FORT MYERS BEACH
TOWN COUNCIL
Town Hall – Council Chambers
2523 Estero Boulevard
Ft. Myers Beach, FL 33931
December 19, 2005

I. CALL TO ORDER
Mayor Garr Reynolds called a regular meeting of the Town Council to order on Monday, December 19, 2005 at 6:38 PM.

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

Excused Absence: None

Town Staff Present: Interim Town Manager John Gucciardo, Town Attorney Anne Dalton

II. PLEDGE OF ALLEGIANCE
All present stood for the recitation of the Pledge of Allegiance.

III. INVOCATION – Rev. David Uhl, Chapel by the Sea
All present remained standing for the invocation given by Rev. David Uhl.

IV. PUBLIC COMMENT
Before opening the floor to Public Comment, Mayor Reynolds explained to the public that the Council wanted to hear from everyone, but asked them to watch their time so as to leave enough time for everyone else. He also said Public Comments at this time should be limited to anything not on the agenda.

Councilman Shenko thought comments made at this time were to address only agenda items. Mayor Reynolds said that was not the case for regular Council meetings. He felt there were people who wanted to speak about things not on the agenda.

Ms. Dalton confirmed Councilman Shenko's opinion, in that per the Policies and Procedures Manual it was specified that the first Public Comment was for agenda items only, and the last Public Comment was for anything.

Mayor Reynolds objected that that had not been changed as yet. He said he wanted it done the way it had always been done, and that he wanted to hear from the people who wanted to share at that time. He said if there was an agenda item that required public input, it would be the time a person should give their input on that item.

Mr. Gucciardo said that typically one would make public input at the time an agenda item came up in the course of the meeting if it were a public hearing. Ms. Dalton pointed out that there were no public hearings on this agenda.

Mayor Reynolds explained that people came into the meetings with special situations they wanted to bring to Council, and would have to sit for possibly three hours before they could address Council when the final Public Comment section appeared on the agenda. For that reason, he wanted those people to be able to express their concerns during the first Public Comment section on the agenda. He said that was why they had it. He said some people stayed to the end of the meeting so as to comment on the actions the Council had taken in the course of that meeting, and said it was the way the Council had been doing it. He asked the Council, if they wanted to change that practice, to wait until January, and then the rules would be changed.

Vice Mayor Massucco said that, in the past, Council had accepted Public Comment regarding agenda items only in the first public input section of the agenda, and that they had given them the option to speak on specific agenda items, if they so chose, when the item came up. He said all other comments were held until the final Public Comment section.

Mayor Reynolds said he did not recall it happening in that way.

Councilman Shenko suggested that the first Public Comment section be opened to any and all comments the public wished to make to Council, whether they were with regard to an agenda item or not.

Mayor Reynolds said that was what it would be because there were no public comments anywhere in the items on the agenda. He asked the Council to "live with" that arrangement and then discuss any changes in January.

Gertraud Short of 470 Madison Court came forward. She expressed her gratitude for the Council's willingness to listen to the concerns of the citizens. She said her greatest concern was for the environment, which she felt was on the verge of collapse. She said the greatest attractions to Ft. Myers Beach were the water, water-related activities and the wildlife. She said the residents and business community needed to work together to prevent an ecological disaster, which would destroy the quality of life and cause economic collapse on the Island. She expressed support for Commissioner Ray Judah in his work to correct the situation. Although it was depressing, she felt everyone needed to take action, and remember that nature had the ability to bounce back if given a chance. She urged the Council to support Ray Judah in his efforts, and to contact the Governor's Office and ask when holding ponds and filtration marshes will be constructed to clean the Okeechobee water. She asked that a committee of residents be formed, and that a liaison from Town

Staff be appointed to keep Council informed about water issues. She suggested Council liaise with Sanibel, Cape Coral and Bonita so that efforts were not duplicated. She asked them to persevere until the environment was saved. She hoped Council realized the importance of the issue, and felt there were many Town residents who shared her concerns. She distributed copies of Commissioner Judah's letter about water releases, which appeared in local newspapers, to all of the Councilmen.

Terry Cain of Bay Mar Drive came forward. Ms. Cain said she was in support of the Shell Mound exhibit bid. She asked the Council to imagine a flyer that highlighted points of interest on the Beach to visitors, that might be created a few years in the future, such as: the critical wildlife area on the south end for birding and walking and observing the beach in its natural state; the Mound House, via kayak, foot, or vehicle, where one could visit the first inhabited area on the Island, the oldest home on the Beach, and with a walk-in shell mound area; Matanzas Pass Preserve and the Historic Cottages; Lynn Hall Park; Bowditch Point; Newton property; and, the library. Ms. Cain said the Mound House would be the jewel on the Island, and that the Town needed to celebrate what was on the Island. She asked the Council to please support the request for the Mound House, and to guide the Town into the future with its ecological, historical and archeological substance that already exists on the Island.

John Corning of 319 Nature View Court came forward. Mr. Corning spoke about the County's announced plans to build a bridge through Matanzas Preserve. He thought it would be a shame to allow the County to sacrifice one of the true gems of the Island to discover it did nothing to mitigate the traffic problems.

Brian Benton of Nature View Court came forward. Mr. Benton spoke about the new bridge, and the funding for which, that had recently been approved by the MPO. He said the MPO approved $49 million for the project, and that the project had been set for completion by the year 2015. He felt construction would commence sometime between 2006 and 2007. He had heard that there was a possibility of fast-tracking the project as well. He noted the materials he had distributed to the Council before making his comments, including a sheet of information he had put together along with material he had taken from the MPO's website. He said the problem with the new bridge, which had been proposed to connect at Bay Road – the entrance to the Matanzas Preserve, Beach Elementary School, Beach Library, and Bay Oaks – was that it would bring all the traffic together at one spot at the foot of the bridge on San Carlos Island. He pointed out that it had been proposed to help fund the new bridge by imposing tolls on both it and the Matanzas Sky Bridge. He cautioned that while the citizens of the Town had already voted overwhelmingly against the Council imposing tolls on the Bridge, the County could still do it if they wished. He asked the Council quickly choose the

Town's official representative on the MPO, so that the Town will have a voice there and so that decisions can be made quickly as to what needed to be done. He added that the Community Development for Lee County had said that Estero Boulevard was in need of traffic relief, which had been a report published in June 2005.

Mayor Reynolds said the Council had very little, if any, information about the subject addressed by Mr. Corning and Mr. Benton. He said he had been serving on the MPO during the current month, but hoped someone else on the Council would take over that position.

Pat Smith of 50 Fairview Boulevard came forward. Ms. Smith applauded and echoed Ms. Short's comments regarding the environment and water quality. Citing a letter she had written to Council regarding the Deputy Town Manager, Ms. Smith reiterated portions of it. She felt Mr. Gucciardo's request for additional funds for serving as Interim Town Manager was opportunistic. She said she had "no beef" with Mr. Gucciardo, and characterized him as a courteous and good employee of the Town. She felt his request for additional salary and a severance package was "extremely" out of line. She said in her years working for the federal government, one always acted for one's superior at any time without more pay. She said one would get more pay if one acted for one's superior for more than 30 days, at which time one would get "acting" pay – a level step increase – for the period of time commencing after 30 days until the end of the acting period. Ms. Smith said she was "astonished" at the request, and wondered what Mr. Gucciardo thought "deputy" meant. Ms. Smith said that in federal government, in a "deputy" job description, there would appear a clause that said one acted on behalf of one's senior whenever delegated to as necessary and appropriate. When Ms. Smith asked for a job description of Deputy Town Manager from Town Hall, she was given an organization chart, and was told that it was the job description. She said it was lackadaisical that there was not a job description, and said it was "typical". She gave her reasons for asking the Council not to adopt the salary increase requested by Mr. Gucciardo, including that he already had a generous salary and benefit package, that the responsibility of "acting" was already implicit in his job title, that by taking the "acting" position Mr. Gucciardo would enhance his career development and resume, and that he had not yet shown that he could or would "row the boat in the new direction that we all hope that he will be rowing it." She said that last year, according to lists she had been given, Mr. Gucciardo had been given a wonderful merit pay addition to his salary of $85,000 which brought it up to $93,500. She said he had also been awarded about $12,000 for his overtime work "for the hurricane".

George Vukovich of 4531 Bay Beach Lane came forward. Mr. Vukovich said a dock permit had been issued at the Royal Pelican by three Councilmen who were no longer on Council, nor was the Town Manager who had approved, with Staff, the permit. He commended the Council for removing the Town Manager. He said he would not have the problem he had today if the Town Manager and Staff at the time had fully investigated the weaknesses of the approval. He asked the Council to look at a sketch of the property in question, which he had distributed to Council before beginning his comments. He proceeded to explain what the sketch showed – the permit holder does not hold one inch of seawall property at the Royal Pelican; the permit holder does not own the ground to park cars to satisfy 33+ boat docks; the permit holder does not own one bit of ground where garbage or trash receptacles could be placed; the permit holder does not hold one inch of ground on which to build a restroom; the permit holder does not hold one inch of ground to build an access road; the permit holder has no easement for water or electric utilities. He asked the Council to pull the permit, and draft an ordinance regulating the process for permits and requirements for boat docks.

A.J. Bassett of 118 Mandalay Road came forward. Ms. Bassett said she was concerned about the growth, changes and activities on the Island, on which she said she had lived for 33 years. She said she supported the Mound House in their efforts to see a completion to the exhibits, construction on the property, and the programs that were planned. She recalled some personal history in connection with the Mound House property. She said the shell mound exhibit would be a showcase the Town could be proud of. She related the enjoyment she had experienced while being a docent on the property when it was owned by the Long family and opened for tours. She said the Mound House was owned by all the citizens of the Town, and supported the efforts being made to complete all the projects on the property. She said the Council and the community must believe that change and progress included preservation of the Island's heritage.

Dolores Yost of 151 Mid Island Drive came forward. Ms. Yost expressed her support for the shell mound exhibit construction project, and hoped the Council would approve the upcoming request for $30,000 to cover the rising cost of concrete. Ms. Yost said she had been working at the Mound House since 1996, and loved the property, where she said there was so much history. Ms. Yost mentioned some of the outstanding historical points she felt were important. She pointed out that the shell mound exhibit would be one of only two such sites in the U.S. She said the property was a jewel, and that the Town should preserve and protect it.

Ceel Spuhler of 7150 Estero Boulevard came forward. Ms. Spuhler expressed her support of the Mound House project. She explained why the additional $30,000 was needed. She said 85% of the archeological dig was funded by a grant, and because the exhibit was going to be one of only two in the country, she felt there would be money generated from people coming to visit the site. She said the Mound House, with all projects completed, would be a great legacy for the Town, and hoped the Council would approve the request for additional funds.

Claudia Mayer of 110 Pearl Street came forward. Ms. Mayer said she had been performing in Times Square, doing historical reenactments – specifically, the ancient art of coconut leaf weaving. She did not think the Council had been properly informed of the situation. She said she was at a disadvantage because the minutes of the meeting in which the Council had discussed the street performers had not been available. She only knew that the Council had decided that she would no longer be allowed to do her performances. She asked the Council to reconsider that decision, and directed Council's attention to the Times Square Advisory minutes, which she had distributed to Council before commencing her remarks. Within those minutes, Ms. Mayer said the Council would find evidence of the Times Square Advisory having asked her to be an on-site coordinator/supervisor in the street performance program. In the interim, Ms. Mayer said Mr. Scott, Town Staff, had been given the job as advisor for the street performance program, and she didn't think he had understood what the Advisory Committee had decided with regard to her role, as he had not advised her about any upcoming situations, and she had not been provided with an application for a permit. She asked the Council to read what the Times Square Advisory Committee had proposed with regard to her role in the program, and asked them to reconsider their decision to exclude her from the program. Ms. Mayer said she was disabled, and believed it was one reason she had not been given access to the information – although she had left several messages for Mr. Scott which he never returned. She said she had been performing in the Square for years, and had been an educator in Lee County for a few decades.

George Whistler of 21630 Madeira Road came forward. Mr. Whistler said he had sent the Council a letter a few weeks ago in which he had explained his viewpoint regarding short-term rentals. He felt the short-term rental decision had been voted in illegally, as far as he could determine. He said that decision put a cloud on the titles of those homes affected. He said the decision interfered with people and their property.

Steve DuBois of 110 Pearl Street came forward. Mr. DuBois, publisher of the Beach Observer and Bulletin, asked the Council not to change their regular meeting day from Monday to Tuesday because he had a deadline for his Observer paper that would preclude Council news getting into the Observer in time for a Wednesday, or possibly Thursday, delivery. He said based on the fact that the Observer was the official newspaper of the Town, changing the meeting day would be awful for the people of Ft. Myers Beach. He said the Council should realize his paper was there to work for the Town, and if there was anything the paper could do for them, they should just call.

Mayor Reynolds closed Public Comment at this time.

V. CONSENT AGENDA

A. Approval of Minutes – November 21, 2005

Corrections: Page 6, top of page, last line first paragraph – Mayor Reynolds asked if it was normal procedure to denote laughter in transcriptions. He expressed his preference that it not be included, as he didn't feel they showed anything of value. He added that he felt the transcriber had been doing a good job. Page 26, paragraph 6 – "gain" should be changed to "game". Page 27, second line – "the point was the recommendations HAD come from somebody outside…" Page 28, third line of first paragraph – Mayor Reynolds asked that "a bit of trouble" be finished with the word "speaking". Page 33, middle of page, next line after vote indication, "Ms. Dalton" should be changed to "Mayor Reynolds".

MOTION: Vice Mayor Massucco made a motion to accept the minutes of November 21, 2005 with corrections. Mayor Reynolds seconded the motion.

VOTE: The motion carried unanimously.

B. Lee Tran Trolley Interlocal Agreement

Mayor Reynolds referred to a memo from Mr. Gucciardo regarding this agreement. He asked Mr. Gucciardo if he wished to comment on the item.

Mr. Gucciardo said that, typically, there was no input given on Consent items.

Mayor Reynolds said there would be three trolleys from January 19th through April 22nd, two of which would run from 9 AM to 10:45 PM, and one would run from 2:30 PM to 11:30 PM. He said these were extra, as the County still furnished the core level service of two trolleys, for a total of five trolleys that would be on the Island on which the riders would pay no fare. He said the three added trolleys being paid for by the Town would cost $210,000.

MOTION: Councilman Shenko made a motion to approve the Lee Tran Trolley Interlocal Agreement, with a note to the audience that the trolleys cost $71 per hour. Councilman Boback seconded the motion.

VOTE: The motion carried unanimously.

VI. ADMINISTRATIVE AGENDA

A. Extension of Bill Spikowski's Contract

Mr. Gucciardo said this would be the fifteenth amendment to the Mr. Spikowski's original contract with the Town, and so was considered a fairly routine request. He said Mr. Spikowski's involvement with the Town was very much appreciated, and would love to see it continue.

Mr. Spikowski came forward. He said the extension up for consideration was the same as the one put forth and approved last year. He said he was currently working on the EAR for the Town, which is a state-mandated review of the Comprehensive Plan. He said the EAR was about 2/3 complete at this point in time. He said he worked directly with the LPA on it, and when it was completed, it would go before Council for initial public hearings and then state review.

Pursuant to Council's direction, Mr. Spikowski said he was also working on the FEMA flood plain maps, as well as managing sub-consultant contracts for preliminary engineering of the "new street", should Council decide to go ahead with that project. He said he assists the Town with other planning matters as requested by the Town.

Vice Mayor Massucco remarked that Mr. Spikowski's hourly rate had not changed, which Mr. Spikowski confirmed.

MOTION: Vice Mayor Massucco made a motion to approve the extension of Mr. Spikowski's contract, as he had proven his worth to the Town over and over again. Councilman Shenko seconded the motion.

Mayor Reynolds asked Mr. Spikowski if he was "working heavily" with the development in Times Square. He asked when Council would have information about it, as they had gotten "zero" information thus far.

Mr. Spikowski said the in the planning charette that was held in March of 2004, of the three or four areas of Town discussed, Times Square had gotten the most public attention. From that, he said the idea for a second street that paralleled Estero Boulevard came from that, and the possibility that a new beach park would be donated to the Town. He said neither of those things could happen unless the Council agreed to rezone the property to allow the development that would surround both the park and the "new" street. He said the donation of the land from the developer would only take place if the developer agreed to the arrangement. He said there would be a public hearing on both of those ideas simultaneously, after an application is filed by the developer. He thought it might be three or four months away. He said the rezoning application and the development agreement would come before Council at the same hearing, as one affected the other.

Mayor Reynolds asked if the donation of the park wouldn't be included in the property developer's plan when it came before Council.

Mr. Spikowski said the property owner's original plan had been very different from the one that had been developed by the Town's consultants in March. The Town's idea of how the property should be developed was quite different and more favorable to the Town. He said the developer had taken an interest in that plan, and believed it could be good for him as well as for the Town. He said the details still needed to be worked out, including the exact location of the “new” street.

Mayor Reynolds asked Mr. Spikowski how it should be approached if a Councilman felt something needed to be changed in the Comp Plan. He asked if it always had to go through the Town Manager, or if they could give input to Mr. Spikowski directly.

Mr. Spikowski said that in every other year at the end of December, Mr. Spikowski had asked the Council if there were any amendments they wished to initiate. He said he had done it this year because the entire evaluation of the Comp Plan would be brought to Council within the next several months, at which time the Council would have the opportunity to look at the work that had already been done by him in conjunction with the LPA. He said they should feel free to suggest changes before that time.

Mayor Reynolds asked if the Council should tell him about anything they wished to address before that time.

Mr. Spikowski said anything the Council brought up with regard to amending the Comp Plan between now and the next four months would end up at the same public hearings when the EAR was completed, the process being that it would go before the LPA, then the Council, then the State and then back to the Town Council like every other amendment.

Mayor Reynolds thanked Mr. Spikowski for the information, and that he should continue to do the great job he had been doing for the Town during the past ten years.

Councilman Meador said when he had received his contract amendments, he had not been given the balance of the agreement to figure out what Council should do with the fifteenth supplemental agreement. He said Mr. Gucciardo had provided him with what the Town had, and in reviewing it, Councilman Meador said it looked as though every other amendment was missing. He asked if Mr. Spikowski’s records regarding his agreements with the Town were more complete, and if he could work with Mr. Gucciardo to ensure the Town’s records included the entire agreement.

Mr. Spikowski said he would supply anything that was missing. He said going back to 1999, each contract amendment had been basically the same.

Councilman Meador asked if the EAR were required by statute.

Mr. Spikowski said state law required that, about every seven years, every city and town had to evaluate their Comp Plan. He said the state required that the evaluation be done on a particular schedule, and in this case, the state had required that Ft. Myers Beach be on the same schedule as Sanibel and Cape Coral.

Councilman Meador was unclear as to why doing the EAR was listed under "optional service" in the agreement the Town had with Mr. Spikowski, as it was statutorily required. He asked if Mr. Spikowski were being paid for ongoing services that were not optional under his contract.

Mr. Spikowski said the "optional" designation did not refer to whether the EAR was optional to the Town, but it was optional as to whether the Town asked him to conduct the review, as opposed to Town Staff or another consultant. He said the original contract had been to do the Comp Plan itself, and everything else had been designated optional. He said the EAR was a big task, and probably should have been put into basic services in the agreement. He said the effect was the same – the contract terms and the amount of payment was the same.

Councilman Meador asked if what the Council was doing at this juncture was hiring Mr. Spikowski at $105 per hour with no base contract cost on top of that. Mr. Spikowski confirmed that.

Mr. Gucciardo apologized to Councilman Meador for not having gotten the complete information to him, and thought it might have been a copying error. He said the Town did, in fact, have all the amendments.

Vice Mayor Massucco asked if Mr. Spikowski were still working with Mr. Tomasello on the FEMA maps situation.

Mr. Spikowski said the project was being managed from Town Hall, but had been helping the Town as had been requested of him.

Vice Mayor Massucco thought he might be "off base" in asking for an update on that situation, but wanted to know how it was going while Mr. Spikowski was there before Council.

Mr. Spikowski said this issue was about the FEMA flood plain maps, which regulated development in the Town, and which needed to be updated. He said they had had a conference call with FEMA a few weeks ago, and they had pushed the schedule for implementation of the new maps back by four or five months. He thought it would be May or June before the next step in the process. He said Mr. Tomasello, a coastal engineer who had worked for FEMA and with FEMA maps for twenty-five years, was another consultant hired by the Town, and was going over all the engineering work that FEMA had done when they had created the new maps. Mr. Spikowski said he had been working on the policy end of the issue, so that if the new maps were implemented, he could determine how best to manage things; Mr. Tomasello was working on the technical end, and Matt Feeney was coordinating both his and Mr. Spikowski's efforts.

VOTE: The motion carried unanimously.

B. Shell Mound Exhibit Bids

Theresa Schober, co-director of the Mound House, came forward. Ms. Schober indicated she had brought the single sealed bid that had been received for the main construction phase of the walk-in shell mound exhibit, which was in the amount of $191,337.

Ms. Schober explained that the Town of Ft. Myers Beach had received a $269,500 grant from the Division of Historical Resources in October of 2004 to conduct the project: removal of the pool; excavation down an additional 6 feet; construction of a building to cap the entire area. She said with this project completed, people would be able to walk into the excavation site through a doorway in the mound, and two of the walls in the structure would be the shell mound itself. She said it was a large-scale archeological exhibit project.

Ms. Schober said since the initial grant proposal had been submitted in 2003, the price of concrete had been increasing by approximately 25% per year. She said the initial budget had been created with assistance from Piper Engineering – a structural engineering firm. She said she had talked with the state in November of 2005, while in Tallahassee defending the house restoration grant, and she said the state was aware of the substantial concrete price increases and were expecting a second grant request from the Town in May of 2006.

Ms. Schober said that, from the current $269,500 grant, $161,337 – or 84% of the sealed bid – could be provided. She said that left a balance of approximately $30,000 that had not been budgeted for neither in the grant proposal, nor in the Mound House capital improvement budget for the coming year. Therefore, she had submitted the request for that amount to be funded through the Town's contingency fund.

Ms. Schober explained that if the Town were to provide the requested funds, it would count toward a $50,000 match required to submit the second grant proposal, serving a dual purpose – it would allow the current grant project to be completed, and it would help the Town obtain the second phase grant.

Vice Mayor Massucco asked if the $30,000 would go toward the matching funds for the next grant, and Ms. Schober confirmed that.

Councilman Meador asked if the Town had gotten a $269,500 grant to produce the walk-in exhibit. Ms. Schober confirmed that. Councilman Meador asked if, based on the sealed bid before Council, it was going to cost $191,000 to construct it.

Ms. Schober said the $191,000 was for the concrete building to be constructed over the mound. She said there were other aspects of the pool exhibit project, including pool demolition and the archeological excavation. Ms. Schober said that when the budget had first been determined in 2003, it had been thought the project would be further along on the entire project. She said given that the construction costs had escalated so much, the exhibit would not be able to be completed, but that the $191,000 would make it possible to complete the exhibit. She said it would pay for the construction of the building over the mound, including the pilings, the roof, the footings, the floor, the front wall, the side wall, the doorways, the pathways up to the exhibit, etc. She said the entire shell will be created, and the interior would be funded in the second grant phase.

Councilman Meador what the original budgeted amount had been for the entire exhibit, interior and exterior.

Ms. Schober said she had budgeted $269,500 with additional matching costs – in-kind labor. Ms. Schober said the actual grant proposal – Exhibit 2 – was in the Council's packets. Citing Page 9, Ms. Schober indicated the second column of the chart in which appeared the heading "grant funds". She said all the construction and exhibit cost estimates totaled $269,500 which was the amount requested from the state in the grant proposal. She cited the next column in the same chart, and the heading "matching funds or local cost share", and said the first three items were previously expended dollars. She said $10,000 was a "raw cost" for the contract with the structural engineer to help determine the feasibility of the entire project. She said all the dollar figures below that in the chart were all in-kind – either a labor investment from volunteers or from the site directors. She said the grant had been submitted under the assumption that the site was being directed by a professional archeologist. She said close to $20 - $22,000 was for professional in-kind services. She said the total cost of the project in terms of cash outlay was $279,500 and close to $60,000 additional costs that were in-kind.

Councilman Meador asked if "in-kind" meant the services had been donated.

Ms. Schober said she was already employed by the Mound House, so that the professional services she provided, which otherwise would have been contracted out and paid for, were counted as part of the match. She said there were also in-kind services of volunteers. She said the project had been planned as a large-scale public education effort, and when excavations had been conducted on the property in 2002, there had been 116 volunteers from the community who had worked on a regular basis. She said they had budgeted ten volunteers per day for the first four months of excavation, and five a day for the following two and a half months of excavation. She explained that all of that labor, which could only be counted at $5.15 per hour, had been included in the $52,000 line item. She said that it was, in essence, donated labor. She said if in-kind service costs were included in the overall cost of the project, the total cost to complete the pool exhibit project would be close to $340,000 with approximately $60,000 in donated services. Councilman Meador noted that the additional $30,000 being requested should be added to that figure. Ms. Schober concurred.

Ms. Schober said there would be a second phase, for which a budget had not been developed, that will include installation of the exhibits, laminated glass to separate the public from the shell mound walls, any seating or interior finishes, artifact cases – which she said would comprise the second phase grant request.

Councilman Meador characterized the project as a $370,000 basement that would still need to be finished. Ms. Schober said he could call it a basement.

Ms. Schober noted that the grant proposal submitted to the state in 2003 had been ranked 2nd out of 95 project proposals from around the state. She said the state considered it an extremely high priority for receipt of funding, and was considered a very exciting project. For these reasons, Ms. Schober expected the second phase grant proposal would receive a similar ranking. She said the state archeologist had already visited the Mound House, which said boded well for the Town's future success at the state level.

Councilman Meador asked if operating costs had been estimated for the completed project.

Ms. Schober said the Town had previously paid close to $2,000 per year for maintenance of the swimming pool area, and that cost had been carried as an estimate cost for electricity to air-condition and light the exhibit structure once completed.

Councilman Meador if the exhibit would be an unmanned walk-through exhibit.

Ms. Schober said the Town could go either way with it. She said it could be manned by volunteers, as most of the House tours were currently. She said it could be a self-guided exhibit, and referenced a comparable exhibit in Osprey, Florida called Spanish Point. She said that site had a main gate, and one paid admission to access the grounds, at which point all exhibits were accessible, with or without a guide. She said it was anticipated that the shell mound exhibit at the Mound House would be locked except during specified hours.

Councilman Meador asked what the current operating hours were at the Mound House, in terms of being open to the public.

Ms. Schober said it was open on Wednesdays and Saturdays between 10 AM and 2 PM. She said in the spring, when the archeological excavation portion of the pool exhibit commenced, it would be open Tuesdays through Saturdays from 9 AM to 3:30 PM. She said anticipated the full-scale excavations to begin on or around January 16th. She added that kayak tours would start in January on Saturdays at 10 AM, as well as a full-moon kayak tour one evening per month.

Councilman Meador asked if the kayak tours were operated through the Town. Ms. Schober said they were operated by the co-directors through their contract with the Town, as the tours were educational, and which she briefly described.

Councilman Meador asked if there was a charge for the kayak tours. Ms. Schober said the Town Council, in spring of 2004, had established fees for the tours and also a 50% discount if one was a Ft. Myers Beach resident or property owner.

Mayor Reynolds thanked Councilman Meador for asking such pertinent questions, and said he appreciated someone else asking questions besides himself "all the time".

Mayor Reynolds said it looked as though they had come up $30,000 short because of the increase in concrete costs. Ms. Schober said in 2003, she and the structural engineer had budgeted a cost of $106,000 for the items included in the project, and the 25% increase in each of the last three years brought the total to $191,000 around the right market value. She said other elements of the project had been scaled back, so it would not be correct to say the costs had been anticipated to be $161,000. However, she said with the current grant funds in hand, they were $30,000 short.

Mayor Reynolds said Ms. Schober's explanation had not been clear. He read from the request submitted to Council for the additional funds, and said that explanation was much more clear.

Councilman Shenko expressed concern about having gotten only one bid for the project. He said he was not comfortable with it. Councilman Shenko said Ms. Schober's outline of where the grant money came in and went out was a good one, but that it didn't mention anything about Town money going in and out of the Mound House. He said the requested $30,000 wouldn't even complete the project, and as Councilman Meador had said, would result in a basement. He said he would not be comfortable moving forward with the project until he had a better idea of the "big picture". He said he wanted a breakdown of every Town dollar that had gone into the Mound House.

Ms. Schober said the project in question was the third or fourth construction project that had been undertaken at the Mound House, including the garage project and the electrical upgrade. She said that in every case, only one sealed bid had been submitted for each. She said the bidder(s) in each case believed they needed to be competitive in their pricing. She felt the reasons only one sealed bid had been submitted for each project were that they were relatively small in nature, and because the projects were under the scrutiny of the Secretary of Interior's standards and restrictions, there were not as many construction companies with the experience necessary to go forward with these types of projects.

Regarding "money in – money out" in the big picture, Ms. Schober said she had been assembling, for the upcoming retreat/workshop with Council in January or February, a budget analysis of the entire site through the last six years since the Town purchased the property. She believed the first Five Year Capital Improvement Plan the Town had developed, before the purchase of the Mound House, included estimates for capital improvements totaling $500,000. She said the Town had listed $100,000 per year for each of five years. She said when reimbursable expenses were subtracted, to date the Town had invested approximately $250,000 in capital improvements on the property.

Councilman Shenko believed more than that had been spent on the Mound House in terms of maintenance, and repeated his preference that all the information be made available for study before moving forward with the Mound House project.

Councilman Boback asked how many contractors had been invited to bid on the project.

Ms. Schober said a legal ad had been submitted to the local papers, and to the News-Press, and possibly the Naples Daily News, although she said Rachel Lambert had that information as she was the person who actually placed the ads. She said the ad had also been submitted to the Construction Journal.

Councilman Boback understood her to mean she hadn't approached any firms and asked them if they were interested in the project. Ms. Schober said she had not, nor did she ever.

Councilman Boback asked if she could foresee the Mound House ever paying for itself.

Ms. Schober didn't believe there was a museum in the U.S. that paid for itself. She thought capital costs would significantly decrease once the house was restored and the exhibits were in. She said there had been a lot of delayed maintenance, particularly with the house, that the restoration project will largely take care of. She thought operating costs could be covered up to 50% by money collected in admissions to exhibits and for tours. She said that the director of the Spanish Point historic site had said that within a year of opening up their exhibit, their visitation had increased by 50% and had never dropped below that new level in the thirteen years it had been open. She said January through May of 2005, visitation at the Mound House had been around 2000 people, without the exhibit. She said with the exhibits completed, the site open to the public more days and longer hours, and more things to show people, visitation at the Mound House could be expected to increase. She remarked that if the Council wished, an admissions price could be charged. She said a single director and a volunteer staff would probably not be adequate to handle a greatly increased flow of people onto the site. She said some of the income from the increased flow would be used to pay for additional staff at that point.

Ms. Schober said most of the $250,000 that had been spent during the 3 ½ years she had been at the Mound House, had been money she had asked the Council to spend. She said there had not been wheelchair-accessible restrooms on the site until last year, which, in her opinion, should have been done during the first year of operation of the site. Ms. Schober felt things were on the "right kind of a roll" in that the Town had gotten a major grant from the state in order to construct the pool exhibit, which she believed would not only pay for itself, but income from which could go toward work to be done on the house itself. She said once the house and its exhibits were complete, and for which the Town would be receiving more grant funds, the Town would then have the ability to charge people for "a real product".

Councilman Boback remarked that every time the Town applied for "these grants" it cost the Town more money.

Ms. Schober said the Town's willingness to invest some resources in the project was taken into consideration when the grant applications were reviewed at the state level. She said the Town had received a lot of compliments from Florida Historical Commission members because of the matching funds – from other grants as well – that the Town had invested in the Mound House. She said a regular contribution from the Town to the property projects was important, the most recently awarded grant required only a 1% cash match of funds from the Town - $3500 from the Town to get a $350,000 grant. She said historic renovation and archeological mitigation were not fast processes, and the state recognized that. She said the state tended not to abandon projects such as the Mound House, once it had begun awarding grants, unless the projects funded were left incomplete. For these reasons, she felt fairly certain that the Town would continue to be awarded grant funding from the state.

Councilman Boback asked Ms. Schober when she expected everything to be completed.

Ms. Schober said she had been asked that last year, and had estimated about five years. She said the Mound House had been ranked high enough for the house restoration about two years before she had expected. She said that put the site about two years ahead of what she had originally estimated. She believed the pool exhibit would be ready for visitors by 2008, and believed the house would be ready for visitors by 2009. She said the new three-year estimate could be enhanced and sped up if the Town decided to invest a much greater sum than $30,000 in the Mound House.

Vice Mayor Massucco quipped that he thought the Council should okay the $30,000 request for additional funds just for all the grant applications she had submitted. He said they had been discussing a lot of dollar amounts, but beyond the money, there were people in attendance at this meeting who had dedicated their lives to the Mound House, and had been working on it for so long. He felt to “toss it to the side” and not continue to fund the project would be a great disservice to the senior citizens who had worked so hard on it, and felt it would benefit the Town eventually. He said asked if getting on the National Register of Historic Places would positively affect visitation to the site.

Ms. Schober said it would make a substantial difference in terms of drawing people from out of the area. She said the National Register maintained a website where one could enter a county name and be given all the National Register sites in that county that could be visited. She said people interested in history and archeology used that website. Ms. Schober recognized that not everyone had the same interest in those subjects.

Vice Mayor Massucco said there were a lot of Town citizens who were very interested in the Mound House, and he felt to stop funding of it, and delaying the project, would be a disservice to the Town. He pointed out to Councilman Shenko that if the $30,000 was not approved this month, the cost of concrete could go up again, and Ms. Schober might have to ask for more money upon her return to Council with her request. Vice Mayor Massucco said for that reason, it would be cost-effective to fund it now.

Ms. Schober said the bid was good for 60 days from receipt, the date of which was November 28, 2005.

Mayor Reynolds asked why Council was “just now seeing this”.

Ms. Schober said this meeting was the first Council meeting for which she could get the packet.

Regarding Exhibit 2, Page 2, Mayor Reynolds took issue with Ms. Schober's population figures. Ms. Schober explained that the grant application in which those figures appeared had been written in 2003. She acknowledged that while the figures she had used had been correct at the time, they had since gone up.

Mayor Reynolds said he felt the same way Councilman Shenko did, as he felt all that was being asked for was accountability, and didn't think it had been out of line to ask that. He said Ms. Schober was working on the figures Councilman Shenko asked for, and that perhaps she could get the information to Council in early January.

Vice Mayor Massucco wondered if it would be possible to grant the $30,000 request and then view the overall figures. Mayor Reynolds said it was up to Council.

MOTION: Vice Mayor Massucco made a motion to fund the $30,000. Councilman Boback seconded the motion for discussion.

Mr. Gucciardo asked if the motion included accepting the bid from the contractor at the price he quoted. Vice Mayor said it did.

Councilman Meador believed that all the Council members were aware that it was very easy to see a $191,000 contract become perhaps a $500,000 contract, with reference to the earlier Executive Session held on the Utelco litigation. He said the Town Attorney had not reviewed the specific contract of the bidding contractor, and said he would "hate to see" the Council approve anything without advice of legal counsel. He said doing so had gotten the Town Council into trouble before.

Mr. Gucciardo thought if the bid was accepted, the next step would be an actual contract, and didn't believe there was anything for the Town Attorney to review other than the Town's template.

Councilman Meador said that may be, but the Concept Enterprise bid indicated that he had reviewed a contract document, and that Ms. Dalton had indicated to Councilman Meador that she had not reviewed the specific agreement that had been presented to the contractor.

Town Attorney Dalton said she had had an opportunity to review the plans and specs that had been put out by the architect, and the architect had referenced an AIA contract with some alterations. She said the Town did have a form contract that was used for construction, but it appeared to her that the architect had bid out the project based on another document which she had not reviewed.

Councilman Meador said while he had no doubt that Ms. Schober was correct about her anticipation of a decrease in capital costs, he was concerned about operating costs. He said there would be no matching funds or grants to cover that, which he said was why Lee County started getting out of this type of project fifteen years ago. He said "getting in" was easy, but operating costs, insurance, and personnel started "eating you alive" after that. Councilman Meador also questioned whether the Town really wanted large numbers of people going to the Mound House property. He said he wanted it put on hold until Council had the opportunity to review the contract, and had a firmer grasp on what the numbers were going to be.

Mayor Reynolds said he agreed with the discussion.

Vice Mayor Massucco said he had no objection to the Town Attorney going over the contract.

Mayor Reynolds said it hadn't been done in the past, but thought it would be appropriate to do it now.

AMENDED MOTION: Vice Mayor Massucco made a motion to approve the $30,000 request, and to have the Town Attorney review the contract.

Mayor Reynolds took issue with the amended motion, as it did not make sense to him to approve the money before reviewing the contract.

Vice Mayor Massucco withdrew his motion until such time as the review of the contract were complete and the figures requested by Councilman Shenko had been reviewed by Council. Seconder Councilman Boback accepted the withdrawal of the motion.

Attorney Dalton said the item could be continued if it was the will of the Council.

Councilman Meador asked if it would reappear within the 60 day limit of the contractor's bid.

Mayor Reynolds said they needed to act on it tonight, and needed to have a motion to approve it or not, at which point everyone would know where they stood and Ms. Schober would know "where she stood in getting back" to Council on the issue.

Mr. Gucciardo said if the item were continued, both January Council meetings would occur within the 60 day limit. Ms. Dalton believed so as well.

Ms. Schober said she needed clarification as to what budget numbers she needed to bring back to Council. She said the packets for Council were due well before the actual meetings, which meant she would have to prepare what Council wanted over her Christmas break, and which was why she wanted to know exactly what it was Council wanted from her.

Councilman Shenko said he wanted to know “every dime – absolutely every penny in, every penny out. I want light bills. I want to know how much time our Town maintenance staff spends down there. I want to know insurance.” Councilman Shenko said the capital expenses were one thing, and that the Town could get the house into good shape, but he wanted a track of the ongoing expenses from the beginning, as they had never been provided in any budget documents.

Ms. Schober said she provided a budget to CELCAB on an annual basis, and offered a copy of the one she had submitted in May of 2005 to Council, as she had it with her at this meeting. She said it outlined each item within operations and maintenance in terms of their dollar value per year since 2000-2001. She asked if Council wished her to break out each individual utility or have utilities as a group, which was how she currently reported that expense. She said advertising and marketing were listed as a lump sum, and wanted to know if they wished that to be broken down more specifically.

Councilman Shenko said he wanted to know what it had cost the Town to own the Mound House, both last year and the year before. He said he wanted total costs, and money taken in. He also wanted to know which contract the contractor, who had bid for the exhibit project, wanted to use.

Mr. Gucciardo suggested continuing the issue until the second Council meeting in January, and asked Ms. Schober if that would pose a problem.

Ms. Schober said she was concerned because a lot of concrete materials that needed to be ordered for the project were back-ordered for six months already, and a delay in placing the order put it that much further back. She said if it were delayed too long, and the project were not completed as agreed to by the Town in the grant agreement, it would jeopardize a lot of future funding from the state.

Councilmen Shenko said “and future expense for the Town”.

Ms. Schober asked how many years worth of figures and information Councilman Shenko wanted her to provide Council. Councilman Shenko said the figures from the past two years would be sufficient. He commented that until Ms. Schober had mentioned it at this meeting, he had not known the Town had already spent $250,000 on capital improvements.

Ms. Schober said that figure was after grant reimbursements.

Councilman Boback asked if the Town Attorney would have a copy of the contract to review in time for the January meeting.

Ms. Schober said the contract mentioned in "that document" was a standard American Institute of Architects contract, which she believed had also been in the bid specifications for the garage project. For the garage project, Ms. Schober said the Town had created the contract out of the Town's template contract. The contractor on that project had been the same contractor who had submitted the sole bid for the pool exhibit. Ms. Schober said the established protocol that had always been followed was that if a sealed bid were accepted, the contract was then generated, then went to the Town Attorney, before it would be signed and approved by Council. She said this protocol was why they did not have a contract before them at this meeting, as she did not generate, or assist in generating, a contract before a bid had been accepted.

Councilman Boback said if Council didn't accept the bid, they would not have a contract to review, per that protocol.

Ms. Schober said a contract could be made even though a bid was not being accepted, and it was obvious the Council had prerogative.

Mayor Reynolds said if she got a contract, she could make copies so that they could see it, and asked Ms. Schober if there was a problem with that.

Councilman Boback asked who generated the contract.

Ms. Schober said the Town had generated the contract for every project at the Mound House. She said she assisted Damon Grant with putting specific expectations into the Town's blanket contract. After that, the contract would go to the Town Attorney for review, and then sent to the contractor.

Councilman Boback said the Council wanted to see the contract before they accepted a bid.

Mayor Reynolds asked if Ms. Schober had enough information to prepare for the next Council meeting. She said she did. Mayor Reynolds then told Town Attorney Dalton make copies of the contract for Council to see before she went on with it.

Ms. Dalton said the contract would come through Mr. Gucciardo.

Mayor Reynolds said it may come from Mr. Gucciardo, but he hoped it would go to Ms. Dalton because she was the one who should review it. Ms. Dalton said she would be glad to review the contract.

MOTION: Councilman Shenko made a motion to continue the item to the next Council meeting, waiting receipt of a breakdown of costs and expenses of all operating and capital costs for the Mound House for the last two years, along with review by the Town Attorney of the proposed contract language, and all information brought back to Council for discussion and decision. Councilman Boback seconded the motion.

Councilman Meador had a question about the specific date to which the item was to be continued, in terms of the first or second Council meeting in January. Councilman Shenko said it didn't matter which date.

VOTE: The motion carried unanimously.

C. Appointment of Town Clerk (Verbal)

Mr. Gucciardo said this item had been requested by several members of the Council. He said based on the language of the Town Charter, it was clear that there may be a Town Clerk appointed who shall be appointed by the Town Manager, and then accepted by the Town Council. He said the powers/duties of the Town Clerk were also laid out in the Charter. He said if there was a consensus on the Council, Mr. Gucciardo wanted to make the appointment. He said there was a provision in the Charter for additional duties to be enumerated, and if the Council had input as to what those might be, he would be happy to get that input.

Mayor Reynolds wanted the Town Clerk to replace the position of Deputy Town Manager, a position he said had never been in the Town Charter. He commented that he didn't want to think about extra pay and so forth for the Acting Town Manager. He suggested that Rachel Lambert be named Acting Town Clerk.

Councilman Shenko felt the Town Clerk position needed to be delineated as to specific responsibilities, and that he viewed the position as more than just "keeper of documents; keeper of the seal; etc.". He said the position would have to be filled on an interim basis, because ultimately the Town Clerk would be chosen by the new Town Manager. He said he would go with Mr. Gucciardo's recommendation in terms of who would serve as Town Clerk on an interim basis.

Councilman Meador said he envisioned the Town Clerk having a larger role than possibly what Councilman Shenko thought. He said he had been at many meetings where the clerk called the agenda for the evening; ran through the agenda items; was the parliamentary officer – kept time during Public

Comment, kept track of motions, etc. He didn't think the appointment should be made on anything but an interim basis, nor did he think they should try to delineate specific job responsibilities for that position until the workshop, or until a permanent Town Manager was hired. He suggested that Mr. Gucciardo could cover most of the responsibilities at the Council meetings, with a possible assistant who did not have the actual title of Town Clerk or Interim Town Clerk.

Mayor Reynolds thought it was a shared situation and had no problem with Mr. Gucciardo going ahead with that situation. He believed it could be accomplished without hiring another employee.

Mr. Gucciardo said his inclination was to make an interim appointment, and since the duties in the Charter seemed to parallel those of Rachel Lambert's, and to name her the interim or acting Town Clerk, if it was the will of the Council.

With regard to expanding the duties of the Town Clerk position beyond what was enumerated in the Town Charter, Mr. Gucciardo thought that should be addressed at a workshop, and then refined once the Council had hired a permanent Town Manager.

Mayor Reynolds told Mr. Gucciardo he had the consent of the Council to name Ms. Lambert, but Town Attorney Dalton advised that consent was needed, per the Charter, thus a motion and vote was needed from Council. Mayor Reynolds did not acknowledge this communication, but went on to suggest to Mr. Gucciardo that he find someone else on Town Staff who could work as her assistant, as she was already loaded down with work.

Mayor Reynolds then addressed Ms. Dalton's advisement, and said there was already consensus from Council, which didn't need a motion. Ms. Dalton said consent, not consensus, was needed, and said a motion was in order.

MOTION: Councilman Boback made a motion to consent to Mr. Gucciardo's naming of Rachel Lambert to the position of Interim Town Clerk. Vice Mayor Massucco seconded the motion.

Councilman Shenko asked that and requests for additional salary requirements be brought back to Council.

AMENDED MOTION: Councilman Boback made a motion to consent to Mr. Gucciardo's naming of Rachel Lambert to the position of Interim Town Clerk, and that any requests for additional salary be brought to Council. Vice Mayor Massucco seconded the amended motion.

VOTE: The motion carried 4 – 1, with Councilman Meador dissenting.

D. Report on Utelco Litigation (Verbal)
(This discussion was not on the audio tape).

E. Town Council Meeting Dates and Workshop Days
Mayor Reynolds noted that it had been suggested earlier that the Council meetings be switched from Monday to Tuesday nights, because all national holidays were observed on Mondays.

Mayor Reynolds pointed out that the editor of the Beach Observer had asked Council not to do that because his paper's deadline was Tuesday afternoons, and would not be able to publish Town Council news until the following week.

Councilman Shenko listed out several meetings that had to be changed because of holidays. He quoted the sum total dollars spent on advertising, over a 70-day period, to announce to the public when the meetings were to take place. He thought the meeting schedule should be consistent, and if they met on Mondays, the regular schedule would be preempted often. He felt the meetings should be on the second and third Tuesdays every month so as to maintain consistency for the sake of the public.

Mayor Reynolds said that the Council relied heavily on information being published in the Observer, which he said the Council had established as the Town's news outlet and advertisers. Mayor Reynolds didn't know how many holidays would disrupt the Monday meeting schedule, but he didn't believe it was that many. He suggested automatically moving a meeting to the next day after legal holidays.

Councilman Meador asked, on a point of order, if there had been a motion.

Mayor Reynolds said he didn't always call for a motion until the Councilmen had had a chance to discuss an item first, although he said he had spoken out of order because of his own rule, with Roberts Rule of Order in mind, which was that he would allow every person on Council to speak once before one would hear from a second person.

Councilman Meador's concern was not Roberts Rules of Order, but rather was moving the public's business as efficiently as possible. He said they all could discuss something, and then a motion could be made without getting a second, which could signify that they had wasted fifteen or twenty minutes of the public's time on something in which only one Council member had an interest. He asked Ms. Dalton if Robert's Rules required a motion and second before discussion.

Ms. Dalton said normally a motion would be made prior to discussion. However, she said the Mayor had the ability to vary that process and the Council could indicate they didn't want to vary the process.

Councilman Meador asked if consensus decided or if the Mayor decided.

Ms. Dalton said the Mayor had the ability to vary from the normal process, but the Council had the ability to say they did not wish to vary that process, which she felt could be determined by consensus.

Mayor Reynolds said they were not discussing laws, but parliamentary procedures. He said one did not have to follow Robert's Rules of Order. He said Congress followed Robert's Rules of Order, and thought it might interest people to know that the Senate did also, but not the same rules of order. He said they varied their rules to suit the situation.

Ms. Dalton said the Council's Policy and Procedures Manual stated that Robert's Rules of Order "shall be the reference for parliamentary procedure governing…".

Mayor Reynolds interjected, and stressed the word "reference".

Ms. Dalton went on to read: "Parliamentary procedure shall be invoked only when necessary for orderly conduct of the meeting." She offered this amplification of her earlier response to Councilman Meador's question with regard to moving the public's business along.

MOTION: Councilman Shenko made a motion that the Council meetings be held on Tuesdays at 6:00 PM, but not in conflict with the Fire District, for a duration of one year. The motion did not get a second.

Mayor Reynolds said the meetings would continue to be scheduled as they had been.

Mr. Gucciardo said the second February meeting was going to conflict with a holiday, and that, in the past, every Council has handled it differently depending on their workload – moved to a different Monday night, or rolled the agenda over to the next scheduled meeting. He said Staff just needed guidance as to what Council wanted to do regarding that schedule conflict, which fell on February 20, 2006, Presidents Day.

Mayor Reynolds said he wanted to take up that discussion at one of the January meetings.

Vice Mayor Massucco agreed that if a regularly scheduled meeting was preempted by a holiday, the Council could meet on the next evening – Tuesday.

Mr. Gucciardo said there was potential conflict with Fire District meetings, which were held on Tuesdays.

Mayor Reynolds said it was not pertinent what the Fire District did, and had been told they had zero public attendance at their meetings. Out of respect for the department, Mayor Reynolds felt they should consult with them to see if they had a problem with the idea suggested by Vice Mayor Massucco. He then made note that some meetings, if they were going on to long, continued their meetings to the following morning.

Mr. Gucciardo drew attention to the subject of workshops, how they had been run in the past, and asked the Council if they wished to discuss setting a date for such a workshop.

Mayor Reynolds felt the first workshop should be held in January, and then another in February, not to be scheduled on regular Council meeting nights.

Vice Mayor Massucco said the first workshop needed to be held as soon as possible.

Mr. Gucciardo was directed by the Mayor to designate some dates, and then check with each Council member individually to ensure there would be no schedule conflict for any of them.

Mayor Reynolds communicated the consensus of the Council that they did not want any retreats scheduled off the Island, and preferred to have them in Council chambers where the public could observe them, as he the public might feel they were doing "something sneaky" otherwise.

Vice Mayor Massucco disagreed with the Mayor, and believed the people of the Island trusted that they wouldn't be doing anything "sneaky". He said the retreats off the Island were more conducive to a relaxed atmosphere, when Council and Staff can get together, and felt much more was accomplished. He had attended one and said he had benefited from it. He said it was still open to the public.

Mayor Reynolds asked Vice Mayor Massucco to "respond honestly" to the question as to whether a video of the retreat about which he had been speaking would have been something Vice Mayor Massucco would have encouraged to be aired. He cautioned Vice Mayor Massucco, "Remember, now, what happened there. Very, very mean meeting."

Vice Mayor Massucco said it didn't have to be like that. Mayor Reynolds agreed but said that it had been.

Vice Mayor Massucco said the one troubling segment of that meeting had been brief, and emphasized that the balance of that meeting had been a success. Mayor Reynolds said he was in 100% disagreement on that, but that it was up to the will of Council.

Vice Mayor Massucco said it wasn't an expensive thing to do, and the benefit of it would be in the Council's interest to have it off-Island.

Councilman Meador said he understood Vice Mayor Massucco's viewpoint, but he wanted the meeting on-Island, though not necessarily in Council chambers, so that more public could observe it, although he noted that there would be absolutely no public input taken during such a meeting.

Councilmen Shenko and Boback agreed with Councilman Meador. Councilman Boback further suggested that it be scheduled on the weekend outside of Town Staff business hours.

F. Discussion of Replacement of LPA Attorney (Verbal)

MOTION: Councilman Meador made a motion to retain Ms. Dalton as the LPA Attorney. Vice Mayor Massucco seconded the motion.

Mayor Reynolds said there was a motion and nobody knew the details of the situation. He asked if the LPA could have both their bi-monthly meetings during the day, to coincide with the Town Attorney's schedule, which he felt would negate the necessity for a separate contract, as the LPA meetings would fit in as part of Ms. Dalton's already-established schedule with the Town.

Councilman Boback asked if the motion was to appoint Ms. Dalton as the LPA Attorney on a permanent basis. He said he preferred that it be on an interim basis, although he said she had been doing a great job, because he foresaw two separate attorneys for those positions. He explained that there were many land use cases ahead, and an attorney who specialized and concentrated solely on that would be preferable and necessary.

Councilman Meador asked Ms. Dalton at what pay scale she would accept the interim LPA Attorney position, and Ms. Dalton indicated her current pay scale as Town Attorney - $125 per hour. She suggested that the interim position be labeled an additional duty under her current contract with the Town, pointed out that it was an at-will position.

AMENDED MOTION: Councilman Meador made a motion to retain Margaret Anne Dalton on an interim basis as the LPA Attorney at the rate of

$125 per hour. Vice Mayor Massucco would not second the amended motion, as he preferred that it be a permanent appointment.

Vice Mayor Massucco pointed out that it was common practice all over Lee County to have the Town and LPA Attorney positions held by the same person.

AMENDED MOTION: Councilman Meador made a motion to retain Margaret Anne Dalton as the LPA Attorney at the rate of $125 per hour. Vice Mayor Massucco seconded the amended motion.

In the course of making the amended motion, Councilman Meador pointed out that, as Ms. Dalton had indicated, all attorney's worked on an interim, or at-will basis, in that they could be hired and fired, and could choose to leave the position, at any time.

VOTE: The motion carried 4 – 1, with Councilman Boback dissenting.

Ms. Dalton thanked the Council for their vote of confidence.

G. New Items
[This item was taken up after the FMB Public Works Services, Inc. board meeting].

Mayor Reynolds stated that he hoped that, sometime in the near future, the Council would get into discussion about land use, zoning, and the lobbying that had been mentioned previously by Councilman Meador. Mayor Reynolds said they also needed to get into discussion about the committees, which had also been mentioned before.

Councilman Meador asked if he could speak while Mayor Reynolds reviewed his notes. Councilman Meador said a suggestion had been made during the break that the upcoming workshop be held at the Mound House. He thought having the workshop there might also serve as a way of familiarizing members of the Council with the property.

Vice Mayor Massucco said that was not a bad idea, but that he still preferred the workshop be held off-Island.

Mayor Reynolds said they probably wouldn't have a lot of public, and so the room at the Mound House would probably be large enough.

Regarding county permits, Mayor Reynolds said the permit revenue was around $278,000 according to Jerry Murphy, which was something he felt Council should know about, to see if anything could be done about that.

Mayor Reynolds said he was very concerned about administrative approval of major construction projects on the Island. He felt it had gotten way beyond the scope it should be, and was out of Council's control. He said the Island was already gridlocked, and that density had to be controlled in order to remain viable. He felt administrative approval needed to be looked at by Council.

Councilman Shenko said that for 73 days the Town had spent an average of $450.10 on legal advertising per day, seven days a week, for a total of $32,857.42 which he said was outrageous. He said he would be bringing something forward to Council. Also, he said the Council needed to move on the Lee County Transit Authority issue, which he characterized as "a fancy way of shoving Park & Ride down our throats".

H. Old Items Follow-Up

1. Interim Town Manager Agreement

Councilman Boback, at the behest of Council, had met with Mr. Gucciardo to work out an agreement, regarding compensation and severance, for his role as Interim Town Manager.

There was some disagreement as to what Mr. Gucciardo's current salary was, but Mr. Gucciardo said that, as of October 1, 2005 his salary was $90,000 per year.

Mayor Reynolds cited information supplied to Council in which Mr. Gucciardo's salary was listed as $85,000 per year. Mr. Gucciardo believed that information had come from the data on the 2004 – 2005 fiscal year. Mayor Reynolds said it had been the last bit of information Council had received about it. Mr. Gucciardo said the new figures took effect as of October 1st. Mayor Reynolds thought increases in salaries were determined in March each year. Mr. Gucciardo said increases in salaries, if any, had to take place at the beginning of the adoption of each fiscal year. Mayor Reynolds asked if everyone then got a bonus in March, and Mr. Gucciardo said that had been the practice in the past.

Councilman Boback said he and Mr. Gucciardo had worked out a salary increase of a little over $400 per month during the interim period. Councilman Boback felt that, for the stability of the Staff in any ongoing projects and other business at Town Hall, it was a reasonable amount.

Regarding a severance package, Councilman Boback said he had not been comfortable with such a package, and had suggested to Mr. Gucciardo that there be either a handshake, or small written, agreement which stated that Mr. Gucciardo would not be fired in his position as interim Town Manager unless there was cause. Councilman Boback said part of the agreement reached was that when a permanent Town Manager was hired, Mr. Gucciardo would revert back to his Deputy Town Manager salary, but that there would be no guarantees from that point on, and his role would be determined by the new Town Manager. Councilman Boback said that Ms. Dalton had advised him that a formal severance package may have to be done because of the way the Town Charter had been written.

Attorney Dalton read from the Town Charter: "The Council may remove the Town Manager for any reason by affirmative vote of the Council." She said that, as interim Town Manager, Mr. Gucciardo was technically the Town Manager with all the responsibilities of that position. However, with regard to a severance package, Ms. Dalton said that would be a policy issue for the Council to decide, and was not a legal issue.

Councilman Boback said that, in light of Ms. Dalton's advice, he would not vote for a severance package, but would be in favor of the small pay increase as had been worked out in his meeting with Mr. Gucciardo.

MOTION: Councilman Boback made a motion for the recommendation for the salary increase of $5,000 during the course of the interim manager position, with no severance package. Mayor Reynolds seconded the motion.

Councilman Shenko said he was not in favor of the salary increase because the interim position was part of the job obligations of Mr. Gucciardo's regular position. He said he wanted Mr. Gucciardo to "be here" and wanted Mr. Gucciardo "to keep the Town going, keep this together and bring some new things to the table." Councilman Shenko reiterated that he was not in favor of a salary increase.

Councilman Meador thought Mr. Gucciardo had done a good job as Assistant (sic) Town Manager, and thought he had done an excellent job as interim Town Manager. Councilman Meador didn't believe a salary increase was necessary. He commented that the extra $400 per month, for the next three to four months, would not make a difference in Mr. Gucciardo's personal finances. He hoped Mr. Gucciardo would "stick with us" without the pay bump until they found a new Town Manager. He felt $90,000 was an excellent salary, along with the additional benefits Mr. Gucciardo was currently receiving.

Vice Mayor Massucco thought it would be unfair not to compensate Mr. Gucciardo for the additional responsibilities he had been asked to assume. He said it was done in private industry all the time – if one did more, one was paid more.

Councilman Meador said that often, in private industry, one got title in lieu of a raise.

Vice Mayor Massucco did not view Mr. Gucciardo's proposed increase as opportunistic, as someone had implied.

Mayor Reynolds said he approved the motion, and not just for discussion. He didn't think there should be severance pay, and also thought the salary should remain the same.

Vice Mayor Massucco said there was an agreement that had been negotiated between Councilman Boback and Mr. Gucciardo, which he believed should carry some weight.

Councilman Boback said it had just been a recommendation from him to the Council, to which he couldn't have bound the Council.

Mayor Reynolds said it hadn't been an agreement, but only a consideration.

Vice Mayor Massucco said they had come to an agreement as to what was going to be done.

Mayor Reynolds said that was evidently not true, because Councilman Boback himself was in disagreement with the severance part of it. He said it was entertained for the approval of Council. Councilman Boback said he was correct, and that it had been strictly a recommendation.

Mr. Gucciardo said he appreciated the Vice Mayor's support. Mr. Gucciardo's said, because his motivation had been questioned as to why the item had been brought forward, his attitude had not been to take advantage of the Town, but had indicated the two items – salary increase and severance package – needed to be discussed. He said he had been seeking some recognition, in the form of monetary support, for the increase in his responsibilities. He said he had had no amount in mind, nor had he ventured a guess. Regarding the severance package: Because, in his role as interim Town Manager and all that was implied within the Town Charter, including the fact that he could be terminated for any reason by the Council, he didn't believe some sort of severance agreement was unreasonable.

Mayor Reynolds didn't believe he had been put in that position just so he could be fired. Mr. Gucciardo didn't believe that either, and hadn't meant to imply that. Mayor Reynolds said it didn't mean he couldn't be fired, either. Mayor Reynolds said he would not support a salary increase or severance package, and stood by that position.

Several votes were called, but there was some confusion on the Mayor's part as to whether the motion had been seconded. After determination that the motion had been seconded, the vote was called again.

VOTE: The motion failed 4 – 1, with Councilman Boback assenting.

Vice Mayor Massucco said he was thoroughly confused.

Mayor Reynolds asked for another motion, and suggested that the amount of a salary increase could be changed in the motion. He explained that their last vote had rejected the temporary increase to $95,000 for Mr. Gucciardo while he held the interim Town Manager position.

Councilman Meador said the Council already had a temporary employment agreement with Mr. Gucciardo. Mayor Reynolds said they did not.

Ms. Dalton said they didn't have a written, signed agreement, although was not sure if a written agreement was required.

Councilman Meador asked if the Charter required a written agreement. Ms. Dalton said it did not. Councilman Meador asked, when the Council had asked Mr. Gucciardo if he would act as interim Town Manager, and he had agreed to do so, if that was the agreement. Ms. Dalton said a written employment agreement was not required. Councilman Meador asked if the Council did have an employment agreement with Mr. Gucciardo. Ms. Dalton said they didn't have an employment agreement with Mr. Gucciardo currently; he was approved by Council as the interim Town Manager, but other than the minutes which would reflect that, she said there was no agreement. She didn't believe a written agreement was required, so the Council could just "move on" if they so chose, or a motion and vote could be memorialized in whatever fashion the Council so chose.

Mr. Gucciardo asked, if the Council simply moved on, if it would be with his compensation being at the same salary as his Deputy Town Manager's salary, and with no severance package. Ms. Dalton said that was her understanding as well.

Mayor Reynolds said that was acceptable.

Councilman Meador said it would also imply that Mr. Gucciardo had assumed responsibilities as Town Manager as set forth in the Charter. Ms. Dalton said that had been previously indicated by Council. Councilman Meador commented: "Sounds like an employment agreement to me."

Mayor Reynolds asked Mr. Gucciardo if he could "live with that", and Mr. Gucciardo said "It's your (Council's) call."

Mayor Reynolds said that meant that things would be left as is, and that Mr. Gucciardo would help the Town and the Staff by serving as interim Town Manager.

Ms. Dalton said that, technically, Mr. Gucciardo would be Town Manager for an interim period, and apologized for being “picky”. She said putting it in those exact terms would be in compliance with Article 6 of the Charter.

2. Recommended Protocol for Hiring of Town Manager

Councilman Meador pointed out that the meeting had been in session for three hours, and asked if it would be inappropriate to take a ten-minute break.

Mayor Reynolds called a five-minute break. Councilman Meador thought ten minutes would be more helpful. Mayor Reynolds agreed to a ten-minute break.

Mayor Reynolds reconvened the meeting.

Mayor Reynolds pointed out that Councilman Boback was responsible for placing the ads for a Town Manager.

Councilman Boback said once the ad was approved by Council, would be placed with various professional associations, including the Florida City/County Management Association, the International City/County Management Association, the Florida League of Cities and the National League of Cities if possible. He also believed it should run in the Wall Street Journal.

Councilman Boback said all resume submittals would be addressed to him at Town Hall. He said he had two volunteers to help him do criminal and other background checks for the purpose of initial screening of applicants. After that, he said a short list would be brought to Council. He said each Councilman would then have the opportunity to interview the applicants individually if they so chose, and then wanted all the applicants to sit in Council chambers with the public present during the interviews that would be conducted by the Council as an entity. He explained that all applications that did not make it to the short list would be copied and distributed to each Council member, with a note as to why they had been rejected attached to each. He noted that Mr. Gucciardo would have no role in the process whatsoever, with the applications looked at strictly by him and the two volunteers.

Mayor Reynolds believed everything that came into Town Hall was privileged information, and felt every application should come to Council immediately upon receipt. Councilman Boback said that that could be done and made no difference.

Mayor Reynolds said most ads of this type would direct applications to the Mayor and the Council, with “Attn” directed toward the particular

Councilman charged with doing the initial review of each application – in this case, Councilman Boback.

Mayor Reynolds, in reference to the advertisement proposed by Councilman Boback, said the population of the Town indicated was 6,000 when in fact there were around 7,000.

Councilman Boback said that was a typo, and there were a few other things he wanted to add to it.

Mayor Reynolds also felt that "almost 40,000 (residents/visitors) in season" would not mean anything to most people, as they wouldn't know what "season" meant. He said the last estimate he had heard had been 45,000 people. He felt the word "winter" should modify the word "season" in the ad.

Mayor Reynolds pointed out that there was no extension at the number 765-0202 as someone answered that phone at all times. He felt the number 765-0919, extension 104 (Councilman Boback's extension), so that calls could be received at any hour.

Mayor Reynolds said that in the last sentence of the second paragraph, the word "it" should be removed so as to read "operates through".

Attorney Dalton said she had not ever seen the advertisement, and so had not had the opportunity to review it for legal sufficiency. She said Councilman Boback had indicated that his proposal was that he and several people would do the initial screening, which she said would definitely bring forward the Sunshine requirements, as outlined in her memo of December 13th.

Mayor Reynolds said he had four people in mind to serve with Councilman Boback, whose names he said he was not going to reveal, because he wanted each Council member to choose a resident to serve on a selection committee with Councilman Boback.

Councilman Shenko said the Council had the responsibility regarding the selection of a new Town Manager, and said they could not delegate the responsibility of short-listing to Councilman Boback or a committee. He said that would be a direct violation of the Sunshine law. He recommended that certain duties be delegated to certain Councilmen, which could be brought back to Council. Additionally, he recommended that applications be sent to the Town Attorney, in care of Town Hall, which would immediately render each received application a matter of public record. He said a copy should go to the Town Clerk, for the purpose of making it available to the press. He said each Councilman should get a copy of each application, review them, and then Council should hold a special meeting at which to produce a short-list. He said they could then interview the top five choices individually, and in public.

He said he was in complete agreement with Ms. Dalton's memo regarding her advisement not to delegate short-listing duties to citizens. He said he wanted citizen involvement, but that they had been elected to assume the responsibility. He said the ad was great, and wanted it to be placed as soon as possible.

Mayor Reynolds said that during the selection process for the first and only Town Manager the Town had had, citizens had done it, and he had not been pleased with the way "the whole thing was handled at that time". He said the only applicants the Council had interviewed at that time had been on a short-list of seven, and asked if that was Councilman Shenko's intention, which he said it was.

Councilman Meador didn't view Councilman Boback's proposal as one for a committee at all, nor did he have a copy of the proposed advertisement. Councilman Shenko said they had been in the Council's mailboxes in Town Hall that day.

Councilman Boback said he had not proposed a committee, but rather one, or possibly two, gentlemen to do the background criminal checks with him, which he said would have created the short-list.

Mayor Reynolds said the background checks could be done after the Council had created the short-list, which he said would be easier.

Councilman Meador asked if a committee were appointed and met in the Sunshine would be acceptable. Ms. Dalton said that would meet the Sunshine requirements, and thought the best protocol, if a committee were formed, would be that they could create a short-list, but all resumes and the short-list would have to be provided to Council simultaneously.

Councilman Meador didn't know how many applications would come in, but if credit checks and criminal background checks were going to be conducted, he didn't believe a short-list could be created without also calling references given. He didn't want the Council doing that process. He didn't believe it could be done by one Councilman – in this case, Councilman Boback. Councilman Meador thought a committee, operating in the Sunshine, could greatly expedite the short-listing process.

Mayor Reynolds said the Town had received 70 or so applications the first time it had advertised for a Town Manager, and that number had been narrowed down to 7 by the citizens who had worked on the process. Mayor Reynolds said he had just told Councilman Boback that if all of the Councilmen got together, and reduced the number of applicants based on the applications/resumes only, the reduced number could then be checked by Councilman Boback. If one of them had to be eliminated based on their background check, an applicant who had previously not been brought forward for consideration could be added onto the short-list, and given a background check. Mayor Reynolds felt if this process were used, only Council would be involved in short-listing, as well as initial interviewing, and it would not be as time-consuming.

Councilman Meador said if they narrowed the list down solely on the basis of what was “on paper”, with background checks conducted after the short-list was compiled, they could find they had selected candidates whose backgrounds and references were not acceptable.

Mayor Reynolds said once they had their short-list, background checks would be conducted on each applicant. If something unacceptable were to be discovered when Councilman Boback conducted the background check, then one of the applicants who had not made the short-list could be brought forward to take the place of the rejected applicant.

Councilman Meador wasn’t sure a short-list could be developed without first conducting background checks.

Mayor Reynolds didn’t believe Councilman Meador understood what his point was. He said it didn’t matter by how many applicants the list was narrowed down. He felt it would be a waste of time to do background checks on upwards of 70 applicants.

Councilman Boback said that was why he had enlisted the help of some volunteers, so as to help him conduct background checks on all applicants.

Mayor Reynolds said Councilman Shenko saw a problem with that. He added that when they saw some of the applications, they wouldn’t even want to go any further with them. He said once a reduced list had been compiled, then background checks could be conducted in numerical order starting with the applicant in the top slot, and eventually they would have a short-list of about 5 to 7 applicants, or however long Council wished the list to be.

Attorney Dalton said she would be concerned about liability issues on behalf of Councilman Boback, because if he personally conducted the background checks, and made a decision based on either false or missing information, he could be exposed to liability.

Mayor Reynolds asked how the background checks could be done legally, and commented that they were done every day for a variety of reasons.

Ms. Dalton said background checks were done every day, of course. However, she said Councilman Boback served as a policy-maker for the board, and she didn’t know that the sovereign immunity, that cloaked the board under their normal functions, would apply to someone doing a background check on a candidate. She said she did not have the answer to that question.

Mayor Reynolds said if a “needle line” was going to be drawn, and if the Council stayed on that line legally, they would never get anywhere. He said there had to be some direction so that Councilman Boback could do his job. He asked who could conduct the background checks if Councilman Boback should not.

Ms. Dalton said someone could be hired to do the background checks, and wasn’t sure if Town Staff could conduct the checks.

Mayor Reynolds asked what the difference would be between having Councilman Boback conduct the checks as opposed to someone such as the Town Manager.

Ms. Dalton said if the Town Manager was directed by Council to get the background checks done on the applicants, it would be presumed that someone qualified to do it would be doing it. She said her concern was on Councilman Boback’s behalf, and reiterated her previously stated concern due to the fact that doing a background check on someone was not a part of his normal duties and responsibilities as a Council member.

Vice Mayor Massucco said that, according to Councilman Boback’s plan, he would be placing the ad in some very professional associations’ publications, and wondered if they might have already done background checks before any of those associations would recommend one of its members.

Councilman Boback said they would simply post it on their employment websites as an employment opportunity. He said he had contacted a headhunting firm (Collin-Basinger and Associates), and they had quoted their services as starting at $18,000 minimum.

Mayor Reynolds felt there would be a good response from retired individuals with experience in different areas of administration. He said there was a lot of “experienced expertise out there” and that those people would do the job without expecting $100,000 - $200, 000 in salary.

Councilman Boback said they were leaving the requirements for the position as open as possible so as to attract as many candidates as they could.

Councilman Meador asked if a person, appointed to a committee to conduct background checks on applicants, would be subject to the same liability exposure as Ms. Dalton had expressed concerns about with regard to Councilman Boback.

Ms. Dalton said her specific concern was the liability attached to his doing criminal background or consumer credit investigations. She said a committee looking at the applicants would be subject to the Sunshine law, and as long as every Councilman got every resume, and had the opportunity to make their own determinations, then Councilman Boback could bring a short-list forward from that committee. She reiterated her concern about Councilman Boback conducting the checks outside of his normal functions as a Councilman.

Councilman Meador asked what Councilman Boback would be liable for and to whom.

Potentially, Ms. Dalton said if there were inaccurate information – missing or false – and an issue arose as a result of that inaccurate information, it could expose him to liability. She said the question was whether conducting the checks would be acting within the function of a Town Council member or not. She said if it were determined that it was outside the scope of his job as a Councilman, then sovereign immunity would not apply.

Councilman Meador assumed that type of background check would have to be contracted out independently no matter what. Councilman Boback hummed in concurrence. Ms. Dalton assumed so, but she had thought Councilman Boback had proposed doing the checks himself in conjunction with two volunteers. Councilman Boback clarified that one of them would doing the criminal background checks which would be contracted out, so to speak.

Ms. Dalton asked if he would be doing the consumer credit and criminal background checks himself. Councilman Boback said he would not be, but would received the reports from those who conducted the checks.

Ms. Dalton said that if some third party conducted the checks, and disseminated the information to the full Council for consideration, that would address the Sunshine and the liability issue.

Councilman Meador said a consumer check would require permission from those being checked. Councilman Boback said the ad would indicate that criminal background and credit checks would be conducted on all applicants. He thought they should drug-test as well, and should indicate that in the ad. Councilman Meador said the policy already was in place in the Policy and Procedures Manual. Councilman Boback said he had been told that no drug testing was conducted on Town Staff, that minimal background checks were conducted before the hiring of Town Staff, including criminal background checks, and that until recently, applications were not used either.

Councilman Meador suggested that Mr. Gucciardo check into what was being done in terms of drug testing and background checks with regard to the Town

Staff. He added that the problem he had with any Council member being on any of the Town committees, such as the TMA or LPA, was the same problem he had with Councilman Boback being on a “short-list” committee, in that Councilman Meador didn’t believe he could maintain his ability to be an independent critic if he was the one who developed the short-list and made the proposal to Council. He felt a committee of 5 to 7 citizens who worked the applicants down to a short list, and then forwarded it to Council, would be the best arrangement.

Councilman Boback had envisioned getting the background and reference checks done, and that had been as far as he had planned to pare down the list.

Vice Mayor Massucco asked if the volunteers, to which Councilman Boback had referred as being the ones to help him conduct the background checks, would be compensated for their time. Councilman Boback said that had never been discussed and didn’t believe so at this point, as they had volunteered to help him.

Vice Mayor Massucco asked if the members of Council knew the two people who had volunteered to help. Councilman Boback said “probably”. Vice Mayor Massucco asked him for their names. Councilman Boback named Attorney Harry Heist and Attorney Gibbs. He said if Council wanted it to go to a committee, it wouldn’t hurt his feelings.

Mayor Reynolds said he wanted the Council to approve Councilman Boback’s plan to turn the background checks over to specialists who would do the work for him.

Councilman Boback said if Ms. Gibbs and Mr. Heist were to do the checks, he would be involved. He said for him not to be involved in doing the background checks, the job should be farmed out.

Mayor Reynolds said Councilman Boback simply needed direction from Council to give the names of the applicants to Ms. Gibbs and Mr. Heist, and that Councilman Boback needed not to be involved in the actual background checking.

Attorney Dalton pointed out that there were a variety of opinions expressed be the Council throughout the course of this discussion, and was not clear in what direction Mayor Reynolds was going. She said there was no motion on the table.

MOTION: Councilman Shenko made a motion that the ad be run as outlined by Councilman Boback with applications addressed to Anne Dalton, c/o Town Hall. When the applications arrived, they would immediately become public records, and a copy of each would be sent to each Council member. The

Council would then review the applications, conduct a special meeting after the deadline and create the short-list down to ten or twelve, and then do background checks in some manner on the top seven on the short-list; Council would interview the top seven. Councilman Shenko preferred that the background checks be conducted by the Town Attorney through contract services, with each applicant's written permission included in their application. Vice Mayor Massucco seconded the motion.

Councilman Boback reviewed some of the specific elements he planned to add or amplify in the ad. Councilman Shenko thought the ad sounded great, but expressed that the Town Attorney should look at the ad before it was placed in publication. Councilman Boback said he was still waiting for a range of salary for the position from the League of Cities so that Council had a better idea as to the amount that should appear in the ad.

Councilman Meador said he didn't have a copy of the ad in his packet.

Mr. Gucciardo said the ad was a draft that had been done after the packets had been prepared, but had thought a copy had been gone to each of their Town Hall mailboxes. Further, the ad would be modified and checked by Ms. Dalton before it was placed in any publication.

Ms. Dalton asked if the ad needed to go back to Council for approval after she reviewed it.

Councilman Shenko said his intention was not to have the ad come back before Council unless Attorney Dalton felt it was necessary.

Councilman Meador asked if the Council was not going to require any experience of the applicants.

Councilman Boback said "we" hadn't put that in the ad so as to get a larger response.

Councilman Meador remarked that basically anyone with a Bachelor's Degree in Public Administration, right out of school, could apply for the job, and felt it would draw 500 to 1000 respondents.

Councilman Boback said the ad could be adjusted to say that experience was necessary. Mayor Reynolds didn't want to break in a new Town Manager, and wanted someone with real experience. Councilman Meador agreed, especially in light of "the budget and management problems that we've currently got." He felt the person would need "hard-core" experience because they were going to be stepping into a "mess".

Councilman Shenko suggested the ad should call for a minimum of five years in senior governmental management preferred.

Mayor Reynolds believed only Town Managers and Deputy Town Managers should be encouraged to apply. He believed there would be 70 or 80 applicants as it was, and didn't want to increase the number of applicants by not requiring specific Town Management experience.

After more discussion as to what type of experience and how many years experience each applicant should have, it was decided that the ad would include: five years minimum senior management experience preferred.

Vice Mayor Massucco asked if the ad would come back to Council for approval after the Town Attorney checked it, as many changes and edits had been made to the draft ad. Councilman Shenko and Councilman Boback said the intention was that it not come back before Council.

Mayor Reynolds thought Council should just approve it, but asked that a copy of the finished ad be sent to each Council member.

Councilman Meador asked Councilman Shenko to review the process as proposed in his motion, which Councilman Shenko did – run the ad; Council narrows down to 15 the number of applicants on whom background checks would be run by Attorney Dalton; of those, the top seven choices would be interviewed by Council; references on any application could be called at any time by any Councilman.

Councilman Meador suggested a day-long workshop be scheduled for this activity.

VOTE: The motion carried unanimously.

Mr. Gucciardo said Staff would still follow up on the League of Cities for the suggested salary range, and would then pass it to Councilman Boback. Councilman Boback asked Mr. Gucciardo to make the corrections on the ad draft and send it to Attorney Dalton, including the salary range. Mr. Gucciardo acknowledged that, and said Staff would be out of the process once the ad had been sent to Ms. Dalton.

3. **Founder of Town of FMB – Requested by Garr Reynolds**
4. **Recognition of Rolfe Schell – Requested by Garr Reynolds**

MOTION: Councilman Shenko made a motion to continue the above 2 items, H – 2, 3 because of the late hour of the meeting. Councilman Meador seconded the motion.

Mayor Reynolds proposed the above items be moved to a convenient meeting such as January 6th because several interested parties were either sick or away for the holidays.

Ms. Dalton pointed out that the date of the first January meeting would be the 9th, not the 6th, and also that there was a motion on the floor.

AMENDED MOTION: Councilman Shenko made a motion to continue items H-2 and H-3 to the January 9th Council meeting or later, depending on the workload.

VOTE: The motion carried unanimously.

I. *The Council will recess as the Town Council and reconvene as the Town of Ft. Myers Beach Public Works Services, Inc. Board.

Mayor Reynolds opened the Public Works Services Board meeting at 10:37 PM and then turned the chair over to Vice Mayor Massucco. All Board members were present.

There was some confusion as to how to proceed with this meeting. Attorney Dalton said the Board was a not-for-profit corporation, and at the time of the recent election, several officers were no longer eligible to serve on the board because Ordinance 00-01, which set up the Public Works agency, set forth that the members of the agency must be members of the Town Council. She said the by-laws of the corporate board indicated that all directors of it must be members of the Public Works agency. She said the first order of business would be to elect new officers.

Ms. Dalton said historically the Town Manager had always served as the General Manager of the agency, and the Deputy Town Manager had always served as Vice President/Secretary, and Mr. Gucciardo still, in fact, held that position. She added that Vice Mayor Massucco currently served as Chair on the agency board for this meeting because he was the most-senior officer at this time. Ms. Dalton said they needed to elect new officers, approve the minutes and change the registered agent.

1. Approval of Minutes – May 16, 2005

MOTION: Mayor Reynolds made a motion to approve the minutes of May 16, 2005. Councilman Boback seconded the motion.

VOTE: The motion carried unanimously.

2. Election of Officers

Vice Mayor Massucco asked for nominations for President of the Board.

MOTION: Mayor Reynolds made a motion to fill the board positions so as to be concurrent with each member's Council position, as it had always been done. Thus, the Mayor would be President, the Vice Mayor would be Vice-President and once that were approved, the other positions would be filled. No one seconded the motion.

Ms. Dalton said Vice Mayor Massucco currently held a position on the board, and would not be up for election at this time. She said the positions currently vacant would be filled by Councilmen Shenko, Boback and Meador. Additionally, she said there was an officer position – Treasurer – which was open, and the General Manager position – traditionally held by the Town Manager.

Mayor Reynolds didn't understand why Vice Mayor Massucco's position was not up for nomination. Ms. Dalton said the Mayor had indicated that the Vice Mayor would assume the role of Vice President of the board, and that he was not eligible for it. Mayor Reynolds said Vice Mayor Massucco had not held the Vice President position before the election. Ms. Dalton indicated that everyone was a Vice President. She said the past practice had been that every Council member was deemed a Vice President of the corporation, and that Vice Mayor Massucco was currently a Vice President of the corporation, and therefore would be improper to nominate him to that position a second time.

Councilman Shenko said there was no second on a pending motion. He asked the Town Attorney and the Town Manager to come back and explain to the Council the complete operation of this non-profit corporation. He said the Town Charter prohibited the Town from incurring debt, and this corporation was in debt "to the tune of about $4 million" on a fifty-year-old water system. He understood that debt was guaranteed by the Town of Ft. Myers Beach. He wanted to know what his responsibilities were, and pointed out he hadn't run for a community services public works board. He said he wanted assurances that the corporation didn't violate the Charter, wanted to know what his liabilities would be, and wanted to be sure they were covered by Errors and Omissions insurance for a non-profit corporation with a debt separate and apart from the Town of Ft. Myers Beach. He recognized that he had no choice with regard to being a director of the corporation, but was not comfortable being an officer at this time. He thought it would be a good subject for a workshop meeting. He believed they needed to appoint a registered agent and a general manager at this point, and pointed out there already was a vice president.

MOTION: Councilman Shenko made a motion that the interim Town Manager, John Gucciardo, be named the General Manager, and that the Town Attorney, Ms. Dalton, be named the Registered Agent. Further, a workshop be held in the future wherein Ms. Dalton and Mr. Gucciardo would explain the operations of the Public Works Services, Inc. board non-profit corporation. Councilman Boback seconded the motion.

Vice Mayor Massucco felt the newly elected Councilmen were entitled to the information Councilman Shenko had requested. Mayor Reynolds withdrew his motion.

Councilman Shenko reiterated his desire for the Town Attorney's opinion as to where things stood and as to whether the Councilmen would be covered with adequate insurance. Vice Mayor Massucco felt he was perfectly within his rights to get that information.

Attorney Dalton believed there was a issue with regard to the signatories on the bank account of the corporation, and asked Mr. Gucciardo if that required another position to be filled.

Mr. Gucciardo said he was not sure, and asked Ms. Paulauskas if the General Manager was the authorized signatory on the account. Ms. Paulauskas said the General Manager, plus two others, were signatories on the account. Mr. Gucciardo thought the other two signatories were for back-up, and that the General Manager would be sufficient along with the current other officer, Vice Mayor Massucco. Ms. Paulauskas said the minutes needed to reflect that there would be only one other signatory, other than the General Manager, for the time being.

Councilman Meador asked if it were a two-signature account, and Mr. Gucciardo said it was. Councilman Meador asked if they were then just talking about alternate signatories, and Ms. Paulauskas indicated that was so. Councilman Meador noted that currently there were two Vice Presidents and a General Manager in place.

Ms. Dalton said her understanding was that the bank would want to see a resolution regarding signatories. She requested that the motion on the floor, or a subsequent motion, include direction to Ms. Dalton to draw up the appropriate resolution without bringing it back to Council.

AMENDED MOTION: Councilman Shenko made a motion that the interim Town Manager, John Gucciardo, be named the General Manager, and that a corporate registered agent be named. Further, a workshop be held in the future wherein Ms. Dalton and Mr. Gucciardo would explain the operations of the Public Works Services, Inc. board non-profit corporation. Additionally, Ms. Dalton was to be directed to draw up the appropriate resolution. Councilman Boback seconded the amended motion.

Councilman Meador said the Council may consider a corporate registered agent as opposed to an individual registered agent. Councilman Shenko had no objection to that, and thought it would be easier for the Town Attorney. Several different firms were mentioned, and Councilman Shenko said it would be easier for one of them to accept service of process.

VOTE: The motion carried unanimously.

Ms. Dalton noted that Councilman Shenko had requested that the rest of this board meeting be deferred pending the answers to his questions.

3. **Amendment of By-Laws**
4. **Change of Registered Agents**
5. **Other Business**

MOTION: Councilman Shenko made a motion to adjourn the board meeting. Councilman Boback seconded the motion.

VOTE: The motion carried unanimously.

Vice Mayor Massucco adjourned the meeting at 10:50 PM.

*The Town of Ft. Myers Beach Public Works Services, Inc. Board adjourned and Mayor Reynolds reconvened the Town Council.

VII. COUNCIL MEMBER ITEMS AND REPORTS

Vice Mayor Massucco reminded everyone that on Wednesday morning, beginning at 10 AM, he would be out on Estero Boulevard with code enforcement officers and representatives from the Town's maintenance department, to begin cleaning up Estero Boulevard. He said people should make sure things were in order on their properties if they didn't want a citation for violations.

Councilman Meador had thought they had already addressed this item on the agenda, and Mayor Reynolds said he had asked for new items after the board meeting for the public works agency. He further explained to Councilman Meador what types of items should be brought forward during Council Member Items and Reports, as well as which items should be brought forward during New Items. Councilman Meador said he understood that, but because the agenda items had been taken up out of order, he had thought the New Items had been Council Member Items.

VIII. TOWN MANAGER'S ITEMS

Mr. Gucciardo reminded the Council that information from League of Cities had been distributed to them, regarding a seminar they ran for elected officials, and encouraged all the Councilmen to attend the seminar.

Mr. Gucciardo wished the Councilmen a happy holiday, and remind everyone that the Town's birthday celebration would take place in Times Square on New Year's Eve afternoon.

IX. TOWN ATTORNEY'S ITEMS

Ms. Dalton said she had been in contact with the City of Cape Coral Attorney as directed by Council, with regard to the Supervisor of Election's contract. She had reviewed FMB's concerns about the contract with their attorney, and noted that the Town of FMB wanted to work with Cape Coral to see if the agreement could be modified. Ms. Dalton said Cape Coral's attorney had been quite distressed at the provisions regarding the indemnity, and the provision Councilman Meador had brought up regarding the contract not requiring any estimate of cost from the Supervisor of Election before rendering service, with billing after the fact. She said their city attorney was very appreciative of FMB's attorney having brought it to their attention, and expressed willingness to present a united front on this issue.

Regarding the Mayor's request that Ms. Dalton contact the City of Sanibel about the possibility of a joint workshop regarding Sunshine issues, Ms. Dalton said she had spoken with Sanibel's city attorney and that they were interested in moving forward with that idea, but Ms. Dalton had no more specifics than that.

X. PUBLIC COMMENT

John Naylor, of Pink Shell resort, came forward. He thought the current seat on the Ft. Myers Beach representative to the TDC had one more year left of that term.

Ms. Dalton said that was incorrect, and that it had gone to Bonita Springs.

Mr. Naylor said FMB would not get another seat on the TDC for another twelve years. Mayor Reynolds said it would be in four years, but Mr. Naylor explained how it worked and showed how it would take twelve years. However, he said there was a provision that had been formulated a few years ago, which was to add, as a permanent part of their agenda, municipalities to be heard. He encouraged the Town Council to stay active in the TDC, as there were lots of big dollars from the Beach Renourishment funds, or capital dollars, which were available, but would go to someone else if the Town wasn't part of the team.

Pat Loffreno, a local resident, came forward. He said there was a situation regarding a half-mile long drain that ran alongside the south end of Estero Boulevard which the residents didn't keep clean because it was county property. He was concerned Vice Mayor Massucco's clean up efforts, including citations for violations, would include that drain. He said there were many disgusted people who never got their calls to Town Hall returned.

Mayor Reynolds said he had received a serious e-mail about a pit bull dog on the beach without a leash. A confrontation ensued, and the police were called, but nothing was done. He said the Council needed to address the enforcement of rules.

XI. ADJOURNMENT

MOTION: Councilman Shenko made a motion to adjourn. The seconder did not identify himself, nor did the Mayor.

VOTE: The motion passed unanimously.

Mayor Reynolds adjourned the meeting at 11:07 PM.

Respectfully submitted,

Jo List
Transcribing Secretary

Jo List