

**TOWN OF MELBOURNE BEACH
TOWN COMMISSION
Special Call Meeting
Monday, January 18, 2010- 6:30 PM
Community Center – 509 Ocean Avenue**

MINUTES

I. CALL TO ORDER

II. ROLL CALL

Present were:

Mayor Karpie
Vice Mayor Chad Tennant
Commissioner Price
Commissioner Evans
Commissioner Marshall

All Council Members were present. The meeting started at 7:02 p.m.

III. PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE

Commissioner Price led the Pledge of Allegiance

IV. BUSINESS

1. Personnel Evaluations

Mayor Karpie stated that the Town Manager form of government was established by Charter, therefore the Charter rules in all cases in question. Elected officials oversee the Town by selecting and supervising major officials, including the Town Manager, Town Attorney and the Town Clerk. The Town Manager is responsible for supervising all other employees with the exception of contractors earning \$4,000 or more per year. The Commission has to provide oversight for those contracts. The Administrative Policies and Procedures Manual is in need of revision. The Manual is in progress and has not been read or approved by the Town Commission. It calls for regularly scheduled evaluations of the Town Manager, Town Attorney and the Town Clerk by the Commission. Sunshine Law requires that this be done in a public meeting.

It was the Mayor's suggestion that public comment not be solicited with the exception of Board or Committee chairs or members.

All Commission Members agreed with the Mayor's request.

1b. Town Manager, James D. Bursick evaluation

Commissioner Price pointed out that it is not exactly true that the Town Manager has not been evaluated. There may have not been a formal evaluation performed but there was an evaluation when the Commission considered renewing his contract and determining his salary for the following period.

The Mayor concurred with his statement and asked when that took place.

Commissioner Price replied approximately 1 ½ years ago.

Vice Mayor Tennant and Commissioner Price stated that they did not receive a form to evaluate the Town Manager.

Commissioner Evans said that she was hesitant to proceed when two members didn't have the necessary paperwork.

Mayor Karpie asked Vice Mayor Tennant how he would like to proceed.

Commissioner Price suggested putting it on the agenda for next month.

Mayor Karpie stated that the Commission will defer this item to the February agenda and that individual meetings between the Commissioners and Town Manager Bursick could take place prior to the meeting.

Commissioner Marshall suggested that Chapter 8 of the manual be added to the packet as back up material so Commissioners know what is expected of them.

Commissioner Price also suggested that a copy of the Town Managers contract be added as well.

The Mayor stated that the Commission was not supplied with sufficient information to evaluate the Town Manager and that this will be done at February's meeting. The items that need to be included are:

1. Copy of Town Manager's contract.
2. Town Manager's performance evaluation
3. A copy of the most current job description
4. A procedures manual

The Mayor stated that she had a conversation with the Town Manager on November 24, 2009, and had asked him when he had his last evaluation and he had replied "never".

The Mayor said that she had no objection to this evaluation taking place at a regularly scheduled meeting.

The Town Manager said that this was agreeable to him.

1b. Town Clerk, Christina Hoffkins evaluation

Commissioner Price stated that he didn't have copies of the other Commissioner's evaluations.

Mayor Karpie asked the opinion of the Town Attorney regarding the Appointment of Board Members. She stated that it was her understanding that these evaluations needed to take place in a public meeting.

Attorney Gougelman answered that when the Commission as a group is evaluating a Town official it needs to be done in public. It must meet the Sunshine Law requirements.

Clerks note: A 10 minute recess was called to make copies of the Town Clerk's evaluation to be distributed to all Commission Members.

Meeting was called back into session at 7:44 p.m.

Commissioner Price said that based on reading all of the evaluations, it appears that the scores meet a satisfactory evaluation. He made a motion that the satisfactory evaluation be recorded as the evaluation of the Town Commission. Vice Mayor Tennant seconded the motion.

Commissioner Marshall believed that the evaluation should be done at a six month interval instead of a year.

Commissioner Price stated that from reading the evaluation there are areas in need of improvement.

Commissioner Evans requested that the Commission consider that the primary main functions of the clerk are meeting minutes, agendas and packets and making sure the documentation is there. For the past 6-8 months this has not been satisfactory. During the past November meeting we had six sets of minutes to approve, one of which was over a year old that we still declined to approve because it was not complete. Commissioner Evans addressed this with the Town Clerk at her six month evaluation and she acknowledged that she needed to do better. Commissioner Evans went on to say that it was not happening and is getting worse and that this is not acceptable in this position. We have situations where the Town Attorney doesn't get his packet in a timely fashion and the Town Planner doesn't get his. Board Chairs will attest that their packets are late and incomplete and that they have had to cancel meetings because they don't have what they need.

Commissioner Price stated that he didn't have the information that Commissioner Evans was speaking of and no one has brought this to his attention.

Mayor Karpie stated that the evaluations are clearly divided between positive, negative and reserved. Two evaluations have determined that the Town Clerk seriously needs to

improve her performance. Two evaluations are satisfactory. The problems that Commissioner Evans has identified are serious violations and affect the well being of the Town. She believes we need to discuss the issues. The primary duties of the Town Clerk are:

1. Prepare agendas
2. Advertise meetings
3. Prepare minutes
4. Prepare Ordinances and Resolutions
5. Maintain custody of records
6. Maintain correspondence
7. Administer Oath of Office
8. Supervision of personnel
9. Maintain schedule of Board Commission Members terms

The Mayor stated that prior to December 2009; agendas have not been fully completed by close of business the previous week. Supporting documentation has not been present in a current and accurate manner. This is the direct responsibility of the Town Clerk. Agenda packets have not been provided to Board Members who are critical in meetings or the agendas have not been in a completed fashion. She also said that at the last meeting she spoke with the Town Planner and he received a site plan when he walked in the door. He had no time to review the site plan. It should have been provided in a timely fashion. The Mayor then asked Town Attorney Gougelman if he receives his packets in a timely fashion.

Attorney Gougelman asked which meeting.

The Mayor replied the December meeting.

Attorney Gougelman stated that he normally receives a hard copy and sometimes looks online.

The Mayor asked again if he had ever received an incomplete packet.

Attorney Gougelman replied yes.

Commissioner Price said that he was very happy to be in such a functioning organization. We have stabilized the Town and have a functioning staff. He stated that he requests a six month re-evaluation giving the Town Clerk time to make the necessary adjustments.

The Mayor stated that the Town Clerk's annual review should have taken place in June and the Town Clerk schedules the reviews and that she can document that it was intentionally over looked.

Commissioner Price said that he would like to see what documentation she has.

The Mayor stated that Board's agendas and packets were not presented in a timely fashion. An advertised meeting had to be changed to a workshop because it was not properly advertised. Board of Adjustment meetings have had to be cancelled because they weren't advertised in a timely fashion according to law. The Town Clerk is to prepare minutes and this is a primary responsibility of the Clerk. On July 23rd there was a budget workshop and we saw those minutes on November 18th. The September 9th workshop minutes were presented at a November meeting after a request by the Mayor.

The Mayor went on to say that Board minutes were not posted on the website until she had to request them. The Board of Adjustment minutes for 2008 were posted on October 28, 2009. Planning and Zoning meetings were posted October 28, 2009. The Planning and Zoning Board meetings were all posted correctly for 2009. There was a correspondence issue when we wanted to speak with Representative Tobia and Senator Haridopolis. The Mayor contacted other Mayors and asked the Town Clerk to follow through with arranging a selection of dates that would work for all townships and to also maintain communication with Town Clerks and Managers so that we could put this together. The Mayor provided a letter and the Town Clerk distributed it to Senator Haridopolis and Representative Tobia but previous correspondence with Town Mayors, managers and clerks was dropped. There was no follow through until after Representative Tobia accepted the invitation. There was no correspondence about this matter. The Mayor had to call each Town Hall to make sure they knew he was coming here.

The Mayor stated that the Town Clerk is responsible for administering the Oath of Office. On an afternoon that the mayor was there for business hours a new officer was being sworn at the police department and Town Clerk Hoffkins was not present that day. The Deputy Town Clerk administered the Oath of Office to the police officer and it was discovered that there was no documentation in the police department that any of the police officers had ever been sworn in. The Deputy Town Clerk swore in the officers present at that time.

Mayor Karpie stated she asked the Deputy Town Clerk to perform web related tasks and she was unable to do so. When asked, the Deputy Town Clerk stated that she had not been fully trained.

The Mayor said that she had an e-mail from a Board Chair that new members show up to meetings and no one has been notified.

Commissioner Evans stated that her concern was that there will not be any improvement because she has been asking these things over and over and there is no change.

The Mayor stated that they were in the process of documenting that these responsibilities were not being met.

Commissioner Price said that this is the first time we have had an evaluation like this in eight years. He said that he wasn't witness to all of the experiences when the Mayor had to counsel the Town Clerk on these areas of weaknesses, but the fact remains that we

have some pretty serious areas that need some attention or improvement. Commissioner Price also stated that we also have an evaluation done by four Commissioners that evaluates the Town Clerk and that have given an average review of satisfactory. He then asked Commissioner Marshall which time frame she would be willing to accept to attach his motion. He asked Commissioner Marshall if she would prefer six months or four months.

Commissioner Marshall stated that she would want it quicker. She said that we were aware of some things going on to the extent that the Mayor has put forth tonight and she has it documented. She stated that she personally feels that it should be sooner than four months because the Town can't go on with all that is going on.

Commissioner Price asked Commissioner Marshall if she would agree that since this was the first time in eight years that we have had such an evaluation and in the face of everything that is on the table now that a reasonable time to improve should be given.

Commissioner Marshall stated to Commissioner Price that "it depends on what you call reasonable".

Commissioner Price stated "six months".

Commissioner Marshall stated "no, I do not agree with that". She went on to say that she believes that the backup material that the Mayor has is a coverage period of six months that is on the table.

Mayor Karpie stated that was untrue but at least three months.

Commissioner Marshall stated that if this has been documented for three months she would suggest a re-evaluation in two months because it can't go another three months or this Town is going to be in trouble.

Commissioner Price replied that he didn't believe that two months was reasonable. Two months is not enough time to see if anything changed. He said that he would be willing to accept an amendment to his motion that the Commission re-evaluate in four months.

Vice Mayor Tennant said that he would second that motion.

Commissioner Marshall stated that she was aware of the Board members problems and concerns.

The Mayor said that the Board of Adjustments meetings were cancelled because they were not properly advertised and she asked the Board of Adjustments Chairman, Bob Schaeffer, to verify that statement.

Mr. Schaeffer stated that at a meeting a few months ago 5-6 sets of minutes were approved at one meeting.

The Mayor asked him if he received complete agendas for meetings with supporting backup documentation.

Mr. Schaeffer replied that there had been times when the Board was missing some items but most of the time it was all there.

The Mayor asked Mr. Schaeffer if it was true that he had to cancel a meeting because it wasn't properly advertised.

Mr. Schaeffer replied that that had occurred awhile ago.

David Campbell, the Chairman of the Planning and Zoning Board, stated that the Deputy Town Clerk has no problem with minutes or agendas and everything has been advertised correctly.

Commissioner Marshall stated that she was at the last Board of Adjustment meeting and it was cancelled because the site plan was unsigned.

Mr. Schaeffer stated that the application was also incomplete.

Commissioner Price asked if this was a regular occurrence.

Mr. Schaeffer replied that it had happened two other times.

The Mayor stated that as part of the Town Clerk's description of her job duties she listed that she performs assignments as requested by the Town Commission and Town Manager. In the description there are also instances where the Town Manager delegates assignments and projects in order for him to focus on other priorities. She stated that this is a chain of command issue. The Mayor went on to say that we have a Town Clerk and a Town Manager, one is executive and one is judicial, that is clearly listed on the budget we approved and that this is a separation of powers modeled after our Federal Government. She stated that it bothers her that she sees someone delegating to the Town Clerk when it's not by her chain of command or her immediate supervisor, which is her. She stated that this was not done through the proper chain of command. The Mayor said that there is a Commissioner on the Board who was actually on the Commission when the Town Management form of government was established. She asked why the supervisory provisions were made and why those positions were separated as they are.

Commissioner Marshall stated that they were separated at the time for what we call "checks and balances". The Town Clerk worked under the direction of the Mayor but also with the whole Commission.

Mayor Karpie stated that if you look at the policy manual under failure to follow instructions either by omitting them or declining to do them is grounds for dismissal. Mayor Karpie stated that the Town Clerk does some good things but that they are not the

things that she was primarily hired to do. The Mayor also stated that there is an issue of chronic tardiness that started well before the adoption of the four day work week. This involves failing to be on time at least once a week for most weeks. It also involves regular and repeated tardiness and being over an hour late on some days. Mayor Karpie went on to say that the Town Clerk also leaves Town Hall during her assigned work hours without authorization and that when the Mayor went into Town Hall on Thursday and the Town Clerk wasn't there she found that she had taken the day off and that it was planned but was not authorized and there was no signed request for leave.

Town Clerk Hoffkins stated that she disagreed with that statement and that Mayor Karpie had signed that request two weeks prior.

Mayor Karpie Stated that "in that case she apologizes but however she can still document October 12th, January 7th, September 6th and November 24th and they are just the ones she found in scanning her emails'.

Commissioner Price stated that nothing that the Mayor has said tonight is insignificant.

Mayor Karpie stated that it was significant that all four of those items are grounds for dismissal. The Mayor stated that one of them is grounds for dismissal and this is according to the policies and procedures manual that has been in place since you were a Commissioner.

Commissioner Price stated that he would agree with her if there had been some kind of evaluation done to put the Town Clerk on notice that these areas needed correction. He stated that the Town Clerk should be given the opportunity to make the necessary corrections.

Mayor Karpie stated to Commissioner Price that he is the one that pointed out that we evaluate our staff regularly at almost every interaction.

Commissioner Price stated that what the Commission should do is have a subsequent evaluation in four to six months and he believed that four months is what Commissioner Marshall asked for at the low level and that they had both agreed to that.

Mayor Karpie asked for all in favor.

Commissioner Price voted "aye".

Vice Mayor Tennant voted "aye".

Mayor Karpie voted "nay".

Commissioner Evans voted "nay".

Commissioner Marshall voted "nay".

The Mayor stated that the vote is 2-3 and that the motion fails. The Mayor asked if someone else would like to suggest another motion.

Commissioner Evans made the motion that the Commission suspends Town Clerk Hoffkins with pay to come back to us in a few days and discuss her side of this and in the interim that we ask Deputy Town Clerk Danielle to be Interim Town Clerk for these few days.

Mayor Karpie asked if there was a second.

Commissioner Marshall seconded the motion.

Mayor Karpie asked if there was discussion.

Vice Mayor Tennant stated that the Town Clerk job is critical. He went on to say that as far as agendas, sometimes the Town Clerk gets the information to late or is not communicated with by the Chairmen's of the Boards so maybe they can't get an advertisement out at a particular time. It is a very overwhelming job and based on upon the degree of proficiency that the Mayor has indicated that she wants in this job that we may need two Town Clerks to get this job done. He stated that he would rather have stability and a satisfactory job rating than a revolving door and total confusion that we have had in the past. He stated that the reason things were so out of control in the past was because of the Commissioners not communicating with the staff to get their behavior at an acceptable level. He stated that he didn't know Town Clerks side of the story but that he would like to hear it. Vice Mayor Tennant stated that Town Clerk Hoffkins is entitled to respond to every one of these charges. Vice Mayor Tennant went on to say that the Commission should give her guidance as to what responsibilities should be prioritized. He stated that there are ways to improve employee's performance as you know that there are ways to motivate students in school. He said that the best way to do it is positive reinforcement with a clear outline of what absolutely has to be done. He stated that he thinks that the Commission owes it to the employees of the Town and that it is grossly unfair not to provide them with priorities as to what items have to be done first and which things are secondary. Vice Mayor Tennant stated that he believed you need timely and accurate minutes and a Town Clerk that can be relied upon when you give them directions. In the absence of the reliability and the trust that you need is a problem and so his first approach would be to get a better job performance out of Town Clerk Hoffkins and to meet the needs across the board. The first step would be a counseling and giving her a list of the priorities and listening to her side of each one of the complaints. He stated that he would like to set some goals with dates and times of things that have to be done. He stated that in the motion he would like to see an addendum to make an attempt to communicate what we feel is a list of those priorities.

Commissioner Evans stated that she agreed with Vice Mayor Tennant and that she believed that the Mayor has done counseling. She stated that she would also like to bring to his attention that in the review of December of last year your comments and objectives

were to work with the Mayor and Commissioners to give assistance to more effectively manage monthly Commission meetings. Commissioner Evans stated that we have a rule that we are to have draft minutes within five business days. She stated that this is not something that Town Clerk Hoffkins is unaware of. She stated that her concern was that counseling is not going to be effective above and beyond what the immediate supervisor has already done and that is the reason that she made the motion the way that she did and Town Clerk Hoffkins should have the opportunity to respond but until such time we have several offenses that each on their own are grounds are cause for immediate termination.

Vice Mayor Tennant said that if you do that and the assistant Town Clerk is here for the meeting on Wednesday she will also be late on the minutes for the first month so your creating a situation of less manpower to do more work so maybe we should bring in another assistant Town Clerk.

Mayor Karpie stated that these are things that we need to address immediately and we are here to primarily determine whether the job is being done properly. She went on to say that Commissioner Evans pointed out that this same problem was identified a year ago.

Commissioner Evans stated that in her review from a year ago she documented that minutes need to be turned in on time.

Vice mayor Tennant stated that when something does occur it should be shared.

Commissioner Price stated that the Town Clerks job has official duties. In addition to these duties the Town Clerk is also a secretary, a receptionist, a file clerk and a retriever of documents under the public records law. He also stated that our administrative staff is to thin. Commissioner Price also stated that a Town Clerk in the State of Florida is not someone you can just replace easily. He stated again that the Commission should give the Town Clerk the chance to make the adjustments that we would like to see made. He stated that he would never personally vote for a suspension. He stated that he would like the Commission to rethink and consider before they act and do something that can help build on what we have rather than throw the baby out with the bathwater.

Commissioner Marshall wanted to know what length of time they would give Town Clerk Hoffkins to offer a rebuttal.

Mayor Karpie that Commissioner Evans mentioned in her motion a couple of days.

Commissioner Evans stated that she agrees with everything that Commissioner Price said but at some point in time you have to cut your losses. She stated that continuing in a bad situation is not beneficial. This is coming from prior evaluations and her own experiences of having to ask for things several times. If the job is overwhelming then they can quit if they're not capable.

Commissioner Marshall asked if the motion was being taken off the floor of the suspending for a couple of days.

Commissioner Evans stated “no, suspension with pay pending some type of hearing”.

Vice Mayor Tennant asked Commissioner Evans what the point of that was.

Commissioner Evans replied that we don’t need to continue on with this tonight and if any of things that have been laid out that are grounds for dismissal can be successfully rebutted then obviously we could rethink. If any of them are not successfully rebutted then a dismissal is in order.

Mayor Karpie stated that what they are basically looking at is suspension with pay until the next meeting at which time the Town Clerk would have the ability to respond. This will give her time to go over the problems that we have identified and formulate a response.

Vice Mayor Tennant stated “so then you are counting on her being at the Town Commission meeting on Wednesday”.

Mayor Karpie stated that “we would request her to be there”.

Vice Mayor Tennant stated that “at that time you would ask her to defend herself”.

Commissioner Evans replied “if that is what she wishes to do, yes”.

Mayor Karpie stated that is part of the process. She then asked if the Commission was ready to vote on this issue.

Attorney Gougelman asked for clarification on where this is going. He asked if they were basically inviting her to return on Wednesday and to present any response she wished to present and also wanted to know if where this was leading to was potential dismissal.

Commissioner Evans replied “Yes, sir”.

Mayor Karpie asked if the Commission was ready to vote.

Commissioner Evans voted “aye”.

Mayor Karpie voted “aye”.

Commissioner Marshall voted “aye”.

Mayor Karpie asked for all opposed.

Commissioner Price voted “nay”.

Commissioner Tennant voted “nay”

Mayor Karpie read the results as 3-2. She stated that the outcome of this motion is that the Town Clerk is suspended with pay until the next regular Town Commission meeting on January 20th. The Mayor also stated that the duties of the Town Clerk will be assumed by the Deputy Town Clerk. The Town Clerk will be required to relinquish her keys and Town property and to also avoid accessing her computer and she will have the opportunity to respond and rebut on January 20th.

Mayor Karpie directed Chief Krueger to request the keys from the Town Clerk and also other Town property that she has and instruct her not to access her computer until further notice. The Mayor stated that “at this point, this is a temporary measure”.

Attorney Gougelman wanted to know where to place this item on the agenda for the next meeting. He stated that the Commission wants to make sure that Town Clerk Hoffkins will have an appropriate amount of time to present her rebuttal. He stated that perhaps someone could get ahold of Ms. Hoffkins and ask her how much time she would want for her rebuttal. He stated that he knew there were rules for placing things on the agenda.

Mayor Karpie replied that this would fall under time sensitive administrative information and the Commission would ask the Town Manager to put it on the agenda. She also asked Town Manager Bursick to advise the Commission where on the agenda that would be appropriate and if he has a way of contacting Ms. Hoffkins to arrange this with her to be sure that she knows when and where.

Town Manager Bursick said that he would take care of it.

The Mayor asked Town Manager Bursick if this should be addressed during the Regular meeting or should it be addressed under a Special Call meeting.

Town Manager Bursick stated that a Special agenda would be a better place for it because we already have a full agenda for Wednesday.

Attorney Gougelman stated that the Commission may want to consider what she is going to present for consideration and depending upon what she presents may also call the Commission need for time to debate what’s been presented.

Mayor Karpie said that it would have to be scheduled as a Special meeting after the Regular meeting on Wednesday and then if there needs to be a subsequent meeting that it would be after Commissioner Marshall returns from her training seminar.

Town Manager Bursick said that he would call Ms. Hoffkins in the morning and ask her if that would be sufficient time to prepare and relay the answer to the Town Commission.

Commissioner Marshall asked if we could leave that open because it is only giving her not even 48 hours to prepare.

1C. Schedule of personnel evaluations

Mayor Karpie stated that they are a normal and valuable tool for supervision for effectiveness. They should be done as a regular scheduled event. She stated that she had no action except to direct the acting Town Clerk to modify the database for Board Member appointments to reflect a re-evaluation date for personnel as well.

2. Discussion of job description – Mayor Rita Karpie

Mayor Karpie said that job descriptions for all employees, with the exception of the Town Manager, Town Attorney and Town Clerk, are the responsibility of the Town Manager. She stated that she believed review and revision for these job descriptions are in progress. The Mayor asked Town Manager Bursick if that was true.

Town Manager Bursick replied that was one of the goals for this fiscal year. The first thing we started with was the safety manual and we are almost complete with that. He stated that after that they will move onto the job descriptions.

The Mayor stated that there was a meeting scheduled in September regarding that manual and that was cancelled and has not been rescheduled. She stated that since the Town Manager position includes personnel management and the Commission has supervisory responsibilities, I think it would be appropriate if we establish a workshop during which the Town Manager and Commission can get together and review the job description for those three positions over which the Town Commission has supervisory responsibilities. The Mayor also wanted to make a note for the record that “we need to establish a workshop maybe in the first part of February before the February meeting when we can at least review these with the Town Manager.

3. Discussion of Commission presence in Town Hall-Mayor Rita Karpie

The Mayor stated that there is not a functional desk or computer for Commission use within the Town Hall and finds it surprising to some that when people walk into Town Hall they find no Commission office. She stated that the Commission could defer this but would like them to think about maybe having some space that would contain a desk, computer and telephone. She stated that we currently use the conference room and she doesn't like it.

Commissioner Price asked the Mayor if she would like to have an office.

The Mayor replied that she thinks the Town Commission should have a presence within the Town Hall and the most appropriate presence would be an office.

Commissioner Price agreed with the Mayor that there should be an office for the Mayor and Commissioners to hold meetings when needed.

The Mayor said that she has spoken with the Town Manager and there are a couple of ideas.

4. Sunshine Law/Public Records videos

The Mayor stated that some have seen the videos and that she would like to post them on the website to be viewed and re-visit them maybe once a year.

5. Discussion and possible action regarding review of Independent Inspections, LTD contract.

Mayor Karpie stated that this is one of the contracts that we approved without actually seeing the contract. It is a contract that seems to be generating more than \$4,000 per year which means it needs to be approved by the Town Commission and should have oversight.

Commissioner Price asked how long the contract has been in effect for.

The Mayor stated that the effective date was September 22, 2009, and it is a 180 day contract.

Commissioner Price asked what it is averaging per month.

Mayor Karpie stated that she asked for that in the November meeting and has yet to have that information. She stated that she asked for a summary and to keep apprised of the comparison between what was being done previously and what was occurring with our contractor because with the three months they have been here they have had time to show some sort of performance evaluation. She stated that there are two options and courtesy specifically requires us to notify them within 60 days if we choose not to renew. She stated that the contract itself says that we can terminate by giving 60 days notice prior to the end of the contract term. Mayor Karpie went on to say that at the 60 day point we need to either renew or non-renew by January 20th. She stated that the Commission may agree to renew their contract and extend it for an additional year and these we can do on or after February 13th and we can do this in writing but it must be by the Commission itself. She stated that the ways she understands it is that they are not locked in to a year long contract. The contract will lapse if we choose not to re-new it. Mayor Karpie asked Attorney Gougelman if he was familiar with the contract and if he could suggest the outcome of what would happen if no action takes place today.

Attorney Gougelman stated that the outcome would be that the contract would expire on March 21, 2010 and there are a couple of alternatives. He stated that they could re-new the contract for an additional year but that doesn't mean that the terms of the contract couldn't be changed to perhaps a sixty day renewal. He went on to say that if they take no action tonight nothing will happen one way or another because the contract terminates on March 21st. He stated that it also provides that there is a 60 day termination clause so that everyone would have advance notice.

Commissioner Marshall asked Town Manager Bursick to come up with some information regarding how much it has cost the Town.

Town Manager Bursick stated that he could and on the agenda on Wednesday under his report, there is a section that provides some financial data relative to this contract.

Mayor Karpie asked the Commission if they were going to action tonight.

Commissioner Evans asked if this was on the agenda for Wednesday night.

Town Manager Bursick stated that it was not listed as an action item but strictly for financial projection.

Commissioner Evans asked if he was saying that it wasn't crucial that they act tonight.

Attorney Gougelman stated that it wasn't crucial if your goal is non-renewal. He stated that they probably need to let them know for business courtesy so they can plan ahead.

Commissioner Evans stated that she believes there isn't sufficient material to make that decision tonight.

Mayor Karpie stated that she didn't feel that way.

V. ADJOURNMENT

Commissioner Marshall made a motion to adjourn. Question called motion carried 5-0.
Meeting adjourned at 9:49 pm.

Mayor Rita A. Karpie

Interim Town Clerk, Rhonda Danielle
(Town Seal)