

**COUNCIL MINUTES
MARCH 18, 2009**

Mayor Brimer convened a regular meeting of the City Council at 7:00 p.m. on Wednesday, March 18, 2009, in the Council Chamber. The following were present: Mayor Mark Brimer, Vice-Mayor Martha Kirby, Councilman Michael Chase, Councilman Jeffrey Fleis, City Manager Michael Crotty, City Attorney James Beadle, and City Clerk Barbara Montanaro. Councilman Dominick Montanaro was out of town.

Mayor Brimer led a moment of silence and pledge of allegiance.

PRESENTATION OF CERTIFICATE TO COUNCILMAN JEFFREY FLEIS FOR COMPLETION OF THE FLORIDA LEAGUE OF CITIES INSTITUTE FOR ELECTED MUNICIPAL OFFICIALS

Mayor Brimer presented a certificate to Councilman Fleis acknowledging his completion of the Institute for Elected Municipal Officials. This is an intense three-day training session sponsored by the John Scott Dailey Florida Institute of Government and the Florida League of Cities. Topics included Government in the Sunshine and Understanding Ethics; Intergovernmental Challenges; Accounting and Budgeting for Cities; Taxes and Other Sources of Revenue; Effective Council Member Techniques; and Structure and Function of Cities in Florida. Mayor Brimer thanked Councilman Fleis for taking his personal time to complete this training.

PRESENTATION OF PLAQUE BY COMMANDER BOBBY FOSSUM, SATELLITE BEACH VETERANS OF FOREIGN WARS POST 4643, TO SATELLITE BEACH FIRE DEPARTMENT CAPTAIN JAMES KEATING AND SATELLITE BEACH POLICE DEPARTMENT PATROL SERGEANT PAUL SOUSA

Mayor Brimer welcomed Commander Bobby Fossum, Satellite Beach Veterans of Foreign Wars Post 4643, who presented plaques to Captain James Keating, Firefighter/EMT of the Year, and Corporal Paul Sousa, Police Officer of the Year. Commander Fossum commended both for their outstanding service to the community.

Mayor Brimer expressed appreciation for the sacrifices that the Veterans have made to protect the country and thanked Commander Fossum for all the VFW has done for the City.

PRESENTATION OF 2008 AWARDS BY POLICE DEPARTMENT

➤ **SPECIAL AWARD TO ATTORNEY BILL NORTHCUTT**

Chief Cote introduced Attorney William Northcutt and thanked him for his assistance with the legal work for the firearms training programs. Mayor Brimer presented a plaque to Mr. Northcutt in appreciation for his service.

➤ **TELECOMMUNICATIONS OFFICER OF THE YEAR – SHAUN WARBURTON**

Chief Cote and Mayor Brimer presented a plaque to Shaun Warburton for his service as telecommunication officer who has handled numerous high-stress 911 calls in a professional manner, helping to protect life and property.

➤ **DUI HARTMANN-FLAGG AWARD AND RUNNER UP OFFICER OF THE YEAR RECIPIENTS – CORPORAL ERIC ANDERSON AND OFFICER STEVEN OWENS**

The Hartmann-Flagg Award is presented in memory of the two officers who were killed in a 1992 traffic stop, Ed Hartmann and Phil Flagg. Mayor Brimer presented the Hartmann-Flagg Award to Corporal Eric Anderson and Officer Steven Owens, recognizing their superior efforts in removing forty-eight drunk drivers from the roads of Satellite Beach.

Mayor Brimer then presented Officer of the Year Runner-Up plaques to Corporal Eric Anderson and Officer Steven Owens.

➤ **PROMOTION OF OFFICER STEVEN OWENS TO CORPORAL**

Officer Steven Owens has met all the requirements for promotion to corporal. Mayor Brimer presented the promotion plaque and stripes. He congratulate Corporal Owens on his promotion.

➤ **OFFICER OF THE YEAR – CORPORAL/DETECTIVE VALERIE BALLOUE**

Officer Balloue has been the leader in the Detective Division for a number of interesting cases this year. Mayor Brimer presented a plaque recognizing her consistent hard work, dedication, work ethic, and superior performance.

Corporal Balloue stated that this is the best Police Department to work for and expressed her appreciation of the award.

PRESENTATION GIVEN BY MAYOR BRIMER AT THE SMART GROWTH CONFERENCE AND COMMENTS BY RON MORGAN, AMERICAN MILLENNIUM FOUNDATION (THIS AGENDA ITEM SCHEDULED FOR 30 MINUTES)

Mayor Brimer gave the presentation he made at the Smart Growth Conference in Albuquerque in January where the City received the 2008 Commitment Award of the Building Healthy Communities for Active Aging, one of four awards presented nationwide. Mayor Brimer stated that he had been approached by the Florida Department of Elder Affairs to apply for an award being issued by the United States Department of Environmental Protection. Writing the application was a daunting task and staff turned to the City's grant writers for help. Lorraine Gott and John Fergus completed the application and the City was honored to receive the award.

Mayor Brimer's presentation in Albuquerque and to Council highlighted the following:

- The purchase of environmentally sensitive lands to be preserved forever (34 acres of public oceanfront parks which comprise 40% of the two mile ocean shoreline);
- The use of grant funds to install sidewalks to connect residential neighborhoods to parks, schools, public buildings, and shopping areas (walkable community);
- Installation of an audible crossing signal at the busiest commercial intersection to enable sight-impaired individuals to walk safely and independently;
- Public transportation for the disabled and elderly;
- The Community Redevelopment Plan, including mixed-use zoning for residential units above commercial units in a Mixed-Use Town Center;
- The development of a Façade Grant Program to help businesses improve the exterior appearance of their property and replace non-conforming signs;
- The numerous accessible and self-directed physical activities (yoga, dance, aerobics, walking trails, and exercise programs);
- The involvement of senior citizens in the 55+ Club (over 500 members), the Citizens on Patrol volunteers in the Police Department, the Neighbor-Helping-Neighbor Program, and the participation of seniors on advisory boards and committees;
- Participation and leadership in the State of Florida Communities for a Lifetime initiative (CFAL); and
- The implementation of the Fall Prevention Program by the Satellite Beach Fire Department, providing assessment of potential fall hazards and contact information to correct the hazards.

At the end of his presentation, Mayor Brimer thanked grant writers Lorraine Gott and John Fergus for the effort they put in to writing the application, stating one of the judges noted that this application was the most complete and superior to all others submitted.

Council discussed the desire to keep these programs moving forward, to continue to provide services to the residents of all ages.

Mr. Morgan was not present to make comments.

CITIZEN COMMENTS

No citizens spoke.

COUNCIL COMMENTS

Vice-Mayor Kirby stated that she attended Little League Opening Day, the Eighth Annual Strawberry Festival; the Environmental Coalition with a presentation on LED lighting, and the Space Coast League of Cities Board meetings. On March 12-14, she was a judge at University of Central Florida Campus for the Florida Regional Robotics Completion led by NASA with 5,000 student participants. She also helped the Satellite Beach Woman's Club with a presentation for Central Brevard Rescue Dogs.

Councilman Chase stated that he had had lengthy conversations with business owners who say that Satellite Beach is not business friendly. He asked if there is anything that the staff can do to lend a hand to businesses in this challenging economic time, such as putting a moratorium on something that is costly. He suggested that a questionnaire might open communication between the City and businesses and provide a venue for businesses to tell the City what they need.

City Manager Crotty stated attempts by the Redevelopment Committee to get businesses involved have not been successful. Signs have been one issue of contention for business owners. The City has made a conscious decision not to look like the unincorporated area with signs of all sizes and types in all locations. The City has tried to start a merchants' association but there was no response from the business community.

Council discussed establishing a questionnaire for citizens to indicate what business services they need and another questionnaire for businesses to indicate what they need from the City. These could be paper or on the web.

Councilman Fleis expressed appreciation to the Council for sending him to IEMO training sessions. He commended the Council for having the foresight to provide training for new Council Members; many cities do not provide any training. Satellite Beach has higher standards than some other cities. He noted that sometimes learning is learning what NOT to do.

Mayor Brimer stated that Little League Opening Day was a huge success and expressed appreciation to the Police Department and Fire Department for covering the event; to Allen Potter and his crew for the excellent condition of the fields; and to Kerry Stoms for coordinating the event.

Mr. Potter stated that the Public Works team takes great pride in their work.

CITY ATTORNEY REPORT

City Attorney Beadle presented a March 12, 2009, letter from Attorney Wildman who represents six people regarding the Mercedes bankruptcy proceedings. Mr. Wildman will represent the City for a retainer of \$500 and spread the \$200 per hour cost among the City and others he represents.

Council concurred to entertain this as an agenda item.

City Manager Crotty stated that there is a Community Development District (CDD) within the City at the Mercedes development; this CDD is responsible for the infrastructure construction and maintenance in Montecito. The City should be aware of what is happening in the bankruptcy hearings in order to protect the interests of the City and the residents.

In response to a question about conflict of interest, City Attorney Beadle stated that there

are secured or unsecured debtors but bankruptcy does not treat them any differently. It is unlikely that there will be any conflict.

ACTION: Vice-Mayor Kirby MOVED, SECOND Councilman Fleis, to authorize the City to retain Attorney Wildman with a \$500 retainer and a fee of \$200 per hour divided among the number of clients to track the Mercedes bankruptcy proceedings.

Mayor Brimer asked for public comments. The following individuals addressed Council:

- John Fergus, 135 Maple Drive, asked, if the Mercedes project blows up, what is the worst that could happen 1) to the entire city and 2) to the residents of the CDD.

The City Attorney stated that it would have to do with the tax base but he has not fully analyzed it yet. In the worst-case scenario, the City would have to take over the CDD; there are provisions in Florida Statutes for the City to take over under certain circumstances.

- Bill Higginson, 1175 Highway A1A, stated it behooves the City to spend the money to be kept informed on all the legal proceedings regarding the bankruptcy.

VOTE: ALL AYES. MOTION CARRIED.

CITY MANAGER REPORT

City Manager Michael Crotty asked if Council Members could be available for a meeting with Hunt Pinnacle, the group that has taken over Patrick Family Housing, on May 12. Councilman Chase will be out of town but did not object to holding the meeting in his absence. Council will meet with Hunt Pinnacle at 6:00 p.m. on Tuesday, May 12, to discuss identified improvements and the time frame for completing them.

The City Manager invited Council Members to attend the Employee Luncheon on Wednesday, March 25, where full-time and part-time Employees of the Year will be recognized.

Mr. Crotty stated that Conrad Lawlor has requested to delay discussion Agenda Item No. 17 until the April 1 meeting so that he can be present.

DISCUSS/TAKE ACTION ON REQUEST FOR GRANT AUTHORIZATION – FLORIDA DEPARTMENT OF TRANSPORTATION SECTION 402 (FEDERAL) HIGHWAY SAFETY GRANT PROGRAM

City Manager Crotty presented the request for grant authorization for software for patrol officers' laptops, which will enable officers to process traffic citations more quickly and the purchase of a new mobile, trailer-mounted radar speed board. The total grant amount is \$56,000 with no City match.

Mayor Brimer asked for public comments. There were no comments.

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to authorize Plain English to submit, on behalf of the City, a grant application in the amount of \$56,000 for speed control enhancements (software and trailer-mounted radar speed board), with a total project cost of \$56,000 and no City match. VOTE: ALL AYES. MOTION CARRIED.

DISCUSS/TAKE ACTION ON AUDIT REPORT FOR FY 2007/2008 – HOYMAN DOBSON AND COMPANY AND CITY MANAGER RESPONSE LETTER (8:30 P.M. TIME CERTAIN)

City Manager Crotty stated that the audit had been delivered to Council Members and a copy had been placed at the Satellite Beach Library.

Deborah Bradley Goode of Hoyman, Dobson & Company presented an overview of the Audit Report for FY 2007/2008. Ms. Goode highlighted various Statements and Notes in the Financial Statements. The test for compliance with Florida laws and regulations and internal control revealed no items of significance in these areas.

Mayor Brimer opened the meeting for public comments. There were no comments

City Manager Crotty stated fund balance was a low in 2004. At that time, Council established a policy to increase the fund balance, which has resulted in the healthy fund balance in this report.

Mayor Brimer asked for public comments. There were no comments.

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to accept the Financial Statements for the year ending September 30, 2008, as prepared by City Auditors Hoyman Dobson, and the City Manager's Response to Independent Auditor's Management Letter and to forward the Audit Report to the appropriate state agencies as required by law. VOTE: ALL AYES. MOTION CARRIED.

The Council expressed appreciation to City Manager Michael Crotty and Finance Director Brenda Raver and her team for their hard work and professional handling of the City finances.

DISCUSS/TAKE ACTION ON RENEWAL OF CONTRACT WITH HOYMAN DOBSON AND COMPANY

City Manager Crotty stated that five years ago staff issued a RFP for an Auditor. A committee composed of staff members and citizens reviewed the proposals and recommended Hoyman Dobson.

The current agreement with Hoyman Dobson was approved by City Council on March 19, 2008, and provides for the continuation of auditing services. The agreement states "By mutual agreement of both parties, this contract can be extended beyond this initial contract

period.”

He presented the Engagement Letter for auditing services through 2013 (five year renewal) from Charles W. Hoyman, Jr., CPA, Director of Hoyman Dobson. The fee for the audit will be \$29,500 per year, including out-of-pocket expenses through the completion of the five year proposed period (2013). The cost for the audit for this year is \$27,500. The proposed increase reflects a \$1,500 increase for FY 08/09; however, this amount of \$29,500 is guaranteed/held constant for the remaining four years of the proposed agreement. Net effect: Less than a 2% annual increase through the FY 12/13 audit.

Chas Hoyman stated that there is a provision for additional costs if there is ever a requirement for a single item audit.

Mayor Brimer asked for public comments. There were no comments.

ACTION: Vice-Mayor Kirby MOVED, SECOND, Councilman Flies, to accept the March 12, 2009, Engagement Letter proposal of Hoyman Dobson to provide auditing services for the next five years (for fiscal years through September 30, 2013) with a guaranteed annual audit fee of \$29,500 per year, including out-of-pocket expenses. VOTE: ALL AYES. MOTION CARRIED.

ORDINANCE NO. 1009, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE SATELLITE BEACH CODE OF ORDINANCES SECTION 2-253(c)(1), (2), AND (3), REGARDING COMPUTATION OF TRAVEL REIMBURSEMENT (MEALS); PROVIDING AN EFFECTIVE DATE (SECOND READING)

Ordinance No. 1009 was approved on first reading on March 4, 2009, and amends the City's Administrative Code to provide clarification regarding eligibility for meal reimbursement when traveling on City business, establishing times of travel when costs of meals can be reimbursed.

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to read Ordinance No. 1009 by title only on second reading. VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer read Ordinance No. 1009 by title only, there being sufficient copies of all ordinances available to the public. He asked for public comments. There were no comments.

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to adopt Ordinance No. 1009 on second reading. VOTE: ALL AYES. MOTION CARRIED.

AGENDA ITEM NO. 15 – ORDINANCE NO. 1008, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE CITY OF SATELLITE BEACH LAND DEVELOPMENT REGULATIONS SECTION 30-558.1 REGARDING DEMOLITION OF STRUCTURES; PROVIDING AN EFFECTIVE DATE

(FIRST READING)

Building Official John Stone reported that the Planning and Zoning Advisory Board reconfirmed its recommendation to amend Section 30-558.1 regarding demolition of structures at the Public Hearing on February 16, 2009. The PZAB has recommended that driveways, parking lots, and other pavement be allowed to remain in place to help stabilize the soil after the main structure is demolished.

ACTION: Vice-Mayor Kirby MOVED, SECOND Councilman Chase, to read Ordinance No. 1008 by title only on first reading. VOTE: ALL AYES. MOTION CARRIED.

MAYOR Brimer read Ordinance No. 1008 by title only and asked for public comments. There were no comments.

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to approve Ordinance No. 1008 on first reading. VOTE: ALL AYES. MOTION CARRIED.

ORDINANCE NO. 1010, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE SATELLITE BEACH PERSONNEL POLICY SECTION 12.01 (JOB CLASSIFICATION LEVELS); PROVIDING AN EFFECTIVE DATE (FIRST READING)

Ordinance No. 1010 provides for an amendment to the City Personnel Policy to for the 2% Cost of Living Adjustment included in the 08/09 Budget.

ACTION: Vice-Mayor Kirby MOVED, SECOND Councilman Chase, to read Ordinance No. 1010 by title only on first reading. VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer read Ordinance No. 1010 by title and asked for public comments. There were no comments.

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to approve Ordinance No. 1010 on first reading. VOTE: ALL AYES. MOTION CARRIED.

AGENDA ITEM NO. 17 – DISCUSS/TAKE ACTION ON REQUEST TO INCLUDE INFORMATION ON FAIR DISTRICTING IN THE BEACHCASTER

Delayed until April 1, 2009, meeting.

COUNCIL CONVENED AS THE COMMUNITY REDEVELOPMENT AGENCY FOR THE FOLLOWING AGENDA ITEM:

DISCUSS/TAKE ACTION ON REQUEST FOR CHANGE ORDER NO. 1 FOR HIGHTOWER BEACH PARK BASED ON PERMIT CONDITIONS INCLUDED IN PERMITS FROM FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, FLORIDA DEPARTMENT OF TRANSPORTATION, AND THE CITY OF MELBOURNE

Community Development Director Laura Canady presented a letter from City Engineer, David King, summarizing the specific items in Change Order No. 1 that have arisen during the construction at Hightower Beach Park project. These include post bid design changes due to FDEP, FDOT, and the City of Melbourne based on permit conditions. This change order also includes changes proposed by City staff for specified equipment and decorative treatment as outlined in Mr. King's letter and the change order.

ACTION: Councilman Chase MOVED, SECOND Councilman Fleis, to approve Change Order #1 in the amount of \$14,878.90 to the contract with Joyal Construction for Hightower Beach Park improvements.

Mayor Brimer asked for public comments. The following individual addressed Council:

- Bill Higginson, 1175 Highway A1A, commented on the Environmental Protection Agency's rulings about brush cutting and potential fire hazard caused by the dry brush abutting the wooden boardwalk.

VOTE: ALL AYES. MOTION CARRIED.

COUNCIL RECONVENED FOR THE FOLLOWING AGENDA ITEMS:

DISCUSS/TAKE ACTION ON COUNCIL MEMBERS AND STAFF ATTENDING DINNER HONORING KATHLEEN R. (SCOTTY) CULP AS "WOMAN OF THE YEAR" CATEGORY BY THE BREVARD COUNTY COMMISSION ON THE STATUS OF WOMEN ON FRIDAY, MARCH 27, 2009, IN COCOA BEACH

City Manager Crotty announced that Scotty Culp has been selected as a "Woman of the Year" by the Brevard Commission on the Status of Women. The County Commission will recognize Scotty at the meeting on Tuesday, March 24, 2009. Mayor Brimer and a number of City officials will attend the ceremony. If any member of Council wishes to carpool, please contact City Hall.

There will be an awards and Recognition Banquet at 6:00 p.m., Friday, March 27, at the Doubletree Oceanfront Hotel in Cocoa Beach. If Members of Council are interested in attending this recognition for Scotty, Council should approve their attendance.

Mayor Brimer asked for public comments. There were no comments.

ACTION: Vice-Mayor Kirby MOVED, SECOND Councilman Chase to approve the attendance of interested Council Members and staff at the March 27 dinner honoring Scotty Culp. **VOTE:** ALL AYES. MOTION CARRIED.

RESOLUTION NO. 878, A RESOLUTION OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, SUPPORTING A COMPREHENSIVE STRATEGY TO CURB UNDERAGE DRINKING, AND SUPPORTING LEGISLATIVE ACTION

PROVIDING ENHANCED PENALTIES FOR VIOLATIONS

Resolution No. 878 supports a comprehensive strategy to curb underage drinking and supporting legislative action to provide enhanced penalties for violation.

City Manager Crotty stated the City of Titusville has experienced a number of tragedies that have been caused by underage drinking and is attempting to put in place harsher penalties for violations.

A year ago Titusville proposed new regulations requiring kegs of beer to be registered at the time of sale. Most cities did not support this initiative, as enforcement would have been cumbersome, if not impossible.

Commander Jeff Pearson confirmed the Police Department supports the Resolution.

ACTION: Vice-Mayor Kirby MOVED, SECOND Councilman Chase, to read Resolution No. 878 by title. VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer read Resolution No. 878 by title and asked for public comments. There were no comments.

ACTION: Councilman Chase MOVED, SECOND Councilman Fleis, to adopt Resolution No. 878. VOTE: ALL AYES. MOTION CARRIED.

APPOINTMENTS TO BOARDS

By consensus, no action was taken on Board appointments.

ADOPTION OF MINUTES: MARCH 4, 2009, REGULAR MEETING

ACTION: Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to approve the minutes as presented. VOTE: ALL AYES. MOTION CARRIED.

There being no further business to come before the Council, Mayor Brimer adjourned the meeting at 8:55 p.m.

Barbara Montanaro, CMC
City Clerk