

MOTION: Councilman Shenko made a motion to approve the remainder of the consent agenda to be approved. Councilman Reynolds 2nd the motion.

VOTE: The motion passes 5-0.

Councilman Shenko referred to page 6 of 7: Should state that the funds be held in an institution which has an office located in Lee County Florida. December 11, 2006; Page 4 of 8: family change to familiar. December 18, 2006; Page 3 of 6: Councilman Shenko commented that it is not mentioned in the minutes that an approval of a person to serve on that committee would disqualify that person and their Real Estate office from being a part of a transaction involving a Town Hall. Councilman Shenko asked to have this as a Councilman item and address it at that time.

MOTION: Councilman Shenko made a motion to approve the three dated minutes with the corrections above. Councilman Reynolds 2nd the motion.

AMENDED MOTION: Councilman Shenko made a motion to approve the first two set of minutes with the changes described above, and a notation on the third set, and Councilman Shenko will go back and review. Councilman Reynolds amended his 2nd.

Vice Mayor Massucco pulled December 11, 2006: Members present: delete the name Lambert.

AMENDED MOTION: Councilman Shenko amended his motion to include those changes. Councilman Reynolds amended his 2nd.

VOTE: The motion passes 5-0.

B. Resolution 07-02, Banking Resolution, Florida Municipal Insurance Trust

C. Resolution 07-03, Banking Resolution, SunTrust

V. INTRODUCTION OF THE FOLLOWING ORDINANCE

A. Ordinance 07-01, Purchasing Ordinance

Ms. Dalton read Ordinance 07-01; Purchasing Ordinance.

Vice Mayor Massucco opens public comment:

- No public comment was given.

Vice Mayor Massucco closes public comment:

Councilman Reynolds had no comments regarding the Ordinance.

MOTION: Councilman Meador made a motion to move the Ordinance forward. Councilman Shenko 2nd the motion.

VOTE: The motion passes 5-0. Ms. Dalton announced the Hearing on the Ordinance to be set on January 22nd at 6:30 pm.

VI. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS

A. *Playworks Contribution*

Larry Wood, Principal at Fort Myers Beach Elementary. Mr. Wood presented Sherry Russ, the fundraiser Coordinator, and Evie Barnes, the PTO President. Mr. Woods presented Council with drawings for the new Playworks scheme, and explained there would be a cost of \$112,000.00. Mr. Wood reported that they were \$23,000.00 short, and is the reason they are here to ask Council for their support and contribution towards reaching this goal.

Sherry Russ expressed that they have tried making this part of the community as much as possible, but is hoping that the community businesses are willing to make contributions as well.

Evie Barnes, resident expresses how the Playworks would be a great addition to their community, and is asking Council for their support.

Mayor Boback asked if the Lee County Parks and Recreations have made any contributions to this project.

Ms. Barnes deferred the question to Mr. Woods.

Mr. Woods reported that they have just received a commitment of \$33,000.00 to prepare the grounds and put in the timbers.

Vice Mayor Massucco asked about the warranty and guarantees for the project.

Mr. Woods responded that he was not sure about that issue, but assured Vice Mayor Massucco that they were a reputable company.

Vice Mayor Massucco opens public comment:

- Tom Myers expressed any contribution made to their youth would be an investment towards the future.

- Lee Melsek expressed that the Town should contribute the whole amount of \$23,000.00 to show their support for the project.
- Tonya Shad of Lee Magazine announced to Council that she would be making a \$1,000.00 donation towards the project.
- Herb Acken requested Council to make a donation towards the project.
- Kathy Holmes, resident also requested Council for their support of this project.

Vice Mayor Massucco closes public comment:

MOTION: Councilman Meador made a motion to match contributions up to half of the \$23,000.00 short fall currently being proposed. Councilman Reynolds 2nd the motion.

Discussion:

Councilman Shenko expressed having a problem with matching the funds, suggesting Council fund the whole amount of \$23,000.00. If not, fund half of it and have them come back and revisit if they are unable to meet their goal.

Councilman Meador pointed out that there are two projects, the full project and the cut down project; he did not want to commit a certain amount of dollars. Councilman Meador stood by his motion.

Mayor Boback pointed out that the children are their future, adding any help given would be an investment towards their future. Mayor Boback also agrees with Councilman Shenko to contribute the whole amount of \$23,000.00.

VOTE: The motion fails 2-3. With Mayor Boback, Vice Mayor Massucco and Councilman Shenko dissenting.

MOTION: Councilman Shenko made a motion to fund the amount of \$23,000.00 available immediately payable to the project at Beach Elementary School, as well as a challenge that the districts at Fort Myers Beach match them proportionate to their mileage rate. Mayor Boback 2nd the motion.

VOTE: The motion passes 4-1. With Councilman Meador dissenting.

Discussion:

Councilman Meador questioned Councilman Shenko what would be the difference with a challenge.

Councilman Shenko responded that they could add features, and it is open to the public.

Councilman Reynolds responded going with the \$10,000.00 as requested or half of the \$23,000.00 giving the residents to participate in their community.

Point of order made it necessary to recall the vote.

Councilman Shenko stood by his motion.

VOTE: The motion passes 5-0.

B. Traffic Control

Mayor Boback reports that he had this put into the agenda as they have been trying to work through these issues of the proposal which Mr. Parker had prepared for them. Mayor Boback announced that it may take another two to three weeks for the completion if they can get it done for Mr. Parker's personnel to direct traffic. Mayor Boback proposed to Council going through the Sheriff's Department as Mayor Boback believes that Captain Powell can place his people on the street, and can guarantee that they will have someone out directing traffic from 10:00 am in the morning until 8:00 pm at night seven days per week during season; up until Easter. Mayor Boback expressed that this has been the best proposal brought forward and that they have the funds in the Budget; \$25,000.00. Mayor Boback suggested working this for this season to see whether or not it will work, and put together details for next season with Mr. Parker or with the Sheriff Department next year.

MOTION: Mayor Boback made a motion to accept the Sheriff's proposal, that Captain Powell set a schedule to have personnel at the light from 10:00 am to 8:00 pm seven days a week. Councilman Meador 2nd the motion.

Vice Mayor Massucco opens public comment:

- Tom Myers expressed that Mayor Boback has made an excellent recommendation for their traffic situation, and he is in favor of it.
- Mr. Parker thanked Mayor Boback for his input on this matter, and also is in favor.

Vice Mayor Massucco closes public comment:

Councilman Reynolds questioned Captain Powell of the cost for the service, and when will they begin their services.

Captain Powell responded that the cost would be at \$50.00 per hour, and they would be able to begin as early as tomorrow.

VOTE: The motion passes 5-0.

C. Councilman Reynolds' letter to the Metropolitan Planning Organization

Councilman Reynolds proposed suggestions to Council to present to the MPO, and asked Council members if they had any concerns regarding it.

Vice Mayor Massucco opens public comment:

- Tom Babcock made comments regarding the Oversight Committee and Transit Authority.

Vice Mayor Massucco closes public comment:

MOTION: Councilman Meador expressed that he would like to have this put on the an agenda in April to be revisited and not to send the letter in question. Councilman Shenko 2nd the motion.

Discussion:

Councilman Shenko expressed he is the representative of the MPO. Suggesting reading the economic benefits or their action plan. His concerns were regarding how they are trying to set things up, not anti-mass transit, but anti-independent special district authority which is what they are proposing.

Councilman Meador commented that he would like to see the matter pushed out until April after the Elections.

VOTE: The motion passes 5-0.

Mr. Shenko noted that he received an email from the new Chairperson Carla Johnson of Sanibel calling for a meeting on January 26, 2007 at 9:00 am. Mr. Shenko reported that he will be unable to attend this meeting and asked if there is a Council member who would be interested in attending in his place.

Mayor Boback asked for Councils' consensus to have Mr. Sallee prepare a letter to both the County Commissioners and the TDC to see whether they can recoup some of the money for the traffic control.

Councilman Shenko agreed with Mayor Boback's request.

Councilman Meador also agreed with Mayor Boback.

Councilman Reynolds expressed having communications with both parties would improve both parties.

Vice Mayor Massucco announced the consensus is unanimous for their Town Manager to proceed with the request.

VII. TOWN ATTORNEY'S ITEMS

A. *Councilman Shenko request for repayment of attorney fees.*

Councilman Shenko announced filling form 8-B conflict of interest, and will abstain from voting.

Ms. Dalton announced Council Shenko has filed as of January 8, 2007, is the Plaintiff in the litigation Shenko versus Warner, and will be abstaining from voting.

Ms. Dalton reports the subject matter is payment of the attorney fees incurred by Councilman Shenko in the matter of Shenko versus Werner Case # 06-CA-4759. Ms. Dalton reported Mr. Tripp's attorney fees amounts to \$14,667.00 in addition a fee from Ellen Mills Gibbs, Esquire in the amount of \$9,060.00; Totaling \$23,727.00.

Vice Mayor Massucco opens public comment:

- Annie Babcock made comments as to what extent legal expenses may be paid with public funds.
- Pat Smith expresses that this was nothing but a smear campaign.
- Dennis _____ (not audible) expressed that he supports paying Councilman Shenko's legal fees.

Vice Mayor Massucco closes public comment:

Ms. Dalton questioned whether or not Council wished to pursue Mr. Werner and/or the Committee for reimbursement to the Town for these attorney fees.

MOTION: Councilman Meador made a motion to approve payment of attorneys' fees as presented with the corrections Mr. Tripp has made and the billing of Ellen Mills Gibbs. Councilman Reynolds 2nd the motion.

Mayor Boback expressed that they have an obligation to cover the expenses of Councilman Shenko's attorneys' fees. Mayor Boback also

suggested to Councilman Meador of adding in his motion, pursuing reimbursement of these fees by Mr. Werner and the recall Committee.

Councilman Meador suggested having this as a separate motion.

Councilman Reynolds responded that they did not have a choice, and that they are committed to taking care of their Elected Officials.

Vice Mayor Massucco also agreed to their commitment in paying these fees. Vice Mayor Massucco also pointed out that they have no policy in place which will set out limitations.

Councilman Meador suggested adopting a policy as did their neighbors in the south stating that they will vigorously defend their Council people against recall petitions.

Ms. Dalton pointed out that there was a considerable amount saved in these attorneys' fees, as Councilman Shenko did most of the research himself at no charge to the Town.

VOTE: The motion passes 4-0; with Councilman Shenko abstaining.

MOTION: Councilman Meador made a motion to authorize their Counsel to pursue an award of attorney fees against Mr. Werner, and the Committee, and individual members of the Committee in connection with the litigation. Mayor Boback 2nd the motion.

Councilman Shenko announced filing form 8-B conflict of interest.

Councilman Reynolds expressed not going further on this matter.

Vice Mayor Massucco also expressed not going forward on this litigation.

Mayor Boback commented on the reasons for this recall, and as elected officials they have the responsibility to regain their taxpayers' money which was spent in a frivolous lawsuit. Mayor Boback expressed that he believes in the Democratic process and the voters' rights to do a *valid* recall petition, but will not tolerate a smear campaign.

VOTE: The motion fails 2-2. With Councilman Shenko abstaining.

VIII. TOWN MANAGERS REPORTS

A. Citizen Recognition Program

Mr. Sallee announced the Town of Fort Myers Beach Citizen Program with a procedure in place with five types of awards that are listed, and are before Council for approval.

Vice Mayor Massucco opens public comment:

- No public comment was given.

Vice Mayor Massucco closes public comment:

Mayor Boback referred to a small plaque not exceeding a hundred dollars.

Councilman Reynolds suggested using the Tree of Life since it has not been properly used, instead of using plaques.

Councilman Shenko was in favor of the additional language such other location as determined by Council and stated it could be a small plaque on the Tree of Life and is prepared to support it.

Vice Mayor Massucco referred to the Athletic Achievement Award, and expressed they can eliminate that recommendation.

MOTION: Councilman Meador made a motion to approve the policy with the recommendation made by Mayor Boback. Councilman Shenko 2nd the motion.

VOTE: The motion passes 5-0.

FINAL PUBLIC COMMENT: Public comment at this time is heard on any item and/or issue of concern.

Vice Mayor Massucco opens public comment:

- Eddie Foster expressed to Council that a safety issue should be their first concern.
- Pat Smith made comments regarding the recall petition.

Vice Mayor Massucco closes public comment:

Mayor Boback thanked Council members for allowing him to attend this meeting via telephone conference.

IX. ADJOURNMENT

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

VOTE: The motion passes 5-0.

Vice Mayor Massucco adjourned the meeting.

NEXT MEETING: January 16, 2006 at 4:00 PM

NOTE: This meeting is televised live on Comcast Channel 11.

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

2-5-07
Date Approved