

**TOWN OF ASTATULA
MAYOR AND TOWN
COUNCIL MINUTES**



**REGULAR SESSION
MONDAY OCTOBER 14, 2019
TOWN HALL**

Having been duly advertised as required by law, Mayor Mitchell Mack called the Regular Session meeting to order at 7.00pm. He gave the invocation and led the Pledge of Allegiance.

Members Present:

Mitchell Mack, Mayor
Stephen Cross
Kimberly Kobera
Gayle Sikkema

Staff Present:

Graham Wells, Town Clerk
Wally Hoagland, Police Chief
Tom Wilkes, Town Attorney

Roll Call was performed, and it was determined that a quorum was present. Mayor Mack welcomed developer Jim Stout and engineer, David Clutts, Attorney Tom Wilkes and Mrs. Wells.

CITIZENS QUESTIONS AND COMMENT

There were no citizens questions or comments.

AGENDA REVIEW

Mayor Mack requested to move item 6 of new business to item 1.

MINUTE APPROVAL

Approval of Minutes for September 9, 2019 Budget Workshop
Approval of Minutes for September 9, 2019 Regular Meeting
Approval of Minutes for September 12, 2019 Preliminary Budget Hearing
Approval of Minutes for September 26, 2019 Final Budget Hearing

MOTION by Councilman Cross to approve the minutes shown above; SECONDED by Councilwoman Kobera

For: Cross, Kobera, Mack, Sikkema

MOTION CARRIED 4-0

PUBLIC HEARING

FINAL READING OF ORDINANCE 2019-14 – REPEAL OF ORDINANCE 1977-A AND SETTING COMPENSATION FOR THE MAYOR AND COUNCIL.

ORDINANCE NO. 2019-14

AN ORDINANCE OF THE TOWN OF ASTATULA, FLORIDA, REPEALING ORDINANCE 1977-A RELATING TO PAY FOR TOWN COUNCIL MEMBERS; ADOPTING A NEW COMPENSATION SCHEDULE FOR THE MAYOR AND COUNCIL MEMBERS; PROVIDING FOR SEVERABILITY, CODIFICATION, AN EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES.

The Title was read by Mayor Mack. There being no discussion from citizens or Council, he requested a motion.

MOTION by Councilman Cross to approve Ordinance 2019-14; SECONDED by Councilwoman Sikkema

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

NEW BUSINESS

FINAL READING OF ORDINANCE 2019-18 – REPEAL OF ORD. 1995-B NOISE ORDINANCE.

ORDINANCE NO. 2019-18

AN ORDINANCE OF THE TOWN OF ASTATULA, FLORIDA PERTAINING TO HEALTH SAFETY AND WELFARE; REPEALING ORDINANCE NO. 1995-B PERTAINING TO NOISE REGULATIONS; PROVIDING FOR SEVERABILITY AND REPEALING ALL CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE.

Ordinance 1995-B has been reviewed by the Town's legal counsel and is deemed to be unenforceable. The Town Council now desires to repeal the Ordinance in its entirety. A new Ordinance will be worked on that will be enforceable and brought to Council at a later date. Councilman Cross stated that the County was working on a countywide ordinance that the town could piggyback on. The title was read by Mayor Mack.

MOTION by Councilman Cross to approve Ordinance 2019-18; SECONDED by Councilwoman Sikkema

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

NEW BUSINESS

CONSIDERATION AND APPROVAL TO RESCIND THE \$5,000 FEE IN LIEU OF A PARK FOR VISTAS OF ASTATULA IMPOSED AT THE AUGUST 12 COUNCIL MEETING AND INSTRUCT THE CLERK AND ATTORNEY TO DRAFT AN AMENDMENT TO THE CODE.

At the July 8, 2019, the Town Council meeting, Council adopted Resolution 2019-13 which provides for the 3.72+/- acre site owned by James and Rose Marie Harris to be utilized as a six-lot single family residential development.

As part of that approval, the Town Council determined that the developer pay a fee of \$10,000.00 in lieu of providing an onsite park for Active Recreation Improvements as outlined in Chapter VII of the Land Development Regulations of the Town of Astatula. At the August 12, 2019 Council meeting, the developer appealed the decision and Council voted to reduce the fee to \$5,000.

Subsequently the town's attorney has reviewed the conflict between the fee charged in lieu of a park and the imposition of impact fees as well. Mayor Mack referred to an attorney opinion that was made available in the agenda packet and asked attorney Wilkes to give an overview to Council, a summary is shown below.

Impact fees and exactions are different ways to address the same issue: the impacts on the community of new land development. Impact fees are imposed largely in place of exactions, as a replacement for exactions. Once impact fees are imposed, there is generally no justification for blanket exactions for the same purpose. The revenue from the impact fees should be used, in lieu of exactions, to acquire needed park land and to install desired park improvements.

Councilman Cross suggested that the planner and attorney get together to draft and amend to the code. There being no further discussion the Mayor requested a motion.

MOTION by Councilman Cross for Approval to rescind the \$5,000 fee in lieu of a park for Vistas of Astatula imposed at the August 12 Regular Council meeting; SECONDED by Councilwoman Sikkema

For: Cross, Kobera, Mack, Sikkema

Against: NONE

MOTION CARRIED 4-0

FIRST READING OF ORDINANCE 2019-26 – ADOPTION OF THE CODIFIED CODE.

ORDINANCE 2019-26

AN ORDINANCE OF THE TOWN OF ASTATULA, FLORIDA, REGARDING THE TOWN'S CODE OF ORDINANCES; APPROVING AN UPDATED CODIFICATION OF ALL TOWN ORDINANCES; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED IN THE UPDATED TOWN CODE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN THE UPDATED TOWN CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

The Towns code of ordinances have not been codified since 2006. A full review has taken place and the entire republication of the Charter, Code of Ordinances (through Ordinance 2019-01) and the Land Development Regulations (appendix 1) is now available on Municode. Mayor Mack read the title and requested a motion to approve the ordinance and send to second reading.

MOTION by Councilman Cross to Approve Ordinance 2019-26 and send it to second reading; SECONDED by Councilwoman Kobera

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

FIRST READING OF ORDINANCE 2019-27 – APPROVING RIGHT-OF-WAY VACATION AT SWAFFAR PARK.

ORDINANCE NO. 2019-27

AN ORDINANCE OF THE TOWN OF ASTATULA, FLORIDA, VACATING A PORTION OF PARK AVENUE ALONG THE EAST AND SOUTH BOUNDARIES OF THE PROPERTY POPULARLY KNOWN AS JOE SWAFFER PARK AND LEGALLY DESCRIBED AS LOT 21, BLOCK D, OF THE MAP OF ASTATULA, AT PLAT BOOK 1, PAGE 12; PROVIDING FINDINGS, SEVERABILITY, AND AN EFFECTIVE DATE.

A portion of the right-of-way for Park Avenue contains land that (i) has no portion of the pavement for Park Avenue, and (ii) contains land, facilities, and structures used for the Park's operations, not for vehicular movement on Park Avenue. The Town Council has determined, therefore, that the portions of the right-of-way described above should be removed from the Park Avenue right-of-way and made legally and formally part of the Park.

Mayor Mack gave an overview and answered questions from Councilman Cross. Councilwoman Kobera requested to abstain from discussion and voting as she had recently sold the only house on Park Avenue. Attorney Wilkes said that there was not a conflict of interest however Ms. Kobera chose to abstain to prevent any notion of impropriety.

MOTION by Councilman Cross to Approve Ordinance 2019-27 and send it to second reading; SECONDED by Councilwoman Sikkema

A Roll Call vote was taken

Mack	YES
Kobera	ABSTAIN
Sikkema	YES
Cross	YES

MOTION CARRIED 3-0

RESOLUTION 2019-23 APPROVING THE DRAW DOWN OF FUNDS FROM THE USB LOAN.

RESOLUTION 2019-23

A RESOLUTION OF THE TOWN OF ASTATULA, LAKE COUNTY, FLORIDA; AUTHORIZING THE MAYOR OR THE VICE MAYOR OR THE TOWN CLERK TO WITHDRAW MONEY FROM THE LOANS WITH UNITED SOUTHERN BANK; PROVIDING AN EFFECTIVE DATE.

The Town of Astatula, Lake County, Florida, has entered into two unsecured bank loans with United Southern Bank ("USB") in the total amount of \$350,000 to provide funding to the Town for construction of a 5,000 square foot community building. As a requirement of United Southern Bank, the Town Council now wants to provide and authorize the Mayor or the Vice Mayor or the Town Clerk with the power to withdraw money from these loans for such purpose.

MOTION by Councilman Cross to Approve Resolution 2019-23 authorizing the drawdown of funds from USB and send it to second reading; SECONDED by Councilwoman Sikkema

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

RESOLUTION 2019-24 AUTHORIZING THE SUBMISSION OF FRDAP GRANT APPLICATION FOR KIRKWOOD PARK PHASE II.

RESOLUTION 2019-24

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR THE FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR STATE OF FLORIDA FISCAL YEAR 2020-2021.

The Town is making an application for a \$50,000 grant through the Florida Recreation Development Assistance Program (FRDAP) for the development of Kirkwood Park Phase II. As part of the application process, Council is required to authorize the filing of the application which is accomplished by the adoption of this Resolution. The title was read by Mayor Mack.

MOTION by Councilman Cross to Approve Resolution 2019-24 authorizing the application for a \$50,000 grant through the Florida Recreation Development Assistance Program (FRDAP) for the development of Kirkwood Park Phase II; SECONDED by Councilwoman Sikkema

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

RESOLUTION 2019-25 AUTHORIZING THE SUBMISSION OF FRDAP GRANT APPLICATION FOR KIRKWOOD PARK PHASE III.

RESOLUTION 2019-25

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR THE FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR STATE OF FLORIDA FISCAL YEAR 2020-2021.

This is the same application as Resolution 2019-24 except that it is for Phase III. Mayor Mack read the title and requested a motion.

MOTION by Councilman Cross to Approve Resolution 2019-25 authorizing the application for a \$50,000 grant through the Florida Recreation Development Assistance Program (FRDAP) for the development of Kirkwood Park Phase III; SECONDED by Councilwoman Sikkema

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

CONSIDERATION AND APPROVAL OF THE PROPOSAL FROM SOUTHEASTERN SURVEYING.

This is a proposal to recover and check external Block corners and set iron rods and caps at each corner of the 110, 4' x 9' lot corners in Section 'O' Block 5 of the cemetery. The plat was put up on the screen and Mayor Mack went over the history and what he was proposing. As there was only one quotation and no budget, it was agreed to table this item and bring it back to the next meeting with a budget amendment.

DISCUSSION AND PROPOSAL TO MOVE THE NOVEMBER COUNCIL MEETING TO NOV 12.

The next Council meeting falls on Veterans Day on November 11 and a motion was requested to move it to the 12th.

MOTION by Councilman Cross to move the next meeting to November 12, 2019; SECONDED by Councilwoman Sikkema

For: Cross, Kobera, Mack, Sikkema

Against: NONE

MOTION CARRIED 4-0

APPROVAL OF THE COST OF \$5,894 FOR THE FENCE AROUND THE PLAYGROUND AT SWAFFAR PARK.

This item was discussed at the September Council meeting and permission was given to proceed, however formal approval was required as it was not on the agenda and could therefore not be voted on. Mayor Mack said the he had spoken to the owner of Allstate Fencing about the substandard installation and he has agreed to completely replace the fence. The Town will withhold payment until the job has been rectified. The Mayor was requesting a motion to approve the cost of the fence, \$5,894 from impact fees.

MOTION by Councilman Cross to approve the cost of \$5,894 for the fence around the playground at Swaffar Park from impact fees; SECONDED by Councilwoman Kobera

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

CONSIDERATION AND APPROVAL TO GO AHEAD WITH THE PURCHASE OF BODY CAMERAS.

An amount of \$14,000 was put into the 2019-2020 for the purchase of 8 Halo body cameras with LCD Screen Monitor, 8 Docking Ports, Evidence Management Software, 8 Licenses, replacement cameras in year 3 and unlimited technical support. There are three companies that offer the products and Wolfcom were the lowest bid for a better system. Approval is requested for the Police Chief to purchase the cameras per the quotation from Wolfcom using Impact Fees. Chief Hoagland was requested to send the policy for using the cameras to the clerk for distribution.

MOTION by Councilwoman Sikkema to approve the purchase of body cameras from Wolfcom; SECONDED by Councilwoman Kobera

A Roll Call vote was taken

Mack YES

Kobera YES

Sikkema YES

Cross YES

MOTION CARRIED 4-0

RECOMMENDATION AND APPOINTMENT OF A VICE-MAYOR FOR THE TOWN.

Mayor Mack said that all council members were well qualified and experienced to take the position, however his nomination was Kim Kobera. Part of his reasoning was that her re-election is in the off year to his.

MOTION by Councilman Cross to appoint Kimberly Kobera as Vice-Mayor; SECONDED by Councilwoman Sikkema

For: Cross, Kobera, Mack, Sikkema

Against: NONE

MOTION CARRIED 4-0

OLD BUSINESS

UPDATE ON THE NEW COMMUNITY BUILDING - MAYOR MACK

Roland Raymundo, the engineer with CPWG is re-designing the site plan and stormwater and has requested approval of task 2 in his proposal. They are requesting the items in task 2 to be paid as a lump sum to cover the cost of the items included. The Council was unable to authorize the expense as it is not an agenda item, but it is in the budget for the community building. Council took a straw vote to accept and then bring it back at the November meeting for a formal approval.

The Mayor also gave an update on the contract progress with the contractor and anticipated breaking ground before the end of the year.

BUDGET AND FINANCE REPORT REVIEW

Finance Officer Wells gave an overview of the revenues and expenditures for September along with the closing bank balances at September 30, 2019. As this is the last month of the financial year, the report showed all the expenditure for invoices received so far and an estimate for revenues expected but not received.

He reported that the remaining \$90,000 owed by the general fund to the infrastructure fund had been repaid during the year. Unbudgeted revenues from the sale of the Madison St property, FEMA reimbursement and the rebate for AED's totaling \$20,816 were recorded in the report. Adjusting for impact fees totaling \$49,273 meant that the town had exceeded budgeted operating revenues by \$19,080.

The total expenditures were under budget by \$8,219.02 and only three departments were over budget. The legal expenditure was \$1,770 over, however a fee of \$1,800 was paid to the attorney that closed the bank loan from USB for the Community Building. The Police department was \$14,046 over budget and Protective inspections (permit fees paid to NOVA) was \$4,357 over, although the corresponding permitting revenues were \$10,144 over the budgeted amount. A budget amendment will be brought to Council for these amounts in November.

Couple the additional \$19,080 of revenue to the \$8,219 meant that the town had increased its reserve in the general fund by \$27,299. Taking into account the \$90,000 repayment to the infrastructure, the general fund balance decreased by \$62,701 which is reflected in the closing bank balances as at September 30, 2019. The closing bank balances for all accounts per the balance sheet are shown below.

General Fund:	132,186.40
Impact Fees:	98,831.50
Transportation Fund:	111,309.23
Infrastructure Fund:	415,744.63
CDBG Fund:	25.00
Cash Drawer:	150.00

COUNCIL DEPARTMENT & COMMITTEE REPORT

Economic Development – Councilwoman Sikkema – Wanted to have a workshop to discuss the performance evaluations for town staff.

Public Works – Mayor Mack – NONE

Public Safety/Code Enforcement – Councilwoman Kobera – Complimented the Chief on the work that he did for the community.

Office Finance – Councilman Cross – Asked the Mayor about the appointment of a new council member. The Mayor responded that he did have some recommendations but was taking his time to review this.

Office - LDR's, Ordinances, Legal - This would be taken over by Councilman Cross until a new council member is appointed.

STAFF REPORTS

Town Attorney - Tom Wilkes - NONE

Police Department - Chief Hoagland - Gave an update on the charitable activities that the PD was taking part in for October and November. He gave an update on the planning for a Halloween event and the cleanup Astatula project on Saturday November 23rd.

Town Clerk - Graham Wells - NONE

REVIEW


- a. Items for Workshops and possible dates - Staff Performance Evaluations
- b. Items put forward for the next Council meeting - NONE
- c. Review of items needing Special Meetings and possible dates - NONE

COUNCIL MEMBER MISCELLANEOUS COMMENTS - NONE

ADJOURNMENT


There being no further business Mayor Mack adjourned the meeting at 8:35 pm.

Respectfully submitted,



Mitchell Mack, Mayor

ATTEST:



Graham Wells, Town Clerk



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Kobera, Kimberly Mae	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Astatula Town Council
MAILING ADDRESS 25122 CR 561	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY Astatula	COUNTY Lake
DATE ON WHICH VOTE OCCURRED October 14, 2020	NAME OF POLITICAL SUBDIVISION: MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Kimberly Mae Kobera, hereby disclose that on October 14, 20 20 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I did not have a voting conflict of interest in the Town Council's vote on first reading of the ordinance to vacate part of the Park Avenue right-of-way (agenda item E.2). However, the only house with access to/from Park Avenue where right-of-way is to be vacated was owned by my family until a few weeks ago, when we sold it.

Therefore, I had the appearance of a voting conflict. On advice of the Town Attorney, I elected to abstain from the vote. I expect to abstain again from voting when the ordinance is on the agenda for its second reading, which I understand will be at the Town Council meeting next month.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

October 15, 2020

Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.