

**FORT MYERS BEACH
TOWN COUNCIL**

**Town Hall- Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Fl 33931
October 16, 2006**

Executive Session	Closed to the Public	5:30 PM
Regular Town Council Meeting	Open to the Public	6:30 PM

I. CALL TO ORDER

Mayor Boback called a regular Town Council Meeting to order on October 16, 2006 at 6:30 PM.

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

Absent:

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. INVOCATION: Reverend Jeanne Davis , Beach United Methodist Church

Public Comment: Please Note that public comment will be heard at the time the agenda item is discussed.

IV. Administrative Agenda:

A. Matanzas Harbor Mooring Field Dinghy Dock & Snug Harbor Proposal

This item was pulled from the agenda.

B. Friends of the Mound House-Citizen Support Organization Request

Mayor Boback opens public comment:

- Dolores Yost commented that this was opened to the public.
- Laura Lee House pointed out that they welcome everyone's participation on the island.
- Terry Cain resident. Ms. Cain spoke about the Citizen Support Organization stating that they can become partners where they can alleviate some of burden to the Town of the financial to the Mound House. Ms. Cain also spoke about the Tea, and noted that it was open to the public stating that it had to be on a first come, first serve basis due to the carrying capacity.
- Carrie Hill resident spoke about the Mound House and its history. Ms. Hill spoke very fondly of the community stating that she will donate, and volunteer her time to this community.
- Dan Hughes former Council member, Mayor and CELCAB member. Mr. Hughes clarified language which was written stating that their functions do not preclude the general public. He questioned the operating policies whether or not they were adopted.
- Barbara Hill spoke about the events held at the Mound House, stating that they wanted to have a small event, but that it was not a private event.

Mayor Boback closes public comment:

Ms. Dalton asked Mayor Boback if Council wanted her to meet with the Mound House Director to work out the agreement.

Mayor Boback suggested going over the details on the agreement first.

Vice Mayor Massucco suggested that Ms. Dalton review it first and then bring it back to Council for further discussion.

MOTION: Councilman Reynolds made a motion to move forward to allow Ms. Dalton to address the agreement, and then for Council to decide in what direction to go. Councilman Shenko 2nd the motion for purposes of discussion.

Discussion:

Vice Mayor Massucco announced that he attended the Tea, stating that it was an upright event, where everyone enjoyed themselves. Vice Mayor Massucco commented that there should be more events like these.

Councilman Reynolds also announced that he attended the Tea last year, and reports that it was a fine social meeting. Mr. Reynolds did state that the people who got the Mound House started should have been recognized for their efforts.

Councilman Meador shared his concerns regarding the way the agreement was drafted where it appears to be exclusive for private events only, which is a violation of the terms of the Town. Mr. Meador is in support of Friends of the Mound House and believes it can go forward with some changes in the agreement.

Councilman Shenko agrees with Councilman Meador regarding the organization. Mr. Shenko notes that there are people who want to fund their money and they want to help with the properties the Town owns. Mr. Shenko referred to Exhibit A- stating they provided it and is also approved with the purposes of CSO with attached Charter and bylaws. Mr. Shenko pointed out he would be ready to move forward today with those changes.

Councilman Meador pointed out that would mean that Town Council would be assigning duties to the Mound House Director, and they do not have the ability to do so under the Charter. Mr. Meador also pointed out that CELCAB is an advisory committee, and that they are not a legislative or decision making body; Mr. Meador suggested not giving the CELCAB as well as the Mound House Director, decision making authority.

Mayor Boback expressed that what the friends of the Mound House are doing is admirable, stating that it is a good thing when the citizens become involved. Mayor Boback suggested working out the language, and coordinating when the events will take place and so forth. Mayor Boback suggested Ms. Dalton to go over the agreement, and bring it back at the next meeting.

Ms. Dalton pointed out another concern regarding the agreement in paragraph 4: "the CSO agrees all funds generated by the CSO would be used for direct benefit of the Mound House." Ms. Dalton suggested the Town to be the one to approve where the funds go and how they will be used.

Mayor Boback noted that there would be some oversight there, and that they would put it on the agenda for the next meeting.

VOTE: The motion passes 5-0.

C. Special Events Permit Request-Surf Club/Turkey Festival

MOTION: Councilman Shenko made a motion to approve as submitted to the Town. The application memo states that the area is behind the bar. Councilman Reynolds 2nd the motion.

Discussion:

Councilman Shenko had no comments for discussion.

Vice Mayor Massucco expressed disappointment of the title being changed. Vice Mayor Massucco pointed out that the island was losing its sense of humor, also noting that it was unnecessary to have taken the previous word used for the Turkey Festival, as it has been successful for three years, and that he didn't find anything wrong with keeping it as it was.

Councilman Reynolds thanked the applicant for making the changes as requested.

Councilman Meador confirmed Mr. Shenko's motion of approving the application as submitted. Mr. Meador indicated that the application was not resubmitted, and that it was the same application which was presented at the last meeting.

Mayor Boback confirmed that the application was the same as submitted at the previous meeting.

Councilman Reynolds noted that there were two paragraphs which have been dropped from the original.

Councilman Meador expressed that he was in favor of the festival, but was not in favor of having to tell the applicant what to call the festival. Mr. Meador pointed out that he was in favor with Councilman Shenko's motion if it was to approve the Special Event Permit as it was presented to the Town.

Councilman Shenko reiterated as submitted this evening.

Nicole Olsen noted that the application was not resubmitted, and pointed out that it was a staff decision as far as how to submit the title on the memo. Ms. Olsen noted that the application has not changed.

Councilman Meador pointed out several other states which are celebrating the Turkey Testicle Festival, and added that he did not find anything wrong with the name at all. Mr. Meador noted that he was in favor of approving the application as it was submitted originally.

Councilman Reynolds noted that he was not the one who brought up the Turkey Testicle Festival.

Mayor Boback reported that he did not have a problem having the Special Event approved as submitted, as it was approved the previous three years.

Councilman Reynolds pointed out that this was never approved by Council, but that it was approved administratively by the Town Manager.

Mayor Boback expressed that the Town Manager is employed by the Town and represents the Town. Mayor Boback adds if Council did not approve of it, they should have done something about it three years ago. Mayor Boback agrees with Councilman Meador in approving it as it has been approved for the last three years.

AMENDED MOTION: Councilman Shenko amended his motion to be approved as originally submitted. Councilman Reynolds withdrew his 2nd. Councilman Meador 2nd the motion as amended.

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

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

D. Beach Re-nourishment Response to BOCC

Mayor Boback directed Mr. Jack Green to proceed with his comments.

Mr. Green noted that there was not a lot changed from his previous memo, but reports receiving correspondence from Steve Boutelle, of Lee County regarding the development. Mr. Green reviewed the easement figures at \$647,223.00. Mr. Green noted that there will be a representative from MRTF, Mr. Joe Yerkes

Mayor Boback opens public comment:

- Pat Loffreno local resident commented on a newspaper article stating that he has signed an easement, however he reports this not

being true. Mr. Lofferno points out that there are many people who have not signed the easement, and notes that they should be careful.

Mr. Green reported that he will inform Mr. Lofferno if his name is on the list for a signed easement once he speaks to Mr. Boutelle.

- Ken Silver Ft. Myers Beach questioned if they can have a jetty, to protect the sand.
- Mr. Yerkes representative of MRTF indicated that this has been a conflict with the County and the Town Council which needs to be resolved. Mr. Yerkes also indicated at the last meeting it was agreed for the Town of Ft. Myers Beach to come forward with a certified and a well constructed plan to be considered by the commissioners regarding issues of easement and where to put the sand. Mr. Yerkes noted that they are prepared to take on that goal.

Vice Mayor Massucco suggested the best way to proceed would be to have a study done by a qualified coastal engineer. Vice Mayor Massucco also thanked MRTF for stepping forward in accepting that.

Councilman Reynolds pointed out that there is history of the sand eroding, and that in other areas there is a history of it replenishing itself. Mr. Reynolds mentioned someone being familiar with the fact that the County had no back-up for any of their programs, and referred to a marine surveyor out of Naples who did a survey, stating that he did not know where this went but knows that there was one done.

- Mr. Yerkes responded to Councilman Reynolds that he was referring to Frank Shilling's work, and stated that he was not aware of that.

Councilman Reynolds clarified that he was not sure if it was Mr. Shilling who did this work survey, but mentioned it was an engineering firm from Naples.

- Mr. Yerkes responded to Councilman Reynolds that it was agreed with the County for the Town to bring them back something signed off by an engineer who was willing to put his license on the line in order to move this forward.

Councilman Reynolds responded that the Town knows more about Ft. Myers Beach than the County, and that the Town has more of a responsibility to their citizens than the County does. Mr. Reynolds pointed out that they are being ignored by the County, as they had made a simple request to the County for them to establish a line where the

least amount of beach is and work on it. Mr. Reynolds added he doesn't believe they need a marine surveyor to provide those answers.

Councilman Meador's understanding to what the County has presented to them was that they were not going to change the current plan unless they wanted to jeopardize the federal dollars. Mr. Meador referred to improvements being where the County projects left off, and to fill in the gaps; without interfering with the core plan, or the County's plan and not jeopardizing federal funding. Mr. Meador does feel they do need to have an expert to develop that plan for the Town to know what the options are.

Councilman Shenko pointed out his understanding of it was for them to figure how you want to add to the existing plan, not that the existing plan would change. Mr. Shenko noted that the County Commission is changing and sent the Town a letter indicating to take quick action. Mr. Shenko agrees with Mr. Yerkes in letting the Marine Resources Task Force bring forward ideas and solutions. Mr. Shenko pointed out the need for an expert, and for that expert to report to MRTF, and for the Marine Resources Task Force to bring recommendations to the Town.

Mayor Boback agrees that they need an expert and should start getting some bids and proposals from some engineers to review with the County's plan and a betterment plan. Mayor Boback suggested moving forward with some bids and proposals and bringing the cost to Council to approve the expenditure for the engineer.

Vice Mayor Massucco referred to Mr. Green's memo, stating he suggested the County commit to a plan for Estero Boulevard, which will bring more people with the expansion of the beach and this would bring more traffic, which is what they need to consider for Estero Boulevard. Vice Mayor Massucco expressed that he would like to see this move forward.

Mayor Boback responded that the majority of Council agrees with moving this forward, but that they need to work on the traffic mitigation.

Mayor Boback closes public comment:

Councilman Reynolds pointed out that they are getting into more studies, which he is against. Mr. Reynolds also added that they were going along with the County's plan which they have objected to from the beginning. Mr. Reynolds stated that the plan is simple enough and they don't need the expert to tell them they need to have even distribution. Mr. Reynolds referred to the memo Mr. Green suggestions which MRTF should take into consideration.

MOTION: Councilman Meador made a motion to request MRTF to move forward in connection with a betterment program seeking engineers who may be able to give advice and make proposals to them as to what they might do to the existing County program. Councilman Shenko 2nd the motion for purpose of discussion.

Mayor Boback responded the motion is to allow MRTF to hire an engineer to look into a betterment plan, and to look at what the County has already proposed. Mayor Boback added that they will bring back proposals in order to approve the expenditure of the engineer.

Councilman Reynolds pointed out if this was just to explore the idea; he had no problem with it.

Councilman Shenko suggested the motion maker amend his motion to indicate that it is a betterment program in addition to the County program, no to make it exclusive they may look at making some changes to the County program if they felt they could.

AMENDED MOTION: Councilman Meador amended his motion accordingly. Councilman Shenko amended his 2nd.

VOTE: The motion passes 5-0.

E. Public Hearing- Ordinance 06-17 Setting Election 07

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

Mayor Boback asked Ms. Lambert if Ms. Harrington needed full 30-days between the Elections, and asked if it was supposed to be 60-days instead.

Ms. Lambert responded that Ms. Harrington needed at least a full 30 days, and is the reason why she kept it until May 31st.

Mayor Boback questioned that would be more than the 30-days.

Ms. Lambert responded that is correct, but that she needs at least 30-days.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

MOTION: Councilman Meador made a motion to adopt the Ordinance without the sunset provisions, and make the Election date set forth in this motion. Mayor Boback 2nd the motion for discussion.

Discussion:

Councilman Reynolds pointed out that he likes the sunset date as it would not be effective next year, noting that this particular one with the dates should expire as indicated by Ms. Dalton.

Councilman Meador pointed out that the Ordinance will be effective by next year for the Elections to be the 1st Tuesday in May.

Ms. Dalton responded that Section 2 references to March 2007 Election process only

Councilman Meador pointed out that in June 1st 2007, they will have a Charter that doesn't provide for Election dates.

Ms. Dalton noted that it would revert back to the 2nd Tuesday in April. She stated that the Ordinance modifies to state if necessary a runoff Election will be held on the 1st Tuesday in May.

Councilman Meador asked if this was set forth somewhere in the Charter.

Ms. Dalton responded that she could add a section clarifying that.

Councilman Meador noted that if they add that to Section 6, he would amend his motion, but shared his concerns regarding.

AMENDED MOTION: Councilman Meador amended his motion to indicate that they provide Ordinance 06-17, with a provision added to Section 6 in the event the Ordinance is not extended on or before June 1st, 2007, the existing Charter provision as it exist today be the effective provision. Mayor Boback amended his 2nd.

Ms. Dalton recommended that they correct the language in Section 2, restoring the original language as it is the Charter.

AMENDED MOTION: Councilman Meador amended his motion accordingly as indicated by Ms. Dalton. Mayor Boback amended his 2nd.

Councilman Shenko expressed his concerns with playing with the Charter as the previous Council did. Mr. Shenko pointed out with this amendment it reverts back to what the Charter originally states, stating if they have a runoff, they would be violating their Charter.

Vice Mayor Massucco referred to Section 5.02 regarding commencement of term. Vice Mayor Massucco pointed it out that it wasn't the case with his as it reads in the Charter. Vice Mayor Massucco question how can they rectified this Charter violation.

Ms. Dalton responded going back to a primary in a general Election in order to get back to a three year term.

Councilman Shenko responded that they suggested changes in a referendum coming up, and one that the Charter review commission suggested last year. Mr. Shenko suggested whoever gets the most votes is now a new Council member, suggesting forgetting runoffs, and forgetting primaries.

Vice Mayor Massucco, had no further comments.

Councilman Reynolds clarified Ms. Dalton with the changes to amend Section 2 as she had indicated, stating that he was not sure she would be able to do so as it was suggested for 2007.

Ms. Dalton replied leaving Section 6 in, which does create the Sunset date, and then add a sentence to Section 6 stating upon the Ordinance Sun setting, the Charter provision would read as follows. See Attach.

Councilman Reynolds also agreed with Vice Mayor Massucco when you are Elected they should be seated the following week.

Mayor Boback suggested getting back on track with the terms of how to rectify the Elections, and that they were stuck with the runoff.

Vice Mayor Massucco suggested at the next Chart Review Commission, some unresolved questioned can be addressed.

Councilman Meador suggested running their own Elections in order to avoid any future problems with the Supervisor.

Mayor Boback responded that they need to explore that issue.

VOTE: The motion passes 5-0.

F. Resolution 06-20 Set Election Date 2007

Ms. Dalton read Resolution 06-20 Set Election Date 2007. See Attached.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

MOTION: Councilman Meador made a motion to adopt Resolution 06-20. Vice Mayor Massucco 2nd the motion.

Discussion:

Councilman Meador reports this as following the Ordinance they previously adopted stating that they must authorize an Election.

Councilman Shenko had no further comments.

Vice Mayor Massucco had no further comments for discussion.

Councilman Reynolds commended Ms. Dalton for drafting this out as best possible stating she has done a very good job.

VOTE: The motion passes 5-0.

G. Discussion of Early Voting

MOTION: Councilman Shenko made a motion to opt out for early voting. Councilman Meador 2nd the motion.

Ms. Dalton asked Council's direction not to modify 05-15.

Mayor Boback responded that it was correct; they will not do the early voting.

Vice Mayor Massucco expressed that he is happy with opting out.

Councilman Reynolds also expressed going along with opting out.

VOTE: The motion passes 5-0.

H. Possible Referenda for 2007 Election

Vice Mayor Massucco responded that he had no to disclose at this time.

Councilman Reynolds referred to the 2007 Elections regarding to the referendum questions, and deferred to Ms. Dalton regarding that.

Mayor Boback clarified for Mr. Reynolds that they are asking if there is anything they want to have put on a referendum for the voters in March to approve or to disapprove.

Ms. Dalton reported that the Supervisor of Election requires the final form of the referendum in December. Ms. Dalton reports they would have to pass an Ordinance prior to that time.

Councilman Reynolds questioned if they were going to put together some of the Ordinance in referendum form, to have them approved by the people.

Ms. Dalton responded that Council would give her suggestions, and Ms. Dalton would prepare them in an Ordinance form, then Ms. Dalton will bring it back to Council for consideration.

Councilman Reynolds asked Ms. Dalton to craft an Ordinance that would say a 1st or 2nd to give them a leeway.

Vice Mayor Massucco suggested having the Town to conduct their own Elections.

Councilman Meador brought up the fact that they have a debt with their water system in excess of \$3.million dollars. He noted that they have an opinion letter from their current Counsel that the guarantee of that debt is by the Town, stating that most likely it was a violation of their Charter. Mr. Meador suggested presenting this to the voters as a referendum item.

Councilman Shenko pointed out that he has ten items; Mr. Shenko suggested straw ballots, and bringing it to the people and getting their input on Town Hall, Ownership on Estero, Trolley lane on the bridge, and other various items. Mr. Shenko added others that should be on there should be the debt, what to do with the water system, and can they finance that out for a longer term suggesting that it should be a binding Resolution. Mr. Shenko also referred to the Supervisor of

Election regarding multiple candidates in an Election, stating that it should be a majority vote by the people.

Mayor Boback went over Councilman Shenko's memo stating that they should put out a referendum question regarding should the Town work towards acquiring a permanent Town Hall, and get feed-back from the people; Mayor Boback also adds if it is approved, can it be funded. Second, Mayor Boback adds should the Town put a short-term less than three years, or a payoff the water system debt of over \$ 3.million. Mayor Boback suggested paying off the debt and repay the water system itself. Three; Mayor Boback should the Town work toward a goal of ownership of Estero Blvd, suggesting not to include that because they will not take that over until it is completely done. Four: Should a concept of a traffic circle at the foot of the bridge be pursued? Five: Permanent Trolley lane only on the Matanzas Pass Bridge. Mayor Boback stated that it would start at San Carlos and go all the way over. Six: winner take all if there is three or more candidates for one Council seat. Mayor Boback states it sound good on the surface, but doesn't feel comfortable.

Councilman Shenko referred to the others as being a more difficult.

Mayor Boback suggested putting out different wording to make them clearer.

Councilman Meador pointed out to the non-binding straw ballots items, and if they don't follow them; stating that there would be a lot of upset voters.

Mayor Boback also added not making the ballot to clutter, just keeping the important issues.

Ms. Dalton asked Council for direction as to which items to move forward with.

Councilman Meador suggested giving Ms. Dalton direction to proceed with all items, as they are not going to decide they are going on a ballot.

Ms. Dalton asked Councilman Shenko if he would go over with her the language for the last four.

Councilman Meador pointed out the water system not being a part of the straw ballot item.

Mayor Boback responded that it is due in April and they have no choice.

Councilman Reynolds pointed out that he would like to read each of the items and to further discuss it.

Councilman Meador pointed out that they are only authorizing Ms. Dalton to formalize the language to Mr. Shenko's suggestions. Mr. Meador added that they are not making any decisions today, just giving direction to Ms. Dalton to proceed with the language.

Councilman Reynolds pointed out that he wanted to make some comments regarding these items. Mr. Reynolds continued with the list.

Mayor Boback opens public comment:

- Tom Babcock passed out a memo regarding details and proposals. One is bringing back the amendment number two from the 2004 Charter Review Commission.
- Pat Smith suggested for the Town to conduct their own Election and gave reasons why they should consider this as an option.
- Dennis Kovach adding to the straw ballots a question for the residents if they want to end the three stories issue in the Charter, regarding Times Square and to get the peoples vote on how they feel.
- David Tezak referred to a letter written in the Observer regarding that Ft. Myers Beach is getting the bulk of the traffic and people.
- Pat Loffreno suggested selling the water utility.

Mayor Boback closes public comment:

I. Introduction of Ordinance 06-18 Proposed Legislative Changes to Land Development Code Chapters 6 and 34

Mayor Boback directed Ms. Dalton to proceed.

Ms. Dalton read Ordinance 06-18 Proposed Legislative changes to the Land Development Code Chapter 6 and 34. See attached. Ms. Dalton added that this is an introduction to move it forward.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

MOTION: Councilman Meador made a motion to move forward Ordinance 06-18. Councilman Reynolds 2nd the motion.

Discussion:

Councilman Shenko questioned which option is being moved, and stated that it should be discussed before moving it forward.

Mayor Boback responded that is what they are doing.

Vice Mayor Massucco suggested moving it forward.

Councilman Reynolds had no further comments and suggested to move it forward.

Mayor Boback also agreed to move it forward.

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

Ms. Dalton deferred to Ms. Lambert to announce a hearing date.

Ms. Lambert announced the next Council meeting is on November 6th at 6:30 PM, and they need 10-days to advertise it.

J. Resolution 06-33 Charter Review Commission

Ms. Dalton read the Resolution 06-33, Charter Review Commission. Ms. Dalton pointed out that there are some policies calls within the Resolution and asked Council to give her direction.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

Councilman Shenko responded that it is counter productive, stating that they had a Charter Review last year and they had some suggestions which Mr. Shenko agrees with.

Vice Mayor Massucco agreed with Councilman Shenko stating that it is not necessary at this time.

Councilman Reynolds also agrees with Vice Mayor Massucco and Councilman Shenko.

Councilman Meador made a motion for the Resolution to be put off to a later date to be determined sometime in the future.

Mayor Boback responded they didn't really need a motion, as long as there was a consensus.

Councilman Meador responded it was acceptable with him.

K. Water Utility Recommendations

Ms. Evelyn Wicks pointed out at the last Council meeting she was requested to provide information for payment of the debt coming up in April. She noted she has provided a memo.

Vice Mayor Massucco also agrees the only feasible would be the three year.

Councilman Reynolds thanked Ms. Wicks for the comparisons she has provided Council with. He noted that he liked option one and suggested to go along with it.

Vice Mayor Massucco also noted that he would not be against selling the water utility.

Councilman Meador pointed out that they do not have any of these options until the voters tell them which option they have.

Councilman Shenko agrees with Councilman Meador stating that they have until April.

Mayor Boback opens public comment:

- Pat Smith commends Council for taking on this issue. She suggested paying this off unless the referendum is approved by the voters which will give them more time.
- Councilman Reynolds states that there is no option, as it comes due in April. Mr. Reynolds suggested getting a referendum by the people and paying this off in three years.

Mayor Boback closes public comment:

L. Newton Beach Park Architectural Proposal

Ms. Theresa Schober provided a memo to Council regarding to move forward with contract Renker Eich Parks.

Councilman Reynolds had no comments regarding this.

Councilman Meador questioned Ms. Schober the original estimated presented was \$2150.

Ms. Schober responded for the scope of work a minimum of \$28,150.

Councilman Meador referred to the costal and civil engineer, that there was a requirement of the plan. Mr. Meador suggested to Ms. Schober if it would be possible to approach the state regarding keeping the seawall and piling up a dune.

Ms. Schober reports the management subjects list if it is feasible removal of the existing beach seawall. She noted the recommendation by the architect was to bring in an engineer to do due diligence report to figure out whether or not that can be accomplished with the size of the beach currently there.

Councilman Meador responded that they can take the seawall out, and replace with a dune, but states whether or not it would withstand the first storm. Mr. Meador also referred to the \$2400 dollars which is an optional presentation by the architect.

Ms. Schober responded that they would make a full presentation in February on Ft. Myers Beach, and that would be their travel fee.

Councilman Meador asked Ms. Schober if she could be the one to make the presentation in lieu of the architect making it.

Ms. Schober responded that she could make her best efforts.

Councilman Meador noted he had no problems unless they can take off the \$ 12,000, which is in there.

Councilman Shenko also agrees with Councilman Meador stating those were the items he has noted, and Ms. Schober has already marked them out. Mr. Shenko expressed his appreciation of having professional management of the property.

Mayor Boback opens public comment:

- David Tezak suggested moving all of the roads in the state of Florida and go back to its natural form. Mr. Tezak expressed that the property should be used as a park.

Mayor Boback closes public comment:

MOTION: Councilman Meador made a motion to grant Ms. Schober the authorization to proceed as indicated in her memo with the exception of the \$9600 nomination of National Register, and the exception of \$2400 presentation of Master Plan to Town Council by architect charge. Councilman Reynolds 2nd the motion.

Discussion:

Councilman Shenko pointed out to the public that they had purchased this property with other people's money, and that if they don't follow through with the program and the requirements of the grants, they would have to spend more of the Town's money to buy from them. Ms. Shenko supports the motion.

Vice Mayor Massucco suggested getting it done.

Councilman Reynolds added that they are remodeling a house which has nothing to do with the Newton Park. Mr. Reynolds agrees to make this into a mid-island park.

VOTE: The motion passes 5-0.

Mayor Boback questioned if they were going to have the Town Manager Interim on this agenda.

Ms. Dalton responded that she has a report to present to Council.

Councilman Meador asked if they are to anticipate making a decision tonight.

Councilman Reynolds suggested they may not be able to make a decision this evening, asking for them to give it a little more thought before jumping in and hiring someone.

Councilman Meador questioned if they have anything scheduled for Monday.

Ms. Dalton announced she had attempted to contact 11 potential Interim Town Managers; two came forward on their own. Ms. Dalton reported seven came from the Managers in Transition list of the Florida City Manager Association. Ms. Dalton noted two were recommended by Richard Simmons, one was recommended by the Executive Search Firm by Susan Boyer, and two came forward on their own. Ms. Dalton reports she has been questioned by the applicants should they be selected for the Interim Town Manager position would they be considered for the

permanent position. The question was also raised if the Town would consider putting in a housing allowance for an Interim Town Manager.

Mayor Boback noted that they will schedule a meeting to address the issue to give everyone time to go over the resumes. Mayor Boback pointed out that several of the people who applied for the Interim position, also applied for the permanent Town Manager position.

Vice Mayor Massucco questioned Ms. Dalton if Ms. Susan Boyer showed interest regarding the Town Manager position?

Ms. Dalton responded she is on the Managers in Transition list.

Councilman Reynolds noted that he is not very impressed with Susan Boyer, but spoke fondly of David Sallie.

Mayor Boback noted that they will schedule a meeting to discuss it further.

Ms. Dalton asked whether Council would address the question regarding whether the Interim Manager would be considered for the Town Manager position.

Mayor Boback responded that he had no problems with that.

Councilman Reynolds replied that they should not rule anyone out.

Councilman Shenko responded that he would not automatically rule them out.

Councilman Meador responded the he would rule out if they were the Interim as it would give them an advantage over the other applicants applying for the position.

Mayor Boback asked for a date certain.

Ms. Dalton suggested Monday at 6:30.

Mayor Boback asked to keep the selection of the Town Manager for next Monday.

V. COUNCIL MEMBER ITEMS AND REPORTS

Councilman Meador referred to a memo regarding the Holiday Water Sports and asked to have this on the agenda at their next meeting asking

for a full explanation as to why they are going to put someone out of business on the island after 15-years.

Ms. Dalton made no comments as she did not have the same memo Councilman Meador had.

MOTION: Councilman Shenko made a motion to retain Fowler White and Ms. Denise Wheeler being the lead Counsel. Mayor Boback 2nd the motion.

Ms. Dalton reported the litigation is Czulewicz versus the Town of Ft. Myers Beach found in the 20th judicial circuit of Lee County; case number 06-CA-22-98 with Judge Rossman. Ms. Dalton pointed out to Councilman Shenko retaining Fowler White and Ms. Denise Wheeler would be the lead Counsel.

Councilman Meador noted that he cannot 2nd the motion, stating that he has filed a conflict of interest with Ms. Lambert regarding the case and does not feel he can participate or vote in any decision regarding the matter.

Councilman Shenko noted that he has previously made it public, but states again that his brother-in-law works for that firm, and that Mr. Shenko has no interest in that firm.

Vice Mayor Massucco responded that he had none, and that he had made his comments earlier.

Councilman Reynolds had no further comments.

VOTE: The motion passes 3-1; with Vice Mayor Massucco dissenting and Councilman Meador abstaining.

Councilman Shenko reported that it was a very successful event at the Holiday Inn, pointing out that Ft. Myers Beach made a very good impression on all the entries.

Vice Mayor Massucco reported that he has picked up a 2006 voter guide which has proposed constitutional amendments for the November's Election. Vice Mayor Massucco gave a website; votesmartfla.org.

Councilman Reynolds expressed his disappointment when Council passed a vote, and left him by one to vote regarding the festival. Mr. Reynolds pointed out that the News press agrees to advertise the event in an appropriate manner.

Mayor Boback noted the Dave Meyers property workshop is scheduled for Thursday November 2nd at 6:00 PM. Mayor Boback noted that it was previously scheduled for Friday November 3rd at 6:00 PM. Mayor Boback spoke of the MPO Lee County, Collier Metropolitan Planning Organization for October 20th. Mayor Boback announced Councilman Shenko will not be able to attend, and Mr. Boback is the alternate. Mayor Boback announced due to health problems with his mother-in-law, he may not be able to attend and asked the other Council members if they could attend in their place.

Councilman Reynolds responded he could not attend.

Vice Mayor Massucco noted he cannot attend.

Councilman Meador responded he has another commitment. Mayor Boback announced one person has applied for the Citizens Advisory Committee, and asked if members wanted to appoint them now, or have it done during a regular scheduled agenda item.

Councilman Reynolds proposed to go ahead with that.

Councilman Shenko suggested putting it as an agenda item on Monday's meeting.

VI. TOWN MANAGER'S ITEMS

Ms. Lambert announced that this would be her last Council meeting, and thanked all of the Council members for allowing her to serve in this position. She thanked Ms. Dalton for supporting her, and thanked the staff and the public.

VII. TOWN ATTORNEY'S ITEMS

Ms. Dalton announced the bylaws of the utility corporation provide that in non Election years the annual meeting the officers are Elected are in the first week in November. Ms. Dalton noted that would coincide with the Town Council meeting which is the 1st meeting in November.

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

Mayor Boback opens public comment:

- Tom Merrill expressed to Ms. Lambert that she will be missed. Mr. Merrill also spoke about the beach renourishment stating that the

Town has done a great job in talking to the County people regarding the situation.

- Tom Babcock also thanked Ms. Lambert for helping them through a tough transition. Mr. Babcock suggested putting a referendum for an increase in pay.
- Pat Smith spoke about the brochure stating that it is available at the public library.
- Chris Loffreno spoke about the candidates for the Town Manager position stating that they should consider serious people for the position.

Mayor Boback closes public comment:

IX. ADJOURNMENT

MOTION: Councilman Shenko made motion to adjourn. Councilman Reynolds 2nd the motion.

VOTE: The motion passes 5-0.

Mayor Boback adjourned the meeting at 10:22 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

Town Clerk

Date