

**FORT MYERS BEACH
TOWN COUNCIL**

**Town Hall- Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Fl 33931
October 31, 2006**

AGENDA	Special Town Council Meeting	PM
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I. CALL TO ORDER

Members Present: Mayor Dennis Boback, Vice Mayor Don Massucco, Councilman Garr Reynolds, Councilman Charles Meador, Jr.

Absent: Councilman Bill Shenko, Jr.

Town Staff Present: Town Attorney Anne Dalton, Town Manager Rachel Lambert, Community Development Director Jerry Murphy, Public Works Director Jack Green, Finance Director Evelyn Wicks.

II. PLEDGE OF ALLEGIANCE:

All present stood for the recitation of the Pledge of Allegiance.

III. PUBLIC COMMENT: Please note that public comment will be heard at the time the agenda item is discussed.

IV. ADMINISTRATIVE AGENDA

A. *Request for an Executive Session Shenko versus Warner.*

Mayor Boback directed Ms. Dalton to proceed.

Ms. Dalton disclosed she has received a form provided by Councilman Shenko 8-B, regarding that he will not be attending, nor voting in this Special Meeting presented at this time. Ms. Dalton further read: "I William Bill Shenko, Jr., hereby disclose on October 31, 2006, I am the plaintiff in the litigation which is the subject matter of this Special meeting. Ms. Dalton further stated it has been signed and dated by Councilman Shenko. (attached)

Ms. Dalton requested an Executive Session regarding William E Shenko Jr., versus Jeff Werner individually, and as chairman of the Fort Myers Beach Town Council Recall Committee, Sharon Harrington as Lee Supervisor of Elections, Michelle Mayher, Town Clerk of Fort Myers Beach, and the Town of Fort Myers Beach of political subdivision of the State of Florida defendants. Case number: 06-CA-4759-WCM. Ms.

Dalton announced the purpose of the Executive Session would be to discuss litigation strategies and other matters provided by the Sunshine Law. Present are Councilman Reynolds, Vice Mayor Massucco, Mayor Boback and Councilman Meador, Town Manager Rachel Lambert, the court reporter and Ms. Dalton. Ms. Dalton also announced the Executive session would not be open to the public.

MOTION: Vice Mayor Massucco made a motion to adjourn Special Town Council meeting to go into an Executive Session. Mayor Boback 2nd the motion.

Discussion:

Councilman Meador pointed out his appreciation in having Executive Sessions, but suggested using these Executive Sessions sparingly stating that the public is uninformed from what is going on in the government. Mr. Meador felt the need for the public to be made aware of what is going on in this particular lawsuit, and is not in having an Executive Session.

Vice Mayor Massucco made the comment of having Executive Sessions during litigation, and felt that these matters should be kept among them. Vice Mayor Massucco was in favor of proceeding with the Executive Session.

Councilman Reynolds made reference of this not being a secret meeting, but sees it as a way of using strategies regarding the case, and which direction they will go. Mr. Reynolds understands Mr. Meador's point of view, and hopes that the public can understand their need to plan a strategy for the case.

Mayor Boback also agrees with Mr. Meador's concerns regarding having the Executive Session, but feels they need to take a stand when dealing with litigation, and deal with it through an Executive Session to prevent disclosing strategies to their adversary. Mayor Boback is in favor of having the Executive Session.

VOTE: The motion passes 3-1; with Councilman Meador opposed.

Ms. Dalton requested to proceed with the Executive Session which is the exception to the Sunshine.

Mayor Boback opens public comment:

- Pat Smith expressed she felt it is unfortunate on how this situation occurred regarding the majority of the people on the island who

elected three of the Council members back in November, and the vocal minority is trying to undue that election. Ms. Smith asked Council during their deliberations and Executive Sessions try to keep that principal in mind.

Mayor Boback closes public comment:

V. COUNCIL MEMBERS ITEMS AND REPORTS

None

VI. FINAL PUBLIC COMMENT: Public comment at this time is heard on any item and/or issue of concern.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

VII. ADJOURNMENT

MOTION: Vice Mayor Massucco made motion to adjourn. Councilman Reynolds 2nd the motion.

VOTE: The motion passes 4-0.

Mayor Boback adjourned the meeting at 5:50 PM

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based. Please note: Agendas will be available on the Friday prior to this meeting at www.fmbeach.org.

Respectfully submitted,

Debbie Cardoso

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, William E. (Bill) Shenko, Jr, hereby disclose that on Oct 31, 20 06:

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

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am the Plaintiff in the litigation which is the subject matter of the EXECUTIVE SESSION.

10-31-06
Date Filed

William E. Shenko, Jr
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.