

**MINUTES OF THE HOWEY-IN-THE-HILLS TOWN COUNCIL MEETING
HELD NOVEMBER 14, 2016**

Mayor Sears called the Town Council Meeting of November 14, 2016 to order at 5:30 p.m.

Cub Scout and Boy Scout Troop No. 254 led the Pledge of Allegiance to the Flag.

Public Services Supervisor Ernest led the Invocation.

Present: Mayor Sears, Mayor Pro-Tem David Nebel, Councilor Conroy, Councilor Mabry And Councilor Kearney.

Also Present: Town Attorney Blom-Ramos, Town Planner Harwoski, Police Chief Thomas, Public Services Supervisor Ernest and Town Clerk Brasher.

CONSENT AGENDA

Minutes of the October 10, 2016 Town Council Meeting, September 26, 2016 Town Council Meeting, August 22, 2016 Town Council Meeting, August 8, 2016 Town Council Meeting and July 25, 2016 Town Council Meeting

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

NEW BUSINESS

Discussion and Action Regarding Venezia Development Agreement Request

Mayor Sears gave detailed background on the line upsize and money to be reimbursed to Flagship Development LLC.

Town Planner Harowski discussed the Staff Report provided and detailed information. He discussed the following items:

- Stormwater retention ponds
- Landscape buffer along E. Revels Road
- The responsibility of the landscape buffer installation should the developer does not install the landscape buffer and options.

Councilor Kearney discussed the importance of the landscape buffer on E. Revels Road. **Mayor Pro-Tem Nebel** said the homeowners and the HOA cannot be held legally responsible for the installation of the landscape buffer in question. **Mayor Sears** said the developer has followed the Developer Agreement and gave detailed background.

Town Attorney Blom-Ramos discussed the value of the landscape along E. Revels Road and the possibility of holding a portion of the money to ensure the landscape buffer is installed.

Ron Roberts, representing the developer, gave detailed background on this item. He said the Developer Agreement is clear as to when the landscape buffer will be installed but in a perfect world, it does not make sense to install the landscape buffer at this time due to the cost of the monthly maintenance since the Revels Road portion of the subdivision will be built

on last. He said he has done everything that has been required to do and is asking for some payment of the water line upsize and to allow the landscape buffer to be installed when the homes are being built in that area of the subdivision. A lengthy discussion ensued.

Mayor Sears said the development is helping the Impact Fees as well as new customers on the water system. He thinks the landscape should be installed before the lots are built on. He suggested paying for the 21 permits and make quarterly payments according the Impact Fee collection.

Town Attorney Blom-Ramos said the Town is holding the money as a Cash Bond and gave detailed background. **Councilor Mabry** and **Councilor Kearney** said an agreement needs to be reached with the developer. A lengthy discussion ensued.

Councilor Kearney, seconded by **Councilor Mabry**, moved to approve releasing Water Impact Fee repayment to Flagship Development without requiring the landscape buffer along E. Revels Road to be completed. Motion carried 4-1 with Mayor Pro-Tem Nebel voting no.

Appointments of Director and Alternate Director to the Lake County League of Cities

Councilor Mabry, seconded by **Councilor Kearney**, moved to appoint to Councilor Conroy as the Director and Mayor Pro-Tem David Nebel as the Alternate Director of Lake County League of Cities. Motion carried 5-0 with a roll call vote.

Discussion: Temporary Moratorium within the Unincorporated Areas of Lake County Prohibiting Medical Cannabis Activities During the Moratorium Period
Councilor Conroy gave background on this item as it was discussed at the Lake County League of Cities Meeting and gave detailed background. Discussion ensued.

Town Attorney Blom-Ramos said the State Legislature rules and regulations will overrule what the municipalities put in place. Discussion ensued regarding making zoning changes to the Land Development Code, which will come back for approval.

Discussion: Appointment of Liaison to the Library/Library Board, Police Department, Town Hall and Parks & Recreation Advisory Board, Cemetery Board and Historic Board

Mayor Sears gave background on this item and said it will be continued to the December 12, 2016 Town Council Meeting.

Discussion: Appointments to Lake-Sumter MPO Citizens Advisory Committee, Bicycle & Pedestrian Advisory Committee and Technical Advisory Committee

Mayor Sears gave background on the various board and said this item will be continued to the December 12th Town Council Meeting. **Mayor Sears** said he would reach out to BESH to see if they are serving.

Mayor Pro-Tem Nebel read the Town Charter into the record stating the Mayor and Mayor Pro-Tem are to be appointed at the first regular meeting following the general election

Ed Smith said the motion should be tabled until the first meeting in December. **Mayor Pro-Tem David Nebel** and **Councilor Conroy** said the Town must follow the Town Charter.

Mayor Pro-Tem Nebel, seconded by **Councilor Conroy**, moved to appoint Chris Sears as Mayor. Motion carried 5-0 with a roll call vote.

Councilor Kearney, seconded by **Councilor Conroy**, moved to appoint David Nebel as the Mayor Pro-Tem for a two year term. Motion carried 5-0 with a roll call vote.

Ed Smith said he is interested in serving on the MPO Bicycle & Pedestrian Advisory Committee.

Discussion: Current Staffing in Town Hall

Councilor Conroy provided the Town Council with information he had emailed to Mayor Sears and Town Clerk Brasher.

Councilor Kearney voiced his anger towards the items on the agenda about Town Hall, stating that they were a direct attack on Town Clerk Brasher. **Councilor Conroy** voiced his concern with Town Clerk Brasher's attitude, team work, and management style. He made a motion to relieve Town Clerk Brasher of her duties.

Councilor Kearney said that he has never had a complaint about Town Clerk Brasher. **Mayor Pro-Tem David Nebel** and **Councilor Mabry** agreed.

Mayor Pro-Tem David Nebel said he was out campaigning this election, he never heard any such thing. He went on to say that in Town Clerk Brasher's position, she has to tell people no and people do not like to be told no.

Councilor Kearney said to Councilor Conroy that maybe it's you who can't get along with Town Clerk Brasher.

Councilor Mabry asked if any other Council Members had heard any complaints from the Department Heads. **Councilor Kearney** and **Mayor Pro-Tem David Nebel** said they had not had any complaints. **Councilor Mabry** asked Councilor Conroy if he was seeking these people out and asked for these people to be identified. He asked why they were not here tonight.

Mayor Sears said he will go through the notes from Councilor Conroy and sit down and discuss the items with Town Clerk Brasher. **Councilor Mabry** asked if the situation could have been handled differently and not brought out publicly at a Town Council Meeting for a public bashing. **Mayor Sears** said that the items on the agenda are his doing because he has a policy that if a Council Member has something they would like to discuss, they can do so.

Councilor Conroy asked if every person that has left Town Hall has had an exit interview and added that he hopes that is happening. **Mayor Sears** said that he will take the emails and concerns under advisement and will give the Council Members a report. **Councilor Mabry** asked if Councilor Conroy tried to talk to Town Clerk Brasher. **Councilor Conroy** said that she does not report to him.

Councilor Kearney asked Councilor Conroy where the people where who have all the complaints about Town Clerk Brasher.

Councilor Conroy said that The Town does not use its Town's resident's expertise, he referenced the Town's Website. **Mayor Sears** said that one of his goals for this year is to revamp the Town Website.

Councilor Conroy asked if there was still a Water Clerk position. **Town Clerk Brasher** replied that the position had been changed to Administrative Assistant I in the new budget, which was approved the Budget Work Session. **Councilor Conroy** asked who paid for the position. **Public Services Supervisor Ernest** said he does. **Mayor Pro Tem David Nebel** replied that half of the budget is charged to Public Services and the other half to Town Hall.
*Note: Administrative Assistant I is 70% Finance/Administration Budget and 30% Utility Budget.

Councilor Conroy asked why Town Clerk Brasher and Public Services Supervisor Ernest aren't interviewing applicants together. **Town Clerk Brasher** said that the last two ladies to work in Town Hall were making too many errors and other things. **Councilor Conroy** asked who hired them. **Town Clerk Brasher** replied that someone cannot tell how an individual will work out just from their application and an interview. She also said that she does not have the same luxury as Public Services to hire from Labor Ready and if they don't like the employee, that employee doesn't come back. She further said the Police Department hires from their Reserve Officer pool and the Reserve Officers have typically worked for the Police Department for a year.

Councilor Mabry provided an example of an employee with a good references, good interview and employee did not work out. He said you never know if an employee is going to work out. **Councilor Conroy** added that he trusts in The Mayor and hopefully with shedding light on the situation.

Discussion: Town Website Update – Mayor Sears gave background on this item. He said a government website is different than a private company website and when it is updated, it will be done by a professional. He further said Town Clerk Brasher has obtained rates from the current website provider for updates.

Discussion: Department Director Communication – No comments

Discussion: Community Involvement – No comments

OLD BUSINESS

Discussion: Revised Tree Ordinance

Town Planner Harwoski gave detailed background on this item. He discussed the following:
Goals for Tree Regulation

- Protect existing trees within the community for their environmental benefit and their contribution to the overall character of Howey-in-the-Hills.
- Maintain and expand the tree canopy. The wooded nature of the community is valued and the regulations on tree protection are structured to maintain and expand the tree canopy as the community develops. This goal is a large part of the reason the regulations ask for a minimum number of trees on a residential lot and why the placement of some of these trees is intended to create a street tree canopy such as the ones existing on Palm Avenue and Central Avenue.
- Have new development that is attractive and contributes to Town character. This goal leads to regulations on tree preservation as part of site development and minimum standards for landscaping (including trees) of new subdivisions and new non-residential development.

Tree Removal on Existing, Developed Lots

- The ordinance requires an inspection be completed before any tree removal takes place. The inspection will determine if the tree may be removed based on the criteria. The inspection will also determine if a permit is required for removal. Conducting the inspection prior to any tree removal allows the Town to determine type of tree involved; size of the tree; and whether the tree meets the criteria for removal. Where the tree has been removed prior to an inspection it is very difficult to determine the type and size of the tree and to verify if the tree qualified for removal. The inspection will also determine if replacement/mitigation is required.
- If the tree is removed without a permit, the property owner may be required to replace up to three trees depending on the size of the tree removed. The only time when replacements are calculated on a diameter inch is when the largest trees (historic or specimen trees) are removed without a permit.
- When mitigation is required, the property owner is required to plant trees when the lot falls below the minimum number of trees required by code. For trees required above the minimum number of trees, the property owner has the option of planting trees or paying into the tree replacement fund. The goal is to maintain and expand tree canopy throughout the Town, it should be less expensive to install a tree than to pay into the fund.
- Just because a lot meets or exceeds the minimum number of required trees does not mean that other trees may be removed. Trees may be removed only when they meet one or more of the conditions listed in Section 7.12.01 B. If the tree does not fit into one of these classifications, the tree removal permit should be denied. An inspection may approve tree removal and not require a permit. For example, a citrus tree, a pine tree or a palm tree may be approved for removal, but a permit is not required. A tree not on the approved tree listing may also be removed without a permit following inspection. For large trees including historic and specimen trees, approval to remove the tree on a developed lot is only given if the tree is impacting a structure or is diseased and dying. In these cases, mitigation is not required unless the lot falls below the minimum number of trees, and in that case, only the standard size replacement tree is mandated.

SECTION 7.12.01 B

When determining whether to permit the tree removal, the following issues will be evaluated:

1. Whether the tree has a potentially hazardous branching structure such as a hollow trunk, low fork in the trunk, or other.
2. Whether the tree is injured or diseased beyond repair.
3. Whether there are no viable alternatives to locating structures or driveways on the site.
4. Whether the tree is impacting the foundation of a house or other building or structure.
5. Whether the tree poses a threat to traffic visibility.
6. Whether the tree is negatively impacting a more desirable tree.
7. Any other issue deemed important by the Town.
8. Trees that are deemed hazardous or otherwise unsafe shall be allowed to be removed without mitigation. In circumstances where the condition supporting the removal of a tree is not obvious or easily documented by the Town inspector, a letter from a certified arborist may be required to permit removal. In emergency situations, a hazardous tree may be removed as long as proper documentation in the form of photographs and/or a written opinion from Town staff, accompanies the permit application.

Tree Removal on Undeveloped Lots

Trees may not be removed from undeveloped lots except in compliance with an approved site plan or subdivision plan. For subdivisions and non-residential properties, the subdivision and site plan review process will include a tree survey and a full analysis will be done as part of the tree protection plan and landscaping plan for the project. For an infill residential lot, the same process is used, but on a less formal basis. The applicant for construction on an infill lot will be required to submit a survey including tree locations. The survey and the landscaping plan for the new house will be reviewed for code compliance for both the tree requirements and the landscape requirements. Tree removal associated with the proposed

construction will be approved with the building permit. The applicant is already required to submit a survey with boundaries and elevations so that items such as building setbacks and flood plain requirements can be reviewed, and the addition of trees to the survey is a relatively minor cost component.

Field Operations

As we have been considering the implementation of the tree protection ordinance, the staff has identified some procedures that we think will be useful in administering the program. We think the inspection should have a multi-part form that can be completed in the field recording the results of the inspection and the actions required of the property owner. The form would include:

- The date when the inspection request is received,
- The date when the inspection is performed
- The signature of the inspector
- The address of the property,
- Information on the tree or trees requested for removal,
- A checklist based on Section 7.12.01 B noting the basis for approval
- Permit requirements when applicable
- Mitigation requirements when applicable

Staff has already recommended deleting the requirement for a survey for developed property showing trees and allowing the substitution of a sketch. We also recommend the property owner mark the tree proposed for removal. This approach will allow the inspector to easily complete the form in the field; give the applicant the results of the inspection and actions required on his part; and provide a record that can be kept in Town Hall for documentation when the applicant formally applies for the permit.

Court of Last Resort

The proposed code revisions allow a property owner to appeal a decision of the staff to the Town Council for a final ruling. The appeal may be for denial of a permit when the property owner believes a case exists to support removal when the code criteria are applied. The appeal may also ask for relief from a required mitigation if the property owner disagrees with the staff's application of the mitigation criteria to his particular situation. Under the appeals process, the Town Council may not grant approval to remove a tree when the removal is not justified under Section 7.12.01 B, but the Council may reconsider the evidence presented regarding the tree condition and impact to the property. The Town Council also may not approve fewer trees on a lot than required by code without the application of the formal variance process documenting a unique hardship particular to the specific property.

Mayor Sears said the Town needs to do a better job of communicating and a Q&A will be available. **Town Clerk Brasher** suggested mailing something with the water bill such as the Q&A. **Public Services Supervisor** said he wants some specifics added to the Permit Application.

Councilor Mabry thanked Town Planner Harowski, Mayor Pro-Tem Nebel and Public Services Supervisor Ernest for their hard work on this item and he has clarity on the ordinance now.

Consideration of Public Services Request for Security at Main Plant

Public Services Supervisor Ernest gave detailed background on this item and asked for approval of the quotes for the necessary security fencing.

Mayor Pro-Tem David Nebel, seconded by Councilor Kearney, moved to approve the request for fencing for security at the main water plant. Motion carried 5-0 with a roll call vote.

Public Services Supervisor asked for a motion to approve the expenditure presented to purchase a new pump at the well.

Mayor Pro-Tem David Nebel, seconded by Councilor Conroy, moved to approve the pump purchase as presented. Motion carried 5-0 with a roll call vote.

MAYOR AND COUNCIL COMMENTS

Mayor Sears – None

Mayor Pro-Tem David Nebel said before the website is handed over to someone who is not paid, the Town needs to be aware of the hackers and gave detailed background on why and how hackers could use the Town website as a dummy site. **Mayor Sears** said will be turned over to professionals and he will take input and suggestions.

Councilor Conroy – None

Councilor Mabry – None

Councilor Kearney mentioned the Council Talk and suggested it be brought back to life.

PUBLIC COMMENTS

Sal Gallelli said he would like more information on the Tree Ordinance and suggested investing into a tree corer. He said he noticed some distension tonight and asked if there is a petition process to have a Town Councilor removed. **Town Attorney Blom-Ramos** gave background.

Marie Gallelli suggested asking residents if they would like postings on Facebook instead of an email.

John Scott voiced his concerns with the medical cannabis dispensaries and paraphernalia shops.

Ed Smith voiced his concern with Councilor Kearney actions.

The meeting adjourned at 7:54 p.m.

Chris Sears, Mayor

ATTEST:

Brenda Brasher, MMC
Town Clerk