



Fort Myers Beach Town Council

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Agenda

Monday, May 3, 2021

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VII. ADVISORY COMMITTEES ITEMS AND REPORTS**
- VIII. APPROVAL OF MINUTES**

A. Draft minutes - April 19, 2021 Town Council

IX. CONSENT AGENDA

A. HBK Financial Services Agreement

Authorize the Town Manager to execute an additional agreement with HBK CPAs and Consultants for Financial Services in the not to exceed amount of \$25,000.

X. PUBLIC HEARINGS

A. Continued - Ordinance 21-02: Myerside CPD Rezoning (DCI 2020-0009)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/DENYING AN AMENDMENT TO THE CURRENT ZONING MAP FOR THE PROPERTY LOCATED AT 131-151, 125 SCHOOL STREET AND 2661-2681 ESTERO BOULEVARD, FORT MYERS BEACH, CONTAINING 1+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230, 19-46-24-W3-0020C.0270, AND 19-46-24-W3-0020C.0290; FROM RESIDENTIAL CONSERVATION (RC) TO COMMERCIAL PLANNED DEVELOPMENT (CPD); APPROVING/DENYING A MASTER CONCEPT PLAN FOR HOTEL,

RETAIL, AND RESTAURANT USES, INCLUDING CONSUMPTION OF ALCOHOL ON PREMISES AND APPROVING DEVIATIONS FROM THE LAND DEVELOPMENT CODE (“LDC”); PROVIDING FOR SCRIVENER’S ERRORS AND AN EFFECTIVE DATE. Continued Second reading and final adoption from April 19, 2021

XI. ADMINISTRATIVE AGENDA

A. 2021 Citizen of Distinction

The Town has received the nomination of Janine Fleming and Janine Paulauskis for the annual Fort Myers Beach Citizen of Distinction Award for their #WeAreFMB campaign.

B. Lee County Interlocal Agreement - Amendment 6

Authorize the Town Manager to amend the interlocal agreement with Lee County for Water and Stormwater Improvements Sanitary Sewer. This establishes the construction costs associated with the installation of Lee County's wastewater lines reimbursed to the Town at an amount of \$701,305.00.

C. RFQ-21-09-EN Beach Renourishment Professional Services Rankings

Accept the recommended rankings for RFQ-21-09-EN and authorize the Town Manager to enter into negotiations with the highest ranked firm, Coastal Engineering Consultants, for Beach Renourishment Professional Services.

D. Interlocal with Lee County School Board

Ratify Resolution 21-23 for an Interlocal agreement with the School Board of Lee County for the exchange of real property and improvements in exchange for property historically used as part of the Bay Oaks Recreational Campus and other commitments

E. Proposed 2021 Town Council Meeting Schedule

Approve the monthly schedule for Town Council meetings through December 2021

XII. FINAL PUBLIC COMMENT

XIII. TOWN MANAGER'S ITEMS

XIV. TOWN ATTORNEY'S ITEMS

XV. COUNCILMEMBERS ITEMS AND REPORTS

A. Review of Emergency Declaration #8

XVI. ADJOURNMENT

NOTE: THIS MEETING IS TELEVISED LIVE ON COMCAST CHANNEL 98.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY

NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

	For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.
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In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Town Council

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes

Monday, April 19, 2021

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Vice Mayor Hosafros moved to approve the final agenda; second by Council Member Allers.

Motion carried unanimously.

V. PUBLIC COMMENT

Robert Howell introduced himself and stated that he applied for a position on the Marine Resources Task Force (MRTF). Although he is not a resident, he worked on the beach every day and included references with his application.

Ellen Vaughan, resident, endorsed the rezoning request for the Myerside project. She expressed concern regarding losing the cottages to tall buildings.

John Heim, resident, distributed a document and questioned whether water testing in the back bay was being done and where the results were.

Eddie Foster, resident, questioned why the handicapped ramp was so far away from the entrance. She stated that the signage for free parking on the way to the beach was incorrect. She questioned whether anyone did research to prevent smoking on the beach and she described trash on the sidewalk.

Wendy DeGaetano, resident, stated that she applied to MRTF three times and described her background.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Hosafros wished Mayor Murphy a happy birthday.

Council Member Veach recognized Mayor Murphy for getting vaccines to the Island.

Mayor Murphy thanked the Church of Ascension, the Florida Department of Health, volunteers from the Knights of Columbus and Fire Commissioner Jim Knickle for their assistance. He noted that 126 people received vaccines.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

No reports.

VIII. APPROVAL OF MINUTES

A. Town Council April 5, 2021

Vice Mayor Hosafros moved to approve the minutes; second by Council Member Veach.

Motion carried unanimously.

B. Management & Planning Session April 7, 2021

Vice Mayor Hosafros moved to approve the minutes; second by Council Member Veach.

Motion carried unanimously.

IX. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Council Member **Allers**.

Motion carried unanimously.

A. Disposition of Surplus Items

Declare listed items as surplus and authorize staff to dispose of these items utilizing a municipal government auction service.

Vice Mayor Hosafros moved to authorize staff; second by Council Member Allers.

Motion carried unanimously.

B. Affirming the Gumbo Limbo Tree as the official tree in the Town of Fort Myers Beach

Adopt Resolution 21-20 affirming the selection of the Gumbo Limbo as the official tree of the Town of Fort Myers Beach.

Vice Mayor Hosafros moved to authorize staff; second by Council Member Allers.

Motion carried unanimously.

X. PUBLIC HEARINGS

A. Continued - Ordinance 21-02: Myerside CPD Rezoning (DCI 2020-0009)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/DENYING AN AMENDMENT TO THE CURRENT ZONING MAP FOR THE PROPERTY LOCATED AT 131-151, 125 SCHOOL STREET

AND 2661-2681 ESTERO BOULEVARD, FORT MYERS BEACH, CONTAINING 1+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230, 19-46-24-W3-0020C.0270, AND 19-46-24-W3-0020C.0290; FROM RESIDENTIAL CONSERVATION (RC) TO COMMERCIAL PLANNED DEVELOPMENT (CPD); APPROVING/DENYING A MASTER CONCEPT PLAN FOR HOTEL, RETAIL, AND RESTAURANT USES, INCLUDING CONSUMPTION OF ALCOHOL ON PREMISES AND APPROVING DEVIATIONS FROM THE LAND DEVELOPMENT CODE (“LDC”); PROVIDING FOR SCRIVENER’S ERRORS AND AN EFFECTIVE DATE. Continued Second reading and final adoption from April 5, 2021

Mayor Murphy stated that the applicants requested a continuance.

Vice Mayor Hosafros moved to approve a continuance of Ordinance 21-02 to May 3, 2021, at 9:00 a.m.; second by Council Member Allers.

Motion carried unanimously.

XI. ADMINISTRATIVE AGENDA

A. Appointment to BORCAB

Appoint new member to fill the one vacancy on the Bay Oaks Recreational Campus Advisory Board

Council Member Allers moved to appoint Bruce Butcher to Bay Oaks Recreational Campus Advisory Board; second by Council Member Atterholt. Motion carried unanimously.

B. Appointment to MRTE

Appoint new member to fill the one vacancy on the Marine Resources Task Force

Vice Mayor Hosafros questioned whether they could make Robert Howell a non-official member. Town Attorney Herin, Jr. replied affirmatively.

Vice Mayor Hosafros moved to appoint Wendy DeGaetano as a member and asked staff to create an ex-officio placement for Robert Howell; second by Mayor Murphy.

Motion carried unanimously.

C. North Estero Phase 2 Part 2

Authorize the Town Manager to execute Change Order 1 for North Estero Phase 2 Part 2 Water Main and Storm Water Improvements, increasing the contract amount by \$5,480,740.04 to add North Estero Phase 2 Part 1 in contract ITB-20-08-UT with Mitchell & Stark Construction Company.

Vice Mayor Hosafros moved to approve the change order; second by Council Member Atterholt.

Town Manager Hernstadt explained the action.

Motion carried unanimously.

D. Bayview Blvd Water Main Extension

Authorize the Town Manager to execute Change Order 1 for Estero Boulevard Water Main Phase 4, increasing the contract amount by \$477,202.94 for Water Main Extension on Bayview Blvd with Mitchell & Stark Construction Company RFQ-13-02-PW.

Town Manager Hernstadt explained the reason for the change order.

Council Member Veach moved to approve the change order; second by Vice Mayor Hosafros.

Motion carried unanimously.

E. North Estero Phase II, Part 1 Construction/ROW Agreement

Authorize the Town Manager to enter into a construction / ROW agreement with the Florida Department of Transportation (FDOT) in association with the Town's downtown water and stormwater improvements within the Matanzas Bridge right of way as part of North Estero Phase II, Part 1 construction, and authorize the Town Manager to execute associated construction agreements necessary for the project's construction.

Council Member Allers moved to approve authorization; second by Vice Mayor Hosafros.

Motion carried unanimously.

F. July 4th Fireworks

Authorize July 4th fireworks, and authorize the Town Manager to execute the associated documents.

Town Manager Hernstadt stated that the agreement with the fireworks company was extended twice due to COVID-19. He noted that 1/2 of the population have received a first dose of the vaccine. Vice Mayor Hosafros and Council Members Atterholt and Allers supported moving forward.

Council Member Veach noted that numbers were headed back up and hoped that Florida did not have a fourth surge. Mayor Murphy indicated more vaccines would be distributed before the 4th, but he shared Council Member Veach's concern regarding increased cases. He reminded people that vaccinations did not mean one could not spread Covid-19. He encouraged people to continue to practice social distancing and wear masks.

Council Member Allers moved to authorize the Town Manager to execute the documents; second by Vice Mayor Hosafros.

Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

Ellen Vaughan, resident, suggested possibly a sponsor could be found that would

offer #WeAreFMB masks for sale on the 4th of July.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that Lee County tested the back bay water and they published the results. The signs leading into Fort Myers Beach were brought to the attention of Lee County. He noted that the sidewalks were the responsibility of Lee County and they were installing trash cans adjacent to the bus stops. Mayor Murphy stated that property owners had to do their part too. Town Manager Hernstadt explained how they gave property owners an opportunity to remove large items before citations were issued. He was not sure whether they could enforce no smoking on the beach without state or county involvement. He discussed safely opening Town Hall. Mayor Murphy indicated that some staff members recently received a vaccine.

Town Manager Hernstadt stated that an expert analyzed their technical equipment and a report would be available soon. He discussed parents signing a COVID-19 release form for programs at Bay Oaks and noted they would be polled about whether they wanted to require that their children wear masks.

XIV. TOWN ATTORNEY'S ITEMS

Town Attorney Herin, Jr. stated that they met with the School Board and the Town would have to vacate a small piece of property. He indicated that the first organizational meeting for the Nuisance Abatement Board would be scheduled for next month. Vice Mayor Hosafros suggested that every Advisory Committee Member receive ethics training. Town Attorney Herin, Jr. replied that he would make training available. Mayor Murphy suggested that it be recorded for those who could not attend the training. Town Manager Hernstadt agreed to record it.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Veach received support to add trapping iguanas to a future M&P. He questioned allocating money to the Town Manager to investigate acquiring property for the upland service provider. Vice Mayor Hosafros pointed out that he already had the authority to spend up to \$25,000.00. Town Manager Hernstadt replied that it was more a question of whether they agreed with the concept before moving forward. Council Member Veach described a beach toy recycling at beach access 22. He questioned whether the Town was interested in promoting the program.

Vice Mayor Hosafros questioned whether anyone objected to her reappointment to the Human Services Council in Lee County. There were no objections.

Council Member Allers noted a hazardous chemical waste pickup would be held at Bay Oaks on April 30, 2021, from 8:00 a.m. to noon. He requested that additional FMB Water Initiative cards be copied for MRTF pop-up events. He questioned whether they could remove the mask mandate.

Mayor Murphy stated that a constituent sent him a photo of property on North Estero for a possible upland service provider. Town Manager Hernstadt will research the property.

XVI. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn; second by Mayor Murphy.

Motion carried unanimously.
The meeting was adjourned at 10:15 a.m.

1. **Requested Motion:**

Meeting Date: May 3, 2021

Authorize the Town Manager to execute an additional agreement with HBK CPAs and Consultants for Financial Services in the not to exceed amount of \$25,000.

Why the action is necessary:

Any purchases that may exceed the Town Manager's purchasing authority of \$25,000 require Town Council approval.

What the action accomplishes:

Provides required financial services for the Town.

2. **Agenda:**

CONSENT AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Due to the unanticipated resignation of the Finance Director, HBK CPAs and Consultants was hired for financial services and management while the Town is actively recruiting for management positions within the Finance Department. The firm has worked to provide a full range of financial services including but not limited to assistance with budgeting, audit, and an analysis of current of policies, procedures, and financial recommendations to ensure timely and compliant accounting and reporting for the Town.

The weekly fee for both a Finance Director and Manager is \$3,450.00.

Attachments:

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Jason Freeman, Contracts Manager
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/28/2021
Approved - 4/28/2021
Approved - 4/28/2021
Final Approval - 4/28/2021

1. Requested Motion:

Meeting Date: May 3, 2021

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/DENYING AN AMENDMENT TO THE CURRENT ZONING MAP FOR THE PROPERTY LOCATED AT 131-151, 125 SCHOOL STREET AND 2661-2681 ESTERO BOULEVARD, FORT MYERS BEACH, CONTAINING 1+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230, 19-46-24-W3-0020C.0270, AND 19-46-24-W3-0020C.0290; FROM RESIDENTIAL CONSERVATION (RC) TO COMMERCIAL PLANNED DEVELOPMENT (CPD); APPROVING/DENYING A MASTER CONCEPT PLAN FOR HOTEL, RETAIL, AND RESTAURANT USES, INCLUDING CONSUMPTION OF ALCOHOL ON PREMISES AND APPROVING DEVIATIONS FROM THE LAND DEVELOPMENT CODE ("LDC"); PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. **Continued Second reading and final adoption from April 19, 2021**

Why the action is necessary:

The applicant has requested a rezoning from RC to CPD. The Town Council held a first reading of the proposed ordinance on March 1, 2021. The second reading and public hearing are to consider approval, approval with conditions, or denial of the request.

What the action accomplishes:

Rezoning Ordinances require two readings. The first reading was March 1, 2021.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

The Town's Land Development Code requires all rezoning applications to be heard by the Town Council.

4. Submitter of Information:

5. Background:

Continued Second Reading and Final Adoption Town Council to approve the final language based on their April 5, 2021 review of the application and consensus vote on each of the recommended conditions.

(Background from last reading)

The subject site is located at multiple addresses, 2661-2668 Estero, 125 School Street, and 131-151 School Street, at the intersection with Oak Street, School Street, and Estero Boulevard. The site is a combination of 12 lots platted as part of Winkler's subdivision in 1931 (Winkler's Subdivision, Block C, Lots 23-27 (2661-2668 Estero) Lot 28 (125 School Street) and Lots 29 – 34 (131-151 School Street). Each platted lot is approximately 25 feet in width and 150 feet in depth.

Based on information found on Lee County Property Assessor Field Cards, the six platted lots for 131-151 School Street appear to have been originally developed as three separate properties, each consisting of two of the platted lots, and each property having one structure. Property deeds show that the three individual properties came under common ownership by 1962 and have remained in common ownership since that time.

Prior Lee County zoning actions include Lee County Resolution Z-72-18 dated February 1, 1972 that granted a variance for an apartment under a duplex for personal home use on Lots 33 and 34. Additionally, ZVL2013-008 verified that the subject property consists of six platted lots.

Town records indicate that a rezoning to CPD was requested and denied by Town Council in 1996 (Res 96-31). The request was to build five multifamily dwelling units with commercial below. The original request was denied in February; while a revised and scaled down request was then denied in November 1996. The meeting minutes detail how the site was developed with multiple older structures that were in poor condition; while the applicant pointed out that the request did not include hotel uses and no access from School Street. The Town Council findings included the proposed commercial uses were not appropriate in the Boulevard Future Land Use Map category due to intrusion of a commercial use into a residential neighborhood.

The current property configuration resulted from the combination of three separate parcels in 2008 (STRAP #s 19-46-24-W3-0020C.0290, 19-46-24-W3-0020C.0310 and 19-46-24-W3-0020C.0330), and the addition of the remaining parcels comprising the the subject site, 2661-2668 Estero Blvd. and 125 School Street, in 2016 after the Town Council granted a special exception to allow a Bed and Breakfast use (only on the added parcels). According to the current Lee County Property Appraiser records, the 2661-2668 Estero Boulevard consists of two single-family dwelling units; and one single-family dwelling with an apartment.

The current application requests a rezoning from the RC zoning district to CPD. All CPD rezoning applications are required to have a master concept plan, which the applicant submitted, identifying proposed development and how development is consistent with the Town's Comprehensive Plan and Land Development Code.

The applicant has provided a narrative with the original application in Supplemental PH-D documents explaining how it believes the proposed rezoning and master concept plan are consistent with the Comprehensive Plan, Land Development Code (including LDC Sec 34-85), and the Town's Design Guidelines. The original application requested 16 guest/hotel units developed over multiple phases. Since the original application, the applicant has responded to staff questions and review comments by submitting revised components of the request and the master concept plan. There have been two resubmittals containing modifications to the original application. The final submittal includes a request to allow 14 guest/hotel units over multiple phases; 600 sq. ft. of retail use, a restaurant, and rearranged building(s) to accommodate parking, stormwater, and other site modifications. The Schedule of Uses also includes Residential and Residential Accessory uses. Staff disagrees and questions why these are mixed with the requested Lodging and Retail uses.

In addition the last submitted plan includes an update to requested deviations. The current request includes seven (7) deviations to various design and development criteria. The deviations requested would allow the applicant to decrease landscape buffers, setbacks, and design criteria, among others. Some of the deviations are to accommodate existing buildings with non-conforming setbacks, access location point separation, and parking space size.

The staff report specifies why the request is inconsistent with the Town's Comprehensive Plan and Land Development Code. Staff has recommended denial based on the findings in the staff report.

The LPA reviewed the application on February 9th, 2021 and recommended approval with conditions with a 6-0 vote.

Town Council set the second reading of the Ordinance and public hearing for April 5, 2021.

The applicant has provided an amended Master Concept Plan showing edits since the LPA meeting. They have also submitted the following proposed conditions of approval:

1. On Premises Consumption of alcoholic beverages (COP) shall be limited to the future restaurant and existing Tiki hut as identified on the Master Concept Plan.
2. COP hours of service for the outdoor seating associated with the restaurant shall be limited to 10AM-10PM.
3. Amplified sound associated with the outdoor restaurant seating shall be limited to 10AM-10PM.

The applicant provided proposed conditions of approval and a draft Ordinance, which has been included with the attachments.

Attachments:

1. 119912850_3_Ordinance No. 21-02 re Myerside Hotel CPD-C1

Financial Impact:

6. **Alternative Action**

Recommend approval or approval with conditions

7. **Management Recommendations:**

Deny

8. **Recommended Approval:**

Jason Green, Community Development Services
Jason Green, Community Development Services
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/26/2021
Approved - 4/27/2021
Approved - 4/28/2021
Approved - 4/28/2021
Final Approval - 4/28/2021

ORDINANCE 21-02

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CURRENT ZONING MAP FOR THE PROPERTY LOCATED AT 131-151, 125 SCHOOL STREET AND 2661-2681 ESTERO BOULEVARD, FORT MYERS BEACH, CONTAINING 1+/- ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-0020C.0230, 19-46-24-W3-0020C.0270, AND 19-46-24-W3-0020C.0290; FROM RESIDENTIAL CONSERVATION (RC) TO COMMERCIAL PLANNED DEVELOPMENT (CPD); APPROVING A MASTER CONCEPT PLAN FOR HOTEL, RETAIL, AND RESTAURANT USES, INCLUDING CONSUMPTION OF ALCOHOL ON PREMISES AND APPROVING DEVIATIONS FROM THE LAND DEVELOPMENT CODE (“LDC”); PROVIDING FOR SCRIVENER’S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Myerside LLC, owner and applicant (“Applicant”), filed an application to rezone the property generally located at 131-151 School Street, 125 School Street, and 2661-2681 Estero Boulevard – comprising 1 +/- acre of land (“Property”), from Residential Conservation (RC) to Commercial Planned Development (CPD) with a Master Concept Plan (MCP), a schedule of uses, and deviations to certain requirements of the Land Development Code (“LDC”), in order to develop a 14 unit hotel/resort with restaurant, retail, and consumption of alcohol on premises (“Application”); and

WHEREAS, the Property is located in the Boulevard Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach, and is under common control of the Applicant as listed in the public records of Lee County Property Appraiser; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on February 9, 2021, at which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 6-0 to recommend approval of the rezoning and MCP with conditions, and

WHEREAS, on March 1, 2021 the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council set a second reading of the proposed Ordinance and a public hearing on this matter to be legally advertised and held before the Town Council on April 5, 2021; at which time the Town Council gave full and complete consideration to the request of the Applicant, the recommendation of the LPA, the recommendation of staff, including the consideration and findings in the staff report, the documents in the record, and the testimony of all interested persons, as required by Section 34-85 of the LDC; and

WHEREAS, the Town Council finds the proposed rezoning and MCP and requested deviations are **consistent** with the Town of Fort Myers Beach Comprehensive Plan and Land Development Code and voted to **approve with conditions** the Application.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did** meet its burden of proof that the requested rezoning **does** meet the requirements of the Town Comprehensive Plan and LDC, and approving the rezoning of the Property from Residential Conservation (RC) zoning district to Commercial Planned Development (CPD) with a Master Concept Plan (MCP), a schedule of uses, and a deviation to certain requirements of the LDC **is** in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, and interested parties, the Town Council **APPROVES** the requested rezoning.

Section 3. In approving the rezoning of the Property, the following conditions of approval are imposed on the Applicant and the Property:

- a. The Applicant shall complete the redevelopment of the Property in phases as follows:
 - i. Phase 1 = Relocation of Building 2 within eight months of the issuance of a Development Order.
 - ii. Phase 2 = Construction of all required site improvements, including the parking lot, within one year of the issuance of a Development Order.
 - iii. Phase 3 = Redevelopment and opening of the restaurant within one and a half years of the issuance of a Development Order.
 - iv. Phase 4 = Redevelopment and opening of the retail store within two years of the issuance of a Development Order.
 - v. Phase 5 = The construction or relocation of Building 8.
- b. Phases 1 through 4 must be in sequential order; however, phase 5 may be implemented at any time after the issuance of a Development Order. The Applicant shall complete all phases of the MCP within five years of issuance of a Development Order.

- c. The Applicant shall submit a complete Development Order application for the MCP within one year of approval of this Ordinance.
- d. The Town shall not approve/issue any site or building permits until issuance of a Development Order for the implementation of the MCP, except for routine maintenance or repair, or in order to maintain compliance with the Town Code.
- e. The Applicant shall submit to the Town as part of the complete Development Order application a report by a professional Arborist identifying all trees on the Property, and the measurement of all trees scheduled for removal using the individual Diameter Breast Height (DBH) method. The Applicant shall replace all trees removed from the Property that qualify as protected within the LDC, with in-kind trees.
- f. The Applicant shall submit to the Town as part of the complete Development Order application a landscape plan prepared by a Florida licensed Landscape Architect, which shall include a statement to the viability of the selected vegetation within the approved buffers in the MCP. All landscape buffers shall comply with the LDC to the maximum extent practicable.
- g. Concurrent with the Town's approval of a Development Order, the Applicant shall re-plat the Property as one parcel.
- h. The Property, buildings, and units shall remain under unified control.
- i. All accessory structures shall be improved with required flood vents.
- j. All accessory structures shall be limited to the specific purpose, size, and location on the MCP.
- k. All new construction of replacement structures shall be limited to no more than a 20% increase of the existing footprint and square footage of the structures on the Property on the effective date of this Ordinance. The combination or consolidation of square footage is prohibited.
- l. Vehicular ingress to the Property shall be limited to one access point off Estero Boulevard, as approved by Lee County and the Applicant shall place signs and markings on the Property to that effect.
- m. Vehicular egress from the Property shall be limited to School Street, and the Applicant shall place signs and markings on the Property to that effect.
- n. No parking on Oak Street is permitted, unless subsequently approved by the Town.
- o. The MCP shall comply with all parking design standards, including stall length and width, drive aisle width, and all applicable ADA standards.
- p. The side yard is the western Property boundary and side setbacks apply for purposes of this MCP.
- q. No fill in excess of what is approved in an Environmental Resource Permit issued by the South Florida Water Management District shall be placed on the Property.
- r. All parking of stacked vehicles shall be assigned to specific units as shown on the MCP. Restaurant parking shall be identified on the MCP.
- t. The Applicant shall pay 33% of the cost of designing, permitting and construction of a Town approved standard sidewalk consistent with the Town's adopted engineering design manual standards along School Street connecting Estero Boulevard to Oak Street.

- u. The Applicant shall provide a landscape entryway adjacent to School Street, consistent with the Town's Comprehensive Plan vision for the School Street corridor, consisting of four (4) Royal Palms with a ten (10) foot clear trunk.
- v. The Development Order shall designate an area on the Property to allow the Town to install a public art feature onto the frontage of Estero Boulevard, subject to the Applicant's approval as to design and size.
- w. The Applicant shall limit amplified music to 3:00 pm to 10 pm, Monday through Friday, and 11:00 am to 10:00 pm, Saturday and Sunday.
- x. The Applicant shall limit the consumption of alcohol on the Property as follows:
 - i. Inside the restaurant and the outdoor dining area as shown on the MCP.
 - ii. Sales limited to 10 am to 10 pm and consumption on premises.
 - iii. Payment for alcohol inside the restaurant only.
 - iv. Public access to the restaurant is limited to the entrance along Estero Boulevard.
 - v. The Applicant shall install a landscape buffer delineating and surrounding the outdoor dining area.
- y. The on-site stormwater management system(s) shall function and operate as designed.
- z. Concurrent with the submission of a complete Development Order application, the Applicant shall provide photographic documentation of the architectural style of the existing structures on the Property. All renovations and future replacement of the existing structures on the Property shall require consistency with the identified architectural style. The Applicant shall record a restrictive covenant running with the land in a form acceptable to the Town Attorney, ensuring that all renovations and future replacement of the existing structures on the Property shall require consistency with the identified architectural style.

Section 4. The following limits apply to the Property and its development or redevelopment:

Schedule of Allowable Uses:*

- Hotel/Motel use, which shall mean the rental of any cottage for a stay of one night or longer (maximum of 14 rental units as shown on the MCP).
- Caretaker unit (not an additional unit).
- Accessory pool and sand volley ball court as shown on the MCP.
- Restaurant and personnel services as shown on the MCP.
- Consumption on Premises of beer and wine only (2COP).

* All uses limited to size and location shown on the MCP and conditions of approval herein, subject to any administrative amendments authorized by the LDC.

Property Development Regulations:

- A. General – Applies to Existing Principal and Accessory Structures and Replacement Principal and Accessory Structures.
 - Minimum Lot Area: 1 acre +/- (per survey provided by Applicant).

- Minimum Lot Width: 150 feet +/- (per survey provided by Applicant).
- Minimum Lot Depth: 300 feet +/- (per survey provided by Applicant).
- Building Coverage: Footprint of existing structures as shown on the MCP, plus up to a 20% increase for replacement principal structures.
- Maximum Stories: Three (two stories above base flood elevation).
- Maximum Height: Twenty-five feet (25') above base flood elevation.
- Minimum Building Separation: Fifteen feet (15').
- Maximum Floor Area Ratio: .45
- Maximum Impervious Surface Ratio: 50%

B. Existing Principal and Accessory Structures.

- Minimum Street Setback: As shown on the MCP.
- Minimum Side Setbacks: As shown on the MCP.
- Minimum Rear Setback: As shown on the MCP.

C. New or Replacement Principal and Accessory Structures.

- Minimum Street Setback: Ten feet (10').
- Minimum Side Setbacks: Fifteen feet (15').

Section 5. The Applicant has requested the following deviations, which the Town Council **does** grant:

DEVIATION #1: A deviation from LDC Section 34-2015 (5), which requires that “all parking lots must be provided with sufficient maneuvering room so as to allow an exiting vehicle to leave the parking lot in a forward motion...”, to allow exiting vehicles to leave parking spaces by backing onto School or Oak Streets only as depicted on MCP.

DEVIATION #2: A deviation from the driveway separation requirements of LDC Section 10-296 along Estero Boulevard to allow a driveway access to the subject property that is $\pm 77'$ from the closest access point (driveway) to the north and $\pm 77'$ to School Street.

DEVIATION #3: A deviation from LDC Section 10-416(d) Table 10-18, which requires a 15' Type C buffer when a commercial use abuts a residential use, to allow a 6' Type C buffer only where indicated on the MCP and limited to the west property line.

DEVIATION #4: A deviation from LDC Section 34-202(b)(5), which requires architectural elevations or a three-dimensional rendering, to approve the design of existing structures subject to Section 3 Conditions “y.” and “z.” regarding the design of any new or relocated structures.

DEVIATION #5: A deviation from LDC Section 34-1264(b)(1) to allow 2COP (beer and wine only) for the requested restaurant outdoor seating area within 500 feet of a place of worship, religious facility, dwelling unit, school (non-commercial), daycare center [child] or park, as depicted on the MCP.

Section 6. Nothing in this rezoning, including any of the attached conditions, constitute a variance or deviation from the provisions of Chapter 6, Article IV “Floodplain Regulations’ of the LDC. Approval of this rezoning does not exempt the subject property from any provisions of the LDC with the exception of any approved deviation contained herein.

Section 7. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted LDC or Town Code provision, ordinance or statute, the most restrictive shall apply.

Section 8. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 9. Any typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 10. This ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Councilmember _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Jim Atterholt, Council Member	_____
Bill Veach, Council Member	_____

ADOPTED this ____ day of _____, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this __ day of _____, 2021.

1. Requested Motion:

Meeting Date: May 3, 2021

The Town has received the nomination of Janine Fleming and Janine Paulauskis for the annual Fort Myers Beach Citizen of Distinction Award for their #WeAreFMB campaign.

Why the action is necessary:

Annual Nomination based upon Town Council approved criteria to recognize citizen contributions.

What the action accomplishes:

Fills the annual nomination

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Other

4. Submitter of Information:

5. Background:

The Citizen of Distinction Award is designed to recognize, on an annual basis, an outstanding citizen who has made an exceptional contribution to our Town.

General Criteria

- Current residents, full or part time, living in the municipal limits of Fort Myers Beach for at least 3 years are eligible for the award.
- In selecting the Outstanding Citizen Award recipient, the Town Council will consider the following:
 - how the nominee has enhanced the name of the community through positive exposure
 - what exceptional contribution the nominee has made to the community

The Town Manager forwards nominations to the Town Council for their selection. The chosen Citizen recipient will be honored during a Town Council meeting. At this time the recipient will receive a presentation from the Mayor and Council and a small engraved plaque dedicated to the recipient will be placed on the Citizens of Distinction perpetual wall. The recipients will be afforded the opportunity of serving as the Grand Marshalls in the Town's next 4th of July parade.

Attachments:

1. Nomination Letter for Citizen of Distinction-Fleming and Paulauskis 2021

Financial Impact:

None

6. Alternative Action

7. Management Recommendations:

8. Recommended Approval:

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney

Created/Initiated - 4/26/2021
Approved - 4/27/2021

Town of Fort Myers Beach Citizens of Distinction Award Nomination

The Town of Fort Myers Beach Achievement Awards are designed to recognize, on an annual basis, outstanding citizens, groups, organizations or businesses that have brought credit to our town.

Awards will be granted in the following categories:

- ❖ Arts and Culture Recognition Award
- ❖ Athletic Achievement Award
- ❖ Heritage Award
- ❖ Youth Award of Merit
- ❖ Mayor's Special Award (*not chose by nomination)

Submit nominations no later than March 31st to:

Town of Fort Myers Beach
c/o Town Manager
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please review the criteria for nomination and present as complete information as possible.

**Name of Individual, Team,
Group or Business:**

Jan Fleming / Janine Paulauski's

(List all members of Team / Group on separate page) (former resident)

Current Address:

250 Delmar

9631 Spring Lake Circle

FMB

Estero, FL

937-344-2974

239-980-4381

**Number of Years Individual, Team, Group or Business has
lived/operated in Fort Myers Beach**

Many

**Area of Nomination
(please check)**

- ☒ Arts and Culture
- ☐ Athletics
- ☐ Heritage
- ☐ Youth

Town of Fort Myers Beach

APR 15 2021

Received by: _____ Page 23 of 49

Please provide information on the nominee including:

- ✓ History of the individual, team, group or business;
- ✓ Their achievements;
- ✓ Their contribution to the community; and
- ✓ Details on how they have brought recognition to Fort Myers Beach

Please include a statement concerning why they should be recognized as a Citizen of Distinction.

The nominator may include up to a maximum of five (5) pages of material in support of the nomination. The support material must directly relate to the above information. Extraneous information will be edited from the nomination.

The chosen recipients will be recognized at a Town Council in May.

Award winner will be notified prior to the presentations.

Nominator may be contacted if there are any questions regarding this nomination

Name of Nominator:	<u>Anita Cereceda & Rexann Hoschinos</u>	
Address:	<u>185 Jefferson</u>	<u>171 Egret</u>
City / State / Zip	<u>FMB</u>	<u>FMB</u>
Telephone:	<u>239-218-1450</u>	<u>239-560-1513</u>
Alt. Telephone:	<u></u>	
Date Submitted:	<u>4-15-21</u>	

Town of Fort Myers Beach

APR 15 2021

Received by: _____

April 8, 2021

RE: Citizen of Distinction Award

Honorable mayor and members of the council,

I write this to ask that you consider Janeen Paulauskis and Jan Fleming to be the recipients of the Citizen of Distinction award for this year.

As many of you know, Janeen and Jan were instrumental in making the #WeAreFMB effort a success. Never before had a group moved so quickly to answer the needs of a community. In short order Tshirts were printed and distributed to businesses in the area to be sold and 100% of the sale of those shirts went to buy Publix gift cards for hospitality workers out of work from the covid-19 impact.

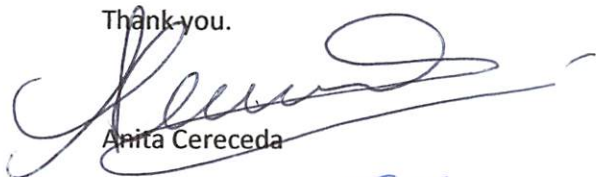
Store clerks, housekeepers, cooks, waitresses, bartenders...families. Gift cards were distributed at the beach school for families who needed help, and there were many! Tens of thousands of dollars have been raised and distributed to folks who were out of work in our community. That effort could not have happened without the determination and resources of Janeen Paulauskis and the boots on the ground, and bicycle, of Jan Fleming.

Imagine a Thanksgiving table without a turkey or Christmas dinner without the trimmings. Thanks to the incredible effort of these two women, and their supporters, many of our folks didn't have to deal with that because they had #WeAreFMB as a resource.

The seed was planted and now the Ft. Myers Beach Community Foundation has taken the helm of this great project and will continue to nurture it as we move forward.

Janeen and Jan deserve this recognition for their dedication to this project and all the folks that were served by it in our town. I hope that you will see fit to nominate them for this honor.

Thank-you.



Anita Cereceda



Rexann Hosafros

Vice-Mayor, Town of Ft. Myers Beach

Town of Fort Myers Beach

APR 15 2021

Received by: _____
Page 25 of 49

1. Requested Motion:

Meeting Date: May 3, 2021

Authorize the Town Manager to amend the interlocal agreement with Lee County for Water and Stormwater Improvements Sanitary Sewer. This establishes the construction costs associated with the installation of Lee County's wastewater lines reimbursed to the Town at an amount of \$701,305.00.

Why the action is necessary:

What the action accomplishes:

Establishes costs for wastewater lines for North Estero Phase 2 side streets.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

4. Submitter of Information:

5. Background:

Attachments:

1. 6TH AMENDMENT FMB Estero Blvd Interlocal (003)
2. Sanitary Adjustments - North Estero and Tier 1

Financial Impact:

6. Alternative Action

7. Management Recommendations:

Approve

8. Recommended Approval:

Sarah Lisenko, Administrative Officer
Christy Cory, Utilities Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/27/2021
Approved - 4/27/2021
Approved - 4/27/2021
Approved - 4/27/2021
Final Approval - 4/28/2021

SIXTH AMENDMENT
INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND THE TOWN OF
FORT MYERS BEACH FOR A UTILITY RELOCATION PROJECT WITHIN THE CORPORATE
LIMITS OF THE TOWN OF FORT MYERS BEACH

THIS SIXTH AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND THE TOWN OF FORT MYERS BEACH (Sixth Amendment) is entered into on this _____ day of _____ 2021, by and between LEE COUNTY, FLORIDA, a charter county and political subdivision *of* the State of Florida, (hereinafter called "County"), and the TOWN OF FORT MYERS BEACH, a Florida municipal corporation, acting by and through its Town Council (hereinafter called "Town").

WITNESSETH:

WHEREAS, on December 17, 2013, the County and the Town entered into that certain INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND THE TOWN OF FORT MYERS BEACH FOR A UTILITY RELOCATION PROJECT WITHIN THE CORPORATE LIMITS OF THE TOWN OF FORT MYERS BEACH relating to certain underground utility improvements proposed by the Town and the County in the same affected areas within the corporate limits of the Town (hereinafter the "Agreement"); and

WHEREAS, the County and the Town entered into the Agreement in order to work jointly pursuant to a design-build contract to construct the improvements; and

WHEREAS, the County agrees to fund the associated cost of adjustment of wastewater lines due to conflicts created by the anticipated North Estero Blvd. Phase 2 Side Streets Water Main and Storm Improvements for Matanzas Street, Matanzas Court, Carlos Circle, Lagoon Street, Primo Drive, Palermo Circle, Santos Road, Fifth Street, First Street, Harbor Court, Bonita Street, Second Street, Third Street, Crescent Street; and the Tier 1 Side Streets Water and Storm Improvements for Shellmound, Boulevard, Madison Court, Andre Mar Drive, Mandalay Road, Coconut Drive, Gulfview Avenue, Bayland Road, Williams Drive, Estrellita Drive, and Fairview Boulevard; and

WHEREAS, the construction cost associated with the wastewater lines adjustments would be reimbursed in accordance with a schedule of values to be included as "Town of Fort Myers Beach Water and Stormwater Improvements Sanitary Sewer Adjustments Cost Opinion" to the Agreement and would be incorporated into the Agreement through the approval and execution of an Amendment to the Agreement; and

WHEREAS, the "Town of Fort Myers Beach Water and Stormwater Improvements Sanitary Sewer Adjustments Cost Opinion" which is attached to this Sixth Amendment is intended to comply with the requirements of the Agreement and amends that Agreement by establishing the County's construction cost associated with the wastewater lines adjustments, that are reimbursable to the Town in the not to exceed amount of \$701,305.00.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, conditions and obligations herein contained, the parties agree as follows:

SECTION I. INCORPORATION OF RECITALS

The Recitals as set forth above are incorporated into this Sixth Amendment as if set out herein at length.

SECTION II. AMENDMENT

The Agreement is hereby amended as follows:

1. The County agrees to fund the associated cost of installation of wastewater line adjustments due to conflicts created by the anticipated North Estero Blvd. Phase 2 Side Streets Water Main and Storm Improvements for Matanzas Street, Matanzas Court, Carlos Circle, Lagoon Street, Primo Drive, Palermo Circle, Santos Road, Fifth Street, First Street, Harbor Court, Bonita Street, Second Street, Third Street, Crescent Street; and the Tier 1 Side Streets Water and Storm Improvements for Shellmound, Boulevard, Madison Court, Andre Mar Drive, Mandalay Road, Coconut Drive, Gulfview Avenue, Bayland Road, Williams Drive, Estrellita Drive, and Fairview Boulevard areas in which the County deems improvement necessary. The County will only be responsible for the expense of wastewater improvements that are reimbursable to the Town within those areas in the not to exceed amount of \$701,305.00.

2. All other provisions of the Agreement shall remain unchanged.

SECTION III. EFFECTIVE DATE

This Sixth Amendment shall be effective on the last date that it is signed by the Chair or Vice-chair of the Board of County Commissioners of the County of the Mayor or Vice Mayor of the Town.

IN WITNESS WHEREOF, the parties hereunto have executed this Sixth Amendment to the Agreement on the dates specified below.

ATTEST: LINDA DOGGETT
CLERK OF THE COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY FLORIDA

By: _____
Deputy Clerk

By: _____
Kevin Ruane, Chair

Date: _____

ATTEST: TOWN OF FORT MYERS BEACH

APPROVED AS TO FORM:

By: _____
Clerk, Town of Fort Myers Beach

By: _____
Office of the County Attorney

Date: _____

By: _____
Ray Murphy, Mayor

APPROVED AS TO FORM:

Date: _____

By: _____
Town Attorney

Town of Fort Myers Beach
Water and Stormwater Improvements
Sanitary Sewer Adjustments
Cost Opinion

Location	Conflict Manhole	4" Sewer Service Lateral (Without Cleanout)	Adjust Manhole Frame and Cover	Cleanouts Complete	16" Force Main Replacement	Force Main Bypass Pumping	16" Force Main Deflection	2" Conduit
North Estero Phase 2 Part 2								
Matanzas Street		5	2	5				
Matanzas Court		5	4	5				
Carlos Circle			4					
Lagoon Street		6	4	6				
Primo Drive		33	3	33				
Palermo Circle		43	9	43				
Santos Road		6	1	6				
Sub-Total NEP2P2	0	98	27	98	0	0	0	0
North Estero Phase 2 Part 1								
Fifth Street		3	2	3				
First Street			2	0				
Harbor Court			0	0				
Bonita Street			0	0				
Second Street		0	2	0				
Third Street		2	4	2				
Crescent Street		10	6	10	600	1	3	600
Sub-Total NEP2P1	0	15	16	15	600	1	3	600
Tier 1								
Shellmound Boulevard		4	4	4				
Madison Court		17	7	17				
Andre Mar Drive		14	4	14				
Mandalay Road		9	3	9				
Coconut Drive		2	1	2				
Gulfview Avenue	3	12	3	12				
Bayland Road		6	4	6				
Williams Drive		11	4	11				
Estrellita Drive	1	13	6	13				
Fairview Boulevard		3	6	3				
Tier 1 Sub-Total	4	91	42	91	0	0	0	0
Total Quantity	4	204	85	204	600	1	3	600
Unit	EA	EA	EA	EA	LF	Allow	EA	LF
Unit Price	\$ 18,000.00	\$ 1,720.00	\$ 475.00	\$ 300.00	\$ 176.00	\$ 30,000.00	\$ 12,290.00	\$ 7.30
Total Price	\$ 72,000.00	\$ 350,880.00	\$ 40,375.00	\$ 61,200.00	\$ 105,600.00	\$ 30,000.00	\$ 36,870.00	\$ 4,380.00
Grand Total								\$ 701,305.00

1. Requested Motion:

Meeting Date: May 3, 2021

Accept the recommended rankings for RFQ-21-09-EN and authorize the Town Manager to enter into negotiations with the highest ranked firm, Coastal Engineering Consultants, for Beach Renourishment Professional Services.

Why the action is necessary:

Follows the steps in the procurement policy to accept the recommended rankings and begin negotiations with the highest ranked firm for future agreement execution. The second and then third ranked firms will be considered if negotiations are unsuccessful with the highest ranked firm.

What the action accomplishes:

Accepts the recommended rankings and authorizes the Town Manager to enter into negotiations with the highest ranked firm.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

4. Submitter of Information:

5. Background:

It is the intention of The Town of Fort Myers Beach to retain the services of a firm for professional services in assisting the Town with professional engineering services for a sand renourishment project on Estero Island to include, but not be limited to, feasibility, planning, stakeholder coordination, design, permitting, surveying, funding and grant support, bid phase, construction administration & observation, and monitoring services in accordance with State & Federal statutes, Town codes, rules, regulations, ordinances, etc. Additional services may be required including but not limited to expanding the project limits to include additional shoreline reaches.

RFQ-21-09-EN was issued on February 26, 2021 for Beach Renourishment Professional Services. The Town received six proposals from Applied Technology & Management Inc., APTIM Environmental & Infrastructure, LLC, Coastal Engineering Consultants, Inc., Edgewater Resources, LLC, Humiston & Moore Engineers, and Taylor Engineering, Inc. Submitted proposals are available for review upon request.

A Selection Advisory Committee met on April 21, 2021 and recommended to the Town Manager to rank Coastal Engineering Consultants first, Taylor Engineering second, and APTIM Environmental & Infrastructure, LLC third.

Attachments:

1. SAC RFQ-21-09-EN DRAFT Minutes

Financial Impact:

6. Alternative Action

7. Management Recommendations:

8. **Recommended Approval:**

Chadd Chustz, Environmental Project Manager
Jason Green, Community Development Services
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/26/2021
Approved - 4/26/2021
Approved - 4/27/2021
Approved - 4/27/2021
Final Approval - 4/28/2021

DRAFT MINUTES
FORT MYERS BEACH
Selection Advisory Committee
Town Hall – Council Chambers
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Wednesday, April 21, 2021

I. CALL TO ORDER

Meeting was called to order at 1:01 p.m. by Contracts Manager Jason Freeman. Other members present:

Assistant Community Development Director Carl Bengé
Environmental Project Manager Chadd Chustz
Marine Resources Task Force Member Greg Fossum
Public Works Director Chelsea O’Riley
Bill Waichulis, GM at Pink Shell and TDC Board Member

**II. REVIEW AND DISCUSSION OF PROPOSALS - RFQ-21-09-EN
Beach Renourishment Professional Services**

Manager Freeman stated that the RFQ was issued on February 26, 2021, and proposals were due on April 8, 2021, at 2:00 p.m. The following six responses were received: Applied Technology and Management, Inc., APTIM Environmental and Infrastructure LLC, Coastal Engineering Consultants, Inc., Edgewater Resources LLC, Humiston and Moore Engineers and Taylor Engineering, Inc. All proposals were complete except Applied Technology did not include a signed addendum.

Manager Freeman reviewed the scope of the project and reminded members that they were under the cone of silence.

The maximum total points was 500. Members scored the firms as follows: Coastal Engineering Consultants, Inc. received 472 points; Taylor Engineering, Inc. 426; APTIM Environmental and Infrastructure LLC 415; Humiston and Moore Engineers 405; Applied Technology and Management 380 and Edgewater Resources LLC 323.

MOTION: Project Manager Chustz moved to recommend to the Town Manager to rank the firms and enter negotiations with Coastal Engineering Consultants. If unsuccessful, Taylor Engineering then APTIM; second by Director O’Riley.

VOTE: Motion passed unanimously.

III. ADJOURNMENT

Project Manager Freeman adjourned the meeting at 1:08 p.m.

-
- End of document

1. Requested Motion:

Meeting Date: May 3, 2021

Ratify Resolution 21-23 for an Interlocal agreement with the School Board of Lee County for the exchange of real property and improvements in exchange for property historically used as part of the Bay Oaks Recreational Campus and other commitments

Why the action is necessary:

To exchange property with the Lee County School Board for the Bay Oaks development plan.

What the action accomplishes:

Provides a written agreement with the Lee County School District for the exchange of properties associated with the Bay Oaks development project.

2. Agenda:

ADMINISTRATIVE AGENDA

3. Requirement/Purpose:

Resolution

4. Submitter of Information:

Chelsea O'Riley, Public Works
Director

5. Background:

This proposed agreement resolves long standing property ownership/use issues and assembles the land needed to implement the Bay Oaks Recreation Center redevelopment plan.

This item was taken to Town Council at a previous meeting. The Lee County School Board Attorney had some minor edits to which the Town Attorney has no objection to. Staff is submitting the item for ratification. Once approved, Town and School Board staff will coordinate a Shared-Use Agreement, by the end of the calendar year, to be approved and adopted by both the School Board and the Town which shall finalize the transaction.

Attachments:

1. 21-23, LCSB and Bay Oaks Property Swap
2. 122089406_1_Draft Second Amendment to Property Exchange ILA-C1

Financial Impact:

6. Alternative Action

Do not approve.

7. Management Recommendations:

Approve the Resolution and the Interlocal Agreement.

8. Recommended Approval:

Randy Paniagua, Administrative Officer
Chelsea O'Riley, Public Works Director
John R Herin Jr, Town Attorney
Amy Baker, Town Clerk
Roger Hernstadt, Town Manager

Created/Initiated - 4/28/2021
Approved - 4/28/2021
Approved - 4/28/2021
Approved - 4/28/2021
Final Approval - 4/28/2021

RESOLUTION NUMBER 21-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF LEE COUNTY AND THE TOWN OF FORT MYERS BEACH REGARDING THE EXCHANGE OF REAL PROPERTY AND IMPROVEMENTS RELATED TO THE REDEVELOPMENT OF BAY OAKS RECREATIONAL FACILITY; AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT BY THE TOWN MANAGER AND AUTHORIZING ALL APPROPRIATE TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE SECOND AMENDED INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach (“Town”) empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the School Board and the Town both serve the people of the Town of Fort Myers Beach; and

WHEREAS, both the School Board and the Town are duly empowered pursuant to Section 163.01, Florida Statutes, to enter into interlocal agreements for the sharing of certain governmental powers and obligations; and

WHEREAS, the School Board is the owner of certain real property upon which is located the Fort Myers Beach Elementary School (“School Board Property”); and

WHEREAS, the Town is the owner of that certain real property commonly known as Bay Oaks Recreational Facility, located adjacent to the School Board Property (“Town Property”); and

WHEREAS, the School Board and the Town have each determined the need for improvement to its existing facilities and/or for additional facilities; and

WHEREAS, in order to maximize the use of their respective properties, the School Board and the Town entered into an Interlocal Agreement regarding the exchange of certain portions of their properties (“Agreement”), which Agreement the parties have previously amended (“First Amendment”); and

WHEREAS, the School Board and Town desire to further amend the Agreement to extend the closing date therein, and update the legal description of the parcels of land the parties have agreed to exchange ("Second Amendment").

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. The Second Amendment to the Agreement attached hereto as Exhibit "A", between the School Board and Town, regarding the exchange of School Board Property and Town Property is approved. The Town Manager is authorized to execute the Second Amendment on behalf of the Town and all appropriate Town officials are authorized to take all necessary steps to implement the Second Amended Agreement.

Section 3. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was _____ by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Raymond P. Murphy, Mayor	_____
Rexann Hosafros, Vice Mayor	_____
Dan Allers, Council Member	_____
Bill Veach, Council Member	_____
Jim Atterholt, Council Member	_____

ADOPTED this 3rd day of May, 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Raymond P. Murphy, Mayor

ATTEST:

Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ____ day of _____ 2021.

**SECOND AMENDMENT TO INTERLOCAL AGREEMENT RELATING TO
EXCHANGE OF REAL PROPERTY AND IMPROVEMENTS**

THIS SECOND AMENDMENT TO INTERLOCAL AGREEMENT RELATING TO EXCHANGE OF REAL PROPERTY AND IMPROVEMENTS (this "Second Amendment"), is made as of the 3rd day of May, 2021 by and between the TOWN OF FORT MYERS BEACH (the "Town"), and THE SCHOOL BOARD OF LEE COUNTY, FLORIDA (the "School Board").

WITNESSETH:

WHEREAS, the Town and the School Board have entered into that certain Interlocal Agreement Relating to Exchange of Real Property and Improvements effective October 7, 2020 (the "Agreement") with respect to the property and facilities relating to the Bay Oaks Recreational Facility and Fort Myers Beach Elementary School, as more fully described therein (the "Exchange Parcels"); and

WHEREAS, the Town and the School Board amended the Agreement effective December 21, 2020 (the "First Amendment") to extend the Closing Date of the exchange of title to the Exchange Parcels as set forth in the Agreement; and

WHEREAS, the Town and the School Board desire to amend the Agreement and the First Amendment to further extend the Closing Date of the exchange of title to the Exchange Parcels as set forth in the Agreement and First Amendment and to update the legal descriptions of the Exchange Parcels as set forth in the Agreement.

NOW, THEREFORE, for Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration each to the other paid, the receipt and sufficiency of which is hereby acknowledged, the Town and the School Board hereby agree as follows:

1. **CLOSING.** The time for completing the Closing (as defined in Section 3.1 of the Agreement) is hereby extended sixty (60) days, such that the Closing shall take place on or before the earlier of (i) fifteen (15) days following the satisfaction of all Conditions Precedent or (ii) August 1, 2021.

2. **EXCHANGE PARCELS.** The School Board agrees to grant and convey, and the Town agrees to acquire and accept, fee-simple title to that portion of the School Board Property generally described and depicted on Exhibit "A" attached hereto and incorporated herein (the "School Board Exchange Parcels"). In exchange therefore, the Town agrees to grant and convey, and the School Board agrees to acquire and accept, fee-simple title to that portion of the Town Property generally described and depicted on Exhibit "B" attached hereto and incorporated herein (the "Town Exchange Parcels"). The School Board Exchange Parcels and the Town Exchange Parcels are referred to, collectively, as the "Exchange Parcels". The legal descriptions and depictions of the Exchange Parcels shall be confirmed and finalized pursuant to surveys to be obtained as set forth in Section 2.2.4 of the Agreement.

3. **RATIFICATION.** Except as modified by or where inconsistent with this Second Amendment, the Agreement is hereby ratified and confirmed. Where inconsistent, the terms of

this Second Amendment shall supersede and take precedence over the Agreement. Capitalized terms used but not defined herein shall have the meanings attributed to such terms in the Agreement. The Agreement, as amended hereby, shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

4. COUNTERPART EXECUTION. This Second Amendment may be executed in any number of counterparts and by each of the parties hereto in separate counterparts, all such counterparts together constituting but one and the same instrument. This Second Amendment shall not be effective unless and until the same has been executed and delivered by all parties hereto whether in one or more counterparts. To facilitate execution of this Second Amendment, the parties may execute and exchange counterparts of signature pages by telephone, DocuSign, facsimile or portable document format (.pdf).

IN WITNESS WHEREOF, the parties have executed this instrument under seal as of the day and year first above written.

TOWN OF FORT MYERS BEACH

Roger **ATTEST:**

Amy Baker, Town Clerk

APPROVED AS TO FORM:

John R. Herin, Jr., Town Attorney

**THE SCHOOL BOARD OF LEE
COUNTY, FLORIDA**

By: _____

Its: _____

RATIFIED AND APPROVED:

By: _____

Its: _____

APPROVED AS TO FORM:

By: _____
School Board Attorney

1. **Requested Motion:**

Meeting Date: May 3, 2021

Approve the monthly schedule for Town Council meetings through December 2021

Why the action is necessary:

Assist to prepare calendar for the upcoming months

What the action accomplishes:

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

4. **Submitter of Information:**

5. **Background:**

Attachments:

1. Proposed 2021 Town Council Meeting Schedule Aug-Dec

Financial Impact:

None

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
John R Herin Jr, Town Attorney
Roger Hernstadt, Town Manager

Created/Initiated - 4/13/2021
Approved - 4/13/2021
Final Approval - 4/26/2021



2021 Town Council Meeting Schedule

JUNE

Monday, June 7, 2021	9:00 a.m.	Regular Town Council meeting
Wednesday, June 9, 2021	9:00 a.m.	Management & Planning Session

JULY – NO MEETINGS

AUGUST

Monday, August 2, 2021	9:00 a.m.	Regular Town Council meeting
Thursday, August 5, 2021	9:00 a.m.	Management & Planning Session
Monday, August 16, 2021	9:00 a.m.	Regular Town Council meeting

SEPTEMBER

Tuesday, September 7, 2021	9:00 a.m.	Regular Town Council meeting
Thursday, September 9, 2021	9:00 a.m.	Management & Planning Session * Conflicts w/TDC
Alt Date: Wednesday, September 15, 2021		
Monday, September 20, 2021	9:00 a.m.	Regular Town Council meeting

OCTOBER

Monday, October 4, 2021	9:00 a.m.	Regular Town Council meeting
Thursday, October 7, 2021	9:00 a.m.	Management & Planning Session
Monday, October 18, 2021	9:00 a.m.	Regular Town Council meeting

NOVEMBER

Monday, November 1, 2021	9:00 a.m.	Regular Town Council meeting
Thursday, November 4, 2021	9:00 a.m.	Management & Planning Session
Monday, November 15, 2021	9:00 a.m.	Regular Town Council meeting

DECEMBER

Monday, December 6, 2021	9:00 a.m.	Regular Town Council meeting
Thursday, December 9, 2021	9:00 a.m.	Management & Planning Session * Conflicts w/TDC
Alt Date: Wednesday, December 8, 2021		
Monday, May 17, 2021	9:00 a.m.	Regular Town Council meeting

DECLARATION OF EMERGENCY REGULATIONS No. 8

(COVID-19 State of Emergency – February 16, 2020)

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and other potential methods, and presents symptoms similar to those of influenza; and

WHEREAS, in December of 2019, a new and substantial outbreak of COVID- 19 emerged in Wuhan, China, and has since spread rapidly to 150 countries and territories throughout the World, including the United States, and more specifically Lee County; and

WHEREAS, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has predicted the widespread transmission of COVID-19 in the United States; and

WHEREAS, the CDC has issued guidelines for "community mitigation strategies" to limit the spread of COVID-19, including recommendations for social distancing, which has proven to be an effective method for containing COVID-19; and

WHEREAS, President Trump issued a Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease - COVID-19 Outbreak; and

WHEREAS, COVID-19 threatens the Town of Fort Myers Beach because of the ability of the virus to spread rapidly, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the residents and visitors of the Town of Fort Myers Beach; and

WHEREAS, according to information from the Center for Disease Control and Prevention, Public Health Professionals, and the 2010 Federal Census the Town of Fort Myers Beach is an "at-risk" community for severe or critical reactions to COVID-19 infections; and

WHEREAS, on March 1, 2020, the Governor of Florida issued Executive Order Number 20-51, directing the State Health Officer and Surgeon General to declare a Public Health Emergency due to the discovery of COVID-19 in Florida; and

WHEREAS, on March 9, 2020, the Governor of Florida issued Executive Order Number 20-52, declaring a State of Emergency for the state of Florida related to COVID-

19 and this State of Emergency still exists; and

WHEREAS, the Governor of Florida has issued Executive Order 2020-83, directing Florida's Surgeon General and State Health Officer to issue a public health advisory to all persons over 65 years of age and to persons with certain underlying conditions that place them at high risk of serious illness from Covid-19 to urge them to take measures to limit their exposure to Covid-19; and

WHEREAS, the Governor of Florida has issued Executive Orders 2020- 112 (Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery), 2020-120 (Expanding Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery), 2020-123 (Full Phase I: Safe. Smart. Step-by-Step. Plan for Florida's Recovery), 2020-131 (Expanding Full Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery), 2020-139 (Phase II: Safe. Smart. Step-by-Step. Plan for Florida's Recovery), and 2020-244 (Phase 3: Right to Work. Business Certainty. Suspension of Fines.) returning Florida to a measure of normality during the pandemic State of Emergency (the "Re-Opening Orders"); and

WHEREAS, conditions presented by the threat of COVID-19 continue to pose a threat to the public health that requires dynamic emergency response, including the maintenance of existing orders, as well as the imposition of additional directives and orders as conditions require; and

WHEREAS, the Centers for Disease Control (CDC) advises that COVID-19 spreads mainly from person to person through respiratory droplets produced when an infected person coughs, sneezes, or talks; and these droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs; and studies and evidence on infection control report that these droplets usually travel around 6 feet (about two arms lengths); and

WHEREAS, the CDC advises that a significant portion of individuals with coronavirus lack symptoms ("asymptomatic") and that even those who eventually develop symptoms ("pre-symptomatic") can transmit the virus to others before showing symptoms. This means that the virus can spread between people interacting in close proximity — for example, speaking, coughing, or sneezing — even if those people are not exhibiting symptoms; and

WHEREAS, the CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain in order to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others; and

WHEREAS, the CDC does not recommend wearing cloth face covering for children under the age of 2, or anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance; and

WHEREAS, the CDC recommends only simple cloth face coverings for the general population and not surgical masks or N-95 respirators because these are critical supplies that must continue to be reserved for healthcare workers and other medical first responders; and

WHEREAS, cloth face coverings are relatively inexpensive and readily available as the CDC states they can be made from household items and provides online guidance for

making “do-it-yourself” coverings for people that cannot or do not want to buy one from the increasing sources producing and selling coverings; and

WHEREAS, the State of Florida has not preempted local governments from regulating in the field of minimum health requirements with respect to COVID-19; and

WHEREAS, the effective February 1, 2020, the CDC has mandated facial coverings for users of all forms of public transportation; and

WHEREAS, 28 C.F.R. 36.208, the implementing regulations for the Americans with Disabilities Act states that the ADA “does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that public accommodation when that individual poses a direct threat to the health or safety of others; and

WHEREAS, the Third District Court of Appeal has defined the term business establishment for purposes of tort liability to mean, “a location where business is conducted, goods are made or stored or processed or where services are rendered.” *Publix Supermarkets, Inc. v. Santos*, 118 So.3d 317 (Fla. 3d DCA 2013); and

WHEREAS, on June 25, 2020, the Florida Supreme Court concluded that a pandemic is a “natural emergency” within the meaning of § 252.34(8), *Fla. Stat.*, and thus the government may enact emergency orders pursuant to the State Emergency Management Act, see, *Abramson v. DeSantis*, SC20-646; and

WHEREAS, on January 27, 2021, the Fourth District Court of Appeal determined that Palm Beach County’s facial covering mandate was constitutional as it “is directed to protecting the health, vis-à-vis the coronavirus, of people in the proximity of the mask wearer, with facial coverings providing a “mitigating measure” to help prevent the respiratory droplets coming from the mask wearer’s mouth or nose from traveling in the air and “onto other people; and that “there are circumstances in which a public emergency, for instance . . . the spread of infectious or contagious diseases or other potential public calamity, presents an exigent circumstance before which all private rights must immediately give way under the government’s police power.” See, *Machovec v. Palm Beach County*, No. 4D20-1765 (Fla. 4th DCA 2021); and

WHEREAS, § 252.46(2), *Fla. Stat.* authorizes local governments to issue orders for emergency management purposes;

WHEREAS, in accordance with §§ 252.38 and 252.46, *Fla. Stat.*, and Sections 12-19 through 12-25 of the Code of Ordinances of the Town of Fort Myers Beach, Florida, the Town Council of the Town of Fort Myers Beach adopted Resolution 20-13, declaring a state of emergency regarding COVID-19, and authorizing the **“taking [of] whatever prudent action is necessary to ensure the health, safety, and welfare of the community”**;

WHEREAS, this Emergency Declaration is adopted pursuant to § 252.46, *Fla. Stat.*

NOW, THEREFORE IT IS ORDERED:

1. Emergency Declaration No. 1 of the Town of Fort Myers Beach ("Town") closing the Town's beaches and parks; cancelling all meetings of the Town; cancelling Town approval for all special events; prohibiting public gatherings of greater than 10 persons; and requiring all restaurants and other like entertainment facilities and businesses to adhere to the executive orders of Florida's Governor is repealed.

2. Emergency Declaration No. 2 of the Town prohibiting the rental of public lodging establishments as defined in §509.013(4)(a), *Florida Statutes* as transient or non-transient lodging, and any vacation and timeshare accommodations as defined in §721.05(1), *Florida Statutes* is repealed.

3. Emergency Declaration No. 3 of the Town closing all non-essential retail and commercial establishments; recommending "sheltering in place"; prohibiting public and private gatherings outside a residence; restricting travel on foot, bicycle, scooter, motorcycle, automobile, or use of public transit; and requiring residents and visitors to adhere to social distancing practices is repealed

4. Emergency Declaration No. 4 of the Town amending the prohibition on the rental of public lodging establishments as defined in §509.013(4)(a), *Florida Statutes* as transient or non-transient lodging, and any vacation and timeshare accommodations as defined in §721.05(1), *Florida Statutes* is repealed.

5. Emergency Declaration No. 5 of the Town amending the beach closure regulations is repealed.

6. Emergency Declaration No. 6 of the Town further amending the prohibition on the rental of public lodging establishments as defined in §509.013(4)(a), *Florida Statutes* as transient or non-transient lodging, and any vacation and timeshare accommodations as defined in §721.05(1), *Florida Statutes* is repealed

7. Emergency Declaration No. 7 of the Town mandating facial coverings and observance of social distancing requirements in businesses, lodging establishments and other public places in the Town is still in effect.

8. Severability. Any provision(s) within this Emergency Declaration that conflict(s) with any State or Federal law or constitutional provision, or conflicts with or superseded by a current or subsequently-issued Executive Order of the Governor or the President of the United States, is deemed to be severed from this Emergency Declaration, with the remainder of the Emergency Declaration intact and enforceable.

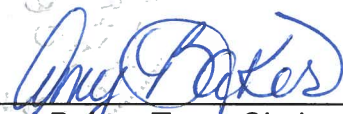
9. Effective Date. This Emergency Declaration is effective upon adoption and shall stay in effect until rescinded by the Town Council.

Raymond P. Murphy, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Dan Allers, Council Member	nay
Jim Atterholt, Council Member	nay
Bill Veach, Council Member	aye

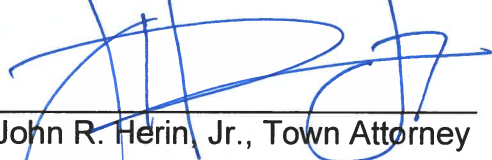
TOWN OF FORT MYERS BEACH


Raymond P. Murphy, Mayor

ATTEST:


Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

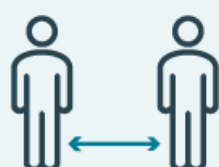

John R. Herin, Jr., Town Attorney

This Emergency Declaration was filed in the Office of the Town Clerk on this 18 day of February 2021 [see, §252.46(2), Fla. Stat.].

Amy Baker, Town Clerk



WEAR A MASK



STAY 6 FEET APART



AVOID CROWDS



GET A VACCINE

When You've Been Fully Vaccinated

How to Protect Yourself and Others

Updated Apr. 27, 2021

[Print](#)

Choosing Safer Activities

- If you are fully vaccinated you can start doing many things that you had stopped doing because of the pandemic.
- When choosing safer activities, consider how COVID-19 is spreading in your community, the number of people participating in the activity, and the location of the activity.
- Outdoor visits and activities are safer than indoor activities, and fully vaccinated people can participate in some indoor events safely, without much risk.
- If you haven't been vaccinated yet, [find a vaccine](#).



Safer Activities

[COVID-19 vaccines](#) are effective at protecting you from getting sick. Based on [what we know](#) about COVID-19 vaccines, people who have been fully vaccinated can start to do some things that they had stopped doing because of the pandemic.

We're still learning how vaccines will affect the spread of COVID-19. After you've been fully vaccinated against COVID-19, you should [keep taking precautions](#)—like wearing a mask, staying 6 feet apart from others, and avoiding crowds and poorly ventilated spaces—in indoor public places until we know more.

These recommendations can help you make decisions about daily activities after you are fully vaccinated. They are *not* intended for [healthcare settings](#).

Have You Been Fully Vaccinated?

In general, people are considered fully vaccinated: [±]

- 2 weeks after their second dose in a 2-dose series, such as the Pfizer or Moderna vaccines, or
- 2 weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine

If you don't meet these requirements, you are NOT fully vaccinated. Keep taking all [precautions](#) until you are fully vaccinated.

If you have a condition or are taking medications that weaken your immune system, you may NOT be fully protected even if you are fully vaccinated. Talk to your healthcare provider. Even after vaccination, you may need to continue taking all [precautions](#).

What You Can Start to Do

If you've been fully vaccinated:

- You can gather indoors with fully vaccinated people without wearing a mask or staying 6 feet apart.
- You can gather indoors with unvaccinated people of any age from one other household (for example, visiting with relatives who all live together) without masks or staying 6 feet apart, unless any of those people or anyone they live with has an [increased risk for severe illness from COVID-19](#).
- You can gather or conduct activities outdoors **without** wearing a mask except in certain crowded settings and venues.
- If you [travel in the United States](#), you do not need to get tested before or after travel or self-quarantine after travel.
- You need to pay close attention to [the situation at your international destination](#) before traveling outside the United States.
 - You do NOT need to get tested **before** leaving the United States unless your destination requires it.
 - You still need to [show a negative test result](#) or documentation of recovery from COVID-19 **before** boarding an international flight to the United States.
 - You should still get tested 3-5 days **after** international travel.
 - You do NOT need to self-quarantine **after** arriving in the United States.
- If you've been around someone who has COVID-19, you do not need to stay away from others or get tested unless you have symptoms.
 - However, if you live in a group setting (like a correctional or detention facility or group home) and are around someone who has COVID-19, you should still stay away from others for 14 days and get tested, even if you don't have symptoms.

What You Should Keep Doing

For now, if you've been fully vaccinated:

- You should still [protect yourself and others](#) in many situations by wearing a mask that fits snugly against the sides of your face and doesn't have gaps. Take this precaution whenever you are:
 - In indoor public settings
 - Gathering indoors with unvaccinated people (including children) from more than one other household
 - Visiting indoors with an unvaccinated person who is at [increased risk of severe illness or death from COVID-19](#) or who lives with a person at increased risk
- You should still avoid [indoor large gatherings](#).
- If you [travel](#), you should still take steps to [protect yourself and others](#). You will still be [required to wear a mask](#) on

COVID-19

the past 3 months) and should still get tested 3-5 days after their trip.

- You should still watch out for [symptoms of COVID-19](#), especially if you've been around someone who is sick. If you have symptoms of COVID-19, you should get [tested](#) and [stay home](#) and away from others.
- You will still need to follow guidance at your workplace.
- People who have a condition or are taking medications that weaken the immune system, should talk to their healthcare provider to discuss their activities. They may need to keep taking all [precautions](#) to prevent COVID-19.

What We Know

- COVID-19 vaccines are effective at preventing COVID-19 disease, especially severe illness and death.
- Other [prevention steps](#) help stop the spread of COVID-19, and that these steps are still important, even as vaccines are being distributed.

What We're Still Learning

- How effective the vaccines are against variants of the virus that causes COVID-19. Early data show the vaccines may work against some variants but could be less effective against others.
- How well the vaccines protect people with weakened immune systems, including people who take immunosuppressive medications.
- How well COVID-19 vaccines keep people from spreading the disease.
 - Early data show that the vaccines may help keep people from spreading COVID-19, but we are learning more as more people get vaccinated.
- How long COVID-19 vaccines can protect people.

As we know more, CDC will continue to update our recommendations for both vaccinated and unvaccinated people. Until we know more about those questions, everyone—even people who've had their vaccines—should continue taking [steps to protect themselves and others](#) when recommended.

Want to learn more about these recommendations? Read our expanded [Interim Public Health Recommendations for Fully Vaccinated People](#).

± This guidance applies to COVID-19 vaccines currently authorized for emergency use by the U.S. Food and Drug Administration: Pfizer-BioNTech, Moderna, and Johnson and Johnson (J&J)/Janssen COVID-19 vaccines. This guidance can also be applied to COVID-19 vaccines that have been authorized for emergency use by the World Health Organization (e.g. AstraZeneca/Oxford).

Related Pages

- › [Interim Public Health Recommendations for Fully Vaccinated People](#)
- › [Science Brief: Background Rationale and Evidence for Public Health Recommendations](#)
- › [Infection Control after Vaccination for Healthcare Workers](#)

Last Updated Apr. 27, 2021