who have a Fort Myers Beach postal code. ~~Although no~~ No specific experience requirements shall be necessary as a prerequisite to appointment. ~~consideration shall be given to applicants who have experience or who have shown interest in the subject matter. If any member is no longer a qualified elector or is convicted of a felony, an offense involving moral turpitude while in office, or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee, or commission.~~

(1) *Anchorage Advisory Committee.* The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.

(2) *Audit Committee.* All members of the audit committee shall be registered voters within the territorial boundaries of the Town of Fort Myers Beach ~~town residents~~ who do not have any direct financial or business interests involving the town. The town council may waive the residency requirements by majority vote if there are an insufficient number of applicants who reside in the town. All members should, through education and experience, possess a basic understanding of governmental financial reporting and auditing. At least one member of the audit committee shall have accounting, auditing, or related financial management expertise that is specifically relevant to the government sector. The audit committee shall advise the town council on these matters and other matters pursuant to F.S. § 218.391, or any other topics as assigned by the town council.

(3) ~~a-~~ *Bay Oaks Recreational Campus Advisory Board.* The purpose of BORCAB is to serve the town as a community center and recreational facility providing

individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the parks and recreation director, and advise the town council regarding matters concerning the Bay Oaks Recreational Campus and the community pool; or any other topics as assigned by the town council.

~~b.~~ (4) Community Resource Advisory Board. The broad objectives of CRAB are to further the welfare of the citizens of the town in the implementation of our community as a "living park" as defined in the comprehensive plan and make recommendations to the town council on acquisition and management of public areas including, but no limited to, pools, parks, beach accesses, streetscapes and other public easements and property to further the living park concept. The CRAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~c.~~ (5) Cultural and Environmental Learning Center Advisory Board. The broad objectives of CELCAB are to ensure and promote the mission of the Mound House and Newton Beach Park to be accomplished through stewardship, advocacy and oversight according to best practices of museums and the requirement as stated in the Florida Communities Trust Agreements for each property. The CELCAB shall advise the town council on these matters or any other topics as assigned by the town council.

~~(4)~~ (6) Marine and Environmental Resource Task Force. The broad objectives of MERTF are to further the welfare of the business owners, residents, and visitors of the town by helping to promote a better, more healthful, safe, and attractive community environment and to ensure that the unique and natural characteristics of our marine and environmental resources are preserved; or any other topics as assigned by the town council.

~~(5)~~ (7) Public Safety Committee. The PSC shall address any safety and transportation issues specifically assigned to the committee by the town council for the purpose of the health, safety and welfare of the business owners, residents, and visitors to the town. The committee shall review, discuss, and evaluate the most significant safety and transportation issues within the town. The PSC shall advise the town council on these matters or any other topics as assigned by the town council.

(8) Local Planning Agency. Notwithstanding the criteria set forth herein, the criteria for the members of the Local Planning Agency of Fort Myers Beach as outlined in section 34-113 shall prevail.

Sec. 2-96. – Removal of agency, board, committee or commission members.

Unless otherwise precluded by state statutes, ordinance, or resolution, any member of an agency, board, committee or commission shall serve at the pleasure of town council and may be removed by town council with or without cause. In

the event that any member ~~is no longer possesses the required qualifying criteria, a registered voter within the town's jurisdiction or a property owner within the town's jurisdiction,~~ or is convicted of a felony, ~~an offense involving moral turpitude,~~ while in office or has unpaid fines or liens due the Town of Fort Myers Beach, the town council shall terminate the appointment of such person as a member of the agency, board, committee or commission for cause.

Sec. 34-113. - Composition, appointment and compensation of members.

(a) The local planning agency shall consist of up to seven members appointed by the town council. No members of the local planning agency shall be salaried officials of the town. Membership on the local planning agency shall not affect a person's eligibility for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the local planning agency during any given term of office. No current member of town council shall be eligible to serve on the local planning agency. Except for inclusion of members required under Florida law, all members must be ~~residents of, or owners of real property located within, the territorial limits of~~ registered voters within the territorial boundaries of the Town of Fort Myers Beach at the time of application for membership on the local planning agency and during the period of service on the local planning agency. All applicants must apply on or before October 1 of the appointment year. Each application must include a short biography and short explanation as to why the applicant wishes to serve on the local planning agency.

(b) The members of the local planning agency shall serve without compensation but may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

(c) In addition to the up to seven voting members, the local planning agency shall also include as a nonvoting member a representative of the Lee County School District, as designated by the Lee County School Board, to attend and participate in those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application (see F.S. 163.3174(1), 2002).

(d) All appointed members of the local planning agency must file an annual financial disclosure as required by the Florida Commission on Ethics.

Section 3. That the Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the town manager without further process.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause, word, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 6. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the town council upon a motion by Council Member King and seconded by Council Member Woodson, and upon being put on a roll call vote, the results were as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Karen Woodson, Council Member	Aye
Scott Safford, Council Member	Aye

ADOPTED this 28th day of October 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH


Dan Allers (Nov 1, 2024 07:59 EDT)

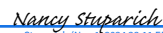
Dan Allers, Town Mayor

ATTEST:


Amy Baker (Nov 3, 2024 18:21 EST)

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Nancy Stuparich (Nov 1, 2024 22:11 EDT)

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 31st day of October 2024.

AGENDA MANAGEMENT

Subject	Dept		Mtg Date
2nd opinion on water project	Operations	added 11.4.24	12.11.24 M&P
ITB-25-01-PR; Bay Oaks Multipurpose Ballfield Award	Comm. Services	added 10.30.24	12.16.24
ITB-24-08-EN; Matanzas Pass Dinghy Dock Contract	Envir/Maritime		12.16.24
RFQ-24-06-AD (Prof. Services) Selection Advisory Recommendations	Finance	added 7.19.24	1.8.25 TC
Substantial Damage Management Plan	Neighb. Services	added 11.15.24	1.8.25 TC
Review of Town committees (Advisory, HPAC, NAB)	Atty	added 10.4.24	1.8.25 M&P
RFQ-24-06-AD (Prof. Services) Negotiations/Awards	Finance	added 7.19.24	1.21.25
Charter Review discussion	Clerk	added 5.8.24	3.6.25 M&P
Joint Session - Town Council and LPA (after LDC public meeting data compiled)	Council	added 8.7.24	TBD
2nd Reading Ordinance 24-10; Comprehensive Plan Updates	P&Z	added 3.22.24	TBD
Estero Blvd landscaping discussion	Council	added 8.7.24	TBD
Mobi-Mats to/along the beach discussion	Council	added 8.7.24	TBD
1st Reading Ordinance 24-xx; E-Bicycles	Neighborhood Srvc	added 5.8.24	sent to PSC Nov. '24
1st Reading Ordinance 24-xx: Lighting	Environmental	added 4.6.24	To LPA first
1st reading Ordinance 24-xx; Signage	Legal	added 6.17.24	To LPA first