



## MINUTES

**FORT MYERS BEACH TOWN COUNCIL  
TOWN HALL – COUNCIL CHAMBERS  
2523 ESTERO BOULEVARD  
FORT MYERS BEACH, FLORIDA 33931**

**July 22, 2009**

**7:00 PM**

Continuation of July 21, 2009

Mayor Kiker called to order the continuation of the meeting of July 21, 2009 at 7:08 PM. Present with Mayor Kiker was Vice Mayor Acken, Councilmember List, Acting Town Manager Evelyn Wicks, Town Attorney Anne Dalton and Town Clerk Michelle Mayher.

All stood and recited the pledge of allegiance.

Mayor Kiker announced that the meeting would include public comment for the subject of the meeting. Town Clerk Michelle Mayher read the notice of the meeting, indicating it was for the purpose of discussion of the matters of employment of Scott Janke and related matters.

**MOTION:** Vice Mayor Acken moved to allow attendance by phone for Councilmember Raymond and Councilmember Babcock. Councilmember List seconded the motion.

**VOTE:** Motion passed 3-0.

### **Opened Public Comment**

Public Comment was heard:

- Pat Smith understands that Mr Janke's wife is in adult porn business, but is puzzled to the need for emergency action and why it matters what the manager's wife does for a living as long as it's a legal profession.
- Paul Chrissian reference that all had just recited the pledge of allegiance, liberty and justice, had feels there is a double standard – a local hotel has murder, suicide, drugs and alcohol, why isn't that gone?
- Jazmataz is taken aback why what someone's spouse is doing makes no sense, and feels that there is a double standard.

### **Closed Public Comment**

Fort Myers Beach Town Council

July 22, 2009

Page 1 of 3

Councilmember Babcock asked whether it is Council's intent to address the issues raised by public comment, and went on record to say that in his opinion, the Town Council acted in the best interest of the Town, its citizens and staff. The Town is facing many challenges and feels the Town doesn't need the kind of disruption that exists in the media. Mr. Babcock feels Fort Myers Beach has always promoted a family friendly island environment.

Councilmember Raymond indicated his surprise at hearing of Mrs. Janke's profession, but his vote was not a judgment on her or the industry, but rather considered how it would affect the Town.

Councilmember List would echo what the others said: the vote is not a reflection on Mrs Janke's profession per se; but feels the Town needs to command as much respect as it can in negotiations to help the Town. ~~The~~ Town needs to have total credibility and need to stay focused on the future of the Town.

Vice Mayor Acken indicated that after a lengthy discussion, he supported a motion to terminate Mr. Janke's contract without cause. Mr. Acken stated that if there's any question about how he came to that conclusion he would refer ~~it~~ <sup>refer</sup> those to the minutes of the meeting.

that  
Mayor Kiker indicated there was one issue presented to the council yesterday, and the situation presented to the town. The issue was one the council decided not to task themselves with, although that's what everyone brings up. Mayor Kiker indicated that the council made no judgment call on Mrs. Janke's profession. Mr. Kiker referenced the number of phone calls and interviews on this day alone, and it's been a media blitz. Mayor Kiker stated that the council has a fiduciary responsibility to deal with the welfare of the Town. Mr. Kiker further mentioned that the decision was not without Mr. Janke's input. ~~at~~ when Mr. Janke first took the job, he noted that the community was terribly divisive, and it was his job to bring this community together. With the situation, Mr. Janke was concerned as to whether he could be effective and not divisive. Mayor Kiker mentioned an escape clause on the contract, that the Council can terminate without cause, that there are provisions for a severance and 100% of that was given to Mr. Janke. Mayor Kiker stated that the Town now needs to look forward, and look at the item of an interim town manager - the short term and long term.

Vice Mayor Acken addressed a short term solution, referencing the chain of succession in house that covers vacations and sick leave. Mr. Acken suggested going with the current chain and get through the next 60 days. Jack Green Public Works director is first in line. Mr. Acken would suggest Council schedule a workshop for moving ahead to conduct a search.

Councilmember Raymond referenced the previous town manager search in which Jack Green came in in the top three, that he's knowledgeable and trusted by staff. He's heavily involved with Bay Oaks, which is a huge, current undertaking. He's been heavily involved with the budget. Mr. Raymond opined that Mr. Green is the best for the job at this time.

Councilmember Babcock indicated that he is comfortable that the Town has a good succession policy in place, and a capable staff. However, he is concerned with how this will impact staff. Mr. Babcock would like to give staff a chance to see if it works, although he is not convinced 60 days is it.

Councilmember List indicated that she needs to hear from Jack first.

Mayor Kiker stated that he would prefer to look no further than the succession plan in place; it has demonstrated it works. Mr. Kiker is comfortable with Mr. Green and Ms. Wicks, and suggested Council could look further into the organization.

Acting Town Manager Evelyn Wicks informed the Council that she had had a phone conversation earlier that day with Mr. Green, and he asked her to pass along to the Council that if the Council is interested in having him as acting or interim town manager, that he would be happy to do so.

**MOTION:** Councilmember List moved to name Jack Green as interim Town Manager and Evelyn Wicks to be next in succession.

**VOTE:** Motion passed 5-0.

Attorney Dalton sought authorization from the Council to meet with Mr. Janke to do some wrap up matters regarding his contract, stating that there are some "housekeeping" matters that need to be addressed. Ms. Dalton requested Council's assistance in this matter. Councilmember Raymond suggested Mayor Kiker.

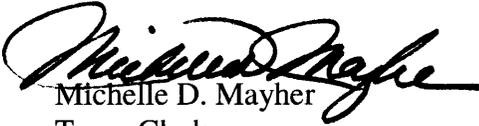
**MOTION:** Vice Mayor Acken moved to authorize Mayor Kiker and Attorney Dalton to meet with Mr. Janke to clean up contract termination matters.

**VOTE:** Motion passed 5-0

Adjournment: 7:48 PM.

Adopted 9-21-09  With/Without Changes, Motion by Zest/Babcock

Vote: 5-0 Pg 2 of 3

  
Michelle D. Mayher  
Town Clerk

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