Fort Myers Beach Town Council

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

Minutes **Monday, October 28, 2024** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

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

II. INVOCATION

Town Clerk Baker

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Town Attorney Stuparich requested that Item E. under Public Hearings be continued.

Council Member King moved to approve the final agenda as amended, seconded by Council Member Safford.

The motion carried unanimously.

V. PUBLIC COMMENT

Jennifer Rusk, resident, mentioned EIBC with a crosswalk.
The attorney with EIBC appreciated the town's consideration.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Woodson talked about Fright Night.

Council Member King noted that most on council were wearing pink in support of Breast Cancer Awareness Month.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

No items.

A. Local Planning Agency Appointments

Jim Dunlap, Doug Eckmann, John McLean, Anne Neaf, Tyler Spradling and Don Sudduth applied for four positions.
Mr. Spradling commented that he grew up on the beach and felt his perspective would be helpful.
John McLean hoped to be reappointed to the LPA.
Jim Dunlap, Doug Eckmann, John McLean and Don Sudduth were reappointed.

Council Member Woodson moved to accept the vote results, seconded by Council Member King.
The motion passed unanimously.

VIII. APPROVAL OF MINUTES

No minutes available.

IX. CONSENT AGENDA

No items.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly noticed, and she swore in those providing testimony. Mayor Allers disclosed a business conflict with item B. regarding Margaritaville signs and will submit the proper form.

A. <u>Ordinance 24-27; DCI20240155, 2545 & 2555 Estero Blvd., FMB Fire Control District</u>

Second Reading and Final Public Hearing on proposed Ordinance 24-27 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 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Ex parte communications: Council Member Safford disclosed that his wife is a fire commissioner; Mayor Allers and Vice Mayor Atterholt attended the ground-breaking event on Friday and spoke to the Chief several times. Council Member King attended the ground-breaking on Friday. The applicant confirmed receipt of the agenda and background materials.
Community Development Principal Planner Judith Frankel reviewed the background of the request as stated on the blue sheet.
Greg Stuart represented the Fire District and was available to answer questions.
No public comment.

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

B. Ordinance 24-20; DCI20240130 Margaritaville Signs

Second Reading and Final Public Hearing on a proposed Ordinance 24-20 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. No ex parte communications were disclosed. Mayor Allers recused himself due to business conflicts. The applicant was not in attendance to confirm receipt of the agenda and background materials.
Community Development Senior Planner Jason Smalley reviewed the background of the request as stated in the blue sheet. Staff recommended approval with a condition to bring the signs into compliance with the turtle-friendly lighting code. He added that Teco Gas requested that one of the signs be moved to accommodate their line.
No public comment.

Vice Mayor Atterholt moved to approve the ordinance, seconded by Council Member King.
The motion carried 4-0 by roll call vote, with Mayor Allers recused.

C. Resolution 24-190; VAC20240068, 3030 Shell Mound Blvd - FMB Art Association

A RESOLUTION VACATING A 12-FOOT WIDE UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY THE FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND APPROVING A NEW UTILITY EASEMENT AS A REPLACEMENT EASEMENT TO BE LOCATED ON REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN CLERK TO RECORD THIS RESOLUTION AND THE NEW UTILITY EASEMENT; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. No ex parte communications were disclosed. The applicant's representative confirmed receipt of the agenda and background materials.

Aaron Spence from Maastricht Engineering represented the applicant. Mr. Spence reviewed the reason for the request and noted he received no letters of objection.

Principal Planner Frankel noted that the LPA unanimously recommended approval.

No public comment.

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

The motion carried unanimously by roll call vote.

D. Ordinance 24-26; CB Zoning District Amendment

Second reading and Final Public Hearing on a proposed Ordinance 24-26 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED "USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT" IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Planner Propst reviewed the background of the request as stated on the blue sheet. Setbacks and FAR requirements did not change.

No public comment.

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

The motion carried unanimously by roll call vote.

E. Ordinance 24-30; Unsafe Structures Appeal Process

Continued from October 28, 2024:

Second Reading and Final Public Hearing on proposed Ordinance 24-30 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Attorney Stuparich requested a continuance to November 18, 2024.
No public comment.

Council Member King moved to continue to a second reading on November 18, 2024, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

F. Ordinance 24-34; DA20240170, Seagate/Home Rule Development Agreement

First Reading of a 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. For approval and Second Reading on November 4, 2024.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich commented that this is the first development agreement this town council will discuss. She pointed out that the property owner had to provide 17 items for staff and she reviewed the process after the 17 items were provided.

Ex parte communications: Council Member Safford met with the applicant at Seagate for lunch, had discussions with him and received emails for and against; Council Member Woodson watched the LPA presentation, had conversations with the applicant and received emails for and against; Vice Mayor Atterholt met at the location with the applicant, had conversations with him, walked the property and received emails for and against; Council Member King met with the applicant, attended the public presentation at DiamondHead, received emails for and against and met with staff and Mayor Allers met with the applicant and Commissioner Sandelli several times, received emails for and against, attended the LPA meeting and had conversations with town staff.

Certified Planner Tina Ekblad from Sage Entitlements asked to be considered an expert in her field.

Council Member Safford moved to accept Ms. Ekblad as an expert, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

Ms. Ekblad revealed they had not received any positive emails and asked

that they be forwarded to her.
Matt Price, CEO of Seagate Development Group, asked to be considered an expert in his field.
Council Member Woodson moved to accept Mr. Price as an expert in his field, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

Ms. Ekblad stated that a copy of the presentation was provided for each council member. She noted changes from the LPA meeting were reflected in the development agreement. She started with Existing Conditions and Baseline Regulations. She described the exhibits included in the 10-page development agreement text. She continued with a Site Plan & Development Summary and described changes to the Beach Club requested by the LPA, Site Plan and Building Height, Policy 4-C-4 and View Corridors, View Corridors versus Height, Requested Deviations - Building Height, Floor Area Ratio, Design Standards and Building Locations.
Mr. Price continued with a discussion regarding the Public Benefits Summary slide.
Ms. Ekblad described the Overall Benefits and Specific Benefits, Architectural Elevations, Overall Comprehensive Plan Consistency and Development Agreement Process.
Mr. Price continued with an estimate of the Economic Impact. He responded to questions posed by Vice Mayor Atterholt. Mr. Price commented about a partnership with the Fort Myers Beach Art Association and said a meeting would be scheduled. Vice Mayor Atterholt brought up adding portable restrooms and a water fountain on the beach. Mr. Price will discuss it with his team. If he is denied additional height, he would maximize everything on the beach and ask for more units. Four stories would be on the beach and three stories on the bay side with a 50-foot view corridor. They would be allowed to build 352 hotel units, but Seagate was not interested in hotels. He indicated the shade study showed a relatively low impact on most neighbors. Regarding rentals, only three rentals a year with a one-month minimum would be allowed. Mr. Price stated that Lee County required them to create access to their building next to the park. He noted there were trees around the roundabout and enough room to add public amenities. He agreed to make adjustments to the third turn lane on Estero Blvd. if Lee County requires it. Mr. Price explained the view corridor requirements on the bay side and noted the overgrown path was not part of his property. He added the Matanzas Pass Preserve Association was responsible for cleaning up the property. He was amenable to allowing a water ferry and the restaurant would include indoor and outdoor seating. He discussed the project's timeline of five years and noted the Beach Club would be built first. Fencing around the pool in the view corridor would be at least partially transparent.
Mr. Price revealed he was willing to commit to a five-year permit timeline. He said he would not build the roundabout if he did not have to. Council Member Woodson brought up adding restroom trailers and Mr. Price replied that he would consult with his team. Council Member Safford did not like the roundabout and wanted to see a turn lane on Estero Blvd. but acknowledged it was up to Lee County.

Mr. Price indicated that the FAR parking calculation was 0.44. Mayor Allers questioned the economic impact calculation and noted the beach's portion was only 6%.

Town Attorney Stuparich noted that the LPA voted 4-2 to recommend denial. The development agreement was discussed page by page.

Council Member Safford suggested adding a turn lane at Donora and the entrance. Mayor Allers was unsure about specifying that only a restaurant had to be in the commercial area. After discussion, Mr. Price suggested he would come back with options and the council could pick the one they preferred. Ms. Ekblad agreed to work on amending the height to include the two locations for the 15 stories and the step-down. Mayor Allers questioned the word adequate regarding water. Attorney Richard Aiken from Henderson Franklin will work with Town Attorney Stuparich on the language. Mayor Allers asked whether the word shall could be replaced with must or will throughout the document. Attorney Aiken agreed. Ms. Ekblad noted that the view corridor of 120 feet to the bay needed to be added under F.

Planner Propst commented that the pool might have to be elevated above grade and she questioned how high it could be without blocking the view corridor. Mr. Price suggested allowing a three-foot leniency and the council agreed. Mayor Allers would like to see something stronger regarding structure under the Administrative Amended section on page 147. He noted that staff had not always felt comfortable making decisions regarding significant changes. Mr. Price suggested adding <u>anything that significantly deviates from the approved plan</u>.

Public comment:

John Munger, resident, explained why he favored the project. He felt that putting the two towers closer to the bay was a great idea and compared them to Ocean Harbor. He commented that it would be a wealth generator for the community and bring confidence to the town.

Justin Tibeau, resident, strongly supported the proposal, especially the height. He felt it was unique and vital to recovery and they offered public benefits. He noted they had to adapt to new realities after the hurricanes and build stronger.

Star Sherwood, resident, represented the Fort Myers Beach Art Association and described Seagate's public benefit to them. She was unsure whether they would be able to rebuild.

Dawn Thomas, resident, was in favor of the project because the town needed the tax base and the developer worked with the residents as a community partner. She noted that the town needed to rebuild and did not think the towers were intrusive. She hoped that they would vote yes.

Tom Brady, resident, supported commercial development. He noted Seagate was maximizing the size of the buildings, but if the units were 1500 sq. ft., they could lower the height. He preferred that the whole thing was flattened and spread out. He felt they could proceed but agreed with Mayor Allers's talking points. He commented that the town was financially viable without the development.

Ellen Fulcher, resident, thought that 17 stories were too high and too far out of the box.

Kathy Turner, resident, was not in favor of the development. She described why she retired to the beach and felt the project was obtuse without enough details. She was concerned about the height and noted they could build lower. Her main concern was the entrance on Donora and traffic in the residential neighborhood. She stated the town had never had enough water over the seven years she lived there. Offering a beach access without parking or amenities was not a public benefit. She agreed with Vice Mayor Atterholt regarding public restrooms and shade like Newton Park before the storms. She did not consider the view corridor a public benefit. As the President of the Estero Island Garden Club, she offered to meet with Seagate.

Barbara Hill, resident, opposed the Seagate proposal and did not think the public benefit justified two 17-story buildings and 137 condos. She did not think it was a good fit for the middle of the island and suggested cutting the units by 1/3.

Mike Dagnesse, resident, had a problem with the height. He noted the town had a height plan for a reason. He commented there was no parking for the park. He questioned the square feet of the units and asked why they needed so much room. He wondered why they didn't put the single-family homes in the front and the towers in the back.

Dennis Wagaman with Alex King Real Estate, supported the project. He indicated that he received many questions about when the island would come back. He noted that Seagate had to make money at the end of their project and he applauded them for being neighbors. He added that going taller allowed for more viewing corridors and the density was less than Red Coconut's.

Edward Arasimowicz, resident, stated that Seagate bought the property knowing what the existing restrictions were. He noted there was a big demand for residential and commercial development on the island and described amenities near the beach. He encouraged responsible building of commercial space as long as they followed the comprehensive plan. He was opposed to the proposal.

Chris Smutz, with the London Bay Development Group, encouraged the council to consider the proposal's economic impact. He discussed how projects like Seagate financially benefited the town. He felt the proposal was well-balanced with public benefits.

Fran Myers, property owner, described the density of Red Coconut and noted Seagate's project was 1/3 less. She commented that sometimes they had to use the parking at the Art Association. She indicated that she had met many developers with bad ideas until she met Mr. Price. She stated the beach was lucky to have them. She did not love the towers, but they were set back and the view corridors were important.

Public comment closed.

Ms. Ekblad explained how they were consistent with the comprehensive plan and did not add density. Mr. Price was okay with adding language to put a park where the roundabout is. After he receives a CO on one of the buildings, he will add portable public restrooms unless FEMA makes it impossible. He agreed to install a drinking fountain.
Vice Mayor Atterholt commented on the rare and unique opportunity and maintaining the momentum.

Vice Mayor Atterholt moved to approve a second reading on November 4, 2024, seconded by Council Member King.
Council members commented on the density, Mr. Price's willingness to listen to the community, the island's history, financial stability and not lining up with the comprehensive plan.
The motion carried 4-1 by roll call vote, with Mayor Allers dissenting.

G. Ordinance 24-17; Advisory Committees

Second Reading and Final Public Hearing of proposed Ordinance 24-17 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2-94 “QUALIFICATIONS AND APPOINTMENTS OF MEMBERS” AND SECTION 2-96 “REMOVAL OF AGENCY, BOARD, COMMITTEE OR COMMISSION MEMBERS” OF DIVISION 2 “PROCEDURES FOR THE ESTABLISHMENT OF BOARDS, COMMITTEES AND COMMISSIONS” OF ARTICLE IV “BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES” OF CHAPTER 2 “ADMINISTRATION” AND SECTION 34-113 “COMPOSITION, APPOINTMENT AND COMPENSATION OF MEMBERS” OF DIVISION 3 “LOCAL PLANNING AGENCY” OF ARTICLE II “ZONING PROCEDURES” OF CHAPTER 34 “ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES” OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE MEMBERS OF THE TOWN’S 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.

Mayor Allers read the title of the resolution. Town Attorney Stuparich noted the qualification section changed.
No public comment.

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

H. Resolution 24-178; Updating Town Council Policies and Procedures Manual

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTIONS 2 AND 5 OF THE TOWN'S POLICIES AND PROCEDURES MANUAL TO MAKE IT CONSISTENT WITH ELIGIBILITY REQUIREMENTS FOR MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES AND COMMISSIONS AND TO UPDATE REFERENCE TO REQUIRED FINANCIAL DISCLOSURE FORMS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Council Member Safford noticed an error that would be corrected.

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

I. Ordinance 24-31; Codification of 2020 Charter Amendments

Second reading and Final Public Hearing on proposed Ordinance 24-31 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTIONS 4.02 "MAYOR," 4.03 "VICE MAYOR," 5.01 "ELECTIONS," AND 5.03 "TERMS OF OFFICE" OF FORT MYERS BEACH TOWN CHARTER, TO CODIFY CHANGES TO THE DATE OF TOWN ELECTIONS FROM MARCH TO NOVEMBER AND TO ESTABLISH FOUR (4) YEAR TERMS OF OFFICE FOR TOWN COUNCIL MEMBERS, AS APPROVED BY THE VOTERS AT THE MARCH 2020 MUNICIPAL ELECTION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich indicated the changes would be included in the code.
No public comment.

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

J. Ordinance 24-32; Amendment to Ordinance 05-04

Second Reading and Final Public Hearing on proposed Ordinance 24-32 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2 OF ORDINANCE 2005-04 TO REFLECT THE CHANGES TO THE TOWN CHARTER APPROVED BY THE TOWN VOTERS AT THE MUNICIPAL ELECTION ON MARCH 17, 2020; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich noted the date change.
No public comment.

Council Member Safford moved to approve the ordinance, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Resolution 24-217, Special Event - 34th Annual American Sand Sculpting Championship

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING DURING THE AMERICAN SAND SCULPTING CHAMPIONSHIPS FROM 3:00 PM WEDNESDAY, NOVEMBER 20, 2024 TO 8 PM SUNDAY, NOVEMBER 24, 2024: 1) OPEN CONTAINERS OF ALCOHOL IN PUBLIC AREAS AS PROVIDED IN ORDINANCE 16-03 SECTION 22-(G); 2) WAIVING THE STANDARD VEHICLE PERMIT FEE FOR VEHICLES ON THE SAND; 3) WAIVING THE FEE FOR THE USE OF BAYSIDE VETERANS PARK; 4) DIRECTING NON-ENFORCEMENT OF THE NOISE ORDINANCE; 5) WAIVING PARKING FEES ALONG OLD SAN CARLOS FROM FIRST TO THIRD STREET (APPROXIMATELY 21 SPACES); AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Jackie Liszak of the Fort Myers Beach Chamber of Commerce noted the event was postponed for four years. Live music will be at Bayside Park with vendors and Florida Power and Light was the title sponsor. She listed other sponsors and indicated that Seagate offered to donate all the sand. All sponsors would be listed on fmbsandsculpting.com. She stated that 100 volunteers were needed daily and the link to volunteer would be on the website. Seminole Casino will provide buses to take volunteers to the Seminole Casino after the event. The Pink Shell will host a Meet the Sculptors Event on Wednesday evening.
Council Member Safford recused himself from the vote.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.
The motion carried 4-0 with Council Member Safford recused.

B. Resolution 24-213, Bridge Loan Amendment Extending Maturity Date

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER TO SIGN AN AMENDMENT TO THE BRIDGE LOAN AGREEMENT AND PROMISSORY NOTE BETWEEN THE TOWN AND THE STATE OF FLORIDA, DEPARTMENT OF COMMERCE TO EXTEND THE MATURITY DATE OF THE EXISTING LOAN TO MAY 8, 2033; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick noted the expiration date change.

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

C. Resolution 24-218, Ratifying Time Extension to FDEP Grant Agreement for BORC

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING THE TOWN MANAGER'S APPROVAL OF AMENDMENT NO. 1 TO AGREEMENT NO. LW738 WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE RECEIPT OF GRANT FUNDING FOR OUTDOOR RECREATION FACILITIES AS PART OF THE BAY OAKS CAMPUS REDEVELOPMENT PROJECT TO EXTEND THE COMPLETION DATE TO AUGUST 31, 2025 AND THE GRANT EXPIRATION DATE TO DECEMBER 31, 2025; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick noted the date change.

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

D. Resolution 24-211, Ratification of Emergency Information Technology Services Contract

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION BY THE TOWN MANAGER ON SEPTEMBER 23, 2024, TO WAIVE THE TOWN'S COMPETITIVE PROCUREMENT POLICY AND APPROVING A NEW CONTRACT WITH SOFTRIM LLC TO CONTINUE PROVIDING REMOTE INFORMATION TECHNOLOGY SUPPORT SERVICES AND SOFTWARE LICENSING, AND TO ADD FULL-TIME, ONSITE SUPPORT FOR A TOTAL ANNUAL AMOUNT OF $191,784 FOR A TWO YEAR TERM AS AN EMERGENCY PURCHASE, APPROVING AN ADDENDUM TO THE SOFTRIM CONTRACT CONTAINING REQUIRED TERMS AND CONDITIONS UNDER FLORIDA LAW; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick explained the reason for the contract and noted it would save the town money.

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

E. 24-212, Ratify ICS Contract Hurricane Helene Beach Cleanup

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN SEPTEMBER 27, 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 BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Environmental Projects Manager Chadd Chustz stated this was a result of Helene.

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

F. Resolution 24-219, Axis Infrastructure Second Amendment

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND AXIS INFRASTRUCTURE, LLC TO EXTEND THE TERM OF THE PROFESSIONAL SERVICES AGREEMENT FOR ONGOING MISCELLANEOUS PROFESSIONAL SERVICES, TO SEPTEMBER 30, 2025 BY THE EXERCISE OF THE SECOND OF TWO ONE-YEAR RENEWAL OPTIONS; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT AND THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.

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

G. Resolution 24-220, Multiple Committee Waiver

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

Mayor Allers read the title of the resolution. Town Attorney Stuparich stated this would allow a person to serve on multiple committees.

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

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reported they were working on closing the 7-11 property, coconut palms would be planted in Times Square, debris pickup continued, and the election would be held at Bay Oaks on Tuesday. The swearing-in for newly elected officials will be held at the new Town Hall and details will follow.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich stated that the Estero Island Beach Club (EIBC) property owner requested a rehearing of their application since it was denied. She explained that the two-step process included whether they wanted to have a rehearing and then schedule a date. On that date, the merits of rehearing the matter would be discussed and notice had to be provided to the property owners. The request for a rehearing was to clarify whether the denial was with or without prejudice.

Council Member King moved to approve scheduling the EIBC matter for the November 18, 2024, Town Council meeting, seconded by Council Member Woodson.
The motion carried unanimously.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Woodson questioned what happened after the LPA discussed public benefits. Vice Mayor Atterholt thought the LPA would make recommendations to the council.
Vice Mayor Atterholt stated that the stained-glass window at the Chapel by the Sea would be exhibited at a church in Fort Myers. He questioned the status of the sand cleanup on the sidewalks and bike lanes. Town Manager Hyatt replied that he would contact Fort Myers this afternoon. He commented that the town has a new sidewalk sweeper and they would sweep what they could.
Council Member King questioned the status of the impact fee study. Planner Propst will have an update at the next meeting.
Mayor Allers stated the town would receive $1,231,257.42 from FEMA for specific beach accesses. He shared comments from people who indicated they would not stay on the beach during the season due to traffic. He asked whether they could get covered wagons to transport people up and down the island during season. The beach vendors were on board to operate them. The council reached a consensus to move forward with the idea.

XVII. ADJOURNMENT

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

Minutes adopted as presented, February 3, 2025. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.

Amy Baker

Amy Baker, Town Clerk