



## MINUTES

# 5.f

### City of Holmes Beach City Commission Regular Meeting

February 27, 2024, 2:00 p.m.  
Patricia A. Geyer Commission Chambers  
5801 Marina Drive, Holmes Beach FL 34217

**Present:** Commissioner Diggins, Commissioner Kerchner, Commissioner Morton,  
Commissioner Soustek, Chair Schaefer

**Staff Present:** Mayor Titsworth, City Attorney Augello, City Clerk Johnston, Chief  
Tokajer, Director of Development Services Minor, Superintendent of  
Public Works/City Engineer Kamiya

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#### 1. Call to Order; Welcome; Pledge of Allegiance; Moment of Silence

Chair Schaefer called the meeting to order at 12:00 p.m.

#### 2. Roll Call

*City Attorney Augello arrival - 12:55 p.m.*

#### 3. Commission Comments and Ex-Parte Communication

Commissioner Soustek

Commissioner Soustek reported the Special Magistrate Hearing was cancelled that morning.

Chair Schaefer

Written report.

Chair Schaefer reported that at Mayor Titsworth's request he had a conversation with Barbara Ehren in preparation of the Democratic Club meeting the previous night where they addressed the consolidation issue. He had provided information for review by City Attorney Augello and Mayor Titsworth prior to the meeting.

Chair Schaefer said it was encouraging there are citizen groups assembling to provide the truth regarding the issues.

#### 4. Mayor's Comments

Manatee County Force Main Issue

Mayor Titsworth informed that the County's recent scoping of the force main had caused air in the lines resulting in toilets backing up. Unfortunately, the County did not inform anyone they were doing the work.

Development Services Director Minor, Supt. of Public Works/City Engineer Kamiya, and Code Compliance Supervisor Thomas and staff are visiting homes of concern. They are doing the best they can to calm tempers relating to a County project that is not the City's.

Staff has reached out to the County to demand better service and ask they notify the residents ahead of their projects.

#### Gas Leaks - Key Royale

The two recent gas leaks in Key Royale were propane tanks.

#### Islander's 4 Clean Water

The City is continuing its education efforts with the Islanders 4 Clean Water Campaign. Bracelets and information will be provided to the AMI Elementary School students.

Bradenton Beach Mayor Chappie, who was in attendance, was asked to take some of the bracelets from the lobby counter for his residents.

#### Tree House

The Tree House case is scheduled for Wednesday, February 28th. Staff will be in attendance.

#### Vacation Rental Bill - Legislation

The Vacation Rental Bill looks like it might be stalling. Discussion followed.

*Chair Schaefer* said he had not been aware the County does not regulate Vacation Rentals. He mentioned if the City were to incorporate into Manatee County there would be repercussions without stronger Ordinances.

#### **4.a Proclamation - Flood Awareness Week**

*Mayor Titsworth* read the Proclamation and presented it to Building Department Administrator Brown.

*Building Department Administrator Brown* announced the City is in a holding pattern relating to the rating process with the Community Rating System (CRS). The Department hopes to hear something by March 15th about the City achieving the new rate.

### **5. Minutes**

**Moved by** Commissioner Diggins

**Seconded by** Commissioner Kerchner

**The January 23, 2024, Work Session Minutes, and the February 20, 2024, Shade Meeting Minutes were approved as written.**

**Motion Approved**

#### **5.a Work Session - January 23, 2024**

#### **5.b Special Shade Meeting - February 20, 2024**

### **6. Comments By The Public**

*John Chappie*, representing the Kiwanis Club of AMI invited everyone to attend their upcoming Easter Sunrise Service held at the Manatee County Beach. This will be the 59th Year holding the services. Everything has been worked out with Charlie Bishop at the County and with Chief Tokajer and his staff.

*Commissioner Morton* expressed his appreciation to the Kiwanis for holding the Sunrise Service stating he has attended almost every year.

## **7. Unfinished Business**

### **7.a Public Hearing - 2nd Reading - Ordinance No. 24-01 - Noise Ordinance**

*Chair Schaefer read the Ordinance title and opened the Public Hearing.*

**Margie Motzer**, 305 56th Street, thanked the City Commission for all the work on the Noise Ordinance feeling it will be helpful for the Police Department and Code Compliance to be successful with both the neighborhoods and the courts. She felt there was one more thing because 'vagueness' being referenced and been referenced in many cases.

Ms. Motzer referred to her email sent to each of the City Commissioners prior to the meeting. She then provided quotes from the Holmes Beach/Kaletka case.

Ms. Motzer felt there was a simple remedy to further clarify the Ordinance and brought attention to Sec. 30-55. (2). She asked that her change be made to protect the residents.

*Chair Schaefer* pointed out that City Attorney Augello had not yet arrived for the meeting and would feel more comfortable discussing Ms. Motzer's suggestions relating to the 'vagueness' that she found in her research when she arrives.

*Mayor Titsworth* noted she unfortunately did not get a copy of the email sent by Ms. Motzer that was provided to the City Attorney. She asked that she be copied on Ms. Motzer's future emails so she can get staff feedback prior to the meeting.

Ms. Motzer felt the Ordinance as written would allow an Officer to decide if the noise was loud, raucous, or jarring before issuing a violation. If the City were to adopt the Miami Shores language, she believes it would protect the City in the courts and in the neighborhoods.

***Chair Schaefer closed the Public Hearing and postponed Item 7.a. until the City Attorney's arrival.***

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After completion of Agenda Item # 8 and the arrival of City Attorney Augello, *Chair Schaefer reopened discussion and Public Comment.*

**Margie Motzer**, 305 56th Street, read her recommended change to the proposed Ordinance based on the Miami Shores Ordinance.

*City Attorney Augello* had not considered that change prior to the meeting but after review she did not feel the change was needed. The City Commission had agreed to utilize a portion of the Miami Shores Ordinance plus portions already in the Holmes City Code that the court felt to be vague and ambiguous. She reminded the City Commission that anytime an Ordinance is adopted it is subject to being challenged.

*Mayor Titsworth* asked if Ms. Motzer's recommended change of the word 'when' to 'it' in a portion of the Ordinance should be made.

*City Attorney Augello* felt the Ordinance as written was more appropriate in purposes of grammar and preferred from a legal perspective to not make the recommended change.

An officer does not have to apply plainly audible and can use the decibel reader.

*Chief Tokajer* had no objection to the Ordinance language as written so long as City Attorney Augello is comfortable with it. The Officers have been enforcing the Noise

Ordinance for quite some time so they know what to expect. He said it will depend on the time of day as to whether they use the decibel reader.

*City Attorney Augello* informed that the court did not discuss plainly audible as being the vague language in the code, it was the list of items the officer had discretion to use. Plainly audible is not the reason the Code is being corrected. When the Noise Ordinance was previously adopted, she did a lot of research and had also considered Ms. Motzer's comments. However, the Ordinance was left to former City Attorney Petruff's office to draft the final version. She feels the version as written is enforceable and would stand a challenge.

*Chair Schaefer closed the Public Hearing.*

After action on the Ordinance, *Commissioner Kerchner* thanked Ms. Motzer for her comments.

**Moved by** Commissioner Kerchner

**Seconded by** Commissioner Soustek

**Ordinance 24-01 was approved for Second Reading and Adoption.**

**Motion Approved**

**7.b Public Hearing - 2nd Reading - Ordinance No. 24-02 - Sign Ordinance**

*Director of Development Services Minor* read the Ordinance title.

He reviewed all recommendations made by the Planning Commission, noting one of them related to the Dark Sky language. That change allows the Ordinance to be consistent with the Comprehensive Plan. It will affect the lighted signs in the A1 District requiring the light to be downcast vs. on the ground shooting upward.

**Public Comment** - None.

*Chair Schaefer closed the Public Hearing.*

**Moved by** Commissioner Morton

**Seconded by** Commissioner Soustek

**Ordinance 24-02 was approved for Second Reading and Adoption.**

**Motion Approved**

**7.c Public Hearing - 2nd Reading - Ordinance No. 24-03 - Modifying Capital Improvements Schedule**

*Director of Development Services Minor* read the Ordinance title.

He explained that this Ordinance is an annually required Ordinance needing to be adopted per State Statute. The purpose is to adopt the most recent Capital Improvements Schedule and the School Capacity Plan. It does not get reviewed by the State, it is only an administrative function.

*Chair Schaefer opened the Public Hearing.*

*Hearing no comments, the Public Hearing was closed.*

**Moved by** Commissioner Soustek  
**Seconded by** Commissioner Diggins

**Approved Ordinance No. 24-03 for Second Reading and Adoption.**

**Motion Approved**

**8. New Business**

**8.a Consideration of Settlement Agreement**

*Attorneys Jay Daigneault and Randy Mora*, Trask Daigneault, addressed the City Commission relating to approving a Settlement Agreement between Shawn Thomas Kaleta et al. v. City of Holmes Beach. Attorney Daigneault informed there have been some minor changes made to the agreement since the February 20th Shade Meeting that involved Vacation Rental Certificates for Islands West and Coconuts properties (Ref: Exhibit B of the Agreement). All other languages remained the same.

Attorney Daigneault informed that approving the Settlement Agreement is an opportunity to move forward in the City and put this and other cases that are pending behind. He believes the cost for this opportunity is reasonable. When addressing complex Federal litigation, this settlement agreement is an excellent result if the City chooses to accept it.

*Mayor Titsworth* stated the City's position is for compliance. There will still be no Site Plan for Bali Hai - thus why it's important to her to move on and to move forward with closure on the other properties.

*Chair Schaefer* thanked Trask Daigneault Attorneys for their steadfast representation and expressed his appreciation for all their efforts.

*Attorney Daigneault* said they had worked very hard on the case. The agreement will be good for both parties. Attorney Daigneault provided details on the next steps informing the City Commission that as Counsel on the case they will see that all processes are followed through. On the Florida League of Cities / Florida Municipal Insurance Trust Insurance side, the file will remain open to make sure everything has been fully executed by both the City and counter-executed by the Plaintiff. They will be working with staff and Plaintiffs' counsel to get everything finalized as soon as possible.

*Commissioner Diggins* noted the Agreement states completion within 10 days. He asked when the 10 days will start.

*Attorney Daigneault* explained there needs to be a properly executed Building Permit issued. He feels the deadlines can be met but will be working with the Plaintiff's Counsel as appropriate. It is important to get full compliance with the City's code and make sure Bali Hai is as safe as it can be.

**Public Comment** - None.

**Moved by** Commissioner Soustek  
**Seconded by** Commissioner Kerchner

**Approved Shawn Thomas Kaleta et al. v. CITY OF HOLMES BEACH, United States District Court Middle District of Florida Case No. 8:22-cv-2472-CEH-JSS Settlement Agreement.**

**Motion Approved**

**9. Announcements**

- Saturday & Sunday, March 2 & 3, 2024 - 10:00 a.m. - 5:00 p.m. - The Invitational at Anna Maria - Holmes Beach Boutique Fine Art & Craft Show - City Field
- Wednesday, March 6, 2024 - 10:00 a.m. - Parks & Beautification Committee Meeting
- Wednesday, March 6, 2024 - 5:00 p.m. - Planning Commission Meeting
- Tuesday, March 12, 2024 - 2:00 p.m. - City Commission Regular Meeting w/Work Session to Follow
- Wednesday, March 13, 2024 - 9:00 a.m. - Clean Water Ad Hoc Committee Meeting
- Thursday, March 14, 2024 - 9:30 a.m. - ManaSota League of Cities Meeting - Longboat Key Town Hall - 2 issues the City has been a part of - Clean Water Committee to make presentation to the MS League of Cities as far as its progress and further discussion (and awaiting) FLC awaiting details relating to the tour. May have to be postponed until April.
- Saturday and Sunday, March 16 & 17, 2024 - Springfest Annual Fine Arts & Fine Craft Festival - City Field
- Tuesday, March 26, 2024 - 2:00 p.m. - City Commission Regular Meeting w/Work Session to Follow
- Tuesday, March 26, 2024 - 10:00 a.m. - 2:00 p.m. - Anna Maria Island Heritage Day Festival - Anna Maria Island Historical Museum

## **10. Questions and Comments**

### **10.a Questions and Comments from Mayor and City Commission**

*Commissioner Soustek* encouraged everyone to continue writing the Legislators.

### **10.b Questions and Comments from City Attorney**

*City Attorney Augello* provided a brief update on the Vacation Rental Bill. She advised the City will need to get prepared for whatever action is taken to determine what can be enforced and what creative ways will be to legislate, protect residents, and hold renters to task. She will advise with any updates.

### **10.c Questions and Comments from Staff**

#### Spring Break

*Chief Tokajer* informed the Police Department will be monitoring during Spring Break that will take place the first three weeks in March. He reported on an alcohol on the beach incident that has already occurred.

Chief Tokajer said he will continue to monitor the parking and has requested a traffic light timing change for the southbound traffic at Marina & Gulf Drives.

#### Waste Pro

*Development Services Director Minor* announced that the Waste Pro tonnage reports from Jan were:

195 tons commercial and 256 residential. He further stated that the solution for at the landfill since they are running out of room is to continue going higher.

### **10.d Questions and Comments from The Public and Press**

None.

**11. Adjournment**

The meeting was adjourned by Chair Schaefer at 1:19 p.m.

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Stacey Johnston, MMC, City Clerk

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Minutes Approved