



MINUTES

BOARD OF COMMISSIONERS REGULAR WORKSHOP MEETING MARCH 27, 2024 6:00 P.M.

The City of Madeira Beach Board of Commissioners held a regular workshop meeting at 6:00 p.m. on March 27, 2024, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Ray Kerr, Vice Mayor/Commissioner District 2
David Tagliarini, Commissioner District 1
Eddie McGeehen, Commissioner District 3
Anne-Marie Brooks, Commissioner District 4

MEMBERS ABSENT: James "Jim" Rostek, Mayor

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

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

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Mayor Rostek was absent.

3. PRESENTATIONS

4. PUBLIC COMMENT

There were no public comments.

5. BOARD OF COMMISSIONERS

A. Board of Commissioners Policy Handbook – Review for Changes

City Manager Robin Gomez said the Commission has ninety days to adopt the handbook. Any changes to the current manual will be voted on at the April 10th regular meeting. The following changes were made:

Article II., 4. Order of Business for BOC Regular Meetings, pp. 15-20

- There will be a separate category for Approval of the Minutes, which requires a majority vote to approve the meeting minutes of previous meetings. (pp. 15 & 17)

7. Approval of Minutes. A majority vote required to approve the minutes of the previous meetings.

~~7~~ 8. Consent Agenda. The Consent Agenda shall be used to handle routine matters on the agenda expeditiously. Examples of Consent Agenda items are ~~minutes~~, waivers for special events, bid or purchase awards for equipment, goods or services already approved within the budget, invoices, and budget transfers. There is no separate discussion of these items unless a Commission member requests an item be removed for consideration in its normal sequence on the agenda. Members of the public do not have discretion to remove items from the Consent Agenda, yet the Mayor, as Presiding Officer, may acknowledge any such request and remove an item on their behalf. The approval of the Consent Agenda shall be handled in one motion, i.e. "I move that the Consent Agenda, (items "x" through "z") be approved; or if items are to be removed, a typical motion might be, "I move that we approve Consent Agenda items "x" through "z" with the exception of item "y" for discussion."

- Remove the Staff Report category. (pp. 15 & 18)

~~13.~~ Staff Reports. Non-workshop items. This section is set aside for staff reports regarding items such as monthly financial reports, special event updates, project updates, governmental and non-governmental project updates, and other updates on matters that do not get workshopped. Each staff report is limited to five (5) minutes.

- Add "...and the organization or group you represent." to the Public Comment item on the agenda. The City Attorney said there is no legal requirement for a person to give their name or address. (pp. 16 & 17)

Manner of Addressing the Board of Commissioners. Each person addressing the Board of Commissioners shall step up to the microphone, **give his or her name and address and the organization or group they represent**, if any, in an audible tone of voice for the record and shall limit their address to five (5) minutes unless extended by the Mayor, more time may be granted to applicants and affected persons with legal standing in quasi-judicial hearings. Yielding of time for an additional five-minute period is allowed. If no time is yielded, the person speaking can ask for additional time to speak. If the additional time is appropriate, the Presiding Officer can offer the Commissioners the opportunity to consent to an extension.

- The Board received clarification that an item can be added to the agenda at any meeting. The City Clerk said it has been advised to postpone discussion on any item added that might be controversial to another meeting.

2024 GOVERNMENT-IN-THE-SUNSHINE MANUAL, P. 40)

D. NOTICE AND PROCEDURES 1. Agenda The Sunshine Law does not mandate that an agency provide notice of each item to be discussed via a published agenda although the Attorney General's Office has recommended the publication of an agenda, if available. The courts have rejected such a requirement because it could effectively preclude access to meetings by members of the general public who wish to bring specific issues before a governmental body. See Hough v. Stembridge, 278 So. 2d 288 (Fla. 3d DCA 1973); and Yarbrough v. Young, 462 So. 2d 515 (Fla. 1st DCA 1985) (posted agenda unnecessary and public body not required to postpone meeting due to inaccurate press report which was not part of the public body's official notice efforts).

Thus, the Sunshine Law does not require boards to consider only those matters on a published agenda. “[W]hether to impose a requirement that restricts every relevant commission or board from considering matters not on an agenda is a policy decision to be made by the legislature.” Law and Information Services, Inc. v. City of Riviera Beach, 670 So. 2d 1014, 1016 (Fla. 4th DCA 1996). And see Grapski v. City of Alachua, 31 So. 3d 193 (Fla. 1st DCA 2010), review denied, 47 So. 3d 1288 (Fla. 2010) (Sunshine Law does not prohibit use of consent agenda procedure).

Even though the Sunshine Law does not prohibit a board from adding topics to the agenda of a regularly noticed meeting, the Attorney General’s Office **has advised boards to postpone formal action on any added items that are controversial**. See AGO 03-53, stating that “[i]n the spirit of the Sunshine Law, the city commission should be sensitive to the community’s concerns that it be allowed advance notice and, therefore, meaningful participation on controversial issues coming before the commission.” While the Sunshine Law requires notice of meetings, not of the individual items which may be considered at that meeting, other statutes, codes, or ordinances may impose such a requirement and agencies subject to those provisions must follow them. See Inf. Op. to Mattimore, February 6, 1996.

For example, s. 120.525(2), F.S., requires that agencies subject to the Administrative Procedure Act must prepare an agenda in time to ensure that a copy may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda, along with any meeting materials available in electronic form excluding confidential and exempt information, shall be published on the agency’s website. Id. After the agenda has been made available, changes may be made only for good cause. Id.

Similarly, special districts are required to post certain information on the district’s official website, including: “[a]t least 7 days before each meeting or workshop, the agenda of the event.” Section 189.069(2)(a)15., F.S. The information must remain on the website for at least 1 year after the event. Id.

- Roll call on a vote will be rotated to include the Mayor. Vice Mayor Kerr asked the City Clerk to see if it is documented that the Mayor should be last on the roll call.

Vice Mayor Kerr asked to discuss the 2024 meeting calendar at the April workshop meeting.

6. CITY ATTORNEY

A. Engagement Letter to Serve as Special Magistrate for the City of Madeira Beach

City Attorney Tom Trask said Bart Valdez had been the Special Magistrate for the City since 2016 at the rate of \$190 per hour, with a rate of \$55 per hour for paralegal work. After reviewing the Code Enforcement section of the Code, the Special Magistrate needs to be appointed every year. He asked the Board to consider appointing Mr. Valdez as the City’s Special Magistrate for the next year. Mr. Valdez would like to continue at the current rate of \$190 per hour. The Engagement Letter will be on the agenda for the next regular meeting for approval.

Vice Mayor Kerr opened to public comment. There were no public comments.

The consensus of the Board was to move forward with it.

B. Ordinance 2024-04, Special Magistrate – Code Enforcement

The City Attorney said there were sections approved in the Florida Statutes that were not adopted in the Code. The ordinance would add the following to the Code:

- Language about anonymous complaints under Section 2-375. The City could not take action on anonymous complaints.
- Section 2-375 (e) states that a seller would be required to disclose, in writing, any pending code enforcement action to a buyer.
- The reference “Code Inspector” was changed to “Code Enforcement Officer.”
- The language of “City Commissioners” was changed to “Board of Commissioners.”
- Language that states the compensation to be paid to the Special Magistrate would be determined by the City Manager subject to the Board’s approval.
- There would be some changes to the numbering system in the Code.
- Language in Section 2-378 to make it clear that the City is not obligated to continue to make repairs to properties that are not in compliance.

Vice Mayor Kerr opened to public comment. There were no public comments.

The consensus of the Board was to move forward with it.

C. Ordinance 2024-06, Special Magistrate – Approval Process for Compensation Rate

The City Attorney said he needed to change the language in the variance portion of the Code regarding the Special Magistrate’s compensation rate. It would be determined by the City Manager subject to the Board’s consent.

Vice Mayor Kerr opened to public comment. There were no public comments.

The consensus of the Board was to move forward with it.

7. COMMUNITY DEVELOPMENT

A. Kimley-Horn Madeira Beach Master Plan Scope of Services Draft

Community Development Director Jenny Rowan explained the item. She responded to questions and comments from the Board.

- Kimley-Horn will focus on review of the zoning districts along the east side of Gulf Boulevard instead of the character districts.
- They would follow urban design architecture guidelines.

- The City Manager suggested including Marine or Marina in Parks and Open Space in Task 5, Plan Development.

Vice Mayor Kerr opened to public comment. There were no public comments.

The consensus of the Board was to move forward with it.

B. Local Mitigation Strategy (LMS) and Community Rating System (CRS) Update

Director Rowan said it is an annual update. Madeira Beach is a Class 7 in the Community Rating System (CRS). The Local Mitigation Strategy (LMS) is a countywide hazard mitigation plan. The LMS is a plan developed to reduce or eliminate the risks associated with natural and man-made hazards. Without an approved LMS, the City would not be able to apply for various Federal Hazard Mitigation Grants. The current LMS serves as the City's Flood Plane Management Plan. The LMS will be updated in 2025, and they have already started the process.

Vice Mayor Kerr opened to public comment. There were no public comments.

C. Ordinance 2024-02, Open Accessory Structures

Vice Mayor Kerr said the Mayor requested that the item be postponed until the next workshop meeting. The Board consented.

D. John's Pass Village Activity Zoning Workshops

Director Rowan said now that John's Pass Village is an Activity Center, they will focus on the zoning. They have started to hold zoning workshops and plan on having two more on April 18th from 10:00 a.m. to 12:00 p.m. and April 20th from 1:00 p.m. to 3:00 p.m. They wanted to start discussing heights and setbacks. She responded to questions and comments from the Board.

- The workshop meetings should be held at a time that is most convenient for the majority of residents to attend. Director Rowan said she will add another workshop on April 13th from 10:00 a.m. to noon.
- A notice of the upcoming workshops will be sent to every residence in the City.
- The proposed height in the Commercial Core is 60 feet. However, the highest location on the ground is 61 feet. Director Rowan confirmed it was the parking garage. Something as big as the parking garage could be built in the Commercial Core. Andrew Morris, Long Range Planner, said anything being built in the Commercial Core would not be built over the right-of-way; it would have to be two separate buildings on two different lots. The Code states that certain architectural details on buildings can go slightly above the height of the building because it is not usable space.
- Staff will provide visuals of side profiles of existing buildings as a resource for height.

- The proposed height of 60 feet in the Transitional Character District would require an acre of land, so additional setbacks would be required.
- Commissioner Brooks said she would like to see them provide visual examples of what the existing nonconforming buildings look like, why they are proposing the change, and what it would look like if they had to rebuild.
- The proposed setbacks are what currently exists. None of the proposed setbacks would be less than what is there already.

Vice Mayor Kerr opened to public comment. There were no public comments.

8. FINANCE

A. Ordinance 2024-05, Fees & Collection Procedures Manual FY 2024 Proposed Update

Finance Director Andrew Laflin said the purpose of the ordinance is to amend the Fees and Collection Procedure Manual, establishing a new fee for the Building Department. The proposed change is a \$250 fee for each review of the Building Safety/Milestone Report performed by the Building Department. He responded to questions and comments from the Board.

- The City would provide a review of the engineer's report and a physical inspection to confirm the findings.

Vice Mayor Kerr opened to public comment. There were no public comments.

The consensus of the Board was to bring it back to a future regular meeting for a vote.

9. PUBLIC WORKS DEPARTMENT

A. Approval to Surplus & Purchase a Truck

Public Works Director Megan Wepfer requested approval to surplus truck #33, a 2016 Peterbuilt rear load packer, and truck #37, a 2017 Peterbuilt rear load packer. Both trucks have been replaced and are no longer needed. She also requested approval to trade in truck #23, a 2023 Kenworth T880 rear load packer that has been in the shop often with various problems. RDK Truck Sales quoted \$50,000 for truck Number 33, \$75,000 for truck number 37, and \$275,000 for truck number 23. The funds would be used to purchase a new 2024 Battle Motor truck for \$313,672. The City would receive a refund of \$86,328.

Vice Mayor Kerr opened to public comment. There were no public comments.

The consensus of the Board was to proceed with the trade-ins and purchase.

B. ITB 2023-14 Coastal Groin Restoration Approval

Director Wepfer said the City received a 50% match funds from the Florida Department of Environmental Protection for \$1.75 Million that will expire on December 31, 2024. The bid opening for the project was February 8, 2024, and nine submittals were received. Two of the submittals were incomplete and had errors. They proceeded with the three lowest bids by checking references and conducting onsite interviews. Staff recommended the City proceed with Speeler Co. to complete the Coastal Groin Restoration Project for \$3,838,677.99. She responded to questions and comments from the Board.

- Director Wepfer and the engineers would oversee the project.
- Speeler Co. was not the lowest bid, but they were the lowest, responsive, responsible vendor.
- The item will be brought back to the Board at the April 10th regular meeting for a vote.
- The project should begin by May 1st, and they hope to complete it by the end of the year, February 2025 at the latest. The grant will expire on December 31st, but she could get a six-month extension.

Vice Mayor Kerr opened to public comment.

Chuck Dillon, 529 Lillian Drive, was concerned about the people who walk the beach. The staging goes from out in the water to the property lines and is about 250-300 feet long. He hoped they considered all the activity on the beach. Director Wepfer said they have considered leaving openings and will adapt as they go.

The consensus of the Board was to move forward with Speeler Co. for the groin restoration project.

10. ADJOURNMENT

Vice Mayor Kerr adjourned the meeting at 7:30 p.m.

ATTEST:

James “Jim” Rostek, Mayor

Clara VanBlargan, MMC, MSM, City Clerk