

**FORT MYERS BEACH
TOWN COUNCIL**

Town Hall- Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, Fl 33931
July 31, 2006

Special Meeting of the Board of Directors of Public Works Services Inc. 5:45 PM

Convening of Special Meeting of the Board of Directors of Public Works Services Inc. by Acting President:

A. CALL TO ORDER

Director Massucco called a special Corporate Meeting for the purpose of Electing of Officers to the Ft. Myers Beach Public Works Services Inc.

B. Roll Call of Directors

Councilman Present: Charles Meador Jr. present, Bill Shenko Jr. present Dennis Boback present, Don Massucco present, Garr Reynolds present

Town Staff Present: Town Manager Rachel Lambert, Town Attorney Anne Dalton, and Public Works Director Jack Green and Finance Director

Director Massucco requested if there are any questions regarding the bylaws that we consult with our Town Attorney Ms. Dalton.

C. Election of Officers: President, Vice-President(s), Secretary, Treasurer, General Manager

Director Massucco began with the announcement of the nominations for the office of President.

Director Bill Shenko stated he has inquired with Ms. Dalton regarding the errors and omissions in insurance that would cover us personally as this is not the Town of Ft. Myers Beach and the Government of Ft. Myers Beach.

Attorney Dalton replied based on conversation she had with Director Shenko she mentioned speaking with the finance director. She did call Florida Legal Cities which hold or general insurance and they were unable to respond the question satisfactory whether or not there were errors or omissions for this corporation. This does not fall under the umbrella of the Town Council or Town Government.

Director Massucco also agree that this is a concern to all of us, and would like a consensus of the Board.

Ms. Dalton reported at this time the officers are no longer members of this Council and are no longer employed of the Town of Ft. Myers Beach.

Director Boback agreed according to the Bylaws as Directors they have the same liabilities whether they are Officers or as Directors. Mr. Boback stated they would still have to vote for either.

Attorney Dalton stated at this time they are all sitting Directors by operation of the Bylaws of the Corporation which makes the members of the public court agency automatically the Board of Directors of this entity. The ordinance that sets up the Public Works Agency states once you are on Council, you become a member of the Public Works Agency. Ms. Dalton reported there are potential liabilities for them as Directors which is different from the liabilities they would have as Officers.

Director Meador stated if by proceeding with an election and do nothing as Officers, they will minimize potential liabilities exposure.

Attorney Dalton stated they also issue on your upcoming budget on Wednesday and stated technically Mr. Van Duzer is president.

Director Massucco stated not feeling comfortable with any liability and would like to have this resolved.

Director Massucco asked for a consensus to see how to proceed.

Director Boback stated the insurance being rectified and doesn't want to put it off any longer.

Attorney Dalton suggested that in August 2nd they can have a term of office.

Director Shenko stated they are coming on with a tremendous liability and states he is very uncomfortable with an opinion based upon Mr. Van Duzer.

Attorney Dalton stated she didn't issue a memo because she hasn't enough information. Ms. Dalton stated of a legal technicality stating this Corporation is a deep ended situation which is not true. There is a dependency that is discussed in the document, but stated that is the Public Works agency.

Director Massucco stated this meeting is called specifically for the Election of Officers, and suggested to determine whether moving forward on the election of Officers, and if not they should adjourn and schedule another meeting as soon as we get more information from the Finance Director.

Director Reynolds asked Attorney Dalton about the Corporation being a dependency, and we are responsible for the operations and the debts of this Corporation.

Attorney Dalton reported the Corporation is a free standing Corporation. Ms. Dalton stated this Corporation which is different from a district.

Director Massucco suggested again if they wanted to reconvene at a another time or to proceed with the Election, and reiterates there is only one purpose of this meeting which is Election of Officers. Mr. Massucco stated if this is not going to take place, then this meeting should be adjourned.

Attorney Dalton requested whether they go forward with the Election of Officers that they would change of Registered Agent which is Mrs. Sigel George as she is living in Orlando.

MOTION: Director Reynolds made a motion on moving forward to appoint Dennis Boback as the President of the Corporation. Mr. Reynolds also recommends appointing Don Massucco as Vice President. Director Boback 2nd the motion for the purpose of discussion.

Discussion:

Director Shenko asked when is the next workshop. Ms. Dalton replied on Wednesday. Mr. Shenko asked if they can have that in writing a ½ before meeting.

Ms. Dalton reported that the insurance companies can do emergency binders, but doesn't know what the Legal Cities policies are.

Director Shenko stated going directly to the Executive Director Mr. Civic and explain that to him. Mr. Shenko asked if there were separate bond Councils when this was done.

Ms. Dalton stated she is sure that they did, but needs to follow that.

Director Reynolds agreed with Director Massucco that their purpose is the Election of Officers. Mr. Reynolds further stated they should get the Officers Elected and then take the direction of Director Shenko.

Attorney Dalton suggested the motion be amended in order to provide Election from one Officer at a time.

MOTION: Director Reynolds amended his motion in order to provide Election from one Officer at a time. Director Boback amended the 2nd.

VOTE: The motion passes unanimously.

Attorney Dalton reported only one President is required.

MOTION: Director Massucco made a motion for nomination of Vice President.

Director Reynolds nominates Don Massucco for Vice President. Director Meador 2nd the nomination, and moves to close the nomination.

Director Reynolds stated the President is supposed to take over.

Attorney Dalton replied that would be at the discretion of the President if he wants the acting President to continue or not.

President Boback stated Mr. Massucco may continue.

VOTE: The motion passes unanimously.

MOTION: Director Vice President Massucco asked for the nomination of Vice President Secretary.

Director Reynolds nominates Charles Meador for Vice President Secretary. President Boback 2nd the nomination, and moves to close the nomination.

Director Meador questioned whether they should nominate a 2nd Vice President as the basic job of the Vice President is to act when the President is not available.

Attorney Dalton referred to Article five of the bylaws which state the Officers of the Corporation should be a President one or more Vice Presidents. It doesn't say for a 2nd, 3rd, or 4th Vice President. Ms. Dalton stated they can designate in order of succession.

Director Meador withdrew his objection.

VOTE: The motion passes unanimously.

Director Massucco asked for the nomination of Vice President.

MOTION: Director Vice President Secretary Meador nominates Councilman Reynolds for Vice President Treasure. Director President Boback 2nd the nomination, and moves to close the nomination.

VOTE: The motion passes unanimously.

MOTION: Director Vice Present Treasure Reynolds nominates Mr. Shenko as Director Vice President. Director President Boback 2nd that motion, and moves to close the nomination.

Director Vice President Massucco stated all in favor of Bill Shenko as Vice President.

VOTE: The motion passes unanimously.

Director Vice President Massucco stated moving on to the General Manager which was previously know as Marsha Sigel George.

Director Vice President Massucco asked for the nomination of General Manager.

MOTION: Director President Boback nominates Rachel Lambert for General Manager. Director Vice Present Secretary Meador 2nd the motion, and moves to close the nomination.

VOTE: The motion passes unanimously.

D. Change of Registered Agent

MOTION: Director President Boback nominates the Town Clerk Michelle Mayher as Register Agent. Director Vice President Shenko 2nd the motion, and moves to close the nomination.

VOTE: The motion passes unanimously.

Attorney Dalton reported Director Vice President Shenko stated he wanted an add-on in the agenda, and Director Vice President Secretary Meador had indicated to me he wanted this added on the agenda of this meeting. Ms. Dalton asked if it was the will of the Directors to do that by a majority vote or to defer it.

Ms. Dalton reported Director Vice President Shenko requested an investigation whether or not you can divestiture of the water utility.

Director Vice President Secretary Meador asked between the Town Council and this Corporation, there is a Public Works Agency. Ms. Dalton replied yes. Director Vice President Secretary Meador stated this is a Sunshine meeting.

Ms. Dalton reported the Public Works Agency which was set up in ordinance 0001, in the nature of regulatory agency over the Corporation.

Director Vice President Secretary Meador stated there should be an audit being conducted on a annual basis. Director Vice President Secretary Meador stated that divestiture is too important of an issue to approach it in this context, and would prefer approaching it in a full Sunshine.

Director Vice President Treasure Reynolds asked if anyone was familiar with the expenditures taken place over the year, and the amount of money we have taken from our funds. Director Vice President Treasure Reynolds asked are they aware of refinancing each three years and what it cost the Corporation versus the Town. This is the reason why it was brought up to Ms. Dalton's attention.

Director Vice President Secretary Meador stated specifically due to not having insurance, he moves to adjourn.

Director Vice President Treasure Reynolds stated he agrees.

Director President Boback stated they should be getting a certain amount of answers to those questions on Wednesday night.

Ms. Lambert stated they have a separate audit for the company itself and received the final bonded copies. Ms. Lambert states they do have a lot of material prepared for the workshop.

Director Vice President Treasure Reynolds asked Ms. Lambert if the questions of concern will be answered in the audit.

Ms. Lambert stated yes and have been able to track back to previous years.

Attorney Dalton advises that Director Vice President Secretary Meador's advice is well taken., and further stated not proceeding with anything else until you protection of the insurance.

E. Adjournment

MOTION: Director Vice President Secretary Meador made a motion to adjourn. Director Vice President Massucco 2nd the motion.

VOTE: The motion carries.

Respectfully submitted,

Debbie Cardoso
Transcribing Secretary