



Fort Myers Beach Town Council

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

Minutes

Monday, May 5, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Item D. under Public Hearings has been resolved and Item E. will be moved to the top of the Public Hearings.

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

The motion carried unanimously.

V. PUBLIC COMMENT

Chris Mosteiro, resident, commented on redevelopment and was concerned about large-scale projects intruding on residential areas. Residents did not want to see high-rises on the island and asked how they would keep the small-town feeling they had.

Leah Greg, resident, thanked Town Attorney Stuparich for hosting the Sunshine training. She discussed consistently applying land development codes to developments. She did not understand why the LPA (Local Planning Agency) voted against Seagate but voted for the Arches. She described the inconsistencies and asked that they apply the code consistently.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King recognized his wife on their 35th wedding anniversary.
No items from other members.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Dave Nusbaum, Chair of the Marine & Environmental Resources Task Force (MERTF), reported on private and public canals and noted it was a mixed bag.

MERTF voted 5-2 to recommend that the town council research funding mechanisms to dredge the canals. MERTF unanimously voted to support the dune planting project. MERTF unanimously recommended that the town remind property owners to remove Australian Pines and category one invasive plants from their property. Chair Nusbaum described the Mulholland Stewardship Award and invited the community to go to the town's website to complete an application. Chris Riedel King, Chair of the Anchorage Advisory Committee (AAC), noted that canals were a crossover issue with MERTF. She distributed a recap of the Cruiser's Appreciation Day and summarized the highlights. She thanked everyone for their support. She stated the AAC was reconciling all the different documents regarding their responsibilities.

VIII. PRESENTATION

A. Wave Mitigation Wall

Elizabeth Fountain, P.E., CFM

Director of Floodplain Management and Stormwater Design

J.R. Evan Engineering, P.A.

Ms. Fountain introduced herself and Austin Wise. They utilized PowerPoint for the presentation. Slides included Background and Context, Sea Level Rise, Historic Storms within 50 Miles, Size, Surge Levels, Regulatory Framework, Wave Mitigation Strategies, Benefits for Public and Private Stakeholders, Real-World Examples, Cost, Maintenance and Funding, Recommendations and Next Steps. Ms. Fountain reviewed how she got the flood maps changed with FEMA (Federal Emergency Management Agency). Town Attorney Stuparich thought that impact fees could be used for funding, but she would defer to the study parameters. Ms. Fountain noted that gaps in the wall did not concern her and they would design around property owners who did not want the wall. She stated the next step would be a study and she would prepare a scope. Council members reached consent for Ms. Fountain to proceed

IX. APPROVAL OF MINUTES

A. Special Town Council - April 18, 2025

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

The motion carried unanimously.

X. CONSENT AGENDA

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

The motion carried unanimously.

A. Resolutions 25-125 through 25-128; 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

- B. Resolutions 25-129 through 25-132; Extension of Local Emergency - Hurrican 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

- C. Resolutions 25-133 through 25-136; 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

- D. Resolutions 25-137 through 25-140: 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

- E. Resolutions 25-141 through 25-144: Extension of Local 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 Safford moved to approve the resolution, seconded by Council Member Woodson.

The motion carried unanimously.

XI. ITEMS REMOVED FROM CONSENT AGENDA**XII. PUBLIC HEARINGS**

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and noticed. She swore in those providing testimony. She clarified that there was an additional public hearing for a small amendment that was legislative in nature, so discussions were more robust.

- A. Ordinance 25-07; REZ20240275, 1011 Third Street

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-07. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for May 19, 2025, at 9:00 AM or at another time identified by Town Council.

ORDINANCE TITLE:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A REZONING OF PROPERTY LOCATED AT 1011 THIRD STREET, FORT MYERS BEACH, FLORIDA (STRAP NUMBER 24-46-23-W3-00202.0060) FROM DOWNTOWN TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) WITH THREE DEVIATIONS: 1) REQUEST TO APPLY PROPERTY DEVELOPMENT REGULATIONS FOR THE DOWNTOWN ZONING DISTRICT, RATHER THAN THE RESIDENTIAL MULTI-FAMILY STANDARDS IN SEC. 34-943 REQUIRING USE OF THE RM DEVELOPMENT REGULATIONS, 2) REDUCTION OF THE REQUIRED 5-FOOT SIDE YARD SETBACKS TO ALLOW FOR DEVELOPMENT ON THE EASTERN PROPERTY LINE and 3) REQUESTING A FLOOR AREA

RATIO (FAR) OF 1.7, AN INCREASE OVER THE 1.0 FAR ALLOWED IN SEC. 34-675(C)(3); PROVIDING FOR 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. The property owner confirmed receipt of the agenda and background materials. Ex parte communications: Council Member Safford was familiar with the property and had a conversation with Mr. ~~Markman~~ **Merschman**, Council Member Woodson knows the property and Mayor Allers is familiar with the property. No disclosures from Council Member King and Vice Mayor Atterholt.

Community Development Senior Planner Jason Smalley reviewed the background of the request and the deviations as stated on the blue sheet. Planner Matt Noble represented the applicant and indicated the adjacent property had a FAR (Floor Area Ratio) of 1.8, so 1.7 was in character with the area. The property was designed consistent with the downtown zoning district and offered better water management on the site. A detention pond and vaulting would be added to the site. Mr. Noble described his qualifications as an expert in his field.

Vice Mayor Atterholt moved to accept Mr. Noble as an expert in his field, seconded by Council Member Safford. The motion carried unanimously. No public comment.

Council Member King moved to approve the ordinance based on staff recommendations and conditions, seconded by Mayor Allers. The motion carried unanimously by roll call vote.

B. Ordinance 25-04 ARCHES RESORT CPD

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-04 (commonly referred to as the Arches Commercial Planned Development). If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for June 2, 2025, at 9:00 AM after adoption of the Comprehensive Plan Amendment proposed in Ordinance 25-05 or at another time as identified by Town Council.

ORDINANCE TITLE:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE REZONING OF 4.98 ACRES OF PROPERTY MORE SPECIFICALLY DESCRIBED HEREIN FROM COMMERCIAL MARINA (2 PARCELS), RESIDENTIAL CONSERVATION (5 PARCELS), COMMERCIAL OFFICE (1 PARCEL) AND DOWNTOWN (2 PARCELS) TO A COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING, TO ALLOW A MIXED-USE DEVELOPMENT INCLUDING 263 LODGING UNITS, COMMERCIAL/ RETAIL SPACE AND PUBLIC OPEN SPACE, MORE SPECIFICALLY DESCRIBED AS 436, 441, 445, 450 HARBOR COURT; 435 AND 438 BONITA STREET; 935 AND 939 THIRD STREET AND 401 OLD SAN

CARLOS BLVD , ALSO IDENTIFIED AS THE FOLLOWING STRAP NUMBERS: 24-46-23-W3-00027.0000; 24-26-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23- W3-0030C.0040, 24-46-23-W3-0030A.0110, 24-46-23-W3-0030A.0030, 24-46-23- W3-0030A.0020, 24-46-23-W3-0030A.0010 FORT MYERS BEACH, INCLUDING DEVIATIONS FOR HEIGHT, SETBACKS, HOTEL UNITS, PARKING, LANDSCAPING AND ACCESS; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Ex parte communications: Council Member Safford talked with Mr. Freeland and the Neighborhood Company, received emails for and against the project and had a site visit, Council Member Woodson had a couple of calls and a meeting with Mr. Freeland, met with the neighbors, participated in a site call at Mr. Mosteiro's home and she lives in the neighborhood, Vice Mayor Atterholt visited Mr. Mosteiro at his home, had a meeting with the applicant, the Neighborhood Company and received emails for and against, Council Member King met with the applicant, a couple of the neighbors and received emails for and against and Mayor Allers met with the Neighborhood Company and the applicant, met with Mr. Mosteiro at his home, received emails for and against and spent time walking around the neighborhood.

Attorney Megan Strayhorn represented the applicant and stated she received the agenda and background materials. Patrick Vanasse, Ken Gallander and Ted Treesh will testify as experts.

Community Development Principal Planner Judith Frankel noted there were two applications - the Commercial Planned Development (CPD) and the comprehensive plan amendment. She provided a brief overview of the process. She indicated the CPD would be heard first, but the project could not proceed if the comprehensive plan amendment was not approved. She said the CPD came first, so the council could see what the change would look like. She reviewed the background of the request as stated on the blue sheet. The LPA voted unanimously for approval with conditions. Principal Planner Frankel read the deviations. Staff found that the deviations did not meet the criteria and recommended denial of the application because of expected neighborhood intrusion and intense use.

Attorney Strayhorn utilized PowerPoint for the presentation. Slides included Subject Property, Aerial, Existing and Proposed Future Land Use Maps, Background and Public Input & Public Record.

Council Member Woodson moved to include all the items as part of the record, seconded by Vice Mayor Atterholt.

The motion carried unanimously.

The presentation continued with the Basis of Review, CPD Rezoning Request, CPD Presentation, Updates Since LPA, Revised Master Concept Plan, Drainage Concerns, Pre-lan Subject Property, Illustrative Master Plan, Resort from the Water, Aerial of the Resort, Building A, Open Air Market,

Building B, New Roadway for the Entrance, Linear Park and Memorial Garden, Public Promenade, Ferry Condition and discussion of separate agreement, Ferry Terminal Area, Mid-Point of Promenade, Chapel, Building E, Landscape by Pool, View from Third Street, View from Harbor Court, View from the Bridge, Public Benefits/Special Benefits, Key Points, Comprehensive Plan Consistency and Findings and Conclusions.

Public comment:

Marilyn Anderson, resident, commented on the drainage issue, noise concerns, add a privacy screen along the rooftop lounge in Building A, Building B was too big and too close to the neighbors, push back the railing on the sundeck and enclose the back side of the parking garage. Build a new wall along Arches Way, fix the angle of Arches Way Road and stop the ambient music at 9:00 p.m.

Chris Mosteiro, resident, distributed a letter regarding drainage issues to council members and asked that it be added to the record. The Freelands have not maintained the drains in perpetuity like they were supposed to. He was concerned about noise on the Sunset deck because it did not have a buffer.

Phillip Teal, resident, was concerned about the entrance from Harbor Court and Bonita Street. They did not want dead-end streets because big trucks could not make U-turns. He noted they could build a roundabout connecting Bonita Street to Harbor Court. He illustrated how that could work.

Leah Greg, resident, discussed how the density statistics could be manipulated. She thought every public benefit was a revenue generator.

Her points of contention were drainage, gates at the entrance and the rooftop bar was not a public benefit. She asked the council to negotiate because they were almost there.

Bill Veach, resident, liked the project, but did not like the commercial intrusion into residential neighborhoods. He was concerned about the phases and noted that the eventual buffer would be used for construction vehicles that could go on for decades. He suggested they permit one phase at a time. He felt the timing, scope and phasing were issues and the ferry was not a public benefit.

Tom Torgerson, resident, commented that developers talked about getting what Margaritaville got and more, but they wanted to give less or nothing back. He applauded the Arches project and thought it was good for the island. It was a unique project in a unique location. He thought there was still room for more negotiations. He was concerned with the phasing because it was so big.

Robin Atwood, resident, was concerned about the noise carrying across the canal. She described their quiet evenings in a quiet neighborhood and said she did not want pool parties. She described people looking into their lives and did not like that. The building should be lower. She described construction trucks and not having a pleasant life.

Tim Shadle, resident, commented that the project was massive and intrusive and they would lose the marina barns. He described the loss of wet slips and

dry boat storage.

Public comment closed.

Attorney Strayhorn stated they were aware of the drainage issues and an engineer would provide a drainage plan. She addressed the gates and said they would do whatever the council suggested. Mr. Vanasse explained the drainage issues and noted that Moss Marina was the highest point in the neighborhood. He said it was a complex situation and they would do their part to mitigate flooding. He addressed the comp plan amendment and said they were within their right. He explained why the proposed map change was consistent with the comp plan. Mayor Allers stated that drainage was a major problem and constantly flooded. A substantial public benefit would be to alleviate the flooding, which had to be addressed. Mr. Vanasse responded that they would provide a drainage outfall on their property. Mayor Allers said one of the two properties on Third Street could potentially solve the drainage issue. He wants to eliminate the phases, fix the drainage issue and provide a park that could be enjoyed immediately. That would move the needle for him to send it to a second hearing. Mr. Vanasse did not think negotiations at the last hour were consistent with the spirit of how CPDs should be assessed.

He felt what they provided was a significant benefit. He stated they did not own the properties on Third Street and could not be asked to do something not on their property.

Vice Mayor Atterholt clarified that the wet boat slips would increase. Attorney Strayhorn stated that drainage was the council's primary focus and asked that the town staff work with them to figure out something. She indicated that a lot of the drainage issues were because of the lack of infrastructure, and not necessarily due to Moss Marina. Mr. Vanasse explained that the town asked Moss Marina to put in drainage to direct the water towards the back bay, but it did not work due to the elevation. Attorney Strayhorn reviewed the six phases of the project. Mr. Freeland stated that the phasing was for flexibility and thought some phases could be consolidated. Public comment requests were addressed. An additional buffer will be added to the Sunset Terrace to prevent people from looking into residential homes. Council Member Safford was not a fan of the music playing until midnight and suggested ending at 10:00 p.m. Mr. Freeland suggested that the hours be consistent with the businesses on Old San Carlos.

Council Member Woodson addressed the roundabout idea from Mr. Teal. At the minimum, she wanted to see gates at the end of Bonita, Third and Harbor Court with signs indicating they were dead ends. She did not want a park on Third Street. Mr. Gallander discussed adding gates and a hammerhead configuration so vehicles could turn around.

Hours of operation were discussed. Emergency Services & Compliance Director Thomas Yozzo said that the ordinances follow Florida statutes for alcoholic beverages, which are 7:00 a.m. to 2:00 a.m.; however, the town's noise ordinances are in effect before 2:00 a.m. Mr. Freeland said he would restrict the music on the backside of the bodega/restaurant. All the open

decks facing residential neighborhoods would have the same restriction.

Mr. Vanasse stated they would offer valet parking and self-parking. He thought a gate on Harbor Court was a good idea and wanted all the traffic to drive through the resort and exit on Arches Way. Council Member Safford asked about offering a discount to residents. Mr. Freeland was not sure, but they would research it.

Principal Planner Frankel read the findings, conclusions and conditions. A discussion was held regarding the definition of ambient and amplified sound. Director Yozzo replied that the town enforced decibel levels.

Mayor Allers felt there were holes in their basket of benefits, but he supported sending it to a second hearing. Vice Mayor Atterholt thought the project did a good job of opening the bayfront to the public and commended them for coming back with a more modest proposal. Council Member Woodson felt they could get to a good ending and supported it.

Vice Mayor Atterholt moved to approve the ordinance based on conditions that have been identified in the staff report and the adoption of the comprehensive plan amendment proposed in Ordinance 25-04 at the time of approval and send it to a second reading on June 2, 2025, at 9:00 a.m., seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

C. Ordinance 25-05, Comprehensive Plan Amendment - Marina and Mixed Residential to Pedestrian Commercial FLU ARCHES RESORT

This agenda item is a First Reading and Public Hearing on proposed Ordinance 25-05 (commonly referred to as the Arches Redevelopment Project Small Scale Comprehensive Plan Amendment). If approved at First Reading, a Second Reading will be scheduled for June 2, 2025, at 9:00 AM prior to adoption of Ordinance 25-04 or at another time identified by Town Council.

ORDINANCE TITLE:

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE TOWN OF FORT MYERS BEACH ADOPTED FUTURE LAND USE MAP DATED JANUARY 1, 1999, CONTAINED IN THE TOWN'S COMPREHENSIVE PLAN, FOR PROPERTIES LOCATED AT 450, 445, 441, & 436 HARBOR COURT, 435 & 438 BONITA STREET, FORT MYERS BEACH FLORIDA, ALSO IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00027.0000; 24-26-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, FORT MYERS BEACH, AMENDING THE FUTURE LAND USE MAP FOR THESE PARCELS FROM MIXED RESIDENTIAL (4 PARCELS) AND MARINA (2 PARCELS) TO PEDESTRIAN COMMERCIAL; PROVIDING FOR 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. Principal Planner Frankel reviewed the background of the request as stated on the blue sheet. The LPA unanimously recommended approval. She read the findings and conclusions. Staff recommended denial; however, if the town council finds that the concurrent CPD application adequately demonstrates that the proposed development is "clearly in the public interest, not just in the private interest of a petitioning landowner," approval could be granted.

Attorney Strayhorn reviewed the Background, Basis of Review, Public Input & Public Record and CPA Request. Mr. Vanasse continued with the Existing and Proposed Future Land Use Map, Consistency with Comp Plan and Downtown Core Vision and Findings & Conclusion.

Public comment:

Chris Mosteiro, resident, thanked the applicant for listening to residents. He discussed an existing land survey on page 447 that showed how low the neighborhood was compared to the marina. He said the neighborhood needed drains in addition to outfalls.

Leah Greg, resident, agreed with Mr. Mosteiro and recommended that the council member visit the neighborhood. She appreciated the effort to add signs, but questioned whether anyone would pay attention. She felt the traffic would increase exponentially and be a safety risk if public access were allowed. She discussed the flooding and had to figure out how to pay for the drainage.

Public comment closed.

Council Member King moved to approve the ordinance based on the findings of fact that the planner made and the testimony from the applicant's planner and send it to a second hearing on June 2, 2025, at 9:00 a.m., seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

D. Lien Reduction Request - 8124 Estero Blvd.

Lien Reduction Request by Noel Davies, Esquire Regarding Property Located at 8124 Estero Blvd, Fort Myers Beach, Florida

Town Attorney Stuparich reported this item has been resolved.

E. Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace

Request for Rehearing and Reconsideration of Denial of Appeal of 213191 Widgeon Terrace – Administrative Appeal of Building Permit # 24233 / 23477 – April 21, 2025 Agenda Item XII, B. (Construction of Swimming Pool), Pursuant to Town Code Sec. 34-93.

Town Attorney Stuparich explained that there was a mix-up in noticing, the building official was not present at the hearing and there were a couple of issues with the agenda packet. She was not opposed to the rehearing and thought it was the correct thing to do.

Attorney Robert Hartsell agreed there were mix-ups and he requested a rehearing. Town Attorney Stuparich noted the rehearing was tentatively

scheduled for May 19, 2025, if granted.

Attorney Robert Burandt represented the property owner and noted that they opposed the denial.

Mayor Allers moved to grant the request for the rehearing on May 19, 2025, at 9:00 a.m. and reconsideration of the denial of the appeal, seconded by Council Member King.

The motion carried unanimously by roll call vote.

XIII. ADMINISTRATIVE AGENDA

A. Resolution 25-121, Tier 1 Change Order #1

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDER #1 TO CONTRACT ITB-23-18-UT BETWEEN THE TOWN OF FORT MYERS BEACH AND ANDREW SITEWORK LLC.; INCREASING THE CONTRACT AMOUNT BY \$757,545.41; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek explained that streets would be added to the contract.

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

The motion carried unanimously by roll call vote.

B. Resolution 25-145; Approving Town Manager Employment Agreement

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT BETWEEN THE TOWN AND WILLIAM MCKANNAY TO SERVE AS THE TOWN MANAGER IN ACCORDANCE WITH THE TERMS AND CONDITIONS CONTAINED IN THE EMPLOYMENT AGREEMENT ATTACHED AS EXHIBIT A TO THE RESOLUTION; PROVIDING FOR CONFLICTS, SEVERABILITY; AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Council Member Woodson stated they had reached a decision and she reviewed the highlights of the negotiations as stated in Exhibit A.

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

The motion carried unanimously by roll call vote.

XIV. FINAL PUBLIC COMMENT

No public comment.

XV. TOWN MANAGER'S ITEMS

Town Manager Hyatt indicated strategic planning would be on Wednesday and

Thursday this week. The town was off probation as of November 18, 2025, and an audit will be conducted to get back into the CRS (Community Rating System) program. Mr. McKanney will start on May 19, 2025, and Town Manager Hyatt will step into a support role for the next two weeks. There is no M&P meeting in May.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Stuparich clarified that Mr. McKanney would attend the May 19, 2025, meeting. She thanked everyone for their patience with the lengthy meetings and explained why they were necessary. She indicated that the Magistrate issued an order of violation for La Ola and gave them until March 1 to come into compliance. La Ola appealed the decision to the circuit court and the appellant's brief was recently filed. The town was in the process of presenting its brief.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Safford asked whether the town could designate two parking spots for 10-minute maximum parking to allow for takeout orders. Town Manager Hyatt asked him to identify a location. Council Member Safford suggested that they be under the bridge next to Harbor House. Director Yozzo noted they would have to create new signs, but the 10-minute parking would not be enforceable.

Mayor Allers asked about using resident parking passes in places other than under the bridge and allowing it year-round. Council Member Safford and Director Yozzo will research where to locate 10-minute parking spots and a consensus was reached to open up resident parking.

Council Member Woodson brought up the September deadline for temporary use permits for RVs and motor homes. She noted they needed to decide soon so that people could make plans. Town Attorney Stuparich will review the ordinance and report at the next meeting.

Vice Mayor Atterholt asked whether they were interested in inviting a Quantum representative to their next M&P. All members agreed.

Mayor Allers asked about designating parking spots for Uber and Lyft drop-offs on Third Street. He received support for adding it to an M&P.

XVIII. ADJOURNMENT

Council Member King moved to adjourn, seconded by Mayor Allers.

The motion carried unanimously.

The meeting was adjourned at 5:08 PM.

Minutes adopted with correction, May 19, 2025. Motion by Council Member King and seconded by Council Member Safford. Passed 5-0.



Amy Baker (Jun 6, 2025 15:09 EDT)

Amy Baker, Town Clerk