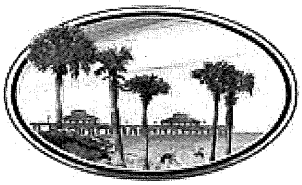

MINUTES

Monday, October 15, 2012

FORT MYERS BEACH TOWN COUNCIL
TOWN HALL – COUNCIL CHAMBERS
2523 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

I. CALL TO ORDER

Mayor Raymond called to order the October 15, 2012 Regular Meeting of the Town Council at 6:32 p.m. Present along with Mayor Raymond: Vice Mayor Mandel, Council Members Kosinski and List. Also Present: Town Manager Stewart, Town Attorney Miller, Finance Director Wicks, Public Works Director Lewis, Community Development Director Fluegel, and Town Clerk Mayher.

II. INVOCATION - Rev. Alice Macrum, St. Raphael's by the Sea

III. YOUTH COUNCIL – Fort Myers Beach Elementary School

Postponed.

IV. PLEDGE OF ALLEGIANCE

V. APPROVAL OF FINAL AGENDA

Consensus approved the Agenda as presented.

VI. PUBLIC COMMENT

Mayor Raymond noted Public Comment time was scheduled for discussion of items that were not on the agenda.

Public Comment opened.

No speakers.

Public Comment closed.

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Mandel thanked everyone who organized and participated in the Food Sustainability Workshop, discussed highlights from the workshop, and noted the importance of branding 'Lee Gulf Shrimp'. He reported there had been a request for the Town to assist, non-monetarily, in the Monofilament Clean-up Expo on October 28th.

VIII. IMAGE OF FORT MYERS BEACH

Town Manager Stewart discussed the Pirate Fest and noted how well Town staff and local businesses worked with the event organizers to accomplish the tasks necessary in a short period of time in order to get the event ready.

IX. ADVISORY COMMITTEES ITEMS AND REPORTS

No speakers.

X. APPROVAL OF MINUTES

A. September 17, 2012 Town Council Meeting
B. September 17, 2012 Downtown Redevelopment Agency Meeting
C. September 17, 2012 Town Council Work Session

MOTION: Council Member Kosinski moved to approve the minutes of as presented; second by Council Member List.

VOTE: Motion approved, 4-0.

XI. CONSENT AGENDA

A. Transfer of Portable Restrooms to Lee County Parks & Recreation: TDC Request
To approve the request by Lee County Tourist Development Council to transfer title of two ADA portable restrooms to Lee County and direct staff to facilitate this transfer.

B. National Historic Register Nomination, Mound House
Request to approve Mound House nomination to the National Register of Historic Places

MOTION: Council Member List moved to approve Consent Agenda Item A and Item B; second by Council Member Kosinski.

VOTE: Motion approved, 4-0.

XII. PUBLIC HEARINGS

A. Quasi-Judicial Hearing: VAR2011-0004, Beach Shell Inn

Mayor Raymond opened the Public Hearing at 6:35 pm for VAR2011-0004, Beach Shell Inn Variance.

Town Attorney Miller swore in the witnesses.

Dave Depew, representing the Applicant – Beach Shell Inn, described the location of the subject property and the variance request (Section 30-93(b) and 30-154(c)). He noted the property was originally constructed in the 1950s. He explained the applicant was seeking to install a new sign on the site and which had a total sign height of nine feet. He displayed a graphic that depicted a mock-up of the new sign. He indicated on an aerial photograph the location of the subject property. He utilized a rendering of the proposed sign, a site plan, and various photographs to explain how the site was very constrained and parking was extremely limited; the location of the current sign which was mixed in with pool heater and filter equipment along with a buried propane gas tank; issues with the ingress/egress of the site and landscaping; and issues with existing street signs as it pertained to the sign. He displayed photos holding the mock-up sign on Estero Boulevard at the proper height, and explained how there was 'stuff' along the Boulevard that interfered with seeing the sign (i.e. power pole, beach access sign, park sign, and a fence which was required by Code around the pool heater, etc.). He mentioned that the applicant had also looked at alternate sign options, the parking situation, redesigned the sign at least 12 times, and examined alternate locations on-site in order to come into compliance with the sign ordinance. He explained that the applicant believed the conditions were not the result of their actions and were in existence at the time the ordinance was amended. He stated it was his belief that the variance requested was the minimum variance; that approval would not injurious to the neighborhood; and that the conditions of the property were unique. He stated he was in agreement with everything in the Staff Report except for one item which was the potential language in condition #. He indicated the language he took exception to if the pool heater and equipment were removed for any reason, then the variance would disappear. He explained that at some point the pool heater equipment would need to be replaced, but the equipment would need to go back in the same approximate location. He asked that language be added to staff's recommendation that if the configuration of the heater changed, that it would not change the need for the variance.

Council Member Kosinski asked if the existing sign was on pile foundation.

Mr. Depew stated the sign was on steel posts and there was some type of foundation.

Mayor Raymond asked if any Council Member had ex-parte communication regarding this item. Vice Mayor Mandel – none; Council Member List – none; Council Member Kosinski – none; Mayor Raymond – site visit.

Zoning Coordinator Chapman presented comments for VAR2011-0004 Beach Shell Inn sign variance on behalf of the Town of Fort Myers Beach. She described the location of the subject property; and the variance request which was comprised two requests: 1) variance from Sections 30-93(b), which required a 3' setback from any street right-of-way to allow a 0' street setback; and 2) variance from 30-145(c),

which limited the height of a monument sign to be elevated no more than 18" above grade and 5' overall to allow 4'6" for the monument supports and an overall height of 9'. She displayed photographs of the existing conditions at the subject site; and briefly reviewed the site considerations (i.e. pool equipment, etc.). She reported the Applicant's request was for a 9' overall height which was 4' more than permitted by Code, and noted there would be 26' of copy area which allowed for an additional amount of copy area (business entitled to 32 square feet). She displayed a site plan indicating the 0' setback location of the proposed sign. Zoning Coordinator Chapman reviewed the request as it pertained to Section 34-87(3)(a), Section 34-87(3)(b), Section 34-87(3)(c), Section 34-87(3)(d), and Section 34-87(3)(e):

- That there were exceptional or extraordinary conditions or circumstances that were inherent to the property in question, or that the request is for a *de minimis* variance under circumstances or conditions where rigid compliance was not essential to protect public policy;
- Staff agreed that the pool equipment (and required clearance was unique to the subject property;
- That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation;
- The sign, pool heater, and required pool equipment fence were established on the subject property prior to the Town's incorporation in 1995 and prior to the adoption of Ordinance 11-01;
- That the variance granted is the minimum variance that would relieve the applicant from the undue burden caused by the application of the regulation (property owner came in well before the December 31, 2011 deadline to apply for the variance);
- Staff was confident that the proposed sign as depicted in Exhibit A and the proposed sign location depicted in Exhibit B was the minimum variance necessary to relive the unreasonable burden caused by the application of Chapter 30 of the LDC;
- That the granting of the variance would not be injurious to the neighborhood or public welfare, and that the conditions were unique to the property;
- That the conditions or circumstances on the specific piece of property for which the variance was sought are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

She stated that staff recommended approval of the requested variance subject to conditions:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, measured from the elevation to the existing grade of the parking lot to the base of the sign is not to exceed 4'6" and the height to highest point on the sign must not to exceed 9' as depicted on Exhibit A" and staff could propose language such as 'the setback of 0' as depicted on Exhibit B.
3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
4. If the pool equipment, including the pool heater and exhaust, on the subject property is removed, this variance will expire. If the pool heater, fence or pool equipment is substantially relocated, or is modified or replaced such that the height of the pool heater, fenced or poor equipment is more than fifteen (15%) percent lower than the current height of these items, then this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever comes first.

Discussion was held concerning the sign congestion on Estero Boulevard noted by the Applicant and how it pertained to the work of the Public Safety Task Force; the ingress/egress and driveway location on the subject property; and Condition #4 as it pertained to replacment or removal of the pool heater at some point in the future.

Town Manager Stewart noted his concern that if the pool heater equipment was removed and relocated to another location on the subject property that the subject sign would come down.

Mr. Depew explained that the pool heater equipment would ultimately have to be replaced due to life expectancy of the equipment and how the applicant did investigate other types of pool heater equipment (i.e. geothermal, etc.).

Discussion was held concerning the current location of the underground propane tank.

Mayor Raymond asked if there was any comment from the LPA.

LPA Member Smith reported that the LPA had reviewed the variance request and did agree that there were special and unique circumstanced applicable to the subject property. He added they discussed what would be the minimum variance necessary and determined it was the height of the sign now being requested.

Public Comment opened.

No speakers.

Public Comment closed.

Mayor Raymond noted his concern about the potential for setting precedent.

MOTION: Council Member Kosinski moved to approve the request for two variances from LDC Section 30-93(b) (right-of-way setback) and 30-154(c) (standards for monument signs) for the Beach Shell Inn located at 2610 Estero Boulevard with Conditions of Approval:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. The height of the sign, measured from the elevation of the highest adjacent grade or the crown of the adjacent street, whichever is higher, to the base of the sign is not to exceed 4'6" and the height to highest point on the sign must not exceed 9' as depicted on Exhibit A; and the sign setback measured from the property line of the subject property will be 0' as depicted on Exhibit B.
3. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.

Recommended Findings and Conclusions:

A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a *de minimis* variance

under circumstances or conditions where rigid compliance is not essential to protect public policy.
B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public health.
E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question; second by Council Member List.

Town Attorney Miller explained that by eliminating Condition #4 it was allowing the variance to remain even if the structure was totally demolished.

Council Member Kosinski reviewed the basis for eliminating Condition #4.

Town Attorney Miller noted how the elimination of Condition #4 would affect redevelopment of the subject property.

Discussion ensued concerning Condition #4; and minimal variance and the relation to the potential for precedent.

AMENDMENT: Motion maker amended the motion to include Condition #4:

If the pool equipment, including the pool heater and exhaust, on the subject property is removed, this variance will expire. If the pool heater, fence or pool equipment is substantially relocated, or is modified or replaced such that the height of the pool heater, fenced or poor equipment is more than fifteen (15%) percent lower than the current height of these items, then this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever comes first; second agreed.

VOTE: Motion approved; 4-0.

Public Hearing closed.

XII. ADMINISTRATIVE AGENDA

A. Appointment(s) to Anchorage Advisory Committee
B. Appointment(s) to Bay Oaks Recreational Campus Advisory Board
C. Appointment(s) to Community Resource Advisory Board
D. Appointment(s) to Cultural and Environmental Learning Center Advisory Board
E. Appointment(s) to Local Planning Agency
F. Appointment(s) to Public Safety Committee

Mayor Raymond pulled Item B for discussion. He reported he would abstain and file Form 8B since his son was an applicant for the Committee.

MOTION: Council Member Kosinski moved to appoint the nominations applied for the Anchorage Advisory Committee, Community Resource Advisory Board, Cultural and Environmental Learning Center Advisory Board, Local Planning Agency, and Public Safety Committee; second by Council Member List.

VOTE: Motion approved, 4-0.

MOTION: Council Member Kosinski moved to appoint the applicant for the Bay Oaks Recreational Campus Advisory Board; second by Council Member List.

VOTE: Motion approved, 3-0; Mayor Raymond abstained.

G. Introduction of Ordinance 12-08, Potable Water

Town Manager Stewart explained that the proposed ordinance is because the Lee County BOCC approved a wholesale water rate increase at a public hearing held which would result in an increase to the Town. He noted the ordinance was required to be introduced, read, and scheduled for a public hearing.

Town Clerk Mayher read the title of Ordinance 12-08:
AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN INCREASE IN POTABLE WATER RATES FOR POTABLE WATER UTILITY CUSTOMERS OF THE TOWN OF FORT MYERS BEACH BY AN AMOUNT THAT IS EQUAL TO THE AMOUNT OF LEE COUNTY WHOLESALE WATER RATE INCREASE APPROVED BY LEE COUNTY; PROVIDING AN EFFECTIVE DATE.

Public Works Director Lewis briefly outlined the issue and how Lee County had performed a rate analysis two years ago which resulted in incremental increases to their bulk water customers and retail rates and sanitary sewer charges. She added that it was likely these incremental increases would occur over the next three years.

Vice Mayor Mandel pointed out that this was the time of year when condominiums were setting their budgets for the next year and questioned what would be the best estimate for them to set budgets for the next year.

Public Works Director Lewis explained staff was anticipating having that information for the hearing on November 5th.

Discussion ensued regarding potential water rate increases and effective dates; and the Town's rate study.

Public Comment opened.

No speakers.

Public Comment closed.

MOTION: Council Member Kosinski moved to introduce Ordinance 12-08 approving the potable water rate increase and set November 5, 2012 at 9:00 a.m. for a public hearing; second by Council Member List.

VOTE: Motion approved, 4-0.

H. Ebtide Rezoning on San Carlos Island
A request for Town Council to decide whether to take an official position regarding the San Carlos Island Ebtide Rezoning Project, Lee County case #DCI2009-00034

Town Manager Stewart noted that the item had been on the Work Session Agenda earlier today and that there had been a presentation from the Town's consultant on the matter. He mentioned that the Town had a cooperative agreement with Lee County regarding matters such as the proposed Ebtide rezoning which would impact Fort Myers Beach. He announced that the next step for the project was that it had been scheduled to go to the Lee County Hearing Examiner. He reported the Town was asked to provide comments for the project which was under consideration for San Carlos Island; and explained how the Town reviewed the technical aspects of the proposed project. He noted that a comparison slide was displayed on the overhead projector entitled "Comparison: Existing vs. Proposed Uses".

Community Development Director Fluegel noted a difference between the Lee County hearings as it related to ex-parte communications and that no one can communicate with the County Commissioners on a pending rezoning application outside of the official testimony they receive from the Hearing Examiner.

Town Attorney Miller added that if a person wanted to speak before the BOCC regarding the matter that they had to have appeared before the Hearing Examiner or have someone there physically read into the record testimony.

Public Comment opened.

Joanne Shamp, resident, noted other concerns that might be considered pertaining to the proposed project such as water quality in Estero Bay from the increased number of docks.

Public Comment closed.

Community Development Director Fluegel reported the matter would appear before the Hearing Examiner on November 14th. He stated that staff was seeking direction from Council if they wanted staff to go forward before the Hearing Examiner and recommend an official position for the Town. He explained that staff's recommendation was to require the developer to provide a traffic mitigation implementation plan that mitigates all of their project impacts on Estero Boulevard in excess of those existing.

Council Member Kosinski asked if the Town's Traffic Consultant should appear before the Hearing Examiner.

Community Development Director Fluegel stated that would be part of staff's request.

Discussion was held concerning the procedure for presenting testimony to the BOCC and the Hearing Examiner process; and issues of concern regarding the proposed project such as back bay water quality, both right and left turns onto Main Street, and various traffic issues.

Council Member List discussed her preference for all the concerns and issues to be included in a resolution that could be presented to the Hearing Examiner.

Town Attorney Miller recapped the areas of concern to be included in the Resolution:

- Mitigation of the traffic impacts resulting from increased number of trips on Estero Boulevard from the development.
- County should address water quality issues as a result of the increased number of boat slips.

She stated she would prepare a resolution for the Council to vote on at their next meeting.

Consensus agreed with Town Attorney Miller's proposed action.

I. Lien Reduction Request
To approve release of lien against the property located at 4545 Estero Boulevard, conditioned upon payment of $16,027.50 and unsafe structures removed within thirty (30) days.

Town Manager Stewart noted his memorandum dated October 4, 2012 which encapsulated the details of the Code Enforcement case. He stated staff worked very closely with the property owner, the bank that holds the note, and the owner's representative, Mr. Cason. He reviewed the location of the subject property and the two structures on the site, the designation of unsafe structures, and the added concern of asbestos abatement. He noted there was a copy of the contract with Honc Industries for the demolition and described the details of the 'short sale' the bank was accepting. He explained how they were seeking compliance and reviewed the basis for his recommendation of a reduction in the lien

amount to $16,027.50. He reported he spoke with Mr. Cason late last week who informed him that 30 days for demolition was a tight schedule and Mr. Cason requested an additional 15 days.

Public Comment

Mr. Clark, resident, noted he lived across the street from the subject property and he urged Council to approve whatever was necessary to move the project forward.

Public Comment closed.

Council Member Kosinski suggested that 45 days for the demolition would be reasonable.

Vice Mayor Mandel noted the support of the condominium owners for the demolition of the structures.

Discussion was held regarding the demolition.

Mayor Raymond discussed his concerns regarding the 90% reduction of the lien.

Town Attorney Miller pointed out that the Town's lien was inferior to the mortgage and if the property was to go through foreclosure the Town would receive no funds.

Discussion ensued regarding liens, criteria for lien reduction requests, and obtaining code compliance.

MOTION: Council Member List moved to approve the release of lien against the property located at 4545 Estero Boulevard conditioned upon payment of $16,027.50 within thirty days of 10/15/12, and further that the unsafe structures on that property be demolished and removed within 45 days of 10/15/12 and further, if all conditions are not met within 45 days of 10/15/12, the original lien will remain in full affect with the continuing daily fines; second by Council Member Kosinski.

VOTE: Motion approved, 4-0.

J. Change Order, Laguna Shores Dredging Project, ITB-12-3-CD

Town Manager reviewed the request for a Change Order for the Laguna Shores Dredging Project in order to move forward with the access channel. He mentioned that the Town did receive a grant from the WCIND which covered the cost of construction; however, there was no contingency amount. He explained that the Town did do the dredging for the cost within the grant funding except Tropical Storm Isaac complicated matters with additional sand. He noted that if the Town received the emergency designation from FEMA regarding Tropical Storm Isaac that these funds would be eligible for reimbursement.

Public Comment opened.

Roy Hinkleman, President of the Laguna Shores Homeowners' Association, briefly reviewed the background of the dredging project. He thanked the Council for their support of the project.

Public Comment closed.

Discussion was held regarding the approval from the State and the anticipated approval from the Army Corps of Engineers for the dredging; and the possibility of a reoccurrence.

MOTION: Council Member Kosinski moved to approve Change Order #1 for Zep Construction, in an amount not-to-exceed $29,250.98 for Laguna Shores Dredging Project; second by Council Member List.

VOTE: Motion approved, 4-0.

Recess at 8:16 p.m. – Reconvened at 8:32 p.m.

K. Filling Vacancy on Town Council
To appoint an Islander to serve the remainder of the term for Town Council seat #1.

Mayor Raymond thanked all of the residents who had expressed their interest for the Council vacancy. He reviewed the voting process for the selection of an applicant to fill the Council vacancy.

Public Comment opened.

Sherilee Dias, resident, discussed the basis for her support of Applicant, Joanne Shamp, for appointment to the Council vacancy.

Artis Chester, resident, discussed the basis for her support of Applicant, Joanne Shamp, for appointment to the Council vacancy.

Cherie Smith, resident, discussed the basis for her support of Applicant, Rexann Hosafros, for appointment to the Council vacancy.

Public Comment closed.

Mayor Raymond thanked all of the residents who applied for the Council vacancy and expressed his hope that the residents not selected would consider applying for some of the Town's boards and committees.

Applicants
Dan Andre
Tom Babcock
Bruce Butcher (Absent)
Karen Haengel
Elizabeth D'Onofrio Halladay

Rexann Hosafros
Daniel L. Hughes
Jane B. Plummer
Joanne K. Shamp
James H. Steele (Absent)
Thomas M. Van Oyen Jr.

Town Clerk Mayher announced there were three votes for Dan Andre and one vote for Jane Plummer.

Town Attorney Miller swore in Dan Andre to serve the remainder of the term for Town Council Seat #1.

Council Member List expressed how impressed she was with the qualifications of all the applicants and encouraged them to consider the election coming up in March.

Consensus was in agreement with Council Member List's comments.

XIII. PUBLIC COMMENT

Public Comment opened.

No speakers.

Public Comment closed.

XIV. TOWN MANAGER'S ITEMS

A. Mound House Update

Town Manager Stewart stated the Council was provided with a copy of the Public Works Mound House Projects Update Report.

Mayor Raymond noted there were items on the report that indicated completion dates of 2013 and one with a date of 2014.

Town Manager Stewart discussed circumstances surrounding the item with the 2014 completion date, and stated he would be filing a report with the Sheriff's Office tomorrow to report the items and the corresponding documentation was missing.

Mayor Raymond questioned the status of the permissive use agreement with the church for parking.

Town Manager Stewart reported it was very close to being completed.

Mayor Raymond questioned the status of the golf cart.

Town Manager Stewart reported pricing had been done and should be nearing completion within the next 30 days. He echoed the Council comments regarding the quality of the applicants for the Council vacancy, and congratulated Council Member Andre.

XVI. TOWN ATTORNEY'S ITEMS

Town Attorney Miller – no items or reports.

XVII. COUNCILMEMBER ITEMS AND REPORTS

Town Clerk Mayher reported that former Mayor Kiker had been liaison to the Anchorage Advisory Committee, Metropolitan Planning Organization Alternate, and Southwest Florida Regional Planning Council Alternate.

Discussion was held concerning liaisons and committees:

- Public Safety Committee – Mandel
- CRAB – Andre
- Anchorage Advisory Committee – Kosinski
- CELCAB – List
- BORCAB - List
- Marine Resources Task Force – Andre
- MPO – Raymond; Kosinski/Alternate
- Southwest Florida Regional Planning Council - Andre

Council Member Mandel – mentioned a request for the Town to assist in the Monofilament Clean-up Expo on October 28th; and reported a group was going to clean up the back bay area with lunch for the group at Santini Plaza. He added that the event was being sponsored by the County; however, the organizers at Santini Plaza were hopeful that the Town would sponsor the event too. They have asked for the Town to place their banners at both ends of Town and for some staff to speak at the event.

Town Manager Stewart stated he would speak to staff about the request and he acknowledged that he would be available to attend.

Consensus approved the request to post the banners as requested.

Council Member Mandel asked for consensus in helping the Food Sustainability group to working with the TDC to brand 'Lee Gulf Shrimp'.

Mayor Raymond requested more information on the Food Sustainability group and their request.

Council Member List – asked if the Town Manager had any further information on the 'white fly' issue she previously discussed with him.

Town Manager Stewart reported staff had contacted the Florida Department of Forestry and Agriculture; and they would schedule a session to have their representatives come and talk to residents and businesses about the infestation.

Council Member List – reported there would be a Joint Meeting of the Fifth Grade Council and the Town Council on Thursday in the school cafeteria. She explained how every year the Council worked with the fifth graders.

Council Member Andre – no items or reports.

XVIII. AGENDA MANGEMENT

XIX. RECAP OF ACTION ITEMS

Town Manager Stewart recapped the Action Items added during the meeting:

- Submit the application for Mound House nomination to the National Register of Historic Places
- Notify the applicant of Council action, Beach Shell Inn
- Notify all applicants to the advisory committees
- Advertise for vacancies on advisory committees
- Ordinance 12-08, Potable water to public hearing on November 5, 2012
- Staff to bring forward for Council approval a resolution regarding Ebtide Rezoning
- Move forward with Laguna Shores change order

Meeting adjourned at 9:17 p.m.

Adopted 11/19/12 With/Without changes. Motion by Kosinski, Second by List

Vote: 5-0

Michelle D. Mayher, Town Clerk

- End of document.

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

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
RAYmond Robert L	Council
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
353 Donora Blvd	☑ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY: Fort Myers Beach COUNTY: Lee	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS:
10-15-12	☑ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally 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 the reverse side 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 inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate 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 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 otherwise may participate 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 other side)

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, Robert Raymond, hereby disclose that on 10-15, 20 12.

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

☐ 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 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:

Bay Oaks Dem. membership

10-15-12
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.