

Jay G. Foy, Mayor
Lawrence Gordon, Vice Mayor
Mark C. Uptegraph, Council Member
Remar M. Harvin, Council Member
Daniel H. Sohn, Council Member
John Fenn Foster, Town Attorney
Janice C. Rutan, Town Administrator



TOWN COUNCIL REGULAR MEETING
Town Hall Council Chambers
Thursday ~June 28, 2018
7:00 p.m.
AGENDA

- I. CALL TO ORDER**
- II. INVOCATION AND PLEDGE OF ALLEGIANCE**
- III. COMMENTS FROM THE PUBLIC**
- V. ROLL CALL**
- VI. APPROVAL OF AGENDA**
- VII. APPROVAL OF THE CONSENT AGENDA**
 - a. Approval of the minutes of the April 26, 2018, May 10 and May 24, 2018 regular meetings and the June 5, 2018 Workshop
- VIII. PROCLAMATIONS AND PRESENTATION**
 - a. Presentation of the Annual Financial Statement for the 9-30-2017 FY by Grau & Associates
- IX. COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S OFFICE**
- X. SECOND READINGS AND PUBLIC HEARINGS**
 - a. Consider request for variance from Section 58-170 (5) of the Ordinances of the Town of Haverhill to eliminate the required side yard setback to allow for the installation of a carport not attached to the main building as applied for by Patrick Aceti, property owner at 550 Tall Pines Road (tabled from May 24, 2018)
- XI. REGULAR AGENDA AND FIRST READINGS**
 - a. RESOLUTION 2018-03 A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, ADOPTING A PRELIMINARY NON-AD VALOREM SPECIAL ASSESSMENT FOR THE 2018/2019 FISCAL YEAR FOR RESIDENTIAL PROPERTIES LYING WITHIN THE MUNICIPAL BOUNDARIES OF THE TOWN OF HAVERHILL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, TO FUND SOLID WASTE COLLECTION AND DISPOSAL AND RELATED CHARGES WITHIN THE TOWN, COLLECTING SUCH PURSUANT TO THE UNIFORM METHOD FOR THE LEVY, COLLECTION AND ENFORCEMENT OF NON-AD VALOREM ASSESSMENTS, PROVIDING THAT SUCH ASSESSMENTS SHALL CONSTITUTE LEGAL, VALID, AND BINDING FIRST LIENS UPON PROPERTY AGAINST WHICH ASSESSMENTS ARE MADE UNTIL PAID; AND PROVIDING FOR AN EFFECTIVE DATE.
 - b. Consider Site Plan for the Haverhill Park
 - c. Update on Airport Overlay Ordinance
- XII. REPORTS**

Town Attorney
Mayor
Town Administrator
Committee/Delegate Report
Treasurer's Report (included in packet)

XIV. UNFINISHED BUSINESS

XV. NEW BUSINESS

XVI. 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, Town Administrator at the Haverhill Town Hall, 4585 Charlotte Street, Haverhill, Florida. Phone Number (561) 689-0370 Facsimile Number (561) 689-4317

TOWN COUNCIL REGULAR MEETING
Town Hall Council Chambers
Thursday ~ June 28, 2018
7:00 p.m.
OFFICIAL MINUTES

The regular monthly meeting of the Haverhill Town Council was held on Thursday, June 28, 2018 at the Town Hall, 4585 Charlotte Street, Haverhill, Florida. Those present were Jay G. Foy, Mayor; Lawrence Gordon, Vice Mayor; Mark C. Uptegraph, Council Member; Remar Harvin, Council Member and Daniel Sohn, Council Member. Also present were Lance Fuchs, Town Attorney and Janice C. Rutan, Town Administrator.

CALL TO ORDER

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

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Foy offered the Invocation and led in the Pledge of Allegiance.

ROLL CALL

The Town Administrator called the roll. All members were present with the exception of Council Member Remar Harvin who arrived at 7:10 p.m.

COMMENTS FROM THE PUBLIC

Davilyn Whims, 1156 Park Lane. Davilyn Whims reported to the Town Council that on the previous Saturday night, there were high powered gun shots fired in the area. The bullets had ricocheted off her house, which concerned her as her home is wood framed. She believed the shots occurred on Rosetta Lane. She noted that her property backs up to Rosetta Lane, and that there had been a street light on Rosetta Lane that had been out of order since Hurricane Irma. She asked for the Town's assistance in getting the light turned back on. She felt the light would deter the crime in the area.

Staff reported that the light had been installed by a private owner and that Rosetta Lane was not in the Town's limits. Ms. Whims offered to allow the light to be placed on her property but she would like it to shine on Rosetta Lane.

Discussion followed. It was agreed that Staff would look into the matter and report back to the property owner and to Council.

APPROVAL OF AGENDA

A motion was made by Vice Mayor Gordon, seconded by Council Member Harvin and unanimously passed (5-0) to approve the agenda as presented.

APPROVAL OF THE CONSENT AGENDA

Approval of the minutes of the April 26, 2018, May 10 and May 24, 2018 regular meetings and the June 5, 2018 Workshop

A motion was made by Council Member Uptegraph, seconded by Vice Mayor Gordon and unanimously passed to approve the Consent Agenda as presented.

PROCLAMATIONS AND PRESENTATION

Presentation of the Annual Financial Statement for the 9-30-2017 FY by Grau & Associates Raquel McIntosh, Partner with Grau and Associates presented the annual financial statements to the Town Council for the fiscal year ending September 30, 2017. She highlighted revenues,

liabilities and fund balances for Council review. She concluded her presentation noting that the audit was a clean audit with no current year findings or recommendations.

Council expressed their appreciation to Ms. McIntosh for her presentation and to the Town Administrator for her efforts in maintaining sound financials for the Town.

A motion was then made by Council member Uptegraph, seconded by Council Member Sohn to accept, receive and file that Annual Financial Statements for the fiscal year ending September 30, 2017.

COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S OFFICE

Deputy Shatora was present to report on the crime statistics for the previous 2 week period. His report included 2 vehicle burglaries, 3 thefts, 3 civil disputes, damage to property complaint, domestic disputes and 2 persons were baker acted. There had been 2 panic alarms, various business checks and traffic stops. He did report on the shooting that had taken place just off Belvedere, east of Drexel. The shots were fired at a suspect who was not hit, however, a parked vehicle was hit. The shots were fired just outside the Town's limits.

SECOND READINGS AND PUBLIC HEARINGS

Consider request for variance from Section 58-170 (5) of the Ordinances of the Town of Haverhill to eliminate the required side yard setback to allow for the installation of a carport not attached to the main building as applied for by Patrick Aceti, property owner at 550 Tall Pines Road (tabled from May 24, 2018)

Josh Nichols, Town Planner offered staff's report. He noted that the property, 550 Tall Pines, was located in the R-1 Zoning District. The applicant was requesting to install a carport and the variance request was to allow for a 4 inch side yard setback. Mr. Nichols explained there is an existing slab on the property that does not appear to have been permitted as per the Town's records. Therefore, the existing slab would be considered a pre-existing, non-conforming use and adding the carport to the slab would increase the non-conformity by increasing the height at a basically zero side yard setback.

It was also the responsibility of the applicant to provide the 6 criteria staff should consider when reviewing the request for variance. Staff did not want to set the precedent for other structures in the Town to be placed on property lines. Mr. Nichols noted that although the slab was existing, staff was not in support of increasing the non-conformity.

Mr. Nichols reviewed the 6 criteria that would need to be met in order for the variance to be granted. Staff's recommendation was to deny the variance as the applicant had not met the required 6 criteria.

Discussion followed. Mayor Foy reviewed the criteria with the Town Planner as it related to the matter before the Town Council.

Vice Mayor Gordon commented that the slab exists and there was no way to determine if it was legal, ever permitted, or when it was constructed. The Town Planner concurred that it was a legal, pre-existing, non-conforming use, adding that it was Staff's recommendation not to increase the non-conformity by adding the carport, again concurring that the slab already exists.

Council Member Uptegraph asked how far from the property line was the existing slab. The applicant responded that it was a 14' slab and a 14' carport. The applicant added that there was more than 4' from the property line. Mayor Foy cautioned all to speak through the Chair.

Town Planner Nichols confirmed the structure would be placed on the slab, also 4 inches from the property line. The required ten foot setback would be decreased to 4 inches. The overhang from the roof was unknown.

Attorney Fuchs noted for the record that legal was in agreement with staff's recommendation to deny the increase in the non conformity and the reduction in setback.

Town Planner Nichols confirmed for Vice Mayor Gordon that based on the facts presented, and the hardship given, staff was recommending denying the variance request.

Council Member Harvin commented that originally the Town Council had been requested to consider the request for variance. When the matter was tabled at the May 24th meeting, he was of the understanding that the applicant would be presenting an alternate plan. He asked the status of the alternate plan.

The Town Administrator responded that the applicant had used the time to look at alternatives, but obviously none were found and the original request was what was before the Council for consideration.

In response to Vice Mayor Gordon, the Town Planner responded that a temporary structure consisting of PVC pipes and awnings would not be permitted. It would be a code enforcement issue. The applicant could install the temporary structure without variance, permits, etc.

Vice Mayor Gordon questioned the logic behind allowing a temporary structure and not allowing a permanent structure that the applicant had agreed to remove should he sell the property. Council Member Uptegraph added the applicant had also agreed to close in the sides for aesthetics as well.

Council member Sohn asked if the Town had ever granted or denied a similar request in the past. Staff responded that not specifically with the same parameters.

Patrick Aceti, applicant, addressed the Town Council. He noted that the pad was on the property when he purchased it and there was no history of when or how the pad was installed. He noted he has very expensive equipment that must be protected from the elements. He noted there were other structures in his neighborhood that far exceeded his request. He explained it was a permanent structure that will increase the property value. It would be located on the side of the house behind a 6' fence. He explained that his septic system was located on the north side of the property, leaving the only available location for the carport on his property was the side of the house where the slab exists.

He asked for Town Council consideration in granting the variance noting the slab was already in existence. He noted the neighbor that would be directly affected had written a letter of no objection.

The Town Administrator confirmed that notification of the request for variance had been sent to all abutting neighbors within 300 feet and a legal ad had appeared in the Palm Beach Post.

Mr. Aceti again reiterated that the carport would be located on the side of the house, with an approximate height of 12'. He thought the height of his house was 15'.

Vice Mayor Gordon confirmed with Mr. Aceti that he would be willing to remove the structure when and if he sold the property. Mr. Aceti explained the mounting procedures of the carport and confirmed it would meet the required wind loads.

Mr. Aceti confirmed with Council member Uptegraph that he would be willing to close in the side of the structure to the side yard fence line if needed. Mr. Aceti was quite sure the overhang would meet the fence line, assuring Council Member Uptegraph that he would enclose the side if needed to hide the contents from the neighbor's view.

Mayor Foy opened the floor for Council discussion adding that if the variance were to be granted, it could be granted with conditions.

Council Member Harvin addressed the Town Council several times. He noted there is a reason for required side yard setbacks, including safety. He has seen similar structures but noted that that this was a minimal setback and referred to the photograph. He commented that it was not unusual to have no objection from the neighbor, and he stated that yes, approving this variance would set a precedent. He noted that his heart does go out to the applicant in his efforts to protect his equipment, but does not feel this is the only way. It would be his inclination to concur with Staff.

Council Member Sohn, asked Mr. Aceti when the house was built. He responded that he had owned the house since 1998. The slab was there when they purchased the property.

(The Town Administrator confirmed the house was built in 1966).

Vice Mayor Gordon next addressed the Town Council. He noted that the Council has strived to help its residents that have tried to better their property, adding that the Council has granted several variances, even to developers that want more, but before them was a resident trying to improve his property, and who was willing to meet all the conditions including removing the structure should he sell the property.

He referred to his own situation regarding installing a screen enclosure around his pool, adding that if he had not received his variance, half of his pool would be screened with the other half open to the elements.

He commented that he would be in favor of approval the variance, adding the caveat that if Mr. Aceti were to sell the property, he remove the structure, if that would sway one's vote to approve, although, he, personally, would not add that requirement. He personal feeling was to grant the variance so that the applicant can protect his property.

Council Member Uptegraph agreed with Vice Mayor Gordon adding that there were many people that move into the Town of Haverhill specifically because of the larger lots and the ability to have structures like the proposed carport being considered. He noted the slab was already in existence and the structure would only be 12' at its peak, adding that if the roof would meet the fence line, he would have no problem with granting the variance.

Mayor Foy commented that he was asking the questions he did of Josh regarding the 6 criteria in his effort to try to find a way to grant the variance. He was unable to do that. A variance requires the applicant to meet those 6 criteria, and they had not been met, therefore to grant the variance would go against the Town's codes and ordinances.

The drainage situation would be exasperated by the fact that the drainage would be coming down at the property line.

If Council were to approve this request for variance, Mayor Foy commented that the required ten foot setback should just be removed from the Code because Council's actions in approving the variance will have abused that requirement.

Mayor Foy agreed that yes, they had granted variances for screen enclosures because the Town allows pools, and they were not roofed structures that would result in run off. It would be his opinion that if the Council was to approve this request for variance it would set a precedent and it should then be taken back to code and ordinance to revisit the setback requirement. He added that this action would establish the basis for anybody in the Town to request a variance on any structure.

Vice Mayor Gordon commented that anytime a variance is granted, a code is destroyed for a very specific reason.

Mayor Foy commented that not one of the 6 criteria had been addressed.

In response to Mayor Foy, Vice Mayor Gordon commented that the applicant should be given the opportunity to use his property and disagreed with the Mayor's contention that none of the criteria had been met.

The discussion ensued and Vice Mayor Gordon commented that in this specific case the Ordinance should be set aside and the variance granted.

Both agreed to disagree.

Council Member Sohn asked once again if approving this variance would set the precedent, especially since the slab was in existence. He received Council concurrence for denial when he asked if the applicant had come to them requesting a variance to pour a new slab and place a structure on the new slab. With that being said, he felt that since a variance is looked at on a case by case basis, he could find no reason not to approve.

Council Member Uptegraph concurred, adding that his decision was based on the fact that the slab was in existence. He noted that he had not considered run off, however, the structure was only going to be 12'.

Council Member Sohn wanted it said for the record that if the variance was to be granted, it be done so with conditions. Specifically the agreement of the applicant to remove the structure.

In response to Mayor Foy, Attorney Fuchs opined that placing restrictions on the variance could place the Town in double jeopardy. Candidly, he noted that if the Council were inclined to grant the variance it be done without conditions, as to do so would put the applicant in a very difficult position when he went to sell the property.

Vice Mayor Gordon reminded all that he had stated earlier he was only in favor of the conditions if it would mean approval or denial of the variance. The point was that Mr. Aceti had been willing to agree to all the conditions.

The Town Administrator reported that when Mr. Aceti had first come to the Town, she had mentioned the run off to him and he had agreed to install gutters to divert the runoff from the side yard to his rear yard.

She also reported that at the time of application, Mr. Aceti agreed to place a lien (notice) on the property to be recorded so that at the time of sale, a title search would reveal the lien.

Attorney Fuchs clarified that it would be a notice to be recorded. He then opined that if the variance was to be granted, it should be granted. Removing the structure would still result in a non-conforming use as the slab would still remain.

Vice Mayor Gordon commented that the variance should be allowed, the run off should be addressed and there should be no conditions placed on the variance.

Council Member Harvin commented that if the property was marketed with the carport, the buyer would expect the carport to be part of the sale.

Discussion ensued concerning the conditions.

Council Member Daniel Sohn confirmed that if the condition were placed on the variance for removal, and the property sold, the carport removed, and the new owner wanted to reinstall the carport, the Town would have to hear a new request for variance.

Mayor Foy commented that even a variance has to meet certain conditions and if a variance is granted without having met those conditions, in effect the Town's own laws have been broken. As Council, the Council should then go back and change the law.

Council Member Uptegraph agreed, adding there were many ordinances that cannot be enforced for many reasons. Therefore the code enforcement area of the codes need to be reviewed so that the laws can be enforced.

Mayor Foy noted that for the good of the public, the Town does not typically search out to enforce legal non-conformities within the town, however, if something was in violation, it should be enforced by code enforcement. He asked for clarification from Council Member Uptegraph.

Again it was reiterated that the Town does not go out to actively search for all non compliant use.

The Town would have to agree to enforce certain things town wide.

Vice Mayor Gordon noted that sometimes the codes and ordinances on the books were not always good ones, and that is why the people elected the Council, so when an incident like this occurs, it alerts the Council to reconsider the ordinance whether by change or variance. He added that if Mr. Aceti had come to the Council and was asking to pour the slab, he would not agree to it. But because the slab exists, it's as close to the property line as it is ever going to get.

Vice Mayor Gordon continued, adding that is was beyond him that the applicant would be allowed to stick 4 poles in a bucket of cement and place a canvass top on them and it would be allowed.

Mayor Foy asked for the question to be called.

Vice Mayor Gordon moved that the variance as requested by Mr. Aceti be granted. The motion was seconded by Council Member Sohn. Vice Mayor Gordon clarified his motion to include the placement of the gutters to divert the water from the side yard to the rear yard and enclose the side of the carport to the side yard fence line if needed. Council Member Sohn agreed to the clarification.

Town Planner Nichols confirmed with the applicant that the enclosure of the side to the fence line would not affect the parking of his boat or truck.

The motion was clarified by the maker and the second.

Attorney Fuchs, for the record, asked the applicant, Mr. Aceti, if he agreed to the motion and conditions of the motion. Mr. Aceti agreed to the motion and conditions on the record.

Mayor Foy asked those that made the motion if they felt this particular case was different enough that it would not have to be brought back to code and ordinance for review of the required side yard setbacks.

Vice Mayor Gordon and Council Member Sohn confirmed that this particular case was different enough that code and ordinances would not need to be changed as this was a site specific variance.

Attorney Fuchs added that the argument for the record would be that there was an existing slab up to the property line.

Town Administrator Rutan also noted for the record that Mr. Aceti, as part of his application, had addressed the required 6 criteria. They may not have been sufficient enough, however, they were addressed.

Mayor Foy then restated his comment that he did not think his responses met the 6 criteria and not that he did not address the required 6 criteria.

Council Member Sohn once again stated that something similar to this had not come before Council.

The vote was then called and passed 3-2 with Mayor Foy and Council Member Harvin voting against the motion.

REGULAR AGENDA AND FIRST READINGS

RESOLUTION 2018-03 A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, ADOPTING A PRELIMINARY NON-AD VALOREM SPECIAL ASSESSMENT FOR THE 2018/2019 FISCAL YEAR BOUNDARIES OF THE TOWN OF HAVERHILL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, TO FUND SOLID WASTE COLLECTION AND DISPOSAL AND RELATED CHARGES WITHIN THE TOWN, COLLECTING SUCH PURSUANT TO THE UNIFORM METHOD FOR THE LEVY, COLLECTION AND ENFORCEMENT OF NON-AD VALOREM ASSESSMENTS, PROVIDING THAT SUCH ASSESSMENTS SHALL CONSTITUTE LEGAL, VALID, AND BINDING FIRST LIENS UPON PROPERTY AGAINST WHICH ASSESSMENTS ARE MADE UNTIL PAID; AND PROVIDING FOR AN EFFECTIVE DATE.

The title was read by Attorney Fuchs. **A motion was then made by Council Member Harvin seconded by Vice Mayor Gordon and unanimously passed to approve Resolution 2018-03.**

Consider Site Plan for the Haverhill Park

Palm Beach County had submitted a permit application for the construction of Basketball Courts at the Haverhill Park. Although plans had been submitted, they were not accompanied by a site plan. During this process it was realized that throughout the history of project at the park permits were issued but never part of a site plan approval process.

The Town Administrator had distributed a current site plan provided to her by the facilities department, however, it did not show setbacks, etc.

By general consensus, Council would like to amend the Code of Ordinances to clarify what uses are allowed in recreational zones within the Town and to require site plan submittal as part of the permitting process for recreational areas.

Update on Airport Overlay Ordinance

A brief discussion ensued regarding the proposed Airport Overlay Zone. It was reported that the matter was on schedule and would be before the Town Council for first reading on July 12, 2018.

REPORTS

Town Attorney

Attorney Fuchs congratulated the Town Administrator on the Audit Report. He then expressed apologies on behalf of Attorney Foster for missing the meeting, however, Attorney Foster's youngest son had graduated from Air Force boot camp and Attorney Foster had attended the ceremony. All expressed congratulations.

Mayor

Mayor Foy reported on the Palm Beach County League of Cities District 2 & 3 luncheon. The monthly luncheon had traditionally been held at the Atlantis Country Club but the price was being raised to \$25.00. The next meeting would be held at the Lake Worth Municipal Golf Club where members can order directly from the menu and no item was more expensive than \$20.00.

Council Member Harvin had suggested the meeting be moved to El Sabor, a restaurant just south of Forest Hill Boulevard that has a private room for their use and was a more convenient location for all.

A discussion of the League's committees and sub-committees ensued.

Town Administrator

Town Administrator Rutan expressed her appreciation to Grau and Associates for their accommodation of having to reschedule the audit several times.

Committee/Delegate Report

Vice Mayor Gordon reported on his first meeting as a Board Member of the Palm Beach County League of Cities. Topics of discussion included Palm Tran; introduction of the Palm Beach County School Superintendent, Donald Fennoy; Comments by Jeri Muoio, Mayor of the City of West Palm Beach; the School District's request for an additional ½ cent sales tax to cover costs of school security; 50 year anniversary of Home Rule and the passage of a Resolution supporting Home Rule.

Council Member Sohn reported that Richard Ratcliff had reached out to him regarding serving on Florida League of Cities Committees. He hoped to attend the Annual Conference and sign up for committees at that time. He reported that he had undergone emergency hernia surgery but was feeling better.

Council Member Sohn invited all to join him on a tour of the Brightline system.

Treasurer's Report

Included in packet.

UNFINISHED BUSINESS

None.

NEW BUSINESS

Mayor Foy reported that the DOT would be moving forward with the construction of 60th Street to Northlake Boulevard allowing for one more point of entry into the acreage.

There was a brief discussion concerning the North County Northern Improvement District.

Town Administrator Rutan received Council permission to close the Town Hall at 2:00 p.m. on July 3, 2018 for the 4th of July holiday.


She noted that the budget process would begin within the next few weeks.

In response to Council Member Uptegraph, the Town Administrator was asked to gather cost information to include Council Members in the Town's healthcare plan.

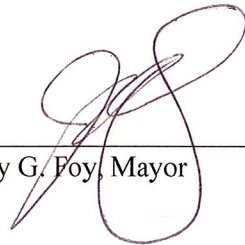
ADJOURNMENT

With no further business to come before the Town Council the meeting adjourned at 8:57 p.m.

Approved: July 12, 2018



Janice C. Rutan, Town Administrator



Jay G. Foy, Mayor

