Fort Myers Beach Town Council

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931
Minutes Monday, December 2, 2024 9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER
Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King (virtually), Council Member Safford and Council Member Woodson.

Council Member Safford approved Council Member King via Zoom, seconded by Council Member Woodson.
The motion carried unanimously.

II. INVOCATION
Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA
Vice Mayor Atterholt moved to add the special event permit for the elementary school to the first item under the consent agenda, seconded by Mayor Allers. The motion carried unanimously by roll call vote.
Council Member Woodson moved to approve the final agenda, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT
Mark Ludvigson, resident and builder, commented that many people did not understand the Comp Plan (Comprehensive Plan) and questioned what builders could or could not build. He asked that the Comp Plan be simplified so people could understand it.

A. Lee County Property Appraiser Matt Caldwell

Mr. Caldwell commented that property owners could find information on the website and noted that land values had changed. He explained the 50% rule and stated that anyone displaced from their homes for more than 30 days in a calendar year was eligible for a refund on their taxes. He felt that property values would move laterally next year.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King thanked those who responded to his emergency call over the weekend.
Vice Mayor Atterholt thanked those involved with the sand sculpting event and read a list of the sponsors.
Council Member Woodson agreed with the vice mayor.
Council Member Safford stated that the event was almost canceled due to the last two hurricanes. He thanked all the volunteers and singled out several.
Mayor Allers noted it was a great event and congratulated the winner.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Public Safety Committee

No items.

VIII. APPROVAL OF MINUTES

A. Joint Session Town Council & Local Planning Agency - November 13, 2024

Council Member Safford was erroneously identified as an LPA member on page 7.
Council Member Woodson moved to approve the amended minutes, seconded by Mayor Allers.
The motion carried unanimously.

B. Town Council - November 18, 2024

Under Town Attorney's Items on page 23, the foreclosure on Nature View was set to go to sale on ~~December~~ November 21st.
Council Member Woodson moved to approve the amended minutes, seconded by Mayor Allers.
The motion carried unanimously.

IX. CONSENT AGENDA

The special event permit for the Shine Bright Night event at the beach school was added to the consent agenda.

John Koss described the celebration for the one-year anniversary of getting the school back. He noted he had not received approval from the fire department yet. Vice Mayor Atterholt commented that a group from his condo floor would distribute Battle Pups from a non-profit group out of Ohio to children on Friday.

Council Member Woodson approved the consent agenda, seconded by Council Member Safford.
The motion carried unanimously.

A. Resolutions 24-257 through 24-261; Extension of Local Emergency - Hurricane Ian

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Woodson approved the resolution, seconded by Council Member Safford.
The motion carried unanimously.

B. Resolutions 24-262 through 24-266; Extension of Local Emergency - Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Council Member Woodson approved the resolution, seconded by Council Member Safford.
The motion carried unanimously.

C. Resolutions 24-267 through 24-271; Extension of Local Emergency - Tropical Storm Debby

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Council Member Woodson approved the resolution, seconded by Council Member Safford.
The motion carried unanimously.

D. Resolutions 24-272 through 24-276; Extension of Local Emergency - Hurricane Helene

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Council Member Woodson approved the resolution, seconded by Council Member Safford.
The motion carried unanimously.

E. Resolutions 24-277 through 24-281: Extending Local State of Emergency, Hurricane Milton

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE MILTON, PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Council Member Woodson approved the resolution, seconded by Council Member Safford.
The motion carried unanimously.

X. ITEMS REMOVED FROM CONSENT AGENDA

XI. PUBLIC HEARINGS

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly noticed, and she swore in those providing testimony. Council Member Safford disclosed a conflict with item A. under Public Hearings and submitted Form 8b to the Town Clerk.

A. Resolution 24-285; SEZ20240194, 4950 & 4952 Estero - Kahlua Beach Club Special Exception

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240194 TO ALLOW RESTORATION OF A POOL, POOL DECK, TWO (2) CHICKEE HUTS, SHUFFLEBOARD AREA AND FENCE IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 4950 AND 4952 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. No ex parte communications were disclosed. 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.

Jim Ink represented the applicant and utilized PowerPoint for his presentation. He stated that the LPA (Local Planning Agency) unanimously recommended approval. Slides included Team Members, Request Statement, What This Request Would do and Why Grant the Request, Area Plan, Future Land Use Map, Pre-Ian Conditions and Proposed, Conditions and Approval Criteria.

Principal Planner Frankel described slight changes to the pool and reviewed the six criteria for approval. She indicated that the staff recommended approval with conditions.

No public comment.

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

The motion was carried unanimously by roll call vote, with Council Member Safford abstaining.

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

First reading and public hearing of and 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. Open the first public hearing and schedule for second reading and final adoption on December 16, 2024 at 9:00 a.m. Mayor Allers read the title of the resolution. The applicant confirmed receipt of the agenda and background materials. Ex parte communications: All Council members disclosed meeting with the applicants, receiving emails and being familiar with the property.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the blue sheet. She indicated the LPA unanimously recommended approval.

Attorney Noel Davies represented the client and utilized PowerPoint for the presentation. Slides included Introductions - Project Team and Process.

Planner Patrick Vanasse entered the presentation into the record and presented a brief version starting with Background, Pre-Ian, Post-Ian, Background - Moving Forward and Key Points. Planner Ken Gallander continued with Request - Redevelopment, Subject Site, Location, Site Design & Compatibility, Master Concept Plan, Concept Parking Plan, Concept View from Gulf of Mexico, Concept View

Northwest & Aerial, Concept View along Del Mar Access & View Corridor, Concept View Eastside View Corridor, Concept View Toward Gulf of Mexico, Concept View from Southwest, Concept View from South/Gulf of Mexico, Height, Density/Intensity, FAR, Transportation & Parking, Parking and Traffic/Parking Mitigation. Planner Vanasse discussed Public Benefits/Special Benefits, Proposed Conditions/Commitments, Economic Impacts, Hotel Room Update and Findings & Conclusion.

Adam Valente, applicant, stated that he expected a 10% return on his investment (ROI) when they acquired the Neptune before Ian. He explained why he estimated the ROI would be 8%-9% after Ian, even after doubling the rooms and adding height. He anticipated the insurance would increase four to five times what it was before. He indicated that he would not be able to build anything if the project was not approved. Planner Vanasse explained how traffic would enter and exit the property. The timeline to complete the project was approximately three years.

Mr. Valente noted that most units would be about 425-430 square feet. Planner Propst stated that the TPI equivalency factor was 8.9. Planner Vanasse replied that he did not misrepresent a factor of 9.1 and Planner Propst agreed that the numbers are typically rounded up.

Public comment:

Susan Bonfigli, resident, supported the project and noted they had been great neighbors. She would love to see more greenery.

Cassius Upton, resident, felt that public benefits had to be in perpetuity, which should be clarified.

Cindy Johnson, resident, supported the family-oriented project but noted a lot of families did not support the density. She felt they had to be careful with increasing density and traffic.

Bill Veach, resident, noted that public benefits should be substantial and the town council could make public restrooms a condition for approval.

He had an issue with giving benefits to businesses that residents did not have. No one was telling single-family homeowners they could build a duplex if that would help them afford to build. Coming up with twice the density and twice the income-earning potential was unfairly distributed. He commented that traffic would be worse. He felt this was an example of doing something for businesses that would detrimentally affect residents.
Tom Brady, resident, felt they needed a good economic model. He discussed impact fees and suggested looking at expenses for the town. He noted that adding more people added expenses to the town, which was the offset. He commented that the financial models had to be refined.
Terry Cain resident promoted the comp plan and felt the town had to figure out what they wanted the vision to be.
Jean Guzzi, resident, thought the project was beautiful but did not support the density, intensity and parking. She described the lack of water pressure at her house after the latest two hurricanes and questioned the future of the infrastructure. She thought it was too large.
Public comments closed.

Council Member Safford thought the presenters did a fantastic job but felt some of the public benefits were forced by Ian. He was disappointed that the property had not been cleaned up sooner, but he was glad they were cleaning it now. He did not think their ask was crazy and he fully supported it. He suggested adding bathrooms as a condition because it would benefit people on the beach.
Council Member Woodson appreciated their hard work and supported the project.
Vice Mayor Atterholt stated he would not have supported the project pre-Ian, but he thought they put together a rebuild proposal that was fair and reasonable, given the adverse circumstances. He would like some items adjusted and more details regarding public benefits. He supported the proposal.
Mayor Allers felt the group did a good job but was torn because he did not think everything was flushed out. He disagreed that residential density would decrease because they were no longer building 980 square feet cottages.
He was unsure if he fully supported it or was against the project, but he would vote to send it to a second hearing.

Council Member Woodson moved to send the ordinance to a second reading with the amendments discussed on December 16, 2024, at 9:00 a.m., seconded by Council Member King.
The motion carried unanimously by roll call vote.

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

Additional public hearing for 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: Council Member King received pro and con emails and watched the Beach Talk Radio interview, Vice Mayor Atterholt received pro and con emails and had a couple of phone calls with the applicant, Council Member Woodson received pro and con emails and had a couple of phone calls with the applicant, Council Member Safford had three phone calls with the applicant, met with neighbors on Donora, met with neighbors at his office to discuss the project and received pro and con emails and Mayor Allers had conversations with the applicant, met him on the site, listened to the Beach Talk Radio interview and did an interview with Beach Talk Radio the next day and received pro and con emails. All Council members stated they could make an objective decision on the project. The applicant confirmed receipt of the agenda and background materials.

Planner Propst reviewed the background of the request as stated on the blue sheet. She noted that the application submitted met all the development agreement procedures. She explained that Seahorse Lane had to remain to provide a through road for the neighborhood, but it could be moved north or south. Vice Mayor Atterholt verified that by right opportunities were three stories over flood on the gulf side and two stories over flood on the bay side. She noted the applicant would have to meet the redevelopment requirements of the code and comp plan to get the density requested.

Tina Ekblad, Sage Entitlements, distributed hard copies of her presentation. The development agreement in the packet did not include the amendments from the first hearing, so she included the changes in today's packet. She noted changes in the development agreement were in red text. She requested that all previous materials be entered into the record. Her presentation included an Introduction and a Site Plan & Development Summary. She reviewed changes made in the development agreement.
Matt Price, applicant, stated that the circle at the beach club was removed and the turn from Estero goes directly into the beach club. The bathroom will be a temporary trailer that could be moved quickly and Mr. Price will investigate putting it under the elevated deck at the beach club. Ms. Ekblad continued with the Building Height and reviewed changes. She clarified what substantial changes meant and Mr. Price noted he had worked with town staff on the language. Mr. Price agreed to add general language to encourage his workforce to utilize the Beach School.
Ms. Ekblad brought up height and noted that four stories were allowed on the south and three on the north. She discussed exceeding the view corridors and the other public benefits. She indicated they would not install landscape on the pool fence if so directed. She addressed a comparison case related to Diamondhead and stated that the building was permitted by a development order without any public hearings. She noted they had three public hearings so everyone could be heard. Mayor Allers asked whether they would consider any deviation in the height. Mr. Price replied that it was a volume question and if the project was denied, he would come back and fight for more density. Ms. Ekblad continued with the Requested Deviations and reviewed public benefits.

Public comment:
Kim Beaver, resident, distributed a copy of a petition from people who opposed the project. She discussed keeping a town with character and building back responsibly. She asked that they hold some town council meetings in the evening.
Dave Leigh, resident, opposed the project. He brought up a survey regarding the height and 900 people responded. At a ratio of 7 to 1, they were opposed to the project's height. He appreciated Mr. Price's responsiveness. Mr. Leigh reviewed a list of needs and wants, including height limitations and transportation options. He stated they were more important than public benefits. He implored the council to reject the project as proposed.
Jay Birsch, resident, agreed with what Seagate wanted to do. He was not worried about traffic. He suggested that the town look at Virginia Beach and he provided a handout.
Greg Scasny, resident, asked that they vote for denial without prejudice because the project was too tall and inconsistent with the comp plan. He felt the development agreement process was not appropriate for a development of this scale and was meant to help smaller developments. He stated that the first project using a development agreement, wanted to put the two tallest structures ever built on the island and bypass the rigor and detail of a CPD (Commercial Planned Development) process.

He explained why it was not consistent with Policy 4-C-4. He suggested they get the project to a place that would make a majority of the residents proud to get behind Seagate, but this iteration was not it.
Kevin Sullivan, resident, supported the developments on the island so far, but he was against Seagate's proposal of two 17-story structures. He discussed reasons for denying the project. He asked how they could deny London Bay's 17-story building while approving Seagate's 17-story building. He noted the success of Margaritaville without over-the-top giveaways like this one. He discussed the traffic problems and the risks of not listening to the community.
(Council Member King left the meeting at 1:35 p.m.
Mike Dagnese, resident, lived next door and indicated that all he would see was a wall of cement and would lose sunlight. He felt they should have put the tall buildings in the back but they should not even build that high. He noted the traffic would be much worse. He asked where their employees would live. He wondered who would want to come here if they had to sit in traffic for hours. He suggested they return to the drawing board, make the rooms smaller and cut the height in half.
Dapper Davidson, resident, stated it was the town council's job to protect the residents. He used pieces of wood to demonstrate how tall the building was compared to the neighborhood houses. He discussed moving everything in the back so he did not have to wake up to a massive wall and no sunsets.
Melody King, resident, described her history on the beach. She spoke on behalf of many residents and did not know why anyone would invest $57 million after Ian. She discussed building a huge development on a sinking sandbar. She addressed the backlash surrounding Eddie Rood's walkover and asked where the advocates were today.
Samantha Campbell, resident, stated that Seagate would hurt the whole island and set a bad precedent. She supported development, but not this project and brought up the increased traffic.
Rafael Gnirck, resident, noted that Red Coconut had 141 450 sq. ft. trailers with one or two people living in them. Seagate condos will have three to five bedrooms, which increases density four to five times. He reminded the council that the LPA recommended denial of the request and the founders incorporated the town to prevent condos like this from being built.
Arnold Schramel, resident, asked the town council to follow the LPA's recommendation because it was too much height. He did not think it should be this project or nothing else. He felt the Seagate people were good and should work with the town.
Linda Dagnese, resident, asked whether they were still incorporated because the reason they incorporated was so people could have sunshine in their yards. If Seagate is built, she will lose all her sun along with everyone up to Publix. She asked whether they wanted to live in the shade. She did not support the project.
Susan Bonfigli, resident, would not welcome a structure of that size and discussed the lack of sunshine, wind noise and the impact on Matanzas Pass Preserve. She worried about the future economic impact on the town.

She liked their idea but suggested they shrink the units and reduce the building height.

Cassius Upton, resident, thought the project was terrible. He noted that the tallest building since incorporation was the Pink Shell and they had to give up a lot to get it. He stated this project had four buildings that surpassed the Pink Shell. He indicated this was not what Fort Myers Beach was about and it was a money grab.

Christopher Smutz from London Bay encouraged the town to consider the economic impact of Seagate's proposal. He commented that it would increase property values and tax revenues, leading to job and wage creation. He noted that Seagate listened to the community leaders and provided many public benefits.

John Koss, resident, commented they were doing a disservice to their comp plan because the land was so expensive the developers have to build larger projects. He looked at height and density as different issues. He supported the density of the project but not the height. He thinks Seagate should bring the height down and match the height of the other buildings in the neighborhood. He felt it would set a precedent in the developer's minds. He thought that the comp plan was out the window.

Barbara Hill, resident, was not in favor of the towers; however, she liked the quality of the construction of their other projects. She noted the comp plan and incorporation happened because the council wanted to keep the building heights reasonable with the comp plan.

Kathy Turner, resident, noted there were two errors in the development agreement. She commented that all plantings required irrigation. She was not in favor of the project and stated the council had the opportunity to destroy her residential neighborhood with 17-story towers. She did not think a linear park was a public benefit because it was a plot of land between two sidewalks. She explained why the other public benefits were not. It was overdeveloped at 433% more than he could get by right and she suggested they come back with something between four and seventeen stories.

Ellen Fulcher, resident, asked that the council negotiate for the residents and what they were asking for, like less height. She asked that they push for a compromise.

Valerie Brown, resident, noted that New Jersey's coastline was similar to Fort Myers Beach and after Sandy hit, they did not need high rises to come back and were doing great.

Michael Brieth, resident, noted that feasibility really meant profit. He stated that whatever happened, the developers would make money. He urged them to vote against the proposal. He said they had not even talked about the lights.

Mark Ludwigsen, resident, described how the town used to be and noted the comp plan was there for a reason. He did not approve of the 17 stories.

When he moved to the beach, he built what he was told he could build, but now investors were going for the sky. He asked that the council follow the comp plan.

Bill Simmons, resident, recalled why the town was incorporated. He felt they should listen to the LPA and the high rise would set a precedent. He supported development, but there had to be a medium and the developers could not say take it or leave it.
Cindy Johnson, resident, felt the community had to get together and go through the comp plan. She asked what happened to the charettes. She questioned what they wanted to see in the next 25 years. She stated that they bought on Fort Myers Beach to avoid big developments. She wondered whether residents who had to leave were going to come back to a tourist's beach. She noted the lights from Seagate would affect the turtles and birds.
Jean Guzzi, resident, was against 17 stories. She was concerned about the large units and renting them weekly. She was fearful of the traffic and infrastructure.
Tom Brady, resident, was against this project; however, he supported small businesses. Seagate admitted that they had not engineered the building yet, so they could go back to the drawing board and come up with something everyone could agree on.
Public comment closed.

Ms. Ekblad reviewed the Red Coconut property and compared its intensity to Seagate's development. She noted the rentals were limited to three times a year for a month or longer. She stated the maximum height was 235 feet and was limited to the parking area only. She said it was a single building with multiple towers, not multiple buildings. Ms. Ekblad reviewed the various permits they had to obtain. In her professional opinion, this development was consistent with the comp plan and she explained why. She asked that they move it to a second hearing.
Mr. Price stated he wanted to talk to people and did not mind making changes. He asked that the council approve sending it to another hearing.
He cited the election results and pointed out that the one person who ran against his project lost. Mayor Allers asked why he would not take another look at the project concerning the height. Mr. Price replied that he had to fit the units and some people were not against the height. He brought up the election again and felt the results supported his project.
Vice Mayor Atterholt was disappointed with how Mr. Price described the process. He respected everyone who took the time to voice their opinions. He agreed with moving it to another reading so Council Member King could attend.

Vice Mayor Atterholt moved to move the ordinance to a second reading, seconded by Council Member Safford.
The motion carried 3-1, with Mayor Allers dissenting and Council Member King excused.

XII. ADMINISTRATIVE AGENDA

A. Interlocal Agreement Between the Town and the Tax Collector

Approval of an Interlocal Agreement Between the Town of Fort Myers Beach, Florida, and Lee County Tax Collector for the collection of non-ad valorem assessments related to demolition costs of unsafe buildings Town Attorney Stuparich explained that the interlocal was required by Florida law.

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

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

B. Special Event - FMB Women's Club Festival of Trees

FMB Women's Club is requesting approval of a special event permit to hold their Annual Christmas Tree Festival on Friday, December 13, 2024 and Saturday, December 14, 2024 from 1:00 p.m - 8:00 p.m. at Bay Oaks Recreational Center, to serve cocktails, have outdoor music and have a food truck on site.

Mayor Allers abstained from the vote due to a conflict of interest.

Vice Mayor Safford moved to approve the request, seconded by Council Member Woodson.

The motion carried 3-1 by roll call vote, with Mayor Allers recused and Council Member King excused.

C. Resolution 24-282, Authorizing Budget Adjustment #2 - New Year's Eve Fireworks

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING BUDGET ADJUSTMENT (#2) TO FUND NEW YEAR’S EVE FIREWORKS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick explained that the funds could be set aside from savings. (Council Member King rejoined the meeting.)

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

The motion carried unanimously by roll call vote.

D. Resolution 24-248, Strategic Planning Research Agreement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH RATIFYING A RESEARCH AGREEMENT WITH THE UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES FOR STRATEGIC PLANNING SERVICES AS DESCRIBED IN A PROPOSAL UNANIMOUSLY APPROVED BY TOWN COUNCIL ON SEPTEMBER 9, 2024, IN AN AMOUNT NOT TO EXCEED $225,427.60; AUTHORIZING THE USE OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS FOR THE PROJECT AND AUTHORIZING THE TOWN MANAGER OR MAYOR TO SIGN ANY AND ALL DOCUMENTS NEEDED TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Onzick explained that this was to ratify an action that had already taken place.

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

The motion carried unanimously by roll call vote.

E. Resolution 24-256, STA #16 FY24 Axis Infrastructure Services

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SUPPLEMENTAL TASK AUTHORIZATION #16 WITH AXIS INFRASTRUCTURE, LLC IN AN AMOUNT NOT TO EXCEED $280,000.00 TO PROVIDE TECHNICAL SUPPORT, GIS, AND SPECIAL PROJECT MANAGEMENT FOR THE 2024-25 FISCAL YEAR; AUTHORIZING THE TOWN MANAGER TO SIGN THE AGREEMENT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek stated this was a continuation of the agreement. Planner Propst noted she would have an update on the impact fees in January.

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

The motion carried unanimously by roll call vote.

F. Resolution 24-255, Carlos Circle STA 4

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH RECINDING RESOLUTION 24-177 AND AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE AN UPDATED STANDARD TASK AUTHORIZATION #4 IN THE AMOUNT OF $146,980.00 WITH TETRA TECH UNDER CONTRACT NO. 22-25-AD FOR TIER 1 PROJECT CARLOS CIRCLE AND ANY ASSOCIATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager Andy Hyatt noted that this was already approved in an FY2020 contract and needed to be moved to FY2024.

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

The motion carried unanimously by roll call vote.

G. Resolution 24-286; ITB-24-08-EN, Matanzas Pass Mooring Field Dinghy Dock Construction Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-24-08-EN TO KELLY BROTHERS, INC. AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER TO COMPLETE THE DINGHY DOCK CONSTRUCTION PROJECT; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek explained why it was necessary.

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

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt indicated that the bid opening for the Bay Oaks project was December 10, 2024, and he hoped to present a contract to the town council on December 16, 2024. Director Kropacek indicated that the plan to redo the pool should be available by February or March 2025.
The 7-11 property will close on Monday. Part of the furniture was delivered to the Town Hall. He anticipated having the top two floors ready by this month and hopes to transition to the building in January. Painting the town hall's exterior should start later this week or next. He explained why the building had to be painted. He indicated the elevator may not be repaired until February, so they might have to move to Bay Oaks temporarily. The trailers will be moved soon.
The poinsettia tree will be lit in Times Square on December 9, 2024, at 5:00 p.m.
Town Manager Hyatt stated he had a call scheduled with Rick Scott's office tomorrow regarding FEMA (Federal Emergency Management Agency). The town will also respond to FEMA with a letter.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich stated that the Nature View property was sold on November 20, 2024, and the town recovered $725,839.46. They were waiting for a $75.00 check. She reviewed the history of the property. She indicated that the Key Estero property was still in circuit court and explained the following steps if the judge ruled in the town's favor. Vice Mayor Atterholt encouraged the town to negotiate with the attorney and property owner to open the retail plaza. Town Attorney Stuparich added that the property owner applied for a special exception, but the application was incomplete. Director Kropacek noted that the property owner was also cited for building a wall without a permit. Town Attorney Stuparich will contact the attorney.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King stated that he would be spending the night at the hospital.
Vice Mayor Atterholt asked whether council members were comfortable researching grant money to refurbish an office for a medical professional. Council members agreed. Director Kropacek provided an update regarding the micro study.
Council Member Safford asked about the Farmers Market in Times Square. Director Kropacek described the damage that needs to be repaired. Council Member Safford asked whether it could be moved under the bridge. Director Kropacek responded that the area was used for parking.

Town Manager Hyatt suggested holding it at Lynn Hall Park and offered to talk to the county. Council Member Safford thanked Myerside and Neptune for providing parking for the sand sculpture event. He noted the boat parade was on Saturday and started at 6:00 p.m.

Council Member Woodson asked what they could do to clean up the lots in Times Square. Director Kropacek replied that the building supervisor would follow the red tag process to clean up the properties.

Mayor Allers asked for an update about the wagon idea and Town Attorney Stuparich will provide information at their next meeting. Mayor Allers noted that bike caroling will be on December 21, 2024, starting at Bayside Park to Diamondhead and back to Bayside Park. Margaritaville will have a free concert and other events will be held. He asked whether the town was willing to entice developers to do a long-term lease on the old town hall property to bring in retailers. Council members agreed it was worth exploring.

XVII. ADJOURNMENT

Council Member King 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, Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME Safford Scott Markler	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council
MAILING ADDRESS 189 Sabal Dr.	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Fort Myers Beach COUNTY Lee	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED 12/2/24	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

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

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

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

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

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

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

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

APPOINTED OFFICERS (continued)

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

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Scott M. Safford, hereby disclose that on December 2, 2024:

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

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ____________;

X inured to the special gain or loss of my relative, Jacquelyn Liszak-May;

___ inured to the special gain or loss of ____________, by whom I am retained; or

___ inured to the special gain or loss of ____________, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

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

My wife owns a time share week at Kahlua Beach club.
They are asking to build their pool and tiki huts back post Ian.

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

12/2/24
Date Filed

Scott Safford
Signature

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

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

LAST NAME—FIRST NAME—MIDDLE NAME Allers Daniel Lee	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town of Fort Myers Beach Council
MAILING ADDRESS 5486 Avenida Pescadora	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY: Fort Myers Beach COUNTY: Lee	NAME OF POLITICAL SUBDIVISION: Town of Fort Myers Beach
DATE ON WHICH VOTE OCCURRED 12/2/24	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

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

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

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

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

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

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

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

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

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

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

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

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

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

APPOINTED OFFICERS (continued)

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

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

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Dan Allers, hereby disclose that on 12/2/24, 20 24:

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

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ___;

X inured to the special gain or loss of my relative, Megan Edwards Allers;

___ inured to the special gain or loss of ___, by whom I am retained; or

___ inured to the special gain or loss of ___, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

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

My wife is on the board of the womans club, They are seeking a special event permit for their annual tree festival

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

12/2/24
Date Filed

[signature]
Signature

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