

Mayor Joseph S. Kroll

Council Vice President Jay G. Foy
Council Member Henry "Butch" Lynch

Assistant Town Administrator / Town Clerk Janice C. Rutan
Town Attorney John Foster

Council President James E. Woods

Council Member Jerry E. Beavers
Council Member Mark C. Uptegraph



TOWN COUNCIL REGULAR MEETING
Town Council Meeting
Town Hall Council Chambers
Thursday ~ June 14, 2007
7:00 p.m.
AGENDA

- I. CALL TO ORDER**
- II. INVOCATION AND PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. APPROVAL OF AGENDA**
- VI. APPROVAL OF THE CONSENT AGENDA**
 - a. Approval of the minutes of the May 8, 2007 Workshop**
 - b. Approval of the minutes of the May 24, 2007 Regular Meeting**
- VII. COMMENTS FROM THE PUBLIC**
- VIII. COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S DEPARTMENT**
- IX. PROCLAMATIONS AND PRESENTATIONS**
- IX. SECOND READINGS AND PUBLIC HEARINGS**
- X. FIRST READINGS AND REGULAR AGENDA**
 - a. Renew emergency debris removal contract with RKC**
- XI. REPORTS**
 - a. Town Attorney**
 - b. Mayor**
 - c. Consultants**
 - d. Assistant Town Administrator/Town Clerk**
 - e. Committee/Delegate Report**
 - f. 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, Assistant Town Administrator and Town Clerk, at the Haverhill Town Hall, 4585 Charlotte Street, Haverhill, Florida. Phone Number (561) 689-0370 Facsimile Number (561) 689-4317

**TOWN OF HAVERHILL
Town Council Regular Meeting
Town Hall – Council Chambers
Thursday, June 14, 2007
OFFICIAL MINUTES**

Pursuant to the foregoing notice, the regular monthly meeting of the Haverhill Town Council was held on Thursday, June 14, 2007 at the Town Hall, 4585 Charlotte Street, Haverhill. Present were: James E. Woods, Council President; Jay Foy Council Vice President; Jerry Beavers, Council Member; Mark Uptegraph, Council Member; John Foster, Town Attorney; Janice C. Rutan, Town Clerk and Joseph Roche, Code Enforcement Officer.

CALL TO ORDER:

Council President Woods called the meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Council President Woods offered the Invocation and led in the pledge of allegiance.

ROLL CALL:

The Town Clerk called the roll. Absent were Joseph Kroll, Mayor and Henry Lynch, Council Member.

APPROVAL OF THE AGENDA:

The Town Clerk noted that the minutes were not yet available and requested they be pulled from the Consent Agenda. A motion was then made by Jay Foy, seconded by Council Member Beavers and unanimously passed (4-0) to approve the agenda as amended.

APPROVAL OF THE CONSENT AGENDA:

(Pulled)

COMMENTS FROM THE PUBLIC:

Ed Stalf -5263 Trailaway Lane. Mr. Stalf addressed the Town Council and noted he was present to discuss the siting of a school off Trailaway Lane. He said a realtor from the school department had approached him to use a fifty foot right of way down Trailaway as access to the school owned property. The school has since demolished the buildings on the property and when they began to tear down the property, the road was damaged and the residents believe the school board has no intention of fixing the road.

Mr. Stalf reported that the school board representative told him that the school board could do what they wanted with the property and road (Trailaway Lane) road despite the location of the property in a residential neighborhood and the road being private.

Peter C. Diaz, 1121 Trailaway Lane. Mr. Diaz noted that he had lived on Trailaway Lane for fifty years. He referred to Mr. Moore who has also lived on the road for many years. The County has never given them anything for maintenance to the road. He would like to see the private road returned to the condition it was in prior to the damage caused by the school district recently by bringing in heavy equipment.

George Moore, 1195 Trailaway Lane. Mr. Moore stated that he had built his own home on Trailaway Lane and has lived in his home for over fifty years. He commented on the privacy of the location and how the school board was ruining the flavor of the neighborhood. All of the residents were against the construction of a school on the property the School District had purchased at 1239 Trailaway. All the residents want to keep Trailaway Lane a private road. He reminded all that at one point in history, the Town had offered to take over the road and the residents turned the offer down even though the offer included the installation of water to the properties.

Vivian Senior, 1091 Trailaway Lane. She noted that the property that abuts the former Perkins property at 1239 Trailaway on Stacy Street has had the two houses removed from the property and as such she cannot understand why the school district could not access the school from Stacy Street.

Beatrice Wieland, 1153 Trailaway Lane. Ms. Wieland has lived there for 11 years and has always experienced the privacy and quiet of the neighborhood and expressed concern that a school would cause traffic.

Council President Woods addressed those present and explained that the Town was against use of property within the Town as a school as the Town was exempt from School Siting as evidenced by a June 6, 2000 letter from Angela Usher of the School District to the Town. In addition, such use would be in conflict with the Town's Comprehensive Plan. Council President Woods and Town Attorney Foster gave a detailed report and a full history of the project to date. Attorney Foster quoted from the letter the Town had received from the School District confirming the Town's exemption from school siting. The Town had put the School District on notice that a school use within the Town was in conflict with the Town's Comprehensive Plan and was in conflict with the Town's exempt status. Attorney Foster then referred to the April 2, 2007 article that had appeared in the Palm Beach Post concerning the proposed school whereby the School Board felt they would not need to meet the exemption status by using the portion of the school that was in the Town for passive uses.

It was explained to the residents that the school's intention to use the parcel within the Haverhill for passive or drainage purposes. It was stated that an accessory use to the school would still be in conflict with the Town's Comprehensive Plan. He referred to the Florida Statutes, specifically Chapter 1013.33, sub section 10 that requires that the siting of educational facilities shall be consistent with Comprehensive Plans. The Town of Haverhill had sent a letter to the Department of Community Affairs asking the DCA to opine whether the school had the right to require the Town to amend its Comprehensive

Plan and whether the use of the Town's property as a passive use is sufficient to ignore the school siting exemption.

Town Planner Jack Horniman had spoken with Ray Eubanks at the Department of Community Affairs. Mr. Eubanks had forwarded the Town's letter to its legal department of which Richard Shine noted to Attorney Foster that he was not aware of any school district within the state that could require a municipality to amend its comp plan. Attorney Foster intended to follow up with the School District's legal department. In closing he stated that the Town Council will continue to fight against the use of the property for school use, and the potential use of Trailaway Lane as access to the school.

Council VP Foy noted that the School would be accepted by the Town as long as it was not located within the Town. He had heard that the engineer from the County was looking favorably towards using Trailaway Lane as an access to the school. They had also looked at access across the LWDD canal, but the LWDD has rejected the idea of using the northern LWDD canal (L-2) as access to the Stacy Street school. Council Vice President Foy added that even if at this point the School District decides to not to use the Trailaway property as a school, there is nothing that would prohibit that use at a later date.

In addition, Council Vice President Foy noted that Trailaway Lane was a private road and the easement granted to each property owner on Trailaway Lane was an "ingress and egress" access to the property. Therefore all owners along the road had the right to use the road for ingress and egress, including the School District. This comment was made in response to Councilman Beaver's suggestion that "NO THROUGH ROAD" signs be posted on Trailaway Lane. Council Member Beavers suggested the property owners protest property taxes and the school districts portion thereof.

Council President Woods concurred that the Town would continue to fight against the use of the parcel of land located within the Town for school use.

Mary Jane Foy, 1094 Trailaway Lane: Mrs. Foy reported that the School District trucks had been up and down the road beginning at 6:00 a.m. each morning. The house at 1239 Trailaway had been demolished and most of the debris removed. She stated she was against the construction of the school.

The owners along Trailaway Lane expressed an interest in posting "Private Road" signs.

Now that the house has been demolished, Council President Woods hoped the trucks would cease and added that the best course of action would be through the Department of Community Affairs.

Mr. Diaz noted that they all bought property knowing it was a private road. He wanted to be able to post the road so to maintain it as a private road. Most importantly he wanted things to remain the same.

Mr. Stalf stated that he owned fifty feet into the road. In response, Council Vice President Foy suggested that the owners look into any restrictions that may limit the use of the road to residential uses only and/or for Haverhill residents. The original intent was to allow access to each others properties.

Mr. Moore noted that all of the residents on Trailaway Lane were against the construction of the school and were relying on the Town to represent them in their fight against the school siting.

Council President Woods expressed his confidence in the Town's standing and looked to the DCA to be the entity to determine the matter. He also suggested the property owners contact the school board to express their objections. He then expressed his appreciation to the residents of Trailaway Lane for attending the Town Council meeting to express their concerns.

COMMENTS FROM THE PALM BEACH COUNTY SHERIFF'S OFFICE:

The Deputy Sergeant reported on the activity within the Town over the past two weeks. Most calls for service were crimes of opportunity. One instance included a white Ford Explorer with two black males that had stolen a trailer worth of lawn equipment while in the Briarwood neighborhood. The white Ford Explorer had been a suspect vehicle in the past.

PBSO did arrest a juvenile within the town for a violation of a probation offence.

FIRST READINGS AND REGULAR AGENDA:

RENEW EMERGENCY DEBRIS REMOVAL CONTRACT WITH RKC LAND DEVELOPMENT, INC.:

Mayor Kroll had requested the Town Council consider entering into a renewal of the emergency debris removal contract with RKC. This contract would be renewed at the same rate offered to the Town last year at \$11.00 per cubic yard for removal of debris resulting from a Hurricane or emergency event.

A motion was then made by Jay Foy, seconded by Council Member Beavers and unanimously passed (4-0) to renew the Emergency Debris removal Contract with RKC, Land Development, Inc.

Council Vice President Foy also reported that the Town had contracted with RKC directly to assist with the removal of debris from residential properties in an effort to assist with hurricane preparedness through the removal of dead trees from those properties.

REPORTS:

TOWN ATTORNEY

Town Attorney Foster had planned to report on the Stacy Street school issue. He stated that he was waiting to hear from Richard Shine, DCA Attorney.

He reported that he and the Town Planner were meeting and would be filing a Public Record request from the School District for any and all records concerning the Stacy Street school project. In addition, the Town would be in contact with Palm Beach County to see what, if anything, the County has done to amend their Comprehensive Plan relative to allowing school siting in unincorporated Palm Beach County. He would also like to get further information relative to traffic.

He informed the Town that they will need to gear up for a confrontation. The School Board's has taken an attitude of complacency. As the Town Attorney he did not anticipate that the School Board would work with the Town. After conversation with Attorney Shine, Attorney Foster will contact the legal counsel for the School Board.

Council Vice President Foy expressed concern over the costs. Attorney Foster felt that at this point there should be no specific action as to an authorized expense for potential litigation costs to include planning costs.

Attorney Foster responded that he was not aware if the DCA had heard from the School Board.

The DCA does enforce the Comprehensive Plan law, Chapter 163, and the opinion of the DCA would carry a lot of weight as the ultimate expert in a case such as this. In addition, Attorney Foster suggested the Town consider using the media to assist in this matter.

Further, an Administrative Hearing may be required or even a procedure for handling matters through the court. Attorney Foster would prefer an Administrative Hearing. In addition, there were other procedures available to the Town such as a Conflict Resolution or even an injunction against the School District.

Attorney Foster hoped that a preliminary opinion would be received from the DCA within a matter of days, and the Town may need to move forward with an injunction within weeks.

In response to Council concern, Attorney Foster suggested the Town Council authorize his office to file a lawsuit. **Based on his recommendation, a motion was made by Council Member Uptegraph to authorize the Town Attorney to move forward with the filing of a lawsuit against the School Board, including an injunction to prevent the development of an elementary school on the Trailaway Lane property and to further authorize the Mayor to sign any and all documents necessary to secure that action. The motion was seconded by Council Member Beavers and unanimously passed (4-0).**

It was agreed that the Code Enforcement Officer would defer citing the School Board for dead trees on the 1239 Trailaway Lane property.

MAYOR

The Town Clerk made the following report on the behalf of Mayor Kroll:

The Mayor had met with Erick Mack of Integrity and authorized the installation of a fence and the replacement of a hedge between the Integrity Property (Sunset Isles) and the Briarwood Subdivision. This action was necessary to protect the residents of Briarwood from non-residents using this opening as a cut-through.

Mr. Mack agreed to reimburse the Town for costs associated with the installation of the fence and hedge. In addition, Mr. Mack agreed to install a temporary fence around the perimeter of the property within the next two weeks.

Due to the financial situation of the principals of Integrity, and their unsuccessful attempts to sell the property, it was suggested they contact Al Boyd of the Evergreen Company for their possible interest in purchasing the site.

Reimbursement form SWA

The Federal Emergency Management Agency had increased the percentage for reimbursement for debris clean up associated with Hurricane Wilma from 75% to 90%. The Town was in receipt of a check in the amount of \$8,216.68 representing that difference.

The Clerk had presented those present with a white paper explaining the LUV PAC initiative concerning the support of **Home Rule**. Once again the Town Council, through general consensus, decided to take no action. The matter had come before the Town Council previously with no formal action being taken.

Tax Reform:

As of the close of the special session for the day, no action had been taken concerning the proposed tax reform issue. The plan was still calling for a proposed rollback for each municipality and a percentage reduction. In addition, the second part of the proposal would allow for an amendment to the Save Our Homes portion of the Tax reform plan. That portion would also have an adverse affect on all the municipalities. Discussion followed.

The Town Clerk, in response to Council President Woods, stated that preparation of the budget was hinging on the result from the special legislation session.

Council Vice President Foy reported on the Government Price Index (GPI) formula that would also affect the budgetary process.

Consultants:

None.

Assistant Town Administrator/Town Clerk:

None.

COMMITTEE DELGATE REPORTS:

Despite the possibility of being called to Jury Duty, Council Vice President Foy scheduled the next meeting of the **Code and Ordinance Committee** for July 5, 2007 at noon.

Council Vice President Foy reported on the status of the **HMGP Grant Award** that Ken Todd of Palm Beach County had applied for that would benefit the Briarwood Drainage. There was some concern that recent DCA resignations would affect the grant that had already been approved by the all the required entities.

The Clerk had presented the minutes from the **Beautification Committee** Meeting that outlined proposed recommendations to the Council concerning the prioritizing of projects included in the Streetscape Master Plan. The matter would be placed on the next agenda.

Emergency Management Committee: Council Member Beavers announced that walkie/talkies had been purchased. Attorney Foster would look into the matter of whether the residential information sheets would be subject to public records law. He would report back to the Council, however, he strongly recommended that a disclaimer be included on the sheets notifying the residents that the information may be subject to public disclosure.

Attorney Foster reported that he had been contacted by Kerry Kilday (Kilday & Associates). Mr. Kilday represented a client owning property on Jog and Belvedere near the Johnson property and had inquired into the Town's feelings concerning the widening of Belvedere Road. Attorney Foster assured Mr. Kilday that the Town would prefer to not widen the road and would much rather see a CRALLS designation.

With regard to the **Orlowski Property**, Attorney Foster reported that the owner of the first mortgage had placed a lien on the property. Mr. Orlowski was working with Chris Couture and would be entering into a joint venture with Mr. Couture. The structures on the property would be demolished. The Town Attorney had been asked if the Town would be willing to reduce the fine. Although he had no authority to reduce the fine, the Attorney did relay to Mr. Orlowski that the Town would need to recoup all expenses to date. It was hoped a decision would be reached by the end of June.

Unfinished business:

Council Vice President Foy inquired as to whether the Town had written the letter to Palm Beach County urging the County to continue to fund projects that had been approved for the FY 2006/2007 FY. This request of Council Vice President Foy was prompted by the denial of funding the Woodland Drainage project that had been approved for funding and would benefit the residents of Haverhill by diverting drainage from Woodland Drive to the E-3 canal.

Council Vice President Foy noticed that the traffic along Belvedere had decreased. It was hoped that the Southern Boulevard widening had relieved the traffic along Belvedere Road.

New Business:

The Town Clerk confirmed that none of the Council Members were planning to attend the Florida League of Cities convention.

Adjournment:

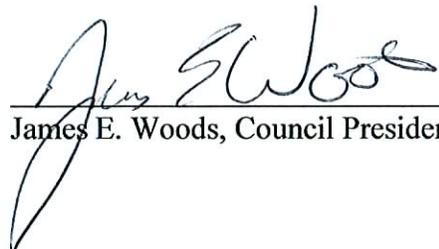
With no further business to come before the Town Council, the meeting adjourned at 8:18 p.m.

Approved:

July 26, 2007
Date



Janice C. Rutan, Town Clerk



James E. Woods, Council President