



MINUTES

BOARD OF COMMISSIONERS REGULAR WORKSHOP MEETING JUNE 26, 2024 6:00 P.M.

The City of Madeira Beach Board of Commissioners held a regular workshop meeting at 6:00 p.m. on June 26, 2024, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Anne-Marie Brooks, Mayor
Ray Kerr, Commissioner District 2
Eddie McGeehen, Commissioner District 3

MEMBERS ABSENT: David Tagliarini, Commissioner District 1

CITY STAFF PRESENT: Robin Gomez, City Manager
Clara VanBlargan, City Clerk
Andrew Laflin, Finance Director/City Treasurer
Thomas Trask, City Attorney

1. CALL TO ORDER

Mayor Brooks called the meeting to order at 6:00 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Commissioner Tagliarini was absent.

3. PUBLIC COMMENT

Mike Bucci, 445 137th Avenue Circle, commented about the increasing cost of homeowners insurance and asked if there was anything the Board could do to help.

4. BOARD OF COMMISSIONERS

A. Grant Writer Consultant (Various Types of grants)

Commissioner Kerr said writing a successful grant takes 150 – 200 hours. They should not rely on staff to try to get grants. He thought it should be voted on at a regular meeting.

Mayor Brooks opened to public comment. There were no public comments.

A person, no name provided, recalled the City hiring a consultant about 10-12 years ago who successfully brought grants to the City. They could be someone to talk to.

Public Works Director Megan Wepfer said it is included in the ongoing Consultant Engineering Services Agreement with Colliers.

Mayor Brooks said the Florida League of Cities offers a portal where grants can be searched. They also assist in grant writing. Representative Cheney spoke at the Big-C about the Department of Environmental Protection (DEP) and the opportunities for thousands of grants. She would assist the City in getting the grants written and provide a letter of recommendation. She would like to put it on a future agenda and asked if looking for grants for current projects was standard practice. Director Wepfer said yes.

The City Manager said they would discuss at a future workshop whether they can contract for specific grants.

5. CITY MANAGER

A. Snack Shack Concession Agreement – 2nd Amendment

The City Manager said they have an agreement with United Park Service for concession at Archibald Park since 2019. There is one last extension available through July 31, 2026. United Park Service agreed to increase the monthly rent by 5%. If the Amendment is approved, he would like to issue an RFQ at the end of the two years. It will be brought back at the July 10th meeting for approval.

Mayor Brooks opened to public comment. There were no public comments.

B. Discussion – Resignation letter from former Mayor James Rostek

The City Manager reviewed the item.

Mayor Brooks opened to public comment. There were no public comments.

Mayor Brooks said she did not have any comments on the resignation. She was comfortable with the City Manager's explanation. Commissioner Kerr thanked Mr. Rostek for his year of service and said he would like him to retract his accusations about corruption. Commissioner Kerr said he supported the City Manager 100%. Commissioner McGeehen agreed with Commissioner Kerr and was very disappointed. He thought the City Manager was doing a wonderful job.

The City Clerk announced that the Commissioner District 4 vacancy application was posted on the City's website and that copies were available on the table at the back of the room.

6. COMMUNITY DEVELOPMENT

A. MBTC Special Area Plan Amendments to C-3, C-4, R-3 Zoning Districts

Community Development Director Jenny Rowan gave a PowerPoint presentation on the Amendments to the Land Development Regulations in the C-3, C-4, and R-3 zoning districts in the Madeira Beach Town Center (MBTC). It will be presented and reviewed by the Planning Commission on July 1, 2024.

Mayor Brooks opened to public comment.

Tom Edwards, District 1 resident, said he is concerned about the special exception use for rooftop uses. He thought it should be coming to the Board of Commissioners for a decision rather than the Special Magistrate.

B. John's Pass Village Activity Center Zoning

Director Rowan reviewed the item. The last step is bringing it all into the zoning. Based on feedback from three public workshops, public input, the Planning Commission, and the Board, staff developed a rough draft of the Land Development Regulations for the John's Pass Village Activity Center. They would like additional suggestions that could be included in the Land Development Regulations for the John's Pass Village Activity Center Zoning District. The draft has gone to the Planning Commission and will go back to the Planning Commission. Forward Pinellas and Mr. Trask will review it in detail before they bring it to the actual public hearings and rezoning of the area.

Mayor Brooks opened to public comment.

Chuck Dillon, a resident, commented about the coastal construction control line. You can build to the line but not own the property. For tax purposes, they are potentially losing a lot of tax money.

C. Caddy's Public Beach ABP

City Attorney Tom Trask provided some history about the item. The alcoholic beverage permit that was issued to the Caddy's restaurant in 2021 is the topic of discussion. He hoped everyone had seen the video of that meeting. There were a lot of discussions about the conditions that were being imposed on the Caddy's owners and if they were, in turn, going to receive the alcoholic beverage permit. He explained that the Board approved Condition #9 that suggested by Linda Portal in a revised document distributed at the meeting. The alcoholic beverage permit with condition #9, reflected that no chairs or tables supplied or contracted for supply by the applicant will be placed on the public beach.

The City Attorney said the question then became what exactly the public beach was. He mentioned at the workshop meeting he had ordered a title search on the Caddy's property and the private beach area immediately west of the Caddy's property to determine who owned that parcel. Two independent title companies reviewed that issue and concluded that the Caddy's owners owned that parcel. The reason is that when it was originally platted in 1937, the plat provided that the lot was immediately adjacent to the Gulf of Mexico. Over time, the sand appeared and got deeper and deeper. It created a private beach parcel. The term that a real estate attorney calls it is accretion.

The question then was, if this sandy beach was created, who owns it? The two title underwriters determined that Caddy's restaurant owners owned it. The reason is that the only other entity with a legal right to that beach was the State of Florida. The FDEP had taken a position that it was not interested in that property. The ownership issue was resolved when they passed on it and did not assert a claim on it, so it is owned by Caddy's.

The City Attorney explained a survey he prepared with handwritten notes for clarity on what they were talking about. Because Caddy's owns both parcels, the public beach belongs to them. The public beach does not begin until the mean high-water line and goes westward. It would not violate the alcoholic beverage permit because it is private property. Caddy's has a legal right to use its beach and private property to place chairs on it. It does not mean that they can sell food and have the food migrate out to the beach area because the other conditions of the alcoholic beverage permit specifically address that. In the packet, condition #2 says that the restaurant and associated activity will be located on the existing impervious surface, within the approved site plan area, inside the coastal construction control line, and will not impact the surrounding dunes or beach. They are not allowed to serve people food or drinks on the private beach parcel because it does not fall within condition #2 placed upon them.

Mayor Brooks opened to public comment.

Bill Karns asked if he sat in one of the chairs on the beach, could he go up, get a burger and beer, and bring it back to the chair?

Chuck Dillon, 520 Lillian Drive, said according to the City Attorney's information, everybody owns the private beach, so they have no public beach. Madeira Beach is all privately owned. He read an email that the Board also received from a citizen, Mary Pendergast, sharing her opinions on the topic.

Tom Edwards, District 1 resident, said everyone should have received a copy of his email, which made the following points:

- Based on what the attorney said, you could put chairs out there if you have a private beach. As Mr. Karns mentioned, could someone buy food or beverage and then walk out and sit in one of the chairs? He did not think they had the right and should be addressed. Ms. Portal had been clear on condition #2. It is an associated activity on the existing impervious surface to buy food and drinks and carry them out to the beach, and it would not be allowed. The attorney representing Caddy's said it could be taken to their home but not to the beach. They agreed to the conditions. He interprets that as you cannot take self-service to the beach. If they are not allowing it through the parks, why are they allowing those people to do it?
- As Ms. Portal had mentioned, if they are taking existing chairs out there, they are increasing capacity, which could affect parking, traffic, and restroom capacity. They need a legal opinion on it.
- If Caddy's does move forward and move service out there and the Commission decides they cannot do it, they need to be told they are not living up to the standards that the City set and go after their alcohol permit, which they have a right to do.

Dan Kramer, 14010 Gulf Blvd., though there could be a situation that could be used for taxation. Shouldn't Caddy's be taxed for the additional square footage they are now using as part of their parcel? Section 1 of the alcoholic beverage condition talks about an audit that should be done every calendar year. It has to show at least 60% of the revenue from the restaurant/bar operation is derived from the sale of food. He asked if the audit was available for public knowledge for the calendar years 2021, 2022, and 2023. Have they been living up to section 1 of their proposal?

Linda Kramer, 14010 Guld Blvd., asked if Caddy's is already complying with the audit requirement. They have already contracted with a chair company, and the chairs are already out on the beach and they witnessed people taking food from Caddy's directly and taking it down to the beach. She asked who to call when they see that happening or anything else happening, such as loud noise and music. When they call the Sheriff nothing is done.

The City Manager asked that they call the Sheriff's non-emergency line if there was loud noise or music. He was unsure where they go from there because, from his perspective, the beach should be completely public so people can walk up and down. Whether it is owned privately, it is sand.

The City Attorney addressed the following public comments:

- Regarding Mr. Edwards' and Mr. Dillon's comments, in his legal opinion, it violates the conditions set forth in the alcoholic beverage permit for someone to buy food or alcohol from Caddy's and walk out onto the private beach property. A code enforcement action could be brought against Caddy's, or their alcoholic beverage permit could be revoked. The City is not responsible for monitoring their compliance with the required conditions. Caddy's would have to determine how to do it.
- In the email from Mary Pendergast, she made assumptions based on non-factual legal information. She used what she had and reviewed certain things available to the public on the property appraiser's website, which would sometimes lead to a deed. She mentioned that there was no title search done, so he would not know how you would want to rely upon that information as accurate.
- Regarding the speakers comments about Caddy's paying taxes on a recorded deed, they have been paying taxes on it or should have been paying taxes on it since taking ownership of it. That would have been prior to 2021.
- Regarding the comment about alcohol versus food, that was not something he was researching. It is a condition and requirement that they submit an annual audit to the City for review. The City Manager said they did receive it, and it was more than 60% food, and the rest was alcohol. Director Rowan said they have the audit for 2022 and 2023. The City Attorney said it is not something the City should ask for; they should automatically provide it. They could make it available to the public.
- The City Attorney said he would be happy to answer Mr. Karn's question after the meeting. Mr. Karns was no longer in the audience.

Commissioner Kerr said he does not challenge Mr. Winters' integrity, but he does challenge the spirit of the agreement. There would be an incentive to put chairs out on the beach, private or public, where his property ends. During the entire presentation at the February 10, 2021, meeting, Linda Portal stated many reasons why the restrictions for chairs on the beach were so important.

She referenced noise, trash, and the turtles being receptive to the light and the additional noise during their season laying eggs. The spirit of the agreement was that they would not have any chairs out on the beach. He calls on Mr. Winters to acknowledge that spirit. If, as a businessperson, you cannot take beverages or food out to the beach, would it be the chair rental they are looking for? Would it be worth that chair rental business? If it is monitored or something that Caddy's does knowingly or not, if they take food and or beverages out to the beach, they would be violating their alcohol license. It would not be worth jeopardizing the alcohol license over something they may not have control over or consider. He had not heard one resident saying they were fine with it.

Commissioner McGeehen said Caddy's was given the liquor license with the condition of #2, no chairs or tables on a public beach or no food or service on their part of the beach. He asked if they could compromise with Mr. Winters and Caddy's for a six-month or nine-month probationary period to see how it goes. If not, the bottom line is he can still have chairs and tables out there. He does not see him being able to serve any food or beverage out there. The City Manager clarified that it is chairs and umbrellas and not tables.

Mayor Brooks said they are not there to vote on whether or not they can put chairs and umbrellas on the beach. She appreciated everyone's comments and opinions about the situation. There are guidelines they have to follow. To follow them will be fine. If they do not, that is a conversation for a different day. She does not feel comfortable sitting there saying she knows what they are going to do and not giving them the opportunity. They cannot keep them from putting chairs on the beach, so it is not a matter of them deciding or compromising. Caddy's does a lot for the community. They are a great support for a lot of activities that go on in the City. They have to give them the benefit of the doubt and see what they do.

D. Impact Fees

Director Rowan presented Gerald Murphy's Master Agreement quote for an impact fee study, which they discussed at the last workshop meeting, and asked for direction from the Board.

Mayor Brooks opened to public comment. There were no public comments.

Commissioner Kerr said his point for contention is density, and they should be concerned about increasing density. He did not think a homeowner should be penalized for going from a 2,000 square foot home to a 3,000 square foot home and improving the neighborhood.

Commissioner McGeehen agreed that an impact fee should be required if a building is torn down and replaced with another with increased density. However, if someone tears down their house and rebuilds it as an improvement to the neighborhood, an impact fee should not be charged.

Mayor Brooks disagreed and thought there is an impact on the City when a homeowner rebuilds a larger home. Impact fees are only charged on the additional square footage. She thought \$30,000 was a considerable amount to spend on a study they paid for in the past, which a Planning Commission and previous Board of Commissioners voted for.

Commissioner Kerr said rebuilding a larger home does not impact culture, recreation, mobility, or public safety. He would like to encourage every single family home to raise their home.

Commissioner McGeehen said the majority of the \$185,000 budgeted in revenues for the Impact Fee Fund for FY 2025 is coming from residential and not commercial. He thought there should be future discussions about impact fees.

7. PUBLIC WORKS

A. ITB #2024-05 Purchase ADA Restroom Trailer

The City Manager said the item is related to the renovation of the restrooms at Archibald Park.

Public Works Director Wepfer said they need restroom facilities with hot water for the concession stand at Archibald Park.

- A rental would exceed \$50,000 for six months.
- They released an ITB and received three submittals.

Director Wepfer recommended they proceed with the purchase of the NIU Toilet for \$56,900. The parts and components have a five-year warranty, the structure has a 20-year warranty, and the company's interior components have a lifetime warranty.

Mayor Brooks opened to public comment.

Tom Edwards, a District 1 resident, thought it would benefit the City and be useful during a hurricane clean-up.

Chuck Dillon, a resident, said it looked like the one they chose for Tom & Kitty Stuart Park and asked if they could swap out the air conditioner.

Commissioner McGeehen said it would more than pay for itself.

Mayor Brooks suggested putting a legislative update about insurance and Homestead on the next workshop agenda. Commissioner Kerr agreed and said he would draft a preliminary letter about the Homestead discussion and insurance.

8. ADJOURNMENT

Mayor Brooks adjourned the meeting at 8:03 p.m.

Anne-Marie Brooks, Mayor

ATTEST:

Clara VanBlargan, MMC, MSM, City Clerk

DRAFT