

**TOWN OF HAVERHILL
Regular Town Council Meeting
August 27, 2009
Town Hall – 4585 Charlotte Street**

Pursuant to the foregoing notice, the regular meeting of the Town Council was held on Thursday, August 27, 2009 at the Town Hall, 4585 Charlotte Street, Haverhill. Those present were James E. Woods, Mayor; Jay G. Foy, Vice Mayor; Jerry Beavers, Council Member; Henry Lynch, Council Member; and Mark Uptegraph, Council Member. Also present were John Fenn Foster, Town Attorney; Janice C. Rutan, Town Administrator; and Joseph Roche, Code Enforcement Officer.

CALL TO ORDER

Mayor Woods called the meeting to order at 6:55 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation and pledge of allegiance was waved in light of the fact that it had been performed previously at the 6:45 PM meeting of the Local Planning Agency meeting.

ROLL CALL

The roll call was waved in light of the fact that it had been performed previously at the 6:45 PM meeting of the Local Planning Agency meeting.

APPROVAL OF AGENDA

The Town Administrator requested the approval of the August 13, 2009 meeting minutes be removed from the Consent Agenda. **Noting the change as requested, a motion was made by Vice Mayor Foy, seconded by Council Member Uptegraph and unanimously passed (5-0) to approve the agenda as amended.**

APPROVAL OF THE CONSENT AGENDA

- a. ~~Approval of minutes August 13, 2009 meeting~~

PRESENTATIONS AND PROCLAMATIONS

None

COMMENTS FROM THE PUBLIC

None

COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S DEPARTMENT

None

REGULAR AGENDA and FIRST READINGS (PUBLIC HEARINGS)

- a. **FIRST READING AND PUBLIC HEARING: ORD. NO. 381: An Ordinance of the Town Council of the Town of Haverhill, Florida Amending its Comprehensive Plan, as amended, by amending and modifying the future land use map of its land use element by**

changing approximately 18.74 acres generally located on the east side of Haverhill Road which parcel is also abutting and to the northern municipal limits of the Town, said property being situated in Palm Beach County, Florida, from the Palm Beach County LR-2 future land use designation to the Town of Haverhill's Low Density Residential designation; providing for severability; providing for the repeal of laws in conflict; providing for transmittal to the Department of Community Affairs and other agencies; providing for inclusion in the Comprehensive Plan; providing for an effective date; and for other purposes.

The title was read by Attorney Foster. Town Attorney John Fenn Foster acknowledged that the Local Planning Agency had recommended Town Council approval pursuant to the hearing held on August 27, 2009 at 6:45 PM, just prior to the present Regular Town Meeting.

Noting that the Public Hearing was open and that there were no comments from the Public, Mayor Woods requested a motion be made to accept the first reading of Ord. No. 381 as recommended by the Local Planning Agency. The motion was made by Councilman Uptegraph, seconded by Councilman Beavers and unanimously passed (5-0).

Town Attorney John Fenn Foster; stated that Ord. No. 381 would be submitted to the Department of Community Affairs as well as a list of other agencies as required by the Florida Administrative Code for compliance review. Once the Town had resolved any issues with the Department of Community Affairs should they arise, the Town could then move to a final adoption hearing. He estimated the time frame to be within two or three months.

REGULAR AGENDA and FIRST READINGS (PUBLIC HEARINGS)

- b. FIRST READING (PUBLIC HEARINGS) ORDINANCE NO. 382: An Ordinance of the Town Council of the Town of Haverhill, Florida Amending Chapter 38-17 (a) (1) by reducing the speed limit on Belvedere Road from 35 mph to 30 mph providing for severability; providing for the repeal of laws in conflict; providing for an effective date; and for other purposes.**

Town Attorney John Fenn Foster performed the first reading of Ordinance No. 382. Attorney Foster referred to Florida Statutes which referenced that potential hazards must be considered when lowering speed limits. The third recital of proposed Ordinance did reference hazards that exist along Belvedere Road with respect to pedestrians and other traffic. He noted that ongoing construction, the opening of the new elementary school on Stacey Street, the Boys and Girls Club being planned for the former Linear Park site and the activities that currently exist at the County Park on Belvedere Road set forth the reasons to reduce the speed limit from 35 miles per hour to 30 miles per hour. Also, Florida Statutes provide that the maximum speed limit on any county maintained road within any municipality should be 30 miles per hour. The change by the Town Council would simply be recognizing what the legislature of the state of Florida had already recognized; 30 miles per hour through a municipality was the maximum speed.

A motion was made by Councilman Beavers and seconded by Vice Mayor Foy to approve Ordinance No. 382 on first reading.

Vice Mayor Foy suggested notification of the change in speed limit should be made to the citizens of Haverhill and those of the County who use the road via a newsletter or the use of a flashing sign. He reasoned that it was for the safety and welfare of all who travel in and through the Town of Haverhill. Vice Mayor Foy stated for the record that the reasoned the Town was not adjusting the speed limit on Haverhill Road was because Haverhill Road was protected by lower speed limits and signage due, in part, to the existing school speed limits and the presence of crossing guards.

Councilman Beavers asked if the placement of the flashing sign would be at the site of the actual speed limit sign or at some other location; the sign would be placed where the new speed limit starts, at both the east and west end of the Town's boundaries on Belvedere Road.

Mayor Woods reiterated that he was in agreement with Vice Mayor Foy when considering the safety and welfare of all who travel in and through the Town of Haverhill. Mayor Woods asked Attorney Foster when the *new* speed limit would come into effect. Attorney Foster explained that the *new* speed limits could not take effect until the *new* speed limits signs were put in place. Section 5 of Ord. No. 382 states that, "the Ordinance shall become effective upon adoption and placement of speed limit signs." Attorney Foster further stated that a minimum 30 days notice to the public should be considered. **The vote was then called. The motion passed unanimously (5-0).**

SECOND READINGS AND PUBLIC HEARINGS

None

REPORTS

Town Attorney

None

Council Member:

Discussion followed concerning an incident whereby manure was brought in to be used as fill and fertilizer for a property on Ivory Lane. A discussion ensued as to whether or not the Town's Code of Ordinances contained guidelines for "the content of land fill materials"; Mr. Roche, Code Enforcement Officer, stated that the pertinent code(s) stated that, "the fill must be *clean*". The discussion went on to include the proposed "Landscaping" Ordinance. Mayor Woods stated that he felt this was a one time occurrence and that the Town's codes as written would address future incidents should they occur.

Mayor:

Mayor Woods presented Council Member Beavers with a certificate of completion from the Advance Institute for Elected Municipal Officials. Congratulations were extended by all.

COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S OFFICE

Officer Victor Blackman had no major issues to report but he did report on a hit and run accident that occurred at the intersection of Belvedere and Military Trail; property damage was sustained and an arrest was made.

Administrator:

The Town Administrator reported on the following items:

1. The University of Florida's Census report was received; the population last year was 1554. This year's population had increased to 1604 which was only an additional 50 residents. A call to Scott Cody at the University of Florida would be made to inquire if the northern annexation was included in the census figures.
2. The Board of County Commissioners agenda of September 1, 2009 contained a budget transfer of \$75,000.00. This amount had been allotted for the basketball courts at the Haverhill Park. The monies would be transferred to John Prince Park.
3. The Town of Haverhill's land use maps were sent to Council Members for review and most had been returned with comments. The maps would need to be attached to the transmittal of Ord. No. 381.

4. There would be an all day retreat with the Palm Beach Managers Association to be held at the Grassy Waters Preserve on August 28, 2009.
5. Uniform Election dates and election costs were being considered by the Supervisor of Elections. A memo outlining the proposal would be forthcoming
6. A Special Primary Election for district 84 was held on Tuesday, August 25, 2009. Out of 280 registered voters, only 3 voted. The election included all of Briarwood, Charlotte, Belvedere to Concord and Park Lane and Cypress Lane areas.
7. The Town Administrator reminded Council Members of her scheduled vacation September 28 through October 5th, 2009.

Committee/Delegate Report

Councilman Beaver reported on the following items:

1. The EOC Nimscast website was now accessible to the various municipalities throughout the county with certain levels available to the state and federal government. By 2010, it would be mandatory that every municipality participate in every level of the Emergency Management program. The first questionnaire from the EOC was received, filled out and mailed back by the Town.
2. The adoption of Senate Bill 360 resulted in a change to the constitution of the State of Florida dealing with Land Use.
3. Municipalities as well as individuals would need to comply with the Sunshine Law should they be active on Twitter, Facebook and Myspace postings.
4. He had received information on alternative forms of street lighting that have proven to be more energy efficient. FP&L was contacted regarding the availability of said lighting.
5. Because of the mandatory amendments to the Comprehensive Plan through the Evaluation and Appraisal Report (EAR) process, 35 % of Glen Ridge's budget had been expended for this purpose.
6. Senate bill # 216 limited the way municipalities could communicate on certain matters. Alternative methods to be considered would include resolutions, press conferences, letters to the editor and talk radios.
7. Senate bill # 360 was supposed to be a stimulus bill for municipalities but has turned out to be a poorly written bill that was being challenged.
8. Contributions were being accepted for the Bell Tower for the Centennial. Contributor's names would be imprinted on the tower which would be located in West Palm Beach.
9. Lawsuits on "Red Light" cameras; if an accident was caught on cameras, how could the courts rule in favor of the plaintiffs?

Vice Mayor, Foy reported on the following items:

1. The Code and Ordinance Committee was still reviewing the proposed Landscaping code; there being many unanswered questions, a meeting was scheduled for Tuesday, September 15, 2009 to continue consideration.

Mayor, Woods reported on the following items:

1. A Special Events Committee meeting had been set for September 10, 2009 @ Noon to start planning for the Halloween Dinner & Movie.

Treasurer's Report

(Included in packet)

UNFINISHED BUSINESS

Unfinished business items discussed were as follows:

1. The Adopt-A-Road sign which was placed at Military Trail & Belvedere Road intersection had been put in place in 1980 by the County Engineering Department along with a sign memorializing Tickles O'Carroll. In February of 2009 the Town received permission from Palm Beach County to remove the memorial sign because it was located in the Town of Haverhill's Right of Way and in 1998-99 the County had adopted an ordinance against signage that memorialized individuals and/or animals. In August of 2009 the sign reappeared. When Mr. Roche, Code Enforcement Officer contacted the County Engineering Department, he was informed that because the original sign had been put in place prior to the adoption of the ordinance, the sign memorializing Tickles O'Carroll was grandfathered in and the sign had to remain in place.

Mr. Foster, the Town Attorney, was consulted regarding the sign and he responded by saying that the Town of Haverhill should ask the County to apply the rules equally to the Town as they do other areas, to the extent that they violated their own policy by putting up the sign; we would expect them to correct it. He went on to say that would be the Town's position now.

2. Mayor Woods stated that the Red Light opponents were making a real push against the ordinances being adopted by various Cities and Towns throughout the County. Mayor Woods asked Mr. Foster, the Town Attorney, questions concerning the collections of fines, e.g. would the Town have to pay back the full amount of the fines even though the Town had to pay American Traffic Solutions to collect the fines. Attorney Foster replied by saying the Town would have to pay back all the fines in full and then sue the collectors of said fines under the indemnity provisions in the Agreement. Attorney Foster went on to say that the Town should take a "wait and see" approach in deciding whether it should proceed with its intent to put up cameras at the Town's intersections. He also suggested that the Town contact the company with whom it has contracted to put up the cameras and let them know that, until these issues are resolved, the Town does not wish to be at risk. Mayor Woods pointed out that the Town's fiscal year budget for 2009-2010 had to be adopted before the end of September, 2009 and that the Council would need to make decisions as funding from the Red Light project was included in the proposed Budget. Attorney Foster suggested it may be worth sitting down with the company to set a middle ground for everyone concerned. Vice-Mayor Foy commented on the States legislative facts surrounding the Red Light issues; noting it would take months if not years before the matter was settled. A discussion ensued as to whether to Town should proceed with implementation of the Red Light Program in light of the possibility that the Town could be sued, for adopting the ordinance. A conference call with American Traffic Solutions would be scheduled for September 1, 2009.
3. Ms. Rutan, Town Administrator, updated the Council as to the status of the Lift Station, Briarwood drainage improvement project and the Club Road sidewalk project.

NEW BUSINESS

1. Vice-Mayor Foy addressed Southern Waste's offer to sponsor the Town in the League of Cities golf tournament. Attorney Foster stated that the offer to sponsor the Town was made after the bid with Southern Waste was awarded and that there was no discussion before hand, thus there is no ethical or conflict issue.
2. Councilman Beavers disclosed that he had paid Wynn & Son \$40.00 to dump soil on his property; the soil came from the project that Wynn & Son was performing in the Briarwood Subdivision.
3. Councilman Beavers inquired whether the contact person to the EOC needed to be approved by the Town Council; Attorney Foster responded that it was an Administrative decision.
4. Mr. Roche, Code Enforcement Officer, reported on the signage and wall planting project on Trailaway Lane.
5. Attorney Foster indicated that letters should be mailed to selective County traffic staff regarding the decrease in the speed limit from 35 miles per hour to 30 miles per hour on Belvedere Road.

ADJOURNMENT:

With no further business to come before the Town Council, the meeting adjourned at 8:24 p.m.

Approved:

Sept. 24, 2009
Date


Janice C. Rutan, Town Administrator


James E. Woods, Mayor

James E. Woods, Mayor
Jay G. Foy, Vice Mayor
Jerry E. Beavers, Council Member
Henry "Butch" Lynch, Council Member
Mark C. Uptegraph, Council Member
John Fenn Foster, Town Attorney
Janice C. Rutan, Town Administrator



TOWN OF HAVERHILL
Regular Town Council Meeting
August 27, 2009 - 7:00 p.m.
(immediately following close of the L.P.A. Hearing)
Town Hall – 4585 Charlotte Street
AGENDA

- I. **CALL TO ORDER**
- II. **INVOCATION AND PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- IV. **APPROVAL OF AGENDA**
- V. **APPROVAL OF THE CONSENT AGENDA**
 - a. **Approval of the August 13, 2009 meeting minutes**
- VI. **PRESENTATIONS AND PROCLAMATIONS**
- VII. **COMMENTS FROM THE PUBLIC**
- VIII. **COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S DEPARTMENT**
- IX. **REGULAR AGENDA and FIRST READINGS (PUBLIC HEARINGS)**
 - a. **FIRST READING AND PUBLIC HEARING: ORD. NO. 381: An Ordinance of the Town Council of the Town of Haverhill, Florida Amending its Comprehensive Plan, as amended, by amending and modifying the future land use map of its land use element by changing approximately 18.74 acres generally located on the east side of Haverhill Road which parcel is also abutting and to the northern municipal limits of the Town, said property being situated in Palm Beach County, Florida, from the Palm Beach County LR-2 future land use designation to the Town of Haverhill's Low Density Residential designation; providing for severability; providing for the repeal of laws in conflict; providing for transmittal to the Department of Community Affairs and other agencies; providing for inclusion in the Comprehensive Plan; providing for an effective date; and for other purposes.**
 - b. **FIRST READING (PUBLIC HEARINGS) ORDINANCE NO. 382: An Ordinance of the Town Council of the Town of Haverhill, Florida Amending Chapter 38-17 (a) (1) by reducing the speed limit on Belvedere Road from 35 mph to 30 mph providing for severability; providing for the repeal of laws in conflict; providing for an effective date; and for other purposes.**
 - c.
- X. **SECOND READINGS AND PUBLIC HEARINGS**
- XI. **REPORTS**
 - Town Attorney
 - Mayor
 - Consultants
 - Administrator's Report
 - Committee/Delegate Report

Treasurer's Report (included in packet)

XII UNFINISHED BUSINESS

XIII NEW BUSINESS

XIV ADJOURNMENT

Notice: If any person decides to appeal any decision of the Town Council at this meeting, he/she will need a record of the proceedings and for this purpose; he/she needs to ensure that a verbatim record of the proceedings is made. The record must include the testimony and evidence upon which the appeal is to be based, pursuant to F.S. 286.0105. The Town of Haverhill does not prepare nor provide such verbatim record.

In accordance with the provisions of the American with disabilities Act (ADA), this document can be made available in an alternate format (large print) upon request. Special accommodations can be provided upon request with three (3) days advance notice of any meeting, by contacting Janice C. Rutan, CMC, Town Administrator at the Haverhill Town Hall, 4585 Charlotte Street, Haverhill, Florida. Phone Number (561) 689-0370 Facsimile Number (561) 689-4317