Fort Myers Beach Town Council

Diamondhead Beach Resort
2000 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Tuesday, June 20, 2023** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

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

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Items B, E, F, G, H and I were pulled for discussion.

Vice Mayor Atterholt moved to approve the amended agenda; second by Council Member Veach.
Motion carried unanimously.

V. PUBLIC COMMENT

Cathy Turner represented the Estero Island Garden Club and reviewed their history. She noted that the club was interested in holding a plant presentation in the fall regarding which plants to use in various locations. The garden at Bay Oaks mostly survived and she stated the Garden Club would continue to maintain it. The Garden Club offered to serve in an advisory capacity regarding installing native plants. She said planting coconut palms at Bayside Park was dangerous to the public and the palm was an invasive species. Plantings between the curb and sidewalks on Estero Blvd. were done poorly. She will make a presentation at the next Council meeting.

Mike Miller, resident and owner of The Beached Whale property, requested an update regarding the TPI lot split.

Linda Miller, Farmer's Market contact, indicated that Times Square was a good place for a Farmer's Market but mentioned that the area would be torn up to install wiring for the clock. She submitted plans for alternate locations.

Jennifer Rusk, resident, was against the boardwalk and explained why she chose to live at the beach. She discussed the effects on wildlife and asked that Council rescind their decision.

Becky Weber, spokesperson for Let's Go Fort Myers Beach, requested that an advisor and staff member be assigned to the group to help them interact with the town.

Barbara Hill, resident, agreed wholeheartedly with Leah Gregg's email and respectfully requested that the Town Council rescind its vote and prevent the boardwalk from going forward.

Penny Jarrett, resident, did not support the boardwalk. She referred to a description of the lagoon and stated the judge was wrong because the area was a tidal flushing lagoon and was currently open. The snowy plovers were now nesting, so the judgment was also wrong about the birds not nesting there. Drilling the pilings could also cause damage to the area. She asked Council not to send the letter of indemnification and rescind their vote.

Leah Gregg, resident, submitted an email to be read during public comment to the Town Clerk. "*During the last Council meeting, council voted to sign an indemnification letter for the permit to be approved for a 298-foot bridge to be built on state owned land. The town attorney informed the council "Let me be clear, there is no right to build the dunes bridge until the special exception is final and not appealed, it has been appealed, you don't issue a permit until there is an unappealable verdict.*

Signing this letter will put the town at risk for additional litigation. Council members John and Karen immediately voted yes; Jim stated he didn't want to obstruct the majority, so he voted yes too. Dan and Bill did not vote for the record. So, I appreciate you adding the letter to the agenda as a discussion, but you need to vote on it again, so all council members' votes are on record. A misleading narrative was created surrounding this bridge and some of it by council members John and Karen. During their campaign they said repeatedly that they would approve this private bridge to save taxpayers from having to continue to pay for this lawsuit. This lawsuit filed by the homeowners is a state suit, not a town suit, the town isn't paying for it, so making that claim misled the public as it simply isn't true. John took it one step further and said the town also had to take out an insurance policy due to this lawsuit and that it was a $250,000 policy but had to be increased to $300,000 due to this suit. This is not true as the Town maintains an ANNUAL Property & General Liability policy with the Florida Municipal Insurance Trust, this is a fixed cost regardless of any lawsuit. Taxpayers were not paying for the homeowners' state suit, but we are paying for the Audubon suit as the league of cities will not pay for this suit. The town attorney informed you of this risk prior to approving the bridge. John King recently met with the town attorney Re the Audubon suit, twice, and the town attorney billed the town for both meetings, costing the taxpayers. But John has never mentioned or expressed any concern over this real taxpayer expense, another misleading claim was that the bridge is a property rights issue, and the homeowners own the land and should be able to build their bridge. The homeowners do not own the land where they want to build their bridge, the state owns this land, their own *attorney said this during the meeting when you approved it. Karen has said this bridge will help the environment, if this were really true, why is the Audubon Society suing the town to stop it. I'll close by asking you, is this private bridge really the best spend of taxpayer dollars? This Audubon suit could go on for years, and they have deep pockets. And please revote on the indemnification letter so all votes are accounted for and on record. Thank you."*

VI. PRESENTATION

No presentations.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King thanked Lee County Commissioner Ray Sandelli and his staff for what they did for the beach and Lee County.
Vice Mayor Atterholt thanked Commissioner Sandelli for his service to the country in the military. He recognized and thanked citizens for picking up debris while walking on the beach, streets and sidewalks.
Council Member Woodson thanked Beach Talk Radio for organizing the Pub Crawl. She noted the turnout for the Let's Go FMB meeting was fantastic, and the positivity was high. She saluted all the residents and businesses for getting involved.
Council Member Veach agreed with previous comments. He recognized Turtle Time and noted there was a turtle nest on the berm.
Mayor Allers congratulated Michael Poff, George Scasny and Sallie Seabury for being appointed to the Library Board. He wished the best to Roger Desjarlais on his retirement from Lee County. He thanked Commissioner Sandelli for serving the country, Lee County and the beach.

A. <u>Resolution 23-62, Times Square Clock Donation</u>

Approve Resolution No. 23-62 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING THE DONATION AND OWNERSHIP OF A REPLACEMENT CLOCK PREVIOUSLY LOCATED IN THE TIMES SQUARE AREA FROM GEORGE AND LINDA MERSCHMAN; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.
Joe Orlandini, resident, stated that he could not find the old clock, so he put down a deposit for a new clock from the original company. He stated that they needed electricity and that a technician from the company would have to come down from Ohio to complete the installation. He hoped to have it installed by July 2, 2023, and he thanked George and Linda Merschman for their donation.
Council Member Veach questioned the financial impact on the town. Public Works Director Jason Freeman noted one proposal was for approximately $13,000.00 to restore electricity to the clock. He will work with Mr. Orlandini to expedite the project.

Council Member Veach moved to approve Resolution 23-62; second by Council Member Woodson.
Motion carried unanimously.

B. Resolution 23-68; 7-Eleven Donation for Ball Field Restoration Work
Approve Resolution No. 23-68 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA ACCEPTING THE DONATION OF $25,000 FROM 7-ELEVEN FOR BALL FIELD RESTORATION WORK AT BAY OAKS RECREATIONAL CAMPUS; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.
Mayor Allers read the title of the Resolution.
Director of Culture, Parks & Recreation Jeff Hauge stated that 7-Eleven sent a donation for the ball fields, and a ceremonial check would be presented to the town at a later date. He was not sure what the overall restoration cost would be, but the donation would help a great deal in combination with the Scotts and MLB (Major League Baseball) donations.

Council Member King moved to approve Resolution 23-68; second by Council Member Woodson.
Motion carried unanimously.

VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Marine & Environmental Resources Task Force (MERTF) Vice Chair Greg Fossum confirmed that Council received Chair Johnson's report. MERTF proposed four recommendations. The first was prohibiting all up-lighting on the beach per the lighting ordinance. MERTF suggested installing shields at Bayside Park if the lighting cannot be changed after the hurricane. Public Works Director Freeman stated everything had to be rebuilt as it was before Ian for FEMA reimbursement. MERTF suggested installing a single amber rather than dual lighting at Bayside Park. There was a concern that the plastic artificial turf might harm wildlife. Another suggestion was to install non-invasive trees instead of coconut palms.
MERTF voted 7-0 to request that the boardwalk not be allowed and suggested that they not be allowed to start construction until the appeal process was complete. Three remedial projects were submitted, and MERTF wondered when the landscape and vegetation management ordinance, tree ordinance and irrigation and water shortage model would be put on the agenda.
Council Member King discussed the tone of MERTF's last meeting.
Council Member Veach recommended moving forward with the ordinances before people start replanting. The water ordinance had to move forward to be in compliance with the water conservation rules. Council Member Veach received support to add the ordinances to the next M&P session.

IX. APPROVAL OF MINUTES

A. Town Council - June 5, 2023

Council Member King moved to approve the minutes; second by Mayor Allers.
Motion carried unanimously.

X. CONSENT AGENDA

Council Member Veach moved to approve items A, C, and D on the Consent Agenda; second by Council Member Woodson.
Motion carried unanimously.

A. Resolutions 23-54 through 23-60; Extending Local State of Emergency

Approve Resolutions No. 23-54 through 23-60, all entitled: 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 Veach moved to approve Resolutions 23-54 through 23-60; second by Council Member Woodson.
Motion carried unanimously.

B. Resolution 23-66; 1054 Fifth Street

Approve Resolution No. 23-66 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO TRANSFER TITLE OF THE PROPERTY LOCATED AT 1054 FIFTH STREET, FORT MYERS BEACH, FL 33931 (STRAP NO. 24-46-23-W3-00206.0050) TO LEE COUNTY; AND PROVIDING AN EFFECTIVE DATE.

Council Member King stated that bids for the base of the bridge project were expected to be completed by December and there would not be a roundabout. The property in question was the former Ocean Jewels property and where the Chamber of Commerce used to be located. Council Member Veach revealed that Lee County owned a strip of land that could potentially connect Times Square to the beach and perhaps qualify for TDC funds. He questioned whether the town could acquire that strip of land.

Vice Mayor Atterholt moved to approve Resolution 23-66; second by Mayor Allers.
Motion carried unanimously.

C. Resolution 23-53; Stormwater Grant Acceptance

Approve Resolution No. 23-53 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING A $10 MILLION DOLLAR GRANT FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AGENCY'S HURRICANE STORMWATER AND WASTEWATER ASSISTANCE GRANT PROGRAM AND AUTHORIZING THE TOWN MANAGER'S EXECUTION OF ANY ASSOCIATED GRANT DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

Council Member Veach moved to approve Resolution 23-53; second by Council Member Woodson.
Motion carried unanimously.

D. Special Event - Off Duty Fishing Series

Moss Marine is hosting an off-duty fishing event to benefit FMB Fire Control District.

Council Member Veach moved to approve the fishing event; second by Council Member Woodson.
Motion carried unanimously.

E. RFP-23-03-UT, Earthview First Amendment

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE TOWN AND EARTHVIEW, LLC FOR STORMWATER MAINTENANCE AND REPAIRS TO CONTINUE SERVICES; AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers questioned whether $664,250.00 was the new total or on top of the $489,000.00. Project Manager Paresh Patel stated it was in addition to the $489,000.00. He noted the town had about 64,000 linear feet of pipe cleanouts and pipes would have to be restored due to construction. The project would be reimbursed by FEMA. He stated they were more than halfway done cleaning the system and joint outfall streets were being prioritized.

Mayor Allers moved to approve the resolution; second by Council Member Veach.
Motion carried unanimously.

F. Resolution 23-63, Town Road Signs

Approve Resolution No. 23-63 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING AMERICAN INFRASTRUCURE SERVICES AS THE TOP RANKED RESPONSIBLE AND RESPONSIVE BIDDER TO ITB-23-17-PW "ROAD SIGNS"; APPROVING AN AGREEMENT BETWEEN THE TOWN AND AMERICAN INFRASTRUCTURE SERVICES FOR THE

INSTALLATION OF NEW TOWN ROAD SIGNS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE A FINAL AND BEST OFFER AND EXECUTE THE AGREEMENT, AND EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; AND PROVIDING AN EFFECTIVE DATE.

Council Member Veach stated the town received two quotes and he supported the quote with the logo on the signs for an additional $12,000.00.

Council Member Veach moved to approve Resolution 23-63 with the option to include the logo on the signs; second by Council Member Woodson.
Project Manager Patel said he would request a sample for the Council's approval before moving forward. Vice Mayor Atterholt suggested that the sample be put on the town's website so the public could respond. Mayor Allers felt the $12,000.00 for the logo could be spent elsewhere. Vice Mayor Atterholt and Council Member King agreed.
Council Member Veach withdrew his motion.

Mayor Allers moved to approve the street signs without the logo; second by Vice Mayor Atterholt.

Council Member Woodson suggested that they move forward pending a sample. Town Attorney Herin, Jr. stated they could move forward with the current motion and issue a change order for additional work. Town Manager Hyatt indicated that a proof would be created and circulated on the town's website.

Motion carried unanimously.

G. <u>RFP-23-14-PW Debris Monitoring</u>

Approve the Selection Advisory Committee's recommendation in response to RFP-23-14-PW entitled Disaster Debris Monitoring, and authorize the Town Manager to negotiate and execute an agreement with Tetra Tech, Inc.

Contracts Manager Frankie Kropocek explained that the person monitoring debris pickup was responsible for all the changing FEMA regulations, field documentation and metrics. Vice Mayor Atterholt welcomed Contracts Manager Kropocek to the town. Contracts Manager Kropocek reviewed his experience in government service. He explained that debris removal was now the responsibility of the homeowners or businesses.

Council Member King moved to approve RFP-23-14-PW; second by Mayor Allers.
Motion carried unanimously.

H. <u>Authorize the Town Manager to sole source Turtle Time Inc. services for sea turtle nest monitoring and relocation in the emergency berm project area.</u>

Authorize the Town Manager to sole source Turtle Time Inc. services for sea turtle nest monitoring and relocation in the emergency berm project area.

Council Member King requested an explanation of the cost. Contracts Manager Kropocek stated that Turtle Time was a non-profit, volunteer-based organization and the only one deemed qualified by the FWC (Fish & Wildlife Conservation Commission). The fee being charged was part of the permit fee for the berm restoration and had to tie in with Turtle Time for turtle nest relocation and any related fees. Environmental Project Manager Chadd Chustz explained that the permits required that an expert be hired to monitor the berm area. He added that the charge would be covered under FEMA.

Council Member King moved to authorize; second by Council Member Veach.
Motion carried unanimously.

I. Direct Staff to place sand waterward of the Erosion Control Line for beachfront properties that do not sign the Town's Easement to place sand landward of the Erosion Control Line.

Direct Staff on whether to place sand waterward of the Erosion Control Line for beachfront properties that do not sign the Town's Easement to place sand landward of the Erosion Control Line.

Project Manager Chadd Chustz utilized PowerPoint for his presentation. Slides included: Recover Summary; Berm Updates; Estero Island Shore Protection Project (aka Beach Renourishment) and Estero Island Shore Protection Project Easements. Coastal Engineering Consultant Michael Poff explained how much sand was added to the beach project. Vice Mayor Atterholt stated that this infusion of sand would transform the beach and encouraged people to consider signing the easement. Mr. Poff indicated the crux of the question was whether the Council would place sand on private property without permission. Town Attorney Herin, Jr. replied that more consideration had to be provided by his office as to the possible ramifications of going onto private property without the owner's permission.
Mr. Poff continued the presentation with slides describing options. Mayor Allers questioned whether they should table the issue until August and Mr. Poff agreed that it would give the town more time to appeal to the residents to sign the easement. Mr. Poff explained the benefits of signing the easement and addressed issues from people who did not want to sign the easements.
Project Manager Chustz stated that ADA accesses would be restored once the emergency berm was finalized. Go to FMBgov.com/beach to sign the easement online.

Mayor Allers moved to table the topic to the first meeting in August; second by Council Member King.

Motion carried unanimously.

XI. PUBLIC HEARINGS

A. Ordinance 23-09; Amending the conditions for the Commercial Planned Development Zoning

First Reading and Public Hearing on proposed Ordinance 23-09 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH ORDINANCE NO. 18-04, AND AMENDING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on August 7, 2023 at 9:00 a.m.

Town Attorney Herin, Jr. swore in those providing testimony for quasi-judicial hearings A, B, E and F. Mayor Allers read the title of the ordinance. Town Attorney Herin, Jr. stated that the proposed ordinance was amending, not replacing, Ordinance 18-04 and the title would be corrected before the second hearing. Mayor Allers will fill out paperwork to abstain from voting due to a potential conflict of interest between now and the second hearing.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the blue sheet in the agenda packet. She noted the LPA (Local Planning Agency) recommended approval at their May 9, 2023 meeting. Details of the parcels are located on packet page 303.

Steve Hartsell from Pavese Law Firm represented TPI/FMB and Tom Torgerson. He explained why Mr. Torgerson wanted to amend Conditions #14 and #20 utilizing a PowerPoint presentation. Slides included: Location Map; LDC Section 34-1(a); LDC Section 34-85(b); Ambiguity in Condition #14; Proposed Changes to Condition #14; Clean Version of Revised Condition #14 and Condition #20 Edit.

Ex parte communications: Council Member Veach - spoke to the applicant and was somewhat familiar with the project; Vice Mayor Atterholt - talked to the applicant earlier in the day and had an email exchange with a former member of the Town Council. No disclosures from other members.

Council Member Veach questioned whether there was an immediate physical post-Ian need driving the timing of the request. Attorney Hartsell replied negatively and indicated the covenant had not been recorded and a deadline was coming up.

Council Member Woodson questioned why the term "in perpetuity" was used. Attorney Hartsell noted that he was not part of that discussion, but the term usually meant no changes to the property forever.

Tom Torgerson reviewed the history of the CPD (Commercial Planned Development). He described how Hurricane Ian affected the project and noted that approval would pave the way for their certificate of occupancy. He explained how they restored the old Cigar Hut and the grade-level bathrooms before Hurricane Ian destroyed it. He discovered the restrooms were just outside the velocity zone so that they could rebuild them at grade level with wet floodproofing. The town gave Mr. Torgerson options to dry floodproof the bathrooms or raise them 18 feet in the air. He rebuilt the bathrooms at grade level with dry floodproofing. If the building was five feet seaward from where it was, they could not rebuild at ground level because of the CPD. He reiterated that they were not requesting changes to the project and had none in mind. He addressed the concerns expressed by former Vice Mayor Joanne Shamp. He did not think the term "in perpetuity" was a practical imposition to put on anyone. He stated the transfer of the title to the parking lot was being processed. Mr. Torgerson expected to open the main resort in November, followed by the Beach Club in December or January.

Public comment:

Mike Miller, resident, wanted to make sure the parking lot stayed where it was. He agreed that the covenant was wrong and supported Mr. Torgerson.

Terry Persaud, business owner, agreed that the covenant clause should not have been put in the CPD.

(Via email from) JOANNE K. SHAMP, FORMER VICE-MAYOR TOWN OF FORT MYERS BEACH May 25, 2023

RE: TPI-FMB CPD Amendment Request DCI 20230039 Town Council, Town Manager, Town Attorney and Department of Community Development:

"Please read my statement into the record at the public hearings on this subject. I am writing to clearly state on the record that amendment to Conditions 14 and 20 of the TPI-FMB CPD Ordinance 18-04 should NOT be approved. I have become aware of application DCI 20230039 and am writing to voice my shock and extreme disapproval. The CPD ordinance was precisely crafted to balance development rights, parking and traffic concerns, precious view corridor, outdoor recreation space and environmental protection. The increased density granted by the CPD was approved ONLY based upon the exact conditions and the density/intensity adopted is the maximum that should be permitted at the congested town gateway where safe vehicular and pedestrian interaction is critical. Preservation and expansion of the landmark view of the Gulf and open space preservation in perpetuity for recreation were also critical to the density permitted. As Vice- Mayor during the adoption of the

TPI/FMB CPD, it is well-documented that I painstakingly studied every detail of the ordinance, assisted in precise wording of each condition and was the critical third vote that allowed adoption at hearing. The Town Attorney provided legal assurance that this ordinance could not be amended by future Town Councils or administrative amendments. The applicant and their attorneys accepted every word of every condition read publicly at hearing. Town Mayor Gore and Councilmember Boback knew that my decision to approve meant a 3-2 adoption along with Councilmembers Cereceda and Butcher. Gore and Boback's affirmative votes were given to heal the *divided community as the ordinance was assured to pass 3-2 by my decision. The precise perpetual conditions within the ordinance earned my vote and reunited the community by assuring limitations to the TPI-FMB development in perpetuity. I WOULD HAVE VOTED NO ON THE ORDINANCE WITHOUT ALL CONDITIONS, ESPECIALLY CONDITIONS 14 AND 20, EXACTLY AS WRITTEN TO LIMIT DENSITY AND INTENSITY OF PARCELS 2 AND 3 IN PERPETUITY. IT COULD NOT HAVE PASSED! No changed conditions or circumstances in the location of this development exist that warrant change to the limitations of the CPD. The base of the bridge was, is now and shall always remain unique as the critical entry to the town. The over-pedestrianized and over-trafficked location requires density control for pedestrian and bicycle safety, traffic management and open space preservation relating to the balance of environmental, commercial, recreation and aesthetic factors essential to the tourist hub of the island community. The view corridor is an essential community character that endures. Amending the ordinance provides benefit only to the applicant while decreasing the safety, and negatively impacting the welfare and quality of life of the community that you serve. Please respect the ordinance as passed and supported by the community and developer. PLEASE VOTE NO! Respectfully, Joanne K. Shamp, Former Vice-Mayor, Town of Fort Myers Beach, Florida2844 Seabreeze Drive S., Gulfport, FL 33707"*

Public comment closed.

Planner Propst stated that it was up to the applicant to execute the restricted covenant with Lee County. Council Member Veach noted that it appeared it should have been filed before the town issued a demolition permit. Planner Propst agreed and added that several other items needed to be addressed before a CO (Certificate of Occupancy) was granted, such as an off-Island parking lot. Council Member Veach did not want to override previous Councils and noted the covenant was an important part of their approval. He was unsure whether it was in the town's best interest.

Council Member Woodson questioned whether the town was clear regarding what needed to be done before the CO. Planner Propst replied positively.

Town Attorney Herin, Jr. stated that staff would ensure all issues were addressed before the COs were issued. Council Member Woodson discussed Ian and noted that no one knew the future. She was comfortable with the request.

Vice Mayor Atterholt was comfortable with the practical reasons for the request. He felt that inserting the language was unfortunate and inappropriate in this case. He stated that one could not bind future Councils and thought it was wrong. He supported striking the language. Council Member King agreed and was ready to move forward.

Council Member King moved to schedule it for a second reading on August 7, 2023, at 9:00 a.m.; second by Vice Mayor Atterholt.

Motion carried unanimously by roll call vote, with Mayor Allers abstaining.

B. <u>645 Old San Carlos CPD Amendment</u>

Second reading and public hearing on proposed Ordinance 23-10 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 17-39, AND AMENDING THE AREA FOR CONSUMPTION ON

PREMISES AND THE MASTER CONCEPT PLAN FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 645 OLD SAN CARLOS BLVD., FORT MYERS BEACH; PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER 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 Veach - site visit; Council Member Woodson - know the area; Mayor Allers - visited the area several times; Vice Mayor Atterholt - visited several times and Council Member King ate in the establishment. Planner Propst reviewed the request as stated on the blue sheet in the agenda packet. She noted the LPA recommended approval at their May 9, 2023 meeting.

Jim Figuerado, applicant, explained why he wanted to add a covered walkway, additional seating and a tiki hut.

No public comment.

Council Member King moved to approve Ordinance 23-10; second by Council Member Woodson.

Motion carried unanimously by roll call vote.

C. Residential setbacks in the Downtown Zoning District

Second Reading and Public Hearing on proposed Ordinance 23-11 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SUBDIVISION II. DOWNTOWN ZONING DISTRICT, SECTION 34-674 BUILDING PLACEMENT; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Planner Propst reviewed the proposed ordinance and noted the proposed language was in Exhibit A.

No public comment.

Council Member Veach moved to approve Ordinance 23-11; second by Council Member King.

Motion carried unanimously by roll call vote.

D. Ordinance 23-12 to amend Table 34-3 Dimensional Regulations in Conventional Zoning Districts

Second Reading and Public Hearing on proposed Ordinance 23-12 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 4, TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Planner Propst reviewed the background of the ordinance and provided three optional modifications.
No public comment.
Council Member Veach felt it complicated the setback rules and they were modifying the ordinance to fit the plans of one builder. He did not support the ordinance; however, if the area underneath were left open, it would help lessen the massing effect.
Vice Mayor Atterholt noted that the LPA supported the ordinance unanimously and he was comfortable with their recommendation.
Mayor Allers shared Council Member Veach's concerns, but since the fire district, Director Poposki and the LPA supported the ordinance, he was comfortable voting to approve.

Council member Woodson moved to approve Ordinance 23-12; second by Vice Mayor Atterholt.
Motion carried 4-1 by roll call vote with Council Member Veach dissenting.

E. Resolution 23-64; VAR20230060, 106 Hibiscus Drive

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20230060 TO ALLOW HIBISCUS DRIVE FRONTAGE THE FRONT STREET AND ESTERO BOULEVARD THE SIDE STREET; TO SWITCH SIDE AND REAR SETBACKS; TO REDUCE HIBISCUS DR SETBACK FROM 25 FEET TO 15 FEET 10 INCHES; AND TO REDUCE THE SIDE SETBACK FROM 7.5 FEET TO 5.5 FEET.

Mayor Allers read the title of the resolution. He indicated he would file paperwork to abstain due to a conflict of interest. Ex parte communications: Council Member Veach - conversations with the applicant and familiar with the site; Council Member Woodson - familiar with the property; Vice Mayor Atterholt - conversation with the applicant and Council Member King - conversation with the applicant.
Planner Propst reviewed the background of the variance requests as stated on the blue sheet in the agenda packet. The LPA unanimously recommended approval of all three variances at the June 13, 2023, meeting.
Samir Malviya and Drew Whiting (via phone) from Homebound explained the need for variances. Mr. Malviya distributed a packet of information and noted he received letters of support from several neighbors. Mr. Whiting reviewed the packet and pointed out that the updated setbacks for corner lots worked well for the majority of lots on Estero. Maps 1-4 showed how the majority of lots were laid out; Page 3 showed the property highlighted in red, Exhibit A on page 5 showed an orientation on the side street; Exhibit B shows the setbacks and lot size; Exhibit C showed the previous single-family residence and Exhibit D showed the allowed buildable footprint if Hibiscus Dr. was made the front setback and the Estero Blvd. setback be made the street setback. He described the conditions. Exhibit E shows the proposed single-family residence with the revised setbacks and conditions.

Parking was maintained on Hibiscus Dr., with two parking spaces enclosed below the house.
Council Member Veach clarified an easement question.
No public comment.

Vice Mayor Atterholt moved to approve the resolution; second by Council Member King.

Council Member Veach suggested that the town address property owners in the same situation administratively. He questioned whether property owners were building the house and setting the setbacks to match the house. Council Member Woodson did not think the property owners were asking for anything unrealistic.

Motion carried unanimously by roll call vote, with Mayor Allers abstaining.

F. Resolution 23-65; VAR20230055, 718 Estero Blvd.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENY VARIANCE VAR20230055 TO ALLOW 2.5 FEET IN EAST SIDE SETBACK FOR THE PROPERTY LOCATED AT 718 ESTERO BLVD; AND PROVIDING FOR AN EFFECTIVE DATE.

Ex parte communications: Mayor Allers drove by the property. No disclosures from other members.
Senior Planner Jason Smalley reviewed the background of the variance request to the southern side yard setback. The LPA unanimously recommended approval. The applicant made changes to the site plan after the LPA's recommendations and only requested a 2.5-side yard setback.
Senior Planner Smalley explained that the staff recommended denial because the applicant could use the recently approved cottage code to build a home with the same square footage that existed before the hurricane. The fire department did not have any issues with a proposed variance.
Architect Robert Holland, Jr. represented applicant Mr. Zeller and introduced his team. The PowerPoint presentation was distributed and the first slide showed the property in 1960 and a proposed new house for 2023. Slides continued with Two Previous and Proposed Floor Plans; Current Survey and Old Overlay on Survey; Revised Site Plan; History of FMB LDC; Current FMB LDC; Some Math; Recent Parallelogram Proposal (Homebound 5-15);

Coverage/FAR; Some Code; Some More Code and Some More Math.
Mr. Holland, Jr. stated that the ground floor would remain open except for an elevator shaft.
Public comment:
Nancy Deramo, resident, read a letter from neighbor Barry Grossman who opposed the variance request because it would block the view from Estero Blvd. He claimed the other neighbors supported the request because they wanted to request a similar variance for their properties.

Vincent Deramo, resident and contractor, noted that the applicant wanted to build a bigger and wider house without following the code or regulations. He indicated he was rebuilding his house without requesting variances. He stated he would lose 15% of his view of the Gulf if the variance was approved.
Public comment closed.
Mr. Holland, Jr. stated he was following code with his design and indicated there was already a cottage in the community with a deck at the easement line.
He added that he was asked for a 2.5-foot variance and received letters of support from surrounding neighbors. Mr. Hollard, Jr. reviewed the post-disaster build-back section of the code.
Senior Planner Smalley reiterated that staff felt the home could be rebuilt at 849 square feet within the code. Mayor Allers pointed out that the required building standards would reduce the livable square footage significantly.
Senior Planner Smalley explained that eliminating the ADA clearances did not bring the square footage down to meet the code.
Council Member Veach questioned whether other municipalities allowed variances and received various responses.
Mayor Allers commended the applicant for keeping the cottage look and open view corridor.

Mayor Allers moved to approve Variance 20230055 for 718 Estero Blvd.; second by Vice Mayor Atterholt.
Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Resolution 23-67; FY:23/24 Tentative Millage Rate

Approve Resolution No. 23-67 entitled: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ADOPTING THE TENTATIVE OPERATING AD VALOREM MILLAGE RATE OF 1.1200 MILLS FOR FISCAL YEAR 2023-2024 OF THE TOWN OF FORT MYERS BEACH; ESTABLISHING THE DATE, TIME AND PLACE FOR HEARINGS TO ADOPT THE FINAL OPERATING AD VALOREM MILLAGE RATE AND BUDGET FOR THE FISCAL YEAR 2023- 2024; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Finance Director Joe Onzick utilized PowerPoint to explain the tentative millage rate process. The tentative millage rate could only be reduced once it was set. There was a budget gap of $3.6 million and he summarized major components of the general fund net expenditure increase. He provided alternative solutions to fund and/or reduce the $342,000.00 expense variance. He stated that the Council could set the tentative millage rate at 1.1200 mills or set it at the same 0.9900 mills.

Vice Mayor Atterholt suggested that they keep the millage rate the same and use options to fill the gap in the short term.
Council Member Veach agreed to keep the millage rate the same.
Council Member King was very pleased with the alternatives and thanked Director Onzick.
Council Member Woodson agreed and questioned how the increase in fees would affect the town in 2024. Director Onzick explained that the permit revenue was restricted and went into a building fund. He anticipated that the town would receive approximately $3.5 million from fees this year and next year, but the numbers have not been finalized.
Director Onzick was comfortable leaving the millage rate the same based on available funds.

Council Member King moved to amend the tentative millage rate to the current rate of 0.9900 mills; second by Vice Mayor Atterholt.

Mayor Allers discussed keeping the door open to allow flexibility in case something happened in the next couple of months. Director Onzick agreed and noted it was not hurting anything to set the rate higher. Vice Mayor Atterholt felt that they were prepared if a storm hit in the next few months. Council Member Veach was comfortable with the motion because there was more than one option available for funding. Vice Mayor Atterholt explained how a 13% increase in the millage rate affected property taxes. Council Member King noted the difference would be greater for a property that was not homesteaded.

Motion carried 4-1 with Mayor Allers dissenting.

B. Resolution 23-70; Truist Public Fund Checking

Approve Resolution updating Town representatives, signatories, and users of the Town's Truist Public Fund Checking Account f/k/a SunTrust Bank

Vice Mayor Atterholt moved to approve the resolution; second by Council Member Veach.
Motion carried unanimously.

C. Resolution 23-71; Truist Business Credit Card Account

Approve Resolution updating Town representatives, signatories and users of the Town's Truist Business Credit Card Account f/k/a SunTrust Bank

Vice Mayor Atterholt moved to approve the resolution; second by Council Member Veach.
Motion carried unanimously.

D. Farmers Market Under the Bridge requesting use of property.

Shop Local Productions is requesting a special event permit to hold Saturday Farmer's Markets in Fort Myers Beach.

Linda Miller presented plans to operate under the bridge, shutting down in front of Nervous Nellies, in front of Wahoo Willie's or shutting down Old San Carlos in front of Wahoo Willie's but leaving it open at 2nd St. and 3rd St. Mayor Allers questioned how difficult it would be to allow residents with parking passes to park in different spots if the area under the bridge was used. Town Manager Hyatt responded that they would allow parking in other areas. Vice Mayor Atterholt questioned whether Times Square would work for the next couple of months as far as construction was concerned. Director Freeman replied that it should be fine. Ms. Miller would prefer to use Times Square and indicated it would take four to eight weeks to get vendors committed. Vice Mayor Atterholt questioned whether she would reach out to local businesses and Ms. Miller replied affirmatively. Council Member Veach suggested that she offer a free spot for the MERTF pop-up tent and she agreed.

Mayor Allers moved to approve the Farmer's Market at Times Square as the first option and under the bridge as a second option as the staff works with Ms. Miller to provide the service; second by Council Member King.
Motion carried unanimously.

E. RFQ-20-22-AD, STA #8

Motion to approve STA #8 authorizing the appropriation of additional funds for Axis International to continue to provide planning and zoning professional services.

Town Manager Hyatt reviewed the reason for authorizing the funds to continue with planning services.

Council Member Veach moved to approve STA #8; second by Mayor Allers.
Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

Leah Gregg, resident, felt that the town should not pay for anything unnecessary. She thanked Council for not sending the letter of indemnification as the Town Attorney recommended. She discussed the narrative created surrounding the walkover bridge and pointed out discrepancies.

Pam Antonucci commended everyone for their endurance and dedication. She stated that she and her husband were pastors at a Fort Myers church and wanted to establish a bible study with an eventual church service on the beach. They were looking to find a place to rent and welcomed suggestions.

Terry Persaud, business owner, stated the settlement agreement with the town was not correct or accurate and Planner Propst distributed the settlement for Council to review. Mr. Persaud discussed the history of the issues.

He requested that the Council read the settlement and tell him whether they supported it or wanted him to submit another settlement agreement.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt reminded the Council of the budget deadline. He felt that strategic planning was important, and he took notes at the Let's Go FMB meeting. Lee County continued to pick up the bulk concrete. He will distribute information to Council regarding the interviews for Town Attorney.

XV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. addressed Let's Go FMB's request for a liaison from the Council and a staff member. He commented that the Council would have to formally recognize the group. He discussed potential Sunshine Law violations if a liaison is appointed.

Attorney Sanabria advised Council members not to discuss the settlement agreement presented by Terry Persaud as it was part of active litigation.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member King noted that approval was given for LeeTran to establish eight bus shelters on Estero Blvd. He will forward a map to Communications Coordinator Jennifer Dexter to post on the website. He responded to public comment.

Council Member Woodson responded to public comment.

Council Member Veach commented on the Let's Go FMB meeting.

Mayor Allers stated that Mr. Kearns from the county offered to set up a place in Town Hall for whoever needed a notice of commencement. He asked that Town Manager Hyatt contact Mr. Kearns. Mayor Allers brought up potentially swapping properties with the fire department. He stated that an appraisal of both properties was comparable, and he questioned whether the Council was interested in swapping. He revealed that regardless of their decision, the fire department would sell the property and move elsewhere. Mayor Allers noted that their lease went through November with the fire district. Council Member Veach remarked that he proposed purchasing the fire department property and a portion of Chapel by the Sea with grant money through Resilient Lee. He indicated the fire department wanted to build a smaller fire station and another facility for training. Mayor Allers commented that they were up against a timeline with funding sources. He indicated they could reconfigure the trailers on the current site while the new Town Hall was constructed if they swapped properties. Council Members King and Woodson agreed to move forward.

Mayor Allers saw a stand-up blower in Naples removing the sand on sidewalks.

A. Indemnification and Hold Harmless Agreement.

(Town Attorney Herin, Jr. had to leave early, so this discussion was moved to Town Attorney's Items.)

Town Attorney Herin, Jr. stated the letter of indemnification to Kroemer and Rood was not sent. He indicated that someone called the clerk of courts regarding the case status and was told the judge had not looked at it and the court was busy.

Vice Mayor Atterholt read the email he sent to the Town Clerk last week asking that the matter be added to today's agenda. He thought the letter of indemnification was a good idea and did not support issuing the permit. Now he realized that the two issues were linked. He thought there was a potential change in approach with the majority of the Council and requested that they reconsider sending the letter of indemnification and signing it. He noted that if they did not send and sign the letter, it would put a hold on issuing the permit.

Council Member Veach clarified that Vice Mayor Atterholt asked not to send the letter and let the matter go through the appeal process.

Vice Mayor Atterholt replied that he was asking to put a hold on sending the letter, which would put a hold on issuing the permit.

Mayor Allers was not in favor of sending the letter at this time. He supported holding the letter of indemnification.

Council Member Veach concurred.

Council Member King clarified that not sending the letter put the permit issue on hold.

Council Member Woodson did not have a problem putting the letter on hold. (Town Attorney Herin, Jr. left the meeting. Attorney Sanabria attended the remainder of the meeting.)

XVII. ADJOURNMENT

Council Member King moved to adjourn; second by Vice Mayor Atterholt. Motion carried unanimously.

The meeting was adjourned at 2:49 p.m.

Minutes adopted, August 7, 2023; Motion by Council Member King and seconded by Vice Mayor Atterholt. Passed 5-0.

Amy Baker

Amy Baker, Town Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Allers Dan Lee	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town of Fort Myers Beach
MAILING ADDRESS 5485 Avenida Pescadora	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY Fort Myers Beach — COUNTY Lee	NAME OF POLITICAL SUBDIVISION: Council
DATE ON WHICH VOTE OCCURRED 4/20/23	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Dan Allers, hereby disclose that on June 20th, 20 23:

(a) A measure came or will come before my agency which (check one or more)

X inured to my special private gain or loss;

X inured to the special gain or loss of my business associate, Tim Ryan;

___ inured to the special gain or loss of my relative, ________;

___ inured to the special gain or loss of ________, by whom I am retained; or

___ inured to the special gain or loss of ________, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Ordinance 23-09; Amending conditions for the CPD

My partner and I have a written agreement with TPI-FMB Margaritaville to provide golf cart services.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

4/20/23
Date Filed

[signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Allers Dan Lee	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town of Fort Myers Beach
MAILING ADDRESS 5485 Avenida Pescadora	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY: Fort Myers Beach COUNTY: Lee	NAME OF POLITICAL SUBDIVISION: Council
DATE ON WHICH VOTE OCCURRED 4/20/23	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

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Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

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APPOINTED OFFICERS (continued)

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DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Dan Albers, hereby disclose that on June 20th, 20 23:

(a) A measure came or will come before my agency which (check one or more)

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, ______;

X inured to the special gain or loss of my relative, Jacki Liszak;

___ inured to the special gain or loss of ______, by whom I am retained; or

___ inured to the special gain or loss of ______, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Resolution 23-64; VAR20230060 166 Hibiscus Dr.

This property is owned by my aunt by marriage.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

6/20/23
Date Filed

[signature]
Signature

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