

MINUTES OF HOWEY-IN-THE-HILLS TOWN COUNCIL MEETING February 9, 2009

Mayor Sears called the regular Town Council Meeting of February 9, 2009 to order at 6:00 p.m.

Cub Scout Trip No. 254 led the Pledge of Allegiance to the Flag.

Councilor Nebel led the Invocation.

Present: Mayor Sears, Mayor Pro-Tem Johnson, Councilor Ernest, Councilor Nebel, Councilor Green, Town Attorney Blom-Ramos and Town Clerk Brasher. **Also present:** Police Chief Robbins and Deputy Public Works Director Smith.

CONSENT AGENDA

Minutes of Regular Town Council Meeting of January 12, 2009 and January 26, 2009 and Work Session held January 26, 2009

Mayor Pro-Tem Johnson, seconded by **Councilor Green**, moved to approve the Consent Agenda as presented. Motion carried 5-0 with a roll call vote.

NEW BUSINESS

Consideration and Approval of Time Extension for Final Construction Plan Submittal for Mission Rise

Richard Langley asked for an extension but he said some decisions need to be made before he can submit the final plans for Mission Rise. He further said he understood once a Developer Agreement was approved, the developer develops with the guidelines that were in place at the time of the Developer Agreement.

Town Attorney Blom-Ramos said the ordinance in place at the time is what the developers will develop from. **Town Planner Shira** said the Developer Agreement also directs what is approved. **Ms. Shira** further stated the Landscape Ordinance has some problems and as long as the developer implements "intent" then it should be approved. **Mayor Sears** asked for this item to be discussed this week. Mr. Langley said he is meeting at DRC on Thursday and said it could be discussed then. Mayor Sears was in favor of that discussion at DRC.

Councilor Green, seconded by **Councilor Nebel**, moved to approve a one-year extension for Final Construction Plans for Mission Rise. Motion carried 5-0 with a roll call vote.

Discussion on Land Use Change Requests on Gerling Property Located at 201 N Palm Ave
Town Planner Shira gave detailed background and said Mr. Gerling would like to rezone this property to commercial office. **Ms. Shira** further stated the P&Z Board would like to see more visioning before they make a recommendation to the Town Council. **Councilor Nebel** said the Town Council has previously discussed implementing some commercial uses along SR 19.

Councilor Green further explained the process and gave examples. **Mayor Sears** said he felt this could be a benefit to the Town if it were carefully crafted. **Councilor Ernest** discussed a walkable community. **Mayor Pro-Tem Sears** said the downtown area is not inviting and changes would make those changes happen.

Jeff Gerling said he thought of using his property for his office. **Councilor Nebel** asked what number of vehicles would be coming and going to this property. **Mr. Gerling** said a maximum of three. He further stated his property has side access; he will be making more changes to the facade of the property. He further stated there are numerous for rent or for sale properties along SR 19 and if this does not change, the Town will see an influx of Section 8 properties.

Discussion on Annexation and Future Land Use for Frank Buois Property

Town Planner Shira said Mr. Buois asked for mixed use on his property, which is currently zoned SF-2, should he decide to annex into the Town.

Councilor Nebel asked the definition for mixed-use. **Town Planner Shira** said mixed residential and mixed commercial. **Mayor Pro-Tem Johnson** said he is not in favor of a strip mall and too much commercial. **Mayor Sears** said he feels the market should control the development. **Councilor Green** said he would like to see what types of mixed uses would be so there would be no surprises later.

Consideration and Approval for Professional Services Proposal for Preparation of a 5-Year Capital Improvements Program and Capital Improvements Element Update in the Amount of \$4,065

Town Planner Shira gave detailed background on the agenda item and said this is another unfunded mandate. She further stated until this is complete, DCA will reject all applications.

Councilor Green, seconded by Councilor Nebel, moved to approve the Professional Services Proposal for Preparation of a 5-Year Capital Improvements Program and Capital Improvements Element Update in the Amount of \$4,065. Motion carried 5-0 with a roll call vote.

Discussion of Growth Management Spreadsheets

Town Planner Shira gave detailed background on the spreadsheets. She further stated the only change would be the P&Z wants to see the Landscape/Hardscape.

Mayor Sears asked that the agenda be amended.

Mayor Pro-Tem Johnson, seconded by Councilor Nebel, moved to amend the Town Council agenda. Motion carried unanimously.

Town Engineer Shira said there was a walk-through inspection at Venezia and it was a good inspection and everything looked good. He further stated they are trying to close out their plat with regards to a maintenance bond. He quoted the Code of Ordinances to the Town Council and said there is no amount listed and it says for one year. **Mr. Shira** gave some examples and asked for direction as to how to proceed.

It was the consensus of the Town Council for Town Engineer Shira to bring back a recommendation.

Town Engineer Shira gave an update on the Baffle Box project.

Agenda Item No. 12 was moved as the next item on the agenda.

Update on Meeting with Developers

Town Engineer Shira gave background on the meeting with Flagship Development.

Consideration and Acceptance of B&H Consultants, Inc. Rate Sheet for calendar

Year 2009, Effective March 15, 2009

Town Planner Shira was present to answer questions. **Mayor Sears** said the Principal Planner and the Principal Engineer fees went up \$5 per hour.

Mayor Pro-Tem Johnson, seconded by **Councilor Ernest**, moved to approve the B&H Consultants, Inc. Rate Sheet Effective March 15, 2009 for one-year. Motion carried 5-0 with a roll call vote.

Consideration and Acceptance of Professional Services Proposal for Land Development Regulations Re-Write

Town Planner Shira was present to answer questions. **Mayor Sears** gave background on this agenda item. Discussion ensued.

Councilor Nebel, seconded by **Councilor Ernest**, moved to Professional Services Proposal for Land Development Regulations Re-Write with .48 cents per mile. Motion carried 5-0 with a roll call vote.

Discussion: Use of CDBG Funds

Town Planner Shira gave background on this item and asked for direction from the Town Council. **Town Engineer Shira** said this money could be used towards the utility project or the baffle-box project. **Councilor Green** asked for a list of projects. **Town Planner Shira** said she feels the water project is the Town's priority. Discussion ensued.

Councilor Green, seconded by **Councilor Nebel**, moved to approve use of CDBG Funds for the water improvements. Motion carried 5-0 with a roll call vote.

PUBLIC HEARINGS

Proposed Amended Preliminary Subdivision Plans for Whispering Hills

Town Planner Shira gave detailed background on this item and asked for direction. She further stated the Planning & Zoning Commission recommended denial.

Comments:

1. The developer originally deleted the parkland at the lake entirely. The park (Tract F) is now shown as .83 acres. The approved Preliminary Plan includes a 1.5-acre waterfront park. The Town needs to decide if this change is acceptable.

Mayor Pro-Tem Johnson asked how the parkland got reduced. **Town Planner Shira** said she is confused with regards to the developer and the lessee of the property being one and the same. Discussion ensued regarding the ownership of the property. **Mayor Pro-Tem Johnson** said he is not interested in dealing with residents of the subdivision and the access to the "property". **Councilor Green** said the land was annexed in with this project. **Town Attorney Blom-Ramos** said all property owners would need to sign a document that they know access will need to be granted to the lessee property.

Clay Frankel said the owner and the developer are not the same. He further stated he was able to satisfy the Code so he removed the parkland. He said the parkland is on a 30-year lease with the exception of the third party lease. **Mayor Pro-Tem Johnson** asked for clarification with regards to the access to the third party. **Mr. Frankel** said he cannot provide more land than he has. **Town Planner Shira** said the owners address is the same as the

developers address. **Mr. Frankel** said the landowners' office is in the same building as his office.

Town Engineer Shira said the developer has an approved plan and is now saying to adopt the current submitted plan and the Town is telling the developer to fix the problem with the approved plans. **Town Attorney Blom-Ramos** said the land was included in the Developer Agreement.

Councilor Green asked for clarification concerning the lease. **Councilor Nebel** said this is the same discussion since 2005. **Councilor Green** asked the boat ramp process would proceed should the lesser want to implement a boat ramp. **Councilor Nebel** read P&Z minutes from 2005. **Mayor Pro-Tem Johnson** asked that this item be tabled until next month.

Clay Frankel said the leased land does not impede on this project. **Councilor Green** clarified the issues with the leased land. **Town Attorney Ramos** said the leased property was included in the Developers Agreement which said the developer would need to make all of the homeowners aware of the leased portion would have access to the property. **Town Planner Shira** said the leased property was presented as something else and now that has changed.

Town Attorney Blom-Ramos read segments of the Developer Agreement.

2. The approved plans show a 6-foot wide boardwalk around the large retention pond. The revised plans include a 5-foot wide gravel trail. The Town needs to decide if this change is acceptable.

It was the consensus of the Town Council to approve the gravel trail.

3. The developer originally agreed to save at least 70 trees (approved Preliminary Plans). With the amended project area, the developer is now agreeing to save at least 60 trees. The developer has indicated his intention to save as many trees as possible; the Town will need to decide whether this proposal is acceptable.

Clay Frankel said 10 of the trees are on the leased property. **Mayor Pro-Tem Johnson** asked if the owner is the developer or is Mr. Frankel the developer. **Mr. Frankel** said he is one and the same. **Councilor Nebel** quoted tree discussion from previous minutes.

It was the consensus of the Town Council for the developer to save at least 70 trees.

Remaining Issues:

1. The developer revised the plans in response to staff comments regarding the landscaped buffer along Buckhill Road. The plans are showing a total of 10 feet on the Buckhill Road side of the wall. With 6 feet of that being for a sidewalk area, they are only showing 4 feet for the area between the sidewalk and wall for trees and associated landscaping. I recommend a total of 15 feet, which would give an extra 5 feet (9 feet total) for the landscaped area between the wall and sidewalk. This would allow plenty of room for trees to grow without roots affecting the wall or sidewalk. The 9 feet could probably be scaled back to 7 feet, but I do not think 4 feet is adequate. To compensate for that additional 5 feet, they could reduce the greenbelt, if necessary, inside the wall (backyards).

Del Pearce, P&Z member said professionals said the area should be 15 feet.

It was the consensus of the Town Council to approve carve outs.

2. The Town Planner's original comment on the impact fee credits still stands: Although the Land Development Regulations allow the developer to request park impact fee credits for private parks, it is strongly recommended that the Town not grant credits for private parkland. The Town is required to have a certain amount of public parkland available for all residents and the money contributed by this developer will help ensure that level of service continues to be met.
3. The Town Planner asked that Note 44 on Sheet 4 be removed. It was not. The Town Attorney has reviewed this note and feels it needs to be removed.
4. On Sheet 5, the Town Planner asked that Note #21 be removed. It relates to the developer's rights to phase the project. The note has not been removed. If the developer decides to phase the project, new plans showing the phases would need to be submitted and approved. This is to ensure that earlier phases can stand on their own.

Clay Frankel has asked for this note to remain on the plans.

It was the consensus of the Town Council to have Note #21 removed from the plans.

5. The Town Engineer has indicated that the water main on Buckhill Road should be installed all the way to the south property boundary to allow for future extension. The second water connection into the project from this line should be at the main entrance, not on both sides of lot # 12. This will provide a much more reliable system when the water main is tied back into the 12" water main that will exist on SR 19. The Town Engineer has forwarded this comment to the developer; however, no revision has been made to address this.

Town Engineer Shira said it is not uncommon for utilities to be run along the property boundary and to move the second water connection to the main entrance as the connections should not be on both sides of lot # 12.

Larry Morris asked if the developer could enter into a pioneer agreement.

It was the consensus of the Town Council for the developer to install the water main all the way to the south property boundary and for the second water connection into the project from this line should be at the main entrance, not on both sides of lot #12.

6. Frank Watanabe still has concerns on the improvements to Buckhill Road. There are two issues on the roadway: (1) the developer needs to provide the Town/County a complete set of street improvement plans for Buckhill Road from East Revels Road to the project frontage with the left turn plans. The preliminary plan for Whispering Hills only shows the frontage and left turn lane. (2) The County Engineer has indicated that the development needs to have a signed agreement with Lake County on the street improvements and funding. The developer needs to approve the agreement that the County staff has forwarded to them and then it needs to be approved by the County Commission. Lake County requires all new development to have a paved road to their entrance. In this case, it would be west to E. Revels Road. The County staff email

included the following: Lake County has completed design plans to pave this clay road but we have no funding for construction. An agreement would be worked out to share the cost with the developer, and the developer would get transportation impact fee credits back for the County portion. This agreement is subject to approval by the Lake County Board of County Commissioners. As the Town's transportation engineer, Frank Watanabe feels it is important to have this agreement in place prior to approving the Preliminary Plan for the development.

Clay Frankel said he feels Frank Watanabe should get a set of plans from the Lake County. **Town Planner Shira** said the developer can enter into an agreement with Lake County for the improvements and Frank would like the agreement in place prior any approvals.

Town Engineer Shira said an option may be that plans to be contingent upon the agreement with Lake County.

It was consensus of the Town Council to table items no. 1 & 6.

Because this is a preliminary plan, no detailed review was performed of the water or drainage systems. These will be reviewed in detail when final engineering/construction plans are submitted. Neither the developer nor the Town should consider those details approved.

Councilor Ernest, seconded by Mayor Pro-Tem Johnson, moved to continue the Proposed Amended Preliminary Subdivision Plans for Whispering Hills for Comment Nos. 1 & 6 until the March 9, 2009 Town Council Meeting. Motion carried 5-0 with a roll call vote.

First Reading of Ordinance No. 2009-004, Amending Chapter 110 of the Code of Ordinances Relating to Water Impact Fees; Providing for an Alternative Impact Fee Calculation; Removing a Scriveners Error; Amending the Requirement that Certain Language be Included in Documents of Development Approval; Providing for Codification and Inclusion in the Code of Ordinances; Providing for Severability; Providing for an Effective Date

Mayor Sears read by title only, Ordinance No. 2009-004, Amending Chapter 110 of the Code of Ordinances Relating to Water Impact Fees; Providing for an Alternative Impact Fee Calculation; Removing a Scriveners" Error; Amending the Requirement that Certain Language be Included in Documents of Development Approval; Providing for Codification and Inclusion in the Code of Ordinances; Providing for Severability; Providing for an Effective Date.

The Public Hearing was opened. As no one wished to speak, the Public Hearing was closed.

Councilor Green, seconded by Councilor Nebel, moved to approve the first reading of Ordinance No. 2009-004, Amending Chapter 110 of the Code of Ordinances Relating to Water Impact Fees; Providing for an Alternative Impact Fee Calculation; Removing a Scriveners" Error; Amending the Requirement that Certain Language be Included in Documents of Development Approval; Providing for Codification and Inclusion in the Code of Ordinances; Providing for Severability; Providing for an Effective Date. Motion carried 5-0 with a roll call vote.

OLD BUSINESS

Update on Meeting with Developers-Moved under item No.

Discussion: Correspondence from Residents on 5th Avenue
Mayor Sears gave background on this item.

Mayor Pro-Tem Johnson, seconded by Councilor Green, moved to authorize the Town Attorney to draft an ordinance to vacate the property on 5th Avenue. Motion carried 5-0 with a roll call vote.

Appointment of Liaisons to Boards and Departments

Mayor Sears presented a handout of Liaisons. Discussion ensued.

MAYOR / TOWN COUNCIL REPORT

Mayor Sears 1) said he would be giving an update at the Men's Club 2) was called at home as to when the Council Talk will be published and the deadline will be March 15.

Mayor Pro-Tem Johnson asked that the Town Council approve the sale of business card size ads for the newsletter.

Councilor Ernest said he would like to purchase cones and barricades with the remaining Christmas Parade budget.

Councilor Nebel-None

Councilor Green said 1)the Town is looking good 2)personnel is doing good 3)Public Works and Town Clerk Brasher and her staff are doing well.

PUBLIC COMMENTS

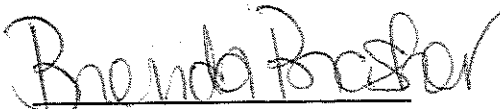
Bill Dixon 1) Decisions should not be driven by who is here at the time and decisions should be driven by an overall plan with set time frames 2) asked if Howey has a Master Plan and if not, to go after it.

ADJOURNMENT AT 8:50 P.M.



Chris Sears
Mayor

ATTEST:



Brenda Brasher, CMC
Town Clerk