

Town of Fort Myers Beach  
Agenda Item Summary

Blue Sheet Number: 2013-137

1. **Requested Motion:** Motion to Approve Sponsorship Policy

**Meeting Date:** 11/18/13

**Why the action is necessary:** To provide guidelines for the Town's sponsorship program

**What the action accomplishes:** Adopts a formal written policy for the Town's Sponsorship Program

2. **Agenda:**

Consent  
 Administrative

3. **Requirement/Purpose:**

Resolution  
 Ordinance  
 Other

4. **Submitter of Information:**

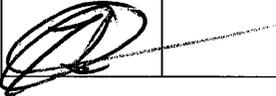
Council  
 Town Staff  
 Town Attorney

5. **Background:** The Town attorney has recommended that the Town adopt a formal written policy that contains guidelines concerning the Town's Sponsorship Program. A formal written policy will assist Town staff in evaluating sponsorship applicants and in administering the Sponsorship Program. A copy of the proposed written policy is attached.

6. **Alternative Action:** Decline to adopt the policy.

7. **Management Recommendations:** Adopt the policy.

8. **Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
					R.N.	

9. **Council Action:**

Approved    Denied    Deferred    Other

## **Town of Fort Myers Beach Sponsorship Policy**

The Town of Fort Myers Beach Sponsorship Program offers sponsoring entities the opportunity to participate in certain Town activities and events in a way that can complement or enhance an entity's marketing efforts. By participating, sponsors contribute to a public service and help save taxpayer dollars while reaching the target audience they seek.

### **I. GENERAL POLICY STATEMENT**

The Town of Fort Myers Beach shall seek sponsors that further its mission by providing monetary or in-kind support for town programs or services. The Town of Fort Myers Beach realizes that the public trust and perception of its impartiality may be damaged by sponsorships that are aesthetically displeasing, politically oriented, or offensive to segments of its citizenry. When the Town loses public trust and public perception of impartiality, its ability to govern effectively in the interest of its citizens is impaired. Therefore, the Town of Fort Myers Beach permits private sponsorships of government events, programs or services in limited circumstances as a means to generate funds for improving or expanding those events, programs and services. The Town of Fort Myers Beach currently limits its sponsorship program to nonpublic forums and exercises sole discretion over who is eligible to become a sponsor according to the terms of this Policy.

Whenever possible, sponsorships shall be linked to specific activities, events, programs or publications. The Town of Fort Myers Beach will neither seek nor accept sponsors that manufacture products or take positions inconsistent with local, state, or federal law or with Town of Fort Myers Beach policies, positions, or resolutions. The acceptance of an Application for Sponsorship or the establishment of a sponsorship agreement does not constitute an endorsement by the Town of Fort Myers Beach of the sponsor's organization, products or services.

### **II. PURPOSE AND INTENT**

The purpose of this Policy and its related practices and guidelines are to define the conditions upon which sponsorship messages may be placed upon property or in publications of the Town and to establish definitive guidelines for the acceptance and placement of such messages. It is the intent of the Town of Fort Myers Beach to preserve its full rights and discretion to restrict access to Town properties or Town publications and to reject or refuse placement of any or all sponsorship messages. To the extent that any such messages are accepted, the Town of Fort Myers Beach reserves the right of full editorial control over the placement, content, appearance and wording and to determine and prohibit types of sponsorship messages which are deemed inappropriate for or inconsistent with the business of the Town or the services provided to Town of Fort Myers Beach residents. Sponsorships are not to be confused with corporate donations or gifts for which there is no recognition or compensation. This policy is not applicable to gifts, grants or unsolicited donations in which no benefits are granted to the corporation and where no business relationship exists.

More specifically, the purpose of this policy is to:

(1) Clearly state that by authorizing sponsorships and the display of sponsorship material in certain areas of the Town, the Town is not authorizing or establishing a public forum for

communication and debate. The rights granted by the sponsorships are established and retained at Town of Fort Myers Beach's discretion. The Town of Fort Myers Beach reserves the right to amend these policies and standards at any time. Any revisions or amendments to this policy will be in writing and supplied to all advertising contractors.

(2) To outline the guidelines and procedures for entering into sponsorship agreements consistent with Town of Fort Myers Beach's mission.

(3) To recognize that sponsorships provide an effective means of generating new revenues and alternative resources to support Town of Fort Myers Beach's programs and services.

(4) To establish definitive guidelines for the acceptance and placement of sponsorship messages placed upon property or in publications of the Town.

### **III. DEFINITION OF TERMS**

"Sponsorship" is the right of an external entity (for-profit or not-for-profit) to associate its name, products, or services with Town of Fort Myers Beach events, programs, services, or name. Sponsorship is a business relationship in which the Town of Fort Myers Beach and the external entity exchange goods, services, and donations for the public display of a message on Town property acknowledging private support.

The term "open, limited, or designated public forum" means either a forum under the control of the Town that is traditionally open to the unfettered exchange of ideas, (such as a park or a sidewalk), or a forum under the control of the Town that is non-traditionally open but is nevertheless intentionally and affirmatively opened by the Town for speech (such as a street-side kiosk for posting pamphlets or a special area designated for making speeches).

The term "nonpublic forum" is broadly defined as any property that is not by tradition or designation a forum for public communication (such as most government publications and websites).

### **IV. SPONSORSHIP STANDARDS, GUIDELINES AND RESTRICTIONS**

In addition to the terms and conditions set forth in each Sponsorship Package, the following standards, guidelines and restrictions shall apply:

#### **A. SPONSORSHIP CRITERIA**

The following criteria shall be taken into consideration when evaluating a sponsorship proposal to determine compatibility; in all cases the Town of Fort Myers Beach Town Council and Town Manager will have the prerogative to accept or reject a proposal:

- The compatibility of the corporation's products, customers and promotional goals with Town of Fort Myers Beach's mission;
- The corporation's past record of involvement in the community and Town projects;
- The desirability of association – the image;
- The timeliness or readiness of the corporation to enter an agreement;

- The actual value in cash, or in-kind goods or services, of the proposal in the relation to the benefit to the corporation;
- Community support for, or opposition to, the proposal;
- The operating and maintenance costs associated with the proposal; and
- The corporation's record of responsible environmental stewardship.

#### B. CRITERIA FOR SPONSORSHIP OFFER

Sponsorship Offers for Town of Fort Myers Beach events, programs or services shall clearly outline the form(s) of support sought and offered, and the recognition to be given by the Town. Acceptance of a sponsorship offer by the Town shall result in the creation of a sponsorship agreement that will detail the following information, at a minimum:

- Activities, products and services of the private entity, its parent, subsidiaries, affiliates and predecessor companies;
- Benefits to be given to the proposed sponsor by Town of Fort Myers Beach, and the estimated monetary value of those benefits;
- Benefits given to Town of Fort Myers Beach by the proposed sponsor, and the estimated monetary value of those benefits;
- Prominence of the proposed public recognition of support;
- Content of the proposed public recognition of support;
- Duration of the proposed public recognition of support; and
- Conditions under which the sponsorship agreement may be terminated.

The Town of Fort Myers Beach recognizes that entering into a sponsorship agreement with an external entity does not constitute an endorsement of the entity or its services and products but does imply an affiliation. Such affiliation can affect the reputation of Town of Fort Myers Beach among its residents and its ability to govern effectively. Therefore any proposal for sponsorship of a Town of Fort Myers Beach program or service in which the involvement of an outside entity compromises the public interest will be rejected. Town of Fort Myers Beach shall consider the following criteria before accepting a sponsorship offer or entering into a sponsorship agreement:

- Extent and prominence of public display of sponsorship;
- Aesthetic characteristics of the public display of sponsorship;
- Importance of the sponsorship to the mission of Town of Fort Myers Beach;
- Level of support provided by sponsor;
- Cooperation necessary from other Town of Fort Myers Beach units to implement the

sponsorship;

- Inconsistencies between Town of Fort Myers Beach policies and the known policies or practices of the potential sponsor;
- Other factors that might undermine public confidence in the Town's impartiality or interfere with the efficient delivery of Town services or operations, including, but not limited to, current or potential conflicts of interest between the sponsor and Town of Fort Myers Beach employees, officials, or affiliates; and the potential for the sponsorship to tarnish the County's standing among its residents or otherwise impair the ability of Town of Fort Myers Beach to govern its residents.

#### C. PERMISSIBLE SPONSORS AND MESSAGE CONTENT

Sponsorships on Town of Fort Myers Beach property are maintained as a nonpublic forum. The Town of Fort Myers Beach intends to preserve its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorships and their affiliations and messages. Town of Fort Myers Beach may make distinctions on the appropriateness of sponsors on the basis of the subject matter of a potential sponsorship recognition message. Town of Fort Myers Beach will not deny sponsorship opportunities on the basis of the potential sponsor's viewpoint.

#### D. PERMISSIBLE RECOGNITION MESSAGES

Sponsorship recognition messages may identify the sponsor but ordinarily should not promote or endorse the organization or its products or services. Statements that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services or organizations will ordinarily not be accepted. In accordance with the provisions of Section V of this Policy, the Town Manager and the Director of Parks and Recreation shall have the ultimate authority to determine what is permissible in a recognition message. Only the following content will be deemed appropriate:

- The legally recognized name of the sponsoring organization;
- The sponsor's organizational slogan if it identifies rather than promotes the organization or its products or services;
- The sponsor's product or services line, described in brief, generic, objective terms. Generally, only one product or service line may be identified;
- Brief contact information for the sponsor's organization, such as a phone number, address or internet website;
- Sponsor contact information should be stated in a manner that avoids an implication of urging the reader to action.

The Town of Fort Myers Beach will not make any statements that directly or indirectly advocate or endorse a sponsor's organization, products, or services. No materials or communications, including, but not limited to, print, video, Internet, broadcast, or display items developed to promote or communicate the sponsorship using Town of Fort Myers Beach's name, marks, or logo may be issued without written approval from the Town of Fort Myers Beach Manager and Town Attorney, or their designees.

#### E. PROHIBITED MESSAGE CONTENT

Sponsorship from an organization that is engaged in any of the following activities, that has a mission of supporting any of the following subject matters, or that, in the sole discretion and judgment of the authorized representative of the Town or the Town Council, is deemed unsuitable for and contrary to community standards or appropriateness for government publication, shall be prohibited on any Town property or in Town publications:

- Promotion of the sale or consumption of alcoholic or cereal malt beverages, in name likeness or implication or promotion of establishments that are licensed for and primarily sell alcoholic or cereal malt beverages, including bars; provided, however restaurants or other food services establishments and hotels or other place of lodging may be authorized when the commercial message or advertisement promotes only the food services or lodging;
- Promotion of the sale or consumption of tobacco products or depiction of the use of tobacco products;
- Commentary, advocacy or promotion of issues candidates campaigns or organizations of social, political, religious, or rhetorical nature;
- Promotion of gambling, pari-mutual betting, or games of chance, in name, likeness or implication, or promotion of establishments providing such services or activities of a related or similar nature;
- Depiction in any form of nudity or semi-nudity, profanity, obscenity, or lewdness, or characterizations which suggest, depict or promote any such element or sexually oriented products, activities or materials;
- Promotion in any form of illegal drugs, illegal drug use or illegal drug materials, or characterizations which suggest or depict the promotion or glorification of any such products, activities or materials;
- Promotion of the use or sale of firearms, explosives or other weapons, or the depictions, suggestion or glorification of violence or acts of a violent nature;
- Use of language or descriptive materials which taken in form and context is deemed to be unsuitable for a contrary to community standards of appropriateness for governmental for family publications;
- Use of words, language, representations or descriptive materials of any kind having more than one meaning or connotation, one of which would otherwise be prohibited under this Policy;
- Inclusion of materials, depictions, promotions or offerings which are the type prohibited by, or by their nature would violate, any postal restrictions or regulations or any federal, state or local law, rule or regulation.

#### F. OTHER GENERAL CONDITIONS:

1. Sponsors are solely responsible for obtaining necessary permission to use photographs, trademarks, trade names, copyrighted material or any other legally protected property and

shall hold the Town harmless for any such use, including all consequences or damages resulting therefrom. All commercial messages or advertisements shall be accepted and published by the Town upon the representation that the agency or sponsor is authorized to publish the entire contents and subject matter thereof. Sponsor agrees to indemnify and hold harmless the Town, its officers, agents and employees against all damages, costs and expenses including, without limitation, attorney's fees resulting from any claim, action or proceeding alleging that the commercial message or sponsorship infringes on any copyright, violates any right of privacy, or other personal or property right, constitutes libelous matter, plagiarism, unfair competition, unfair trade practice, infringement of trademarks, or other matter contrary to law or contains any formula or instructions injurious to the user of a sponsor's product.

2. Sponsors assume liability for all content (including text photographs, representations, illustrations, sketches, maps, labels, trademarks or other copyrighted matter) of sponsorship message printed or placed and also assume responsibility of any claims arising therefrom made against the Town.

3. The Town is not liable for delays in publication or presentation of sponsorship messages in any event or for any reason, including acts of God, action by any governmental or quasi-governmental entity, lack of funds, fire, flood, insurrection, riot, explosion, embargo, strikes whether legal or illegal, labor or material shortage, transportation interruption of any kind, work slowdown, or any condition beyond the control of the Town, affecting publication or presentations of sponsorship in any manner.

4. If an error or omission occurs in the publication or placement of any sponsorship message, the Town's liability shall be limited to the amount of reduction in the value of the sponsorship due to the error or omission, but in no event shall liability exceed the total cost payable for the sponsorship space.

5. The words "a paid sponsorship", or some like term, may be added to sponsorship messages that, in the sole opinion of the Town, might be confused with editorial matter.

#### **V. PROCESS OF SECURING SPONSORSHIPS**

1. The Parks and Recreation Director shall review each potential sponsor to determine whether the Sponsor falls within the adopted standards and guidelines.

2. Sponsors seeking to enter into agreement for sponsorship shall be recommended to the Parks and Recreation Director for approval based on compatibility within the adopted guidelines, standards and restrictions set forth in this policy.

3. The cost of each Sponsorship Package will be based on the value of the exposure and the amount of benefits that are received by the potential sponsor for each sponsorship.

4. All details involved with a Sponsorship Package will be approved by the Director of Parks and Recreation and others as outlined therein.

5. All billing for sponsorship fees will be processed through the Town of Fort Myers Beach's Finance Department.

## **VI. AUTHORIZATION REQUIREMENTS AND PROCESS**

All property and publications of Town of Fort Myers Beach are intended and exclusively used for business operations of the Town in providing governmental services and programs to and for the Town residents, and, except as required by law or expressly established by an affirmative action of the Town Council, no property or publication of the Town shall be intended or considered as an open, limited or designated public forum, and no person shall have a right to access or use any Town property or publication for any purpose other than the intended and authorized governmental purpose or service. Placement of sponsorship messages upon Town property or in Town publications shall require specific authorization.

Town of Fort Myers Beach possesses sole and final decision-making authority for determining the appropriateness of a sponsorship relationship and reserves the right to refuse to enter into any proposed sponsorship agreement. Sponsorship requests shall be submitted through a Sponsorship Offer Form ("Sponsorship Offer") and sponsorship agreements based on responses to a Sponsorship Offer shall be reviewed in accordance with the following authorization procedures and guidelines:

- Sponsorship agreements projected to generate \$10,000 or more shall require the written approval of the Town Manager, who shall inform the Town Council.
- Sponsorship agreements projected to generate less than \$10,000 shall require the written approval of the Parks and Recreation Director.
- At the discretion of the Town Manager, any proposed sponsorship agreement may be referred to the Town Council for approval.

## **VII. ADDITIONAL CONSIDERATIONS**

1. **USE OF FUNDS** – All funds derived from the acceptance of placement sponsorship messages shall be recorded, accounted for and used by the department, office, or related entity for authorized purposes in accordance with applicable, standard policies and procedures adopted by the Town Council for the budgeting and expenditure of funds.

2. **SPECIAL EVENTS** – Nothing in this Policy shall be interpreted to prohibit the conduct of special events by the Town or its offices, departments or related entities and the use and recognition by sponsors, products, sales or prizes including the United Way, Arts and Science Council campaigns or similar programs and events.

3. **ETHICAL CONDUCT** – All offices, departments, and related entities of Town of Fort Myers Beach and its employees shall follow the highest level of ethical standards dealing with sponsors or in the implementation of this Policy.

4. **IMPLEMENTATION** – This Policy shall be and become effective upon the adoption by the Town Council and shall thereafter apply to the acceptance and placement of sponsorship messages as provided in the Policy; provided, however, that sponsorship messages which were made prior to the adoption of this Policy shall not be considered in violation of the Policy, and to the extent possible shall be constructed and completed, if necessary, in the matter most consistent with the Policy.