

THE CITY OF MADEIRA BEACH, FLORIDA
PUBLIC NOTICE

BOARD OF COMMISSIONERS REGULAR MEETING

The Board of Commissioners of the City of Madeira Beach, Florida will meet at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida to discuss the agenda items of City Business listed at the time indicated below.

7:00 P.M.

TUESDAY, OCTOBER 11, 2011

AUDITORIUM

CALL TO ORDER

INVOCATION AND PLEDGE OF ALLEGIANCE: Commissioner Terry Lister

ROLL CALL

INTRODUCTIONS AND PRESENTATIONS:

Proclamation – Fire Prevention Week – October 9-15, 2011

Proclamation – National Domestic Violence Month - October

1. REPORTS:

- **Mayor and Commissioners**
- **City Attorney**
- **City Manager**

2. COMMUNITY FORUM This section is reserved for public participation with the Commission and/or staff on matters of concern pertaining to City business; and which are not on the agenda. Citizen's input is limited to five minutes.

3. CONSIDER APPROVAL OF THE MINUTES – September 7, 2011 Special Meeting Minutes, September 27, 2011 Workshop Minutes, September 27, 2011 Regular Meeting Minutes.

4. UNFINISHED BUSINESS:

A. CONSIDER RESOLUTION NO. 2011-03:

A RESOLUTION OF THE CITY OF MADEIRA BEACH, FLORIDA, SUPPORTING EMERGENCY MEDICAL CARE FIRST RESPONSE AND AMBULANCE TRANSPORT BY THE FIRE SERVICE OF MADEIRA BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

5. NEW BUSINESS:

A. CONSIDER APPROVAL OF A ONE (1) YEAR AGREEMENT WITH CLARK SALES DISPLAY, INC IN THE AMOUNT OF \$20,515 TO LEASE HOLIDAY DECORATIONS.

6. CORRESPONDENCE

7. ADJOURNMENT

Any person who decides to appeal any decision of the City Commission with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the City Clerk to transcribe verbatim minutes; therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. In accordance with the Americans with Disability Act and F.S. 286.26; any person with a disability requiring reasonable accommodation in order to participate in this meeting should call 727-391-9951 or fax a written request to 727-399-1131.
Posted: October 7, 2011

**THIS MEETING IS TELEvised LIVE ON CHANNEL 615
AND REBROADCAST THE FOLLOWING EVENING AT 7 P.M. ON CHANNEL 615**

CITY OF MADEIRA BEACH
Board of Commissioners Regular Meeting Minutes
Tuesday, October 11, 2011

The Regular Meeting of the Madeira Beach Board of Commissioners was held on Tuesday, October 11, 2011 in the City Hall Auditorium, located at 300 Municipal Drive, Madeira Beach, Florida.

Mayor Travis Palladeno called the meeting to order at 7:00 p.m. The invocation was given by City Attorney Thomas J. Trask followed by the Pledge of Allegiance.

ROLL CALL:

Present: Commissioners Nancy T. Oakley and Robin Vander Velde; Vice Mayor Carol V. Reynolds and Mayor Travis Palladeno. Commissioner Terry Lister was excused.

Staff: City Attorney Thomas J. Trask; Interim City Manager Bill Mallory; City Clerk Ginger Stilton and Marina Director Dave Marsicano.

INTRODUCTIONS AND PRESENTATIONS:

Proclamation – Fire Prevention Week – October 9-15, 2011: Mayor Palladeno read and presented the proclamation to Interim City Manager Bill Mallory.

Proclamation – National Domestic Violence Month – October: Mayor Palladeno read and presented the Proclamation to Trudy Howe of CASA Domestic Violence. Ms. Howe thanked the city for recognizing Domestic Violence Month. She reported locally, the organization answered over 5,000 hotline calls a year, houses approximately 350 children in their shelter, and helped over 2,500 people.

1. REPORTS:

- **Mayor and Commissioners** – Mayor Palladeno encouraged residents to report any bad areas of sidewalks within the city. He announced that there would be a citywide neighborhood watch meeting on October 19th at 6:00 p.m., and thanked Marsha Loper and Elaine Poe for all the work they have done in the Neighborhood Watch.
- **City Attorney** – City Attorney Trask reported that he had received the second amended complaint in the Jim Madden versus City of Madeira Beach case. He said that the case was defended by the city's insurance carrier, and he would get in touch with the insurance attorney to follow up on the case process.

He provided an update on the status of the Teco Gas Franchise and how his contact with Clearwater Gas personnel went. He reported that he would revise the Teco Gas Franchise Agreement after he has received the copy of City of St. Petersburg Franchise.

Commissioner Vander Velde asked if it was necessary to set up a Shade meeting with the insurance attorney on Mr. Madden's lawsuit. City Attorney Trask responded that the Commission would need to meet with the insurance attorney if an answer was filed and further defenses were raised. Commissioner Vander Velde requested City Attorney Trask to keep the Commission updated on this matter.

- **City Manager** – Interim City Manager Mallory provided update on the public work's roof, and stated that the work has not been started as the company was waiting on materials. With regard to the permit, Interim City Manager Mallory responded that the permit has not been pulled.

Interim City Manager Mallory updated on the interviewing process, he informed that: he was in the final process of interviewing candidates for community development manager; he would be interviewing two candidates for finance director this week; the original finalist for the fire/code enforcement officer has been withdrawn, and he was now in the process to offer the position to the other candidate.

He reported that the city has received the plaque from GFOA (Government Finance Officers Association) for the fiscal year ending September, 2010.

Mayor Palladeno inquired on the status of the finance director hiring process. Interim City Manager Mallory said that there would be two interviews this week: one in-office interview on Friday, and one phone interview. Mayor Palladeno suggested sharing other cities' code enforcement officer if it was taking too long for the city to find one on its own. Interim City Manager Mallory responded that an offer has been made to the other individual, and this person has been scheduled for a physical exam tomorrow.

With regard to the due date of the Capital Improvement Element (CIE), Interim City Manager Mallory said that he did not have the exact day, but he believed that it would be sometime in mid-December.

Upon the discussion of the budget amendments, Interim City Manager Mallory stated that he was unable to locate them. In response to Commissioner Vander Velde's questioning, Interim City Manager Mallory stated that those were not budget amendments since there was no budget increase, instead it was an inter-departmental transfer. Commissioner Vander Velde asked City Attorney Trask what to do in the case that a budget amendment was required but it has not been done, City Attorney Trask answered that it could be backdated by the way of a resolution. He stated that the city has the option to backdate, correct, or to establish a resolution if it has not been done, regardless if the year is over.

Mayor Palladeno asked Interim City Manager Mallory if he has contacted appropriate people with regard to the CIE. Interim City Manager Mallory responded that David Healey was the only individual he needed to contact. He informed that the report named CRX for flood information was past due, but the State has allowed a 15-day grace period upon the request of the city. To date, he has completed 90% of the report.

2. **COMMUNITY FORUM** This section is reserved for public participation with the Commission and/or staff on matters of concern pertaining to City business; and which are not on the agenda. Citizen's input is limited to five minutes.

Elaine Poe, 353- 144th Ave.; asked City Attorney Trask to explain in detail of the nuisance ordinance that he was working on.

City Attorney Trask stated that the ordinance he drafted was for the sole purpose of cutting down the time frame that was currently required under the city code in which to enforce violation of the code itself. He added that the code provision he prepared also dealt with a number of issues related to nuisances.

City Attorney Trask recalled the options that he has suggested during former meeting, whereas the first one was leaving it the way it was, the second option was to create a special magistrate, the third option was to enforce the code through uniform citation and bringing it to the state or county court, and the last option was to create a Nuisance Abatement Board which would be comprised of five to seven members who were the residents of the city. He pointed out that the most ideal avenue to take was to go with the special magistrate. He stated that the

documents prepared by Mrs. Poe and the others were the combination of three state statutes, thus it was unnecessary to have those in the city code unless a Nuisance Abatement Board was created. However, he did not support a Nuisance Abatement Board being created, because it would be difficult to find the five to seven board members based on the size of the city. Afterward, he further explained the advantages of the special magistrate. He informed that the ordinance would go for the First Reading on the October 25th regular meeting agenda. He said that based on his career experience he felt very comfortable with the ordinance that he drafted.

City Attorney Trask pointed out a misconception which he stated as a false statement. The misconception was regarding the thirty day waiting period to move forward against people who violate the code. He conveyed that once the violation was found, a code enforcement officer would have the authority to issue a reasonable period for individuals to come into compliance, which might not be thirty days.

In response to Commissioner Oakley's inquiring, City Attorney Trask stated that code enforcement officers did not have authority to go on private properties to determine if code violations exist. Upon discussion of verifying the registration of a car, the city attorney stated that it would be based upon the cooperation from the DMV (Department of Motor Vehicles) or other government agencies.

Pete Trott, 378- 145th Ave.; asked was it trespassing to walk on a renter's lot. City Attorney Trask responded that city employees should not go on to a private property without the permission of the property owner, regardless if he/she was the renter or the actual owner.

Roger Pryor, 223- 144th Ave.; directed his comments to City Attorney Trask and said that the ordinance was very adequate, and he hoped that the city would hire a code enforcement officer who is skilled in dealing with people.

Jim Madden, Madeira Beach resident; requested the Commission schedule a workshop on this ordinance, and stated that the city needed to get the code enforcement officer and an additional special magistrate on-board. He asked to add the term "reasonable suspicion" into the code book, and suggested appointing the special magistrate to a fixed term. The consensus of the Commission was to schedule a workshop on Monday, October 24th at 6:00 p.m. to discuss the nuisance ordinance.

Tom Poe, 353- 144th Ave.; spoke on the criminal activities section within the ordinance. Afterward, discussion centered on property trespassing.

Pete Trott, 378- 145th Ave.; asked if the property owner could evict someone who was arrested. City Attorney Trask answered no, unless there was a specific provision provided in the lease. Mr. Trott believed that the law protecting the landlord conflicted with the law protecting the nuisance.

Upon the discussion of evicting the tenants, Commissioner Vander Velde referred to a conversation between City Attorney Trask and Mr. Jorgensen. She stated that the magistrate could consider not penalizing the landlords if the landlords were doing their best to legally evicting tenants who were not in compliance with the code. With regard to the time length to evict the tenants, City Attorney Trask said that the law provided that the landlord to give a three day notice, with an extension of no more than 20 days, for tenants to correct their violation. If the tenants did not comply within twenty days, the tenant would need to attend the hearing called Motion for Judgment of Possession, which might take three to forty-five days. Afterward, the Commission discussed how the city would deal with small violations in terms of whether it should be continuously addressed with courtesy letters or the special magistrate. The consensus of the Commission was to leave the topic for further discussion during the October 24th workshop.

Commissioner Vander Velde asked if the city could have the code enforcement officer on the job by October 24th, Interim City Manager Mallory said he was not sure. Commissioner Vander Velde requested to have city employee Cheryl Rodde to attend the workshop on October 24th.

Jim Madden, Madeira Beach resident; spoke on a few matters within the city hall:

- He stated that city employee Francine Ettere did not perform the responsibilities of the clerk as she took over the position before the city clerk was hired, thus the city should take back the extra vacation days awarded to her.
- He believed that it was not right to have Interim City Manager Mallory running as the code enforcement officer, while Mr. Mallory did not have appropriate knowledge as a code officer.
- He reported to the Commission that Interim City Manager Mallory has violated the code as he overspent \$15,000, the amount that was allowed by the Commission; and Mr. Mallory was dishonest to the Commission about hiring Frederick Nutt as a city employee instead of as a consultant. He recommended replacing Interim City Manager Mallory by Marina Director Marsicano.

Commissioner Vander Velde was upset by the fact that the Commission has not been notified of Frederick Nutt being paid overtime as a part-time employee, but not as a consultant. Commissioners Vander Velde and Oakley believed it has cost the city more to hire Mr. Nutt as a part-time employee. Interim City Manager Mallory explained that it was suggested by the city's former human resource manager Debbie Cline to put Mr. Nutt as a part-time employee in the system without having any benefits. He referred to an email that he sent to the Commission on July 18th, while claiming that he had already informed the Commission that the \$6,000 billable time limit had been approaching.

Mayor Palladeno asked City Attorney Trask if Interim City Manager Mallory did anything illegal or did he break the city charter. City Attorney Trask stated that there was no criminal or illegal activities taken place, but he was concerned there was violation dealing with Purchasing of Section 2-193 in city code regarding exceeding the \$15,000 mark. City Attorney Trask referred to the minutes on June 8th of the section regarding hiring Mr. Nutt as the Financial Consultant. He stated that Interim City Manager Mallory did not comply with the code provision since he did not ask the Commission for additional authorization during any meeting after he exceeded the \$6,000 cap, thus there was no legislative action of the Commission about the fees for Mr. Nutt's consultant services. City Attorney Trask asked the Commission if they wanted to give Interim City Manager Mallory some direction that this would not happen again or to put in some type of reprimand in his file. City Attorney Trask stated that Interim City Manager Mallory also has an opportunity to defend himself while attending a Name Clearing Hearing.

Vice Mayor Reynolds said that it was the Commission's negligence never to inquire Interim City Manager Mallory on the amount that has been spent along the way. Commissioner Oakley believed that it should not be the Commission's obligation to ask for the amount, and stated that Interim City Manager Mallory should have made the Commission aware of the money spent.

Upon the request from Mayor Palladeno, City Attorney Trask said that the Commission should follow the city's employee procedure manual to deal with this instance. He confirmed that he would inform the Commission on the procedure process at October 24th workshop.

Jim Madden, Madeira Beach resident; spoke more on the code violation by Mr. Mallory.

Martha Boos, 15316 Gulf Boulevard; asked what criteria would the city use to hire a finance director. She suggested to the Commission to have someone who has finance knowledge be involved in the selection process of finance director.

Gary Berkheimer, 569 Lillian Drive; spoke on the city hiring a fire/code officer on an 80/20 basis, and said he thought that more time should be spent in code.

Mayor Palladeno asked about fire inspections. Interim City Manager Mallory responded that he has not done any

during the last few months while he was in the position of interim city manager.

Dawn Thompson, 150- 147th Ave.; expressed concern with drug dealing and the abandoned cars.

Elaine Poe, 353- 144th Ave.; spoke on a change that City Attorney Trask has made in the ordinance.

Mayor Palladeno recessed the meeting at 8:55 p.m. for a break. The meeting was reconvened by Mayor Palladeno at 9:10 p.m.

Mike Pinto, 300- 144th Ave.; spoke on the pest and animal control problems in the city.

Discussion centered on how to deal with animal problems, including rats, possums, cats, and coyotes.

Wayne Ayers, reporter from the Beacon Newspaper; spoke on the coyote problems in Belleair Bluffs.

3. CONSIDER APPROVAL OF THE MINUTES – September 7, 2011 Special Meeting Minutes, September 27, 2011 Workshop Minutes, September 27, 2011 Regular Meeting Minutes.

Seeing no corrections to the minutes, the minutes were approved.

4. UNFINISHED BUSINESS:

A. CONSIDER RESOLUTION NO. 2011-03:

A RESOLUTION OF THE CITY OF MADEIRA BEACH, FLORIDA, SUPPORTING EMERGENCY MEDICAL CARE FIRST RESPONSE AND AMBULANCE TRANSPORT BY THE FIRE SERVICE OF MADEIRA BEACH; AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Trask read Resolution No. 2011-03 by title only.

Motion by Commissioner Vander Velde and seconded by Commissioner Oakley to adopt Resolution No. 2011-03 and to authorize the mayor to sign on behalf the Commission.

Commissioner Vander Velde questioned the wording “Ambulance Transport ... of Madeira Beach” within the Resolution title. She stated that she has been told that City of Madeira Beach was not going to have an ambulance, but the way it was worded sound like it was supporting the city getting an ambulance. She asked should it be phrased without the words “of Madeira Beach”. City Attorney Trask responded that it would not be in the city’s best interest to cut out those wordings, because if the verbiage were cutting out, the city would probably have the transport from the other city.

Mayor Palladeno opened the public hearing.

Gary Berkheimer, 569 Lillian Drive; commended the Commission and Interim City Manager Mallory for making this proclamation. He stated that he completely supported this plan, and believed that it was in the city’s best interest to control the fire and EMS services by the city’s fire department, rather than by the county.

Neither hearing nor seeing anyone else who would like to speak Mayor Palladeno closed the public hearing.

ROLL: COMMISSIONER OAKLEY YES
VICE MAYOR REYNOLDS YES
COMMISSIONER VANDER VELDE YES
MAYOR PALLADENO YES

MOTION CARRIED.

5. NEW BUSINESS:

A. CONSIDER APPROVAL OF A ONE (1) YEAR AGREEMENT WITH CLARK SALES DISPLAY, INC IN THE AMOUNT OF \$20,515 TO LEASE HOLIDAY DECORATIONS.

Motion by Vice Mayor Reynolds and seconded by Commissioner Oakley to approve a one-year lease agreement with Clark Sales Display, Inc in the amount of \$20,515, at the same price, under the terms and conditions of the City of Dunedin RFQ #2269, subject to annual appropriation in the amount of \$20,515 in the Clerk/Commission Department, Christmas Decorations, Account Number 00113004801.

ROLL: COMMISSIONER OAKLEY YES
VICE MAYOR REYNOLDS YES
COMMISSIONER VANDER VELDE YES
MAYOR PALLADENO YES

MOTION CARRIED.

6. CORRESPONDENCE

Commissioner Vander Velde encouraged residents to apply for the Archibald Park Ad Hoc Committee, which only has two members so far.

7. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:33 p.m.

Date Approved: 3/27/2012


Travis Palladeno, Mayor


Ginger Stilton, CMC
City Clerk