



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, November 14, 2023

9:00 AM

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Chair Cereceda, LPA Member Boan, LPA Member Eckmann (left early), LPA Member Safford, LPA Member Sudduth (via phone), LPA Member Plummer and LPA Member Vanasse.

II. INVOCATION

Chair Cereceda.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Approval of October 10, 2023 draft minutes
LPA Member Plummer moved to approve the minutes; seconded by LPA Member Boan.
The motion carried unanimously.

V. PUBLIC COMMENT

Jim Ink, resident, commented on development agreements and encouraged the staff to create a process for future projects.

Danielle Rambur, a realtor with John R. Wood Properties, felt that the Comprehensive Plan was hindering revitalization due to the lack of flexibility. She suggested implementing build-back deviations for small businesses and noted that some developers were struggling to move forward.

Barry Frank, resident and coordinator for volunteers in the information airstream (Roxie) in Times Square, shared conversations with visitors. He stated that visitors were increasing and leaving their trash on the beach. He suggested that they give small businesses a little space to move forward.

James Farrell, a Roxie volunteer, commented that the town needed to do

something to get small businesses back on their feet. Costs to rebuild and restrictions were affecting businesses and he urged the LPA and Town Council to adopt a system to fast-track the process. He supported Margaritaville but did not want to see projects that size all over the town. He noted that most visitors only spent a day on the beach because there was nothing for them to do. He stated that small businesses needed help to rebuild.

Jackie Liszak, Sea-Gypsy Inn owner, noted that the cottage that used to be on their property was the first free public library in Lee County. She wanted to honor the memory by building something but could not afford to rebuild under the code. She stated that the town had to put a process in place for small businesses. She commented that a development agreement could help and they needed to get out of the box. Small businesses were not able to spend a lot of money to hear a no for rebuilding.

LPA Member Vanasse moved to allow LPA Member Sudduth to participate electronically; seconded by LPA Member Eckmann.
The motion carried unanimously.

VI. PUBLIC HEARINGS

LPA Member Vanasse moved to move items D and E to the end of the agenda; second by LPA Member Boan.
Motion carried unanimously.

- A. Special Exception to allow reconstruction of major accessory structures in the EC zoning district.

RESOLUTION 23-149: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SE220230189 TO ALLOW RECONSTRUCTION OF A POOL, DECK AREAS, WALKWAYS, STEPS, FENCE AND TWO FOOT RINSE STATIONS, IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 7002 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Clerk Baker verified that the hearings were properly advertised. LPA Member Vanasse will file conflict of interest paperwork regarding item C, but he was allowed to comment after the vote. Town Clerk Baker swore in those providing testimony. Chair Cereceda read the title of the resolution. Ex parte communications: none disclosed, except Chair Cereceda, who received emails, spoke to the applicants and was familiar with the property.

Brett Moore, President of Humiston & Moore Engineers, reviewed his experience and education to qualify as an expert.

LPA Member Vanasse moved to accept Mr. Moore as an expert; seconded by LPA Member Eckmann.

The motion carried unanimously.

The applicants confirmed receipt of the agenda and materials.

Community Development Planner Sarah Propst reviewed the background of the resolution as stated on the yellow sheet in the packet.

Paul Yearwood, HOA President of the Island Reef Condominium, described the complex as a small community of 43 owners. They wanted to return the property to its pre-lan state. The building survived lan, but the pool courtyard needed repairs. They proposed moving the pool equipment outside the EC zone, but moving the pool would be a significant financial hardship for the owners. Neighboring properties expressed support for the repairs.

Mr. Yearwood commented on the frequency of storm surges in the staff report, but the emergency berm and beach restoration project counterbalanced the concern regarding storm protection and coastal resiliency. He indicated that the special exception request was consistent with state regulations. Chair Cereceda asked Mr. Yearwood for his opinions regarding the findings and conclusions of the staff report. LPA Member Eckmann questioned the definition of the word minor and Mr. Yearwood responded that only the shell of the pool would be replaced.

No public comment.

LPA Member Vanasse felt lan was a clear example of changing conditions and circumstances. Structures that existed before the 1978 CCCL (Coastal Construction Control Line) are considered non-conforming since the CCCL shifted, which was a change in condition. Planner Propst explained how she viewed changing conditions.

LPA Member Vanasse moved to approve with the determination that it met the approval criteria for the special exception and the conditions required by staff would be included; seconded by LPA Member Sudduth.

Chair Cereceda verified that letters of support were received. The motion carried unanimously by roll call vote.

- B. VAR20230187 FOR 3580 ESTERO BLVD- TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING AND TO ALLOW A GARAGE CLOSER TO THE SIDE PROPERTY LINE THAN THE MINIMUM SIDE SETBACK ON WATERFRONT LOTS

RESOLUTION NUMBER 23-152

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230187 TO ALLOW A GARAGE CLOSER TO THE ESTERO BOULEVARD STREET RIGHT-OF-WAY LINE THAN THE PRINCIPAL BUILDING AND TO ALLOW A GARAGE CLOSER TO THE SIDE PROPERTY LINE THAN THE MINIMUM SIDE SETBACK ON WATERFRONT LOTS FOR THE PROPERTY LOCATED AT 3580 ESTERO BLVD; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Chair Cereceda read the title of the resolution. Ex parte communications:

none.

Planner Propst reviewed the background of the request as stated on the yellow sheet.

Kara Stewart represented the applicants. She was determined to be an expert in the case and confirmed receipt of the backup material.

The request was to allow maintenance of the existing circular driveway pavers, additional landscape and a future buffer between Estero Blvd. and the residence.

LPA Member Eckmann stated that the garage was recently built to hurricane standards and looked like a house. He supported the request. LPA Member Plummer agreed it did not make sense to remove the garage and supported the resolution.

No public comment.

LPA Member Vanasse moved to approve with findings that the request met the criteria and condition; seconded by LPA Member Plummer.

The motion carried unanimously by roll call vote.

- C. VAR20230205 a variance from Sec. 34-2020(d)(2)h.2. for parking spaces and Sec. 34-675(b)(2) for building height and stories.

RESOLUTION 23-154 A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VARIANCE VAR20230205 TO DECREASE THE NUMBER OF REQUIRED PARKING SPACES BY 37 SPACES, AND TO ALLOW FOR A THREE-STORY BUILDING WITH ENCLOSED SPACE ON THE GROUND FLOOR, AND TO ALLOW FOR A BUILDING HEIGHT OF 36 FEET ABOVE FLOOD ELEVATION, FOR THE PROPERTY AT 1249 ESTERO BLVD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE.

Ex parte communications: LPA Member Safford - many conversations with the applicants and reviewed renderings; Chair Cereceda - several conversations with various people and a text. LPA Member Vanasse recused himself due to a conflict. No disclosures from other members.

Rob Fowler from Fowler Construction reviewed his experience to qualify as an expert.

LPA Member Eckmann moved to accept Mr. Fowler as an expert on development and construction; seconded by LPA Member Plummer.

The motion carried unanimously.

Planner Propst reviewed the background of the request as stated on the yellow sheet. She indicated that before Ian, the business had approximately 26 parking spaces, but only about 22 were compliant.

Mr. Fowler described the project and indicated the plan would bring many items into compliance. He explained that they raised the peak of the roof to help shield the A/C unit and he acknowledged it exceeded 30 feet, but they were not asking for additional square footage or more uses. He added that the roof

would be 13 feet lower than the neighbor two properties away. Mr. Fowler stated that everything about the project was in compliance except for the parking issue. They proposed 17 conforming parking spaces with one bike rack. He indicated they could not provide the number of parking spaces required by code.

Mike Miller, applicant, stated his lot was the only free parking lot on the north end and he distributed a handout listing the number of non-exclusive parking spots within a 500-foot radius of the Whale.

LPA Member Plummer moved to accept the non-exclusive parking spots handout into the record; seconded by LPA Member Safford.

The motion carried unanimously.

Mr. Miller reviewed the list and stated that there were 319 parking spots within a 500-foot radius of the Whale, excluding Margaritaville.

Mr. Fowler noted that the property was in a coastal A zone, so they were not required to have break-away walls. LPA Member Eckmann was not concerned about the parking because they were in the downtown district and he did not have an issue with the height. Mr. Fowler distributed an elevation map. Mr. Miller added that there were three parking spaces for golf carts.

Mr. Fowler indicated they were asking for six feet in height and he described the elevation map. The highest point was the peak of the tiki deck, with palm fronds hiding the A/C equipment. He noted the metal roof was conforming and they could operate within the roof line of the metal roof, but the tiki hut would not be as high and would not hide the equipment. They would have to put screening around the equipment, but they did not think a fence would look nice. LPA Member Boan questioned where his employees would park and Mr. Miller replied they would park in their lot or be reimbursed for parking in a paid lot. LPA Member Boan asked whether they would negotiate exclusive parking with other parking lots. Mr. Fowler did not think they could arrange alternative parking until they knew the project would proceed. LPA Member Boan felt they should have negotiated parking before submitting the application.

LPA Member Eckmann brought up parking in the lot on Pine Ridge Road and riding the trolley to the beach. Mr. Fowler commented that some of his other clients had used that option.

Chair Cereceda reviewed the findings and conclusions with Mr. Fowler for the height variance. He noted the questions were answered in the application, but Chair Cereceda asked him to reply for the record.

Public comment:

James Farrell pointed out that many patrons in the downtown area were walking to the location because they parked at hotels. He noted that there were businesses downtown that did not have parking.

Jackie Liszak, President and CEO of the Fort Myers Beach Chamber of Commerce, commented that they needed to help small businesses and people were walking to the establishment. She noted the business would

contribute to the community and urged that they find a path from no to yes for small business owners.

Danielle Wix, an employee at the Whale, stated the Whale always provided parking options for their employees.

Amy Loughery, resident, stated that before Ian there used to be an attendant that made sure only patrons parked in the lot and it was rarely full. She supported the additional height to conceal the equipment.

Bob Caborini agreed it was essential to move from no to yes. He mentioned the cultural and emotional impact of having businesses return and felt it was crucial to work together to pave a path for a new future.

Graham Belger, owner of The Goodz, stated they needed to help businesses. He supported the Whale and felt the height request made sense. He commented that there was plenty of parking off the island and they needed to move forward.

Public comment closed.

Town Clerk Baker swore in those providing testimony and submitted several emails into the record. She read an email from a neighbor concerning the height variance because they were worried that it would block the sun from the backyard pool and hinder her Gulf view. Mr. Fowler responded that the property was behind the Whale and would not be affected by the height.

Chair Cereceda moved to approve the height variance request, finding that it was compatible with the findings and conclusions necessary for the zoning variance request and was specifically for the tiki roof; seconded by LPA Member Sudduth.

LPA Member Eckmann stated that the tiki roof would not hide the equipment from the back roof and would not vote for the motion.

The motion carried 5-2 by roll call vote, with LPA Member Eckmann dissenting and LPA Member Vanasse recused.

Chair Cereceda commented that she was angry because she was a small business owner, too, with no ability to rebuild. The LPA had rules they had to abide by and Mr. Fowler and Mr. Miller had to find the way forward for their project. It was not up to the LPA to get to a yes; it was up to the applicants to follow the rules. She wished a Development Agreement was included in their application packet because everyone wanted the Whale to build back and be successful. LPA Vanasse believed it was their responsibility to evaluate the code and comp plan and make recommendations if they could streamline the process. Chair Cereceda agreed but felt the comments inferred that the LPA was standing in the way of progress. She said they were trying to help everyone as much as possible.

Planner Propst revealed that the stories were not voted on.

LPA Member Safford moved to approve the variance request for three stories based on the exceptional circumstances inherent to the property and the findings and conclusions that it met the criteria; seconded by LPA Member

Boan.

The motion carried unanimously by roll call vote.

Mr. Fowler commented that arranging off-island parking with Lee County was not feasible before the project was approved. He noted they could bring back something to the Council, but it would not mean much because there was non-exclusive parking all over the island. LPA Member Plummer disagreed and noted they could exclude employees from parking in their lot. Chair Cereceda questioned whether they could return with a parking plan that would satisfy the code provision. Mr. Fowler replied affirmatively. LPA Member Boan thought that requiring 54 parking places was excessive, but 17 seemed adequate. He listed options for parking. Mr. Fowler stated they could get 26 cars on the lot, but the spaces would not be compliant. LPA Member Safford brought up converting half of the parking into golf cart spaces for 30 spaces. He added that they needed to come up with a solution because the LPA would see many more applications with the same issues.

The public benefit was that the business was investing in the community and putting money back. He acknowledged that parking was an inherent problem, but the LPA could not solve it today. He felt there were exceptional circumstances based on the lot size.

LPA Member Sudduth agreed with LPA Member Safford and felt the parking issue could prevent some projects from moving in. Planner Propst suggested adding a condition that approval was contingent on the identification of a plan to manage the parking deficiency prior to the issuance of a certificate of occupancy (CO) to be approved by the Town Council. Mr. Fowler posed the scenario that they spent millions on the building only to be told that they could not open due to a parking deficit. LPA Member Plummer did not think it was fair to have them move forward without the parking problem being resolved.

She felt they should have to present a plan to manage their parking before the Town Council and not before the CO was issued.

LPA Member Safford moved to approve the parking variance based on exceptional circumstances with the condition of timing before the Town Council meeting that is contingent on the identification of a plan to manage the parking deficiency moving forward; seconded by LPA Member Plummer. The motion carried 6-1 with LPA Member Vanasse recused.

LPA Member Vanasse commented that there will be other projects like this that cannot provide sufficient parking and could not before Ian. In his opinion, the code prevented change and further development or redevelopment. He agreed with LPA Member Safford that the code was broken and needed to be fixed. He did not think it was fair to ask one business owner to come up with a solution that was a town-wide issue. He stated that honoring the code was going through the proper process when requesting a variance. He addressed the word "or" in findings and conclusions and noted they did not have to find compliance with every one of

them.

LPA Member Plummer suggested looking at accommodating scooters, e-bikes, bikes and golf carts. LPA Member Safford commented that requiring more parking spaces encouraged more traffic.

D. Post Disaster Buildback code amendment discussion

Post Disaster Buildback

Planner Propst reviewed the policy and amended language as stated on the yellow sheet. She indicated that the policy would be an administrative determination on a case-by-case basis. LPA Member Vanasse did not think the policy went far enough but would support it. LPA Member Plummer felt there should be some percentage of modification to adjust without adding to the room sizes. Planner Propst noted that ADA requirements only applied to hotels and motels and were not included in the language, but she could add it to e. 2 and the residential section. She indicated that she had time to add language before it went to the Town Council. LPA Member Vanasse would like to look into allowing larger units.

Public comment:

Albert Dambrose, architect, supported the amended language. He suggested letting the homeowner decide how to use the extra square footage instead of restricting the bedroom size. He described private bathrooms inside bedrooms, so no one had to use a hallway. He would like to see the policy incorporated soon. He also asked that the language be clarified and used the roof line as an example.

John McClain, resident, described his plans to elevate his existing home and reconfigure the interior within the existing footprint. Planner Propst stated that the policy did not apply to single-family homes.

Madeline Boyd, resident and co-owner of the Beach Bar, stated she noticed more people using Uber and did not think they should get bogged down about parking.

Public comment closed.

LPA Member Vanasse moved to recommend approval for the staff amendments to the post-disaster build-back with changes proposed to allow more square footage with no limitation on how it is used for bathrooms or bedrooms and the roof line was inclusive of overhangs; seconded by Chair Cereceda.

The motion carried unanimously.

E. Update and amend flood code requirements to meet NFIP standards

Approve/Approve with Conditions/Deny- Update and amend flood code requirements to meet NFIP standards

Flood Plain Manager Kristin Schumacher described the amended language to update the requirements as noted on the yellow sheet. She added that the items for the Florida Building Code were cleaned up to avoid contradictions. LPA Member Vanasse questioned whether the changes were state-mandated or town preferences. Manager Schumacher replied that they were

amending mandated changes. LPA Member Vanasse questioned the sections that were crossed out. Manager Schumacher responded that the building official made the changes because they were covered in the building code. She commented that Section 6235 regarding owner/builder was being amended and a discussion might be needed. Kara Stewart stated that the Town Council approved Ordinance 23-15 regarding the owner/builder exemption, which was struck out in this version. She was not clear on grandfathering concerning the local licensing level regulations and recommended it be researched before it went to the Town Council. She brought up looking at the 20% addition to the property appraiser figure.

Public comment:

Albert Dambrose commented on clarifying the 20%. He suggested that the town not restrict what kind of door a homeowner could install and let the Florida Building Code control details.

Public comment closed.

Chair Cereceda moved to table this until the December 19, 2023 meeting; seconded by LPA Member Vanasse.

The motion carried unanimously.

- F. VAR20230142 for a third-floor porch in the front setback and variance to allow 2-percent more building coverage than allowed, for 923 Third Street
APPROVE/ APPROVE WITH CONDITIONS/ DENY FOR 923 THIRD STREET; A VARIANCE FROM LDC SECTION 34-638 TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS FOR THE SIDE AND REAR SETBACKS IN THE RS ZONING DISTRICT; AND ALLOW 2% OF ADDITIONAL BUILDING COVERAGE OVER THE MAXIMUM ALLOWED.

Ex parte communications: Chair Cereceda spoke to the applicant about his house flooding but not about the variance request—no disclosures from other members.

LPA Member Boan moved to accept Keith Blackwell, a design professional, as an expert; seconded by LPA Member Safford.

The motion carried unanimously.

Planning and Development Senior Planner Jason Smalley reviewed the background of the request as stated on the yellow sheet. He noted the applicant was available on the phone. Senior Planner Smalley corrected an error and indicated the additional square footage was approximately 100 square feet of roofed area. There is a single-family elevated structure on the property with a deck extending into the front setbacks allowed by code. The applicant wanted to lift the existing house one level and redevelop the sandwich layer as far as the code allowed. The top level would be about six feet thinner than the bottom level. A new deck would be created on the first living level, which is the reason for the variance request.

Senior Planner Smalley indicated that staff confirmed that a second unit existed on the lot before the hurricane. LPA Member Plummer questioned whether the square footage of the lot qualified for a duplex today. Senior

Planner Smalley replied negatively. Planner Propst clarified that the intent was to discuss the post-disaster build-back change before this request. She apologized for missing the item when the agenda changed. She indicated that a condition had to be included that the post-disaster build-back language would have to be adopted before the variance could be approved.

Mr. Blackwell commented that his companies were very familiar with lifting structures. He explained that the house was integral to the front deck framing because the front wall was built onto the deck framing and the current structure's roof line included the deck. He noted they were trying to save the structure and confirmed that the applicant could rebuild under the 50% rule. The applicant elected to make the structure FEMA-compliant since his previously elevated structure flooded several times.

Applicant Chris Mostiero, resident and business owner stated that his house had flooded 11 times over five months in 2017 due to afternoon rains because it was in a low area of the neighborhood. He noted that his front deck was an open-air porch. LPA Member Plummer questioned how the applicant would manage the water runoff with all the concrete coverage. Mr. Blackwell responded that shell would be used underneath the structure, not concrete. No public comment.

LPA Member Vanasse moved to approve the variance as it met the criteria and was contingent upon the adoption of changes to the post-disaster build-back provisions and subject to the conditions proposed by staff; seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

G. Variance from the street setback and rear setback for a new residence

RESOLUTION NUMBER 23-155

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20230198 49/51 POMPANO ST; REQUESTING A VARIANCE FROM LDC SECTION 34-638 TABLE 34-3 DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS FOR THE STREET AND REAR SETBACKS IN THE RM ZONING DISTRICT; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Jerry Kaufman is the owner of Kaufman Design Group, which is an interior design architectural firm. Bob Achrey of AD Consulting is a senior architect. LPA Member Plummer moved to accept both men as experts; seconded by LPA Member Safford.

The motion carried unanimously.

Mr. Kaufman received a copy of the agenda item. Ex parte communications: none.

Senior Planner Smalley reviewed the background of the request as stated on the yellow sheet. He added that the lot was very unique and the code

setbacks made redevelopment nearly impossible. Two units were there before Ian destroyed one of the structures. The staff immediately determined that two variances were needed to rebuild the structure. Senior Planner Smalley addressed the parking requirements.

Mr. Kaufman stated the remaining structure could not be rebuilt under the 50% rule. Two parking spaces would be under each structure. The proposed structure was not in the exact same footprint, but it was close. Mr. Achrey indicated they were building to the site, which was almost what they had before.

Senior Planner Smalley requested that the approval be contingent upon approval of the pre-disaster build-back change.

Mr. Kaufman described the parking capacity under each unit with small enclosures to hide equipment. Senior Planner Smalley stated that the VE zone floodplain requirements would determine the number of square feet. No public comment.

Chair Cereceda moved to approve the request, including the potential for enclosed ground-floor space consistent with the VE flood plain rules and that it is consistent with the variance criteria and is subject to the post-disaster build-back code amendments including all the conditions; seconded by LPA Member Boan.

The motion carried unanimously by roll call vote.

VII. ADMINISTRATIVE AGENDA

Not addressed.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse discussed development agreements and proposed three options. He described the details of a small hotel development agreement, a site plan with deviations development agreement and a preliminary CPD developer agreement. LPA Member Boan suggested that the staff and town attorney review the proposals before they move forward. LPA Member Plummer suggested a quick joint meeting with the Town Council. Chair Cereceda suggested having a work session to discuss the proposals and other issues.

LPA Member Plummer questioned whether residential permits were only good for six months. LPA Member Vanasse replied that the permit was active as long as there was progress. LPA Member Plumber questioned who had the right of way on a pedestrian crosswalk at a green light. There was not a walk sign for pedestrians and they did not know what to do. She questioned when the crosswalks would be lit and whether the amber lights were as bright as they would get. Planner Propst will follow up with the town manager.

Chair Cereceda indicated that they needed to comprehensively look at the goals and visions of the downtown. She suggested that the town could be more proactive in helping people clean up their properties.

IX. LPA ATTORNEY ITEMS/REPORTS

No items.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

Possibly the Comprehensive Plan.

XII. ADJOURNMENT

The recording stopped before the motion.

The meeting was adjourned at 2:07 p.m.

Minutes adopted as presented, December 19, 2023; Motion by LPA Member Plummer and seconded by LPA Member Eckmann. Passed 7-0.



Amy Baker, Town Clerk

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

| | |
|--|---|
| LAST NAME—FIRST NAME—MIDDLE NAME VANASSE PATRICK | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE LPA |
| MAILING ADDRESS 5711 Lander St. | THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY |
| CITY COUNTY FMB LEE | NAME OF POLITICAL SUBDIVISION: Town of Fort Myers Beach |
| DATE ON WHICH VOTE OCCURRED 11/14/2023 | MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> 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, PATRICK VANASSE, hereby disclose that on Nov. 14, 20 23:

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

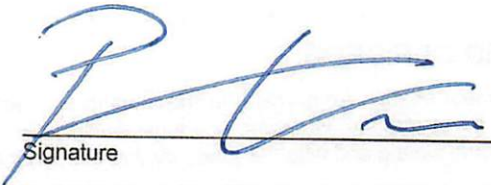
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of Michael + Dawn Miller, by whom I am retained; or
- inured to the special gain or loss 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:

Agenda item C, VAR202305

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.

12/14/2023
replacement of form handed in on
11/14/2023
Date Filed


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.

(1249 Estero, The Whale)