TOWN OF REDINGTON BEACH
BOARD REGULAR MEETING AGENDA
Wednesday, June 2, 2021
6:30 P.M.

Town Hall **Assembly Hall**

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **APPROVAL OF AGENDA**

5. **PUBLIC FORUM: Non-Agenda Items Only <u>NOTE:</u>** A three minute time limit applies to all comments from the public on non-agenda items only. If a person wishes to address the Board of Commissioners, please fill out a "Speakers Card" and give it to the Town Clerk prior to the start of the meeting.

6. **REPORTS**

Public Safety	Commissioner Kornijtschuk
Building/Code	Commissioner Skjoldager
Public Works/Parks	Commissioner Cariello
Finance	Vice Mayor Dorgan
Mayor	
Town Clerk	
Attorney Eschenfelder	
Boards & Committees	
Legislative Update	

7. **CONSENT AGENDA**
   - **A. Board Regular Meeting Minutes, May 19, 2021**
   - **B. Bill List for Day Ending May 28, 2021**

8. **UNFINISHED BUSINESS**
   - **A. Pipe Cleaning**
   - **B. Duke Energy Lighting Proposal**

9. NEW BUSINESS

A. **First Reading: Ordinance 2021-04: An Ordinance of the Town of Redington Beach, Florida, Amending Chapter 22 (Utilities) of the Town Code to Remove Outdated, Preempted or Unenforceable Provisions and to Incorporate Current State and Federal Law Requirements and Town Practices; Making related Findings; Providing for Codification, Severability, and an Effective Date.**

B. **First Reading: Ordinance 2021-08: An Ordinance of the Town of Redington Beach, Florida, Amending Chapter 20 (Taxes) of the Town Code to Remove Outdated, Preempted or Unenforceable Provisions and to Incorporate Current State and Federal Law Requirements; Making Related Findings; Providing for Codification, Severability, and an Effective Date.**

10. OTHER BUSINESS

11. ADJOURNMENT

Note: The Town of Redington Beach Board of Commissioners meet the First and Third Wednesday of each month beginning at 6:30 p.m.

The Town of Redington Beach Board of Commissioners may take action on any matter during this meeting, including items that are not set forth within this agenda.
Minutes of the Board of Commissioners meeting may be obtained from the Town Clerk's office. The meetings may be recorded. The Minutes are not transcribed verbatim. It is the policy of the Board of Commissioners to make "action minutes" of all meetings

Persons requiring a verbatim transcript of any Town meeting (for purposes of appeal or otherwise) should make arrangements to have a certified Court Reporter, at their own cost and expense, present at the meeting.

Persons who wish to appeal any decision made by the Board of Commissioners with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. (F.S 286.0105) **Notice Regarding Special Accommodations: (F.S. 286.26)**

TOWN OF REDINGTON BEACH, FLORIDA
BOARD REGULAR MEETING MINUTES
Wednesday, May 19, 2021
6:30 p.m.

Having been duly advertised as required by law, the **Regular Meeting** of the Board of Commissioners of the Town of Redington Beach, Florida, was held on **Wednesday, May 19, 2020, 6:30 p.m.,** in Redington Beach Town Hall at 105 164th Avenue, Redington Beach Florida.

Mayor Will called the **Regular Meeting** to order and led the pledge of allegiance.

Roll Call

	Present	Absent
Commissioner Cariello	X	
Commissioner Kornijtschuk	X	
Commissioner Skjoldager	X	
Vice Mayor Dorgan	X	
Mayor Will	X	
Town Attorney Eschenfelder	X	
Town Clerk Clarke	X	

Approval of Agenda: A motion by Commissioner Kornijtschuk and seconded by Commissioner Cariello to approve the agenda as presented. No public comment. Motion passed with all ayes.

Public Forum: Jeanne Dwyer, 15742 Gulf Blvd, spoke on the beach raking and wanted an update on the lighting for the sea turtles.

Joe Pearson, 16308 Redington Drive, requested the commission to continue raking the beach.

Rob Eschenfelder, town attorney stated that although there has been no threat of a lawsuit, they have sued in the past. He provided direction to the town clerk to reach out to the residents that do not want it raked and asked if they would be agreeable to the town raking from North to South from the weed line to the water. If the residents agree, public works will resume raking.

Reports:

Public Safety

- Nothing to Report.

Building/Code

- There were a couple of code issues regarding parking and trash. She is working with Bruce Cooper on getting a check list online for permitting, to make the permitting process go smoother.

Public Works/Parks

- Spoke with a representative from Duke Energy regarding the shielding and the East side should be shielded within the week. The amber lights will be available in August with an additional rental fee. There will be no charge for the installation. Linda Soileau, 16107 Gulf Blvd, stated that it is Duke Energy's responsibility to put up turtle friendly lights. This will be an agenda item for the June 2nd meeting.

Finance

- Nothing to Report.

Mayor

- Nothing to Report.

Town Clerk

- Nothing to Report.

Town Attorney

- Nothing to Report.

Boards and Committees

- Nothing to Report.

CONSENT AGENDA

A. Board Regular Meeting Minutes, May 5, 2021
B. Bill list ending for Day ending May 14, 2021.

A motion by Vice Mayor Dorgan and seconded by Commissioner Kornijtschuk to approve the consent agenda as presented. No public comment. Motion passed with all ayes.

UNFINISHED BUSINESS

A. Proposal for Pipe Cleaning: Lynn Burnett from LTA Engineers introduced Johnathon Trader of All South Underground. He stated that they would use jet vac trucks to clean the pipes and catch basins. He stated that they install pipe plugs to have the pipes dry and then use robotic cameras to check on the condition of the pipe. Once this is accomplished, he would make recommendations to repair with options without digging up the pipe, such as putting sleaves inside the pipe. They can do 1,000 feet of pipe per day. They would need water and a staging area for the debris. The daily cost for this would be $7, 703.0. An inventory would need to be done prior to the having the camera done to the pipes, and he believes he could do this for approximately $1,600.00. He could put together a proposal for the mapping and videoing of the lines. Steve Redman, 16496 Redington Drive, spoke and stated the only lines that would need to be cleaned would be the ones that would have the valves installed. Linda Soileau, 16107 Gulf Blvd, spoke on what happened during TS Eta and what happened with the storm in 2003 and stated the entire system should be cleaned and have all valves installed.

Carsten Thoermer of AuquaNatik spoke on behalf of his company and that they do not use jet vac trucks but use divers instead. For the smaller pipes they would use robotics. They would inspect the condition of all the pipes. The cost for this proposal is $35,400.00 and this is for up to 12 days of work. If the work were less than the 12 days, it would be a lower price.

Town Attorney Eschenfelder requested to work with the town engineer to a get a proper bid proposal together prior to the next meeting for the commission to consider.

B. **Proposal for Boca Ciega Water Quality Improvement Project:** Lynn Burnett spoke on the cooperative funding grant with the Tampa Bay Estuary and SWFWMD. This is a 50/50 funding for flood reduction benefits along with less reduction of pollutants entering Boca Ciega Bay. Only one bid was received for the project. She has researched the company, Harbor Contracting, and they are highly rated. The bid is for $94,467.00 with an alternate item for three valves in the amount of $37,950.00. The company has been requested that the three valves be stricken from the bid. **Steve Redman, 16496 Redington Drive**, asked for an overview of what the project consists of. Lynn Burnett explained the installation of filter fabric, aggregate, and the 6' of bedding stone, with the finish surface to match the existing. **Linda Soileau, 16107 Gulf Blvd,** stated that the money should be spend on the back flow drains and not the proposed work. **Ken Sulewski, 16213 Redington Drive,** stated he did not want to participate in this project and requested the commission to turn down the project. **Anthony Hubbard, Harbor Contracting,** stated that everything will be cleaned at the end of the project and there will not be any trenches in the yard. **Tim Thompson, 205 162nd,** stated that he would like the project to go forward. **Tom Owen, 15525 1st Street,** requested the commission not to move forward with the project. **Chuck Goldstein, 16203 3rd Street,** asked why his street was not in the project. Ms. Burnett suggested relocating part of the project to 3rd Street. Discussion amongst the commissioners about holding another neighborhood information session to relocate the project. A motion by Commissioner Cariello to not proceed with the project, seconded by Commissioner Kornijtschuk. Roll Call vote was taken, and motion passed with a majority.

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello	X		X		
Commissioner Kornijtschuk		X	X		
Commissioner Skjoldager				X	
Vice Mayor Dorgan				X	
Mayor Will			X		

C. **Gulf Beaches Public Library Agreement:** Attorney Eschenfelder explained that Vice Mayor Dorgan's concerns were presented to Madeira Beach, however the mayor of Madeira Beach was not in favor of any changes. The commission is asked to approve the agreement tonight. A motion by Commissioner Kornijtschuk and seconded by Commissioner Cariello to approve the interlocal agreement for Gulf Beach Public Library. Vice Mayor Dorgan voiced his concerns with the agreement. Roll call was taken and motion passed with a majority.

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello		X	X		
Commissioner Kornijtschuk	X		X		
Commissioner Skjoldager			X		
Vice Mayor Dorgan				X	
Mayor Will			X		

D. **Final Reading: Ordinance 2021-02: An Ordinance of the Town of Redington Beach, Florida, Amending Articles I and II of Chapter 13, (Parks and Recreation) of the Town Code to Remove Outdated, Preempted, of Unenforceable Provisions and to Incorporate Current State and Federal Law Requirements; Making Related Findings; Providing for Codification, Severability, and an Effective Date.** Attorney Eschenfelder read the ordinance by title only. A motion by Commissioner and seconded by Commissioner to adopt the ordinance on its final reading. A motion by Commissioner Kornijtschuk and seconded by Commissioner Cariello to pass Ordinance 2021-02 on its final reading. Commissioner Cariello had concerns with section 13-6 on Vendors in the park. He wanted it changed to not limit it to non-profits and the homeowner's association. The town attorney addressed the issue and stated that this is to protect the town. Roll call vote was taken and motion passed with all ayes.

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello		X	X		
Commissioner Kornijtschuk	X		X		
Commissioner Skjoldager			X		
Vice Mayor Dorgan			X		
Mayor Will			X		

E. **Final Reading: Ordinance 2021-03: An Ordinance of the Town of Redington Beach, Florida, Amending Chapter 21 (Traffic, Vehicles, and Parking) of the Town Code to Remove Outdated, Preempted, or Unenforceable Provisions and to Incorporate Current State and Federal Law Requirements; Making Related Findings; Providing for Codification, Severability, and an Effective Date.** Attorney Eschenfelder read the ordinance by title only. A motion by Commissioner and seconded by Commissioner to adopt the ordinance on its final reading. A motion by Commissioner Kornijtschuk and seconded by Vice Mayor Dorgan to adopt Ordinance 2021-03 on its final reading. **Linda Soileau, 16107 Gulf Blvd,** noted that the town needs to educate the residents on where people can park and clearly mark theses areas. Roll call vote was taken and motion passed with all ayes.

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello			X		
Commissioner Kornijtschuk	X		X		
Commissioner Skjoldager			X		
Vice Mayor Dorgan		X	X		
Mayor Will			X		

NEW BUSINESS

A. Interlocal Agreement for Distribution of Potential Additional 5 Cent Local Option Tax: The county is proposing a five-cent gas tax on every gallon of gas sold in Pinellas County. This would pay for critical maintenance on roads, bridges, and sidewalks in Pinellas County. Mayor Will explained that if passed 40% would be distributed to the municipalities with the remaining amount going to the county. Town attorney note that the statute requires the towns to get the monies even if it is not signed by the town. **Linda Soileau, 16107 Gulf Blvd,** referred to the City of Seminole's comments and the point they made, and the trickle up affect this would have. **Evan Soileau, 16107 Gulf Blvd,** questioned how much money the town would receive from this. A motion by Commissioner Kornijtschuk and seconded by Vice Mayor Dorgan to approve the Interlocal Agreement. Roll call vote was taken and motion failed.

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello				X	
Commissioner Kornijtschuk	X			X	
Commissioner Skjoldager			X		
Vice Mayor Dorgan		X	X		
Mayor Will				X	

B. Planning Board Appointment: Three applications were received for the alternate position. Leslie Wilkins, Hayward Chapman, and Robert Fronstein. Leslie Wilkins spoke on her desire to be on the planning board as she has attended all the meetings, either in person, or by listening to the meeting tapes after the meeting. She has a chemical engineering degree and believes she would be an asset to the board. Hayward Chapman spoke on his experience in the real estate business as well as a construction developer. Robert Fronstein was not in attendance. A motion by Commissioner Cariello and seconded by Commissioner Kornijtschuk to appoint Hayward Chapman to the planning board. Motion passed with all ayes.

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello		X	X		
Commissioner Kornijtschuk			X		
Commissioner Skjoldager			X		
Vice Mayor Dorgan	X		X		
Mayor Will			X		

Other Business

With no further business, a motion was made by Commissioner Kornijtschuk and seconded by Commissioner Cariello to adjourn. Regular meeting was adjourned at 9:15 p.m.

Adopted: , 2021

Missy Clarke, CMC, Town Clerk

INVOICE APPROVAL LIST BY FUND REPORT

Town of Redington Beach

Fund/Dept/Acct	Vendor Name	Invoice #	Invoice Desc.	Check #	Due Date	Posting Date	Amount
Fund: 101 General Fund							
Dept: 512 Town Clerk							
101-512-512.230 Group Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	802.73
							802.73
101-512-512.231 Life Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	9.75
							9.75
101-512-512.232 Dental Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	64.15
							64.15
101-512-512.421 Stamps.com							
	CHASE CARD SERVICES	2021-05-27	Stamps.com	0	05/27/2021	05/27/2021	17.99
							17.99
101-512-512.510 Office Supplies							
	CHASE CARD SERVICES	112-3995838-0988229	2 Flash Drives	0	05/21/2021	05/21/2021	31.98
	CHASE CARD SERVICES	79156	3 Flag Buntings	0	05/27/2021	05/27/2021	64.14
							96.12
						Total Dept. Town Clerk:	**990.74**
Dept: 513 Finance & Admin							
101-513-513.230 Group Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	809.98
							809.98
101-513-513.231 Life Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	9.75
							9.75
101-513-513.232 Dental Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	105.02
							105.02
						Total Dept. Finance & Admin:	**924.75**
Dept: 515 Comprehensive Planni							
101-515-515.310 Planning							
	BRUCE MCLAUGHLIN CONS	2021-05-28	5/14/21-5/27/21	0	05/28/2021	05/28/2021	2,097.00
							2,097.00
						Total Dept. Comprehensive Planning:	**2,097.00**
Dept: 521 Law Enforcement							
101-521-521.340 Law Enforcement							
	PINELLAS COUNTY SHERIFI	1001130	June 2021 Law Enf.	0	06/01/2021	06/01/2021	22,479.00
							22,479.00
						Total Dept. Law Enforcement:	**22,479.00**
Dept: 539 Department of Public V							
101-539-539.230 Group Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	1,597.32
							1,597.32
101-539-539.231 Life Insurance - D							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	19.50
							19.50
101-539-539.232 Dental Insurance							
	FLORIDA MUN INSURANCE	2021-05-27	June 2021	0	05/27/2021	05/27/2021	137.03

Fund/Dept/Acct	Vendor Name	Invoice #	Invoice Desc.	Check #	Due Date	Posting Date	Amount
							137.03
						al Dept. Department of Public Works:	**1,753.85**
Dept: 572 Parks and Recreation							
101-572-572.462 Maintenance - Gr							
	CHASE CARD SERVICES	113917601643	Friendship Park Silver buttons	0	05/19/2021	05/19/2021	55.64
	CHASE CARD SERVICES	113915003543	Friendship Park Silver Buttons	0	05/19/2021	05/19/2021	222.56
	HIGHLAND PRODUCTS GRO	310013686	GRAECEAN Bench	0	05/27/2021	05/27/2021	705.00
	HOME DEPOT CREDIT SER\	3904914	Auger rental deposit	0	03/30/2021	03/30/2021	100.00
	HOME DEPOT CREDIT SER\	019863/3511958	Concrete, rags	0	05/19/2021	05/19/2021	51.14
	HOME DEPOT CREDIT SER\	9904244	Misc. charges	0	05/27/2021	05/27/2021	17.21
							1,151.55
101-572-572.510 Maintenance Equ							
	PINELLAS CENTRAL ACE	12970/1	Trimmer repair	0	05/25/2021	05/25/2021	39.60
							39.60
101-572-572.522 Gasoline & Oil							
	CHASE CARD SERVICES	443362	SPEEDWAY - Diesel fuel	0	05/18/2021	05/18/2021	37.21
	WEX BANK	476051	Unleaded	0	05/12/2021	05/12/2021	59.31
							96.52
						Total Dept. Parks and Recreation:	**1,287.67**
						Total Fund General Fund:	**29,533.01**
						Grand Total:	**29,533.01**

5/19/2021		9844	Payroll	197.05
		9845	Payroll	277.05
		9846	Payroll	277.05
		9847	Payroll	461.75
		9848	Payroll	2,324.28
		9849	Payroll	1,391.26
		9850	Payroll	1,336.03
		9851	Payroll	1,085.64
		9852	Payroll	277.05
	EFT		Payroll Liabilities	3,519.85
	EFT		Retirement	1,596.04
				12,743.05

MAYOR WILL

COMMISSIONER KORNIJTSCHUK

COMMISSIONER SKJOLDAGER

VICE MAYOR DORGAN

ATTEST:

COMMISSIONER CARIELLO

Missy Clarke, CMC, Town Clerk

Regular Meeting of June 2, 2021

TRASK DAIGNEAULT LLP ATTORNEYS

THOMAS J. TRASK, B.C.S*
JAY DAIGNEAULT, B.C.S.*
ERICA F. AUGELLO, B.C.S.*
RANDY MORA, B.C.S.*
ROBERT M. ESCHENFELDER, B.C.S.*
NANCY S. MEYER
DAVID E. PLATTE
JEREMY SIMON

** Board Certified by the Florida Bar in City, County and Local Government Law*

MEMORANDUM

DATE: May 28th 2021

TO: Mayor David Will
Vice Mayor Tom Dorgan
Commissioner Richard Cariello
Commissioner Shawntay Skjoldager
Commissioner Tim Kornijtschuk

FROM: Robert Eschenfelder—Town Attorney's Office

RE: Redington Beach Storm Water Infrastructure Maintenance/Upgrade Project

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Dear Mayor, Vice Mayor, and Commissioners:

At your May 19th 2021 meeting, you discussed the pending project related to flood control. After the presentation, the Commission directed that I coordinate with the Town's retained project engineer, Ms. Burnett, to develop procurement options the Town could use to move forward which would comply with the Town's procurement policy. Per that direction, Ms. Burnett and I conferred on both the technical and logistical parts of the overall project, as well as the sourcing and procurement aspects of the project. Based on that effort, below is a review of the process and sequence that allows the project to proceed with an eye toward procurement policy compliance.

The Procurement Rules

At the meeting on the 19th, several potential vendors attended. Ms. Burnett had invited them to submit pricing documentation and to discuss their pricing and services, since this background information would help the Commission to understand rough costs associated with the various phases/elements of the overall project.

There are several laws associated with public construction, and the Town has rules related to procurement. As to state law, Florida Statutes § 255.20 requires any construction work which is expected to exceed $300,000 to be subjected to public competitive bidding. And Florida Statutes § 287.055 provides that engineering services must be acquired by use of a competitive solicitation process. Since the project, as I understand it, will not require professional engineering (the pipes are already in place), and since maintenance cleaning work is not considered construction, my opinion is that these laws will not apply.

However, Town Resolution 2016-04 (creating a procurement policy) provides, in relevant part:

> Purchases or contracts involving an expenditure of not less than $5,000 or more than $15,000, whenever practical, shall be based upon competitive bidding under such rules and regulations as may be established by the Commission. Said bids may be informal but of which there shall be a written record, and purchases for such amounts shall only be made upon approval of the Town Commission.
>
> If any single purchase or contract involves an expenditure of more than $15,000, it shall be made on the basis of sealed bids after such public notice as may be prescribed by the Commission.
>
> A record of all bids showing the names of the bidders and the amounts of the bids and indicating in each case the successful bidder, together with the original of all sealed bids and other documents pertaining to the award of contracts, shall be preserved by the Town in a file which shall be open to the public inspection.
>
> No bids shall be required whenever purchases are made pursuant to the state bid list or whenever an item is on the state bid list and the purchase is being made for a lesser amount than that contained on the state bid list.
>
> In lieu of the competitive bidding procedures specifically provided for herein, the Commission shall be authorized to accept a bid proposal or contract which has been secured by any other governmental entity or agency...procured through a competitive bidding process which is equal to or more stringent than the competitive bidding process required by the Town [this is called piggybacking].

The Overall Project

The Town has 43 known outfalls. However, approximately ten of them are overgrown by mangroves or otherwise inaccessible and so until further exploration after cleaning has occurred, the focus was on 33 outfalls. As was discussed at the meeting, while the Town does have a fairly good idea of the location of the 43 outfalls and the sseveral 100 inlets which feed to them, it has less certainty as to where the pipe infrastructure is in the points in between inlets and outfalls. Therefore, a more detailed inventory of the complete stormwater pipe system from inlet to outfall needs to be developed so the Town will have that master record moving forward.

Both to determine the location of the exact location of all of the pipe infrastructure, as well as to actually allow for water flow toward the outfalls, soft sediment materials must be removed from the pipes. Once the pipes are cleaned of soft sediment, video and other equipment will be able to be deployed to both provide exact location of various parts of the pipe system, as well as to determine if certain pipes will require repair or reinforcement at any given segment.

To the extent pipe deterioration or damage is discovered by the inventory inspection process, pipes would need to be repaired or sealed to ensure a longer service life.

In addition to the soft sediment and inspection and repair aspects, since significant shellfish growth has occurred at many of the outfalls, this hard shellfish must be removed. Such removal will not only accomplish a "last mile" avenue for stormwater to escape, but will allow for the installation of valves which are designed, once installed, to prevent salt water to intrude back up the stormwater system during high tides and substantial storm events, and will prevent the re-accumulation of hard shell buildup.

Exactly how many outfalls would receive valves will be a function of how many the Commission decides to acquire.

Phase One—Removal of Soft Sediment

Conferral with Ms. Burnett confirms her belief and experience that while hard shell will be present near the outfall ends of the Town's stormwater pipes, a majority of the lengths of these pipes will contain soft sediment. Since removal of the soft sediment will allow the Town to examine and map most of the lengths of the pipes (until hard shell, cave-ins, or other hard barriers are encountered), the first phase is recommended to be acquiring a vendor to remove the soft sediment debris from the pipes, working from the inlets outward.

In light of Ms. Burnett's initial research and the one vendor which presented to the Commission on the 19th, it appears the vendor community which performs this work does so by providing a flat daily rate. Taking just the rates Ms. Burnett has experience with, if the Town elected to remove soft sediments from all of its stormwater system, the total cost could be between **$50,000 and $60,000**. Since this rough estimate is far above the $15,000 limit in the Town's procurement rules, unless the Town finds another local government which has already recently solicited this service such that it could piggy-back onto, the service would need to be bid out and formal bids received.

Especially since the Town does not have a better inventory of the entire pipe system, vendors would probably not wish to bid based on a "per foot of pipe" basis. Thus, a daily rate seems to be the best measure of work to seek bids on.

For this phase, the scope of services sought should include these key elements:

- Method of removal must be by a vac truck with the capacity to hold the sediment in its tank, and to discharge the clean water component back into the stormwater system so that the process will be self-contained and no dewatering or spill site will need to be obtained.

- Vendor must provide written proof to the Town of the amount of materials removed each day so the Town can know that daily work is resulting in a roughly equal amount of productive sediment removal.

- Town must not be responsible for acquiring any equipment, services, utilities or dump sites. Rather, the vendors should be asked to include all such costs into their quoted daily rate, except, perhaps, that the Town would reimburse the vendor for landfill charges actually incurred and documented, since the vendors have less control over those costs.

- Vendor must maintain sufficient insurance and must be responsible for repairing any property damaged as a result of the work. Obviously, if any portion of pipe has already caved in not as the result of vendor negligence, the Town would in fairness be responsible to repair that collapsed infrastructure.

Phase Two—Video and Location Mapping

Phase two may either be solicited separately, or, if the market reveals that the soft sediment removal vendor community also possess the equipment and experience, may be folded into the bid request for phase one.

In this phase (which could be occurring in tandem with phase one as each pipe is cleaned of sediment) would be for the production of a video survey and mapping of each stormwater pipe which has been cleaned of soft sediment.

It is important to perform this survey work prior to deciding to acquire values since, if there has been a failure and the decision is made not to re-open the pipe due to cost, it would not make sense to acquire a valve since salt water isn't able to intrude anyway.

For this phase, the scope of services sought should include these key elements:

- Method of video survey should provide the Town with full color images of each stormwater pipe or infrastructure element from the inlet to either the outfall (if clear enough for camera equipment to pass) or up to the point where hard shell blocks the equipment from advancing further

- GPS location equipment shall be used to provide the Town with a map showing the route, depth and size of each stormwater pipe

Phase Three—Pipe Failure Recommendation

Once the Town receives the survey data of the pipes (now cleaned of soft sediment) it will be able to ascertain if any pipes have suffered critical failures or show deterioration such that repair actions are warranted. This phase is not really going to require the acquisition of any new service assuming the Town relies on the engineering license of Ms. Burnett. However, this assessment should be completed prior to the Town's undertaking the expense related to Phase Four, since, if the pipe is to be abandoned, removal of the hard shell to expose the associated outfall would not seem to make sense, and may indeed even begin allowing salt water to intrude back up the system where it had been blocked by hard shell already.

Conversely, where the Town decides that repair or reinforcement work is required, that would need to be separately solicited and performed.

Either way, the Town would not be able to identify how many valves to order until it confirmed the upstream pipe associated with each outfall was sound.

Phase Four—Hard Shell Removal

Once the Town has cleaned soft sediment and inventoried the stormwater pipe system up to where hard shell is encountered, and once the Town then determines that the pipe is structurally sound or has been repaired, any hard shell which has built up must also be removed to create the "last mile" of open pipe flow.

Ms. Burnett estimates, based on her experience and a vendor's recent informal pricing documentation, that performing hard shell removal on the 33 outflows which are not buried or obstructed could cost approximately **$35,000**.

As with the soft sediment removal, the scope of services sought for this phase should include these key elements:

- Method of removal of all hard shell material must be performed by vendor in accordance with all environmental regulations, and at no added cost to the Town.

- Vendor must provide written and photographic proof to the Town of the amount of hard shell material removed from each outfall area.

- Town must not be responsible for mobilization costs, acquiring any equipment, services, utilities or dump sites. Rather, the vendors should be asked to include all such costs into their quoted rate, except, perhaps, that if the removed shell material cannot legally just be dumped back into the water (I have not research this), the Town would reimburse the vendor for landfill charges actually incurred and documented, since the vendors have less control over those costs.

- Vendor must maintain sufficient insurance and must be responsible for repairing any property damaged as a result of the work. Obviously, if the portion of pipe near the outfall where hard shell is being removed from has already failed not as the result of vendor negligence, the Town would in fairness be responsible to repair or decide to abandon.

Phase Five—Valve Fitting Measurements, Valve Acquisition, Valve Installation

Once the Town has a good picture of its stormwater system from inlets to outflows, unless it decides to proceed with all 33, the Town will need to decide which particular outfalls will receive a valve. This is purely a budgetary/business decision for the Commission.

As to the brand or type of valve, I note that the focus of discussion has been on a Wastop in-line check valve manufactured by WAPRO INC, with U.S. headquarters in Chicago. However, as there are other kinds of valves, the decision to require a given brand in the Invitation to Bid vs. requiring generally a given set of performance characteristics is up to the Commission, based on the advice of its Town engineer.

Given the data she collected and her experience, Ms. Burnett estimates the cost of valve acquisition at approximately **$210,000** (assuming 33 valves are acquired), and **$33,000** for valve fitting and installation services.

For this phase, the ***valve supplier*** should be required to provide a suitable warranty and repair or replacement guarantee should failure occur. I did not spend substantial time to research, but just a quick search on the internet showed that, for instance, in November 2020 Charleston, South Carolina, purchased and installed 18 Wastop valves. If that contract was done competitively and is piggy-backable, perhaps the Town could just piggy-back on that contract to acquire the valves rather than seek local bids.

As for the ***installation vendor***, the solicitation should require:

- Installation must be pursuant to manufacture's specifications and must be performed in accordance with all applicable codes and industry best practices

- Installer must be insured and be responsible for the repair of any damage to property caused by negligent installation

- Installer must provide a warranty on their work for a period of perhaps two years

NOTE: While the Town may allow the installer to also acquire and sell to the Town each valve, given the cost, and the potential for installer markup, the Town may wish to explore an "owner direct" purchase so that sales tax can be avoided.

Vendor Identity

As the Commission discovered during the meeting on the 19th, it is not likely any one vendor will be able to provide all of the elements associated with the overall project. However, I would recommend that the Town's Invitations to Bid for each of the phases where a bid is required, to allow vendors to submit joint bids (where two or more vendors bid together on the entire project). This allows for maximum competition flexibility, and allows the Town to see if a better price could be obtained by awarding to a group which solicits together, vs. individual separate contracts for each phase.

Timing

As noted above, at least some of the phases may be performed in tandem. Therefore, my recommendation would be to issue bid requests for all of the phases at the same time, simply noting in each that later phases will begin once earlier phases are done, so that the vendors awarded the work can coordinate their timing. Solicitation at once also allows for the potential that certain vendors with the capacity to perform several of the phases would submit for each, thus allowing the Town to award multiple phases to only one vendor.

The Swale Grant Issue

The Commission voted at the meeting of the 19th to not move forward with this separate project. It is therefore mentioned here only in that three of the valves may be acquired with 50% reimbursement should the Commission elect to seek permission to move the project to where Town residents seem to want it.

The Remaining Ten Outfalls

As noted earlier, Ms. Burnett's data to date have caused her to come to the conclusion that the Town really can't make a decision on whether to abandon, or to clean, repair and valve, ten outfalls. Unless any of these ten outfalls are deemed critical to resolving flooding (and from my conversation with Ms. Burnett they are not), it may be that the Town focuses on the 33 outfalls known and exposed, then, once those are done, begin to address the remaining ten as budget allows and in the priority that achieves the best results.

Conclusion

Once the Commission provides direction to proceed on any or all of the phases listed above, and determines the maximum budget to be allocated, I will be able to quickly (within two weeks) work with the Town Clerk and Ms. Burnett as needed to finalize Invitations to Bid for all work requiring bids.

I hope this overview and recommendation has assisted the Commission in arriving at final decisions on the project.

c: Jay Daigneault, Town Attorney
Melissa Clarke, Town Clerk

Duke Energy - Sea Turtle friendly lights along Gulf Blvd

From Meahl, AJ <AJ.Meahl@duke-energy.com>
To townclerk@townofredingtonbeach.com <townclerk@townofredingtonbeach.com>
Cc rcariello@townofredingtonbeach.com <rcariello@townofredingtonbeach.com>, David.Greene@madridcpwg.com <David.Greene@madridcpwg.com>
Date 2021-05-19 16:32

Town of Redington Beach_Gulf Bld Turtle Lights upgrade.pdf (~528 KB)

Hi Missy,

Please find attached the proposal for the light change out along Gulf Blvd within the limits of the Town of Redington Beach to a Sea Turtle friendly light. We are currently installing shields this week to help the glare/brightness that the residents on the east side of Gulf Blvd are experiencing. However, we now have a Sea Turtle friendly light that meets FDOT standards for a five lane road, such as Gulf Blvd. We have already ordered the Sea Turtle friendly lights and expect them in the first week of August and will begin installation immediately to try and ensure construction is complete by mid-August. We do need a representative from the City to sign and return the proposal to us to both approve the lighting change, and acknowledge the monthly bill increase. If there are any questions or concerns, please feel free to reach out to me.

Thanks,

AJ Meahl, P.E.
Manager- Lighting Program Design Florida- North and South Coastal Zones
727-422-3962 (Cell)
DUKE ENERGY.

DUKE ENERGY

Lighting Proposal

WR 40880176

DE Contact: Mark Michael
Address: 2166 Palmetto St. Clearwater, Fl 33765
Phone: (727) 418-5307

May 11, 2021

Project Details	
Customer:	Town of Redington Beach
Account:	36822-54416
Site:	105 164th Ave
Contact:	David Greene
Phone:	(941) 730-2713

Scope of Request

Replacement of (33) 220W LED Roadway White UG fixtures and (20) 220W LED OH fixtures with (33) 130W Amber LED Roadway White UG fixtures and (20) 130W Amber LED Roadway White OH fixtures. All Amber fixtures are at 1000K temperature with shielding attached. Constructoin will commence as soon as fixtures arrive from manufacturer. Billing changes will commence in November/December of this year.

REMOVALS

Quantity	Product Description Fixtures and Poles	Per Unit Rental	Per Unit Maint.	Per Unit F & E	Unit Total	Sub-Total
33	220W LED Roadway UG White	$13.11	$1.39	$4.60	$19.10	$630.30
20	220W LED Roadway, OH L160	$11.61	$1.39	$4.60	$17.60	$352.00
					$0.00	$0.00
					$0.00	$0.00
					$0.00	$0.00
					$0.00	$0.00
					$0.00	$0.00
	Rental, Maintenance, F&E Totals:	$664.83	$73.67	$243.80		
			Existing Estimated Monthly Rental			**$982.30**

INSTALLS

Quantity	Product Description Fixtures and Poles	Per Unit Rental	Per Unit Maint.	Per Unit F & E	Unit Total	Sub-Total
33	130W Amber Roadway, UG with shields	$23.04	$1.39	$2.78	$27.21	$897.93
20	130W Amber Roadway, OH with shields	$21.54	$1.39	$2.78	$25.71	$514.20
					$0.00	$0.00
					$0.00	$0.00
					$0.00	$0.00
					$0.00	$0.00
					$0.00	$0.00
	Rental, Maintenance, F&E Totals:	$1,191.12	$73.67	$147.34		
Monthly rates are subject to tariff rate changes			**Estimated Monthly Rental**			**$1,412.13**

Estimated Monthly Rental *excludes any applicable taxes, franchise fees or customer charges.*

429 83
Increase

In order for us to proceed with the above proposed lighting design we will need an authorized signature on this proposal and any other required documents enclosed. Do not remit payment with this form and do not fax. Return these signed documents to the mailing address above or email the color scanned PDF if instructed.

The CIAC or MLDF charge is subject to change after 30 days or in the event you request or cause any changes to this proposal.

Duke Energy will call for locate of all public facilities. Any customer owned utilites would need to be located and marked at your expense.

If any or all of these lighting facilities will eventually be submitted to a governmental agency for inclusion into a taxing district, MSTU or MSBU special assessment program, please verify that these facilities & charges meet the requirements within that jurisdiction. Should the agency not accept these facilities & charges into their program, the entity who signs the Lighting Service Contract will remain responsible for payment.

Thank you for your lighting request. We look forward to working with you on this project.

Authorized Signature ______________________ Date ____________

(Please sign and date to approve this proposal and return to the mailing address above)

townclerk@townofredingtonbeach.com

From: deputyclerk@townofredingtonbeach.com
Sent: Friday, May 28, 2021 10:02 AM
To: Missy Clarke
Subject: FW: June 2 Meeting - SEA TURTLES AND LIGHTS

Adriana Nieves, CMC, CFM
Deputy Town Clerk

Town of Redington Beach
105-164th Avenue
Redington Beach, FL 33708
727-391-3875
727-397-6911 (FAX)
DEPUTYCLERK@TOWNOFREDINGTONBEACH.COM

From: Linda S <lsweb2web@gmail.com>
Sent: Thursday, May 27, 2021 6:15 PM
To: Adriana Nieves <deputyclerk@townofredingtonbeach.com>
Subject: June 2 Meeting - SEA TURTLES AND LIGHTS

Greetings Town of Redington Beach Staff, Board of Commissioners, and Mayor Will,

Concerning the decision on whether or not to approve the new turtle-friendly amber street lights as offered by Duke Energy...

First, the current street lights cause light trespass onto the beach, presenting a real and present danger to sea turtles that nest on our beach. Additionally, I am sure you are aware the Town of Redington Beach has an existing code related to SEA TURTLES and STREETLIGHTS (see below). According to the language of that code, it would seem the town is obligated to approve the new turtle-friendly amber lights that Duke Energy is offering our town to remedy the street lights that currently cause a light trespass issue that may deter adult female turtles from nesting or disorienting turtle hatchlings. While the commission could vote to exempt the city from its own ordinance this action would draw the ire of beachside residents and those seeking to protect the sea turtles that nest on our beach.

Second, the current street lights also cause a light trespass violation onto the private property of many residents. Although many lights within the city now have "shields" (which in our case do NOT solve the light trespass issue into our home) they are only the lights located on the east side of Gulf Blvd and even those do not sufficiently block the spill light onto many properties, as well as, the beach thus still causing a light trespass issue that may deter adult female turtles from nesting or disorient turtle hatchlings. In contrast, Duke Energy plans to include three-sided light shields on the new amber lights, which should completely mitigate both light trespass issues.

Third, we understand there is an additional cost to the city for the use of the turtle-friendly amber lights, but since we are a beach community this should have been an expected expense and one that quite frankly should have been addressed when the original contract was made with Duke Energy.

In consideration of the negative effect on the sea turtles, the existing Redington Beach code concerning sea turtles, state legislation that protects sea turtles, the negative effect on the residents on Gulf Blvd, and the fact the new turtle-friendly amber lights would solve all issues we **strongly encourage the commission to accept the upcharge and contract with Duke Energy** to install the turtle-friendly amber lights.

Regards,
Linda & Evan Soileau
16107 Gulf Blvd
Redington Beach, FL 33708

P.S. Below is a copy of what we were able to locate as our existing town code related to sea turtles and lights.

Sec. 4-9. - Sea turtles.

(a)

Purpose: This section is intended to assure that all new developments and existing developments construct, erect or maintain outdoor lighting that does not cast glare or spill light wherein may deter adult female turtles from nesting or disorient turtle hatchlings as they return to the sea, from May 1 through October 31.

(b)

Definition of terms: For the purpose of this section, certain words and terms used herein shall be defined as follows:

Artificial light: Any source of light emanating from a manmade device, including, but not limited to, incandescent, mercury vapor, metal halide, sodium, spotlights, street lights, construction or security lights.

(d) Lighting in beach areas.

(1) Purpose of application: **It is the policy of the town to minimize artificial light illuminating areas of the beach**. **No artificial public** or private light source **shall illuminate areas where it may deter adult female sea turtles from nesting or disorient hatchlings.**

(2) Standards for existing beachfront lighting. Existing beachfront lighting shall comply with all the conditions set forth in this section by May 1, 2001.

(a) Existing artificial light sources shall be repositioned, modified or replaced with modern alternatives so that only deflected light may be visible at ground level from the beach and/or does not directly illuminate areas seaward of the seawall.

(3) **Publicly owned lighting**: Street lights and lighting at publicly owned beach access areas shall comply with the following:

(a) **Whenever possible, street lights shall be located so that they will not illuminate the beach.**

(b) Lights at public beach access points shall be shielded.

(e) Violations: Violations of the article shall be punishable as provided in section 1-14 of this Code. Further, in addition to the criminal penalties provided, the town commission is hereby authorized to institute any appropriate action or proceeding, including a suit for injunctive relief, in order to prevent or abate violations of this section.

T R A S K
DAIGNEAULT
LLP
A T T O R N E Y S

THOMAS J. TRASK, B.C.S*
JAY DAIGNEAULT, B.C.S.*
ERICA F. AUGELLO, B.C.S.*
RANDY MORA, B.C.S.*
ROBERT M. ESCHENFELDER, B.C.S.*
NANCY S. MEYER
DAVID E. PLATTE
JEREMY SIMON

** Board Certified by the Florida Bar in City, County and Local Government Law*

MEMORANDUM

DATE: April 16th 2021

TO: Mayor David Will
Vice Mayor Tom Dorgan
Commissioner Richard Cariello
Commissioner Shawntay Skjoldager
Commissioner Tim Kornijtschuk

FROM: Jay Daigneault, Esq., Town Attorney

RE: Redington Beach Code Revision Project: Chapter 22 (Utilities)

Dear Mayor, Vice Mayor, and Commissioners:

As you will recall, the Town Commission assigned the Town Attorney's Office to conduct a "top to bottom" review of the Town Code (minus the Land Development Code) with the goal of modernizing the Code and ensuring it was up to date and contained all necessary and desirable terms so as to be in the best interests of the Town and its residents.

The Town has codified its ordinances over time into a Town Code (the Code) which sets forth the cumulative law of the Town. The Town Commission regularly adopts ordinances amending the Code. However, many portions of the Code existing prior to this update assignment date back to 1980, with other portions of the Code not having been updated for ten or more years. Since part of the Commission's duties include the necessity to ensure that the Town's ordinances, as codified in the Code, are up to date, reflect current Florida and federal statutory and case law, that they reflect current actual Town operations, and that they do not contain outdated, redundant or erroneous provisions, it made this review and update assignment.

As you know, in processing the assignment, I am delivering it to the Commission in segments as this will be easier for both Commissioners and interested citizens to focus on with respect to what changes are being recommended.

This submission addresses Chapter 22 of the Code which concerns utilities within the Town.

Below are the revisions I am recommending for consideration by the Board of Commissioners:

Revisions to Chapter Twenty-Two

With that overview, in the attached draft ordinance, I am recommending:

- Revisions to sec. 22-1(a) to add additional materials which are not to be placed into the Town's sewer system, and to remove or clarify several antiquated words no longer commonly used or understood by the general public.
- Revision to sec. 22-1(e) to make gender neutral.

As always, please do not hesitate to contact me should you have questions or concerns regarding this matter in advance of the public hearing on the ordinance.

/s/ Jay Daigneault, Esq.
Town Attorney

ORDINANCE NO. 2021 - 04

AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA, AMENDING CHAPTER 22 (UTILITIES) OF THE TOWN CODE TO REMOVE OUTDATED, PREEMPTED OR UNENFORCABLE PROVISIONS AND TO INCORPORATE CURRENT STATE AND FEDERAL LAW REQUIREMENTS AND TOWN PRACITECS; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Redington Beach (the Town) has codified its ordinances over time into a Town Code (the Code) which sets forth the cumulative law of the Town; and

WHEREAS, the Town Board of Commissioners (the Commission) regularly adopts ordinances amending the Code; and

WHEREAS, however, many portions of the Code date back to 1980, with other portions of the Code not having been updated for ten or more years; and

WHEREAS, part of the Commission's duties include the necessity to ensure that the Town's ordinances, as codified in the Code, are up to date, reflect current Florida and federal statutory and case law, that they reflect current actual Town operations, and that they do not contain outdated, redundant or erroneous provisions; and

WHEREAS, in light of the foregoing, the Commission has charged the Town Attorney with the task of conducting a complete review of the Town's Code (excluding the Land Development Code) and to bring forward any recommended revisions to the Code which would alleviate any of the aforementioned potential concerns with the Code's current text; and

WHEREAS, the Town Attorney has submitted his assessment of Chapter 22 of the Code concerning utilities, and has recommended that the Commission make the revisions to that Chapter as are set forth in this Ordinance; and

WHEREAS, the Commission has considered the Town Attorney's recommendations and finds them to be consistent with the goals of the Commission; and

WHEREAS, the Commission therefore finds that it is in the best interests of the Town, and its citizens, property owners and businesses to adopt this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Redington Beach, Florida, that:

Section 1. Chapter 22 (Utilities) of the Redington Beach Town Code is hereby amended to read as follows:

Chapter 22 – UTILITIES

ARTICLE I. – IN GENERAL

Sec. 22-1. - Damaging sewer system; maintenance of plumbing.

(a) No person shall injure, break or remove any section of any manhole, lamp_hole, flush tank, catch_basin or any other part of the town's sewer system, or throw or deposit or cause to be deposited or thrown in any sewer opening or receptacle connecting with the sewer system any garbage, oil, petroleum, chemical, ~~offal, dead~~ animal or human flesh or bone, vegetation, fruits or vegetables~~,~~ (including parings), ashes, cinders, rags or other matter or thing whatsoever, except feces, urine and the necessary waste toilet paper and liquid, house and mill slops.

(b) All plumbing, both existing and new, and parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code shall be maintained in good working order. The owner or his designated agent shall be responsible for the maintenance of plumbing. If a stoppage or blockage occurs anywhere between the sanitary sewer connection to the lateral and the building, it shall be the responsibility of the owner or occupant to have the stoppage or blockage removed at the owner's or occupant's expense.

(c) If any breakage, malfunction or damage shall occur in the town sewer lateral which is not caused by negligence on the part of the owner or occupant, the town shall cause repairs or replacement to be made to the sewer lateral.

(d) If a question arises as to responsibility as stated in this section, it shall be resolved by the public works commissioner.

(e) If the property owner or occupant is aggrieved by the decision of the public works commissioner under this section, such aggrieved person~~he~~ shall have the right to appeal the decision to the board of commissioners, and the decision of the board shall be final and binding.

Sec. 22-2. - Grease traps.

Restaurants, garages and similar establishments shall maintain proper grease traps for the removal of greases, fumes and gaseous matter of any nature from sewage before disposal of the sewage into the sewer system.

Sec. 22-3. - Permit for connection to sanitary sewer system.

All persons connecting property with the sanitary sewer system of the town shall make application for and secure a permit before the connection is made.

Sec. 22-4. - Rates for sewer service.

Rates for sewer service within the town shall be those established from time to time by the board of commissioners and on file in the town clerk's office.

Sec. 22-5. - Owner's liability.

(a) Liability for sewer service shall begin on the date the user is connected to the town's sewer main, in accordance with the provisions of this chapter.

(b) Billing for sewer service shall be commenced and continued without regard to actual occupancy of any unit or structure and without regard to frequency or actual use of the sewer system.

Section 2. For purposes of codification of any existing section of the Redington Beach Code herein amended, words **underlined** represent additions to original text, words ~~**stricken**~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Redington Beach Town Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the ___ day of _______________, 2021, by the Board of Commissioners of the Town of Redington Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the __ day of _______________, 2021, by the Board of Commissioners of the Town of Redington Beach, Florida.

____
David Will, Mayor

Attest:

____
Missy Clarke, CMC, Town Clerk

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello					
Commissioner Kornijtschuk					
Commissioner Skjoldager					
Vice Mayor Dorgan					
Mayor Will					

TRASK DAIGNEAULT LLP ATTORNEYS

THOMAS J. TRASK, B.C.S*
JAY DAIGNEAULT, B.C.S.*
ERICA F. AUGELLO, B.C.S.*
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** Board Certified by the Florida Bar in City, County and Local Government Law*

MEMORANDUM

DATE:	April 18, 2021
TO:	Mayor David Will Vice Mayor Tom Dorgan Commissioner Richard Cariello Commissioner Shawntay Skjoldager Commissioner Tim Kornijtschuk
FROM:	Jay Daigneault, Esq., Town Attorney
RE:	Redington Beach Code Revision Project: Chapter 20 (Taxes)

Dear Mayor, Vice Mayor, and Commissioners:

As you will recall, the Town Commission assigned the Town Attorney's Office to conduct a "top to bottom" review of the Town Code (minus the Land Development Code) with the goal of modernizing the Code and ensuring it was up to date and contained all necessary and desirable terms so as to be in the best interests of the Town and its residents.

The Town has codified its ordinances over time into a Town Code (the Code) which sets forth the cumulative law of the Town. The Town Commission regularly adopts ordinances amending the Code. However, many portions of the Code existing prior to this update assignment date back to 1980, with other portions of the Code not having been updated for ten or more years. Since part of the Commission's duties include the necessity to ensure that the Town's ordinances, as codified in the Code, are up to date, reflect current Florida and federal statutory and case law, that they reflect current actual Town operations, and that they do not contain outdated, redundant or erroneous provisions, it made this review and update assignment.

As you know, in processing the assignment, I have delivered proposed changes to the Commission in segments as this is easier for both Commissioners and interested citizens to focus on with respect to what changes are being recommended.

This submission addresses Chapter 20 of the Code which concerns certain locally established taxes.

In general, current § 20-27 and § 20-30, and the tax categories listed therein, were originally founded on an older version of Florida Statutes § 166.231 (public service tax). However, since 1980 (the year the Code dates these sections to), the statute was amended many times.

In addition to the excise tax issues to be corrected, the state's statutes on the local business tax has changed in various ways since the code was last updated, and recent federal caselaw on both due process and the 4th Amendment require significant updates to those sections.

Below are the revisions I am recommending for consideration by the Board of Commissioners:

Revisions to Chapter Twenty

With that overview, in the attached draft ordinance, I am recommending:

- References to F.S. are converted to the words Florida Statutes to be consistent with the rest of the Town Code as it will read once the revision project is complete.
- Current sec. 20-35 (fire insurance policy tax) is re-numbered as sec. 20-2 and relocated to Article I (general) from Article II (dealing with the public service tax) since the fire insurance tax is not a public service tax.
- Sec. 20-26 (penalty for violating Article II) is relocated to a new Sec. 20-35 to appear at the end of Article II (where penalty provisions usually appear).
- References in Sec. 20-27(a) to fuel oil delivered tax is relocated to 20-27(b) so that sub (a) only addresses the electricity tax.
- Remove language in sec. 20-27(a) dealing with collection since that is dealt with in sec. 20-30.
- Sec. 20-27(b) contains the relocated provision for fuel oil tax. The statutory definition associated with "fuel oil" is provided for clarity. Reference in sub (b) to tax on telephone service is deleted in light of current Florida law which no longer authorizes this tax.
- Sec. 20-27(c) now addresses the tax on metered natural gas. References to tax on telecommunications service are removed since Florida law no longer authorizes this tax.
- Sec. 20-28 adds school districts to the list of exempt government entities to be consistent with the statute.
- Sec. 20-29 (referencing tax on phone service) is deleted in light of current statute.
- Remove language in sec. 20-27(b) and (c) concerning tax on telephone and telecommunications service in light of current statute.
- Revision to sec. 20-30 to clarify that sellers are responsible for assessing and remitting the taxes, to remove reference to water and to add reference to metered natural gas.
- Revision to sec. 20-31 to remove references to phone and water service, and to add reference to metered natural gas.
- Revision to sec. 20-32 to remove references to phone and water service, and to add reference to metered natural gas.
- Revision to sec. 20-33 to remove references to phone and water service, and to add reference to metered natural gas.
- The definition of "business" in sec. 20-55 is revised to include statutory exemptions for religious, charitable and educational activities.

- The content of current sec. 20-57 (renumbered as 20-59) is repealed as it is not consistent with Florida law. A new sec. 20-59 sets forth a prerequisite for pest control companies required by Florida Statutes § 205.1967.
- Sec. 20-57 is amended to add a new subsection (d) to incorporate the charitable/religious sales exemption of Florida Statutes § 205.192, and a new subsection (e) to confirm deliveries are not subject to a business tax.
- Sec. 20-70 confirms a transfer fee of $3 (the current language uses the statutory range, but a set amount must be selected to be enforced.
- Sec. 20-72 provides stronger language with respect to revocation or suspension at Town's discretion.
- New sec. 20-75 is added to provide for an application and appeal process, required to satisfy due process.
- Sec. 20-76 is significantly edited to provide language on inspections which complies with current 4th Amendment caselaw on administrative inspections.
- Sec. 20-78 is amended to correct an erroneous cross-reference and to incorporate the classification requirements of Florida Statutes § 205.043.
- New sec. 20-79 is added to clarify how the article is administered.

I emphasize that some of the new provisions in this draft ordinance are centered around policy choices, not legal mandates. I have included them after having conducted a comprehensive review of the parks and recreation codes of other Florida municipalities which appear to be "best practices" or otherwise worthy of consideration by the Board of Commissioners. Therefore, any such provisions which, upon consideration, the Commission does not desire to retain in the draft may easily be removed before the ordinance reaches final adoption.

As always, please do not hesitate to contact me should you have questions or concerns regarding this matter in advance of the public hearing on the ordinance.

/s/ Jay Daigneault, Esq.
Town Attorney

ORDINANCE NO. 2021 -08

AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA, AMENDING CHAPTER 20 (TAXES) OF THE TOWN CODE TO REMOVE OUTDATED, PREEMPTED OR UNENFORCABLE PROVISIONS AND TO INCORPORATE CURRENT STATE AND FEDERAL LAW REQUIREMENTS; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Redington Beach (the Town) has codified its ordinances over time into a Town Code (the Code) which sets forth the cumulative law of the Town; and

WHEREAS, the Town Board of Commissioners (the Commission) regularly adopts ordinances amending the Code; and

WHEREAS, however, many portions of the Code date back to 1980, with other portions of the Code not having been updated for ten or more years; and

WHEREAS, part of the Commission's duties include the necessity to ensure that the Town's ordinances, as codified in the Code, are up to date, reflect current Florida and federal statutory and case law, that they reflect current actual Town operations, and that they do not contain outdated, redundant or erroneous provisions; and

WHEREAS, in light of the foregoing, the Commission has charged the Town Attorney with the task of conducting a complete review of the Town's Code (excluding the Land Development Code) and to bring forward any recommended revisions to the Code which would alleviate any of the aforementioned potential concerns with the Code's current text; and

WHEREAS, the Town Attorney has submitted his assessment of Chapter 20 of the Code concerning taxes, and has recommended that the Commission make the revisions to that Chapter as are set forth in this Ordinance; and

WHEREAS, the Commission has considered the Town Attorney's recommendations and finds them to be consistent with the goals of the Commission; and

WHEREAS, the Commission therefore finds that it is in the best interests of the Town, and its citizens, property owners and businesses to adopt this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Redington Beach, Florida, that:

Section 1. Chapter 20 (Taxes) of the Redington Beach Town Code is hereby amended to read as follows:

Chapter 20 - TAXATION

ARTICLE I. - IN GENERAL

Sec. 20-1. - Homestead exemption for persons 65 and older.

(a) The Town of Redington Beach, Florida, acting by and through its town commission by the authority of the provisions of the Charter of the Town of Redington Beach, Florida, and by the authority of Florida ~~.~~Sstatutes~~.~~ § 196.075, hereby grants an additional homestead exemption in the amount of $25,000.00 for persons 65 years and older, whose household income does not exceed the amount established by Florida ~~.~~Statutes~~.~~ § 196.075.

(b) The income limitation shall be adjusted annually on January 1 by the percentage change in the average cost of living index in the period January 1 through December 31 of the immediate prior year, compared with the same period for the year prior to that year, in accordance with Florida ~~.~~Statutes~~.~~ § 196.075(3).

(c) The exemption applies only to taxes levied by the Town of Redington Beach, Florida.

(d) Qualifying taxpayers claiming this exemption must submit to the property appraiser a sworn statement of household income on a form prescribed by the department of revenue, no later than March 1 of each year an exemption is claimed.

(e) The statement of household income must be supported by copies of federal income tax returns for the prior year, wage and earning statements (W-2 forms), any request for an extension of time to file returns, and any other documents necessary for review by the department of revenue, for each member of the household, to be submitted for inspection by the property appraiser.

(f) The taxpayer's sworn statement shall attest to the accuracy of the documents and grant permission to allow a review of the document if requested by the property appraiser.

(g) Submission of supporting documentation is not required for the renewal of an exemption under Florida ~~.~~Statutes~~.~~ § 196.075, unless such documentation is requested by the property appraiser.

Sec. 20-2. - Fire insurance premium tax.

(a) Pursuant to Florida Statutes § 175.101, there is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on the business of insuring with respect to property insurance, as shown by the records of the department of financial services, an excise or license tax in addition to any license tax or excise now levied by the Town of Redington Reach, which said tax shall be in the amount of 1.85 percent of the gross amount of receipts of premiums from policy holders on all premiums collected on property insurance policies, covering property within the corporate limits of the Town of Redington Beach.

(2) The excise tax provided for in this section shall be payable and collected in the manner provided for by state law providing for the creation and administration of a firefighter's pension fund.

ARTICLE II. - PUBLIC SERVICE TAX

~~**Sec. 20-26. - Penalty for violation of article.**~~

~~Any purchaser willfully failing, refusing or neglecting to pay the tax imposed and levied by this article, where the seller has not elected to assume and pay such tax, and any seller willfully violating the provisions of this article or any officer, agent or employee of any seller violating the provisions of this article shall, upon conviction, be punished as provided in section 1-14.~~

Sec. 20-27. - Levy.

(a) There is hereby levied and imposed by the town, on each and every purchase of electricity, in the corporate limits of the town, a tax in the amount of 7½ percent of the payment received by the seller of such utility service. ~~There is hereby levied and imposed by the town on each and every purchase of fuel oil in the corporate limits of the town a tax in the amount of \$0.02 per gallon of fuel oil delivered. The tax in every case shall be collected from the purchaser of such utility service and paid by such purchaser for the use of the town to the seller of such utility service at the time of the purchaser paying the charge therefor to the seller, but not less often than monthly, commencing upon the effective date of this article.~~

(b) There is hereby levied and imposed by the town, on each and every purchase of metered or bottled fuel oil in the corporate limits of the town a tax in the amount of \$0.02 per gallon of fuel oil delivered. For purposes of this section, the term "fuel oil" shall mean liquefied petroleum gas and manufactured gas, as those terms are used in Florida Statutes § 166.231(1)(a).~~on each and every purchase of local telephone service, as defined in F.S. § 203.012(3), a tax in the amount of five percent of the monthly recurring customer service charges, excluding public telephone charges collected on site, access charges and any customer access line charge paid to a local telephone company.~~

(c) Pursuant to Florida Statutes § 166.231(1)(a), t~~T~~here is hereby levied a seven percent tax on the purchase of metered natural gas ~~telecommunications service~~ within the town~~ which originates and terminates in this state, excluding public telephone charges collected on site, access charges, and any customer access line charges paid to a local telephone company. This tax shall be governed by the provisions set forth in F.S. § 166.231 and the applicable sections and subsections of F.S. § 203.01~~.

(d) The taxes imposed by ~~subsection (a) of~~ this section shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. For purposes of this section, fuel adjustment charge means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(e) Services competitive with those enumerated in this section ~~or section 20-29, as defined by ordinance,~~ shall be taxed on a comparable basis at the same rates. The maximum rate allowed for fuel oil taxed at a rate of ten percent shall be \$0.04 per gallon, and, therefore, the maximum tax on fuel oil levied in this section shall bear the same proportion to \$0.04 which the tax rate levied under this section bears to the maximum rate allowable which is ten percent.

Sec. 20-28. - Exemptions.

The United States of America, the state and the political subdivisions and agencies, boards, commissions and authorities thereof, school districts, and county and municipal governments, are hereby exempted from payment of the tax imposed and levied by this article upon the services used by such governmental agencies.

~~**Sec. 20-29. - Maximum tax on telephone service.**~~

~~The tax imposed and levied by this article upon purchases within the town of local telephone service, as defined in F.S. § 203.012(3) shall be at a rate not to exceed ten percent of the monthly recurring customer service charges, excluding public telephone charges collected on site, access charges and any customer access line charges paid to a local telephone company.~~

Sec. 20-30. - Collection from purchaser.

Pursuant to Florida Statutes § 166.231(7), the tax established by § 20-27 shall be collected by the seller of the taxable item from the purchaser at the time of the payment for such service, which collection shall be conducted ~~It shall be the duty of every seller of local telephone service, electricity, bottled gas, fuel oil and water service, in acting as the tax collection medium or agency for the town, to collect from the purchaser,~~ without any cost or charge to the town.~~, for the use of the town,~~ T~~t~~he taxes established by § 20-27 shall be ~~imposed and levied by this article at the time of collecting the purchase price charged for each transaction, and to~~ reported and paid~~y~~ over to the town on or before the 15th day of each calendar month which have been ~~unto the town all such taxes imposed,~~ levied and collected during the preceding calendar month. It shall be unlawful for any seller of such utility service to collect the price of any sale of ~~local telephone service,~~ electricity, bottled gas, fuel oil and metered natural gas~~water~~ service without at the same time collecting the tax imposed and levied by this article in respect to such purchase unless such seller shall elect to assume and pay such tax without collecting the tax from the purchaser. Any seller failing to collect such tax at the time of collecting the price of any purchase where the seller has not elected to assume and pay such tax shall be liable to the town for the amount of such tax in like manner as if the tax had been actually paid to the seller, and the board of commissioners shall cause to be brought all suits and actions and take all proceedings in the name of the town as may be necessary for the recovery of such tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected charges. If any purchaser shall fail, neglect or refuse to pay the tax imposed and levied by this article to the seller at the time of sale, the seller shall have and is hereby vested with the right, power and authority to immediately discontinue further service to such purchaser until the tax shall have been paid in full, except for local telephone service, which is regulated by Florida Statutes.

Sec. 20-31. - Records of purchases.

Each and every seller of ~~local telephone service~~, electricity, bottled gas, fuel oil and metered natural gas~~water~~ service shall keep complete records showing all purchases in the town of such service, which records shall show the price charged upon each purchase, the date thereof and the date of payment thereof. Such records shall be kept open for inspection by the duly authorized agents of the town during business hours on all business days, and the agents of the town shall have the right, power and authority to make such transcripts thereof during such time as they may desire.

Sec. 20-32. - Computation.

(a) In all cases where the seller of ~~local telephone service,~~ electricity, bottled gas, fuel oil and metered natural gas~~water~~ service collects the price thereof at monthly periods, the tax imposed and levied by this article may be computed on the aggregate amount of purchases during such monthly period; provided that the amount of the tax to be collected shall be the nearest whole cent to the amount computed.

(b) Where the seller of any of the services listed in this section collects for the purchases for any period less than one month or longer than one month, then such seller shall collect the tax imposed by this article for the period actually covered by the seller's collection practice, and shall remit the tax to the town on the 15th day of the month following the actual collection for such purchases.

Sec. 20-33. - Applicability to transactions occurring partly within town.

The purchase of ~~local telephone service,~~ electricity, bottled gas, fuel oil and metered natural gas~~water~~ service upon which a tax is imposed and levied by this article shall embrace and include any part of the transaction or purchase occurring within the corporate limits of the town, whether the transaction or purchase is the entering into a contract for the purchase of any such utility service or otherwise.

Sec. 20-34. - Duration.

This article shall not be repealed so long as there are outstanding and unpaid any of the principal of or interest on any service or other obligations issued in anticipation of collection of revenues under this article secured by such revenues, nor shall this article be amended or modified in any manner so as to impair or adversely affect in any manner any pledge of the revenues under this article or the rights of any holders of such certificates or obligations issued in anticipation of the collection of such revenues under this article.

Sec. 20-35. - Penalty for violation of article.

Any purchaser willfully failing, refusing or neglecting to pay the tax imposed and levied by this article, where the seller has not elected to assume and pay such tax, and any seller willfully violating the provisions of this article or any officer, agent or employee of any seller violating the provisions of this article shall, upon conviction, be punished as provided in section 1-14.

~~**Sec. 20-35. - Fire insurance premium tax.**~~

~~(a) There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on the business of insuring with respect to property insurance, as shown by the records of the department of financial services, an excise or license tax in addition to any license tax or excise now levied by the Town of Redington Reach, which said tax shall be in the amount of 1.85 percent of the gross amount of receipts of premiums from policy holders on all premiums collected on property insurance policies, covering property within the corporate limits of the Town of Redington Beach.~~

~~(2) The excise tax provided for in this section shall be payable and collected in the manner provided for by state law providing for the creation and administration of a firefighter's pension fund.~~

ARTICLE III. - BUSINESS TAX

Sec. 20-55. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the town, or anywhere else within the town's jurisdiction ~~any business activity in which any person maintains a permanent business location or branch office within the town for the privilege of engaging in or managing business within the town, or any business activity in which any person not maintaining a permanent business location or branch office within the town transacts any business in the town~~ except a person engaging in those activities upon which a business tax is prohibited by United States Constitution, Art. I, § [8] or by state statutes. The term does not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in this state, as defined in this § 20-55.

Business tax means the fees charged and the method by which the town grants the privilege of engaging in or managing any business, profession, or occupation within the town's jurisdiction. It does not mean any fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection, which unless otherwise provided by law, are deemed to be regulatory and in addition to, but not in lieu of, any business tax imposed herein.

Charitable institutions means only nonprofit corporations operating physical facilities in the state at which are provided charitable services, a reasonable percentage of which shall be without cost to those unable to pay.

Educational institutions means state tax-supported or parochial, church and nonprofit private schools, colleges or universities conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Secondary Schools, department of education or the Florida Council of Independent Schools. Nonprofit libraries, art galleries and museums open to the public are defined as educational institutions and eligible for exemption.

Employee means every person engaged in any business, profession or occupation under any appointment, agency, contract of hire, or apprenticeship, express or implied, oral or written.

Merchandise means any goods, wares or commodities bought or sold in the usual course of trade, wholesale or retail, including necessities, provisions and articles for immediate consumption.

Merchant, retail means any merchant who sells to the consumer or for any purpose other than resale.

Merchant, wholesale means any merchant who sells to another for the purpose of resale. Sales to governmental entities shall be considered wholesale sales.

Occupation means any occupation in which any person maintains a permanent business location or branch office within the town, or any occupation in which any person not maintaining a permanent business location or branch office within the town transacts any business in the town except a person engaging in those activities upon which a business tax is prohibited by United States Constitution, Art. I, § 8 or by state statutes.

Person means any individual, firm, partnership, joint adventure, syndicate or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver or other fiduciary and includes the plural as well as the singular.

Premises means all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

Profession means any profession in which any person maintains a permanent business location or branch office within the town for the purpose of engaging in or managing any profession within the town, or any profession in which any person not maintaining a permanent business location or branch office within the town transacts any business in the town, except a person engaging in those activities upon which a business tax is prohibited by United States Constitution, Art. I, § 8 or by state statutes.

Receipt means the document that is issued by the town which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of this article relating to the business tax.

Religious institutions means, churches and ecclesiastical or denominational organizations, or established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on, and also church cemeteries.

Sec. 20-56. - Levy of business tax.

(a) There is levied a business tax for the privilege of engaging in or managing any business, profession, or occupation on any person who:

(1) Maintains a permanent business location or branch office within the town, for the privilege of engaging in or managing any business within its jurisdiction.

(2) Maintains a permanent business or location or branch office within the town, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.

(3) Does not qualify under subsection (1) or (2) of this section and transacts any business or engages in any occupation or profession in interstate commerce, if the business tax is not prohibited by the United States Constitution, Art. I, § 8.

(b) For the purpose of this article, any person shall be deemed to be engaging in or managing a business, profession or occupation, and thus subject to the requirements of this article, when on premises in the town that person does one act of:

(1) Selling any goods or service;

(2) Soliciting business or offering goods or services for sale or hire;

(3) Acquiring or using any vehicle or any premises in the town for business purposes;

(4) Providing any service within the jurisdiction of the town.

Sec. 20-57~~6.1~~. - Receipt required; exemptions; conditions.

(a) It shall be unlawful for any person to exercise any of the privileges or carry on or engage in or conduct any of the businesses, occupations or professions specifically enumerated in this article without paying the business tax required by this article in the manner provided or to fail to make reports to the town as required or to violate any other section of this article.

(b) No business tax shall be required for any business or occupation which is exempt pursuant to Florida ~~.~~Statutes~~.~~ ch~~.~~apter 205.

(c) As to any business or occupation which is, pursuant to Florida ~~.~~Statutes~~.~~ chapter~~.~~ 205, required to have an active state license prior to issuance of town business, no receipt shall be issued for any such business or occupation until proof of such license is provided to the finance director.

(d) A business tax receipt is not required of any charitable, religious, fraternal, youth, civic, service, or other similar organization that makes occasional sales or engages in fundraising projects that are performed exclusively by the members, and the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic, and service activities of the organization.

(e) No business license shall be required of any person for the mere act of delivering into the town any property purchased or acquired in good faith from such person at the person's regular place of business outside the town where no intent by such person is shown to exist to evade the provisions of this article.

Sec. 20-58~~6.2~~. - Penalty for violation.

Any person who shall, either as a proprietor or agent or otherwise, carry on, conduct or engage in any business, profession or occupation for which a business tax is required under this article~~Code or town ordinances~~, without having first obtained such business tax, except when otherwise provided by law, shall be punished as provided in section 1-14, and the amount of any such business tax shall constitute an indebtedness to the town recoverable in any court of competent jurisdiction.

Sec. 20-59~~7~~. – Prerequisite for pest control businesses~~Applicability of article~~.

Pursuant to Florida Statutes § 205.1967, the town will not issue a business tax receipt to any pest control business regulated under chapter 482 unless a current license has been procured from the Department of Agriculture and Consumer Services for each of its business locations in the town. Upon presentation of the requisite licenses from the department and the required fee, a business tax receipt shall be issued by the town.~~For purposes of this article, any person shall be deemed to be in business or engaging in a nonprofit enterprise, and thus subject to the requirements of section 20-56, when he does one act of:~~

~~(1) Selling any goods or service.~~

~~(2) Soliciting business or offering goods or services for sale or hire.~~

~~(3) Acquiring or using any vehicle or any premises in the town for business purposes.~~

Sec. 20-60~~58~~. - Responsibility of agents of nonresident businesses.

The agents or other representatives of nonresidents who are doing business in the town shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this article.

Sec. 20-61~~0~~. - Branch establishments and separate locations.

A receipt shall be obtained in the manner prescribed in this article for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business, provided that warehouses and distributing plants used in connection with and incidental to a business receipt under the provisions of this article shall not be deemed to be separate places of business or branch establishments.

Sec. 20-62~~1~~. - Due date; duration of business tax.

All business taxes imposed under this article, except as otherwise expressly provided, shall be due and payable on October 1 of each year, and business taxes shall expire on September 30 of the succeeding year.

Sec. 20-6~~2~~3. - Proration.

(a) No receipt shall be issued under this article for a period less than six months, except as otherwise specifically stated in this article.

(b) For each business tax renewed and for each new business tax issued between October 1 and March 31 of each year, the full amount of business tax imposed by this article shall be paid. For each receipt issued to a business beginning to operate on or after April 1 of each year, one-half of the total amount of the business tax shall be paid.

Sec. 20-64~~2.1~~. - Receipts for fractional part of year.

Unless otherwise provided, for each receipt obtained between October 1 and April 1, the full tax shall be paid, and for each receipt obtained from April 1 to September 30, one-half the full tax for one year shall be paid.

Sec. 20-65~~3~~. - Payment; default.

All business taxes under this article shall be due and payable on October 1 of each year, and if not paid within 30 days thereafter the taxes shall be considered in default. Business taxes in default shall be subject to a penalty of ten percent during the month of November, and an additional five percent for each additional month of default. The payment of this penalty shall not be in lieu of other penalties provided for the violation of any section of this article.

Sec. 20-66~~3.1~~. - Penalty for delinquent payment of taxes.

(a) Each business tax not renewed by September 30 shall be considered delinquent and shall be subject to a delinquency penalty of ten percent of the total tax due for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid; provided, however, that the total penalty shall not exceed 25 percent of the total tax due.

(b) Any person who engages in or manages any business, occupation, or profession without first obtaining a receipt, if required, is subject to a penalty of 25 percent of the business tax due, in addition to any other penalty provided by law or ordinance.

(c) Any person who engages in any business, occupation, or profession covered by this article, who does not pay the required business tax within 150 days after the initial notice of tax due and who does not obtain the required receipt, is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to $250.00.

(d) Nothing in this section, however, shall be construed to prevent the imposition of a fine or imprisonment or both, upon conviction for violation of any section of this article.

Sec. 20-674. - Display or possession of receipt.

Every person required to have a business tax receipt under this article shall at all times from the issuance of such receipt by the town conspicuously display such receipt in his place of business. Where the business tax payor does not have a place of business, he shall be prepared at all times while engaged in his occupation to present his receipt for inspection by any police officer or receipt officer of the town when requested to do so.

Sec. 20-68~~4.1~~. - Posting of receipt.

Every receipt issued shall be posted in a conspicuous place in the place of business for which it is issued, and the holder of such receipt shall exhibit the receipt to the town inspector or any police officer upon being requested to do so by either of them.

Sec. 20-69~~4.2~~. - Replacing lost or destroyed receipt.

For the purpose of replacing any mutilated, destroyed or lost receipt granted by the town, the finance director is authorized and empowered to cause to be executed and delivered an appropriate duplicate receipt, upon the submission of evidence satisfactory to the finance director that the original receipt was mutilated, destroyed or lost and upon the holder of such original furnishing the town with indemnity satisfactory to the clerk and upon the payment to the town by the holder the sum of $1.00 for each such duplicate receipt executed and delivered. The sum charged is declared to be a reasonable amount to reimburse the town for the expense incidental to executing and delivering each such duplicate receipt.

Sec. 20-70~~65~~. - Transfer of receipt.

(a) All receipts issued by the town under this article shall be transferred with the approval of the board of commissioners with the businesses for which they were taken out, except for certain business tax classifications set forth as not transferable in the receipt tax schedule, when there is a bona fide sale and transfer of the property used and employed in the business as stock in trade, and not otherwise, provided that the seller of the business shall present the license to the board of commissioners with the endorsement on the reverse side of the receipt issued, assigning all right, title and interest to the purchaser, and the purchaser shall produce a properly executed bill of sale showing the transfer of stock from the person to the purchaser.

(b) Receipts may be transferred from one location to another provided the receipt is presented to the board of commissioners for approval of such transfer.

(c) Any business receipt may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of ~~up to ten percent of the annual tax, but not less than~~ $3.00 ~~and not more than $25.00~~, and presentation of the original receipt together with evidence of the sale of the business, but such transferred receipt shall not be good for any longer or for any other place than that for which it was originally issued. Any receipt may be transferred from an abandoned location to another location within the town upon the presentation of the original receipt and payment of a transfer fee of ~~up to ten percent of the annual business tax, but not less than~~ $3.00 ~~and not more than $25.00~~.

Sec. 20-71~~65.1~~. - False statements in business tax application.

Any receipt obtained under this article upon a misrepresentation of a material fact shall be deemed null and void, and the taxpayer who has thereafter engaged in any business under such receipt shall be subject to prosecution or other applicable penalties to the same effect and degree as though no such receipt had ever been issued.

Sec. 20-72~~66~~. -- Business operation as privilege~~Revocation of receipt~~.

The issuing of a business tax reciept by the town is for the privilege of engaging in or managing a business, profession or occupation. The town reserves the right to decline to issue or renew, or to revoke or suspend a business license for a violation of this article.~~right to revoke any receipt issued under the provisions of this article for cause is reserved to the town. Such revocation shall be made at the direction of the board of commissioners.~~

Sec. 20-73~~66.1~~. - Business tax is applicable to one place of business.

All business taxes provided for in this article shall be issued for and shall apply to only one place of business within the town.

Sec. 20-74~~66.2~~. - Multiple business taxes.

If any person engaged in a business, occupation or profession at one location or place of business is required under the terms of this article to have more than one receipt and to pay more than one business tax, the taxpayer shall pay all business taxes so required.

Sec. 20.75. – Application procedure.

(a)*Application.* Every person required to procure or renew a business license under the provisions of this article shall submit an application for such license to the designee. The application shall:

(1) Be a written statement upon forms provided by the designee, and shall be in the form of an affidavit wherein the applicant attests to the truthfulness of the information contained therein and acknowledging the requirements of this article;

(2) Be accompanied by the full amount of the current taxes or fees chargeable for such business license along with any other overdue fines or fees payable under this article;

(3) Require, as to renewal applications, the disclosure of such information concerning the conduct, organization and operation of applicant's business during the preceding licensing period as is reasonably necessary to verify the applicant's eligibility for a renewed business license, and for a possible adjustment of assigned business category or tax amount due.

(b) *Denial.* If the designee determines, based upon the criteria established in this article, the town code, and any relevant statutory law, that an applicant does not meet said criteria, the application shall be denied. Upon denying an application, the designee shall refund any tax paid in advance by the applicant, provided the applicant is not otherwise indebted to the town. The denial shall be in writing to the applicant and shall state the reason(s) for such denial. When the issuance of a business license is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the business license was denied unless a business license is issued to the applicant pursuant to a judicial order requiring the issuance of such business license.

(c) *Appeal.* The applicant may appeal such denial to the board of commissioners. The appeal must be in writing and submitted to the town clerk within 20 days of receipt of the written denial. Once the appeal is received by the town in conformity with this section, the matter shall be placed on the next regularly scheduled agenda for the consideration of the board of commissioners at a quasi-judicial hearing. Appeals of decisions by the board of commissioners shall be to the Circuit Court of the Sixth Judicial Circuit within 30 days of the board's decision in the manner provided by law.

Sec. 20-76~~67~~. - Inspections.

(a) Town code inspectors shall have the authority to conduct regulatory inspections of the following premises, at all reasonable times, to ensure compliance with town~~The following persons are authorized to conduct inspections in the manner prescribed in this section~~:

(1) Those for which a business license is required;~~All town officials having duties to perform with reference to licensees or businesses subject to this article.~~

(2) Those for which a business license was issued and which, at the time of inspection, are operating under such business license;~~All police officers who shall inspect and examine businesses located within their respective jurisdictions or beats to enforce compliance with the provisions of this article.~~

(3) Those for which a business license has been revoked or suspended;

(4) Those to which a business license has been transferred to.

(b) Regulatory inspections under this section may occur in the following instances~~All persons authorized in this section to inspect licensees and businesses shall have the authority to enter, with or without search warrant, at all reasonable times, the following premises~~:

(1) Where the code inspector has been invited or has otherwise been permitted to enter the premises by the owner, manager, employee or other agent with actual or apparent authority to control the premises;~~Those for which a license is required.~~

(2) Where the code inspector enters a licensed business premises during a time when that business is open for business and the code inspector inspects only areas of the business which are otherwise open to or viewable by customers, delivery personnel, or other persons who are invitees of the business;~~Those for which a license was issued and which, at the time of inspection, are operating under such license.~~

(3) Where the code inspector presents an inspection warrant~~Those for which the license has been revoked or suspended~~.

(c) Code inspections under this section may not occur for the purpose of conducting criminal investigations, but shall be limited to the regulatory purposes for which the inspector is seeking to conduct the inspection. Notwithstanding the foregoing, nothing in this subsection is intended to deprive any member of law enforcement who is otherwise lawfully within a licensed premises to observe any item which is in plain view to the officer, and to thereafter take such criminal law enforcement action as that officer's agency and the law may authorize~~It shall be the right and duty of the board of commissioners, or its authorized deputy, auditor, inspector or representative, to inspect from time to time the records of any business in the town where the license tax of such business is based on amount of inventory, number of employees, number of vehicles or number of rental units. The information obtained from such inspection and investigation shall be used as an aid in determining the proper classification and license tax for such business or establishment, and any person hindering, impeding or obstructing the inspectors in the reasonable performance of their duty shall be guilty of an offense~~.

(d) For purposes of this section, the term "reasonable times" shall be those times when the business premises is occupied by at least one owner, employee or authorized agent and is otherwise open for business.

Sec. 20-77~~68~~. - Continuation of fees; authority to establish fees.

(a) Nothing in this article~~Code or the ordinance adopting this Code~~ shall be construed as repealing or otherwise affecting the validity of any ordinance establishing a license fee for any person engaged in managing, operating or undertaking any occupation, business or profession within the town, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this section.

(b) The board of commissioners may from time to time establish such fees by ordinance.

Sec. 20.78~~69~~. - Schedule of amounts.

The business tax levied in ~~sub~~section 20-56~~(e)~~ shall be collected from every person exercising the privilege of carrying on, managing or engaging in the businesses, professions or occupations specifically enumerated in this section, as fixed in this section. Each such amount must be based upon reasonable classifications and must be uniform throughout any class and, unless otherwise specifically stated, shall be the amount payable per year as a business tax for exercising such privilege or carrying on or engaging in such business, profession, or occupation mentioned for each, and it shall be unlawful for any person to carry on or engage in any such business, occupation or profession herein prescribed and designated without having first paid the business tax or complied with the terms of this article as follows:

Automobile garage and repair shop $30.00

Beauty parlor 30.00

Book and magazine canvasser 100.00

Contractor—general 60.00

Insurance agency 30.00

Insurance companies 50.00

Motel 30.00

Nonresident realtor 25.00

Local real estate broker 30.00

Vending machines (except cigarette and stamp) 10.00

Each business not otherwise specified 30.00

Sec. 20-79. - Town license officer; duties.

(a) The town clerk or such other official as the town may designate (the designee) shall administer this article. The designee shall:

(1) Collect all business license taxes, penalties or other fees, and shall issue business tax receipts in the name of the town to all persons qualified under the provisions of this article;

(2) Promulgate and enforce all reasonable administrative rules and regulations necessary to the operation and enforcement of this article;

(3) Adopt all forms, including applications, notices of denial or suspension, license transfer applications and approvals, notices of tax due, and business tax receipts, as are necessary to administer this article;

(4) Require applicants to submit all affidavits and oaths necessary to the administration of this article;

(5) Determine the eligibility of any applicant for a business license pursuant to the criteria established in this article, the town code, and in any relevant statutory law;

(6) Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this article.

(b) The designee shall provide to the commission copies of all administrative procedures and forms developed pursuant to this section. The commission reserves the right to revise or rescind any of these if, in its judgment, such procedures or forms are inconsistent with this article, the town code or other applicable law, or if doing so would otherwise be in the town's best interest.

Section 2. For purposes of codification of any existing section of the Redington Beach Code herein amended, words **underlined** represent additions to original text, words ~~**stricken**~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Redington Beach Town Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the ___ day of _______________, 2021, by the Board of Commissioners of the Town of Redington Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the __ day of _______________, 2021, by the Board of Commissioners of the Town of Redington Beach, Florida.

____
David Will, Mayor

Attest:

____
Missy Clarke, CMC, Town Clerk

	Motion	Second	Aye	Nay	Absent
Commissioner Cariello					
Commissioner Kornijtschuk					
Commissioner Skjoldager					
Vice Mayor Dorgan					
Mayor Will					