

**FORT MYERS BEACH
TOWN COUNCIL
2523 Estero Boulevard
Ft. Myers Beach, FL 33931
February 2, 2006**

I. CALL TO ORDER

Mayor Garr Reynolds called a Special Town Council meeting to order on Thursday, February 2, 2006 at 6:39 PM.

Members Present: Mayor Garr Reynolds, Vice Mayor Don Massucco, Councilman Boback, Councilman Shenko, Councilman Meador

Excused Absence: None

Town Staff Present: John Gucciardo, Town Attorney Anne Dalton

II. PLEDGE OF ALLEGIANCE

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

III. INVOCATION

Mayor Reynolds gave the invocation.

IV. PUBLIC COMMENT

None given.

V. ADMINISTRATIVE AGENDA

A. Review of Resumes for Town Manager

(This discussion took place after the discussion under Agenda Item V-B below).

Ms. Dalton offered to tabulate the rankings as the Councilmen reviewed the list of 54 candidates before them. It was determined, at Councilman Meador's suggestion, to rank those candidates with Florida experience first, then to rank the balance of the list. It was also determined that if one of those candidates Florida Town Manager/Assistant Town Manager experience was not desired by even one Councilman, the candidate would not immediately make the short list of 20, but would be held aside to review further if necessary. Of this group of resumes, #'s 11, 36, 39 and 54 made the short list.

At this juncture, Councilman Shenko asked that members of the audience be given copies of the list so as to follow along with the Council in their ranking of the resumes. A ten-minute recess was called so that copies could be made.

Ms. Dalton recorded a show of aye votes for each candidate by name and resume number as she read down the list. After this ranking session, Ms. Dalton read those resume numbers that had received no votes: 4, 6, 12, 17, 23, 25, 27, 29, 30, 32, 35, 38, 42, 43, 44, 45, 48, and 52. These were to be set aside as not in the running.

MOTION: Councilman Meador made a motion to include all resumes that had received 3 or more votes (majority vote) for inclusion in the Top 20 list.

In answer to Councilmen Boback and Shenko, Ms. Dalton read the list of 8 candidates who had been voted for inclusion in the Top 20 list:

RESUME #	#VOTES REC'D
5	3
8	3
11	5
18	3
20	3
36	5
39	5
54	5

Those candidates who received 2 votes were reconsidered so as to determine which of those could be moved to the short list. Those listed by number were 3, 7, 9, 15, 19, 28, 31, 34, 37, 40, 41, 46, and 50.

CANDIDATE	2 nd ROUND VOTES FOR APPROVAL
# 3 – Frank Bell	3
# 7 – Edwin Booth	2
# 9 – Pam Brangacchio	2
#15 – Richard Diamond	2
#19 – Damon Grant	2
#28 – Michael Maier	3
#31 – Michael Negey	2
#34 – Roger Pooley	3
#37 – Ed Sadler	2
#40 – William Sheridan	2
#41 – Darrel Shrum	3
#46 – Larry Stoever	2
#50 – Paul Van Haute	1

Councilman Meador suggested that the candidates who had 2 or more votes to be placed on the short list, bringing the short list total to 20. Councilman

Boback agreed with this suggestion. Those who received two or more votes were: #'s 3, 7, 9, 15, 19, 31, 37, 40 and 46.

The short list was announced as consisting of: #3, 5, 7, 8, 9, 11, 15, 18, 19, 20, 28, 31, 34, 36, 37, 39, 40, 41, 46, and 54. These candidates would be sent a Town application, and given ten days to submit their completed applications. Councilman Boback said a meeting could be scheduled two days after the submission deadline.

Jerry Murphy said he could tell the candidates to fill out a Town application form which appears on the Town's website, and that they could then return the completed applications electronically. Council directed Mr. Murphy to proceed with that idea.

Ms. Dalton pointed out that signed copies of their applications were needed, as they allowed the Town certain rights with regard to running background checks on the candidates, and not everyone had electronic signature capability.

The candidates would be told, when Mr. Murphy contacted them, they could submit an electronic application, but that the original had to be sent in regular mail as well.

Regarding the salary range to be quoted to the candidates on the short list, Councilman Boback quoted the range as furnished by the League of Cities for municipalities based on populations between 707 through 20,000; the range was between \$75,000 and \$110,000.

After much discussion about what the prior Town Manager had been paid, the number of people on Town Staff, and the size of the workload the Town Manager would be responsible for, the salary range to be quoted to the candidates on the short list was set at \$70,000 to \$95,000 yearly.

The Councilmen remarked that they had some very highly qualified candidates on the short list.

Jerry Murphy said there was a "Salary Expected" line on the Town's application form, and asked if the Council wished to have that information. They did, but Councilman Boback believed a candidate with higher salary expectations than the range determined by Council would probably not send in an application anyway.

B. Review of Selection Process for Town Manager
(This discussion took place before the discussion under Item V-A above).

Councilman Boback laid out what he believed would be the best procedure to follow, and prefaced his overview by saying he was open to any suggestions from the other Council members.

With 54 applications received thus far, Councilman Boback suggested they pare that number down to 20 at this meeting; those 20 would be sent applications with a turn-around time of 10 days given to the applicants, in which to fill out and return them to Town Hall. Councilman Boback felt this would give the Council men the opportunity to compare the resumes with the applicants, in case there were discrepancies. Of the applications returned, Council would have another meeting in which they would pare that number down to 10. At that point, teleconferences would be set up with each candidate, and telephone interviews would be conducted with each, using a speakerphone set up on the dais. After that, Council would pare that list down to 3 – 5 candidates who would be invited for face-to-face interviews in Council chambers.

Councilman Boback thought the salary range the Council was interested in paying should be included when the applications were sent, as he felt some of those 20 candidates would not continue with the application process. He felt it was important to know that before the list was pared down to the last 5 candidates.

Councilman Boback then indicated the Excel spreadsheet he had provided to the other Councilmen, wherein the 54 applicants were listed in alphabetical and numerical order. He felt this would facilitate the ranking process, as it would eliminate the necessity of discussing each individual candidate's particulars at this juncture. He noted that he had used a rating system on the list himself, and felt the other Councilmen could do likewise.

Ms. Dalton pointed out a basic scoring matrix she had supplied to the Councilmen, which she said they could use to facilitate the ranking process if they so chose. It was determined that the Council would use their own ranking system to pare the number to 20, at which time, at Councilman Shenko's suggestion, they could then use the matrix developed by Ms. Dalton to rank those 20 to whom applications would be sent.

Councilman Meador said there were only 12 of the 54 applicants who had Florida and Town Manager experience, and felt the person hired as Town Manager for FMB had to have experience with Florida government, budgeting and laws, and who did not need a big learning curve to get up things and running.

Councilman Boback agreed Florida experience was preferred, but didn't believe candidates should be bypassed for lack of Florida experience. He said there were some candidates with Florida experience whom he was not in favor

of hiring. Councilman Meador allowed that Councilman Boback was correct in his assessment of those candidates, but felt they should use the criteria of Florida experience as a starting point.

Councilman Shenko said Florida experience was crucial, as the state's Sunshine Laws were different from every other state, and because there were so many different sources of revenue.

Mayor Reynolds indicated that he had not had time to thoroughly review the resumes.

Attorney Dalton indicated that six additional resumes had been received after the deadline, and she had not opened them as yet. She asked if Council wished to waive the deadline and add the newly received resumes to the list of applicants.

After some discussion, Councilman Shenko suggested that any late-arriving resumes be kept aside, in case the list of 54 did not produce enough desirable candidates. Consensus was reached that this was the best thing to do with any late-arriving resumes.

C. Selection of Agency to Do Background Checks

It was stated that background checks would be done when the short list had been pared down to the top five candidates.

Mr. Boback presented three companies he had chosen for the Council's consideration, which he had also included in the Council packs in written form prior to the meeting. Ms. Dalton said there had subsequently been added a fourth company for the Council's consideration.

Mayor Reynolds said he didn't know anything about this type of service, and would defer to the recommendations of Councilmen Meador and Shenko, as they had used such services.

Councilman Shenko said he did not use such services in his law practice; Councilman Meador said he did not either. Councilman Shenko thought Labor Check seemed to offer the most comprehensive products; he felt it would be money well-spent so as to obtain as much background information as possible on their top five candidates, once they had been named.

Councilman Boback suggested that they hold off on making this selection until everyone had had a chance to review the data on each company recommended for consideration. He felt Council should consider, when selecting the company, that they also be used to run background checks on Town employees and anyone applying for a Town position. He added that a

random drug-testing program should be established as well at some time in the future.

Councilman Meador said that, according to the Personnel Manual, drug testing was supposed to be in place already, but noted that it hadn't been under the former Town Manager.

There was general agreement that Councilman Boback's suggestions regarding background checks and drug testing on Town employees were good.

Councilman Boback asked that a copy of the Personnel Manual to which Councilman Meador referred be placed in his Council mailbox as he had not seen it.

Mayor Reynolds said he had not seen the manual in years, but that it was not very well done, was not up to date, and had never been used.

Councilman Meador countered that it seemed to be an up-to-date document to him. He said the problem was that it had not been used.

Attorney Dalton said Labor Checks, recommended by the City of Sanibel, did not do drug testing.

Jerry Murphy said two new employees were going to be starting soon. He asked for direction with regard to administering drug testing and background checks. Councilman Shenko felt that could be addressed once a new Town Manager was hired. He thought Mr. Murphy should let the new employees know that the background checks and drug test would be done at some point in the future. Mayor Reynolds felt the new employees should sign a paper acknowledging that they understood that background checks and drug testing would occur in the future.

Ms. Dalton pointed out that they were in a Special Meeting, and that according to the Town Charter, they could not take any actions outside the parameters of the noticed agenda. She felt making a decision about other employees was not legally prudent at this meeting.

Jerry Murphy asked if Council wanted the issue as to which agency would be hired to do the background checks/drug tests. The Council didn't think that was necessary.

Councilman Shenko believed they could make that decision once they had narrowed down the Town Manager candidate list to the top five. This was the consensus of the Council.

D. Review of Litigation Counsel for Straub

Ms. Dalton reported having contacted several law offices with regard to finding counsel to represent the Town in the ADA litigation.

Ms. Dalton reported that the Town's insurer would not be providing a defense at this time because the allegations called for declaratory and injunctive relief, and did not call for monetary damages. For this reason, she recommended that the Town seek outside counsel, who could cover not only the litigation, but the issue regarding the insurer's denial of coverage to the Town.

Ms. Dalton proposed three candidates for outside counsel, and provided written information about each to the Council for their consideration. She briefly reviewed each of the candidates, as to their availability, their credentials and experience as to ADA litigation, and their fees.

In the course of her presentation, Ms. Dalton pointed out to the Council which candidates posed a concern in her mind, either because of a lack of experience in a particular area of litigation, or because of potential conflicts of interest, and various other considerations.

In the course of Ms. Dalton's presentation of the potential candidates - Denise Wheeler, John Patonivic and Greg Hootman, the Councilmen asked questions or made comments about each. Councilman Shenko said his brother-in-law was a partner in the Ft. Myers office of the statewide firm in which Ms. Wheeler practiced, but averred he had no financial ties whatsoever to it. Regarding the firm in which Mr. Patonivic was a partner, Vice Mayor Massucco felt the potential conflict of interest his firm had, because of the ongoing UTELCO litigation, was reason enough not to hire him.

The Council reached a consensus quickly with regard to which attorney seemed to be best for the job – Denise Wheeler from the Fowler/White law firm. Ms. Dalton was directed to hire Ms. Wheeler, and to find out from her if the denial of coverage issue was worth investing Town money in as well. If Ms. Wheeler believed it was viable, the Council wished Ms. Dalton to direct her to investigate that issue as well.

VI. COUNCIL MEMBER ITEMS AND REPORTS

Councilman Shenko reported to Council the results of his research into a possible list of candidates for the Interim Town Manager position which Mr. Gucciardo was set to leave at the end of the month.

Range Riders: Florida League of Cities

These are volunteers who come in and assist in the hiring process, but would not run the Town. Councilman Shenko noted the service could be available to the Town if it were requested during a public meeting. He believed one of the

individuals on their short list of Town Manager applicants was serving as a Range Rider presently.

Managers-in-Transition: Florida City and County Management Association
These are managers who are presently available to come in on a short-term basis, and to assist the Town as it relates to the duties of a Town Manager. Of the four individuals whose names were furnished to the Town in this category, three had applied for the FMB Town Manager position, and were all on the short list of candidates.

Present Staff Member: Ft. Myers Beach

A Town Staff member had applied for the permanent position, and had been placed on the short list of candidates.

Private Enterprise:

Private consultants come in and assist the Town in running it on an interim basis. Councilman Shenko had spoken with two different consulting firms about this idea. After speaking with both, one was not available, and he felt the other might try to “reinvent the wheel”. He didn’t think that was good on a short-term basis.

Councilman Shenko recommended that the issue be placed on the next Council meeting agenda – February 6th. He said he had reached a decision as to which direction would be best, but asked if there was more data that any of the Council members wished him to gather in preparation for the meeting. He stressed that he had done all the research on his own, and had made it clear to all he had spoken with that he was not acting for Council.

Councilman Shenko then reported that he knew one of the candidates on the short list, with whom he had belonged to the same sailing club years ago, and with whom he had never done any business whatsoever. He added that he had never spoken to any of the applicants as it related to the Town Manager opening.

Councilman Meador thanked Attorney Dalton for what he felt had been an excellent job regarding her handling of the Town’s affairs from a legal standpoint, as well as attending all the meetings. Councilman Shenko “seconded” that, and Vice Mayor Massucco “thirded” that.

Mayor Reynolds said he had been contacted by a Civic Association board member about a conflict between their group’s upcoming meeting and the Town Council’s, scheduled for Tuesday, February 21st. Council had had to move their meeting to that date to accommodate the President’s Day legal holiday on Monday February 20th. The Civic Association asked if Council could move their meeting to Wednesday, February 22nd, as the Civic Association had already advertised their meeting, and Council had not. It was

determined that this item would be placed on the Monday, February 6th agenda.

Mayor Reynolds there could be a safety issue with regard to the placement of a trolley stop across Estero Boulevard from Chapel Street. He distributed a diagram of it to the Council members. He asked that the issue be placed on the February 6th agenda. Vice Mayor Massucco thought the issue could be brought to the Public Safety Task Force to research and bring a recommendation back to Council. Mayor Reynolds felt it should go to Town Staff.

VII. TOWN MANAGER'S ITEMS

(This item was raised before Items V- A, B, and C were addressed).

Mr. Gucciardo felt it would be in the best interest of the Town to consider running ads for Matt Feeney's position, which he thought would generate an influx of resumes and candidates for the position from which the newly appointed Town Manager could glean options.

Councilman Meador thought it was an excellent idea, and several other Councilmen agreed. Consensus was reached that Mr. Gucciardo should proceed with that idea.

Mr. Gucciardo suggested that he and Mr. Feeney record a discussion of all the ongoing projects for which they have been responsible, in which they would prioritize that list of items, and then have the transcriber for the Town put it into written form.

Councilman Boback asked that both Mr. Gucciardo and Mr. Feeney be given a copy of the transcript of that meeting as quickly as possible to ensure it accurately reflected the discussion.

Vice Mayor Massucco felt both ideas proposed by Mr. Gucciardo were very good and would help move things further along.

Consensus was reached to give Mr. Gucciardo direction to proceed with both the advertising for Mr. Feeney's position, and the recording of the meeting between Mr. Gucciardo and Mr. Feeney as described.

Mr. Gucciardo said he was not feeling well, and with the Council's agreement, he left the meeting at this time.

VIII. TOWN ATTORNEY'S ITEMS

None.

IX. PUBLIC COMMENT

None given.

X. ADJOURNMENT

MOTION: Councilman Boback made a motion to adjourn. Councilman Meador seconded the motion.

VOTE: The motion carried unanimously.

Mayor Reynolds adjourned the meeting at 9:03 PM.

Respectfully submitted,

Jo List
Transcribing Secretary