

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



**REGULAR SESSION  
MONDAY April 13, 2020  
TOWN HALL**

Having been duly advertised as required by law, Mayor Mitchell Mack called the Regular Session meeting to order at 7.02pm. He gave the invocation and led the Pledge of Allegiance.

**Members Present:**

Mitchell Mack, Mayor  
Stephen Cross

**Members by Telephone:**

Kimberly Kobera, Vice-Mayor  
Gayle Sikkema  
Orita Issartel

**Staff Present:**

Graham Wells, Town Clerk  
Wally Hoagland, Police Chief

Roll Call was performed, and it was determined that a quorum was present. Present in the audience were Brock Langley, Sean Donnelly and Fire Inspector Kerry Barnett.

**CITIZENS QUESTIONS AND COMMENT**

***Brock Langley, regarding property located at 25229 CR 561*** wanted to see what the position was to split the lot in half with one part facing CR 561 and the other on Madison Avenue. He did not want to proceed with the lot split application without some assurance from the town that they wanted him to do it.

Mayor Mack said that Council could not give any assurance that this would be accepted ahead of making an application. He added that the lot was only 70 feet wide and would not be possible without a variance as the minimum lot width required is 100 feet. Councilman Cross stated that the process was to make the application which would go to the planner for his review, then to the Planning and Zoning Board before coming to Council for a decision. He added that variances are strict and only granted if there is an issue preventing the use of the property that is out of the applicant's control.

Mayor Mack recommended that he put together a conceptual plan which could be reviewed by the planner ahead of an application; the cost to be paid by Mr. Langley. Mr. Green may be able to recommend an alternate route that the town can take.

***Sean Donnelly, 14239 E. Tennessee Ave,*** raised the concern he brought up at the last Council meeting regarding code enforcement. The Mayor said that he had not forgotten about it; it had just been delayed. Mr. Donnelly asked about the traffic strips on Tennessee Ave and what they were being used for. Mayor Mack stated that it was just for collecting data on traffic numbers and flow in the areas around where new subdivisions were planned.

**AGENDA REVIEW**

There were no changes requested.

**MEETING MINUTES**

Approval of Minutes for March 9, 2020 Regular Council Meeting  
Approval of Minutes for April 1, 2020 Emergency Council Meeting  
Approval of Minutes for April 3, 2020 Special Council Meeting

**MOTION by Councilman Cross to approve the minutes as shown above; SECONDED by Councilwoman Issartel**

**A Roll Call vote was taken due to three members being on the phone**

**Cross YES**

**Kobera YES**

**Sikkema YES**

**Issartel YES**

**Mack YES**

**MOTION CARRIED 5-0**

**FINAL READING OF ORDINANCE 2020-03 REPEALING AND REPLACING SEC. 58-1 OF THE CODE.**

**AN ORDINANCE OF THE TOWN OF ASTATULA, FLORIDA PERTAINING TO HEALTH, SAFETY AND WELFARE; AMENDING CHAPTER 58 OF THE TOWN'S CODE OF ORDINANCES, TITLED "UTILITIES"; REPEALING SECTION 58-1 OF THE CODE OF ORDINANCES REGARDING WATER AND SEWER CONNECTION REQUIREMENTS; ADOPTING NEW SECTIONS 58-1 THROUGH 58-3; PROVIDING DEFINITIONS, REQUIRING MANDATORY WATER AND SEWER CONNECTIONS FOR NEW CONSTRUCTION WHEN PROPERTY IS LOCATED WITHIN 50 FEET FROM WATER AND SEWER LINES WHEN SERVICE IS AVAILABLE; PROVIDING FOR OPTIONAL CONNECTIONS FOR EXISTING CONSTRUCTION; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

Mayor Mack read the ordinance by title.

**MOTION by Councilman Cross, to approve Ordinance 2020-03; SECONDED by Councilwoman Issartel**

**A Roll Call vote was taken**

**Cross YES**

**Kobera YES**

**Sikkema YES**

**Issartel YES**

**Mack YES**

**MOTION CARRIED 5-0**

**OLD BUSINESS**

**REVIEW OF THE DECISION TO TERMINATE THE CONTRACT WITH KERRY BARNETT FIRE CONSULTANT.**

Mayor Mack stated that he had a conversation with Mr. Barnett, who was present, and that Mr. Barnett felt that some of the comments made to the Board at the last meeting had been misrepresented. The Board at the March meeting had voted to terminate his contract and the Mayor felt that he should bring it back to the council to review that decision to see whether they wanted to stand by that decision or reverse it. The Mayor referenced the content of the agenda cover sheet sent to Council by the Clerk, which is shown below:

At the March 9, 2020 meeting, Council voted to terminate the contract with Kerry Barnett, Fire Consultant. The Clerk called him to give him the heads up and on March 12, received a text that he had a family emergency and could not talk at that time. When he did call back, he said that his son had been hospitalized so the Clerk, not wishing to burden him further, did not share about the termination and said that he would call him in a week or so.

When they finally spoke, he told the clerk that there was not a 30-day termination clause and that it was a conflict for the building inspector to also be the fire inspector. A subsequent text from Kerry was received on March 24, stating; *that statute 633 applied. There is also a Dec statement out there as well. There also may be a prohibition of dual office holding to look into statutory wise. Finally, I had time to look at my contract and it cannot be terminated until the end of the contract unless either part was negligent. I have not been negligent. My contract was a 3 year with 1 year roll over. You need to read the contract carefully. I thought there was a provision in there but wanted to be sure before saying anything. I would like to keep my contract.*

The Clerk took this issue up with the attorney. Her response on the question of the conflict is as follows:

*Graham – In follow up to our discussion this morning, Section 633.216(1) of the Florida Statutes expressly provides in part that “Two or more counties, municipalities, or special districts that have fire safety enforcement responsibilities may jointly employ or contract with a fire safety inspector.”*

*This answers the question that a fire safety inspector is NOT an office for purpose of the dual office holding prohibition since one individual can serve as a fire safety inspector in two or more counties, municipalities, or special districts. And I have not found a declaratory statement that says something to the contrary.*

Her response on the matter of the 30-day termination is explained in the termination letter and the excerpt is shown below:

*We have spoken with the Town attorney who has advised that there are three ways that the agreement can be terminated: (1) at the end of the initial contract before the roll over year(s) activate, (2) upon thirty-day notice, or (3) either party's negligence. We are proceeding with the termination under the second option.*

Mr. Barnett wanted to have a private discussion with the Mayor regarding the termination. He and the Mayor had been playing phone tag and finally spoke on April 9, 2020. The Mayor is concerned that the termination may result in a lawsuit against the town and wanted it to be re-reviewed by Council before the letter was sent.

The contract does not have an exclusivity clause so technically the town could leave the contract hanging and just use an alternative vendor.

At this point the Mayor suggested that we look at the facts of this and probe a little deeper. He had not issued a retraction on a termination before and asked Kerry if he would like to address Council.

Mr. Barnett spoke to Council for considerable amount of time and shared his take and opinion over the course of events. The Clerk refuted some of his comments. Mr. Barnett said that he had contacted two attorneys to look at the language of the termination clause in the contract, therefore making the inference that he may take legal action against the town.

The full text of his comments and further conversation with Council may be requested from the Clerk who will provide the audio recording.

The Mayor said that given the possibility of a legal action being made against the Town, he felt it was his obligation to bring it back to Council for their further recommendation. He opened for comments from the Council. Mr. Cross said that he did not have any; Councilwoman Issartel stated that she would have to look back over what had taken place before she would make any decision.

Without further comments, the Mayor said that he would let it lay over for now and suggested that the Council members review the information again. He added that he would talk to the attorney and ask her to give each one of them a call so that they can ask her any questions.

## **NEW BUSINESS**

### **RESOLUTION 2020-05 - INFRASTRUCTURE FUND BUDGET AMENDMENT FOR COMMUNITY BUILDING, COPIER LEASE AND LEASE FOR POLARIS VEHICLE.**

#### **A RESOLUTION OF THE TOWN OF ASTATULA, LAKE COUNTY, FLORIDA, AUTHORIZING BUDGET AMENDMENTS FOR THE TOWN OF ASTATULA FOR FISCAL YEAR 2019-2020.**

Clerk Wells gave an overview of the reasons for this amendment:

When the budget was adopted in September 2019, the grant revenue (\$700,000) and bank loan (\$350,000) to complete the new community building were not included in revenues and the corresponding expenditures were also not included.

Also, excluded was the amount for the Architect to finish the community building project. This is now estimated to be around \$50,000. The budget for the lease payments for the copier was just missed (Clerk's error) and it was thought that the final payment for the Police Polaris Vehicle was made in September 2019, however this is not the case; the final payment is due in September 2020 (also Clerk's error). These expenditures will be covered from fund brought forward from prior years.

A motion was made by Councilman Cross to read by title only; seconded by Councilwoman Issartel. The title was read by Mayor Mack. He then requested a motion to approve the resolution.

**MOTION by Councilman Cross to approve Resolution 2020-05; SECONDED by Councilwoman Sikkema**

**A Roll Call vote was taken**

<b>Cross</b>	<b>YES</b>
<b>Kobera</b>	<b>YES</b>
<b>Sikkema</b>	<b>YES</b>
<b>Issartel</b>	<b>YES</b>
<b>Mack</b>	<b>YES</b>

**MOTION CARRIED 5-0**

**RESOLUTION 2020-06 – GENERAL FUND BUDGET AMENDMENT FOR ADDITIONAL FUNDS TO PURCHASE A POLICE VEHICLE FROM IMPACT FEES.**

**A RESOLUTION OF THE TOWN OF ASTATULA, LAKE COUNTY, FLORIDA, AUTHORIZING BUDGET AMENDMENTS FOR THE TOWN OF ASTATULA FOR FISCAL YEAR 2019-2020.**

In the Budget, \$35,000 was included to purchase a Dodge Charger from Impact Fees. The manufacturer has ceased to make any more Chargers and there are none available. The Chief is requesting additional funding from impact fees of \$8,000 to purchase the next cheapest vehicle; Ford Interceptor Utility, with an additional \$500 for graphics.

A motion was made by Councilman Cross to read by title only; seconded by Councilwoman Issartel. The title was read by Mayor Mack. As there was no agenda item to approve the purchase of the vehicle, it would be included in the motion to approve the resolution. The Mayor then requested a motion to approve the resolution.

**MOTION by Councilman Cross to approve Resolution 2020-06 and approve the purchase of the new police vehicle; SECONDED by Councilwoman Kobera**

**A Roll Call vote was taken**

**Cross            YES  
Kobera          YES  
Sikkema        YES  
Issartel        YES  
Mack            YES**

**MOTION CARRIED 5-0**

**RESOLUTION 2020-07 – GENERAL FUND BUDGET AMENDMENT FOR A UTILITY IMPACT FEE STUDY TO BE FUNDED FROM EXISTING IMPACT FEES.**

**A RESOLUTION OF THE TOWN OF ASTATULA, LAKE COUNTY, FLORIDA, AUTHORIZING BUDGET AMENDMENTS FOR THE TOWN OF ASTATULA FOR FISCAL YEAR 2019-2020.**

At the March 9, 2020 Regular meeting, Council approved \$24,500 from impact fees for an impact fee study for utilities and public services. This amendment is to add this expenditure to the budget.

Clerk Wells pointed Councils attention to certain language included in the Resolution copied from the Impact Fee Ordinance, 2007-B. This authorizes Council to make the determination whether impact fees are being used for the benefit that they were collected.

*The following determination is made by the Town Council: (1) Such expenditure is for capital facilities or equipment to be used for the purpose contained in the title of the trust fund from which the expenditure is to be made; and (2) Such expenditure is made necessary by the new construction from which such funds were collected; and (3) Such expenditure shall result in a benefit to the new construction from which said funds were collected.*

A motion was made by Councilman Cross to read by title only; seconded by Councilwoman Sikkema. The title was read by Mayor Mack. He then requested a motion to approve the resolution.

**MOTION by Councilman Cross to approve Resolution 2020-07; SECONDED by Councilwoman Issartel**

**A Roll Call vote was taken**

**Cross            YES  
Kobera        YES  
Sikkema       YES  
Issartel       YES  
Mack           YES**

**MOTION CARRIED 5-0**

**RESOLUTION 2020-08 - GENERAL FUND BUDGET AMENDMENT TO FUND FRWA PROPOSAL**

**A RESOLUTION OF THE TOWN OF ASTATULA, LAKE COUNTY, FLORIDA, AUTHORIZING BUDGET AMENDMENTS FOR THE TOWN OF ASTATULA FOR FISCAL YEAR 2019-2020.**

A proposal from the Florida Rural Water Association (FRWA) was received to Modify the Water Use Permit, provide engineering design for a second well and pump, prepare the FDEP permit for new well construction and give assistance through the bidding and contract award process. This is all required to ascertain the cost of the second well and the upgrades necessary to provide adequate fire control and potable water to new developments in the town.

The cost of the proposal is \$13,750 which has been paid to the town by the developer. The fee is non-refundable should the project not take place, but would be offset against future utility impact fees, once adopted, if the developments go forward.

A motion was made by Councilman Cross to read by title only; seconded by Councilwoman Issartel. The title was read by Mayor Mack. He then requested a motion to approve the resolution.

**MOTION by Councilman Cross to approve Resolution 2020-08; SECONDED by Councilwoman Sikkema**

**A Roll Call vote was taken**

**Cross            YES  
Kobera        YES  
Sikkema       YES  
Issartel       YES  
Mack           YES**

**MOTION CARRIED 5-0**

**BUDGET AND FINANCE REPORT REVIEW**

Finance Officer Wells had provided the final report for February for which there were no questions. The March report that Council were viewing, included budget amendment 2020-01 and also 2020-05 and 2020-07 which were approved earlier in the meeting. Amendment resolutions 2020-06 and 2020-08 would be added to the April report.

The town had not received any Ad Valorem taxes or Solid Waste assessment revenues for the month of March and this was reflected in the report in green. Electric service tax and franchise fees were also low due to the time of year and would gradually come to the budgeted amount as we go through the summer. These three line items totaled \$38,799 which is more than the budget shortfall.

The anticipated revenues for sales tax, local option gas tax, 9<sup>th</sup> cent gas tax and discretionary surtax had all been downgraded to sixty percent of budget due to potential shortfall created by the Corona Virus. The town had a great month on permit fees which totaled \$8,324 against an average of \$2,858. This was also good news as the town keeps it all under the agreement with the new building inspectors and just pays for their time. With the rebate from NOVA, the net amount paid out for permit inspections was minus \$835.50.

All departments were under budget for expenditures except for Legal and overall stood at \$23,303 under budget. The bank balances look very healthy and Mr. Wells went over the various increases and decreases. Due to the reduced revenues as a result of the Corona Virus, he stated that he had done some cashflow projections to ensure that the town would have enough funds to operate. These showed a positive outlook.

**March Bank Balances:**

General Fund:	384,590.62
Impact Fees:	97,383.52
Transportation Fund:	133,049.72
Infrastructure Fund:	397,082.69
CDBG Fund:	25.00
Cash Drawer:	150.00

**COUNCIL DEPARTMENT & COMMITTEE REPORT**

**Finance – Councilman Cross** – stated that due to the inevitable revenue reduction in the General Fund as a result of the Corona Virus, we would have to look closely at staff costs should there not be enough funds available. He added that under no circumstances should the Town use restricted fund monies to pay day to day costs as had happened in the past.

**Public Works – Mayor Mack** – stated that the food truck had not been closed down by the Town as reported on Facebook. He covered the craziness that had been taking place at the boat ramp and the actions that he and the Chief planned to take.

**Public Safety/Code Enforcement – Councilwoman Kobera** – NONE

**Office – LDR’s, Ordinances, Legal – Councilman Sikkema** – NONE

**Economic Development – Councilwoman Issartel** – NONE

## STAFF REPORTS

**Town Attorney - Heather Ramos** - Absent

**Police Department - Chief Hoagland** - added his comments on the boat ramp situation and strongly recommended that Council members write to Leslie Campion, Chair of the Lake County BCC and Tommy Carpenter at Lake County EOC. He said that masks had been ordered for the officers and would be here by the end of the week. He reported that crime was down, probably as people weren't going out.

**Town Clerk - Graham Wells** - NONE

## REVIEW

- a. Items for Workshops and possible dates - NONE
- 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** - Councilwoman Issartel brought up the issue of the termination of Kerry Barnett again. The Clerk stated that all the information received from the attorney had been sent to Council ahead of the meeting. Councilman Cross said that the decision to terminate him was made and the attorney has affirmed that the 30-day notice was in the contract. He felt that the letter should have been sent. Mayor Mack said that he wanted the council apprised of the possibility of legal action being take against the town.

## ADJOURNMENT

There being no further business Mayor Mack adjourned the meeting at 8:32 pm.

Respectfully submitted,



Mitchell Mack, Mayor

ATTEST:



Graham Wells, Town Clerk

