



## **Fort Myers Beach Town Council**

**Town Hall Council Chambers  
2731 Oak Street  
Fort Myers Beach, FL 33931**

**Minutes****Monday, February 3, 2025****9:00 AM**

### **ORDER OF BUSINESS**

#### **FINAL**

##### **I. CALL TO ORDER**

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

##### **II. INVOCATION**

Town Clerk Baker.

##### **III. PLEDGE OF ALLEGIANCE**

##### **IV. APPROVAL OF FINAL AGENDA**

Council Member King moved to approve the amended agenda with changes to the Town Attorney and Town Manager Items, seconded by Council Member Woodson. The motion carried unanimously.

##### **V. PUBLIC COMMENT**

Ron Fleming, resident, thanked Council Member Safford and Vice Mayor Atterholt for addressing the mess at the kayak launch on Delmar. He asked the council to consider installing a 15-mph speed limit sign and speed bumps on Delmar due to speeding cars. He indicated that the State of Florida was holding his paperwork for FEMA (Federal Emergency Management Agency), although they denied having it. Mr. Fleming has sent emails and asked the council to investigate the situation. He brought up the jeep and truck video by the beach bar and noted that golf carts and motorcycles were on the sidewalks yesterday. He asked that they allow e-bikes on the sidewalks with a 5-mph speed limit. He suggested they paint the water treatment plant in beach colors.

##### **VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**

Council Member King congratulated Friends of the Mound House on their silver anniversary celebration, especially the caterer, Jordan Webster. The annual fundraising party will be held on March 29, 2025.

Vice Mayor Atterholt recognized a list of people involved in the beach renourishment project. He stated the town leveraged \$50 million worth of sand paid for by the county, state and federal governments with about \$2 million in town funds.

Council Member Safford thanked the staff for the new Bay Oaks sign.

Mayor Allers congratulated the Art Association on their fundraiser at Clive Daniel. The Schoonover's had a pool party on Groundhog Day and raised money for their non-profit. Mayor Allers described jumping into the pool in a tuxedo and a top hat.

## VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

### A. Cultural and Environmental Learning Center Advisory Board (CELCAB) **Appoint a new member to the FY2024-2025 Cultural and Environmental Learning Center Advisory Board (CELCAB)**

Carolyn McKeown wished to serve the rest of her late husband's term, which ends on October 2025. Former CELCAB member Lori Wolf also applied to serve on the committee. All five council members voted for Carolyn McKeown.

Vice Mayor Atterholt moved to approve Carolyn McKeown's appointment, seconded by Council Member Safford.

The motion carried unanimously.

## VIII. APPROVAL OF MINUTES

### A. Town Council - October 28, 2024

Town Clerk Baker noted the minutes were overlooked due to the hurricanes. Council Member King moved to approve the minutes, seconded by Council Member Woodson.

The motion carried unanimously.

### B. Town Council - January 21, 2025

Council Member King moved to approve the minutes, seconded by Council Member Woodson.

The motion carried unanimously.

Operations & Compliance Director Frankie Kropacek introduced Kelli DeFedericis as the new Floodplain Manager. She reviewed her experience and described her role with the town.

Environmental Projects Manager Chadd Chustz reported that the town was recently approved for \$8.3 million more from the grant for the beach project. The grant also covered 100% of the southern portion. He noted that booster four at the south end went down over the weekend and thought it would be repaired by mid-week. He described applying for incidental take permits with FWC (Fish & Wildlife Conservation Commission) to allow them to work within 300 feet of protected species to complete the project. Thirty thousand cubic yards of sand will be trucked into the south end of the south segment because that area is bird-sensitive and the FWC will monitor the situation.

Projects Manager Chustz will contact Leonardo Arms to answer their questions.

**IX. CONSENT AGENDA**

Mayor Allers moved to approve the consent agenda, seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

- A. Resolutions 25-32 through 25-35; Extension of Local Emergency - Hurricane Ian  
**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.**

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

- B. Resolutions 25-36 through 25-39; Extension of Local Emergency - Hurricane Idalia  
**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.**

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

- C. Resolutions 25-40 through 25-43; Extension of Local Emergency - Tropical Storm Debby  
**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.**

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

- D. Resolutions 25-44 through 25-47; Extension of Local Emergency - Hurricane Helene  
**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.**

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

- E. Resolutions 25-48 through 25-51: Extending Local State of Emergency, Hurricane Milton

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE MILTON, PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.**

Mayor Allers moved to approve the resolution, seconded by Vice Mayor Atterholt. The motion carried unanimously by roll call vote.

## **X. ITEMS REMOVED FROM CONSENT AGENDA**

## **XI. PUBLIC HEARINGS**

Town Attorney Stuparich explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and noticed and she swore in those providing testimony. Mayor Allers disclosed a business conflict with item A. and will submit the appropriate form.

- A. Ordinance 24-35; DCI20230090, Pink Shell Resort CPD

**Second Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR 6.02 ACRES OF THE PROPERTY LOCATED AT 275/322 ESTERO BLVD, 200 ESTERO BLVD, 192 ESTERO BLVD COMMON ELEMENT ONLY, 142 ESTERO BLVD, 171-191 ESTERO BLVD, 251-281 ESTERO BLVD, AND 309 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-WI-0070D.028A, 24-46-23-WI- 00700.0340, 24-46-23-WI-00700.0290, 24-46-23-WI-00700.0330, 24-46-23-WI-00700.0320 , 24-46-23-WI-03700.00CE, & 24-46-23-WI-04100.00CE IN FORT MYERS BEACH, TO ALLOW EXPANSION OF THE EXISTING PINK SHELL BEACH RESORT TO INCLUDE A NEW 40 UNIT RESORT HOTEL 2 ADDITIONAL HOTEL UNITS IN THE WHITE SANDS BUILDING, AND TWO STAND-ALONE GUEST STRUCTURES; PROVIDING FOR 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 King received emails; Vice Mayor Atterholt had a conversation with the owner and received emails; Council Member Woodson had conversations with the owner and the operations director and received emails; Council Member Safford received emails. The applicant confirmed receipt of the agenda and background materials.

Community Development Planner Sarah Propst reviewed the background of the request as stated on the blue sheet. She explained that public benefits would be included in a development agreement because it was not appropriate to include them in a CPD.

Attorney Amy Thibaut of Roetzel & Andress started her presentation with a slide of the Team, followed by a Request and Presentation Overview. She described how they made the language in the development agreement more restrictive. Bob Boykin, applicant, discussed details of the Development Timing and noted they wanted to start as soon as possible, but it was not up to him. Fred Drovdic, planner, continued with the Valuation and Introduction of the Draft Agreement. He distributed the initial draft of the special benefits language and highlighted the contents. Bill Waichulis, Pink Shell President, described the details of the Water Taxi/Ferry Slip. Mr. Boykin added that they agreed to make their dock available for the service. Mr. Drovdic concluded with Project Merits.

Council Member Safford described the benefits of the pump-out station. Council Member Woodson noted that she researched the issue of committing to a timeline and appreciated the in-depth conversation with Mr. Boykin. Mr. Waichulis discussed the pump-out savings for the town.

Public comment:

Judy Holsem liked the Pink Shell, but she was not happy that the two properties on either side of the boutique hotel requested an extension of height and a 10-foot setback on Estero Blvd.

Robert Burns, resident, was also concerned about the two properties building higher and wider. He did not want to live in Miami Beach. He stated that the Pink Shell would make money pumping out the boats and did not see most of the public benefits as public benefits. He described the traffic problems it would create and how people would trespass on their property to get to the beach. It would cause more problems for that end of the beach. He did not think the council should waive height requirements, setback requirements and density numbers.

Cathy Scholz, resident, noted that staff recommended denial and the LPA (Local Planning Agency) recommended denial. She stated that the public benefits were not adequate and most of the community did not support the project. She continued to discuss the inadequate public benefits and the project's density. She felt the project should be denied.

Jack Leson, resident, referred to the CPD Master Concept Plan regarding setbacks from Estero Blvd. and noted the other houses in the neighborhood were set back 25 feet and two stories above flood. He stated they should not approve the requested deviations for the two houses because they did not fit the neighborhood.

Public comment closed.

Mr. Drovdic clarified the deviations for the houses and noted they followed the code for the 10-foot setback. He described the letters of support and improving the boardwalk. He stated they were not asking for height deviations for the house and guest unit on the Gulf side. Attorney Thibaut recapped the competence of substantial evidence and asked that they approve the project.

Council Member Safford moved to approve the ordinance with the development agreement and other conditions in the draft, seconded by Council Member Woodson.

The motion carried 4-0 by roll call vote, with Mayor Allers abstaining.

- B. Resolution 25-55; VAR20240233, 1479 Estero Blvd. (Lani Kai)

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240233: 1) A VARIANCE TO REMOVE REQUIRED PARKING ASSOCIATED WITH THE USE OF THE LOT AS A 25-UNIT HOTEL/ MOTEL; 2) A VARIANCE TO REMOVE SITE DESIGN REQUIREMENTS SUCH AS PROVIDING LIGHTING FOR VEHICLE AND PEDESTRIAN USES, TURN-AROUND AREA SUFFICIENT TO ALLOW 90-DEGREE PARKING AT THE END OF A ROW, THE ABILITY TO TURN-AROUND AND EXIT THE LOT IN A FORWARD ORIENTATION, STACKING REQUIREMENTS, ADDITIONAL DRAINAGE AND PARKING LOT LANDSCAPE REQUIREMENTS AS DESCRIBED IN SEC. 10-416(C); 3) A VARIANCE TO REMOVE REQUIREMENTS WHICH LIMIT DRIVEWAY WIDTHS TO A MAXIMUM OF 25-FEET; AND 4) A VARIANCE TO ALLOW INTERNAL AISLE WIDTH FOR TWO-WAY TRAFFIC BE NO LESS THAN 22-FEET IN WIDTH. FOR THE PROPERTY LOCATED 1479 ESTERO BLVD.; AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Allers read the title of the resolution. Town Attorney Stuparich indicated that this item and item C. were related and asked that Mayor Allers read the title of that resolution before continuing. Ex parte communications: All council members disclosed receipt of one email in opposition. The property owner confirmed receipt of the agenda and backup materials.

Community Development Senior Planner Jason Smalley stated that both items were interrelated. He reviewed the background of the request, as stated on the blue sheet and indicated that a condition of approval would be

for the applicant to submit a holistic parking plan for all their sites. As of this morning, the staff had not received the parking plan. Town Attorney Stuparich explained that the special exception allowed the use at a higher level than would be appropriate for a parking lot. However, they needed the variances for their specific parking lot to operate. If the variances are not approved, there is no reason to get the special exception unless they are willing to make changes.

Attorney Robert Burandt distributed a packet of information and explained that the whole thing started when Lani Kai was cited for parking non-visitors in the lot, which was attached to a 25-unit hotel. It was a legal, non-conforming lot and has been used as a shared parking lot for the last 40 years. The handout described what a single-purpose parking lot was and a shared-purpose parking lot. They met with staff and decided to ask for a special exception, making it clear that they could not afford to come into compliance with everything because of the hurricanes. Staff required that they leave the road behind the parking lots open for the fire department and they agreed. After they applied for the special exception, staff told them they needed the variances. There were 43 parking spots in the Lani Kai Hotel, and he did not want to lump all the units into one. The bayside hotel had 25 units, which meant they needed 30 parking spots.

He referred to his handout regarding the reduction and argued they should be given a 50% reduction because the hotel was on the bay. He described how the parking lot attendant managed the parking lot. He noted that 15 parking spaces were for guests and the rest were for shared parking. Attorney Burandt stated that was the agreement with the staff.

Kenny Conidaris, applicant, stated that they were working on the bayside hotel and the employees parked there now. Council Member Safford asked how the surplus parking would be enforced.

Senior Planner Smalley replied that it was not addressed. He discussed temporary/seasonal parking lots in the past and noted that those parking lots transitioned into permanent lots and complied with today's codes. Attorney Burandt indicated that they just wanted to rent out the surplus parking spaces pursuant to the LDC (Land Development Code) and their priority was for their guests.

Council Member Safford asked whether they would eventually come into compliance. Attorney Burandt could not comment since he had no idea of the cost. Council Member Safford felt that if they allowed them to operate the parking lot without improvements, there would be nothing but parking lots on the island. Attorney Burandt noted that they were willing to look at improvements, but he did not know to what extent.

Mr. Condaris explained that for years, they saved spots for the guests and rented out the extra spaces. They would have lights and landscaping to look nice, but he had no idea about the drainage. He noted they lost five parking spaces when they resurfaced the parking lot before Ian. He added that the road behind was left open to provide access for the fire department, so a turnaround was unnecessary.

Vice Mayor Atterholt liked the concept of a path to bring them into compliance before the CO (Certificate of Occupancy). Mayor Allers would entertain allowing them to continue to operate as they have been before the CO to a certain extent. Senior Planner Smalley asked whether they would be required to comply with today's landscape code before the CO. He noted that it would be more intense than the landscape plan approved for Norm's lot. The Lani Kai would lose parking spaces because of today's buffering requirements. Mayor Allers commented that he was more interested in consistency and adding beautification to Estero Blvd. Senior Planner Smalley requested a short recess to discuss landscape buffering with the applicant.

Attorney Burandt stated that before the CO was issued, they would submit a landscape plan and ask for an alternative to landscaping. He described the alternate plan. Director Kropacek stated that drainage was not an issue.

No public comment.

Senior Planner Smalley recommended that they do away with variance requests one and two because those two issues would be dealt with through the parking and landscape plan. The last two probably need to be taken on their own because they would be solved through the parking and landscape plan. The landscape plan would be a condition with the special exception and the variances before the CO is issued.

A lengthy discussion was held regarding the language in the variances.

Town Attorney Stuparich suggested that the applicant write down exactly what they were asking for and the council could make their decision based on that.

Vice Mayor Atterholt moved to continue both variances to a date certain of March 3, 2025, at 9:00 a.m., seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

Mayor Allers moved to continue the special exception to a date certain of March 3, 2025, at 9:00 a.m., seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

- C. Resolution 25-28; SEZ20240186, 1479 Estero (Lani Kai)  
**(CONTINUED FROM JANUARY 8, 2025 PUBLIC HEARING-LANI KAI PARKING)  
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS  
BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING  
SPECIAL EXCEPTION SEZ20240186 FOR USE OF AN EXISTING LOT TO  
PROVIDE COMMERCIAL PARKING SPACES IN THE DOWNTOWN ZONING  
DISTRICT OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT  
CODE FOR PROPERTY LOCATED AT 1479 ESTERO BOULEVARD;  
PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN  
EFFECTIVE DATE.**

Mayor Allers read the title of the resolution. See above for discussion and vote.

- D. Special Exception for 163 Old San Carlos  
**A six-month review of approved resolution 23-87 for special exception  
SEZ20230126 that allows temporary outdoor consumption on premises with  
retail use at 163 Old San Carlos Boulevard.**

Ex parte communications: Except for Vice Mayor Atterholt, all council members received emails in opposition and complaints about the noise. The property owner confirmed receipt of the agenda and background materials.

Principal Planner Frankel reviewed the background of the request as stated on the blue sheet. She indicated that there were no notices of violation. Two residents complained about the noise and signs left on the sidewalk, but they did not file a formal complaint.

Suzanne Bahan, applicant, revealed she only received one email. Council Member Safford commented that he received one email in particular, but other emails inferred issues with her property. Ms. Bahan noted that the opposing email was from someone who lived behind the commercial entertainment district. She stated she had never played music past 10:00

p.m. and music came from other establishments. Ms. Bahan noted that she was fighting with FEMA and that her property in Texas had not been sold. She said she was working on an appraisal to establish the value to determine if they were below the 50% rule. Steve Maldonado, Coast to Coast Construction, spoke with Building Official Joe Specht regarding rebuilding the structure.

He indicated the appraisal should occur in the next ten days and then he would meet with an engineer to decide whether it could be rebuilt or had to be demolished. If she cannot rebuild, she will sell the property. Official Specht stated the structure was deemed unsafe and was still red-tagged. Mayor Allers noted that he heard her music in the middle of the day while he was on the corner at SOB and people were uncomfortable with the level. Mr. Maldonado described how hard she was working to get things moving forward. Ms. Bahan said she was issued a check, but the insurance company stopped payment and was now in federal court. The insurance company did not prohibit her from demolishing the building.

Public comment:

Ms. Bahan's DJ described other venues he worked at and indicated he never received complaints. He testified that he stopped the music at 10:00 and heard the music from other venues at midnight.

Public comment closed.

Ms. Bahan thought she was being a good neighbor but felt targeted. Council Member Woodson asked whether she could reconfigure her setup to prevent echoing. Director Kropacek noted that sound carried over the canal.

Ms. Bahan agreed to be a good neighbor.  
Principal Planner Frankel reviewed the conditions of the six-month review for the special exception.

Mayor Allers moved to approve the extension of the special exception for an additional six months with the condition that they needed a definitive answer on the adjacent property within six months, seconded by Council Member Safford.  
The motion carried unanimously by roll call vote.

## XII. ADMINISTRATIVE AGENDA

### A. Resolution 25-53, Ratifying Conidaris Emergency Road Repairs Due to Water Main Break

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RATIFYING ACTION OF THE TOWN TAKEN DECEMBER 3, 2024, UNDER THE EMERGENCY PROCUREMENT POLICY TO ENTER INTO AN AGREEMENT WITH CONIDARIS BUILDERS & GENERAL CONTRACTORS INC TO PERFORM EMERGENCY REPAIRS TO THE ROAD, CURBING, SIDEWALK AND DRAIN FIELD RESULTING FROM A WATER MAIN BREAK NEAR 3780 ESTERO BLVD; AUTHORIZING PAYMENT OF INVOICE #2985 IN THE AMOUNT OF \$147,094.45; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Allers read the title of the resolution. Finance Director Joe Onzick stated they were looking for formal approval since it was over \$75,000.00. Mayor Allers asked why the taxpayers were paying for a contractor's mistake. Community Services Director Jeff Hauge explained that they were researching who was responsible and whether insurance would cover it.

Mayor Allers moved to approve the resolution with the condition that staff has the authority to use all means necessary to recoup the funds from whichever contractor was responsible, seconded by Council Member Woodson.  
The motion carried unanimously.

### B. Resolution 25-54, Earthview Second Amendment

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE TOWN AND EARTHVIEW, LLC FOR STORMWATER MAINTENANCE AND REPAIRS TO ADD GROUND PENETRATING RADAR SERVICES IN A NOT-TO-EXCEED AMOUNT OF \$130,000.00; AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT BY THE TOWN MANAGER; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Allers read the title of the resolution. Director Onzick explained that they had a contract with Earthview, but it did not include ground penetrating services. The town needed those services in June and Earthview provided them. Director Kropacek provided background details and noted they were still investigating exactly what happened. Town Attorney Stuparich stated they could discuss amending the contract and if Earthview agrees, the contract would come back to the council.

Vice Mayor Atterholt moved to approve the resolution, seconded by Mayor Allers.  
The motion carried unanimously by roll call vote.

- C. 25-56, AIM Arches Hotel Traffic Impact Statement Review, Phase 5 (RFQ- 22-25 STA #2)

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO APPROVE STA NO. 2 IN THE AMOUNT OF \$20,085.30 WITH AIM ENGINEERING AND SURVEYING, INC. UNDER RFQ-22-25-AD FOR ARCHES HOTEL TRAFFIC IMPACT STATEMENT REVIEW, PHASE 5 AND ANY ASSOCIATED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Allers read the title of the resolution. Principal Planner explained that they used the company before and described how the applicant was billed.

Council Member King moved to approve the resolution, seconded by Mayor Allers. The motion carried unanimously by roll call vote.

- D. Persaud Properties FL Investments, LLC Escrow Release

**Authorize the Town Manager to sign a release directing the return of a \$500,000 Letter of Credit to Persaud Properties FL Investments LLC, pursuant to the terms of a Code Enforcement Settlement Agreement dated December 27, 2023 between the Town of Fort Myers Beach and Persaud Properties FL Investments LLC.**

Director Kropacek reported that Mr. Persaud addressed all the concerns and satisfied the conditions of the agreement. Mr. Persaud thanked Director Kropacek and Town Attorney Stuparich for their assistance. He stated that 75% of the concrete on the Times Square property was removed and he would work on getting the rest removed. He commented that he was working with the finance company and obtaining an appraisal regarding Junkanoo.

The wind damage affected the Fresh Catch and he was working on that with the insurance company. He estimated that the issues would be resolved within six months. He explained why he was not demolishing the buildings. Mayor Allers asked him to remove the buildings as soon as possible and fence off the area.

Council Member Woodson moved to approve authorization, seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

- E. Special Event: St. Patrick's Day Parade

**The Fort Myers Beach Woman's Club is requesting approval of a special event permit for a St. Patrick's Day Parade, contingent on approval from FMB Fire and LCSO including a requests for Estero Blvd to be shut down from 7:30 am until 11:30 am during the parade, and to waive the noise and open container ordinances.**

Barb Mezeske, co-chair of the parade, indicated they wanted to resurrect it and block off Estero Blvd. They will stage at Santini Plaza and host a party at their property on Sterling. Dawn Thomas, president of the Woman's Club, described the details of the day and the parade route. Three food trucks will be at the event at the south end from 11:00 a.m. to 3:00 p.m. She indicated that LCSO (Lee County Sheriff's Office) recommended the hours to close Estero Blvd. They asked Mayor Allers to be the Grand Marshall and he agreed.

Vice Mayor Atterholt moved to approve the special event permit, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

**XIII. FINAL PUBLIC COMMENT**

Terry Persaud asked for an update on the status of the utilities in Times Square. Mayor Allers replied that it would be addressed under Town Manager's Items.

**XIV. TOWN MANAGER'S ITEMS**

Town Manager Hyatt was not in attendance. Director Kropacek indicated that the strategic plan discussion would drive the next M&P agenda. Vice Mayor Atterholt addressed the general nature of the agenda and the facilitators would be contacted to make the agenda more targeted. Director Kropacek stated that they were working on the Times Square utilities. Director Hauge added that it was difficult to plan since they did not know what would be done in the future.

Mayor Allers encouraged them to locate the plans created before Hurricane Ian as a starting point. Vice Mayor Atterholt received support to discuss it at an M&P. Council Member Woodson stated they needed an attendant at Crescent and Fifth daily. She described sitting in traffic on Sunday night for an hour and ten minutes. Mayor Allers noticed they were directing traffic at the light instead of Crescent and Fifth. Director Kropacek indicated they did not have the authority to give direction to FHP (Florida Highway Patrol), although they could offer suggestions.

Operations & Compliance Manager Thomas Yozzo said he had many conversations with FDOT (Florida Department of Transportation), and they agreed to have an FHP trooper sit at the end of Fifth at the end of the bridge to prevent people from making a U-turn.

The town is short-staffed, but a Ranger was posted when needed. He added that they were interviewing people and the town manager would contact LCSO about covering Crescent and Fifth. Council Member Safford suggested they have a staffing plan and Manager Yozzo replied that they did. Mayor Allers supported hiring people from a staffing agency. Director Onzick indicated there were funds in the budget.

**XV. TOWN ATTORNEY'S ITEMS****A. Settlement Agreement**

The item will come back after the details are worked out.

**XVI. COUNCILMEMBERS ITEMS AND REPORTS**

Council Member Safford received many emails about the post office generator running at 5:30 a.m. every morning. Vice Mayor Atterholt suggested that they contact Aaron to reach Senator Scott.

Council Member King asked when Newton Park Beach access would open.

Director Hauge explained why it was closed and it should be open by March 1, 2025. He added that the access was open to pedestrian traffic. He asked whether Sunshine Laws would be reviewed for advisory committees. Town Attorney Stuparich will schedule meetings.

Mayor Allers requested an update on the parking lot plan next to the new town hall. Director Kropacek responded that they would have a plan available, and he described how they were moving forward. The elevator people should be done by the beginning of March. Council members agreed to hang the plaque from the hurricane in the library where Mitch used to sit.

Vice Mayor Atterholt gave an update regarding the beach school. The school was inspected and determined it would not open before the end of this semester.

Three options were being studied, but there was nothing definitive yet.

**XVII. ADJOURNMENT**

Council Member King moved to adjourn. The meeting was adjourned at 2:32 p.m.

Minutes adopted as presented, February 18, 2025. Motion by Council Member King and seconded by Council Member Safford. Passed 5-0.



Amy Baker, Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME <i>Allers Daniel Lee</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Fort Myers Beach Town Council</i>
MAILING ADDRESS <i>5485 Avenida Pescadora</i>	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 <i>Fort Myers Beach      Lee</i>	NAME OF POLITICAL SUBDIVISION: <i>FMB Town Council</i>
DATE ON WHICH VOTE OCCURRED <i>2/3/25</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input 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, DAW ALLOS, hereby disclose that on 2/3, 20 25:

(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, Tom 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:

My business partner Tom Ryan and I have a business agreement with the Pink Shed.

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.

2/3/25



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.