Fort Myers Beach Town Council

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

Minutes **Thursday, September 11, 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

Mayor Allers noted Emergency Ordinance 25-16 was added and Item I was removed under the Administrative Agenda.
Council Member King moved to approve the final agenda as amended, seconded by Council Member Woodson.
The motion carried unanimously.

V. PUBLIC COMMENT

No public comment.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Safford thanked everyone for getting them into the new town hall.
Council Member Woodson added that the staff did a fantastic job.
Vice Mayor Atterholt agreed.
Council Member King was happy for the staff and proud of what they accomplished.
Mayor Allers noted it was nice to have a home for everyone.

VII. PRESENTATIONS

A. Project Update

David Farmer of Metro Forecasting Models (MFM) will present a brief summary of his work to date with a longer presentation to be given at the October Management and Planning meeting on October 15, 2025.

David Farmer was excited for the town and the new facility. He indicated he would return in October with a more substantial presentation, but he wanted to share new data today. His presentation started with Introductions, Hotel Research, Fort Myers Beach Baseline 2025 Data, FMB "Rebuild" Buildout Data, FMB Potential Buildout Data, Community Character, What are the Town's Goals?, Homesteaded Housing Units, Non-Homesteaded Housing Units, Peak Seasonal Population (2025), Economic Development, Vacant Land (2025), Importance of Vacant Land and The Next Steps.

VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Anchorage Advisory Committee (AAC)

Vice Chair Sam Lurie asked that $1,577.36 left over from the Cruiser's Appreciation Event to be included in the 2026 fiscal year budget for the AAC to use to promote the Mooring Field and future events. They also requested an additional $500.00 in case they needed it. The next Cruiser's Appreciation Day is tentatively scheduled for April 12, 2026. The AAC will present the initial plan and request the council's approval on November 3, 2025. Vice Chair Lurie noted that many donations were received for the recent event. He thanked the council for the new dinghy dock that was recently installed. He thanked Vice Mayor Atterholt for being an effective liaison.

IX. APPROVAL OF MINUTES

A. Town Council - August 4, 2025

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

B. Town Council - August 18, 2025

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

C. Management & Planning Session - August 7, 2025

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

X. CONSENT AGENDA

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

A. <u>Resolutions 25-252 through 25-255; Extension of Local Emergency - Tropical Storm Debby</u>

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

The motion carried unanimously.

B. Resolutions 25-258 through 25-261; 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 King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously.

C. Resolutions 25-265 through 25-268; 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 King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously.

XI. ITEMS REMOVED FROM CONSENT AGENDA

Mayor Allers read the title of Emergency Ordinance 25-16. Town Clerk Amy Baker distributed copies of the ordinance. Town Attorney Stuparich explained the ordinance regarding recall elections. Town Clerk Baker notified Council members King and Woodson that the Supervisor of Elections certified the number of petitions received and they had five days to submit a voluntary written resignation. No resignations were received. The chief judge will set a day for the recall election, no less than 30 days or no more than 60 days, for the removal of those who have not resigned. The Honorable J. Frank Porter issued an order yesterday that the special recall election will be held on Tuesday, November 4, 2025. The town does not have a qualifying date for any recall elections in the event of possible vacancies. The supervisor of elections requires the town council to establish qualifying dates before he can proceed. Section 3 of the ordinance sets the qualifying period for Monday, September 15, 2025, at 9:00 a.m. and closes at 5:00 p.m. on Tuesday, September 16, 2025.

Town Attorney Stuparich explained that she could only speculate on what would happen if the town council did not pass the emergency ordinance.

Council members Woodson and King stated they would not sign the conflict of interest form.

Vice Mayor Atterholt explained that he could not be a party to cleaning up a mess and would not support the ordinance.

Council Member Safford agreed, noting that they were not mandated to approve this and that it should go back to the judge.

Mayor Allers will support it because he respects the process. Council Member Safford did not think there was a process and there was no precedent for this. Mayor Allers indicated there were two precedents and Town Attorney Stuparich cited a Florida Statute.

No public comment.

Mayor Allers moved to approve the ordinance, no second.

Council Member Safford moved to not approve/not adopt the ordinance, seconded by Vice Mayor Atterholt.

The motion carried 4-1, with Mayor Allers dissenting.

XII. PUBLIC HEARINGS

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

A. Ordinance 25-15, RPD20250181, 138/140 Delmar Ave.

This quasi-judicial agenda item is a First Reading and Public Hearing on proposed Ordinance 25-15. If approved at First Reading, a Second Reading and final adoption hearing will be scheduled for October 6, 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 AN APPLICATION TO REZONE PROPERTY LOCATED AT 138/140 DELMAR AVE, GENERALLY IDENTIFIED AS STRAP NUMBER 19-46-24-W3-0100B.0150 FORT MYERS BEACH FROM RESIDENTIAL CONSERVATION TO RESIDENTIAL PLANNED DEVELOPMENT TO ALLOW CONSTRUCTION OF A TWO-STORY DUPLEX ABOVE FLOOD ELEVATION AND A DEVIATION FROM SECTION 34-638(D)(2) OF THE LAND DEVELOPMENT CODE TO ALLOW A PORCH AND STOOP TO ENCROACH 15-FEET INTO THE 25 FOOT STREET SETBACK WHERE A MAXIMUM ENCROACHMENT OF 10 FEET IS PERMITTED FOR ACCESSORY USES; PROVIDING FOR CLARIFICATION AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. No ex parte communications were disclosed. The property owner confirmed receipt of the agenda backup materials.
Community Development Planner Jason Green reviewed the background of the request as stated on the blue sheet. Staff recommended approval with conditions.
No public comment.

Council Member Woodson moved to approve the ordinance with conditions and move it to a second hearing, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

B. SEZ20250149, 4750 Estero Blvd

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20250149 TO ALLOW LIKE-FOR-LIKE REPLACEMENT OF TWO TIKI HUTS, DECKING, FENCE, GRAVEL DRIVEWAY AND LANDSCAPING IN THE EC ZONING DISTRICT SEAWARD OF 1978 CCCL, FOR THE PROPERTY LOCATED AT 4750 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND 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. Staff recommends approval with conditions. Environmental Projects Manager Chadd Chustz will monitor the project.
No public comment.

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

XIII. ADMINISTRATIVE AGENDA

A. Resolution 25-273, Health Insurance Renewal

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING THE SELECTION OF CIGNA FOR MEDICAL INSURANCE COVERAGE AND THE STANDARD FOR SUPPLEMENTAL INSURANCE COVERAGE FOR THE FISCAL YEAR 2025–2026; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Human Resources Director Talissa Oliveira introduced Insurance Broker Athena Erchard from the Gehring Group. Director Oliveira indicated that finance was involved in the process and it was budgeted. Ms. Eckhard utilized PowerPoint for her presentation. Slides included Plan Background, RFP Responses, Plan Design Comparison, Medical Insurance Comparison, Ancillary Lines, Dental Finalists, Vision Finalists, Ancillary Lines Continued and Recommendations.

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

B. Resolution 25-247; CDBG-DR Organizational Change DR10262 North Island Water Tower

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE CDBG-DR SUBRECIPIENT GRANT AGREEMENT DR10262 BETWEEN THE TOWN AND THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS TO CHANGE THE REFERENCED KEY PERSONNEL FOR THE NORTH ISLAND WATER TOWER AND CHANGE THE ADDRESS TO THE NEW TOWN HALL; AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Community Development & Planning Director Frankie Kropacek described the operations of the north and south water towers. He noted that items B, C and D were the same and related to different projects. The resolutions reestablished Joe Onzick as finance director and were required by HUD (US Department of Housing & Urban Development).

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

C. Resolution 25-248; CDBG-DR Organizational Change Notification DR10263 Parks and Recreational Revitalization Program.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE CDBG-DR SUBRECIPIENT GRANT AGREEMENT DR10263 BETWEEN THE TOWN AND THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS TO CHANGE THE REFERENCED KEY PERSONNEL FOR THE PARKS FACILITY AND RECREATION REVITALIZATION PROJECT AND TO CHANGE THE TOWN HALL ADDRESS TO 6231 ESTERO BLVD., FORT MYERS BEACH IN THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SECOND AMENDMENT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.
Mayor Allers moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

D. Resolution 25-249; CDBG-DR Organizational Change Notification DR10157 Recovery and Resiliency Planning Program

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING A SECOND AMENDMENT TO THE CDBG-DR SUBRECIPIENT GRANT AGREEMENT DR10157 BETWEEN THE TOWN AND LEE COUNTY BOARD OF COUNTY

COMMISSIONERS TO CHANGE THE REFERENCED KEY PERSONNEL FOR THE RECOVERY AND RESILIENCY PLANNING PROGRAM; AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT BY THE TOWN MANAGER; AND PROVIDED AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.

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

The motion carried unanimously by roll call vote.

E. Resolution 25-256; Amendment #1 Andrew Site Works for Additional Fire Hydrants

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE CONTRACT APPROVED AUGUST 4, 2025 WITH ANDREW SITEWORK FOR THE PURCHASE AND REPLACEMENT OF 18 ADDITIONAL NON-OPERABLE FIRE HYDRANTS LOCATED THROUGHOUT THE TOWN FOR AN ADDITIONAL COST NOT TO EXCEED $145,256 FOR A TOTAL NOT TO EXCEED CONTRACT AMOUNT OF $435,768; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Community Resources Director Jeff Hauge indicated that the replacements would be paid out of the water fund.

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

The motion carried unanimously by roll call vote.

F. Resolution 25-270; Ground Penetrating Radar Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A THIRD AMENDMENT TO THE AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND EARTHVIEW, LLC FOR STORMWATER MAINTENANCE AND REPAIRS TO: 1) INCREASE FUNDS AVAILABLE FOR ADDITIONAL GROUND PENETRATING RADAR SERVICES IN AN AMOUNT NOT-TO-EXCEED $130,000.00 AND 2) INCLUDE ADDITIONAL STANDARD CONTRACT TERMS AND CONDITIONS; AUTHORIZING THE EXECUTION OF THE THIRD AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Hauge noted the services would be paid out of the water fund. He hoped this would be the last extension.

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

The motion carried unanimously by roll call vote.

G. Resolution 25-269, Palermo Circle Stormwater Piping

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, UNDER THE EMERGENCY PROCUREMENT POLICY TO APPROVE A PROPSAL FROM ANDREW SITEWORK LLC WITH THE TOWN'S CONTRACT ADDENDUM FOR THE INSTALLATION

OF STORMWATER PIPING ON PALERMO CIRCLE FOR A NOT TO EXCEED PRICE OF $36,171.60 TO ALLEVIATE THE FLOODING ON ESTERO BLVD BY DIVERTING ESTERO STORMWATER TO THE OUTFALL ON SANTOS BLVD VIA PALERMO CIRCLE; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE EMERGENCY PURCHASE; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Hauge revealed that the drainage on some sections of Estero Blvd. did not connect to any storm drains. Funds were in stormwater and grants would help alleviate the cost.

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

H. Resolution 25-272; Axis Infrastructure, Inc. STA #17

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING SUPPLEMENTAL TASK AUTHORIZATION (STA) #17 WITH AXIS INFRASTRUCTURE, INC. IN AN AMOUNT NOT TO EXCEED $195,000, RETROACTIVE TO MAY 1, 2025, FOR A CUMULATIVE TOTAL OF PAYMENT FOR SERVICES UNDER RFQ 20-22-AD TO CLOSE OUT THE FY2025 FOR THE CONTINUATION OF PLANNING SERVICES ; AUTHORIZING THE TOWN MANAGER TO SIGN STA #17 AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Director Kropacek noted this was to catch up on the paperwork and finish out the year. He added that they were exploring avenues to help offset costs.

Mayor Allers moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

I. Resolution 25-257; Bid Protest, ITB-25-05-PW, Water Meter Replacement **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/DENYING THE BID PROTEST FOR THE WATER METER REPLACEMENT PROJECT, ITB-25-05-PW RECEIVED FROM UTILITIES ONE PURSUANT TO SECTION 2-486(a) OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

Removed.

J. Resolution 25-245; DeBiasi Utility Easement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING A UTILITY EASEMENT FROM THE LEO J. DIBIASI AND VALERI J. DIBIASI REVOCABLE LIVING TRUST DATED AUGUST 20, 2014 ('THE TRUST") AND DIRECTING THE FINANCE DIRECTOR TO MAKE A PAYMENT OF $85,000 UPON RECORDING OF THE UTILITY EASEMENT AS AGREED TO BY THE TOWN IN A SETTLEMENT AGREEMENT DATED APRIL 7, 2025; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Attorney Stuparich stated they had a signed, executed copy of the utility easement. Insurance proceeds will cover some of the cost, leaving about $45,000.00 for the town to pay.

Vice Mayor Atterholt 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 McKannay thanked staff and council for their support through the process of opening the new town hall.
Another meeting was held with FEMA (Federal Emergency Management Agency) and the town received positive feedback on the submissions sent in. Another thirty non-compliant structures on the list were submitted and they were waiting for responses.
Director Kropacek clarified that permits were needed when flood barriers or storm shutters were bolted to the structure. Emergency Services & Compliance Director Thomas Yozzo added that they were awaiting direction on dry flood proofing, as residential structures were not currently permitted to be dry flood proofed. He was waiting for clarification regarding whether storm shutters were considered mitigation or dry flood proofing. Mayor Allers suggested that homeowners not take any action until the town could provide a definitive answer from FEMA and the state. As it stands, residents are not allowed to install water mitigation barriers at this time.
Town Manager McKannay provided an update on the records request from the school district regarding FEMA funding. He will have an answer once he has a chance to review the response. A meeting with Dr. Carlin's team will be scheduled within the next two weeks.

XVI. TOWN ATTORNEY'S ITEMS

A. <u>Executive Session</u>

Pursuant to Section 286.011(8), Florida Statutes, the Town Council of the Town of Fort Myers Beach, Florida, will commence a Litigation Executive Session closed to the public at 12:00 p.m. on September 11, 2025, to discuss settlement negotiations and strategy related to litigation expenditures regarding
<u>Town of Fort Myers Beach, Florida vs. White Sand Properties of Fort Myers Beach, LLC and FGC Associates, LLC</u>, Case No. 2025-CA-004261, 20th Judicial Circuit, Lee County, Florida. Persons attending the Executive Session include: Mayor Dan Allers, Vice-Mayor Jim Atterholt, Council Members John R. King, Scott Safford, and Karen Woodson, Town Manager William McKannay, Town Attorneys Nancy Stuparich, Becky Vose (by Zoom), Chloe Berryman, and Paul Waters (by Zoom), and a court reporter from Dines Court Reporting to be announced prior to the commencement of the Executive Session.

Town Attorney Stuparich noted the date had to be rescheduled because a court reporter was not available.

B. Any action to be taken from the Litigation Executive Session
No actions.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King thanked everyone for their support regarding the recall process.
Mayor Allers stated that the information he released regarding the school was not meant to imply that the school did anything wrong. There was no FEMA money coming. He discussed the school using the funding they requested for the school on other projects. He asked them to uphold the agreement they signed.
No items from other members.

XVIII. ADJOURNMENT

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

The meeting was adjourned at 12:15 p.m.

Minutes adopted as presented, September 24, 2025. Motion by Council Member King and seconded by Council Member Woodson.
Passed 5-0.

Amy Baker (Oct 16, 2025 15:52:32 EDT)

Amy Baker, Town Clerk