



**MINUTES
TOWN OF HILLSBORO BEACH
SPECIAL TOWN COMMISSION MEETING
JANUARY 21, 2020**

9:00 A.M.

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Deborah L. Tarrant called the meeting to order at 9:00 a.m. Roll was called with the Commission members and staff present as listed below.

Town Commission:

Mayor Deborah L. Tarrant
Commissioner Andrew R. Brown
Commissioner Barbara Baldassarre

Vice Mayor Irene Kirdahy
Commissioner Vicky Feaman

Town Staff:

Town Manager Mac Serda
DJ Doody, Town Attorney
Town Clerk Sherry D. Henderson, CMC

APPROVAL OF AGENDA

Town Attorney DJ Doody made a public announcement requesting a Shade Session, Attorney-client session pursuant to Section 286.011 of the Florida Statutes. The Closed Session will be held between the Town Commission, Town Attorney, and Special Counsel to discuss the lawsuit presently pending in the 17th Judicial Circuit in and for Broward County, Fla. – Town of Hillsboro Beach v. City of Deerfield Beach [Case No: 17-007784 (08)]. The Closed Session was to be held in the Community Room at Town Hall at the end of the Special Meeting.

Mr. Doody also asked that the agenda be amended to add Resolution No. 2020-09, to consider retaining the law firm of Shutts & Bowen, LLP to assist and complement the existing team in the Town of Hillsboro Beach v. City of Deerfield Beach case.

Motion made by Vice Mayor Kirdahy, seconded by Commissioner Feaman, to approve the amendments to the agenda. In a roll call vote, the **motion** passed unanimously. (5-0)

I. RESOLUTIONS AND CONTRACTS

A. Resolution No. 2020-07 Consideration of the Hillsboro Beach Town Commission to Approve and Declare Its Intent to Impose Special Assessments.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA DECLARING ITS INTENT TO IMPOSE SPECIAL ASSESSMENTS; INDICATING THE LOCATION, NATURE AND ESTIMATED COST OF IMPROVEMENTS, THE COST OF WHICH IS TO BE DEFRAID BY THE SPECIAL ASSESSMENTS; PROVIDING THE MANNER IN WHICH AND WHEN SUCH SPECIAL ASSESSMENTS SHALL BE MADE AND PAID; PROVIDING THAT THE SPECIAL ASSESSMENTS SHALL BE COLLECTED USING THE UNIFORM METHOD FOR THE COLLECTION OF NON-AD VALOREM ASSESSMENTS PURSUANT TO SECTION 197.3632, FLORIDA STATUTES; DESIGNATING THE LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED; PROVIDING FOR A PUBLIC HEARING AND NOTICE THEREOF; PROVIDING FOR PUBLICATION OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

Mr. Doody read Resolution 2020-07 by title only.

Mark Raymond, Bond Counsel, provided an explanation on the Resolution, which initiates the process to impose special assessments for beach re-nourishment. He explained the substance of the project would be shared at the public hearing.

Commissioner Brown asked for clarification regarding the length of the assessment.

Mr. Raymond stated preliminary plans are for a period not to exceed 30 years.

The Commissioners and staff discussed individual impacts of the assessment.

Mayor Tarrant asked that staff research which two (2) Hillsboro Beach properties did not have beach access. She asked for further explanation of the calculation of assessments for those with parcels on both sides of A1A.

Mr. Raymond explained the assessment is based on linear footage along each side of A1A. He noted Hank Fishkind, PFM Financial Advisors, LLC, could explain in more detail, and explained if the Resolution was adopted, the public hearing would be held on February 25 at 9 a.m. He noted specific details should be discussed at that time.

In response to a question from Mayor Tarrant, Mr. Fishkind stated the interest rate included in the document was a “not to exceed” number, and the Town could expect to do considerably better than five (5) percent. He noted this was a ceiling to be announced to the public, including a maximum amount of total debt.

Commissioner Feaman asked if early payment would be penalized.

Mr. Fishkind stated in most cases, the principle would be paid down, and whether there would be a pre-payment penalty would depend on the specifics of the contract. He noted a higher interest rate may be required in order to avoid penalties in the agreement.

Mayor Tarrant opened a public hearing on the Resolution.

Nancy Robins asked if the financing could be tied to the federal reserve rate.

Mr. Fishkind stated floating rate debt was an option, but in that case the annual payments could not be set. He noted it would not be the type of thing he would suggest in a special assessment situation.

Mayor Tarrant expressed concern with a variable rate over a period of 30 years.

Mr. Raymond clarified the debt was not being approved at this meeting, and stated he expected the first step would be presented at the next meeting, and months later the actual details of the debt would be discussed.

Nicole Geisser, 1203 Hillsboro Mile, asked if the assessment included more than the amount of the purchase of the property and whether it could be subsequently increased.

Mr. Fishkind pointed to a table in the documents which broke down the amounts of the assessment, to include both the acquisition of the land and improvement costs to make it ready to function. He noted it would be a fixed amount of assessment for a particular project, and if a different amount were contemplated, a new process would be initiated.

Mayor Tarrant clarified a taxpayer funded beach nourishment would require coming back to the assessment process to purchase sand, and that would be a separate process.

Mayor Tarrant read the table referenced, which broke down the costs as follows:

- Purchase Price - \$13.9 million
- Title Insurance - \$34,000
- Due Diligence Process/Legal Fees - \$20,000
- Demolition/Paving/Landscaping - \$846,000
- Contingency - \$200,000

Continuing, Mayor Tarrant noted the numbers were high estimates, and outlined the process of demolition, paving, and creating a staging area for sand as well as landscaping and privacy buffering.

Mayor Tarrant closed the public hearing.

Motion made by Commissioner Feaman, seconded by Commissioner Brown, to approve Resolution 2020-07 as printed. In a roll call vote, the **motion** passed unanimously. (5-0)

B. Resolution No. 2020-08 Consideration of the Hillsboro Beach Town Commission to Approve and Support Acquisition of Real Property from Winter Sun Investments, LLC to Establish Beach Access Point to Support Beach Nourishment.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, APPROVING AND SUPPORTING THE ACQUISITION OF REAL PROPERTY FROM WINTER SUN INVESTMENTS, LLC TO ESTABLISH A BEACH ACCESS POINT TO SUPPORT BEACH RENOURISHMENT PROJECTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Doody read Resolution 2020-08 by title only.

Mr. Doody stated the intent of the Resolution was to establish that the intent was to acquire the properties at 1205 and 1206 Hillsboro Mile, and that the negotiated purchase price was based on the average of two (2) assessments and was at market value.

Mayor Tarrant opened a public hearing on the Resolution.

Javier Garcia, 1203 Hillsboro Mile, asked when the Town would host a Workshop Meeting to discuss the project. He stated he was concerned no other options were being considered for future beach re-nourishments.

The Commissioners and public discussed public workshops and plans for the property.

Mr. Serda explained what is being contemplated now is the procurement of the parcels and securing options for future beach nourishment. Referencing the coastal engineering reports, Mr. Serda noted this property is uniquely positioned for access to the appropriate places for future nourishments.

Mayor Tarrant added that the needs may change depending on the litigation with Deerfield Beach, and the Town will have options with the purchase of this property. Mayor Tarrant provided background on the research and leg work which had been done to come to the decision to acquire this property and to explore options.

In response to a question from the public, Mayor Tarrant explained the property appraisals are on the Town website, and anyone interested is welcome to meet with the Town Manager for specifics.

Anthony Spina stated in his 40 years in the Town, the purchase of this property is one of the smartest decisions he has seen the government make.

John Sullivan, 1207 Hillsboro Mile thanked staff for their assistance with a recent issue. He stated it was important to discuss the value of the property, referencing a 100 percent increase in value over five (5) years. He asked if the usage was appropriate if it were really that valuable.

Mr. Serda stated he could not speak to why the property had increased in value as much as it did, but said he could address the data, which included two (2) individual assessments of the parcels.

Mayor Tarrant clarified the property had previously sold for \$12 million, and the Town was now purchasing it for \$13.9 million.

Maureen Sullivan asked if the property at 1175 could be used for the easement.

Mayor Tarrant stated the property was vacant but did not provide for the staging area.

Mr. Serda noted the value of this particular property being adjacent to Town Hall. He explained this was a long-term solution for ongoing beach nourishments which need to happen every two (2) years at this point.

Nicole Geisser, 1203 Hillsboro Mile, stated the question the residents are worrying about is where the Fire Station would go if the contract with Deerfield Beach can't be renewed, as well as how much it would cost and how large it would be. She noted she saw the project being done in phases and she wanted to be able to plan for the future.

Mr. Serda referenced the December 9, 2019 meeting, and stated the estimates were discussed at that time. He said it was intentionally not included in the bond, because the residents asked that it not be. He stated the Town is not trying to build a Fire Station at this point.

Vice Mayor Kirdahy stated the current question is whether to act by purchasing the properties so the Town has the option to nourish its beach, and only that.

Al Shore, 1147 Hillsboro Mile, said the public is losing sight of the fact that the costs of having fire services in-house would be offset by no longer having the contract with Deerfield Beach.

Gary Anderson, 1203 Hillsboro Mile, stated he understood the situation, and said he is raising a five-year-old in the adjacent property and does not want to sit on his balcony and watch 200 trucks go in and out for beach nourishment. He asked that the Commissioners be compassionate to the people seeing the values of their units decline due to the beach access.

Mayor Tarrant closed the public hearing.

Mayor Tarrant stated without the ability to re-nourish, there would be no beach on the North Mile. She asked that this be kept in mind moving forward.

Motion made by Commissioner Baldasarre, seconded by Commissioner Feaman, to approve Resolution 2020-08 as printed. In a roll call vote, the **motion** passed unanimously. (5-0)

C. Resolution No. 2020-09 Consideration of the Hillsboro Beach Town Commission to Approve and Authorize Proper Town Officials to Execute an Engagement Letter with Shutts & Bowen, LLP for Legal Services.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE AN ENGAGEMENT LETTER FROM SHUTTS & BOWEN, LLP FOR LEGAL SERVICES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Doody read Resolution 2020-09 by title only.

Mr. Doody stated as a result of numerous communications, he sought to complement the current legal counsel for continuing work on the litigation with Deerfield Beach.

Joe Goldstein, attorney with Shutts & Bowen, LLP, introduced himself and gave a brief overview of his firm. He stated he had worked with Special Counsel Cindy Laquidara previously and believed he could complement her well.

Commissioner Feaman asked Mr. Goldstein his experience with beach litigation.

Mr. Goldstein stated he did not have direct experience with beach litigation, but does have 30 years of government experience and is an expert in the Chapter the lawsuit is based in. He noted another attorney in his office has specific experience and has been watching the case.

In response to a question from Commissioner Feaman, Mr. Goldstein stated he also brings ties to Tallahassee and Broward County to the legal team.

Commissioner Brown asked how the need to add an additional firm was initiated, as well as what the additional attorney would add.

Mr. Goldstein stated he was present because Mr. Doody had contacted him. He explained it was his understanding that Ms. Laquidara, who is an excellent attorney, is based in

Jacksonville and doesn't practice in Broward County every day. He noted he would complement as local counsel to save travel, as well as additional strategies with the State.

Mr. Doody explained the discussion of retaining local counsel has been ongoing for several months. He stated he had previously reached out to two (2) other attorneys and they were unavailable.

Mayor Tarrant stated finding local counsel was put on hold during the settlement negotiation, but when that didn't pan out, the issue was picked back up.

Commissioner Brown said he did not want to make a decision without Ms. Laquidara's opinion that it would be helpful.

Mr. Doody asked that the Commissioners consider favorably to allow the Town to discuss during the shade session potential legal strategies.

Ms. Laquidara stated she and Mr. Goldstein know each other well and pointed to Mr. Doody's recommendation to consider the addition.

Mr. Doody explained the summary judgment hearing in nine (9) days would be discussed during the shade session and reiterated that he wanted the Town to have the opportunity to hear strategies available through Shutts & Bowen, LLP.

Motion made by Commissioner Brown, seconded by Commissioner Baldassarre, to approve Resolution 2020-09 as printed. In a roll call vote, the **motion** passed with majority vote (4-1). Commissioner Feaman voted no.

II. TOWN MANAGER REPORT

Mr. Serda stated everything reviewed and discussed in reference to the purchase of 1205 and 1206 Hillsboro Mile is available on the Town website and invited the public to review the information. He noted he is open to discussion to share ideas.

III. RECESS INTO CLOSED SHADE SESSION

Mr. Doody announced the Attorney-client session pursuant to Section 286.011 of the Florida Statutes. The Closed Session will be held between the Town Commission, Town Attorney, and Special Counsel to discuss the lawsuit presently pending in the 17th Judicial Circuit in and for Broward County, Fla. – Town of Hillsboro Beach v. City of Deerfield Beach [Case No: 17-007784 (08)]. The Closed Session was held in the Community Room at Town Hall.

The Board adjourned to the Community Room for the Closed Shade Session at 10:24 a.m.

IV. RECONVENE INTO SPECIAL COMMISSION MEETING

Mayor Tarrant reconvened the Special Commission Meeting at 12:25 p.m.

V. TOWN ATTORNEY REPORT

None.

VI. TOWN COMMISSION COMMENTS/REPORTS

A. Commissioner Andrew R. Brown

None.

B. Commissioner Barbara Baldassarre

None.

C. Commissioner Vicky Feaman

None.

D. Vice Mayor Irene Kirdahy

None.

E. Mayor Deborah L. Tarrant

None.

V. PUBLIC COMMENTS

None.

VIII. ADJOURNMENT

Motion made by Commissioner Feaman, seconded by Commissioner Brown, to adjourn the meeting at 12:26 p.m. In a roll call vote, the **motion** passed unanimously.

ADOPTED THIS 3RD DAY OF MARCH, 2020

By: Deborah L. Tarrant
Deborah L. Tarrant, Mayor

ATTEST:

Sherry D. Henderson
Sherry D. Henderson, CMC
Town Clerk