

**FORT MYERS BEACH  
TOWN COUNCIL  
TOWN HALL – COUNCIL CHAMBERS  
April 18, 2006**

**I. CALL TO ORDER**

Mayor Boback called the meeting to order at 6:30 p.m.

Members present: All Council members were present, Councilman Reynolds, Vice Mayor Massucco, Mayor Boback, Councilman Shenko, and Councilman Meador.

Staff present were Rachel Lambert, Town Attorney Anne Dalton, Community Development Jerry Murphy.

**II. PLEDGE OF ALLEGIANCE**

Pledge was done.

**III. INVOCATION – Rev. Tom Snapp, St. Peters Lutheran Church**

**IV. PUBLIC COMMENT**

**Can be made at the agenda item.**

**V. ADMINISTRATIVE AGENDA**

1. Update on UTELCO – Attorney George Knott  
Verdict rendered in favor of the Town.

**A. Public hearing (Continuation) – Jay Urseleo in reference to 150 Crescent Street, CPD, DC 12005-00084**

- a. ex parte disclosures by Massucco and Shenko, and conflict raised by Councilman Meador – he needs to abstain from discussion and voting

**Public Comment**

Robert Pritt on behalf of Jay Urseleo. He also has Traci Bean with him. Jay has applied to allow for three story building. Also requests a dock. This property is on Crescent St. These properties are across the street from McDonald's and the parking lot. The request is for commercial and residential, mixed use. They agree with the staff report. LPA recommended approval.

Jay Urseleo spoke about some of the concerns. He is a true native, born on Ft. Myers Beach. He discussed the number of commercial places on Crescent Street historically. He tried to put his plan within the Comprehensive Plan guidelines.

Traci Bean is a certified planner and is representing Jay Ursoleo. There are four buildings in this request. (see attached) Ursoleo agrees to stay within height requirements for that area and is going to do a good deal of landscaping. The first floor is planned for professional office use, not for restaurants or serving liquor. Staff has recommended approval of this application.

Nettie Richardson, Lee County Staff, made her presentation. Staff recommended approval.

### **Public Comment**

Jeanette Swinson read notarized letter from area resident, She requests that the Council turns the request down. (letter from Jean Morris)

Fran Santini lived on Primo since 1936. Crescent should remain single family residences. She is against the request.

Letter from Altol Whiffle. Asks for denial of request. (Read by Jeannette Swinson.)

Another letter. This from Henry Gore. Asks for denial of request. He lives across the canal. (copies of letters in the record.)

Jeannette spoke for herself. Spoke against the rezoning. Talked about the problem with vagrants.

Richard Swinson spoke against approval of the rezoning request.

Tracy Gore spoke against approval of the rezoning request.

Joe Grant lives at 320 Crescent St. He spoke against the rezoning request.

David Ennis spoke against the rezoning request.

Bonnie Ennis spoke against the rezoning request.

Doris Grant spoke against the rezoning request.

### **Close Public Comment**

Robert Pritt closed the discussion with rebuttal of the public comment.

He put several items into the record.

Councilman Shenko made a motion to deny Urseleo's request. Seconded by Councilman Reynolds. After some discussion, Attorney Dalton pointed out that the Council has the option to deny the request without prejudice, and request that the motion maker amend the motion to state whether denial is with or without prejudice.

Attorney Pritt requested to speak, and asked that if denied, that it be done so without prejudice.

Councilman Shenko said he meant his motion to be with prejudice. He also suggested that the final hearing be concluded, and that the specific findings and discussion, and vote be delayed until another date.

Councilman Reynolds amended his second to comply with the motion.

Attorney Dalton said that she needs a date certain to continue the hearing, and that technically the motion needs to be withdrawn, and have a motion to continue to a date certain.

Councilman Shenko withdrew his first motion, and moved that the hearing portion be concluded, and to continue the Council deliberation only for the purposes of making findings and a resolution to a later date.

. Seconded by Mr. Reynolds.

The next regular council meeting is May 1<sup>st</sup> at 6:30 PM.

Motion was not voted on, but there was general agreement among the Council.

Mayor Boback suggested that they skip over the Administrative Agenda and go right to Curfew issue.

#### **E. Public Hearing for Ordinance 06-10 Curfew on FMB**

1. Mrs. Dalton said that the redrafted article is given to Council.

**Public Comment opened.**

**None given, Public Comment Closed.**

Mr. Shenko moved that the ordinance be passed as presented with the definition of minor being “16” years of age, for purposes of discussion. Mr. Reynolds seconded the motion.

Motion passed unanimously.

#### **G. Update on God’s Table zoning compliance (verbal)**

**Public Comment.**

Helen Snow spoke in favor of continuing God’s Table.

Joy Booth spoke in favor of continuing God’s Table.

Janet Bonaby spoke in favor of God’s Table.

Rev. Jeanne Davis spoke in favor of God’s Table.

Max Steffey spoke in favor of God’s Table.

Barbara Steffey spoke in favor of God’s Table.

Bill Kenney spoke in favor of God’s Table.

Doris Kenney spoke in favor of God’s Table.

Forrest Chistin (?) spoke in favor of God’s Table.

Joanne Marley spoke in favor of God's Table.  
David Tether spoke in favor of God's Table.  
Shawn Cookster (?) spoke in favor of God's Table.  
Rev. Tom Snapp spoke in favor of God's Table.  
Elizabeth Zaproski spoke in favor of God's Table.  
Marge Price spoke in favor of God's Table.  
Bill Wolf spoke in favor of God's Table.  
Jack Bright spoke in favor of God's Table.  
Bob Simon spoke in favor of God's Table.  
Patrick Small spoke in favor of God's Table.  
Anita Palmer spoke in favor of God's Table.  
Pat Smith asked the God's Table people to have compassion on the neighbors because of the God's Table people.  
Claude Bowyer said he doesn't think the program is appropriate here.  
Mark Cliffride (?) Spoke in favor of God's Table.  
Marie Cook talked about evening program where you could get a Meal - it had nothing to do with God's Table.  
Jerry Murphy said they have drafted a compliance agreement for the Chapel-by-the sea. That's their update.

**B. Back to this: Discussion of Public Informational Sessions for rezoning and development review applications (See Lee County LDC Sec. 34-1042.) This should be where letter "E" appears above, but the Council took things out of order.**

1. Jerry Murphy offered them a copy of the Lee County review process.

**C. Preliminary meeting of Town Attorney/Town staff with property owners and interested parties – direction from Town Council (verbal)**

- 1 Anne Dalton, Town Attorney, requesting direction from Council about whether applicant should be local or not.
2. Councilman Reynolds and Vice Mayor Massucco have no problems with some staff who met privately with local developers as long as the entire Council is informed about the details of each meeting.
3. Councilman Shenko says that he doesn't meet privately with developers.
4. Councilman Meador says he has no problem with staff meeting with developers. He thinks "we should be a user-friendly government."

**Special Events**

**West Coast Surf Shop – Skimboard Competition**

Jim Kimbrough came forward describing the competition as being for kids ages 5-40. Councilmembers expressed concern with regard to the venue and use of a stage, and believe it to be a good program, but would not support the event at Jimmy B's. Vice-Mayor Massucco moved to

grant the applicant permission to go ahead with the event. Councilman Reynolds seconded the motion. Mayor Boback suggested that the motion be amended to exclude the use of Jimmy B's. Ken Dibiagio, Director of Operations for Times Square FMB addressed the council. Councilman Reynolds withdrew his second, and Vice Mayor Massucco withdrew his original motion, and moved that the program go ahead as applied. Motion failed for lack of a second. Councilman Shenko moved that the event go forward w/ no use of Jimmy B's property or the Ramada. Seconded by Councilman Meador. Motion passed 4-1 with Vice Mayor Massucco dissenting.

1. US Open Water Swim – June 1-5, 2006

Alise Flanjack from Lee County Parks and Rec. This event is held at Lynn Hall Park. There are about 125 applications as of now. This year they are proposing a concert but can see that there is a problem with the location. Councilman Shenko moved that the Town grant a special permit for the special event, however, delete the concert and any use of the stage at Jimmy B's, any extension of the premises for the use of alcohol consumption at Jimmy B's or the Musicquarium and that activity be excluded from the Special Events permit.

Councilman Meador seconded the motion.

Motion passed unanimously.

FMB Air Show and Boat Races – May 20-21, 2006

Steve Page representing the Air Show. Plan to put on same event that we did last year. Diamondhead will be the host hotel. Asking for a Special Event permit.

Councilman Shenko moved to approve the permit as requested. Councilman Reynolds seconded the motion.

Motion passes unanimously.

## **VI. COUNCIL MEMBERS ITEMS AND REPORTS**

1. Vice Mayor Massucco commented on Tom Babcock's memo from last week. Thanked everybody for the Ester Egg hunt. Estero Island Clean-Up is still going on
2. Councilman Reynolds complimented the Voice volunteers. He mentioned that Lee County had approved Beach Renourishment.
3. Mayor Boback complimented the Voice Volunteers. Asks for someone to volunteer for the Horizon Council.
4. Councilmember Meador submitted Form 8B, Voting Conflict (attached)

## **VII. TOWN MANAGER'S ITEMS**

1. Free movies on the Beach. Friday and Saturday nights.
2. Working with Lee County on Beach access.

### **VIII. TOWN ATTORNEY'S ITEMS**

1. Anne Dalton, Town Attorney, picked up on the proposed Interlocal agreement between the Town and Lee County about the accesses.
2. She asks Council to give approval of this process.
3. Consensus gave agreement with the exception of Mr. Shenko.
4. She contacted the Commissioners about the joint meeting with the Town. They are willing to come down to the beach and work with the Town.
5. She asks the Council what time of day the Council wants to meet with the County. Councilman Meador moved to have the meeting at 3:00 p.m. The motion was seconded by Mr. Shenko. Motion passes unanimously.

### **IX. PUBLIC COMMENT**

None.

- X. **ADJOURNMENT** It was moved by Councilman Shenko to adjourn at 12:28 a.m. Seconded by Mr. Meador. Motion passed unanimously.

Jean Matthew  
Transcribing Secretary

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

|   |   |
|---|---|
| LAST NAME—FIRST NAME—MIDDLE NAME<br><b>MEADON, CHARLES R.</b> | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE<br><b>Fort Myers Beach Town Council</b>   |
| MAILING ADDRESS<br><b>P.O. Box 2520</b>                       | THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:<br><input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY |
| CITY      COUNTY<br><b>Ft. Myers Beach, FL      Lee</b>       | NAME OF POLITICAL SUBDIVISION:<br><b>Town of Fort Myers Beach</b>   |
| DATE ON WHICH VOTE OCCURRED<br><b>April 18, 2006</b>          | MY POSITION IS:<br><input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE   |

## ✓ WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies 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**

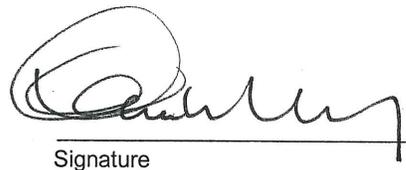
I, CHARLES R. HEDDAN JR, hereby disclose that on April 18, 2006:

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

- 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 A client with a financial interest in prop. 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:

April 18 2006  
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.