



Fort Myers Beach Town Council

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

Minutes

Monday, April 18, 2022

9:00 AM

ORDER OF BUSINESS

FINAL

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

Mayor Murphy questioned pulling Ordinance 22-09 from the agenda and rewriting it since TPI decided not to self-perform. Town Attorney Herin, Jr. suggested that the ordinance be redone and workshopped before funneling it through the LPA (Local Planning Agency) and MRTF (Marine Resources Task Force) for their review. The ordinance would then be brought back to Council for a first and second public hearing. Council Member Veach supported leaving it on the agenda for discussion and deciding whether the ordinance needed a rewrite or just a modification.

Vice Mayor Hosafros moved to approve the final agenda and delete Ordinance 22-09 from the agenda; second by Mayor Murphy.

Council Members Veach and Allers disagreed and wanted to keep it on the agenda for discussion and continue it to a later date. Town Attorney Herin, Jr. cautioned that if there were significant changes to the scope of Ordinance 22-09, the process would have to start from scratch.

Motion failed, 3-2, with Council Members Allers, Atterholt and Veach dissenting.

Council Member Veach moved to approve the final agenda; second by Council Member Atterholt.

Motion carried unanimously.

Council Member Allers stated he would submit form 8B to the Town Clerk to abstain from Public Hearings Item A: Ordinance 22-06 Tuckaway Café CPD Amendment.

V. PUBLIC COMMENT

Richard Sabina, resident, commented on the beach renourishment plan and indicated he did not want to relinquish control of their beach. He felt they would lose control if the FDEP (Florida Department of Environmental Protection) classified their beach as critically eroded. He stated that the area between R-200 and R-203 was an accreting beach and did not need additional sand. He discussed why he did not support creating dunes with plants.

Dave Nusbaum, resident and President of Island Winds Condominium discussed the cost and availability of the new tinted windows. He noted that MRTF recommended a one-year moratorium, but it was an unreasonable timeframe, and he requested a minimum five-year moratorium. Mr. Nusbaum stated that Environmental Project Manager Chadd Chustz spoke at a condominium association meeting and indicated that condominiums could opt out of beach renourishment and dune plantings. Project Manager Chustz added that the associations would have to approach the Town Council regarding written approval. Glen Harris with Alair Homes, builder of the home on Randy Lane, requested that proposed Ordinance 22-05 be delayed for further discussion. He displayed an illustration of a 7,500 footprint and discussed how the proposed ordinance would have affected the Randy Lane home. He commented that he had four clients who had or would be affected by the proposed ordinance.

Mike Miller, resident, commented that they purchased a vacant lot next to their home to expand their house. He discussed how the setback changes and limited footprint ordinance cost him money. He requested that they vote no on the ordinance.

Bruce Butcher, resident, represented the Laguna Shores homeowner association. He presented a petition with over 50% of homeowners' signatures agreeing to pay 50% of the dredging costs.

Attorney Beverly Grady requested a workshop for beach vendors and those proposed ordinances be ready for distribution earlier.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Hosafros thanked the Beach Ministerial Association for their efforts in coordinating the Easter sunrise service.

Council Member Allers thanked Cultural, Parks & Recreation Director Alison Giesen and staff for hosting an Easter egg hunt at Bay Oaks on Saturday. Mayor Murphy thanked Council Member Allers for dressing up as a easter bunny at the Bay Oaks Easter egg hunt.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

MRTF Chair Steve Johnson reported on recommendations from their recent meeting including providing additional staff to enforce compliance with the sea turtle lighting ordinance, placing a one-year moratorium on the 15% window tint requirement and temporarily allowing the 45% tint with the caveat that the town will enforce the sea turtle ordinance. MRTF objected to the use of broadcast herbicides in the EC (Environmentally Critical) zone; however, FWC (Fish & Wildlife Conservation) will broadcast Imazapyr on Carlos Beach. MRTF questioned whether signs would be installed warning beachgoers about the use of the herbicide. Council Member Veach expanded on the use of Imazapyr.

VIII. APPROVAL OF MINUTES

- A. April 4, 2022 Town Council
Vice Mayor Hosafros moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.
- B. April 7, 2022 Management & Planning
Vice Mayor Hosafros moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.

IX. PRESENTATIONS

- A. Presentation: Marcus Goodson, Executive Director, Lee County Housing Authority
Mr. Goodson reviewed his background and experience in Fort Myers and Puerto Rico. He discussed the lack of affordable housing in Lee County. He noted that a housing unit was considered affordable if gross rent plus utilities cost no more than 30% of household income. He continued presenting statistics and reported that rent prices increased by 30% in the last year, while the average increase was typically between 2-3%. He noted that HUD (Department of Housing and Urban Development) did not distinguish between affordable and workforce housing. Mr. Goodson described available funds from Lee County and tax credits. He applauded the Town Council for having the conversation and stated he would help move the project forward. Vice Mayor Hosafros expressed her disappointment with Lee County for backing out of a deal to construct an affordable housing complex. She described another situation where Lee County made it difficult to build affordable housing by charging high permitting fees to a non-profit organization. She suggested that Lee County lower the fees or eliminate them for non-profits. She felt the lack of affordable housing was one of the biggest problems the county and the town faced. Mr. Goodson explained that in the instance, the developer decided to default and paid to return the money to Lee County. Those funds were used to finance an affordable housing project in Cape Coral.

B. Discussion of Roadway Safety Lighting

Town Lighting Engineers and Florida Power & Light will be available for questions.

Town Manager Hernstadt commented that responses to questions posed by Town Council Members to FP&L (Florida Power & Light) and the lighting consultants were distributed via email. He indicated that Lee County did not commit to lighting Estero Blvd. and offered to consider turning funds over to the town.

Council Member Atterholt noted that if FP&L approved the Visionnaire light, it would cost the town approximately \$1,482,000.00 under the tariff program.

Since Lee County pledged \$1,400,000.00 for lighting Estero Blvd., it would offset costs for the town.

Joe Hancock from Town Lighting stated the tariff was state-funded and was not an incentive program to upgrade lights. He explained the tariff program and said that costs were fully contained and not subsidized. He noted the initial cost for Estero Blvd. would be \$1.8 million.

Vice Mayor Hosafros suggested they focus on lighting Estero Blvd. and work it into next year's budget. Council Member Allers disagreed and stated they had to look at lighting the entire island.

Suzanne Lansford from Town Lighting provided lighting costs. Zachary Jarrell from FP&L explained the town's current bill. He stated the Visionnaire fixture was being tested and if it passed, it could be added to the FP&L catalog by October. The estimate for the fixtures was \$25.00 per month. He indicated that FP&L did not own stock or manufacture fixtures. Mr. Hancock stated that the FDOT (Florida Department of Transportation) approved the Visionnaire fixture, and it was already in use.

Eric Culling from FP&L discussed the cost as reflected in the Visionnaire chart. Additional hardened in-line distribution poles would be a one-time upfront cost to the town, but poles dedicated to lighting would result in a monthly charge. The town would not pay the upfront capital for installing and purchasing the poles. He added there might be opportunities to avoid in-line distribution poles, but there was limited room in the right-of-way.

Council Member Veach indicated the estimated total monthly cost would increase from \$4,600.00 to \$9,500.00 for Estero Blvd. Including the side streets would increase the bill to \$24,000.00 per month. Council Member Allers clarified that the Visionnaire fixture would cost approximately \$1.5 million for Estero Blvd.

Eric Culling noted that if FP&L approved the Visionnaire fixtures in October, it would take 8-12 weeks to receive the fixtures, not 9 months. Council Member Allers questioned how the town would pay for the lights. Town Manager Hernstadt stated the money was not budgeted for the project and the Town Council would have to determine whether to consider a future tax increase.

X. CONSENT AGENDA

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

Motion carried unanimously.

- A. Resolution 22-13; Interlocal Agreement with Lee County regarding Hazardous Waste Enforcement

Adopt Resolution 22-13 approving an Interlocal Agreement with Lee County for Hazardous Waste Enforcement and authorizing the Town Manager to execute the ILA and expend budgeted funds on behalf of the Town.

Vice Mayor Hosafros moved to adopt the resolution; second by Council Member Veach.

Motion carried unanimously.

XI. PUBLIC HEARINGS

- A. Ordinance 22-06; Tuckaway Cafe CPD Amendment

First Reading and Public Hearing for proposed Ordinance 22-06: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on May 2, 2022 at 9:00 AM

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. swore in those providing testimony. He stated the public hearing was properly advertised. Ex parte communications: All Council Members (except Council Member Allers) disclosed a site visit or familiarity with the site.

Community Development Planner Sarah Propst reviewed the request to allow beer brewing for consumption on-premises. She utilized PowerPoint to display slides, including Application/Request Information; Background Information; Request Information; Findings and Conclusions; Conditions and Deviations and Staff Recommendation. Staff recommended approval with conditions.

Vice Mayor Hosafros questioned whether the establishment's name should be changed in the ordinance to reflect the current name. Town Attorney Herin, Jr. replied that the correct name could be added. Vice Mayor Hosafros noted the number of conditions should be changed for clarity.

Tre Gillet, applicant, explained why he wanted to add a small brewing operation to his restaurant.

No public comment.

Council Member Veach moved to schedule for second reading and final adoption of Ordinance 22-06 to May 2, 2022, at 9:00 a.m.; second by Council Member Atterholt.

Motion carried unanimously.

B. Ordinance 22-05; Building Footprint Limits

Second Reading and Public Hearing for proposed Ordinance 22-05: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING ARTICLE III., DIVISION 3, SECTIONS 34-638 “MINIMUM SETBACKS”, TABLE 34-3 “DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS”, AND TABLE 34-1 “LAND USES ASSIGNED TO USE GROUPS AND SUB-GROUPS” OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING FOR CODIFICATION, CONFLICTS, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly advertised.

Planner Propst utilized PowerPoint for her presentation. Slides included: Several Approaches were Evaluated; Proposed Solution; Since the LPA Meeting and Questions & Answers about the Proposed Change.

Council Member Atterholt questioned whether they could extend the effective date to protect property owners with pending projects. Planner Propst agreed it was a good idea. Town Attorney Herin, Jr. stated that Town Council could decide whenever the ordinance took effect.

Council Member Allers questioned how to determine the point of no return before property owners had to comply with the ordinance. Glen Harris, developer, explained that a client could spend thousands on architectural and engineering designs before submitting plans to the town. He indicated it could take a minimum of 8-12 weeks between designs and submitting an application for a permit. He stated that one design currently in the permitting process would be affected by the change. Council Member Atterholt questioned whether extending the effective date to six months after passage would address Mr. Harris's concerns. Mr. Harris replied affirmatively.

Town Attorney Herin, Jr. explained that a 60 to 90-day effective date after passage was typical. He stated that an application would have to be submitted within the 90-day period to be considered in the pipeline.

Applications submitted after the effective date were subject to the new regulations.

Public comment:

Carolyn Caney from Woodland Custom Homes commented that the 90-day extension after applying for a permit was no use to anyone.

Mike Miller, resident, commented that he did not have a complete set of blueprints yet to submit an application, although he had already spent thousands of dollars. He needed more time to complete the blueprints. He felt that a six-month extension would probably work for his team.

Town Attorney Herin, Jr. explained that extending the effective date to six months would allow more people to apply before being subject to the new regulations.

Nate Johnson of Potter Homes requested that the effective date be extended to six months.

Public comment closed.

Council Member Veach discussed why the ordinance was contemplated in the first place. He felt that six months was excessive and would consider a two to a three-month extension.

Town Manager Hernstadt requested a short break to discuss a possible solution. The request was granted.

Town Manager Hernstadt suggested that after a sketch was submitted, staff could calculate whether the intention was to exceed 7,500 feet. If the final plans reflected the survey, the application could move forward. Town Attorney Herin, Jr. suggested 30 days to submit the drawing and 60 days to submit and obtain a building permit. Vice Mayor Hosafros agreed with the compromise as proposed with the addition by Town Attorney Herin, Jr.

Council Member Allers suggested requiring the drawing to be submitted within 30 days and allowing property owners six months to submit their application for a permit. Director Green explained the application timeline and indicated a back-end deadline was difficult, especially with incomplete applications. Council Member Allers stated that if property owners submitted a sketch in the next 30 days, they would not have enough time to submit an application for a permit within six months anyway.

Vice Mayor Hosafros stated they were only limiting people to 7,500 square feet, which was almost 14,000 square feet of livable space. She discussed the adverse effects of building huge houses in neighborhoods. She supported the compromise proposed by Town Attorney Herin, Jr. Council Member Atterholt felt that only a few properties would qualify and six months was fair.

Director Green clarified that property owners should have done a substantial design by the time the sketch was submitted. If anything changed from the drawing, the application would be denied. He stated that most of the applications were returned because they were not complete, which delayed the process.

Mayor Murphy thought they could compromise between 90 days and 6 months.

Council Member Allers moved to approve, as amended, Ordinance 22-05 with a six-month time frame. 30 days to get the initial drawing as described to the town and the six-month timeframe to obtain a permit; second by Council Member Atterholt.

Motion carried 4-1 by roll call vote with Vice Mayor Hosafros dissenting.

Lunch break.

C. Ordinance 22-09; PWVL/PAL's

Second Reading and Public Hearing for Proposed Ordinance 22-09 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 27 “PERSONAL WATERCRAFT AND PARASAILING”, SECTION 27-45 “DEFINITIONS”; SECTION 27-49 “REGULATIONS AND LOCATIONS FOR PERSONAL WATERCRAFT RENTALS”; SECTION 27-52 “PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE APPLICATIONS AND REGULATORY FEES”; SECTION 27-53 “PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE RENEWALS”; SECTION 27-55 “TRANSFERABILITY OF PWVL AND PAL LICENSES” OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DEFINITIONS; AMENDING OPERATIONAL REQUIREMENTS AND LICENSE RENEWAL REQUIREMENTS; PROVIDING A LIMITED EXEMPTION TO THE CAP ON THE NUMBER OF ANNUAL LICENSES; PROVIDING THAT PERSONAL WATERCRAFT VENDOR LICENSES AND PARASAILING ACTIVITY LICENSE THAT ARE NOT ANNUALLY RENEWED OR ARE INACTIVE FOR ONE-YEAR OR MORE SHALL REVERT BACK TO THE TOWN; ESTABLISHING NEW REQUIREMENTS FOR THE SALE AND TRANSFER OF PWVL AND PAL LICENSES; PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER’S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly advertised. He reviewed the changes and noted they were double-underlined.

Council Member Veach remarked that Tom Torgerson decided not to move forward with a jet ski or parasailing business on his property. He referred to 3 & 4 on page 20 and recommended that licenses expire every three to five years and vendors reapply based on a point system. Operators with violations would be penalized and risk losing their licenses.

Council Member Allers felt that the ordinance should clarify that even though the town did not own the businesses, they did own the licenses. He provided a document for Council Members with highlighted sections to discuss. He felt that the town should require boat inspections by the Coast Guard. He read section 27-49 regarding direct access and land-based sites. Council Veach was not sure that a land-based site was necessary, but Vice Mayor Hosafros commented that a land-based site was needed for service of process if someone wanted to sue.

Council Member Allers brought up the lack of enforcement by the town. He felt the town, vendors and landowners needed to provide input before redoing the ordinance. He questioned why they needed a cap on the number of permits if vendors were already meeting the safety requirements. He added that the safety factor was more important to him than the numbers. Mayor Murphy disagreed and remarked that vendors were out of control before the cap. Council Member Allers clarified that he meant the number did not seem as important as the operator itself.

Council Member Veach stated many non-conforming sites were grandfathered. He suggested they change the rules so the grandfathered locations could adapt. He indicated there were two vendors ten feet away from each other. He brought up adding language regarding jet ski tours. Mayor Murphy recommended continuing the discussion with more input before reworking the ordinance. He agreed with conducting workshops. Town Attorney Herin, Jr. stated they could eliminate Ordinance 22-09 and start from scratch or amend the ordinance. In the meantime, the existing regulations would continue to be in effect.

Public comment:

Attorney Beverly Grady represented Mid-Island Water Sports. She noted there were unintended consequences in the draft ordinance and disagreed with the definition of a land-based site. She brought up other issues that concerned the vendors.

Chris Weber, of Mid-Island Water Sports, stated that insurance companies inspect his operation once a year.

Tracey Gore, resident, stated that a promise was never made to TPI that they could self-perform. She read condition 9 of the TPI CPD. She felt adding additional language was unnecessary.

Public comment closed.

Town Attorney Herin, Jr. stated he would research what other municipalities were doing and make the town's draft ordinance easier to understand and follow. Town Manager Hernstadt suggested that specific policy decisions be made before drafting another ordinance.

Vice Mayor Hosafros moved that they overrule proposed Ordinance 22-09 and start over; second by Mayor Murphy.

Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. New Beach Access Naming

The naming of the new beach access, which could replace Canal St., was provided by TPI Hospitality as a condition of development approval.

Mayor Murphy suggested that they name the road that circled the Mound House after Ann and Dan Hughes. He suggested a contest to name the new beach access. Vice Mayor Hosafros stated that it made sense to name it after the street like the rest of the beach accesses. Mayor Murphy commented that Council Members could think about the issue.

B. Preliminary Audit Review

Review of Preliminary Audited Financials

Wade Sansbury from Mauldin & Jenkins commented that Council Members had a draft of the financial statements. The audit showed an increase in the overall net position of about \$6.3 million from the governmental activities and about \$2.6 million from the business activities. The general fund would end the year with just about \$7 million in total fund balance. He noted the building

fund erased its deficit balance from the prior year and the beach access fund reduced its deficit from the preceding year. He added that the beach access fund showed an unavailable revenue of about \$200,000 because of when revenues were received. Mr. Sansbury stated the overall fund balance was closer to a zero fund balance, which was reasonable.

The water fund had about \$6.1 million in total revenue and the stormwater had approximately \$1.1 million. Both had a positive operating income, with the water fund at about \$2.2 million and the stormwater fund at about \$632,000.00.

The cash flow statement had positive operating cash flows from the water fund of about \$2.2 million and approximately \$662,000.00 from the stormwater fund. Mr. Sansbury stated that overall the fund performance was good for the year. He indicated they were trying to wrap up the audit and were waiting for information from a third-party consultant regarding a possible duplicate draw from the State Revolving Fund.

Mr. Sansbury remarked that it looked like a couple of the same findings would be repeated from last year. He did not think it was a reflection of the current staff but a reflection of the current system.

Mayor Murphy indicated they needed people with a finance background to join the Audit Committee.

C. Resolution 22-16; Exposhow, Inc. Agreement

Adopt Resolution 22-16, Approving a piggyback contract between the Town and Exposhow, Inc. to provide fireworks for the 4th of July and New Years Eve, in an amount not to exceed \$60,000, utilizing the City of Marco Island's fireworks contract #2022-007, authorizing the Town Manager to execute the Agreement, expend budgeted funds, and take all appropriate actions to conduct the fireworks displays, and providing for an effective date.

Vice Mayor Hosafros moved to adopt Resolution 22-16; second by Council Member Veach.

Vice Mayor Hosafros noted the cost went up because the town no longer had the same provider. She mentioned informing the Chamber of Commerce.

Town Manager Hernstadt remarked that he had a pending meeting with Chamber Director

Motion carried unanimously.

D. Approval of Bridge closure for 4th of July parade and fireworks.

Approve closing of Matanzas Pass Bridge on July 4, 2022, from 9:30am to 11:30am for the parade, and from 9pm to 11:30pm for traffic coming on the island.

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

Motion carried unanimously.

E. Resolution 22-15, Updating Joint Local Mitigation Strategy

Adopt Resolution 22-15, Updating the Town's Joint Local Mitigation Strategy.

Vice Mayor Hosafros moved to adopt Resolution 22-15; second by Council Member Veach.

Motion carried unanimously.

F. STA#12: Times Square LAP Project Administration

Approve Supplemental Task Authorization #12 with DRMP, Inc. for engineering services in the not to exceed amount of \$78,200 and approve the one-year renewal for DRMP and authorize the Town Manager to execute the contract documents.

Council Member Veach moved to approve the supplemental task authorization; second by Vice Mayor Hosafros.

Motion carried unanimously.

G. Potable Water - South Tank Repairs

Authorize the Town Manager to spend an additional \$131,896.00 for the emergency repairs to the South Potable Water storage tank.

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

Town Manager Hernstadt explained that the tank had to be recoated on the inside and it was discovered that the outside of the tank also had issues.

Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated he would bring back an assessment of \$3,000.00 for the Laguna Shores residents' dredging project and a resolution to authorize the contractor's dredging contract.

Town Manager Hernstadt indicated staff had checked with a window company regarding the tinted windows and was told that the price was comparable to regular windows. He discussed the additional work that would be created by allowing a phasing-in period for installation. Council Member Atterholt discussed the dark tint of the windows. He suggested that individual violators be punished instead of everyone who lived on the beach.

XV. TOWN ATTORNEY'S ITEMS

A. Code Violations / Liens

Vice Mayor Hosafros moved to authorize the Town Attorney to enforce code violations and liens as shown in Attachment A, through court actions to include - but not be limited to - foreclosure, injunctive relief, monetary judgment and attorney fees, if possible; second by Council Member Veach.

Motion carried unanimously.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers commented that the lighting consultants seemed underprepared and felt that continuing to pay them was a waste of money. Mayor Murphy agreed. Town Manager Hernstadt stated that they could stop engaging with the consultants at any time.

Council Member Veach read a letter provided by Allie McCue from the FWC. She requested that the town approve the use of Imazapyr in the bird nesting area.

Council Member Veach recommended approval. Consensus was reached to approve the use.

No items from other members.

XVII. ADJOURNMENT

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

Motion carried unanimously.

The meeting was adjourned at 2:26 p.m.

Minutes adopted as presented, May 2, 2022; Motion by Council Member Veach, seconded by Vice Mayor Hosafros. Adopted 5-0.

A handwritten signature in blue ink, appearing to read "Amy Baker".

Amy Baker, Town Clerk

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

LAST NAME—FIRST NAME—MIDDLE NAME <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 Rosadora</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Fort Myers Beach</i>	COUNTY <i>LEE</i>	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>4/18/2022</i>		NAME OF POLITICAL SUBDIVISION: <i>Town of Fort Myers Beach</i>	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE	

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, Daniel Allers, hereby disclose that on April 18th, 20 22:

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

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, 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:

I am one of three people involved in the brewing of the beer at Tuckaway Cato that would be sold for profit.

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

4/18/22

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.