



Minutes

Town Commission
Special Called Meeting
Monday • September 22, 2014 • 6:45 pm

1. Call to Order: 6:45 pm
2. Invocation & Pledge of Allegiance to Flag
3. Roll Call:
Commissioners Attending:
 - Joseph Aufmuth Absent with notice
 - Michael Berkowitz Present
 - Virginia Mance, Mayor Pro-Tem Present
 - Richard Shutterly, Mayor Present
 - Mike Roberts Absent with notice

 - Debbie Gonano, Town Administrator Present
 - Patty Polk, Deputy Town Clerk Present
4. Consent Agenda Approval:
A. Agenda Approval
Motion made and seconded (Mance/Berkowitz) to accept the consent agenda as submitted; passed 3-0
5. U.S. Water Services Contract – Water Operator Contract Approval – Mayor Shutterly presented
Discussion ensued.
 - Attorney Lee sent a memo with his advice of certain risks inherent in the captioned contract:
 - Exhibit B contains costs of tests that might be performed on water samples. The contract provides that both exhibits may be changed at any time and without notice (see paragraphs II a. and d.) The risk is that the cost of the contract services becomes an unknown if the rates can change at any time without notice.
 - The contract also contains a paragraph dealing with non-solicitation of employees (paragraph IV). Essentially, it seeks to prevent the Town from hiring, directly or indirectly, a former US Water employee during the term of the contract and for two years afterwards. Should the Town do so, then US Water is entitled to one year's fees or \$10,000, whichever is greater. The risk here is that the Town could un mindfully hire a new water provider that happens to employ or be owned by a former US Water employee, and the Town would be subject to a claim.
 - US Water has refused to modify these provisions. While there is no legal impediment to the Town's approval of the contract, the Town should be informed of the risks and knowingly accept them.
 - Mr. Lee advised that he was not opposed to the Town entering into this contract; however he wanted to inform the Commission of the risks, however remote, so there are no surprises in the future.
 - Discussion ensued.

A. Commission Voted on August 12, 2014 to accept bid proposal from U.S. Water
B. Formality of Accepting Contract and Authorizing Mayor's Signature
Motion made and seconded (Berkowitz/Mance) to accept the U.S. Water service contract as submitted; passed 3-0

Mayor Pro-Tem Mance gave Town Administrator Gonano accolades for saving the town money with the change in water plant contractors.

6. Adjourn: 6:50 pm

MINUTES APPROVED:

As submitted _____ as amended _____ at Town Commission Meeting _____

Richard Shutterly, Mayor

Patty S. Polk, Recorder