Fort Myers Beach Town Council

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

Minutes **Monday, December 16, 2024** **9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Safford and Council Member Woodson.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

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

V. PUBLIC COMMENT

Michele Cherney, resident, introduced herself and stated she was interested in being a member of BORCAB (Bay Oaks Recreational Campus Advisory Board).
Bill Veach, resident, discussed the broad action of revoking all temporary use permits. He stated that FEMA (Federal Emergency Management Agency) considered a container a building and distinguished between RVs and buildings. He noted that if the town included RVs, it would evict people from their homes at the beginning of the season. He asked the town to make sure it would not be so broad.
Cathy Turner, resident, agreed with the mayor's statement regarding decorum during meetings, but it needed to be directed to the applicants, too. She believes the development agreement was not designed for a large project. She felt it burdened the staff and only benefited the applicant. She noted that she only received replies from two council members when she sent emails. She felt that meetings held in the morning were difficult for many to attend.
Lori Webster discussed why she felt members were elected to the council. She stated they were supposed to put an end to secrecy. She indicated they were leaders but also servants and should represent the people in the community.

Howie Hoffman, resident, noted that people who worked in the food trucks were just trying to eat. He asked that they let them stay.

Tom Brady, resident, apologized for being emotional at the last meeting. He was upset that a skyscraper would be built in his backyard. He did not vote for a 17-story building and the election results did not mandate the construction of the project. He never believed Vice Mayor Atterholt and Council Member Safford would vote for 17 stories. He noted they turned down smaller projects because they did not align with the comp plan (Comprehensive Plan). He indicated that there was no view corridor to the bay from their property and the elevated pool would block the view from Estero Blvd.

Craig Loose, resident, thanked council members for saving the Santini Pier. Dave Leigh, resident, reviewed the results of his survey regarding the height restriction. He agreed the election was not a mandate. Another petition was circulating with 100% against. He stated there was such a big turnout at the meeting because the project should not be allowed.

Cassius Upton, resident, asked why they went against what the LPA (Local Planning Agency) recommended. He noted that Chair Cereceda and LPA Member Plummer voted against the project. He felt it was hard to trust some of the council members.

Melody King discussed the $1.5 billion allotted through a community development block grant for disaster relief from Ian to Lee County and asked that the allocation be reevaluated. She stated it was unacceptable that the grant was directed toward water parks and treatment plants instead of housing for residents. She noted that people could not live in a water park and their water was still tainted.

She indicated they were choosing skyscrapers over the lives of the community.

Jessie Titus, resident, stated they got Seagate wrong and noted that they will not be remembered for their good work if the project goes forward. She was on the LPA when the comp plan was written and stated there should be no doubt of its intention. She discussed falling property values and the impact on homes and residents. She noted if they approved the project, they would be remembered as the council that chose not to protect them. She described how the Seagate development would cause harm to the community. She stated they wanted progress, but it must be the right kind of progress and she revealed that Bonita Springs recently voted against a Seagate proposal because it did not meet their comp plan.

Katherine Canlon, resident, asked that they do not approve the project. The applicant knew there were building restrictions when he bought the property. She asked them not to cave.

Barbara Hill, resident, commented that the Seagate project would destroy the vision of the town and it was not a good fit for a residential neighborhood. She stated it was their duty to vote no because it did not fit the comp plan and they should demand that the developer build smaller. She never heard the word compromise and stated that was the way to go. Reduce the units by a third and have the applicant return with a revised plan. She posed many questions and noted the leaders were legally bound to abide by the comp plan and LDC (Land Development Code). She asked whether their decision today would become a challenging, litigious situation.

Fred Malone from the Buffalo Grill stated they should not punish the food trailers who followed the rules when obtaining permits.
Tona Schotz, resident, stated the height of the Seagate would directly affect her home and asked that they stick to the plan and vision of the town. She hoped they would vote against the project and ask the applicant to resubmit.
John Schiera, resident, stated the Seagate project was a blatantly poor example of urban planning. They needed to follow guidelines. He felt they would run into future problems if they approved the project. He commented that it was absurd they were considering a project with 17 stories.
Mark Ludvigsen, resident and contractor, knew what he could and could not build when he moved to the town. He was upset since so many residents were against it and the council members knew better than they did. Residents were telling them what they did not want to see, but they were going against their wishes.
Lee Farner, resident and civil engineer, stated that the property was large enough that they could build a development within the height restrictions and make tons of profit. He felt by allowing multistory projects, they were allowing them to maximize their profit at the community's expense. He asked why.
Linda Dagnese, resident, questioned why they were even thinking about going over the height limit. She stated she would have to look at a wall and asked if that sounded good to anyone. She chose to live there 40 years ago so she could see the sky and see people on the beach, not in a restaurant across the street. She stated that a council who wanted to sell them out was not right and noted they needed to go past the pocketbook into the brain.
Carol Steier, resident, thanked the mayor for trying to keep the comp plan and the town's mission. They have never been more disappointed in a group of elected officials. She described why they decided to move to the town. They were against additional height and density and noted that Margaritaville managed to follow the rules. She stated the 17 stories could be spread out over their property. Since most residents did not want huge buildings, she asked them to say no to the 17 stories.
Dennis Alfieri, resident, thought the most significant thing was the precedent it would set. He asked how they could vote against London Bay after voting for this. He noted they would have to let everyone do it or nobody; there was no in-between. If they went to court, they would lose. Walter Pilkons, resident, felt that trailers should be allowed in residential areas if a house was not livable for one reason or another. He lived in a trailer behind his home, which was about five months from completion. He mentioned people still dealing with FEMA and insurance and had not started construction yet.
Dewitt Willis, resident, lives in a trailer because Ian leveled their home. He talked about how expensive it was to rebuild what was there and he finally had a set of plans after eight months. He stated it would take time and what was he supposed to do if they take away the trailers. He was confused by decisions that were being made that did not help anyone.
Jerry Prosnick, resident, was trying to rebuild and was living in a trailer. He was homeless without the trailer and had nowhere to go.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

No items.

A. Donation

Accept a donation from Jay and Mary Highley for the purchase of poinsettias for the Town's annual poinsettia tree in Times Square.

Town Manager Hyatt recognized and thanked Jay and Mary Highley for donating the poinsettias for the last couple of years.
Mayor Allers moved to accept the donation, seconded by Council Member Woodson.
The motion carried unanimously.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Bay Oaks Recreational Campus Advisory Board

Appoint a new member to the FY2024-2025 Bay Oaks Recreational Campus Advisory Board (BORCAB)

Michele Cherney and Diane Richardson applied for the position.
Council Member Safford moved to certify the accuracy of the results, seconded by Council Member Woodson.
The motion carried unanimously.
Council Member Safford moved to appoint Michele Cherney, seconded by Council Member Woodson.
The motion carried unanimously.

B. Town Advisory Boards

Designation of a Council representative to the six Town advisory boards/committees.

There were no liaison changes to the advisory committees.
Anchorage Advisory Committee and Cultural and Environmental Learning Center Advisory Board - Vice Mayor Atterholt
Audit Committee - Council Member Safford
Bay Oaks Recreational Campus Advisory Board - Council Member Woodson
Marine and Environmental Resources Task Force - Council Member King
Public Safety Committee - Mayor Allers

There were no objections to the current appointments.

C. Outside Committees

Designation of a Council representative and alternate to the seven outside committees.

There were no changes to the following committees.
Coastal and Heartland Estuary Partnership and Metropolitan Planning Organization - Council Member King
Coastal Advisory Committee - Projects Manager Chadd Chustz
Fort Myers Beach Elementary School Youth Council, Horizon Council and

Tourist Development Council - Mayor Allers
Southwest Florida Regional Planning Council - Community Development Planner Sarah Propst or Principal Planner Judith Frankel

There were no objections to the current appointments.

VIII. APPROVAL OF MINUTES

No minutes.

IX. CONSENT AGENDA

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

A. Resolution 24-290, Town Disaster Advisory Council Appointment and Authorization

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPOINTING TWO TOWN STAFF MEMBERS TO THE DISASTER ADVISORY COUNCIL; AUTHORIZING THE TOWN MANAGER TO SELECT AND APPOINT TOWN STAFF MEMBERS TO REPRESENT THE TOWN OF FORT MYERS BEACH AND TOWN OF FORT MYERS BEACH UTILITIES DEPARTMENT ON THE LEE COUNTY DISASTER ADVISORY COUNCIL AND FILL ALLOCATED SEATS ON THE COMMITTEE; PROVIDING AN EFFECTIVE DATE.

Add "as needed" after the words "the committee" at the end. Town Attorney Stuparich clarified it was so the town manager could fill vacancies on those committees as needed.

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

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and she swore in those providing testimony.

A. Ordinance 24-34; DA20240170, Seagate/Home Rule Development Agreement (Red Coconut)

Second Reading and Final Public Hearing of proposed Ordinance 24-34 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A HOME RULE DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 3001 ESTERO BOULEVARD, 2943 ESTERO BOULEVARD, 2932 ESTERO BOULEVARD, 211 DONORA BOULEVARD, FORT MYERS BEACH, FL, STRAP NOS. 29-46-24-W1-00145.1000, 29-46-24-W1-00145.5000, 30-46-24-W2-00001.0000, 29-46-24-W1-0120A.0010 AND OWNED BY SEAGATE FORT MYERS BEACH LLC, AS AUTHORIZED BY SECTION 2-100 OF THE TOWN'S LAND DEVELOPMENT CODE AND IN COMPLIANCE WITH THE PROCEDURES FOR APPLICATION AND APPROVAL OF DEVELOPMENT AGREEMENTS WITH DEVIATIONS SET FORTH IN RESOLUTION NUMBER 24-73 FOR THE PURPOSE OF REDEVELOPMENT OF THE PROPERTY PREVIOUSLY KNOWN AS THE RED COCONUT RV PARK; PROVIDING FOR TERMS AND CONDITIONS INCLUDING BUT NOT LIMITED TO THE IDENTIFICATION OF THE PROPOSED USE OF THE PROPERTY, A FINDING OF CONSISTENCY WITH THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN, COMMITMENTS AND DEVELOPMENT OBLIGATIONS, DEVIATIONS NEEDED FOR DEVELOPMENT; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Ex parte communications: All council members except Council Member King disclosed conversations with the applicant. All council members received several emails and had discussions with various residents. Mayor Allers also spoke about the project on an episode of Beach Talk Radio. Town Clerk Baker stated that copies of all emails were provided to the applicant.

Matt Price reviewed his experience as a development expert and Tina Ekblad reviewed her experience as a certified planner.
Council Member Safford moved to accept Mr. Price and Ms. Ekblad as experts in their field, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

The property owner confirmed receipt of the agenda and background materials.

Community Development Planner Sarah Propst indicated the applicant had provided an updated master concept plan and development agreement since the last hearing, which was included in the agenda packet. Planner Propst reviewed the background of the request as stated on the blue sheet.

Matt Price, applicant, apologized for what he said at the last public hearing and stated his team would not talk among themselves today. He discussed conversations with individual council members two years ago and stated that they all agreed that height was better than density. He described plans for public restrooms and a beach access solution. He reviewed how the design started and said things would probably continue to change based on feedback. He agreed to pay all impact fees. Planner Propst stated that the road had to remain per the comp plan and LDC. Council Member Safford noted that he did not know how that road would connect to Lovers Lane and continue without eminent domain. He suggested that the road be moved to the back and the whole thing be moved back. Planner Propst mentioned a potential environmental impact, but she noted there were a lot of options. Council Member Safford asked whether they could update the comp plan and write the agreement to remove the road or change it to a bike lane and move the project back. Mr. Price did not want to put something in the development agreement contradictory to the comp plan.

Ms. Ekblad noted that the presentation was available for everyone and she would only summarize changes made since the last hearing. The Site Plan and Development Summary now includes the restrooms. She described the private beach club and noted it was consistent with the height requirements. She discussed how the development agreement changed after meetings and felt it provided enough flexibility to go through the process. Ms. Ekblad felt their request for additional height was consistent with the comp plan and policy 4-C-4.

Mayor Allers asked how tall the overall height was from ground level to the top of the 15-story residential building 1. Ms. Ekblad replied that she thought it would be around 255 feet, but it had not been designed yet. Mayor Allers clarified the height of the other buildings and Ms. Ekblad commented that the project narrative had not been updated. An updated master concept plan was provided to Mayor Allers and Ms. Ekblad acknowledged that one of the buildings was taller than Ocean Harbor. Mayor Allers read policy 4-A-1 into the record. Ms. Ekblad explained why she thought the design of the building, including the restaurant, the water feature and the linear park fronting Estero Blvd., was consistent with the policy. Mayor Allers read policy 4-A-3 into the record. Ms. Ekblad replied that the residential structure was less intrusive than the previous development and did not consider it an intrusive commercial use. Mayor Allers read 4B of the future land use map categories and asked whether Ms. Ekblad felt they met the requirements. Ms. Ekblad explained why they did. Mayor Allers questioned whether she believed the three buildings, two of which were taller than the tallest structure on the island, protected the residential neighborhood across the street. Ms. Ekblad replied that the project as a whole protected the residential character of the existing community.

She did not think it was fair to break out specific buildings. Mayor Allers referred to policy 4-C-4 and asked whether Ms. Ekblad thought they met the requirements of fairness. Ms. Ekblad explained why the process they went through was fair.

Ms. Ekblad clarified that the additional eight single-family homes would go in the same tract as the four single-family homes and explained potential density transfers. Mr. Price stated the public restrooms would be permanent and built in the clubhouse. He revisited the beach access situation at Gulf View Colony and discussed how he was assisting the Art Association with a development agreement.

Ms. Ekblad explained why the Gulf Colony beach access should not pause the project and indicated the property was not subject to the development agreement. Council Member King questioned the dispute about the view corridor numbers. Ms. Ekblad replied that the view corridor dimensions were on the plan.

Mayor Allers referred to Exhibit C on page 67 regarding the parks and asked whether they would consider deeding all the parks to the town. Mr. Price responded that the town told him they did not want to maintain them, but he was open to discussions.

Planner Propst reviewed how they got there, what the code says and a recommendation. She stated that if the town council considers the public benefit provided by the development proposal to be greater than the benefit of abiding by the by-right height limitations, staff recommends approval.

However, if the town council determines the public benefit is insufficient, they should recommend denial.

Operations & Compliance Director Frankie Kropacek stated that they believed the project would provide an economic driver for the town and recommended approval. Town Attorney Stuparich explained why they had complied with everything they needed to under the code if they approved the project. Planner Propst discussed evaluating the level of unfairness.

Mayor Allers was concerned that Director Kropacek only addressed the economic aspect but did not mention the residents surrounding the property. Town Manager Hyatt agreed that Director Kropacek was speaking on behalf of the licensed planners and agreed with the recommendation based on the LDC and the comp plan.

Public comment:

Cathy Turner, resident, felt the project was too big for a development agreement and was concerned about density and height beyond 10 feet.

She noted that this was a quality-of-life issue and disapproved of it being reviewed as a fiscal decision. She was concerned with people driving up and down on Donora and the delivery trucks early in the morning. She asked that they not decide based on a financial decision.

Carol Steier, resident, did not think the project was realistic and felt they could build smaller units. She suggested they go back to the drawing board to do better. She asked that the council vote no.

Melody King, resident, stated they were fighting for their quality of life. She discussed the wetlands behind the project and will forward an email after the meeting. She commented that it would never get approved for permitting.

Bill Veach, resident, felt that the development was being built just for the condo views. He discussed how tall the structure was and how it would negatively impact the residential neighborhood and block the sunset. He noted that Council Member Woodson voted against the Moss Marine project to protect her view corridor. He stated that there would be 10 years of construction with heavy machinery and cranes and the town would not see revenue for years. He referred to the Vice Mayor's pre-Ian and post-Ian statements and noted the infrastructure was still pre-Ian, with a two-lane road the town did not control. He indicated there was a difference between 30 above flood and 230 above flood. He commented that it was tall because they were trying to pack a lot of very large units in a small place, not because they were trying to keep open space around it.

Jessica Titus, resident, asked that the council protect them, be strong and have them come back with a better plan.

Kevin Sullivan, resident, supported thoughtful development but not Seagate. He discussed enjoying Margaritaville with real public benefits versus Seagate, which he considered a monstrosity with minimal public benefit. He stated that the council was not listening to the constituents or neighborhood residents. He noted the town would do fine without massive 17-story buildings and asked that they not expose the town to years of litigation. He asked that they step up and vote for the comp plan.

Robin Gornto, resident, stated they needed development but did not need corporate greed and giant condos bigger than her house. She begged the council to make a responsible decision and send them back to the drawing board for a reasonable project.

Greg Scasny, resident, stated that the council needed to deny the current Seagate proposal because it was inconsistent with the comp plan. He commented that the town was not stagnating and listed good developments with more in the pipeline. The constituents were overwhelmingly against the proposed development and did not want to see inappropriate high-rises in a residential area. He asked that they all keep their word, do the right thing, uphold the law and deny the development as currently presented.

Judy Ferreter, resident, stated that Gulf View Colony beach access was a deeded parcel with its legal description. She noted the owners were interested in selling the land, which was 4.68 acres on the bay side and included the beach path. They were not interested in moving it because it was right across the street from their driveway. She read a prepared statement and asked that they protect their parcels.

Elizabeth Halladay described Hialeah, FL, when it was a small town and asked if they wanted what Hialeah was now. She stated that every summer, hurricanes ruined everything. She asked whether all they wanted was big buildings everywhere. She noted that Seagate was not telling them exactly what would be built.

Dennis Alfieri, resident, commented that they would approve anything economically advantageous for the island, meaning that as long as anything was economically advantageous, it would get built no matter how big it was. He stated it would change the quality of life for the neighborhood just like the huge London Bay proposal would in that area. He said they did not have to make as much money as they had planned and it should be smaller.

Shelly Sheridan, resident, thanked Facebook and Beach Talk Radio for letting them know what was happening since many who were out of town were unaware. She stated that just because there was a hurricane did not negate the reason the town was incorporated. Although they voted for the council members, they did not vote for 17-story buildings. She voted for them because she thought they would respect the reasons why the beach incorporated years ago. She was not opposed to a few stories if they offered good public benefits. She asked that they vote no to this and future 17-story buildings on the beach.

Cassius Upton, resident, questioned how 17 stories were reasonable when they incorporated because a 154-foot building was approved. He stated this was 100 feet taller and not reasonable. Flexibility was six or seven and it was insane that it was even on the docket, especially since the LPA recommended denial. He discussed protecting neighborhoods and noted the residents did not choose to live next to a 17-story building when they moved into the area. He stated that if London Bay is approved, the new town hall will never see the sun from that building. He commented that they were not asking Sanibel to build this because Sanibel had a backbone.

Anita Cereceda, resident, stated that she had been thinking about what to say to compel them to deny the project for days. She wished that the vice mayor was as concerned about her neighborhood as he was about the art association. She described playing with her dog in her backyard, imagining not one 17-story building but all of the buildings that would create an absolute wall in her neighborhood. The project was not consistent with the goals and objectives of the comp plan. She could not think of a single former council member who would vote in favor of the project. She could not believe this council would change a course that had been so set in stone and upheld by so many different councils. She implored them to deny the project.

Dan Riddle, resident, stated that they purchased a house on Donora nine months ago partly because of the ordinances in effect on Fort Myers Beach. He wanted them to think about respecting his neighborhood. If approved, a 17-story building will block the sun at the Gulf Westwinds pool from about 2:00. He agreed more height would be necessary, but there was a huge difference between 3 and 15 stories. They made plans based on the town's covenant with the residents from the 90s. He asked that they respect the covenant, vote it down and send them back to the drawing board.

Jane Riddle, resident, provided an analogy involving choirs and noted that the most important thing was to blend. She stated it could be a well-rehearsed song, but when one person or building was louder, bigger and off-key, there was no blend.

A 17-story building will block natural light, add traffic and impact the environment. It did not blend with the homes in the neighborhood and there needed to be harmony and common sense regarding the project.

Lori Webster, resident, was not anti-development but was anti-greed. Luxury 3,000 sq. ft. condos generate big money and developers want big money.

She bought a home here because she did not want to be next to condos or a weekly rental area. She loved the ability to see sunset colors, but this would block her views, lower her property values and lessen her quality of life. She described flooding and draining issues in the neighborhood and noted that this development would exacerbate the problem. She asked that they give their objections the consideration they deserved and 17 stories with 255 feet did not belong in their neighborhood.

Ray Murphy, resident, noted his family had been there for over 50 years and he lived through the incorporation. He commented on the Donora and Shell Mound neighborhood and noted many were retiring or retired and wanted to live out their days peacefully. He indicated they could not live peacefully and enjoy their days staring at a massive wall. He felt after Ian that it was a rush to the gold mine to see how much everybody could get. It would not improve anyone's quality of life but would hinder it. DiamondHead was the straw that broke the camel's back and the mantra was no commercial intrusion into residential neighborhoods and this was a commercial intrusion. He asked them not to let this be the straw that broke the camel's back after Ian and to deny the project.

Mike Dagnase, resident, lived in the closest house to the property and he asked what the benefits were. It was all about the money and they did not need to build 4,000 sq. ft. units. They could condense the units and reduce the size of the building. He asked them to go back to the drawing board. He asked how the council could let them be in charge and suggested they tell them no and let them leave. He would never see another sunset from his property and described what would happen to the neighborhood if the road in the back was connected. He asked that they tell them to come back with a working blueprint.

An Mark Ludvigson stated that everyone talked about 17 stories in a residential area except for most council members. He did not know why they were there, and even though they had a right, the residents did, too. He agreed something had to go there, but not 17 stories. He noted they could make a change by changing how they voted last time.

Sue Patton, resident, stated that no one talked about the view of the island from the water. She asked if they wanted buildings twice as high as Waterside on the island. She described the feeling of looking at the sky and smaller buildings. She indicated they did not need 17 stories and asked the council to tell them to come down to a level everyone could live with.

Tom Brady, resident, discussed originalism and the loophole in policy 4-C-4. He stated everyone knew how the founders felt since they were in the audience. He said there was no evidence that the town needed these revenues to survive. The rules were put in place to protect their lives. He asked them not to legislate from the bench.

Eric Steier, resident, stated that common sense said to vote no.

William Simmons, resident, did not like what Seagate was doing by holding the historic art district hostage.

Steve Johnson, resident, spoke for residents near the Woman's Club who would not speak up. The election was not a mandate for development since the mayor received the most votes and was the only one against this. He felt the real issue was the intensity of the building and encroachment, which was too much for the island. He noted many businesses were back, but the council seemed desperate to approve something that was so opposed. He felt they were not acting as a representative of government for a municipality. He questioned the forceful attempt to move forward when the plans were not secure and filled with uncertainties. He asked that the council oppose the development until something more acceptable was on the table.

Jean Guzzi, resident, suggested that they change their vote until there were more specifics. She thought the development agreement was for smaller projects, not a monster. She hoped someone would change their mind.

Bill Simmons, resident, agreed with Ray Murphy that they wanted to stop big developments and keep the island small. This project was setting a precedent that was exceeding everything. He supported development but not this height and felt they needed to back off and come up with something smaller.

Ethan Mackey, resident, commented that 17 feet was too high and he implored the council to encourage thoughtful development. He felt that 17 floors were egregious and did not seem to be a marginal exception to what they requested. He asked them to reconsider and vote no on the proposal.

Public comment closed.

Mayor Allers asked Mr. Price whether he would like to voluntarily table his project and take another look at it. Mr. Price replied not right now, although he respected everyone's view. He discussed future growth on the island and explained why he was the best person to develop the property. He stated he was willing to talk to anyone but felt he did enough and proved his point. He commented that people would still be unhappy if the building were 14 feet instead of 17.

Council Member Woodson stated that Mr. Price was one of the best partners to deal with and was honest. She felt that because he was open to design variances, that said a lot about the partnership and local feasibility.

Council Member King indicated there was a possibility that it would not be as tall as he proposed. Mr. Price commented that he would not build a structure taller than he had to.

Ms. Ekblad stated the project was a residential multi-family with supporting commercial and replaced an intense commercial project. She said the ordinance was very clear and they met all the criteria. She mentioned all their efforts to adapt to feedback and requested their approval.

Mayor Allers listed the reasons he did not support the proposed development.

Mayor Allers moved to deny the ordinance as it was proposed without prejudice to allow the applicant to come back with something that fits within the comprehensive plan, seconded by Council Member Safford.
Council Member Safford noted it was less density than they could ask for, but the community was not together on this project. He promised to represent the community and he listened. He felt everyone would be okay with a couple more stories, but 17 was too much.
Council Member Woodson felt Seagate had honesty and integrity and should proceed with the process.
Vice Mayor Atterholt noted that traffic and density were big concerns after Ian, so when this proposal moved the massing off the beach and did not ask for more density, he thought it was worth exploring. He respected the community and their passion. He was intrigued that they were not asking for more density and it seemed there was a possibility the project would be tweaked. He was comfortable moving forward.
Council Member King commented that the town's fiscal revenue had bothered him for a while and they had sustained significant financial revenue in the past years. He commented that the new budget chair in the Senate would be tightening the screws and that was a concern.
Mayor Allers acknowledged that economics played a part, but he struggled with the idea that the sky would fall if they approved something inconsistent with the comp plan because that was not the case. The property appraiser told them they would probably return to where they were before Ian two years after the storm. The comments overwhelmingly stated that the project was too big to start with, although the community was willing to work with Seagate and offered suggestions.

The motion failed 3-2 by roll call vote, with Vice Mayor Atterholt and Council Members Woodson and King dissenting.
Council Member Woodson moved to approve the ordinance with all proposed amendments and a density transfer request will come back to the council, seconded by Vice Mayor Atterholt.
After discussing whether the town wanted to own the parks and whether the FAR calculation would change, Mr. Price said he would give up his development rights in perpetuity.
The motion carried 3-2 by roll call vote, with Mayor Allers and Council Member Safford dissenting.

B. Ordinance 24-36, DCI 20230213, Neptune Inn, 2310 & 2316/2320 Estero Blvd.

Second Reading and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2310 ESTERO BLVD AND 2316/2320 ESTERO BLVD. GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0430N.0001, 19-46-24-W3-04300.00CE AND 19-46-24-W3-0110A.0010 FORT MYERS BEACH COMMONLY KNOWN AS THE NEPTUNE RESORT, TO ALLOW 148 LODGING UNITS AND ACCESSORY RETAIL AND RECREATIONAL USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Town Clerk Baker swore in those providing testimony. Ex parte communications: Council Member Safford had conversations with Mr. Vanasse and received emails; Council Member Woodson had conversations with the Neighborhood Company and received emails; Mayor Allers received emails and updated proposed amendments from the applicant based on the discussion from the first hearing.

The property owner confirmed receipt of the agenda and backup materials. Principal Planner Judith Frankel reviewed the background of the request as stated on the blue sheet. She reviewed the deviations. Staff recommended denial because of a reduction of 55 parking spaces; they proposed more than four times the units permitted by the zoning district and twice the number allowed by right under the build-back policy. The staff noted the deviations were a result of a design choice.

Attorney Noel Davies represented the applicant and noted they added more detail to their conditions. Patrick Vanasse of the Neighborhood Company addressed the denial recommendation and stated they provided an independent parking study and the transportation professional said the project had sufficient parking. Deviations were design decisions and the plan development allowed them to ask for deviations.

He displayed and discussed Traffic Mitigation, Design, Fort Myers Beach Elementary School, Amenities and Miscellaneous.

Council Member Safford appreciated the details and how the packets were put together.

Vice Mayor Atterholt appreciated the additional detail.

Adam Valente discussing when they would do the preparatory interior and noted they were ready. He thought the building would be demolished at the end of quarter 1.

He stated that they intended to preserve what little was left of the Neptune logo. He commented that they would contribute $30,000.00 toward a public restroom option. They would also discuss providing a dedicated restroom inside their building, but he did not know whether that would work. Mr. Vanasse addressed the history of restrooms on the beach and felt the town as a whole should address the issue. Mr. Valente clarified they were committed to resolving the restroom issue.
Principal Planner Frankel reviewed the conditions in the staff report and noted they could be included in the ordinance. The additional commitments and conditions would be included as an exhibit with the master concept plan.

No public comment.

Council Member Safford moved to approve the ordinance with the conditions set forth and the proposed commitments and adding six parking spots for the town, a 33931 zip code discount, public restrooms on the first floor or $30,000 towards restrooms, seconded by Council Member Woodson. Mayor Allers could not support the project because of the amount of increased density.
Vice Mayor Atterholt was stunned by the density ask, but he felt they were unique because the property was purchased before Ian with no intention of building a new facility. He thought those were extenuating circumstances and would support the project.
Council Member Safford revealed that people he spoke to supported businesses that were here before Ian.
The motion carried 4-1 by roll call vote, with Mayor Allers dissenting.

C. Resolution 24-288; VAR20240100, 51 Pearl Street

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/ DENYING VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 1) 7.3 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 17.7 FEET, 2) A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND 3)A VARIANCE OF 12.1% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 52.1% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. All council members disclosed a presentation with the Neighborhood Company and receipt of emails.
Rachael Hanson from the Neighborhood Company reviewed her education and experience in Planning.
Council Member Safford moved to accept Ms. Hanson as an expert in her field, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

The applicant confirmed receipt of the agenda and background materials. Principal Planner Frankel reviewed the background of the request as stated on the blue sheet. She noted that the staff recommended denial because it was a design choice and mechanical equipment may be detrimental to the neighbors.
Mr. Vanasse from the Neighborhood Company represented the applicant and explained that after the LPA meeting, the owner hired them to redesign the house.
Ms. Hanson utilized PowerPoint for her presentation. Slides included Background & Request, Property Location, Subject Site Pre-Ian, Subject Site Post-Ian, Proposed Redevelopment, Variances Requested, Changes from the LPA Hearing, Proposed Site Design, Aerial of Pre-Ian Setback, 2021 Aerial View, 2024 Aerial View, Comparison Lots, Findings & Conclusions and Conclusion.

Public comment:
Nick Dundee, Board Treasurer for Surf Song Condos, was against the project due to residents losing their view corridor and that he does not support the variance.
Tom Keith, resident, was opposed to some of the views being blocked and parking issues..
Public comment closed.

Mr. Vanasse noted the view was the tiny blue sliver on the slide. (Council Member King had to leave the meeting at 3:30 p.m.) Mr. Vanasse stated that the biggest impact on the condos' view was the height, which the applicant was entitled to by right.
Principal Planner Frankel indicated that if the applicant moved the house closer to the front of the property, it would align with the neighboring house, which already obstructed the view. Because of the CCCL (Coastal Construction Control Line), they have less property.
Mr. Vanasse noted that any elevated structure would impede the view from what was there before Ian. He added that the minimum size of the buildable footprint in the V zone was 7,500 square feet. The buildable footprint of the applicant's property was half that size.
Principal Planner Frankel reviewed the conditions in the staff report if the request was approved.

Mayor Allers moved to approve the resolution with the recommendations laid out by staff in conjunction with changes made since the LPA meeting, seconded by Council Member Safford.
The motion carried 3-1 by roll call vote, with Vice Mayor Atterholt dissenting.

XII. ADMINISTRATIVE AGENDA

A. Interlocal Agreement Between the Town and Lee County Property Appraiser

APPROVAL OF AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH, FLORIDA, AND LEE COUNTY PROPERTY APPRAISER FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS RELATED TO DEMOLITION COSTS OF UNSAFE BUILDINGS.

Town Attorney Stuparich said this was to allow the town to recover funds from demolishing unsafe buildings. This agreement was required by Florida Statutes in order to put those expenses on the individual tax bill for 2025.

Director Kropacek noted that three properties were ready to be demolished and the contractors would evaluate the work and submit quotes to the town. He added that the Wyndham obtained a demo permit and hired a contractor to demolish the building. If they did not demo the building within 30 days, the town would demolish it at an estimated cost of $600,000.00.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

B. Resolution 24-296; Revocation of Temporary Use Permits

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RECIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Attorney Stuparich noted that this action would revoke the permits. This resolution did not apply to people who had not received a notice of violation. She indicated there were about 13 non-compliant structures and seven would appear before the first code enforcement hearing with DOAH (Division of Administrative Hearings) on January 7, 2025, at 9:00 a.m. Operations & Compliance Manager Thomas Yozzo said the goal was to get it done in the next few months. He described the structures affected. Manager Yozzo will forward the list of structures affected to Town Clerk Baker. Town Attorney Stuparich described the magistrate process.

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt.
The motion carried unanimously by roll call vote, with Council Member King excused.

C. Resolution 24-284, Authorizing Budget Adjustment #3 and Revenue Replacement Grant

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, APPROVING GRANT AGREEMENT NUMBER D2125 WITH THE STATE OF FLORIDA, DEPARTMENT OF EMERGENCY MANAGEMENT IN THE AMOUNT OF $7,547,805 FOR REVENUE REPLACEMENT; APPROVING A RELATED BUDGET ADJUSTMENT (#3); AUTHORIZING THE TOWN MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS TO ACQUIRE THE GRANT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick noted the agreement was straightforward with no strings attached. He explained that the funds would be moved into the bridge loan fund to replace what was already used or planned to be used, which would leave about $127,000.00 to repay. He added that money would be set aside to repay the bridge loan in a few months; however, they did not have to repay it until 2033. The funds would continue to earn interest, and if the loan were forgiven, the money would be available for the council to use however it wanted.

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

D. Resolution 24-289, Authorizing Budget Adjustment #4 - Allocation of Remaining ARPA Funds

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE USE OF $932,573 OF REMAINING UNALLOCATED AMERICAN RESCUE PLAN ACT (ARPA) FUNDS, AND RELATED BUDGET ADJUSTMENT (#4); AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick read a list of projects and expenditures covered by the funds to date and a list of items that could be funded with the remaining unallocated funds.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.
The motion carried unanimously by roll call vote, with Council Member King excused.

E. Resolution 24-294, Federal Lobbyist Agreement

A RESOLUTION TO APPROVE AN ENGAGEMENT LETTER WITH GRAY ROBINSON, P.A. WITH ADDENDUM TO PROVIDE GOVERNMENT RELATIONS REPRESENTATION ON BEHALF OF THE TOWN ON FEDERAL ISSUES, INCLUDING BUT NOT LIMITED TO WORKING ON BEHALF OF THE TOWN TO RESOLVE OUTSTANDING ISSUES WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") FOR $7,500 PER MONTH FOR A MINIMUM OF 6 MONTHS; AUTHORIZING THE TOWN MANAGER TO SIGN ANY AND ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager Hyatt reviewed the background of the request as stated on the blue sheet.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

F. Resolution 24-192, Authorizing $656,232 Contract with GapVax, Inc for Combination Jet Vac

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE PURCHASE OF A COMBINATION JET/VAC FROM GAPVAX, INC. AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A PURCHASE ORDER IN THE AMOUNT NOT TO EXCEED $656,232; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution.

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

The motion carried unanimously by roll call vote, with Council Member King excused.

G. Resolution 24-291; Authorizing $176,957 Contract with Sam Galloway Ford for 3 Trucks

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE PURCHASE OF THREE VEHICLES FROM SAM GALLOWAY FORD, INC. AND AUTHORIZING THE TOWN MANAGER TO EXECUTE PURCHASE ORDERS FOR THESE THREE VEHICLES FOR A NOT-TO-EXCEED AMOUNT OF $176,957; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Culture, Parks & Recreation Director Jeff Hauge stated that four trucks were lost due to the hurricane.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.

The motion carried unanimously by roll call vote, with Council Member King excused.

H. Resolution 24-295; Hurricane Helene Sand Screening

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING SPA-24-11-EN FOR ACTION OF THE TOWN TAKEN OCTOBER 3, 2024 REGARDING THE WAIVING OF THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND CONTRACTING WITH ICS MATERIALS INC. TO SCREEN DEBRIS FROM SAND OVERWASHED BY HURRICANE HELENE TO PRODUCE BEACH COMPATIBLE SAND, PLACE AND GRADE BEACH COMPATIBLE SAND ONTO THE BEACH, REMOVE DEBRIS FROM THE BEACH, REMOVE DEBRIS SAND FROM RIGHT OF WAY AND TOWN PROPERTY AND DELIVER TO DEBRIS MANAGEMENT SITE, AND DISPOSE OF DEBRIS AT AUTHORIZED WASTE MANAGEMENT SITE; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE NOs. 110624-29, 111524-29, AND 111824-29 IN THE AMOUNT $427,870.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek reviewed the background of the request as stated on the blue sheet.

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt.
The motion carried unanimously by roll call vote, with Council Member King excused.

I. Resolution 24-287; Hurricane Milton Beach Cleanup

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING SPA-24-12-EN FOR THE ACTION OF THE TOWN TAKEN OCTOBER 7, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO CONTRACT WITH ICS MATERIALS INC. TO TAKE EMERGENCY PROTECTIVE MEASURES TO REMOVE HAZARDS TO PUBLIC HEALTH AND SAFETY FROM THE RIGHT OF WAY, TOWN PROPERTY, AND THE BEACH CAUSED BY HURRICANE MILTON; AND APPROVING PAYMENT OF ICS MATERIALS INC. INVOICE No. 101824-31 IN THE AMOUNT $256,167.25; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek reviewed the background of the request as stated on the blue sheet.

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt.
The motion carried unanimously by roll call vote, with Council Member King excused.

J. Resolution 24-297, Adopting Cybersecurity Standards

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY'S CYBERSECURITY FRAMEWORK AS THE CYBERSECURITY STANDARD FOR THE TOWN OF FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Deputy Clerk Jason Freeman reviewed the background of the request as stated on the blue sheet.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.
The motion carried unanimously by roll call vote, with Council Member King excused.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt planned to have the new town hall completed by March 1, 2025. Appropriation request conversations will be held soon, and legislative priorities will have to be discussed.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich stated that now eleven active permits would be rescinded, not thirteen.

A. Proposed Settlement of DiBiasi litigation

Town Attorney Stuparich noted the proposed tentative settlement was for $85,000.00 and an easement to keep the town's drainage in place. Mr. DiBiasi would be responsible for obtaining permits and building his ramp. Town Attorney Stuparich recommended approval of the tentative settlement.

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

XVI. COUNCILMEMBERS ITEMS AND REPORTS

No items.

XVII. ADJOURNMENT

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

The motion carried unanimously.

Minutes adopted as presented, January 8, 2025. Motion by Council Member King and seconded by Council Member Safford. Passed 5-0.

Amy Baker

Amy Baker, Town Clerk