

**FORT MYERS BEACH  
TOWN COUNCIL**

**Town Hall- Council Chambers  
2523 Estero Boulevard  
Fort Myers Beach, Fl 33931  
December 18, 2006**

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<b>AGENDA</b>	<b>Regular Town Council Meeting</b>	<b>6:30 PM</b>
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**I. CALL TO ORDER**

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

**Absent:** None.

**Town Staff Present:** Town Attorney Anne Dalton, Town Manager David Sallee, 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. INVOCATION:** Reverend Forest Critser, First Baptist Church

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

**V. CONSENT AGENDA**

**A. Acceptance of Town Council Goals**

**MOTION:** Vice Mayor Massucco made a motion to accept the Town Council Goals as presented in the packets. Councilman Shenko 2<sup>nd</sup> the motion.

**VOTE:** The motion passes 5-0.

**VI. RESOLUTIONS:**

**A. 06-30 Resolution-Approval of FLUEDRA Consent Recommendation DCI 2005-00112**

Ms. Dalton read Resolution 06-30 and explained the function of the recommendation.

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

**MOTION:** Vice Mayor Massucco made a motion to adopt Resolution 06-30 as written. Councilman Meador 2<sup>nd</sup> the motion.

*Discussion:*

Councilman Reynolds expressed that he cannot support this Resolution and has not changed his opinion regarding the matter.

**VOTE:** The motion passes 4-1; with Councilman Reynolds dissenting.

## **VII. MAYOR, COUNCIL MEMBERS ITEMS AND REPORTS**

### **A. Town Manager Selection Update**

Mayor Boback announced that he has spoken with Mr. Parker regarding the position and were able to work out an agreement, and added that Mr. Parker expressed he was very excited to have been given the opportunity to come and work for the Town. Mayor Boback reviewed the agreement with Council members and pointed out two changes regarding the agreement Mayor Boback had discussed with Mr. Parker.

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

*Discussion:*

Discussion ensued regarding the terms of the contract, as they related to salary and severance. Councilman Meador expressed that he would be unable to vote in favor of accepting the employment agreement due to the timing the material was received by Council. Mr. Meador also suggested having a Special Meeting, in order to further discuss agreement. Councilman members agreed to review the contract. Ms. Dalton recited the employee contract agreement to Council members. Consensus of Council was to table discussion until Council had time to review the proposed contract.

### **B. Selection of Town Hall Search Committee**

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

**MOTION:** Vice Mayor Massucco made a motion to accept all three candidates for the Town Search Committee. Councilman Reynolds 2<sup>nd</sup> the motion.

**AMENDED:**

*Discussion ensued as to whether or not a decision had been made to allow or disallow real estate agents or to disqualify any agency with which they are associated. Attorney Dalton indicated that it was not in the ordinance. Mayor Boback stated that these three individuals under consideration would not make a full membership, and then once the committee became active, we would then give them guidelines under which to operate. Attorney Dalton offered that she would bring forward a resolution that would stipulate that any agency associated with a real estate agent appointed to this committee would be disqualified. Councilmembers agreed that such a resolution would need to be adopted before this committee could activate.*

Mayor Boback pointed out that by having the selection at hand this would provide them information regarding the costs, and when they are ready, they can decide whether or not to move forward with it.

**VOTE:** The motion passes 5-0.

#### **VIII. TOWN ATTORNEY'S REPORT:**

Councilman Shenko announced he has filed a conflict of interest ,  
Submitted form 8B and excused himself from the meeting.

Ms. Dalton requested a special meeting on Wednesday, December 20,  
2006 at 5:00 PM.

#### **IX. TOWN MANAGER'S REPORT:**

##### **A. Review and Acceptance of Financials Year to Date 11/30/06**

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

##### **B. Reconsideration of Mooring Field Insurance Requirements**

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

- Mike Ratliff, chairman of Anchorage Advisory. Mr. Ratliff shared his views regarding the insurance requirements for the Mooring Field.
- Bob Simon spoke of Little Carlos Pass and Lovers' Key.

**MOTION:** Councilman Meador made a motion to continue to require insurance with a minimum of \$300,000 liability and \$100,000 per incident.

**VOTE:** The motion fails due to lack of a 2<sup>nd</sup>.

**MOTION:** Vice Mayor Massucco made a motion to discontinue the insurance requirement in the leasing agreement as soon as practical. Councilman Shenko 2<sup>nd</sup> the motion.

**VOTE:** The motion passes 4-1; with Councilman Meador dissenting.

#### **C. Approval of Administrative Assistant Position**

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

**MOTION:** Councilman Shenko made a motion to approve the recommended action. Vice Mayor Massucco 2<sup>nd</sup> the motion.

*Discussion:*

Town Council felt it was not within their purview to approve this item. Town Manager Sallee added his desire to make the Council aware of the position. A consensus was in favor.

Councilman Shenko withdrew his motion. Vice Mayor withdrew his 2<sup>nd</sup>.

#### **D. Friends of the Mound House / CSO Agreement**

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

**MOTION:** Councilman Shenko made a motion to approve. Vice Mayor Massucco 2<sup>nd</sup> the motion.

**VOTE:** The motion passes 5-0.

**E. Review and Acceptance / Fort Myers Beach Citizen Recognition Program**

*Mayor Boback opens public comment:*

- No public comment was given.

*Mayor Boback closes public comment:*

*Discussion:*

Councilman Meador pointed out that they do need to continue with a definition of citizen of distinction stating that it is a good start.

Councilman Shenko agreed this as a good start, stating that he is satisfied.

Mayor Boback would like to set an amount for these awards.

**F. Chapel by the Sea Zoning Update**

*Mayor Boback opens public comment:*

- Eddie Foster shared her concerns regarding Chapel by the Sea and the present problems in the surrounding neighborhood.
- Pat Smith expressed her concerns regarding Chapel by the Sea.
- Wayne Tezak expressed his concerns regarding the program

*Mayor Boback closes public comment:*

Ms. Dalton reported the opinion letter from Fowler & White regarding Chapel by the Sea religious land use and institutionalized persons act.

Councilman Meador responded that they need to pursue the matter a little more seriously and suggested bringing it to the sheriff's department in order to solve the problem. Councilman Shenko pointed out that this service would cost considerably.

Councilmembers expressed concerns regarding lack of response from God's Table/ Chapel by the Sea and directed Town Attorney Dalton to follow up contact with their attorneys, and bring it back to Council in January.

\*Vice Mayor Massucco asked for the Council to consider making a donation to PlayWorks. Councilman Meador suggested having a complete presentation by the school about their project.

Vice Mayor Massucco asked for the Town to recognize Leo Hinckley for his achievement of reaching Eagle Scout.

**MOTION:** Councilman Meador made a motion to officially issue a proclamation for attaining high status of Eagle Scout. Councilman Shenko 2<sup>nd</sup> the motion.

**VOTE:** The motion passes 5-0.

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

*Mayor Boback opens public comment:*

- Pat Smith spoke about the planning meeting.

*Mayor Boback closes public comment:*

**XI. ADJOURNMENT:**

**MOTION:** Councilman Shenko made motion to adjourn. Vice Mayor Massucco 2<sup>nd</sup> the motion.

**VOTE:** The motion passes 5-0.

Mayor Boback adjourned the meeting at 11:00 PM

**NEXT MEETING: January 8, 2007 at 6:30 PM**

**NOTE: This meeting is televised live on Comcast Channel 11.**

*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](http://www.fmbeach.org).*

Respectfully submitted,

Debbie Cardoso

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Town Clerk

Date Approved

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Shenko, Jr. William (Bill) E.</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Fort Myers Beach Town Council</i>	
MAILING ADDRESS <i>581 Carlos Circle</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Ft. Myers Beach</i>	COUNTY <i>Lee</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED		NAME OF POLITICAL SUBDIVISION: <i>Town of Fort Myers Beach FL</i>	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

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### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

*MM* 12-18-06

**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. Shenko Jr., hereby disclose that on Dec 18, 2006:

(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 billings from Garvin + Trapp + Ellen Gibbs, Esq. I have a personal obligation to pay ~~the~~ the attorneys fees + costs.*

12/18/06  
Date Filed

  
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.