



Fort Myers Beach Town Council

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

Minutes

Monday, March 3, 2025

9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

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

Council Member King moved to allow Council Member Safford to participate virtually, seconded by Council Member Woodson.

The motion carried unanimously.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Add MERTF (Marine and Environmental Resources Task Force) and BORCAB (Bay Oaks Recreational Campus Advisory Board) to VII.

Council Member King moved to approve the amended final agenda, seconded by Mayor Allers.

The motion carried unanimously.

V. PUBLIC COMMENT

Attorney David Moscota from Becker & Poliakoff represented property owners abutting the development on Estero and asked for intervenor status. Town Attorney Stuparich commented that the discussion would occur during the public hearing.

Mark Mennen, resident, stated that Bayview was still flooding and the streets were bad with potholes. He suggested that someone look at the drainage at the corner of Albatross on Bayview.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Atterholt recognized those who served as volunteers on condominium boards, especially post-Ian. He described the challenges involved and thanked them.

Council Member King reported that the AAC (Anchorage Advisory Committee) and MERTF had a joint meeting on February 21, 2025, with a presentation from Captain Chris Wittman, co-founder of Captains for Clean Water. The video was available on the town's website. He thanked the Friends of Lover's Key for their recent event.

Other members said they looked forward to the Shrimp and St. Patrick's Day parades.

A. PROCLAMATION - Safe Boating Week 2025

Mayor Allers read the proclamation and presented it to representatives from the Coast Guard.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Chair Dave Nusbaum from MERTF encouraged everyone to watch the joint meeting with Captain Wittman. He reviewed Captain Wittman's presentation and noted he would share more information with the town council soon. Chris King received the Murphie Award for cleaning up the beach daily. Vice Mayor Atterholt encouraged the community to write to legislative members to support Everglades restoration funding.

BORCAB Member Ed Schoonover said they voted unanimously to recommend that the town council consider developers donating or purchasing land for pocket parks as a public benefit.

A. Public Safety Committee

PSC Chair Dawn Thomas emailed and distributed a handout regarding e-bikes, which is included in the agenda packet. The PSC recommended that the town council amend the current e-bike ordinance to allow e-bikes on the sidewalks with conditions. Some of the conditions included a sidewalk division, markings to indicate the directional flow to travel with traffic, the pedestrians would be closest to the road to make it easier for them to cross at the crosswalks and adding signage from Gulfview to Avenue C to let cyclists know they have to go with traffic. She referred to the map in the materials regarding when people should walk their bikes. PSC would like to distribute educational materials to rental companies so that they can inform their guests. PSC Member Keran Farrell described the challenges of riding bikes. Chair Thomas proposed creating a lane under the bridge to help people get to the north side of the island safer. She addressed that many visitors were unaware that the sidewalks were shared. Council Member Woodson asked whether they considered designating the sidewalk closest to the beach for pedestrians and the sidewalk on the other side of the road for bicyclists. Chair Thomas loved that idea but did not know it was an option.

Council Member Woodson encouraged them to think outside the box.

PSC Member Farrell wondered how it would work in practice. Chair Thomas suggested creating a path from mid-island to Times Square to bypass Estero Blvd. If Estero has to be repaired, a proper bike lane with rumble strips could be added to the road.

VIII. APPROVAL OF MINUTES

- A. Town Council - February 18, 2025
Council Member King moved to approve the minutes, seconded by Council Member Woodson.
The motion carried unanimously.

IX. CONSENT AGENDA

Mayor Allers read the headlines of all the emergency resolutions.
Council Member Woodson moved to approve the consent agenda, seconded by Council Member King.
The motion carried unanimously.

- A. Resolutions 25-61 through 25-64; 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.

Mayor Allers read the headline of the resolution.
Council Member Woodson moved to approve the resolution, seconded by Council Member King.
The motion carried unanimously.

- B. Resolutions 25-65 through 25-68; 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.

Mayor Allers read the headline of the resolution.
Council Member Woodson moved to approve the resolution, seconded by Council Member King.
The motion carried unanimously.

- C. Resolutions 25-69 through 25-72; 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.

Mayor Allers read the headline of the resolution.

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

The motion carried unanimously.

- D. Resolutions 25-73 through 25-76; 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.

Mayor Allers read the headline of the resolution.

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

The motion carried unanimously.

- E. Resolutions 25-77 through 25-80: 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.

Mayor Allers read the headline of the resolution.

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

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 advertised and noticed and she swore in those providing testimony.

A. Ordinance 25-02; CPD Amendment, 2500 & 2510 Estero Blvd

First reading and public hearing of and ordinance entitled: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING AN AMENDMENT TO THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, PREVIOUSLY APPROVED BY RESOLUTION 07-28 FOR PARCELS LOCATED AT 2500 AND 2510 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0120A.0100; 19-46-24-W3-01302.0000, TO ADD PARCELS 2518 ESTERO BLVD. AND 2543 COTTAGE AVENUE, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-01301.0000; 19-46-24-W3-0120A.013A IN FORT MYERS BEACH; 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.

Mayor Allers read the title of the ordinance. Ex parte communications: All council members met with the owners, adjacent property owners and received emails for and against. Vice Mayor Atterholt also watched both LPA (Local Planning Agency) meetings and was familiar with the area.

Experts for the applicant include Ken Gallander, Patrick Vanasse, Laura Tefft and Brandon Frey. 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. She noted there were two applications, and the town attorney felt it was better to separate them, resulting in two ordinances. One was to expand the existing CPD (Commercial Planned Development) by changing the zoning district and the other was to expand the schedule of uses to allow a mobile food truck park. Attorney Noel Davies indicated that the applicants had made revisions since the LPA hearings. The presentation started with the Background-Entitlements. Dan Myers, applicant, addressed people's concerns regarding live music. Town Attorney Stuparich explained that comments regarding the mobile food truck park should be included in the second ordinance. This ordinance dealt with the zoning issue only.

After discussion, it was decided to combine the two discussions here but vote on each ordinance separately.

Attorney David Moscota represented the intervening parties. He objected to hearing both items together and felt it was important to distinguish between the two. Council members agreed to separate the discussions into two parts.

Jamie Hotka, applicant, explained that they initially purchased the additional lots for themselves and a rental property.

Mr. Gallander continued the presentation with the Request, Existing CPD Boundary, Zoning Map and Location, Site Design & Compatibility.

Attorney Moscosa requested intervenor status on this item and the second one. He explained that the uses were more intense and intrusive, and his clients were shocked that a commercial use would be next to their property. Attorney Davies objected to the intervenors being given special status and stated they could speak during public comment. He did not object to giving them more time to comment.

Mayor Allers moved to allow intervenor status and allow them to speak for five minutes outside the public comment on this hearing, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote.

Attorney Moscosa thanked the council for allowing the intervenors to speak. He stated the applicant initially purchased the property for peace and quiet and it was ironic that he proposed a commercial development that would create noise. He indicated it was more intrusive than what could be developed. He described how the neighbors would be affected.

Tom Danford, resident and neighbor, brought up policy 16.2.1, which restricts the rezoning of residential lots to be included in the existing commercial use and the other parcels. He thought the request should be denied because the impacts on the remaining residential lots immediately adjacent to the development were unfathomable.

Derek O'Loughlin, resident, requested intervenor status. Town Attorney Stuparich stated that intervenors represented by Attorney Moscosa should speak first.

Gary Fields, resident of Pelican Watch, indicated they would prefer an enclosed restaurant. He reviewed his lifetime experience with development and explained that the tax base of the development would bring the tax property base down and the property owners would get reassessed. He supported improvement in the area, but this would not accomplish that. He described what they asked for from the applicants and noted they made very little progress. He emphasized the demand was not there and asked that they focus on getting people back. He asked council members whether they would purchase a condo next to a food truck park. He did not have a problem with a restaurant on the property.

Attorney Davies rebutted the statement that he was a liar in his presentation. He reiterated that they met the criteria and asked that they move it to the second reading. Attorney Moscosa clarified the misrepresentation of the lie. It was a fact that what they were proposing was more intense, not allowed and more intrusive to the neighboring property owners.

David Tezak and Derek O'Loughlin requested intervenor status.

Mayor Allers moved to allow Mr. Tezak and Mr. O'Loughlin intervenor status with a limit of five minutes per person, seconded by Vice Mayor Atterholt.

The motion carried unanimously by roll call vote.

Mr. Tezak described the property's history and noted the applicants took a small part of it and wanted to put in a big development. He stated that spot zoning was illegal in Florida and would alter the neighborhood. He explained how it would devalue his property. He indicated that no one had reached out to him.

Derek O'Loughlin, resident, thought he had moved into a residential neighborhood. He did not have a problem with development but did with the purpose and use. His issue with the zoning was that the applicant would be only 10 feet away from his property. According to the town's rules, he should have a 25-foot buffer. He described how intense the development would be. He stated that his house would be elevated and would look down on the project.

Principal Planner Frankel clarified that the property was under the Boulevard future land use designation and included mixed-use. One of the properties was zoned Commercial Boulevard and the other was Residential Multifamily. She reviewed the guidelines and findings in the LDC (Land Development Code) included in the agenda packet. Staff recommended approval as all LDC and Comprehensive Plan (Comp Plan) criteria had been met. The LPA unanimously recommended approval. She explained why what they were requesting was not spot zoning.

Public comment:

Susan Bonfigli, resident, was concerned about adding a driveway into the CPD off Cottage Ave.

Deb Danford, resident, described what businesses would be allowed in the area and asked how a food truck park fit into the description.

Monica Tezak, resident, indicated that Cottage and Chapel were only 30 feet wide and would not carry the load for the development. The roads were never designed for commercial property.

Ed French, resident, commented that it was a great neighbor with some pressures and the neighborhood kept getting chipped away with commercial intrusion.

Kelli O'Loughlin, resident, noted that the neighborhood in front of them was zoned residential when they purchased the property. They bought the property because of the surrounding homes.

Kirk Banarian, resident, mentioned that the applicant's attorney said that property values should not be considered. The development was also 10 feet away from Pelican Watch. He discussed how lower property values would affect the neighbors.

Lyle Grenz, resident, wondered why the properties were purchased over a few years under the company's name if he wanted them for his family.

Public comment closed.

Town Attorney Stuparich did not consider this request a spot zoning case.

Mayor Allers moved to move it to a second reading on April 7, 2025, at 9:00 a.m., seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

B. Ordinance 25-01; DCI20240137.2, Mobile Vending/Food Truck Park CPD Amendment

1. First reading and public hearing of and ordinance entitled: AN ORDINANCE OF THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA APPROVING WITH CONDITIONS THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2500, 2510 AND 2518 ESTERO BLVD. AND 2543 COTTAGE AVENUE, GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0120A.0100; 19-46-24-W3-01302.0000; 19-46-24-W3-01301.0000; 19-46-24-W3-0120A.013A IN FORT MYERS BEACH, TO ALLOW A MOBILE VENDOR/FOOD TRUCK PARK WITH SHARED PARKING; 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.

2. Request from Pelican Watch Condominium Association, Thomas F. and Debra Danford as managers and members of Coastal Cottages LLC, and Edwin T. French III, to have Intervenor Status.

Mayor Allers read the title of the ordinance and Request 2. 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. The LPA voted to recommend approval 4-3 with conditions. The proposed MCP (Master Concept Plan) and schedule of uses would include mobile vendors, transient merchants with outdoor seating, entertainment, a recreation area, consumption on premises for beer and wine only and a commercial parking lot. She noted that the state preempted the town from requiring local permitting in addition to a mobile food dispensing vehicle license obtained from the Florida Department of Business and Professional Regulation. The LDC does not provide specific parking requirements for mobile vendor parks, so staff researched similar mobile vendor park regulations in the area. Staff determined that the parking guidelines made sense and were compatible with the proposed use.

Principal Planner Frankel reviewed the schedule of uses and the deviations. She added that there was an extensive list of conditions to address as many of the neighbors' comments as possible. Mayor Allers read the question submitted to FEMA regarding food trucks and FEMA's reply into the record. Town Attorney Stuparich noted that FEMA did not specifically address a food truck park in their reply. Principal Planner Frankel stated that staff recommended approval with conditions and she thought they needed all the conditions listed. Town Attorney Stuparich added that there may not have been as many conditions if the town had a food truck ordinance.

Council Member Woodson questioned whether Principal Planner Frankel had experience regarding the testimony about declining property taxes. Principal Planner Frankel could not comment on property values, but she felt the development was a transition-appropriate use.

Attorney Davies discussed the flexibility of the PD (Planned Development) process.

Mr. Gallander started the presentation with Location, Site Design and Compatibility and Master Concept Plans. Council Member Woodson asked whether they considered flipping the food truck park closer to Chapel St. Mr. Gallander replied that they evaluated many scenarios and that this was the best way to utilize the access points for parking. The next slide was the Master Concept Plan with Green Space/Buffers & Aerial Overlay, Concept Views: Overall Site, South, Corner of Estero & Chapel, Chapel Street, Corner of Chapel & Cottage, North along Cottage, Cottage Avenue, Southwest from Estero Blvd., South from Estero Blvd. Pathway, Southeast from Parking Area, West from Parking Area, Southwest from Estero Pathway, Southeast from Estero Pathway, Location, Site Design & Compatibility, Transportation & Parking, Parking - Revised, Proposed Conditions/Commitments and Findings & Conclusion.

Council Member Safford asked how they would handle people who only stopped in to pick up food. Mr. Gallander replied that short-term parking would be free or reduced. He estimated that the project would be completed in a year or two. Vice Mayor Atterholt questioned who they thought their typical customer would be. Mr. Myers replied that his ideal customers were vacationers. Vice Mayor Atterholt asked how critical live music seven days a week was to support the draw. Mr. Myers responded that he did not think it was a main piece of their business model but needed to maintain operational flexibility. He stated they would not have music eight hours a day, seven days a week. Mr. Hotka indicated they were not building a club; they wanted background music so people could talk over dinner. He was not sure whether they would have live music but wanted flexibility. He thought the food truck park was a good idea and would attract people. Mr. Myers described previous ideas for the land, but many options did not make sense for their return on investment. They will present another plan with an increased buffer at the next hearing.

Attorney Moscosa stated the intervenors were directly aggrieved parties adjacent to the project or experts hired by them. Attorney Davies objected to the intervenors being given special status and said they could speak during public comment. He suggested that appraisal testimony be given the appropriate weight since it was not specifically addressed in the rezoning criteria.

Max Forgey reviewed his experience as a planner. Mohsen

Salehi reviewed his experience as a planner.

Matt Simmons reviewed his experience as a real estate appraiser.

Vice Mayor Atterholt moved to accept all three as experts in their fields and allow them to speak for five minutes each, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

Mr. Salehi was responsible for the transportation element of the town's Comp Plan and described an error in the 2024 TIS (Traffic Impact Study).

Mr. Forgey reviewed his submitted report and discussed three reasons for denying the project. One is the Comp Plan's definition of Boulevard, the second is the lack of a traffic study and the third is incompatibility as Florida law defines it. The proposed uses were more intense and intrusive and were the core of the case for the opposition. He suggested they should adopt an ordinance that regulates the use.

Mr. Simmons felt that introducing the use at this location would have a negative impact on the property values associated with the residential uses. He felt there were components within the criteria that reference proposed new uses needing to be sensitive to existing residential uses.

He noted that he could not find a food truck park that was this close to adjacent residential uses for their value impact study. He referred to a 2017 study of food truck parks in Oregon that specifically analyzed properties directly adjacent to a food truck park. The study found negative impacts. He projected that some properties at Pelican Watch would be negatively impacted by about 9% and others may be more. He added that potential buyers for units in Pelican Watch walked away after learning about the development.

Gary Fields, resident, noted there would be at least a \$3 million loss to Pelican Watch owners. Pelican Watch owners requested no music, but the applicants turned them down. He did not think putting a restroom within 20 feet of Pelican Watch's swimming pool was being a good neighbor. He felt that 30 conditions on a development was a huge red flag. He asked that they turn it down or severely restrict it because it was the wrong place for live music. He added that Pelican Watch owners submitted a list of conditions regarding the music. They asked that music be played two days per week between 2-8 p.m. and only for three hours per day.

Ed French, resident, brought up the six deviations and 29 conditions. He wanted the applicant to operate within the zoning schedule. He would prefer a brick-and-mortar restaurant but acknowledged that the design was improving. He felt the additional traffic would affect his property and asked that his property be respected. He supported music on Fridays and Saturdays between 2-8 p.m. with three hours per session.

Deb Danford, resident, agreed with the experts' reports. She discussed compliance with the Comp Plan and asked whether food truck park rules should have been developed first. She brought up the potential Pelican Watch buyers who walked away from the sale after hearing about the food truck park and stated that their property values would go down. She asked how another parking lot and a food truck park would stimulate the development of the island. She wondered if their vision was more food truck parks instead of brick-and-mortar buildings. She added that the food truck parks in surrounding areas were not in a residential neighborhood. She discussed FEMA compliance and building codes. She supported the restrictions brought up, but she was concerned about how the music would be controlled and how it would be enforced.

She was concerned about traffic and crowd noise at special events and supported additional buffers around the development.

Tom Danford, resident, endorsed the expert's positions. He discussed the Comp Plan and noted that the town was to protect residential neighborhoods from intrusive commercial activities. He stated that food trucks were intended to exist as a temporary use only, not to complement the extensive and available existing uses. He did not think the comfort station would be used by residents and felt the space was too small to handle the uses and the increased traffic. He mentioned FEMA requirements and losing insurance savings. He did not share the staff's position and stated the development would be impactful and intrusive. He commented that the project did not fit the location.

Attorney Moscosa submitted copies of materials that were provided earlier. He discussed the loss of housing stock and the depreciation of tax revenue. He read policy 4(b)5 into the record. He noted that Mom's food truck was given a temporary permit because food trucks were not contemplated as permanent businesses for the zoning designation. There were concerns from the neighbors about the comfort station promoting vagrancy. He felt the appropriate avenue was to draft a food truck park ordinance and codify it before approving the development. He asked them to consider the impact on the property values, the impact on the town's tax revenue and the fact that the use did not fit because it was intrusive. There were not enough guarantees for the neighboring property owners' safety, welfare and investment expectations. It would affect their enjoyment and peace of their beachfront property.

Principal Planner Frankel read the findings and conclusions. Public comment:

Suzanne Todd, resident, commented that they have been there since 1981 and she was concerned about more trash on the beach and birds at the food truck park.

Vince Todd, resident, noted that Pelican Watch had lost three sales so far and wondered how many would follow.

Jan Krause, resident, was concerned about the boundary line by the pool and people climbing over the fence. She asked that they consider the children and having to listen to profanity.

Kirk Banerian, resident, asked that his comments from the previous hearing be repeated here. He commented on the deviation regarding 30 feet on Chapel Street and how traffic would back up on Estero Blvd. He supported brick-and-mortar businesses and thought the food truck park would detract from those. He asked whether they wanted food trucks to be part of their land usage and adjacent to residential areas in the future.

Amy Loughrey, resident, would rather live across from a food truck park than the fire department. She discussed what used to be in the area and noted the music from the Reef across the street was loud. She commented that it was more of a mixed commercial area and the restaurant seated 200 people. She supported food trucks and asked that they move forward with the project.

Derek O'Loughlin, resident, emphasized the boundaries of the music and the bar. He asked that before the applicant concedes to anything, it be set in stone. He wanted the end product so they could make a good decision.

Erica Perez, resident, supported the food truck park and felt it could be a positive draw to the town. It would create a vibrant community space and bring positive change to the island.

Lyle Grenz, resident, brought up alcohol consumption within 500 feet of a church. He suggested they find out what was going on with the church before approving the project.

Public comment closed.

Principal Planner Frankel read the conditions for approval. Vice Mayor Atterholt proposed a compromise of amplified live music two days per week between 2-8 p.m. for three hours per session. Council Member Safford suggested that special events be limited to six events per year. Principal Planner Frankel explained the LPA's quarterly operational compliance plan requirement in Condition 29. Council Member King said it was the department of redundant redundancy and thought the requirement was a burden on the applicant and staff since the code compliance department was already doing exceptional work. Council Member Safford felt it was government-heavy and did not want to go down that road. Council Member Woodson agreed that it was overstepping. Mayor Allers agreed with members' comments.

Mr. Gallander added the fence to the conditions and said management would control the music at an acceptable decibel limit. He requested to extend the hours of operation to 10:00 p.m.

Council Member Safford asked that they expand on how the short-term parking would work and how to manage door dash drivers. Council Member King brought up installing shade sails so the neighbors did not have to look at the parking lot and he wondered if they would help buffer the sound. Vice Mayor Atterholt appreciated their willingness to consider the additional restriction on live amplified music and limiting the number of festivals.

Council Member Woodson agreed with installing shade sails to block the view. Attorney Davies indicated they would take a good look at the additional conditions.

Mayor Allers moved to approve moving the ordinance to a second reading on April 7, 2025, at 9:00 a.m., seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

- C. Resolution 25-55; VAR20240233, 1479 Estero Blvd. (Lani Kai) CONTINUED FROM FEBRUARY 3, 2025

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240233: 1) A VARIANCE TO REMOVE REQUIRED PARKING ASSOCIATED WITH THE USE OF THE LOT AS A 25-UNIT HOTEL/ MOTEL; 2) A VARIANCE TO REMOVE SITE DESIGN REQUIREMENTS SUCH AS PROVIDING LIGHTING FOR VEHICLE AND PEDESTRIAN USES, TURN-AROUND AREA SUFFICIENT TO ALLOW 90-DEGREE PARKING AT THE END OF A ROW, THE ABILITY TO TURN-AROUND AND EXIT THE LOT IN A FORWARD ORIENTATION, STACKING REQUIREMENTS, ADDITIONAL DRAINAGE AND PARKING LOT LANDSCAPE REQUIREMENTS AS DESCRIBED IN SEC. 10-416(C); 3) A VARIANCE TO REMOVE REQUIREMENTS WHICH LIMIT DRIVEWAY WIDTHS TO A MAXIMUM OF 25-FEET; AND 4) A VARIANCE TO ALLOW INTERNAL AISLE WIDTH FOR TWO-WAY TRAFFIC BE NO LESS THAN 22-FEET IN WIDTH. FOR THE PROPERTY LOCATED 1479 ESTERO BLVD.; AND PROVIDING FOR AN EFFECTIVE DATE

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

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated on the blue sheet. He indicated the applicant submitted an alternative landscape and tentative lighting plan in the packet. The hotel use required 20 parking spaces, which left an additional 23 parking spaces for commercial parking. He stated that the applicant did not have to submit a drainage plan unless they expanded the footprint. The applicant requested the removal of the requirement to have an attendant at the entrance to the lot. The attendant will meet the person when they park. Attorney Robert Burandt represented the applicant and reviewed the background of the parking lot. He agreed with everything Senior Planner Smalley said.

No public comment.

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

The motion was carried unanimously by roll call vote.

- D. Resolution 25-28; SEZ20240186, 1479 Estero Blvd (Lani Kai)
(CONTINUED FROM JANUARY 8, 2025 PUBLIC HEARING-LANI KAI PARKING)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING SPECIAL EXCEPTION SEZ20240186 FOR USE OF AN EXISTING LOT TO PROVIDE COMMERCIAL PARKING SPACES IN THE DOWNTOWN ZONING DISTRICT OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 1479 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.

Senior Planner Smalley reviewed the background of the request as stated on the blue sheet.

No public comment.

Council Member Woodson moved to approve with conditions, seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

- E. Ordinance 24-03; Bicycle Safety

First reading and public hearing of and ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING ARTICLE III "BEACH BICYCLE AND VEHICLE SAFETY" OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO ALLOW THE OPERATION OF ELECTRIC BICYCLES ON SIDEWALKS; ESTABLISHING SAFETY REGULATIONS; ESTABLISHING A MAXIMUM SPEED AND PASSING PROCEDURES; REQUIRING OPERATION WITH THE FLOW OF TRAFFIC; ESTABLISHING RESPONSIBLE PARTIES AND PENALTIES; ESTABLISHING ADDITIONAL REGULATIONS FOR THE SAFE OPERATION OF BICYCLES ON SIDEWALKS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich noted that items discussed by the Public Safety Committee (PSC) were included in the ordinance. She did not find any prohibition in Lee County's ordinances regarding e-bikes using sidewalks; however, they will ensure the county is okay with what the town is proposing before the second reading. She reviewed substantive changes in the ordinance and conditions. Council Member Woodson commented that 15 mph on sidewalks was too fast, and the PSC recommended less than 10 mph. Due to pedestrian congestion, the PSC also recommended that people walk their bikes from Avenue C to Times Square. Town Attorney Stuparich commented that adding dividing lines to the sidewalks would have to be discussed with Lee County.

Vice Mayor Atterholt forwarded language submitted by a constituent for Town Attorney Stuparich's review. He felt that 15 mph from Red Coconut to Times Square was too fast on the sidewalk. Council Member King suggested they track data and revisit the issue in a year. Council Member Safford did not think they should require people to walk their bikes in certain areas. Vice Mayor Atterholt referred to the email from the constituent. Council Member Safford thought that people who break the rules should be fined. Operations and Compliance Director Frankie Kropacek said they would fine those who threatened public safety. Council Member Safford did not think the current fine of \$50.00 was high enough. Discussion was held regarding issuing a citation for going 12 mph versus someone endangering the public. Council Member Woodson brought up installing signs.

Public comment:

Debra DePauw, resident, commented that people should use common sense. Today, a jogger ran towards her when she was riding in the bike lane, and she had to move to the sidewalk. She supported e-bikes on the sidewalks. She thought adding signs would help, but not lines on the sidewalks. She asked that the graphics on the bike lanes be repainted because they were fading. She referred to the green paint on Andre Mar. She noted that people using wheelchairs would have difficulty traveling on the side next to the road because of driveway cutouts. She asked that the sidewalks be cleaned off and she referred to a bike safety brochure.

Mr. Williamson stated that he always followed the rules of the road and thought the sidewalks were for pedestrians. He noted that it was difficult to pass on the sidewalk and the road. He described how easy it was to scare pedestrians while riding on the sidewalks.

Public comment closed.

Town Attorney Stuparich reviewed the changes she would make before the second reading.

Council Member King moved to move the ordinance to a second reading with the changes, seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Special Event - Off Duty Fishing Series hosting 3rd Annual Red Grouper Bash

Approval of a waiver of enforcement of the Town's open container and noise ordinance during the 3rd Annual Red Grouper Bash, to be held at Moss Marina on March 7, 2025 from 4:00 pm to 9:00 pm on March 8, 2025, as requested by Off Duty Fishing Series, and subject to further approval by the FMB Fire Control District and Lee County Sheriffs Office.

Mayor Allers read the request.

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

The motion carried unanimously by roll call vote.

- B. Resolution 25-83; Ahtna Change Order #2 and #3 ITB-24-03-EN

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE 1) CHANGE ORDER #2 TO CONTRACT ITB-24-03-EN BETWEEN THE TOWN OF FORT MYERS BEACH AND AHTNA MARINE AND CONSTRUCTION COMPANY, LLC TO ADD 14 DAYS OF CONTRACT TIME TO CONSTRUCT THE ESTERO ISLAND BEACH RENOURISHMENT; AND 2) CHANGE ORDER #3 TO CONTRACT ITB-24-03-EN BETWEEN THE TOWN OF FORT MYERS BEACH AND AHTNA MARINE AND CONSTRUCTION COMPANY, LLC TO REPAIR EROSION CAUSED BY HURRICANES HELENE AND MILTON BY RE-CONSTRUCTING THE BEACH BETWEEN FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION RANGE MONUMENTS R-176 AND R-179 FOR A COST NOT TO EXCEED \$631,930.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Environmental Projects Manager Chadd Chustz reviewed the change orders and noted that FEMA would pay for the majority.

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

The motion carried unanimously by roll call vote.

- C. Resolution 25-81; Florida Marine Contracting & Recovery

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT DATED DECEMBER 2, 2024 WITH FLORIDA MARINE CONTRACTING & RECOVERY, LLC, WHICH WAS PREVIOUSLY RATIFIED BY THE TOWN COUNCIL ON JANUARY 8, 2025, TO NOW: 1) EXTEND THE TERM OF THE AGREEMENT RETROACTIVELY FROM JANUARY 11, 2025 TO APRIL 30, 2025; 2) INCREASE THE NOT TO EXCEED AMOUNT BY \$1,800,000.00 FOR A TOTAL OF \$2,000,000.00; AND UPDATE PRIOR TERMS AND CONDITIONS AS REQUIRED BY FLORIDA AND FEDERAL LAW, TO CONTINUE TO REMOVE DEBRIS FROM WATERWAYS IN THE TOWN OF FORT MYERS BEACH CAUSED BY HURRICANES HELENE AND MILTON AND DISPOSE OF DEBRIS AT AN AUTHORIZED WASTE MANAGEMENT SITE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Projects Manager Chustz explained the reason for the extension and noted that FEMA should reimburse most of the cost.

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

The motion carried unanimously by roll call vote.

- D. Resolution 25-60, Sole Source Purchase of Wachs Valve Exerciser for Water Mains
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE PURCHASE OF A VALVE EXERCISER FROM E. H. WACHS UTILITY PRODUCTS AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A PURCHASE ORDER IN THE AMOUNT NOT TO EXCEED \$93,185.20; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Allers read the title of the resolution. Community Services Director Jeff Hauge explained that this was the result of breaks. The equipment will be paid for by insurance and FEMA.

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

The motion carried unanimously by roll call vote.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Director Kropacek stated that a letter was sent to the former Fresh Catch restaurant's property owner on February 26, 2025, because they were in violation of the red tag policy. The town was scheduled to demolish the property on March 5, 2025. Director Kropacek reviewed previous communications.

Human Resources Manager Talissa Oliveira provided an update on replacing the town manager. They were in the final stages of background screening and verifying references. Her target was to have five qualified candidates for interviews at a special town council meeting on March 25, 2025. She clarified that candidates did not necessarily have to live on the island, but they had to get on the island in 30 minutes.

Director Hauge stated that the floor in Bay Oaks would be epoxy in late March or early April. Bay Oaks should be ready to open after the toilets are installed.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich stated she had been working with code and the team to develop procedures regarding compliance issues for shipping containers.

Operations & Compliance Manager Thomas Yozzo reported that the six cases scheduled for DOAH (Division of Administrative Hearings) tomorrow had come into compliance. Cases scheduled for April were also working on compliance. As long as people comply, they will not be fined.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

No items.

XVII. ADJOURNMENT

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

Minutes adopted as presented, March 17, 2025. Motion by Council Member King and seconded by Council Member Woodson. Passed 5-0.



Amy Baker, Town Clerk