

**TOWN OF HAVERHILL**  
**Regular Town Council Meeting**  
**February 25, 2010**  
**Town Hall – 4585 Charlotte Street**

Pursuant to the foregoing notice, the regular meeting of the Haverhill Town Council was held on Thursday, February 25, 2010 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 Uptergaph, Council Member. Also present were Town Attorney John Fenn Foster, Town Administrator, Janice C. Rutan; and Code Enforcement Officer, Joseph Roche.

**CALL TO ORDER**

Mayor Woods called the meeting to order at 7:00 p.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Woods offered the Invocation and led the Pledge of Allegiance.

**ROLL CALL**

The Town Administrator called the roll. All members were present.

**APPROVAL OF AGENDA:**

Agenda was approved as presented.

**APPROVAL OF THE CONSENT AGENDA**

Approval of the February 11, 2010 Regular meeting minutes

**Vice Mayor Foy made a motion to accept the consent agenda as presented. The motion was seconded by Councilman Beavers and passed unanimously (5-0).**

**COMMENTS FROM THE PUBLIC**

NONE

**COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S OFFICE**

NO ONE WAS PRESENT FROM THE PBSO

**SECOND READINGS AND PUBLIC HEARINGS**

NONE

**FIRST READINGS AND REGULAR AGENDA**

**Review Town of Haverhill Maps**

Town Administrator Rutan presented Council final drafts of the existing and future land use maps as well as the zoning map that had been prepared by Ben Dolan of Gentile and Associates. It was confirmed by Council consensus that the Zoning Map as presented was acceptable specifically as it related to bringing the zoning of the lots into the street.

The discussion proceeded to the Town's boundaries. Councilman Beavers questioned the boundaries for the Planet Kids property. Town Administrator Rutan explained that the legal description for that property went only to the property line, whereas the legal descriptions for the other recent annexations went to the center of the road.

Administrator Rutan spoke next about the Existing Land Use map. She stated that it was not required to be part of the Comprehensive Plan and would only be used as a reference tool for the Town.

Councilman Lynch questioned why the school board property was designated "vacant" on the Future Land Use map. Town Administrator Rutan stated that it was the Councils consensus to keep the school board property as well as the property across the street from the Baptist Church as vacant on the future land use map.

**RESOLUTION 2010-04: A RESOLUTION OF THE TOWN OF HAVERHILL CORRECTING THE SCRIVENER'S ERROR IN THE EXISTING LAND USE MAPS ADOPTED BY THE TOWN OF HAVERHILL ON APRIL 23, 2009 AS PART OF THE COMPREHENSIVE PLAN**

The title was read by Attorney Foster.

Attorney Foster offered Staff's report. It was explained that the land use maps adopted as part of the E.A.R. Comprehensive Plan Amendments had not been updated to reflect the recent land use change of the "Sunset Isles property", 3.6 acres located on the south side of Belvedere Road, as R-2. The Town amended the land use map to change the land use designation of that property from R-1 to R-2.

Vice Mayor Foy asked Attorney Foster for clarification on the land use designation of the Self storage project. Attorney Foster explained that although the zoning of the property was R-3, there was an underlying land use designation of Commercial as adopted through Ordinance No. 356. Vice Mayor Foy wanted the record to reflect

that he did not agree in the Commercial designation of the land for any other use than that of a self storage facility. Vice Mayor Foy stated he would be against something other than self storage permitted on that parcel.

With no further discussion, a motion was then made to accept Resolution 2010-04 as presented by Councilman Uptegraph. The motion was seconded by Councilman Beavers and passed unanimously by a vote of (5-0).

## **REPORTS**

### **Town Attorneys Report**

**AN ORDINANCE OF THE TOWN COUNCIL FOR THE TOWN OF HAVERHILL, FLORIDA, DECLARING ZONING IN PROGRESS AND A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION FOR THE ESTABLISHMENT OF PAIN MANAGEMENT CLINICS AS DEFINED HEREIN; PROVIDING THAT ZONING IN PROGRESS AND THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF THE TOWN'S ADOPTION OF LAND DEVELOPMENT REGULATIONS TO REGULATE PAIN MANAGEMENT CLINICS OR ONE YEAR, WHICHEVER FIRST OCCURS; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF PAIN MANGEMENT CLINIC; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR A EFFECTIVE DATE.**

The title was read by Attorney Foster.

Attorney Foster reported that there was a County wide initiative to adopt moratoriums on pain management clinics. It was explained that a pattern of illegal drug use and distribution had been associated with some pain management clinics in South Florida. It was his recommendation that Ordinance 387 be considered for first reading.

**A motion to adopt the first reading of Ordinance 387 was made by Councilman Beavers and seconded by Councilman Uptegraph.**

Discussion followed. Vice Mayor Foy expressed his concern that legitimate pain clinics were being penalized by the enactment of moratoriums. Discussion followed as to the duration of the moratorium, etc. It was explained that the Ordinance called for the moratorium to expire upon the adoption of an Ordinance regulating pain clinics, or one year, whatever first occurred.

**The vote was then called and passed unanimously 5-0.**

### **RED LIGHT CAMERA PROGRAM:**

Attorney Foster next reported on a recent court decision regarding the use of **red light cameras** in Adventura, FL. The decision had rendered the use of Red Light Cameras unlawful as there were no general laws authorizing them. Mr. Foster acknowledged Geoff Sluggett (representing ATS (American Traffic Solutions)) was present in the audience. Attorney Foster also reported that there were several pieces of legislation being introduced in Tallahassee dealing with the Red Light Camera issue. His concern for the Town's implementation would be when the Town started assessing and collecting fines and should the Adventura decision be upheld, the Town would then have to refund the fines collected. He further stated that the Town did not have any provisions in its contract with ATS that would require ATS to rebate its portion of fines and the Town could not afford to pay back that portion of the fine as well.

In his correspondence with ATS, Attorney Foster explained to ATS that in light of the recent Adventura court decision, he would be recommending that the Town discuss modifying its agreement with ATS. Further, he would be asking that at a minimum, the Town consider a warning period that would take the Town through the legislative period.

A discussion ensued as to the Adventura matter, e.g. whether or not the Adventura case would be relevant outside of Adventura and its persuasive authority, law enforcement review issues and when the law would take effect.

Geoff Sluggett, on behalf of ATS, spoke on the matters of legislation and confirmed that Adventura was appealing the decision. He indicated Adventura was continuing to collect fines and was moving forward with its Red Light Camera program. Mayor Woods stated that there was a 70% collection rate of the fines issued. Of that 70%, 30% of the fines issued remained uncollected. He asked if the Town would be obligated to pay the 70% rate to the state (per violation). Mr. Sluggett stated that it was his understanding that the uncollected fines would not be owed the state but that he would check into the matter further. A discussion ensued concerning the percentage rates, time taken to monitor the issued fine by the town's code enforcement officer and the cost of maintaining case files, etc.

It was agreed that Attorney Foster would oversee the amendment of the Red Light Camera ordinance to include a warning period; the warning period needed to extend beyond May 10, 2010, the end of the legislative session. Discussion continued to include the Town's contract with ATS as it related to legislative decisions and the

refunding of fines collected. Attorney Foster indicated that the process of renegotiation with ATS had already begun.

It was the general consensus of the Town Council to institute a warning period through May 31, 2010.

#### **Mayors Report**

Mayor Woods reported that the Town had received an offer from Clearwire in the amount of \$1,000 per month. Clearwire was requesting permission to co-locate on the **ball field cell tower**. The Mayor indicated that the Town would counter the offer by requesting a minimum rental of \$2,000 per month. Further, Staff was negotiating with Tower Co, successor to Nextel, to allow for co-location on the tower.

The Mayor spoke next about the **Conflict Resolution** meeting between the Town of Haverhill and Palm Beach County which had taken place on February 24, 2010 @ noon in the Town Hall. He reported that the meeting had gone as well as it could have under the circumstances and that the matter was now in the hands of County as they had agreed to provide the Town with requested information concerning **Belvedere Road**. The Town had prepared a presentation with Attorney Foster, Traffic Engineer John Kim, Mayor Woods and Vice Mayor Jay Foy representing the Town.

Discussion followed concerning the Town's intent to have the six-laning of Belvedere removed from the 2035 plan.

Mayor Woods thanked Vice Mayor Foy for his due diligence as it related to the Belvedere Road issue. Vice Mayor Foy expressed his appreciation to Attorney Foster and Traffic Engineer John Kim. Discussion then followed concerning the Town's Comprehensive Plan and the Haverhill Neighborhood Plan, e.g. it being one of the first in the county to be approved. The residential access onto Belvedere Road was also discussed.

Mayor Woods announced that the **League of Mayors** sponsored a luncheon on February 18, 2010 at the Atlantis with the topic of discussion being unfunded mandates. Those in attendance were determined to bring the matter up to Tallahassee.

#### **Administrative Reports**

NONE

#### **Committee Reports**

Vice Mayor Foy had spoken at a meeting of the EPA in which he addressed the **nutrient levels and ground water/surface water numbers**. He indicated that most attendees were in agreement that the numbers needed to be adjusted to a more realistic level.

Mayor Woods announced that the **Special Events Committee** had met to plan for the **Annual Picnic** event on Saturday, March 20, 2010 – 11AM to 4 PM at the Town Hall. The theme of the picnic was to celebrate the Town's 60<sup>th</sup> Anniversary.

Councilman Beavers reported that he attended the **Palm Beach County League of Cities** general membership meeting on Wednesday, February 24, 2010.

#### **UNFINISHED BUSINESS**

NONE

#### **NEW BUSINESS**

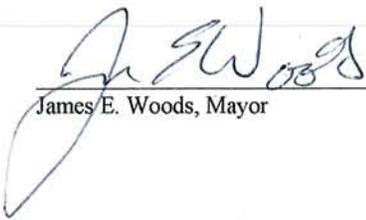
NONE

#### **ADJOURNMENT**

With no further business to come before the Town Council, the meeting adjourned at 7:51 p.m.

Approved: March 25, 2010  
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**  
**February 25, 2010**  
**Town Hall – 4585 Charlotte Street**  
**AMENDED 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 February 11, 2010 Regular meeting minutes
  - VI. PRESENTATIONS AND PROCLAMATIONS**
  - VII. COMMENTS FROM THE PUBLIC**
  - VIII. COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S DEPARTMENT**
  - IX. SECOND READINGS AND PUBLIC HEARINGS**
  - X. FIRST READINGS AND REGULAR AGENDA**
    - a. Review Town of Haverhill Maps
    - b. Resolution No. 2010-04: A Resolution of the Town Council of the Town of Haverhill confirming the intent of the Town Council and correcting the Scrivener's error in the Future Land Use Map adopted as part of the Comprehensive Plan.
- REPORTS**  
Town Attorney  
Mayor  
Consultants  
Administrator's Report  
Committee and Delegate Reports  
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