

**FORT MYERS BEACH  
TOWN COUNCIL**

**Town Hall- Council Chambers  
2523 Estero Boulevard  
Ft. Myers Beach, FL 33931  
July 17, 2006**

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**Regular Town Council Meeting**

**6:30 PM**

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**I. CALL TO ORDER**

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

**Absent:** Vice Mayor Don Massucco

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

**II. PLEDGE OF ALLEGIANCE AND INVOCATION:**

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

**III. INVOCATION:** Reverend James Davis, Beach United Methodist Church.

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

**V. Consent Agenda:**

- A. Approval of Minutes- April 18, 2006; May 15, 2006; June 5, 2006, June 12, 2006
- B. Forward of Tomasello Report in Re: proposed new Flood Insurance Rate Maps (FIRM) to FEMA

**MOTION:** Mayor Boback made a motion to approve the minutes for April 18, 2006; May 15, 2006; June 5, 2006; June 12, 2006: Councilman Shenko approved to the entire consent agenda minutes with a notation that the later minutes did not reflect the members present. Councilman Reynolds 2<sup>nd</sup> the motion.

**VOTE:** The motion passes 4-0.

## **VI. Administrative Agenda**

### *A. Adoption of the Emergency Operation Plan (EOP) and Resolution 06-04*

Mayor Boback made a correction to an article written in the newspaper in regards to Rodney Melsek talking with Town Council on a weekly basis is not true. Mr. Melsek only had spoken with Mayor Boback and staff in their weekly preparedness meetings.

Mayor Boback also announces the completion on the EOP for evacuation and reentry plans and is moving forward for Council approval.

Mayor Boback also thanked Town Manager Rachel Lambert, Town Attorney Anne Dalton, Public Works Director Jack Green Community Development Director Jerry Murphy, and Town Clerk Michelle Mayher for their outstanding efforts and countless hours in getting the plan where it is today.

Town Manager Rachel Lambert explained the details of the plans in which Town Council may take any action as authorized; They are the ones to declare, extend, determinate a state of local emergency and are the Policy Group under this plan. Ms. Lambert as the Town Manager will be known as the Emergency Manager, Supervising the staff operations group which carries out the policy decision of the Council.

Ms. Lambert further states the need to have a 72-hour survival kit for those who are reentering the island once an initial assessment has been made by the Sheriff Department, the Fire Department, and the Public Works Director. This will ensure the islands safety and that Estero Boulevard is passable. Ms. Lambert also noted those who are residents, property owners, and business owners with proper ID will be prioritized. There will also be Medical Center personnel who will be providing basic services to the residents.

The Town has secured and purchased generators and are stored on site, and have negotiated for a debris removal plan and road clearance services and will be available for any incident. There is a state-wide mutual aid plan in place, and coordination plans with Lee County EOC, Sheriff Dept, Fire Dist, American Red Cross, and the Beach Medical Center. Staff will also be assigned responsibility after an incident.

Councilman Meador commends the Town Manager Rachel Lambert and her planning group, Mayor Boback and Mr. Melsek on the efforts which have gone into this document but states that some of it seems to be

confusing. Mr. Meador questions the 72-hour survival kit. Mr. Meador would like the initial damage assessment to be better defined as well as to put a cap on the time line. Mr. Meador states that live power lines always pose a threat. Mr. Meador feels the need to be broader minded for the plan of reentry on the island with identification. Not all of the residents are adults; have power bills or ID cards. Mr. Meador states that we also have to think about the worse case scenario on Town Manager's making sure what is written is not misinterpreted by someone else should there be someone else other than Ms. Lambert. Mr. Meador disagrees to the fact that Council can adopt a plan, but the Town Manager can at any time make changes with no necessity for verbal approval from Town Council, and Mr. Meador feels this is not wise. Mr. Meador suggests that the Town Attorney Ms. Dalton should only serve as the Town Attorney and not as Town Attorney Manager.

Councilman Shenko shares his concerns with initial damage assessment as not defined and states the need to see who we rely on to do those assessments. Mr. Shenko also concurs that the Red Cross reports to FEMA so FEMA can send the help here. Another concern of Mr. Shenko is letting the residents return to the island when they have their survival kit, which consist of water, food, medications, ice, flashlights with batteries; it is stated you must bring, Mr. Shenko further stated if we are making this an requirement, then we should be standing at the foot of the bridge giving these supplies out to the residents. Mr. Shenko states the need to follow closely the volunteers who volunteer for agencies who are outside of our control, as to the qualifications and their training for damage assessment. Mr. Shenko also agrees to the overloading of our Town Manager as being too much.

Councilman Reynolds shares his concerns of the initial assessment survey to making it done as quickly as possible. Mr. Reynolds also agrees with Councilman Meador with the power lines are always a threat and is something that needs to be worked on. Mr. Reynolds states as far as the right of way traffic, it should be stated clear in order for the emergency clearance can operate. The resolution mentioned states the Council is the leading decision maker. Mr. Reynolds also agrees the Town Manager has taken on an incredible position, but this was the direction Council has given and he believes Ms. Lambert is separating these issues perhaps a bit more. Mr. Reynolds also agrees the Town Attorney taking any leadership role in the operational team, but in fact be as the legal advisor of the entire Town Council meeting. The 72-hour survival kit is a good recommendation.

Mr. Reynolds states the document is good and a lot of work was put into it, he stated it needs some refining or rewording. However, gives this a scale rate of a ten, and believes we are on the right path.

Mayor Boback agreed Councilman Meador having some valid concerns and states the 72-hour survival kit having it with you was not meant to be mandatory. The initial damage assessment is to be done immediately in order to assess if there are power lines down, and if the boulevard is passable this is to be determined before reentry. Mayor Boback asked Ms. Lambert of her thoughts, she replied it is good practice to have a kit in case of an emergency but this was not to be a mandatory issue. Ms. Lambert states the Town Attorney involvement was done on a legal stand point. Mr. Lambert further explained the reason for her placing Ms. Dalton in the coordination group was to keep Council up to date from Ms. Lambert's perspective as well as from a legal perspective. Ms. Lambert also agrees that no one can be forced to evacuate from their home against their will. Ms. Lambert mentioned the Red Cross does preliminary assessments and first responders are defined in the county and state regulation as the Sheriff office, and the Fire Dept to take control of an incident. Ms. Lambert thanked Council for their comments and input on this matter, she notes that in the process of putting this plan together, she had encountered new words and states it has been a learning experience. Ms. Lambert will however, take the above mentioned comments and will work to make them as clear as possible.

Mr. Murphy reports having attended the Lee County EOC premier orientation today and states Mr. John Wilson, is telling people to plan for five to seven days, instead of 72-hours because of the situation with FPL after Wilma.

Attorney Dalton expresses her concerns with the resolution written in section three regarding "Town Manager may make such changes as she feels appropriate without further reviewing approval from Town Council." Ms. Dalton expressed her goal was to make this so as the Town will not be at compliance with its own plan, Ms. Lambert would have the flexibility to make changes and we would not have legal liability coming from that.

Councilman Meador replied to Ms. Dalton on her point by changing the plan, it is changing standard operating procedures and certain scenarios. Mr. Meador stated if the plan is going to work, it is going to work for all situations and therefore, the Town Manager doesn't have to change anything. Mr. Meador states the standard operating procedures that need change due to the level of emergency or unforeseen circumstances, which is well within the Emergency Operations Manager, and folks just to deal with without even making changes to the plan. Mr. Meador suggested making the effort in wording the plan correctly to avoid any misunderstanding of its content in the future.

Ms. Dalton also reports her role in part of the coordination group would be to take the policies set forth by Town Council, Ms. Lambert would do the

administrative portions of the policies decisions and Ms. Dalton would do the legal portions of the policies.

Councilman Reynolds stated he stands behind his comments we need Ms. Dalton to stand as our legal advisor at this point and he believes this should be passed from Town Manager to the next person as Ms. Lambert designates. Mr. Reynolds also agrees with Councilman Meador in regards to the changes of 06-12 when the operation is going on, things may come up which may not be covered 100%. In a situation like this the Emergency Operator will have to make some judgment calls, which will be made within the Emergency Operation Plan. Mr. Reynolds commended Ms. Lambert for the detailed manual she had worked on, and stated that this is very necessary material to have at hand in the event of an emergency.

Councilman Shenko refers to one of the points of confusion with the chain of authority is the supplement I, which was written in the memo by Ms. Lambert regarding Emergency Interim Executive and Judicial Succession Act to Town Manager, and this is where it goes from Town Manager to Town Attorney this is the point of verification. Mr. Shenko also commented on the Ordinance in section three, where the Town Manager can make changes without approval of Town Council, where it should not be effective without the approval of Town Council.

Mr. Green agrees the comments and is well taken. Ms. Lambert agrees as well.

Councilman Reynolds stated in the event that Ms. Lambert would be unable to carry on, Mayor Boback would be the second, and for any reason he could not carry through, the next person would be the next one to carry through. The succession has been already been established. He states that this would automatically fall into place.

Mayor Boback asked for Monday 24<sup>th</sup> to be the next meeting at 6:30 PM, for the outcome of this matter.

Attorney Dalton thanked Mayor Boback for his leadership on this as he has done a great job. Ms. Dalton stated as a member of the group who helped developed this, she commends the amount of time Mayor Boback put into this.

Mayor Boback asked when they can set up for another meeting for Councilman Meador rewrites for the Planning. Friday July 21<sup>st</sup> at 3:30 PM.

*B. Receiving of the Draft Budget and Adoption of Tentative Millage Rate*

Mayor Boback asked Ms. Lambert to add what an increase of 0.25 would generate twice. He recommends setting the Millage Rate to 01.2498 Rate today with the option of bringing it back down if necessary. Mayor Boback has taken into consideration of the number of Public Work Shops, two or three, along with two or three meeting taking public comment where we could listen to what the residents have to say, and if they are interested in having these things the Millage Rate would be such where we can provide specifically and target those items that we decided include for that extra. Mayor Boback notes by keeping the Millage Rate where it is now it cannot be brought up and consequently, would have to remain that way. He suggested bringing the Millage Rate up getting the public input and then making any adjustments as necessary.

Ms. Lambert reports there was no public comment when the plan was put in place.

*Public Comment*

- Donna Varaeke, 242 Delmar Ave, Ft. Myers Bch. Ms. Varaeke thanked Council for their concerns in having things to be put into more specific context. Ms. Varaeke stated that she has physical conditions and would like to find out where to obtain a pass for reentry on the island.

Ms. Lambert asked if Council can agree on the dates for a Workshop to discuss the Budget which will be either on Wednesday August 2<sup>nd</sup> from 5:00 to 7:00 regarding the Budget, and on Friday August 4<sup>th</sup> from 5:00 to 7:00. They will be public meeting as well as will be televised. Council agreed to the dates.

Ms. Lambert presented a slide of the Millage for all to view and pointed out where the Millage Rate currently stands which is at .07498, based on an assessed value presented by the property appraisers. Ms. Lambert stated by staying at that level this would generate a 95% 2,684,178.00. If this was to be rolled back it needs to go back to .06096 which was also presented by the property appraisers which would yield 2,182,282.00. Ms. Lambert gave an example of the difference between increasing and decreasing the Millage Rate, and how it will affect property owners in Ft. Myers Beach. Therefore, by staying the same there would still be an increase because the property increases. Ms. Lambert stated she needs to send to the property appraisers the tentative Millage set tonight, along with the first public hearing date for them to publish this to all of the tax payers. This will impact as the budget is developed and what are needs are. Ms. Lambert notes after tonight, this cannot be increased however; it can be rolled back if needed.

*Mayor Boback opens to public comment:*

- Pat Mayher commends Rachel Lambert and our Finance Director who has work real hard on this document and has provided a great deal of analytical information.

*Mayor Boback closes public comment:*

Councilman Reynolds notation to having made previous reductions and would prefer not to reduce it further. Mr. Reynolds stresses the need of having a Town Hall.

Councilman Shenko states that by staying the same we are taxing more. This partial rollback doesn't exist. Mr. Shenko made the comparison to Sanibel and Cape Coral as being the same in the Millage Rate. He states the rate set tonight for practical purposes will be as high as it will go, it will come down from there. Mr. Shenko reluctantly is in favor of the rate of last year which was .07498 which is a tax increase which is increasing the revenue to the Town of Ft. Myers Beach by 500,000 dollars for purposes of tonight's meeting and purposes of putting it on the trim notice.

Councilman Meador stated going back 25% less than last year's rate. There was a budget last year where spending had gone wild and the current budget proposal is an increase from last's year budget. Mr. Meador states there should be more efficient spending. Mr. Meador confirmed with Mayor Boback his intentions of the proposal would be to double the people's taxes from last year. Last years rate was 289.56 on a 500,000 home. Mr. Meador explained by going to 593 that would be more than double, stated he would like to see the start of the rollback rate with a commitment that it would be taken down to 25% from that.

Mayor Boback stated the purpose would be to put it on a place where we can get input from the public and the residents to see specifically where the dollars will be going whether it would be for Town Hall or drainage projects or whether bypassing sidewalks. By setting the rate tonight we could get the input from the public and better determine if these are issues the public want us to address. These are issues that will not be funded by the county and we own it to our residents to give them the opportunity to see whether this is what they want and would be monies specifically earmarked for those projects.

Councilman Meador replies that if this is done through an increase then there is no emphasis in the general budget where we need to be looking at efficiencies and saving.

Mayor Boback replies his is looking at the .07498 or less for the Town budget which is scrutinized, the other part of it would be for the projects.

Councilman Reynolds stated that he would be in agreement with this only for the purpose if this would be earmarked for specific projects Mayor Boback had indicated. Mr. Reynolds insists he would rather not have this increase for a budget just to build up more money to be used for spending.

**MOTION:** Mayor Boback made a motion to set the Millage Rate at 1.2498 for the tentative rate.

Councilman Meador asked if there is a specific language to be used to Attorney Dalton. Ms. Dalton replied at this point.

**VOTE:** Motion failed for lack of a 2<sup>nd</sup>.

**MOTION:** Councilman Shenko made a motion for the purposes of the Trim notice that the rate be set exactly to the same rate as last year which is .07498 which will generate addition revenue to the Town and is in fact a tax increase if it is finally passed for purposes of clarity. Councilman Reynolds 2<sup>nd</sup> the motion.

**VOTE:** Motion failed 2-2, with Mayor Boback and Councilman Meador dissenting, and Councilman Reynolds and Councilman Shenko in favor.

**MOTION:** Councilman Meador made a motion to adopt the rollback rate to .06096 as the tentative Millage Rate for the Town. Mayor Boback 2<sup>nd</sup> the motion.

*Discussion:*

Councilman Meador stated that there is time for next year toward capital improvement projects. He believes taking on too much at once would be a mistake on their part. Mr. Meador stated getting the Town government under control as far as spending, by doing that they can still affect savings at the rollback rate which produces the amount of taxes we had from last year and still fund some capital projects.

Councilman Shenko feels there is not enough information to make the decision tonight, and feels that they should not go back to the rollback rate.

Councilman Reynolds believes that they can operate efficiently with what they had last year and this is the reason he 2<sup>nd</sup> the motion. Mr. Reynolds agrees to the .06096 where this will bring more money and in turn we can earmark some money.

Mayor Boback agrees with Councilman Shenko about everything except the rate. Mayor Boback believes by going to the rollback rate they will be severely tying their hands. By going to the 0.060 this will not bring in what was brought in this year it would be less. Therefore, this would be less than a rollback rate. Mayor Boback believes there is plenty of savings they can up with in a budget, and states there are many things they can do on the island that can make the lives of the resident better than even going into the present rate will not give us enough money and will tie our hands. Mayor Boback mentions they have until September where they can lower the rate if need be. Mayor Boback doesn't agree with the .75, he agrees even less with the .060.

**VOTE:** Motion fails 2-2 Mayor Boback and Councilman Shenko dissenting and Councilman Meador and Councilman Reynolds in favor.

**MOTION:** Councilman Shenko made a motion that we do Solomonic decision and cut the difference between the rollback rate, and last years rate which should come to .06797. Councilman Meador 2<sup>nd</sup> the motion.

**VOTE:** Motion passes 3-1 with Mayor Boback, Councilman Shenko and Councilman Reynolds in favor, and Councilman Meador Dissenting.

*C. Review of LCSO proposal for enforcement of Curfew Ordinance*

Attorney Dalton reports the Sheriff office is specifically requesting a representative of Town Council to meet with the Sheriff in conjunction with Ms. Dalton with Mr. Hill Myer as well to work through fine tuning of the proposal if Town Council wants to move forward with this.

Ms. Dalton reports the Sheriff's office suggestions are as follows:

- a. They will reinforce the Curfew as necessary in the event they brought up a booking on the juvenile with regard to violation at curfew at that point our clock would start ticking and we would be charged. They are suggesting a six month trial period on this; copies of the booking sheet will be provided to us.

*Mayor Boback opens for public commen:*

- Lee Melsek stated that the sheriff's dept is already receiving the taxpayer's money, and does not believe that the people should not have to negotiate to enforce the law.
- Mr. Lafredo local resident he also agrees with Mr. Melsek, stating that they represent the people.

*Mayor Boback closes to public comment:*

Attorney Dalton reported on the statutes reinforcement of municipal ordinance is not covered by state law therefore, any services the Sheriff Office renders to the Town with regard to reinforcement of municipal ordinances will be subject to additional fees.

**MOTION:** Mayor Boback made a motion to move forward to the Sheriff's request of appointing a representative of Town Council; Mayor Boback made a motion to appoint Councilman Shenko to fill that role. Councilman Reynolds 2<sup>nd</sup> the motion.

*Discussion:*

Councilman Reynolds stated he approves the direction of having Councilman Shenko to be the representative.

Councilman Meador asked Attorney Dalton if there were any addition fees. Ms. Dalton stated the standard fee is 30.00 to 40.00 dollars an hour per person and there would be two people involved.

Mayor Boback questioned Attorney Dalton if the Sheriff's Dept would still have the authority to enforce ordinance without direction from Town Council and without cost to us. Ms. Dalton stated that they do have the ability to do that.

Councilman Shenko stated he would be willing to meet with the Sheriff. Mr. Shenko states when he brought forward this proposal, it was not his intention to represent the Sheriff's Dept, or to say this service would be free. If Council feels it is cost effective, we will do it for purposes of the quality of life, and if they don't we won't.

**VOTE:** Motion passes 4-0.

*D. Emergency Interim Executive and Judicial Succession Act/Town Council Functions*

Attorney Dalton reports in Chapter 22 of Florida Statutes requires this body to name at least one additional person for Emergency Interim Executive purpose. Ms. Dalton suggested presenting this on Monday at the Special Meeting to present this as an ordinance or as a resolution for formal adoption.

Councilman Meador added he had previously spoken to Ms. Dalton regarding this and suggested that they go down the line of our five individuals.

**MOTION:** Mr. Meador proposed that in the event the Mayor or Vice Mayor is unavailable, whoever is remaining by seat number ascending or descending, to pick up the slack, Councilman Reynolds 2<sup>nd</sup>.

*Discussion:*

Councilman Shenko stated he would prefer of having this done in the order of seniority.

Mayor Boback stated that that seniority would be difficult.

Councilman Reynolds agreed with Councilman Shenko. However, he asked Ms. Dalton which would be more appropriate. Ms. Dalton states Council has the flexibility to chose who they wish as the 3<sup>rd</sup> position, by order of seniority and also by seat number.

Mayor Boback suggested doing something that would not change every year.

Councilman Reynolds tends to favor toward the seniority order.

**VOTE:** Motion passes 4-0.

*E. First Public Hearing of: Ordinance 06-04 Changes to Special Magistrate*

*Mayor Boback opens to public comment:*

*Mayor Boback closes to public comment:*

**MOTION:** Mayor Boback made a motion to continue to a date and time. August 7<sup>th</sup>, 6:30. Councilman Shenko 2<sup>nd</sup> the motion.

**VOTE:** Motion passes 4-0.

*F. FMBREZ2006-00001- Monkey Tree Rehearing Request*

Attorney Dalton reported this rehearing request of postponement requested the applicant where there was a conflict with the date. There is an attorney present tonight. The Town Council must at decide whether to grant or deny this request.

*Mayor Boback opens to public comment:*

- Sara Spector with Henderson and Franklin, on behalf the applicant Levits.

*Mayor Boback closes for public comment:*

**MOTION:** Councilman Reynolds made a motion not to proceed with a 2<sup>nd</sup> hearing. Councilman Shenko 2<sup>nd</sup> the motion.

Councilman Meador stated as previously noted with this matter because he is neighbor, he has a conflict of interest filing conflict papers with the Town Manager, as I cannot participate in the decision making of this matter.

Mayor Boback acknowledges.

Councilman Shenko stated he prepared to vote on the motion as he has reviewed the materials and is satisfied with the decision made previously.

Councilman Reynolds stated he made the motion as there was no additional information for us to reconsider.

**VOTE:** Motion passes 3-0 with Mayor Boback, Councilman Shenko and Councilman Reynolds in favor. Councilman Meador made no comment.

*G. Special Events Permit Request*

- a. Hammerhead Rugby Club's 4<sup>th</sup> Annual Beach 7's Tournament

Councilman Meador has no comment.

**MOTION:** Councilman Shenko made a motion to be approved with the limitation for amplification of sound not to be permitted after 8:00 PM. Councilman Reynolds 2<sup>nd</sup> the motion.

*Discussion:*

Councilman Reynolds stated that all of the groups have provided information regarding these events.

Mayor Boback question west of the exiting volleyball court at the Holiday Inn, Lynn Hall Park, so are they using both.

Mr. Green stated that could have been their alternative.

Mayor Boback mentioned that there should be a way to require these groups to come in for Special Permit with a representative of Town Hall to

ask questions, and have this as part of the permitting process. Mr. Shenko agreed it is a good idea.

Councilman Meador reported there will be a 1:00 AM Player's Party Event with a 2<sup>nd</sup> security shift arriving.

Councilman Reynolds stated he would not consider Lynn Hall due to the amount of people.

**VOTE:** Mayor Boback called the question on the Rugby. Motion passed 4-0.

b. D'Alessandro & Woodyard Company Picnic

Councilman Reynolds stated he feels the same. Mr. Reynolds also agrees with Mayor Boback in having the groups come in for the Special Permit with a representative.

Councilman Shenko stated he does not like the live bands on a private resident golf front it is not commercial property.

**MOTION:** Mr. Shenko made a motion to approve this without a live band. Councilman Meador 2<sup>nd</sup> the motion.

Mr. Murphy stated the package indicated the picnic hours would be taking place from 6:00 to 7:00 PM. Mr. Meador suggested it could be limited from 7:00 PM.

**VOTE:** Motion passes 4-0.

c. Zephyrhills Volleyball Tournament

Councilman Meador asked Mr. Murphy if this event is scheduled for the Holiday Inn. Mr. Murphy stated yes it is. Mr. Meador stated his concern would be the PA system and amplification but does not see a problem.

**MOTION:** Councilman Shenko made a motion for the amplification of sound would be limited to 8:00 PM.

**AMENDED MOTION:** Councilman Shenko made a motion of amplified sound would not extend beyond 9:00 PM, and would not include amplified music. Councilman Meador 2<sup>nd</sup> the motion.

Councilman Reynolds and Mayor Boback had no further comment.

**VOTE:** Motion passes 4-0.

*H. Approval of Contract with Lee County Elections Office*

Attorney Dalton stated from her memo of July 10<sup>th</sup>, there are two different concerns. One is about the Supervisors Election agreement. The second issues are about a policy issue which can be discussed at this time.

Councilman Meador asked about the policy to Ms. Dalton. She replied they are the indemnity agreement. Ms. Dalton explained the consequences Council may face should they sign an agreement which may put them at risk.

Councilman Reynolds asked Ms. Dalton if we have no control of their employees, why would be responsible for their liabilities they may incur.

Ms. Dalton reported that at an earlier point in time the Town did explore the subject of hiring a private entity to conduct elections outside of Supervisors of Elections.

Ms. Lambert stated this could be a burden just to get in the volunteers to do the work at the Polls, and pay the rental for the facilities where you would be holding the elections.

Mayor Boback asked what the drop date for us to sign or not sign this before the next election.

Attorney Dalton stated that they need a significant amount of lead time. Ms. Lambert confirmed that in the contract it states 120-days prior.

Mayor Boback stated the need to have further information on the date.

Councilman Reynolds asked the possibility of putting their employees under our umbrella insurance.

Attorney Dalton was unable to answer the question. Councilman Reynolds stated he would like for Ms. Dalton to pursue this.

*Mayor Boback opens for public comment:*

- Pat Smith stated her concerns with the increase of taxes with no extra service provided.

*Mayor Boback closes for public comment:*

*I. Update of Newton Property Project*

Theresa Schober provided a memo with details for the Newton Property. Ms. Schober stated the funding for this project has been 500,000 from the Tourist Development Council, which are reserves for beach and shore line specifically to be used for native plant, re-vegetation, and trails.

Councilman Meador stated there is a written agreement with the state of Florida in regards to the Historic Cottage and feels that they should move forward with the project in its completion.

Councilman Shenko commends Ms. Schober in her efforts for getting involved with a project which has been neglected for some time. Mr. Shenko agrees with continuing with this project and to analyze the cost in its process.

Councilman Reynolds also agrees with both assessments. Mr. Reynolds thanked Councilman Meador for his comments and Ms. Schober for her information she had put together. Mr. Reynolds states the Cottage is very unique home with notable history of the Newton's. He agrees to move forward with this project and supported Ms. Schober for her dedication and efforts in bringing forward her suggestions and recommendations.

Ms. Schober commented on the historical part of the Cottage and the historical significance of it. It was relocated to the property in 1944 by a family named the Allison's; that property was not owned by the Newton's until 1972.

Councilman Meador reiterated that the project has already been funded and approved by the state, and that it is two years late. Mr. Meador states he is not in agreement in rewriting the program after the length of time it has been in their hands, and believes it is not a wise decision to take.

Councilman Shenko also agreed with Councilman Meador that would be opening a can of worms. Mr. Shenko stated the need to go forward with what they are already committed to.

Councilman Reynolds gives an example of the Alva Cottage because it was written up as a historical house on the property, and questioned if that was what Mr. Meador is going forward.

Councilman Meador replied what he is recommending is the same as what Council represented when they took their money, what we represented to Lee County when we took their money and what we represented to TDC when we took their money.

Councilman Reynolds was in disagreement with Councilman Meador, and stated that Mr. Newton purchased the last strand of lumber from the everglades and built the home with the cypress, and Mr. Reynolds states that there is nothing in that home but a bunch of cypress wood that came from the everglades.

Mayor Boback asked Ms. Schober what is it they need to move forward with the plan.

Ms. Schober replied the home is 50-years-old, and the Town would have to file a site form with the Division of Historical Resources for the Newton Home. However, if the Town decides to move forward with the current plan, an architectural analysis is necessary for the structure of the wood to remain on the property which would be the Historical Cottage as well as the restroom/bath house facility for the park use.

Mayor Boback reconfirmed with Ms. Schober the amount of 20,000.00 for the use of this purpose. Ms. Schober replied that was her prediction based on the assessment of two historic structures. Mayor Boback asked Ms. Schober if this would bring the Town in compliance as Councilman Meador suggested. Ms. Schober replied that would bring them forward.

Councilman Meador made reference to the current proposal not taking the current Newton Home and converting it to rubble, but that it will be moved to the current Historic Village here on the island. Ms. Schober stated that is correct and there are two existing Cottages presently there.

Councilman Reynolds states that the home would not be considered historical if it is moved from its place.

**MOTION:** Councilman Meador made a motion to move forward to authorize the Town to proceed with the architectural assessment of the Historic Cottage at the Newton Property required and whatever is necessary for the public facility Ms. Schober is needed. Councilman Shenko 2<sup>nd</sup> the motion.

*Discussion:*

Councilman Reynolds expressed his disappointment in the decision toward this direction. Mr. Reynolds believes that by moving the home site it will lose its historic perspective.

Councilman Meador spoke to Mr. Reynolds in regards of his proposal is based on real estate, and not in dislike towards Mr. Newton.

**VOTE:** Motion passes 3-1, with Mayor Boback, Councilman Shenko and Councilman Meador in favor, and Councilman Reynolds dissenting.

*Mayor Boback opens to public comment:*

- Mr. Malcom of Ft. Myers beach. He questions who is going to pay to move this home and who will pay to maintain this home. He agrees with Mr. Reynolds and his thoughts.
- Pat Smith states she agrees with the above comments and would prefer not having any additional increases; she does not want to support any money pits where there are other issues that need to be attended to.

*Mayor Boback closes to public comment:*

## **VII. Council Member Items and Reports**

Councilman Meador suggested leaving these for their next meeting.

Councilman Shenko suggested that when Council is together, they can vote together at every meeting.

Councilman Reynolds had no further comment.

Mayor Boback spoke of a letter sent by Betty Simpson asking to be appointed to CELLCAB, as there is an opening on that committee.

**MOTION:** Mayor Boback made a motion to appoint Betty Simpson to fill that slot. Councilman Reynolds 2<sup>nd</sup> the motion.

*Discussion:*

Councilman Meador reported that there has been some criticism of handling items that are not on the agenda. Committee appointment have previously been on the agenda, and mentioned there is a meeting coming up where this can be addressed.

Mayor Boback stated that the other committee's appointments were for applications; this would be a simple appointment.

Attorney Dalton reported legally, Council has the ability to bring up items and discuss or vote on them.

Councilman Shenko supports the idea and suggested putting it on the agenda for their next meeting.

**MOTION:** Mayor Boback withdrew his motion. Councilman Reynolds accepts Mayor Boback's withdrawal.

Mayor Boback stated a meeting with the county Council on August 10<sup>th</sup>. Mr. Boback asked what is going to be discussed at this meeting.

Councilman Reynolds suggested the county should provide a bypass on the island with no additional cost to the island.

Mayor Boback stated he has the sidewalk and bypass, the beach renourishment issue and a request for a full-time traffic engineer to be assigned on the beach.

Councilman Reynolds also suggested having the county road paved.

Councilman Shenko suggested a Trolley lane on the bridge.

Councilman Meador agreed with Councilman Reynolds on Estero Boulevard maintenance. However, stated maybe waiting until they figure out what to do with the water system, sewer system.

Mayor Boback agrees and stated breaking it up would be the way to go. Councilman Meador mentioned that the park and ride issue may come up as well.

Councilman Reynolds asked Councilman Shenko for clarification of the Trolley lane whether he wanted them removed. Councilman Shenko stated absolutely. Mr. Reynolds stated that everyone would applaud that.

Mayor Boback spoke with Ms. Lambert in getting some parameters for these items with Mr. Stilwell.

Mayor Boback spoke of the terms of our office and bring it to the judge and let him decide, as he made the request for election and he should be the one to decide when our term is competed.

Councilman Shenko asked if this applied to the other two city Councilmen.

Councilman Meador suggested directing Attorney Dalton to do some research; she may very well find the answer. Mr. Meador also stated writing to the AG, for an opinion.

Councilman Reynolds stated he was glad to hear Councilman Meador mention the Charter, as you cannot reduce the Councilmen's term.

Mayor Boback stated they need to get a definite answer on their terms whether it is going to be two years and four month, or three years and four months.

Attorney Dalton clarified that at the last discussion it was two years and five months and the only reason it was not moved forward then because Council chose not have a formal vote at that time on that subject.

Councilman Meador asked Ms. Dalton if they were to sue, who would be sued since they need an opposing party.

Ms. Dalton stated they would need to think that through.

Mayor Boback asked Ms. Dalton to do her research, get the AG opinion, so they can get closure to this matter.

Councilman Reynolds reminded the reason for the March elections which was because they were overloaded in November. Mr. Reynolds stated that this worked out well.

Mayor Boback announced his last item which was in regards to a memo Councilman Reynolds wrote on Vice Mayor Massucco calling a Special Meeting without consulting the Mayor. He stated Vice Mayor Massucco did not call that meeting, he call Town Hall spoke to the Town Manager and requested a meeting. Mayor Boback stated he consulted with the Town Manager as well as with the Town Attorney; Mayor Boback called that meeting.

Councilman Reynolds had no further comment.

#### **VIII. Town Manager's Items**

Ms. Lambert had no items.

#### **IX. Town Attorney's Items**

Attorney Dalton asked when to reschedule the E.A.R., Workshop.

Councilman Shenko suggested that they have meetings instead of Workshops.

Councilman Meador stated the E.A.R was put together by the LPA, and asked as Council do they have the authority to undo their work, or do they make suggestions and send it back to LPA, what is the process.

Ms. Dalton stated Council has the authority to send it back to the LPA, but did not know if they had the requirements to send it LPA.

Councilman Meador stated he would like to see a meeting taking place in regards to this matter.

Mayor Boback also agrees to have a meeting but questions whether or not putting it on a Special Meeting, as this will be an issue all in itself.

Councilman Shenko reports they could only have 11 meeting between now and September.

Ms. Dalton stated the next meeting is the Land Use meeting which would be on August 14<sup>th</sup> at 3:00 o'clock.

Councilman Shenko stated he will not be able to attend this meeting and he previously mentioned in his memo.

Ms. Dalton stated the next meeting would be in September.

Councilman Meador proposed a resolution that all absences from Regular Meetings are excused absences unless the Council finds an absence not excused. Mr. Meador asked if Councilman Shenko's absence for August 14<sup>th</sup>, is an excused absence.

Ms. Dalton stated three absences are grounds for being revoked.

Councilman Shenko clarifies if it is three consecutive regular scheduled Council meeting, the ones required eight times a year. Mr. Shenko reported the Charter stating three consecutive regular scheduled meetings.

Councilman Reynolds stated that he would not question anyone as far as their obligations. He stated that we are all responsible and are aware of our commitment to Council.

Councilman Meador withdrew his motion.

Mayor Boback asked to set a date for E.A.R., which was set for August 1<sup>st</sup> at 5:00 PM., and it will be classified as a Special Meeting.

Ms. Dalton reports she sent a letter to the Attorney for the God's Table Program.

Councilman Reynolds suggested Ms. Dalton to write a letter to Council and then the Town Manager could send it.

Mayor Boback stated that they need to make a decision as a Council to move forward with the Zoning Violation of not.

Councilman Meador stated he would like to see this as an agenda item.

Councilman Shenko suggested that they set aside a ½ in their next meeting for this issue.

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

*Mayor Boback opens for public comment:*

*Mayor Boback closes for public comment:*

**XI. Adjournment.**

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

**VOTE:** Motion passes 4-0.

*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  
Transcribing Secretary