

MINUTES OF THE HOWEY IN THE HILLS TOWN COUNCIL MEETING
HELD JANUARY 28TH 2019

Mayor Nebel called the work session to order at 5:45 p.m.
Mayor Nebel led the Pledge of Allegiance to the Flag
Public Services Director John Ernest Led the Invocation

Present: Mayor Nebel, Mayor Pro-Tem MacFarlane, Councilor Conroy, Councilor McGill and Councilor Scott.

Also Present: Administrative Assistant Stephenson, Chief Thomas, Attorney Heather Ramos and Public Services Director Ernest.

Presentation

Audubon Center for Birds of Prey

Shawnlei Breeding, EagleWatch Program Coordinator, gave background on what the Audubon Center for Birds of Prey does and discussed what dangers apply to Eagles.

Shawnlei gave background on construction near active eagle's nests and stated there are laws in place which protect the nest. It is recommended to plan construction outside of breeding season as to not disturb the nests. Violation of those laws which result in penalties and jail time. She stated the nest in question is on Number Two Rd and it was reported by a resident May of 2018. The resident reported it had been there for 15 years. A volunteer responded and confirmed the nest, but at that time there were no eagles present. The volunteer came back in the fall of 2018 and stated two eagles had returned.

She stated the property is outside of the 330-foot buffer and the area is relatively quiet but it is hard to say how the eagles would respond to sirens in the area, as the property is planned to be used as a joint police and fire department. She stated if the building is set to be more than one story, construction should wait until after breeding season ends and we can hire an environmental biologist to measure and assess the area and contact Fish and Wildlife to obtain a permit if needed.

CONSENT AGENDA

Minutes of the June 11th, 2018 Town Council Meeting.

Mayor David Nebel, seconded by, Councilor Scott moved to approve the Consent Agenda as presented. Motion carried 5-0 with a roll call vote.

REPORTS

Finance Report

No Comment

Police Department Report

Chief Thomas said the new car radios are being installed. He said that on Friday a construction worker working on the bridge fell into the water. A boat was able to get out to him quickly. It was a Lake County Sheriff's Office call, but we responded to assist.

Code Enforcement Report

Chief Thomas said there were not many cases in December and that it is usually a slow month for code enforcement. January has been pretty busy as they are working on a parking violation ordinance.

Councilor Conroy asked for an update on body cams and the golf cart crossing.

will be done next month with a presentation for the council with the results. He said the street lights were also mentioned in the survey. Some people think it is too much light, some would like to see more lights. He said the body cameras are in and he is coordinating with the company to schedule training. He is hoping to have that done no later than March. He said they can't use the cameras until the software is online.

Councilor McGill asked for an update on the body camera policy.

Chief Thomas said they have a policy for the body cameras they have now, but will be working on a new one for the new cameras. He doesn't want to do that policy until they have been trained on them to insure the information is correct in the policy. He will provide an update when that is done.

Chief Thomas said the traffic engineer is in the middle of the traffic study. The engineer said it will be done in a few weeks.

Mayor Nebel said public works isn't legal in using their golf cart to cross the street. **Chief Thomas** clarified that there are some exemptions that apply and that public works equipment is not technically a golf cart, by statute it is a utility vehicle and it can cross the street provided it meets certain criteria.

Public Services Director Ernest said the lights and turn signals have arrived and the vehicle will be legal.

Councilor McGill said DOT said that golf carts should cross at an approved traffic control device and the flashing light is not approved.

Mayor Nebel said years ago a stop light was not approved. **Chief Thomas** replied years ago DOT wanted to change the flashing light to a stop light but the towns people did not want it. To change the light it would take funding, statistics and the town footing the bill.

Town Attorney Report

Attorney Heather Ramos said she asked Mayor Nebel to add a line item for her in case there is anything legislative or any new laws to update the council on. No update at this time.

Council Report

Councilor Scott - No Report

Councilor McGill said the renewal of Ron Frank VonFrankenstein's contract should be voted on by the council. He met with Ron today to go over the new contract and Ron acknowledged that the contract was broken by saying he was retiring and then asking to renew the contract after an RFP was put out.

Mayor Nebel said he approved Ron's contract on a month to month basis. He thinks Ron is the best bet with some changes to the contract.

Councilor McGill said Ron should have the changes to his contract done by the first meeting in March and would like to vote on his contract being month to month at the next council meeting.

Councilor McGill said the calls to the attorney should be limited. He said calls to the attorney should be made by the Town Clerk, Mayor or Councilmen. Without Department Liaison's all of the responsibility would fall on the mayor.

Councilor McGill said he got the attorney invoices and there are a lot of calls made from Code Enforcement asking questions that can be answered by looking at the Land Development Code. We need to try and get the answers on our own before calling Heather as we only have \$11,000 left in the budget for attorney fees. **Mayor Pro-Tem MacFarlane** asked how much was generated by the council asking questions and if any of the code enforcement questions pertained to things that needed to be asked before they go before the Special Magistrate.

Chief Thomas Replied that any of those cases have to go before the attorney before they go before the Special Magistrate.

Mayor Pro-Tem MacFarlane asked if any of the calls made to the attorney related to those types of cases.

Councilor McGill replied that they were not related to Special Magistrate cases and he can provide copies of the invoices to show that.

Mayor Nebel said that as Town Clerk Burke gains experience, she will be able to answer some of those questions and the calls to the attorney will decrease.

Mayor Pro-Tem MacFarlane said the council and employees should start making sure we look for an answer ourselves before we talk to Town Clerk Burke, Mayor Nebel, or the Attorney. If we cannot find

Attorney Heather Ramos said Dairian should always be CC'd in any email to Mayor Nebel so that she has a record of it.

Councilor McGill said that puts a lot on the Mayor if we do not have Liaisons or a Town Manager.

Attorney Heather Ramos said staff and code enforcement should go through Town Clerk Burke first.

Councilor Conroy said under Chris Sears when council meetings were expedient, he did not have the attorney present, he only had legal counsel here when an issue was expected, which saved money. When the new Council members get up to speed, he expects that the calls to the attorney will decrease.

Mayor Pro-Tem MacFarlane said the Council will be more diligent in finding the answer ourselves before we ask Dairian, the Mayor or Heather. She has found answers to her questions by looking at our website and Municode.

Chief Thomas said in the past people bypassed code enforcement and went to the Mayor because they did not like the answer code enforcement gave. Some bills we are seeing are a result of that. He said sometimes people on the Council or Planning & Zoning Board will dispute what Code Enforcement says which leaves us in a legal quandary. Some code cases are real estate questions that we cannot answer.

Attorney Ramos said there are some questions that need legal answers, but a lot of the questions can be handled at a code enforcement level.

Mayor Nebel said Code Enforcement has the backing of the Mayor and are reading the laws correctly.

Councilor McGill said Code Enforcement should be separated into its own entity or made part of the building department as they work hand in hand.

Chief Thomas said separating it is up to the Council and he agrees, but there will be expenses involved in that.

Councilor McGill said we should look into it with all of the new development coming.

Mayor Pro-Tem MacFarlane said those developments will have an HOA. **Chief Thomas** replied that the HOA has to try and solve an issue first, if not, then code enforcement steps in.

Councilor McGill asked if we can get the agenda's posted 72 hours before a meeting. **Mayor Nebel** replied it is a work in progress.

Councilor McGill asked Attorney Ramos for an update regarding the possible Sunshine Law Violation.

Attorney Ramos stated that when they had the sunshine law presentation, they discussed the code of ethics and she cautioned everybody by saying those things are extremely fact based. It can turn on one fact whether you have a sunshine law violation or not. She provided a handout of Florida Attorney General Legal Opinion number AGO 87-34, which talks about an elected city council official meeting privately with an appointed planning and zoning board member to discuss details about something the planning and zoning board was looking at so that the council member would be able to make an educated decision. The handout states the Attorney General said an individual city council member may meet privately with a member of the planning and zoning board to discuss a recommendation made by the planning and zoning board as two or more members of the same body are not meeting. You have to make sure there has been no delegation of power given to the council member to go and meet with a planning and zoning member. She cannot think of an instance where that would come into play. In this case the Attorney General said it is fine for two members of those boards to meet.

Councilor McGill said with these cases it is fact based and there are different scenarios. He found 5 other case laws similar to our case that say the opposite, but it is a case by case basis. He said it was said during the sunshine law presentation that one member from planning and zoning and one member from council talking about town business is a violation, but every case is different.

Attorney Ramos said she does not recall ever saying the law applies to two different board members and that it may have been said by somebody else.

Councilor Scott said council members should not go to the board meetings as it causes interruptions for them.

Mayor Pro-Tem MacFarlane asked, if they don't go to meetings, she feels it's necessary to contact a planning & zoning member for clarification for their vote and to be able to communicate with citizens and explain what is happening. She said if it is clearly stated by the Attorney General that she can talk to one planning and zoning member, then she is going to do that instead of attending a meeting.

Attorney Ramos said to disclose that you spoke to a board member so that it is on record.

Town Clerk Burke is not receiving forms from people who speak.

Councilor McGill said the hiring of police officers is something the council has to vote on per the employee manual. He said the manual states any time anyone is hired it has to go through the Mayor and council. He urged the council to put the voting of the new officers on the next agenda.

Mayor Pro-Tem MacFarlane said some of our practices do not follow the charter. She said she understands Councilor McGill's request but is loathed to make a decision when the police department has state requirements that they follow. We hire Department Directors who are competent and we rely on them to hire or release an employee appropriately. She agrees that we should follow the ordinance right now as written but should look at changing it.

Councilor McGill replied that he isn't looking to interview them, but every other city brings it to council for the final blessing and that is the way it is written here, so council should vote on it.

Councilor Scott said that was put in place to protect the town so we need to go by it.

Mayor Nebel said he trust's his department heads to hire the right people.

Councilor Conroy said he read it and it says the Mayor has authority to hire, appoint, remove or suspend all employees including the executive officers. Any action taken by the Mayor under this paragraph is in respect to the executive officers. He said he read that as if you want to appoint, hire suspend or remove an executive officer you need council approval under section 3 number 9 in the charter.

Attorney Ramos said it is a council decision on how they want to interpret and enforce it. The language of the mayor having the hiring power for all town employees except executive officers, which has to be approved by council is was from 2004 in section 34-4. It doesn't say that the Police Chief doesn't have the authority to hire and fire.

Councilor McGill replied it's still in the charter and it falls under the Police Department specifically, so they should vote on it.

Mayor Nebel said in 2004 people were upset with the Mayor having too much power, so a committee was formed to re-write the charter. **Councilor McGill** said that should be revisited, but in the mean time they should follow it.

Mayor Pro-Tem MacFarlane suggested holding a special session so they can go over their interpretation of the charter.

Councilor Conroy - No Report

Mayor Pro-Tem MacFarlane gave an update on the Chain of Lakes Restoration Committee, a letter was sent to Mayor Nebel to Sign and send to the Governor, Representative Sabatini, senate and speaker of the House.

Mayor Nebel said he will sign it.

Mayor Pro-Tem MacFarlane said Parks and Rec Member Tuite wants to talk to Astatula so they are aware and would like to present it to their council and ask that they send a letter too.

Councilor Conroy asked Mayor Pro-Tem MacFarlane if she would CC the 5 County Commissioners. Leslie Campione is aware of the Committee and seems to be in favor of it. **Mayor Pro-Tem Macfarlane** replied that there is a Commissioners meeting tomorrow and there will be public comment. Parks & Rec Member Tuite said he will bring them a report.

Mayor Pro-Tem Macfarlane said St. John's has no more money to spray the Hydrilla. **Councilor McGill** asked if they are trying to find more money. **Mayor Pro-Tem MacFarlane** replied that they are looking for alternatives to spraying chemicals and they are looking to the state for more funding.

Mayor Pro-Tem MacFarlane said the Town markers are in poor shape and are disintegrating. Parks & Rec previously worked with a sign company and provided several options and pricing to council. Signs and an electronic sign board should be considered in the next budget cycle. We should also discuss changing the code regarding signage.

Mayor Pro-Tem MacFarlane asked for a Proclamation for Founders Day for May 11th 2019. **Mayor Nebel** said to do the Proclamation and it will be read at the next meeting.

first meeting on the 15th of January and 3 suggestions were put forward for short term action, a couple of which are time sensitive. A memo was provided with the actions and request for authorization. He is requesting a motion to authorize the Mayor to write a letter to the Florida Department of Transportation asking them to review sidewalks on SR 19 and make any corrections necessary to provide handicapped accessible ramps at all intersections. A motion to authorize submittal of a project request to the Lake Sumter MPO for an extension of sidewalks on SR 19 from Lakeview Avenue to Venezia Boulevard and from Oleander Avenue to Florida Avenue. A motion to Authorize submittal of a request to conduct a feasibility study of a phase of the Central Lake Bicycle Trail from Hickory Point Park to CR 455. A lengthy discussion ensued.

Public Comment - None

Mayor Nebel, seconded by, Councilor Conroy moved to approve the Motion as follows

A Motion to authorize the Mayor to write a letter to the Florida Department of Transportation asking them to review sidewalks on SR 19 and make any corrections necessary to provide handicapped accessible ramps at all intersections. A motion to authorize submittal of a project request to the Lake Sumter MPO for an extension of sidewalks on SR 19 from Lakeview Avenue to Venezia Boulevard and from Oleander Avenue to Florida Avenue. A motion to Authorize submittal of a request to conduct a feasibility study of a phase of the Central Lake Bicycle Trail from Hickory Point Park to CR 455. Motion carried 5-0 with a roll call vote.

Mayor's Report

Mayor Nebel said he and Town Clerk Burke are looking into something we can afford to record the meetings and can eliminate the minutes. Many other Towns refer you to their website to get the audio recording of the meeting.

Attorney Ramos said Town Clerk Burke would still have to at least take action minutes as required by statute. As long as you have the recording and you can hear it, that has to be kept in accordance with the retention laws.

Councilor McGill said he talked to Town Clerk Burke and got prices ranging from \$1,000.00 to \$3,500.00. The \$1,000.00 one records the meeting and you can put it on the website, but it doesn't write it word for word for you, so she would still have to do her normal minutes. **Mayor Nebel** replied that is the direction they are working toward. He said they will also need to bring the microphone system up to where people can listen to the recording of the meeting.

Councilor Scott said he will have Tony Tech come out to give a quote.

Discussion: To Adopt a Town Council Code of Conduct, Ethics and Values

Mayor Pro-Tem MacFarlane said she got several recommendations, but we may need something a bit more explanatory. The City of Dunedin has a good one and she sent it to Dairian with some modifications. We need to start looking at Howey as a business and incorporate some components that are the norm in dealing with businesses, fiduciary responsibilities and some HR sort of things.

Mayor Nebel asked Mayor Pro-Tem MacFarlane if she would head that committee. **Mayor Pro-Tem MacFarlane** replied yes.

Attorney Ramos said there was a resolution adopted in 2013 that covered something like this. She will ask Dairian to send it to Mayor Nebel. It discussed things like conduct at Town Council Meetings. A new bill was filed by the Senate that has some new requirements in it, she's not sure how much they will morph over the next few months if it does get adopted by the House. It includes items such as the agenda being posted 72 hours in advance and some other things, we may want to look at incorporating into our Code of Conduct.

Mayor Pro-Tem MacFarlane asked if that would be appropriate to incorporate into the code of conduct.

Attorney Ramos replies yes, some of it would and she will email those new requirements.

Discussion: Clarification of the Sunshine Law and Communication with Advisory Board Members - No comment, this was covered and discussed in Councilor McGill's Council Report.

First Reading ORDINANCE NO. 2019-003 AN ORDINANCE OF THE TOWN OF HOWEY IN THE HILLS, FLORIDA, RAISING THE FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLING BY .42 CENTS PER HOME FOR A NEW MONTHLY RATE OF \$16.34 BASED ON

SEVERABILITY AND AN EFFECTIVE DATE.

Councilor McGill asked if this was already approved. **Mayor Nebel** replied that it is a contract that we have and there isn't an alternative to it. WCA has a built in 2.7% adjustment and this is a formality to approve because it is already approved in their contract.

Councilor McGill asked when the contract expires. **Mayor Pro-Tem MacFarlane** replied that it's a 7-year contract and we are in our second or third year.

Mayor Pro-Tem MacFarlane, seconded by Mayor Nebel moved to approve ORDINANCE NO. 2019-003 AN ORDINANCE OF THE TOWN OF HOWEY IN THE HILLS, FLORIDA, RAISING THE FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLING BY .42 CENTS PER HOME FOR A NEW MONTHLY RATE OF \$16.34 BASED ON THE ANNUAL 2018 CONSUMER PRICE INDEX ADJUSTMENT OF 2.7% PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. Motion carried 4-1 with a roll call vote, Councilor Scott voting no.

PUBLIC HEARING

Second Reading and Adoption ORDINANCE NO. 2019-002 AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO HEALTH AND SAFETY AND WELFARE OF THE CITIZENS OF THE TOWN THROUGH THE REGULATION OF NONSTORMWATER DISCHARGES TO THE TOWN'S STORM DRAINAGE SYSTEM TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY FEDERAL AND STATE LAW CREATING A NEW CHAPTER 30 IN THE TOWNS CODE OF ORDINANCES ENTITLED "STORMWATER" AND CREATING ARTICLE I OF CHAPTER 30 ENTITLED "ILLEGAL DISCHARGE AND ILLICIT CONNECTIONS"; PROVIDING FOR SEVERABILITY CODIFICATION, AND AN EFFECTIVE DATE.

Council comment – None

Public comment – None

Mayor Pro-Tem MacFarlane, seconded by Councilor Scott moved to approve ORDINANCE NO. 2019-002 AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO HEALTH AND SAFETY AND WELFARE OF THE CITIZENS OF THE TOWN THROUGH THE REGULATION OF NONSTORMWATER DISCHARGES TO THE TOWN'S STORM DRAINAGE SYSTEM TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY FEDERAL AND STATE LAW CREATING A NEW CHAPTER 30 IN THE TOWNS CODE OF ORDINANCES ENTITLED "STORMWATER" AND CREATING ARTICLE I OF CHAPTER 30 ENTITLED "ILLEGAL DISCHARGE AND ILLICIT CONNECTIONS"; PROVIDING FOR SEVERABILITY CODIFICATION, AND AN EFFECTIVE DATE. Motion passed unanimously with a roll call vote.

THE TOWN COUNCIL SITTING AS THE BOARD OF ADJUSTMENT AS SET FORTH IN SECTION 9.03.00 OF THE LAND DEVELOPMENT CODE TO HEAR AND DECIDE ON FOR A VARIANCE APPLICATION FOR SETBACKS FROM THE LAND DEVELOPMENT CODE REGULATIONS FOR A POOL LOCATED AT 487 BELLISSIMO PLACE.

Town Planner Harowski gave background on this item. Explained that the resident wants to put a pool in the back yard, they originally asked for a variance of 3 feet from the required 10-foot setback for the pool. At the January Planning and Zoning meeting, the board considered it and recommended a 7-and-a-half-foot setback from the property. The applicant has asked for a 5-foot setback as a compromise.

Councilor Scott said he went to look at the property and it doesn't seem like it would affect any neighbors.

Mayor Pro-Tem MacFarlane asked if they are going to put a fence around it. **Councilor Scott** replied yes.

Mayor Pro-Tem MacFarlane said she attended that Planning and Zoning Meeting and they were saying the variances are done on a case by case basis, we are not setting a precedence if we approve the 5-foot setback. With

pool in the back yard. The Planning and Zoning Board put forward a 7.5-foot setback and that was really thought through.

Councilor McGill stated he was invited onto the property by the homeowners to look at the back yard and the pool design. He asked if any of the surrounding neighbors had any objection to the proposed setback change. **Town Planner Harowski** replied that no one from the public spoke.

Councilor McGill said his concern was if there were any objection by the surrounding residents. He said after looking the property, pool design along with the neighbors and the neighbor's fences, he doesn't see a problem with a 5-foot rear setback. He thinks that is reasonable and will work well.

Michael Markham, 1410 Elk Court, Apopka, FL 32712 stated he is the pool builder, he said he attended the Planning and Zoning Meeting and stated his objection to the 7.5-feet they recommended. It was brought up that 7.5 feet would be a compromise but he proposed the 5 feet as a compromise. He said most municipalities around us have a 5-foot rear setback and the others who do have a 7.5- or 10-foot rear setback have larger lot sizes. He stated it wouldn't be unseen to see a 5-foot setback on a 75 ft. x 120 ft. lot. Most other subdivisions with lot sizes similar to Venezia have a 5-foot setback, so does the County and The City of Apopka. He said the majority of lots with a 10-foot setback are on larger lots, so they have more room to work with. He has provided a drawing of the pool based on the 7.5-foot setback and you can tell the pool would be out of proportion. They only have two feet of depth from the columns of the patio to the pool and only a foot in the back, which makes the pool 11 and a half feet wide, and is very narrow.

Mayor Nebel asked if the current owner is happy with the 7.5 foot as opposed to the 5-foot setback.

Michael Cox, 487 Bellissimo Place, said he submitted the application for a 3-foot setback but they would settle for 5 feet. He said they have communication with a lot of the neighbors, who are here tonight, and no one had any objection. He said the pool will be enclosed and fenced. They said they are putting the pool in for their pleasure and just want to be able to enjoy their home.

Public Comment – None

Mayor Nebel, Seconded by Councilor McGill, made a motion to grant the variance of the Land Development Code Regulations for a pool and approve a 5-foot rear setback for the property located at 487 Bellissimo Place. Motion passed unanimously with a roll call vote.

PUBLIC COMMENTS

Joanna Lowe, 139 E Central Ave, wanted to thank Lt. Roman for coming to the Library today to speak with the homeschool students, she said it was wonderful. She hopes to see everyone at the Library for Meet the Artist.

Bernard Alimenti, 205 E Magnolia Ave, just wanted to commend the Council for having a nice, respectable meeting. He said he wanted to explain himself, his intention is to have a fair and unbiased government. He stated it is a shame that he is perceived as the bad guy and out to get the Town, he is just looking for the Council to treat the people first, financially and respectfully. He said its shame that he was slandered by a councilman who, when it is brought up, laughs about it. Everyone makes mistakes and no one is perfect, but tonight's meeting went smooth and he commends the Council for that. He said if anybody wants to speak to him, everyone knows where he lives, so feel free.

Sal Galleli, 1104 N Tangerine Ave, said when sending the letters regarding the water situation, try and get signatures from residents to include with the letter. We should send four or five of the letters repeatedly and get 200 or 300 signatures from people to show we are votes and we are concerned and need results.

Mayor Pro-Tem MacFarlane asked if we need to have something drawn up by legal to canvas the town, or can we just draw something up that says what our intent is with the letters. **Attorney Ramos** replied that is something Mayor Pro-Tem MacFarlane would be able to do.

Councilor Scott suggested we go on Tallahassee's website and send it to our Representatives.

ADJOURNMENT

The meeting adjourned at 7:31 p.m.



David Nebel, Mayor

ATTEST:



Sydney Stephenson
Administrative Assistant