

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20041354**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve and authorize Chairman to execute an interlocal agreement between Lee County and the Town of Fort Myers Beach for the Lee County Tourist Development Council Beach & Shoreline CIP project, Newton Beach Park. Approve budget transfer of \$300,000 and amend the Fiscal Year 2004-05/2008-09 Capital Improvement Program budget accordingly.

**WHY ACTION IS NECESSARY:** The Board of County Commissioner must approve all transfers and agreements.

**WHAT ACTION ACCOMPLISHES:** Provides a mechanism to reimbursement the Town of Fort Myers Beach with TDC beach and shoreline capital improvement program funds.

**2. DEPARTMENTAL CATEGORY:** 1

**COMMISSION DISTRICT #:** 3

*CIA*

**3. MEETING DATE:**

*11-09-2004*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT *Visitor & Conv. Bureau*
- C. DIVISION
- BY: *D.J. Minich, Executive Director*

*[Signature]*

**7. BACKGROUND:**

In April 2002, the Tourist Development Council (TDC) agreed to set aside \$500,000 in reserves for future use by the Town of Fort Myers Beach to develop the Newton Beach Park facility. Following a written request for funding by the Town, on July 9, 2004, the TDC recommended funding up to \$300,000 from reserves for initial work at the Newton property. The balance of \$200,000 from the initial set aside remains available for additional development of this park facility.

The attached interlocal agreements authorize the Town of Fort Myers Beach to perform the specified work and County staff to reimburse the City for expenses incurred. The project is as follows:

202031.....Newton Beach Park.....\$300,000.00

Funds will be available in account number 20203130101.508150, Capital Projects, Newton Beach Park, Capital Improvement Fund, Tourist Tax, Grants and Aids to Local Governments.

- Attachments: 1. Request for Transfer of Funds  
2. Agreement for Tourist Tax Funding (three originals)

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services <i>Cyrm 10/26</i>				G County Manager
					OA	OM	Risk	GC	
<i>[Signature]</i> 10.18.04	<i>[Signature]</i>	<i>Y/A</i>		<i>[Signature]</i>	<i>[Signature]</i>	<i>10/26/04</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i> 10-27-04

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

**Rec. by CoAtty**  
Date: *10/27/04*  
Time: *2:00*  
Forwarded To: *[Signature]*

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
10/27/04  
4:25 pm  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
10/27/04  
2pm



**AGREEMENT FOR TOURIST DEVELOPMENT TAX FUNDING**

THIS AGREEMENT is entered into by and between LEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the “**COUNTY**” and the Town of Fort Myers Beach, a municipality incorporated in the State of Florida, hereinafter referred to as “**RECIPIENT**”, for funding provided by Lee County pursuant to its Tourist Development Plan.

**WITNESSETH:**

**WHEREAS**, pursuant to Florida Statutes §125.0104 and Lee County Ordinance No. 01-16, Lee County collects tourist development tax; and

**WHEREAS**, **COUNTY** and **RECIPIENT** acknowledges that the tourist development tax may only be spent in accordance with the Tourist Development Plan adopted by Lee County; and

**WHEREAS**, the **COUNTY** has approved the **RECIPIENT’S** request for funding under its Tourist Development Tax Plan for implementation of the following project:

NAME:        Newton Beach Park

NUMBER:    202031

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

1. The **RECIPIENT** will perform the work as outlined in the project description and submit a detailed invoice to the **COUNTY**. The **COUNTY** will then reimburse the **RECIPIENT** for the amount not to exceed \$300,000.00 during the **COUNTY'S** fiscal year 2004.
2. Funding is solely limited to the project as described in the forms submitted by the **RECIPIENT** to the Tourist Development Council. **RECIPIENT** may not make any major alterations, changes or substitutions to the project description without obtaining prior approval from the Tourist Development Council and **COUNTY**. Minor changes, alterations and/or substitutions may be approved by the Director of the Visitor Convention Bureau or her designee.
3. This Agreement is subject to the **RECIPIENT** complying with the following Special Conditions: Funds may not be used for (1) the creation of a 12 car parking area (2) the demolition/removal of the carport structure, (3) shuffle board court, and (4) picnic tables included in the RECIPIENT request (Exhibit "A"), as these expenditures were deemed ineligible.
4. **RECIPIENT** shall provide to **COUNTY** evidence of substantial activity within eighteen (18) months at the beginning of the fiscal year.
5. Unspent or unencumbered revenue remaining at the end of the fiscal year may be carried over into the next fiscal year, contingent upon approval of the Board of County Commissioners.

6. Accurate records of all expenditures shall be maintained by the **RECIPIENT**, and these records shall be made available at all reasonable times for inspection, review or audit by the **COUNTY**. Records shall be kept for a period of at least three (3) years following the end of the funding period.
7. **RECIPIENT** will submit quarterly reports to the **COUNTY**. Expenditure reports must be accompanied by sufficient supporting invoices documentation to support pre-audit and post-audit review. The sufficiency of said documentation shall be determined by the Clerk of the Circuit Court, who may seek additional information as the circumstances require.
8. The **COUNTY** shall not be liable to any person, firm or corporation that contracts the project conducted with the funding. Nor shall the **COUNTY** be liable to any person, firm or corporation for claims against the **RECIPIENT** or debts incurred by the **RECIPIENT**.
9. The **RECIPIENT** shall reimburse the Lee County Tourist Development Tax Trust Fund for any sums adjudged by a court of competent jurisdiction to be an unauthorized expenditure.
10. The **RECIPIENT** covenants to the **COUNTY** that it has lawful authority to enter by its authorized representative.

11. This agreement may not be modified, amended or extended orally. This agreement may be amended only by written agreement executed by the governing bodies of both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed by the undersigned officials, as duly authorized this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
DEPUTY CLERK

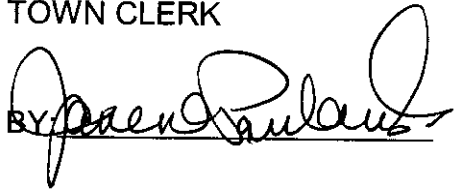
BY: \_\_\_\_\_  
CHAIRMAN

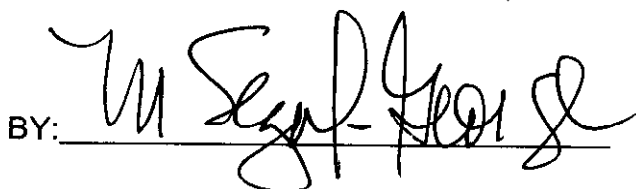
APPROVED AS TO FORM

BY: \_\_\_\_\_  
COUNTY ATTORNEY'S OFFICE

ATTEST:  
TOWN CLERK

TOWN OF FORT MYERS BEACH, FLORIDA

BY:  \_\_\_\_\_

BY:  \_\_\_\_\_

APPROVED AS TO FORM

BY:  \_\_\_\_\_  
TOWN ATTORNEY

EXHIBIT "A"

Town of Fort Myers Beach



Bill Thomas  
Mayor

Garr Reynolds  
Vice-Mayor

Don Massucco  
Seat 1

Howard Rynearson  
Seat 3

Bill VanDuzer  
Seat 5

D.T. Minich  
Executive Director  
Lee County Visitor & Convention Bureau  
2180 West First Street, Suite 100  
Fort Myers, FL 33901-3221

June 24, 2004

RE: Newton Beach Park

Dear D.T.,

The Town of Fort Myers Beach recently contracted Pandion Systems to provide a restoration and recreational development plan for the Newton Property in order to facilitate implementation of the development goals outlined in the property's management plan.

The document Pandion has produced breaks the park's development into a series of tasks, 12 in all. These tasks provide flexibility for the site's development; accounting for situation dependant items, such as the establishment of a beach dune ecosystem to coincide with the Estero Island Beach re-nourishment project. This development flexibility is critical to Town's goal of maximizing value out of restoration funds, while at the same time providing the public with an outstanding, pedestrian friendly, beach park facility by the fall of 2004.

In keeping with these goals, the Town has identified tasks 1-3 of the development plan, highlighted in table 1a: **Newton Park Development Tasks**, as critical components to the establishment of the beach park. As such, the Town intends on moving forward with tasks 1-3 to be able to open the facility by the fall of this year!

table 1a: Newton Park Development Tasks	
Task #	Description
1- Initial Removal of Exotic Plants	Removal of exotic plants on the property to include: <ul style="list-style-type: none"> <li>• Australian Pines</li> <li>• Removal of 2 Seaside Mahoe shrubs by the vehicle entrance and removal of alternating shrubs throughout the remaining Estero Frontage</li> <li>• Other various exotic species on the property</li> </ul>
2-Initial Installation of Plants and Nature Trail	Installation of native plant species throughout the property 1 month after completion of the exotic removal. Creation of a nature trail on the property
3-Initial Development of Recreational Facilities and Amenities	<ul style="list-style-type: none"> <li>• Creation of a 12 car parking area</li> <li>• Establishment of plaza/walkway from Estero Blvd to the eastern edge of the seawall</li> <li>• Demolition/Removal of the carport Structure</li> <li>• Shuffleboard court</li> <li>• 1 Picnic area with 2 picnic tables</li> <li>• Bicycle rack</li> </ul>

# Town of Fort Myers Beach

---



*Bill Thomas*  
Mayor

*Garr Reynolds*  
Vice-Mayor

*Don Massucco*  
Seat 1

*Howard Ryneerson*  
Seat 3

*Bill VanDuzer*  
Seat 5

In order to accomplish this, the Town is asking that the TDC permit use of \$300,000, of the \$500,000 the TDC previously committed for development of the Newton property. This funding would be used to accomplish tasks 1-3 of the Newton Beach Park Restoration and Recreational Development Plan, with any unused portion of the \$300,000, in addition to the remaining \$200,000, to remain dedicated for future Newton site development.

Pending TDC approval, the Town will solicit bids to conduct tasks 1-3 and will award contracts to the lowest responsive bidder(s). The Town will not request reimbursement for any specific task items that the TDC finds it is unable to fund.

The Town asks that the TDC consider this funding request at their July 9<sup>th</sup> meeting, in order to meet the Park's Fall 2004 opening goal. I would like to thank you and the TDC for consideration of this matter. If you would like to discuss this request, or the project in further detail please give me a call.

Sincerely,

Matt Feeney  
Director of Public Services  
Town of Fort Myers Beach

Cc: FMB Council Members  
Marsha Segal-George, Town Manager

-Tamara Pigott, Beach & Shoreline Project Manager