



## MINUTES

### BOARD OF COMMISSIONERS REGULAR MEETING MAY 10, 2023 6:00 P.M.

The City of Madeira Beach Board of Commissioners held a regular meeting at 6:00 p.m. on May 10, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

**MEMBERS PRESENT:** James "Jim" Rostek, Mayor  
Ray Kerr, Vice Mayor/Commissioner District 2  
Eddie McGeehen, Commissioner District 3  
Anne-Marie Brooks, Commissioner District 4

**MEMBERS ABSENT:** David Tagliarini, Commissioner District 1

**CITY STAFF PRESENT:** Robin Gomez, City Manager  
Clara VanBlargan, City Clerk  
Thomas Trask, Interim City Attorney

#### 1. CALL TO ORDER

Mayor Rostek called the meeting to order at 6:00 p.m.

#### 2. INVOCATION AND PLEDGE OF ALLEGIANCE

City Attorney Tom Trask gave the Invocation and led the Pledge of Allegiance.

#### 3. ROLL CALL

City Clerk Clara VanBlargan called the roll. Commissioner Tagliarini was absent.

#### 4. APPROVAL OF THE AGENDA

The Mayor said they received a request to move Agenda Item 12. C, Appointment to Gulf Beaches Public Library to after the Consent Agenda.

#### 5. PROCLAMATIONS

##### A. National Public Works Week; May 21 – May 27, 2023

Mayor Rostek read a proclamation proclaiming May 21 – May 27, 2023, as National Public Works Week. Public Works Director Megan Wepfer accepted the proclamation.

## **B. National Safe Boating Week; May 20 – May 26, 2023**

Mayor Rostek read a proclamation proclaiming May 20 – May 26, 2023, as National Safe Boating Week. A local United States Coast Guard Flotilla Commander accepted the proclamation.

## **6. PRESENTATIONS**

There were no presentations.

## **7. PUBLIC COMMENT**

There were no public comments.

## **8. CONSENT AGENDA**

### **A. Approval of Minutes**

- **2023-04-12, BOC Regular Meeting Minutes**
- **2023-04-26, BOC Budget Workshop Meeting Minutes**
- **2023-04-26, BOC Regular Workshop Meeting Minutes**

### **B. W&A Third Amendment for Cleaning Services**

Vice Mayor Kerr motioned to approve the Consent Agenda as written. Commissioner McGeehen seconded the motion.

#### **ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner McGeehen	"YES"
Commissioner Brooks	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

## **Agenda Item 12. C, Appointment to the Gulf Beaches Public Library Board**

Applicants:

- John Hendricks
- Jerry Cantrell

Commissioner Brooks motioned to appoint John Hendricks to serve as the alternate member to the Gulf Beaches Public Library Board. Commissioner McGeehen seconded the motion.

John Hendricks, applicant, 569 Normandy Road, explained his involvement and accomplishments  
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with the Library Board when he was in office and the progress the Library Board has made since then.

Jerry Cantrell, applicant, 13322 1<sup>st</sup> Street E., explained his 20 years of experience in corporate leadership and 11 years of experience in education that would benefit the Library Board.

**ROLL CALL:**

Commissioner McGeehen	"YES"
Commissioner Brooks	"YES"
Vice Mayor Kerr	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**9. PUBLIC HEARINGS**

**A. Ordinance 2023-09, Increase in Notice Requirement for Development Agreement Applications – 1<sup>st</sup> Reading and Public Hearing**

City Attorney Tom Trask read Ordinance 2023-09 by title only:

**ORDINANCE 2023-09**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING SECTION 86-144 (NOTIFICATION) OF ARTICLE IV (DEVELOPMENT AGREEMENTS) OF CHAPTER 86 (ADMINISTRATION) OF THE CODE OF ORDINANCES OF THE CITY OF MADEIRA BEACH TO PROVIDE FOR NOTICE BY U.S. MAIL TO ALL PROPERTY OWNERS WITHIN 300 FEET IN ANY DIRECTION OF PROPERTY WHICH IS THE SUBJECT OF A PUBLIC HEARING CONSIDERING AN APPLICATION TO ENTER INTO, AMEND OR REVOKE A DEVELOPMENT AGREEMENT; PROVIDING THAT NOTICES SHALL BE POSTED BY THE COMMUNITY DEVELOPMENT DEPARTMENT; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.**

Community Development Director Jenny Rowan said the ordinance expands the distance of mailed public notices from 200 feet to 300 feet of the subject property for entering into, amending, or revoking a development agreement. The ordinance also clarifies that the Community Development Department will post and mail the public notice when the Development Agreement goes before the planning commission. Staff and the Planning Commission recommend approval.

Mayor Rostek opened to public comment. There were no public comments.

Vice Mayor Kerr said the ordinance made sense. The more input, the better.

After the first reading and public hearing, Vice Mayor Kerr motioned to approve Ordinance 2023-09, Increase in Notice Requirement for Development Agreement Applications. Commissioner Brooks seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**B. Ordinance 2023-10, Amendment to Ch. 110 – Alcohol Beverage Permit Application Fee – 1<sup>st</sup> Reading & Public Hearing**

City Attorney Tom Trask read Ordinance 2023-10 by title only:

**ORDINANCE 2023-10**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING SECTIONS 110-531, 110-533 AND 110-539 OF ARTICLE VI (SUPPLEMENTARY DISTRICT REGULATIONS) OF CHAPTER 110 (ZONING) OF THE CODE OF ORDINANCES OF THE CITY OF MADEIRA BEACH TO REFER TO THE CITY'S FEES & COLLECTION PROCEDURE MANUAL FOR THE COST OF AN ALCOHOLIC BEVERAGE PERMIT APPLICATION FEE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Jenny Rowan said the ordinance removes the exact fee amount for alcoholic beverage applications from the Madeira Beach Code of Ordinances. Instead, the City's Fees & Collection Procedure Manual will determine the cost of an alcoholic beverage permit application. Staff and the Planning Commission recommend approval.

Mayor Rostek opened to public comment. There were no public comments.

Vice Mayor Kerr said the ordinance straightens the books. All fees go into one section versus individual code, which could cause chaos.

Vice Mayor Kerr motioned to approve Ordinance 2023-10, Amendment to Ch. 110 – Alcohol Beverage Permit Application Fee, after the first reading and public hearing. Commissioner Brooks seconded the motion.

ROLL CALL:

Vice Mayor Kerr	"YES"
Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**C. Ordinance 2023-12, Amendment to LDR – Definition of Portable Sign – 1<sup>st</sup> Reading & Public Hearing**

City Attorney Tom Trask read Ordinance 2023-12 by title only:

**ORDINANCE 2023-12**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING SECTION 82-2 (DEFINITIONS) OF CHAPTER 82 (GENERAL PROVISIONS) OF THE CITY'S LAND DEVELOPMENT CODE TO REVISE THE DEFINITION OF PORTABLE SIGN; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.**

Community Development Director Jenny Rowan said the ordinance updates the definition of a portable sign to follow the federal appeals court ruling from *LaCroix v. Town of Fort Myers Beach*. The case ruled that it is a first amendment right for citizens to carry non-commercial speech signs in public areas such as sidewalks and parks. The ordinance clarifies that a sign not bearing a commercial message which is carried by a person (whether worn or held by hand) shall not be considered a prohibited portable sign. These signs shall be permitted to be carried in any location such person is otherwise lawfully allowed to be present, including on the City's sidewalks and parks. Staff and the Planning Commission recommend approval.

Mayor Rostek opened to public comment. There were no public comments.

Commissioner Brooks agreed with the change.

After the first reading and public hearing, Commissioner Brooks motioned to approve Ordinance 2023-12, Amendment to LDR – Definition of Portable Sign. Commissioner McGeehen seconded the motion.

ROLL CALL:

Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Vice Mayor Kerr	"YES"

Mayor Rostek

"YES"

The motion carried 4-0.

**D. Ordinance 2023-13, LDC – Rental of Residential Amenities – 1<sup>st</sup> Reading & Public Hearing**

City Attorney Tom Trask read Ordinance 2023-13 by title only:

**ORDINANCE 2023-13**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, CREATING DIVISION 15 OF ARTICLE VI OF CHAPTER 110 (ZONING) OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF MADEIRA BEACH CONCERNING RENTAL OF RESIDENTIAL AMENITIES; PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.**

Community Development Director Jenny Rowan said the ordinance prohibits the owner or authorized agent of an owner of a residential property from renting or leasing any amenity, feature, or structure other than a dwelling. The ordinance defines "amenity, feature, or structure" as including but not limited to sheds, garages, driveways, rooftops, attics, pools, spas, saunas, putting greens, sports courts, gazebos, or front, rear, or side yards. This ordinance would not affect commercial and other areas in Madeira Beach that currently allow for renting or leasing recreation or event facilities. The Local Planning Agency (the Planning Commission) voted to support Ordinance 2023-13 moving forward to a public hearing for first reading at the May 10, 2023, Board of Commissioners Meeting. Staff and the Planning Commission recommend approval.

Mayor Rostek opened to public comment.

Jerry Cantrell, 13322 1<sup>st</sup> Street E, asked if the ordinance included boat docks. He is unsure of the way it reads. His concern is that some people have long-term rentals for boat docks, and they should be able to do that.

Director Rowan said City Code, Section 78-36 regulates the rental of docks in R-1 and R-2.

Commissioner Brooks said it was discussed in the workshop. They all agreed it was a good change, and the concern in the workshop regarding the boat dock rentals would be addressed under a different ordinance and discussed separately.

Vice Mayor Kerr asked if it could specifically exclude boat docks and if they could make reference to where it is addressed. Director Rowan said they would change the language not to include docks.

The City Manager said it is clear that it is the residential amenities as defined in the ordinance. It has nothing to do with boat docks. The language would create some misunderstanding going forward.

Commissioner Brooks said they are revisiting the ordinances with the City to clean up bad verbiage and confusion.

The City Attorney said normally, when looking at ordinances and enforcing them, the more specific language in the code would be more controlling over more general language. Since it is not specifically included in the list of what is an amenity feature or structure, it would not necessarily be included because it is a general term. There is another provision in the code that specifically references docks. It is not necessary to be in the ordinance. If the Board wants them to wordsmith it, he would be happy to do that. It is not necessary because it is included in another portion of the code.

Director Rowan had the City Clerk distribute a copy of the City Code, Sec. 78-36, Docking limitations.

Vice Mayor Kerr said the red bold Sec. 110-610, Residential amenities rentals prohibited, (a) of the ordinance says, "The owner or authorized agent of an owner of a residential property is prohibited from renting or leasing, or listing on any online marketplace for rent or lease, any amenity, feature, or structure, other than a dwelling, detached dwelling, dwelling units or accessory dwellings, appurtenant to or associated with such residential property, regardless of the purpose or length of time of said rental or lease." He wondered whether it would be proper to put a boat dock in there or not.

Mayor Rostek said in Sec. 78-36, Docking limitations, the only docking limitation he saw was boats not for hire. There are no time constraints on it. If they are trying to stop short-term stuff, he sees no language in there that supports it or long-term.

Vice Mayor Kerr said that would be in a separate ordinance. Now that they have the attorney recommendation, he is in favor of leaving it as written if they have a separate ordinance for boat docks.

Vice Mayor Kerr motioned to approve Ordinance 2023-13, LDC – Rental of Residential Amenities, after first reading and public hearing. Commissioner Brooks seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**E. Ordinance 2023-15, Comprehensive Plan Activity Center Definition – 1<sup>st</sup> Reading & Public Hearing**

City Attorney Tom Trask read Ordinance 2023-15 by title only:

**ORDINANCE 2023-15**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF MADEIRA BEACH TO ESTABLISH A LAND USE CATEGORY FOR ACTIVITY CENTER; REPEALING ORDINANCE 2022-03; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.**

Community Development Director Jenny Rowan said the ordinance creates the Activity Center future land use category in the Madeira Beach Comprehensive Plan, consistent with the Countywide Rules. No specific property or location is associated with this text change. The amendment adds a category of use the community can choose when updating its plan and map in the future. Adopting the Activity Center designation for a specific property or area requires a separate land use map amendment and the adoption of regulating policies for an Activity Center. Staff and Planning Commission recommends approval.

Mayor Rostek opened to public comment.

Jerry Cantrell, 13322 1<sup>st</sup> Street E, said he knows the information has been put out for people to be able to come to meetings to understand what is going on with the John's Pass Activity Center. He is almost certain it was not effectively communicated. In the past meeting, he thought there was a letter from 19 businesses indicating they were all for the John's Pass Activity Center to move forward. It seems they are taking language from that to move forward to prepare the designation but not communicated with the residents. It should be paused, reach out to the community, and get the needed feedback.

Jeff Arnold, 13195 Gulf Lane, said he understood they are not adding another category to allow them to do what they need to do later to make it work. He supported the amendment.

Commissioner Brooks said it is a definition, and they are not adding anything to do with the activity center that has been presented in the past.

Vice Mayor Kerr said there is no specific property or location associated with the text change. The Board previously voted to add the Activity Center designation. It is a redo of that after the county provided comment and has nothing to do with John's Pass. Director Rowan said it is only a redo of adding the category.

Vice Mayor Kerr said by having the designation whether they designate it to John's Pass Village has nothing to do with the vote tonight. But they should have the ability to make that judgment later when the John's Pass Village Activity Center comes back to them. To Mr. Cantrell's point, they have more public discussion on John's Pass Village being an Activity Center. Commissioner Tagliarini provided them with a vote tally from the neighborhood referenced by Mr. Cantrell and



substantially against an Activity Center. However, the question proposed to them asking if they were in favor of passing the proposals designating John's Pass Village to 133rd Avenue as an Activity Center is not a valid question for tonight's agenda.

Mayor Rostek said he was concerned that so many people are against it and do not understand it. He suggested putting it on a ballot for the voters to fix it. There is the potential lack of communication that not enough people were involved and with over 4,000 residents, where could they hold the public hearing to hold them all? The alternative would be to put it on the ballot for them to vote on, or they could stop it for a short amount of time and get more input from the residents, good, bad, or indifferent.

Commissioner Brooks said they are not voting for an Activity Center.

Mayor Rostek said there is confusion and lack of communication and understanding, and that should be cleared up. Commissioner Brooks said once they vote to put the category in place in the ordinance, they could revisit the Activity Center and give the community another opportunity to get involved. It is easy to fill out a survey online because they do not know what they are voting for. Most may think they are voting for an Activity Center, and they are not. The ordinance must be passed to get to that point. The Mayor said the ordinance gives them more tools in the toolbox.

Director Rowan said it is only definition, and the definition goes in the comprehensive plan. It is not tied to any property. The Vice Mayor said they could have more discussion on the advantages and disadvantages of creating an Activity Center at a later date.

Vice Mayor Kerr motioned to approve Ordinance 2023-15, Comprehensive Plan Activity Center Definition, after first reading and public hearing. Commissioner McGeehen seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner McGeehen	"YES"
Commissioner Brooks	"YES"
Mayor Rostek	"NO"

The motion carried 3-1.

**F. Ordinance 2023-17, Amendment to Purchasing Ordinance – 1<sup>st</sup> Reading & Public Hearing**

City Attorney Tom Trask read Ordinance 2023-17 by title only:

**ORDINANCE 2023-17**

**AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA,  
AMENDING ARTICLE V – PURCHASE AND CONTRACTS OF  
CHAPTER 2 – ADMINISTRATION OF THE CODE OF ORDINANCES OF  
THE CITY OF MADEIRA BEACH TO PROVIDE FOR THE DELETION**

**OF THE WORDS "CITY COMMISSION" AND REPLACEMENT WITH THE WORDS "BOARD OF COMMISSIONERS" IN SECTIONS 2-191(B) AND 2-193(3)(B) THEREOF; TO PROVIDE FOR THE DELETION OF SECTIONS 2-193(3)C AND 2-194 OF THE CODE RELATING TO PERSONAL AND PROFESSIONAL SERVICE CONTRACTS; TO PROVIDE FOR CONFLICT; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

Mayor Rostek opened to public comment. There were no public comments.

Vice Mayor Kerr asked if the ordinance was strictly a clerical update to replace the language City Commission to Board of Commissioners in two different sections.

City Attorney Trask said there are two other things happening in the ordinance. The sentence in subparagraph C of Sec. 2-193 (3) in its entirety is being deleted along with the entire Sec. 2-194.

Mayor Rostek said the deletions dealt with the professional services having to go out on bid versus just hiring whomever.

The City Attorney said he had the entire ordinance if they wanted to look at it. Vice Mayor Kerr said the ordinance did not show the two chapters being deleted. The City Attorney said that was to save paper. When Municode gets it, they do not need three or four pages of material. They only look for what needs to be deleted and delete it. It is not regurgitated in the ordinance but referenced.

The City Manager said the two deletions are related to personal and professional services contracts. With that being removed, they fall back on the City's purchasing ordinance. Anything greater than \$5,000 to \$30,000 will require three quotes. Anything greater than \$30,000 would require a bid, RFP or RFQ.

Commissioner Brooks motioned to approve Ordinance 2023-17, Amendment to Purchasing Ordinance, after first reading and public hearing. Vice Mayor Kerr seconded the motion.

**ROLL CALL:**

Commissioner Brooks	"YES"
Vice Mayor Kerr	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**G. Redevelopment Planning Application RDV 2023-01 – Public Hearing**

City Attorney Tom Trask said the item was a quasi-judicial hearing. He read the summary of the application:

Redevelopment Planning Application RDV 2023-01 requests authority to replace an existing legally non-conforming duplex with a new duplex. The Redevelopment planning process (Sec. 110-97) allows for property owners to apply to replace an existing legally non-conforming residential structure with a new structure at the same density with an approved Redevelopment Planning Application. RDV 2023-01 is located at 321 Boca Ciega Drive, Madeira Beach, Florida 33708.

The City Attorney said the standards to be applied in the review are set forth in Section 110-97, which Andrew or Jenny will go over. The burden of proof in the case is the greater weight of the evidence set forth in Section 2-10 of the Code. There are no notices of intent to be an affected party that has been received by the City. The parties in the case are Michael Kamenoff and 321 Boca Ciega, LLC., which is the applicant. The order of the presentation is the applicant making the first presentation and then the City.

The City Attorney read the quasi-judicial hearing procedures. He asked the Commissioners if there had been any ex-parte communications between the applicant and any of the Commissioners, and there were none. The City Attorney asked the Commissioners if there were any conflicts of interest that needed to be disclosed, and there were none.

The City Attorney swore in the witnesses and applicant present to speak.

#### Applicant Presentation

Michael Kamenoff, owner of 321 Boca Ciega Drive, said because of their existing duplexes on a non-conforming lot and they are considering substantial improvement to the lot, they want to demo and build a new three-story duplex compliant with current floodplain regulations. They went before the Planning Commission and got approval, and now they need approval from the Board of Commissioners. They agreed to greatly improve the property using proper setbacks, lot coverage, and proper height for R-2 zoning requirements.

The City Attorney asked the Board if they had any questions for the applicant.

Vice Mayor Kerr asked if all the plans and permits had been approved other than getting the variance. Mr. Kamenoff said he had not been through any of it. He must get approval first.

#### City Staff Presentation

Long Range Planner Andrew Morris read the City staff report in the agenda packet:

##### **Background and Discussion**

There is a legally nonconforming duplex located at 321 Boca Ciega Drive. The existing duplex, built in 1959, does not meet the currently required minimum lot size for a duplex and is considered legally nonconforming since the construction of the duplex predates the establishment of the current zoning requirements. The duplex may be built back to the same density through the approval of a Redevelopment Plan (Sec. 110-97). The Redevelopment Planning Process, as outlined in the Madeira Beach Code of Ordinances, needs to be

approved before the demolition of the existing structure. The Redevelopment Plan is heard by the Local Planning Agency (the Planning Commission) and the Board of Commissioners. The Local Planning Agency (the Planning Commission) voted to support RDV 2023-01 moving forward to public hearing at the May 10, 2023, Board of Commissioners Meeting. The Board of Commissioners can approve, approve with conditions, deny, or change a redevelopment plan.

The Redevelopment planning process allows for duplexes on nonconforming lots to be rebuilt to existing density if the new structure complies with required front setback, height, parking requirements, and floodplain regulations effective at the time of building permit application. An approved Redevelopment Plan allows the new structure to be built within the existing side and rear setbacks.

The applicant included conceptual plans of the proposed duplex. The proposed duplex meets the required front and rear setbacks in the R-2 zoning district and retains the existing five-foot side setbacks. The proposed duplex meets the restrictions related to building surface lot coverage and the impervious surface ratio. The proposed duplex meets the height restrictions in the R-2 Zoning District. The proposed duplex must meet all applicable floodplain regulations. The conceptual plans do not represent what the final site plan will look like for the duplex. The applicants for the proposed duplex will still need to apply for a building permit.

#### **Recommendation (s)**

Staff recommended the approval of RDV 2023-01.

#### **Attachments/Correspondence Documents**

- RDV 2023-01 Application
- RDV 2023-01 Conceptual Plan
- 321 Boca Ciega Drive Property Appraiser Information Unit Verification
- Public Notice Posting and Mailing

The City Attorney asked Mr. Morris if he was asking the City to receive into evidence his staff report, and he said yes.

The City Attorney asked the Board if they had questions to City staff.

Mayor Rostek asked what the recommendation was. Mr. Morris said the staff supports it. It is replacing an existing duplex with another duplex that will be FEMA compliant, which will be a good improvement over what exists there currently.

The City Attorney asked if there was anybody in the public that wanted to speak on the application. There was no one from the public that wanted to speak.

The City Attorney said it goes back to the Board for consideration and approval of the application. That can be made by motion.

Commissioner Brooks motioned to approve the Redevelopment Planning Application RDV 2023-01. Commissioner McGeehen seconded the motion.

ROLL CALL:

Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Vice Mayor Kerr	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**H. 2COP Alcoholic Beverage License Application #2023-04, Liliths Sugar Shack LLC – Public Hearing**

City Attorney Tom Trask said the item was a quasi-judicial hearing. He read the summary of the application:

Pursuant to Land Development Code Article VI, Division 6, Alcoholic Beverages, the applicant for ABP 2023-04 is requesting authorization from the Board of Commissioners for the approval of a 2COP Alcoholic Beverage License with the intent to sell beer and wine for consumption on premises. It is Liliths Sugar Shack at 121 129th Avenue E, Madeira Beach, Florida 33708. This establishment is in the C-1, Tourist Commercial Zoning District, and in the Commercial General Future Land Use. As required in Section 110-539, the Notice of Public Hearing was properly sent to all property owners within 300 feet of the subject property 15 days prior to the scheduled consideration by the Board of Commissioners. Such notice has also been posted on the subject property.

The City Attorney said the standards to be applied in the review are set forth in Section 110-97, which City staff will go over. The burden of proof in the case is the greater weight of the evidence set forth in Section 2-10 of the Code. The parties in the case are the applicant, Liliths Sugar Shack, LLC, and the City. There are no notices of intent to be an affected party that has been received by the City. The order of the presentation would be the applicant first and then the City.

The City Attorney read the quasi-judicial hearing procedures. He asked the Commissioners if there had been any ex-parte communications between the applicant and any of the Commissioners, and there were none. The City Attorney asked the Commissioners if there were any conflicts of interest that needed to be disclosed, and there were none.

The City Attorney swore in the witnesses and Dustin Griffin, the manager of Liliths Sugar Shack, LLC., on behalf of the applicant, who was not present.

Applicant Presentation

Dustin Griffin, manager of Liliths Sugar Shack, LLC., said the location is in John's Pass and was formerly the Sandbar, which had a 2COP License selling ice cream, beer, wine, and adult and

children floats. They are establishing a similar business there, selling ice cream, coffee, smoothies, and hopefully beer and wine. They have not opened officially but hope to in the next couple of weeks. The building is being cleaned up and ready to go, so they hoped to get approval.

The City Attorney asked the Board if they had any questions for the applicant. There were none.

### City Staff Presentation

Long Range Planner Andrew Morris read the City staff report in the agenda packet:

#### **Background**

Pursuant to Land Development Code Article VI, Division 6, Alcoholic Beverages, the applicant for ABP 2023-04 is requesting authorization from the Board of Commissioners for the approval of a 2COP Alcoholic Beverage License with the intent to sell beer and wine for consumption on premises at Liliths Sugar Shack at 121 129th Avenue E, Madeira Beach, Florida 33708. This establishment is in the C-1, Tourist Commercial Zoning District, and in the Commercial General Future Land Use. As required in Section 110-539, the Notice of Public Hearing was properly sent to all property owners within 300 feet of the subject property 15 days prior to the scheduled consideration by the Board of Commissioners. Such notice has also been posted on the subject property.

Mr. Morris said the packet had a picture of the notice and where it was posted, and the mailing list.

#### **Discussion**

When considering the alcoholic beverage application, the Board of Commissioners shall consider the following factors:

**(1) The extent to which the location and the extent to which the proposed alcoholic beverage request will adversely affect the character of the existing neighborhood.**

Liliths Sugar Shack is in the C-1, Tourist Commercial Zoning District. This zoning district's purpose is to recognize the unique commercial, marine, tourist, and historic value of John's Pass Village. A cafe that sells beer and wine is an allowed use in the C-1 Zoning District and fits the character of the existing neighborhood. The previous tenant at this location had a 2COP Alcoholic Beverage License. The proposed alcoholic beverage license use is compatible with the Zoning District and would not adversely affect the character of the existing neighborhood.

**(2) The extent to which traffic generated as a result of the location of the proposed alcoholic beverage request will create congestion or present a safety hazard.**

The Madeira Beach Code of Ordinances, *Section 110-954. Special parking areas* reduces the parking requirements by 50% for properties within the C-1 Tourist Commercial, Zoning District. The applicant listed three parking spaces and a multi-stall bike rack on the application. Bike racks are equal to three parking credits, this makes the parking spaces count a total of six spaces. The location would serve

customers via a walkup window and have seating on property. The proposed alcohol beverage license use will not create congestion or present a safety hazard.

**(3) Whether or not the proposed use is compatible with the particular location for which it is proposed.**

This establishment is not located within three hundred feet of a church, synagogue, temple, or place of religious worship, public or private school operated for the instruction of minors, or youth recreation (community) center. Liliths Sugar Shack is in the C-1 Tourist Commercial, Zoning District, which is a commercial focused district that has a mix of businesses for both residents and visitors. Other nearby businesses sell alcohol within this Zoning District. This location was previously approved for an alcoholic beverage license. The proposed alcohol beverage license use would be compatible with the location.

**(4) Whether or not the proposed use will adversely affect the public safety.**

The proposed alcoholic beverage license use would not adversely affect public safety. This location previously had an approved alcoholic beverage license. The proposed alcoholic beverage license would be the same type of alcoholic beverage license as what was previously approved. The proposed alcoholic beverage license use would be a similar level of use to what was previously approved.

**(5) No application for review under this section shall be considered until the applicant has paid in full any outstanding charges, fees, interest, fines or penalties owed by the applicant to the city under any section of the Code.**

The applicant has no outstanding fines, or penalties owed to the City under any section of the Code.

**Recommendation(s)**

Staff recommended approval of 2COP Alcoholic Beverage License Application # 2023-04 with stated intent to sell beer and wine for consumption on premises at Liliths Sugar Shack with the following conditions:

1. Alcohol must be consumed on property.
2. Any alterations of the building require a building permit.

**Attachments:**

- Application
- Public Notice Mailing and Posting
- Survey from Previous Application for ABP 2023-04 Memorandum

The City Attorney asked Mr. Morris if he wanted to enter his staff report into evidence, and he said yes.

The City Attorney asked if there were any questions from the Board.

Vice Mayor Kerr said John's Pass Village is not a wet zone. They must make sure they have the staff conditions placed into any motion. He did not see any seating on the package. The City Attorney said that would have to be addressed when they do their building permit if they are going to make changes to it. If not, it would be addressed by way of the approval of this application. The Vice Mayor said he wanted to make sure the applicant realized the package good is not what it is all about. The City Attorney said that was a good point to make.

The City Attorney asked if there was anyone from the public that wished to address the application. There were none.

The City Attorney said it is back to the Board for approval by motion. As the Vice Mayor had stated, it will be important when making the motion to include the two conditions that were referenced in the staff recommendation.

Vice Mayor Kerr motioned to approve the 2COP Alcoholic Beverage License Application ABP #2023-04 with the following conditions as staff provided:

1. Alcohol must be consumed on property.
2. Any alterations of the building require a building permit.

Commissioner McGeehen seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner McGeehen	"YES"
Commissioner Brooks	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**10. UNFINISHED BUSINESS**

**A. Resolution 2023-04, Emergency Operations Plan 2023-25**

City Attorney Tom Trask read Resolution 2023-04 by title only:

**RESOLUTION 2023-04**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, PROVIDING FOR THE ADOPTION OF THE CITY OF MADEIRA BEACH EMERGENCY OPERATIONS PLAN DATED MAY 10, 2023; AND PROVIDING FOR AN EFFECTIVE DATE.**



The City Manager said the item is an update to the Emergency Operations Plan. It is reviewed every year prior to the start of hurricane season. There are no significant changes other than to the contact information.

The Mayor opened to public comment. There were no public comments.

Vice Mayor Kerr motioned to approve Resolution 2023-04, Emergency Operations Plan 2023 through 2025. Commissioner Brooks seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**B. Resolution 2023-05, BOC Policy Handbook**

City Attorney Tom Trask read Resolution 2023-05 by title only:

**RESOLUTION 2023-05**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, AMENDING THE BOARD OF COMMISSIONERS POLICY HANDBOOK; REPEALING RESOLUTION 2022-05; AND PROVIDING FOR AN EFFECTIVE DATE.**

The Mayor opened to public comment. There were no public comments.

Mayor Rostek said the only change to the book is the public comment time limit was changed from three minutes to five minutes, and there can be an open exchange of information. Usually, the mayor will talk back and forth, and if they do not have the answers, they will get that for them.

Vice Mayor Kerr said they also added language about completing a comment card on the front page of the agenda packet. The Mayor said that is how they will contact them by completing a public comment card with an email address or phone number so there is an open line of communication back and forth, so things do not drop into a black hole. They do not want that because it makes everybody unhappy.

Vice Mayor Kerr motioned to approve Resolution 2023-05, BOC Policy Handbook. Commissioner Brooks seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**C. Special Magistrate Lien at 14033 E. Parsley Drive, Madeira Beach, Case No. 2021.1296 (Murray)**

The City Attorney said there is a memorandum from him in the packet dated March 28, 2023, asking the Board to accept a \$5,000 settlement offer from the property owner of 14033 E. Parsley Drive in Madeira Beach. He said that on October 28, 2022, the Special Magistrate found the subject property in violation of Section 14-70 (General Maintenance) of the city code, and an Order Imposing Fine was executed by the Special Magistrate, which imposed a fine for \$250.00 per day (plus interest) for this lien against the owner. The property was thereafter brought into compliance, by demolition, on March 5, 2023. Recently Ms. Giles contacted me by e-mail and made a settlement offer on the seller's behalf for \$5,000.00 in exchange for a release of the Special Magistrate lien. The violation resulted in fines of \$25,500.00 plus interest and recording costs for a total amount due the City, as of March 31, 2023, in the amount of \$25,641.77. He was asking the Board to accept the \$5,000 settlement offer to release the lien.

Mayor Rostek opened to public comment. There were no public comments.

Commissioner Brooks said they discussed it at the workshop meeting, and all agreed it was a fair settlement.

Commissioner Brooks motioned to approve the Special Magistrate Lien at 14033 E. Parsley Drive, Madeira Beach, Case No. 2021.1296 (Murray) for \$5,000. Commissioner McGeehen seconded the motion.

**ROLL CALL:**

Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Vice Mayor Kerr	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**11. CONTRACTS/AGREEMENTS**

There were no items listed under Contracts and Agreements.

**12. NEW BUSINESS**

**A. Resolution 2023-06, Nominating Redington Beach Mayor David Will as the City's Representative to Forward Pinellas**

City Attorney Tom Trask read Resolution 2023-06 by title only:

**RESOLUTION 2023-06**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, NOMINATING REDINGTON BEACH MAYOR DAVID WILL AS THE CITY'S REPRESENTATIVE TO FORWARD PINELLAS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Rostek opened to public comment. There were no public comments.

Vice Mayor Kerr said he sat through many Big-C meetings, and Mayor Will is a great choice.

Vice Mayor Kerr motioned to approve Resolution 2023-06, Nominating Redington Beach Mayor David Will as the City's Representative to Forward Pinellas. Commissioner Brooks seconded the motion.

**ROLL CALL:**

Vice Mayor Kerr	"YES"
Commissioner Brooks	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**B. Appointment to Civil Service Commission**

The City Manager said there is one applicant for appointment to the Civil Service Commission, Mr. Jerry Cantrell.

Jerry Cantrell, applicant, said he knows that the Civil Service Commission is a lot of human resource decisions looking at things to do with employees and working with the City Manager, and getting information back to the Board. In that capacity, he has over 20 years of experience working in administrative level positions to where he had to involve human resources and, at times, legal advice to handle different employee-type situations. He feels he can work very well at doing that and asks that the Board accept his application.

Mayor Rostek opened to public comment. There were no public comments.

Commissioner Brooks said when reviewing the application, she noticed that he indicated yes and not that he would be available for daytime meetings. Mr. Cantrell said that was correct.

Commissioner Brooks said the reason for her asking is that he would be a fantastic volunteer for the position and that most meetings are held during the day, some mornings. They do not meet that often, but when they have a meeting, it is important to attend. She did not want there to be a conflict. Mr. Cantrell said it would not be a conflict. It is easier in the summer and holidays, but for vacations, it is possible for him to request personal time.

Commissioner Brooks motioned to approve the appointment of Jerry Cantrell to the Civil Service Commission. Vice Mayor Kerr seconded the motion.

**ROLL CALL:**

Commissioner Brooks	"YES"
Vice Mayor Kerr	"YES"
Commissioner McGeehen	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

**C. Appointment to Gulf Beaches Public Library Board – Alternate Member**

This item was moved to after the Consent Agenda earlier in the meeting.

**D. Appointing a Commission Representative to the Tampa Bay Regional Planning Council (TBRPC)**

Community Development Director Jenny Rowan said the Tampa Bay Regional Planning Council (TBRPC) is an association of local governments and gubernatorial representatives that coordinate Regional Planning in the Tampa Bay Metro Area. The City of Madeira Beach is a member government of the Tampa Bay Regional Planning Council (TBRPC). The Council's Bylaws require an elected City Commissioner to serve as a member of the Council. The Madeira Beach Board of Commissioners will need to appoint a Commission Representative. The Commissioner that is appointed will need to attend Council Meetings. Attached to the memo is the schedule for upcoming TBRPC Council meetings. In the packet is a schedule of their upcoming council meetings. The next meetings are on June 12, 2023, August 14, 2023, October 9, 2023, and December 11, 2023. The City pays annual dues of \$2,000, and is paid through September 2023.

Vice Mayor Kerr said he would like to nominate Commissioner Brooks to serve as the Board's representative on the Tampa Bay Regional Planning Council. Commissioner Brooks accepted the nomination.

Mayor Rostek opened to public comment. There were no public comments.

Vice Mayor Kerr motioned to approve the appointment of Commissioner Brooks to serve as the Board's representative on the Tampa Bay Regional Planning Council. Commissioner McGeehen seconded the motion.

## ROLL CALL:

Vice Mayor Kerr	"YES"
Commissioner McGeehen	"YES"
Commissioner Brooks	"YES"
Mayor Rostek	"YES"

The motion carried 4-0.

## 13. STAFF REPORTS

There were no staff reports.

## 14. AGENDA SETTING

- A. Pinellas County Insurance Advocate Presentation**
- B. Gulf Beaches Public Library Board discussion including Interlocal Agreement with Pinellas County**
- C. Engineering of Record Extension**
- D. Densities and Intensities consistent with Forward Pinellas**
- E. Land Development Regulations /City Master Plan**
- F. Campaign Signs (yard)**
- G. City Manager's Monthly Report – April 2023**

The City Manager commented:

- For Item B, they will also bring the Library Board's budget for the next fiscal year.
- For Item C, they have one year left for the engineer of record. They are proceeding with the RFQ, but to keep project continuity, they need to approve it. Then when they receive the RFQs, they can make the change.

Items added to the workshop agenda:

- Mayor Rostek – Kitty Stuart Park.

Items added to future workshop agenda:

- Vice Mayor Kerr - sprinklers on the common area on Lillian in teardrop park.

## 15. REPORTS/CORRESPONDENCE

### **A. Board of Commissioners**

Commissioner Brooks commented on a recent complaint they received regarding an election complaint.

**B. City Attorney**

No report.

**C. City Manager**

No report.

**D. City Clerk**

No report.

**16. ADJOURNMENT**

Mayor Rostek adjourned the meeting at 7:34 p.m.

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James “Jim” Rostek, Mayor

ATTEST:

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Clara VanBlargan, MMC, MSM, City Clerk