

**MINUTES  
TOWN OF MONTVERDE  
REGULAR TOWN COUNCIL MEETING**

**February 10, 2015**

The Town of Montverde met in regular session on Tuesday, February 10, 2015 at 7:00 PM in the Town Hall Auditorium.

**Council Present:**

President Glenn Burns

Billy Bates

Jim Pierce

Joe Wynkoop

**Council Absent:**

Arthur Nix

**Staff Present:**

Graham Wells, Town Clerk

Terry Burden, Public Works Director

Mary Gillis, Finance Director

Anita Geraci- Carver, Town Attorney

Mayor Bennett called the meeting to order at 7:02 and led the Pledge of Allegiance.

Roll call was performed, and it was determined that a quorum was present.

**MINUTE APPROVAL**

Councilman Burns requested a correction to the January Regular Town Council meeting minutes from January 13, 2015. On page3, he did not vote for the approval of the Interlocal Agreement for the Potable Water Interconnection. Mary Gillis noted that the recorder did not record the entire meeting, and she was trying to do the minutes from memory.

**MOTION by Councilman Pierce to approve the regular Council Meeting Minutes from January 13, 2015, with correction, the Council Workshop Summary Report from January 20, 2015, and the Special Council Meeting Minutes from January 8, 2015; SECONDED by Councilman Burns.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

### **PRESENTATION TO COUNCIL BY GIRL SCOUT TROOP 9493**

The Girl Scouts thanked Council for allowing them to use the Community Building for their meetings, and presented Council with a collage of drawings of Montverde. The troop leader explained that part of the work in obtaining a badge was to leave their meeting place better than they found it; Mayor Bennett offered to hang the collage in the Community Building.

### **CITIZEN QUESTION AND COMMENT**

None.

### **COUNCIL AND MAYOR**

#### **Councilman Joe Wynkoop**

Councilman Wynkoop stated that the Friends of Montverde team is going to have their Pot Luck dinner on Valentine's Day at 6:00. There will be music and dancing. Also, on February 17, the Friends of Montverde team is going to have their monthly meeting. They will be discussing upcoming events, and will have a real estate specialist at the meeting, Colleen Burns, to discuss trends in the Montverde area. Then, on February 20, Bingo will be held in the Community Building.

Councilman Wynkoop also announced that Outside the Box Theater is currently performing their play at the Town Hall Auditorium.

Councilman Wynkoop discussed the MPO meeting that he recently attended. He said that Lake County Public Works Director Jim Stivender stated that the County is still looking to put a roundabout at the intersection of Ridgewood and CR 455. Town Planner Sean Parks interjected that he thought the Mr. Stivender misspoke, as recent discussions have centered around putting in a turn lane on Ridgewood Avenue.

Councilman Wynkoop then asked about the off-duty deputies, and how the scheduling was going. Mayor Bennett replied that staff scheduled them in the month of December, and it was a little difficult to schedule. Town Clerk Graham Wells interjected that for traffic monitoring, the Sheriff would only do four-hour shifts. The Committee wanted traffic monitoring for two hours in the morning and two hours in the afternoon. So, Andrea McKane rearranged her own schedule to accommodate the Committee's request. Graham stated that for the rest of the weeks, the Sheriff's Office was able to provide off-duty deputies in accordance with the Committee's request. The Committee has not come back with any recommendations since that time. Councilman Wynkoop stated that the Safety Committee should meet again to discuss future coverage.

**Councilman Glenn Burns**

Councilman Burns asked Sean Parks to explain to Council and residents about the *Keep America Beautiful* campaign. Sean Parks explained that the County has initiated the process to make Lake County a part of the *Keep America Beautiful* campaign. The organization began in 1971 with television ads promoting a campaign to stop littering. The organization has evolved, and now they are set up to help communities rally citizens and businesses to keep their community clean. They can help in implementing litter and illegal dumping ordinances. The cost is only \$500 per year for Lake County to participate. Sean Parks stated that Montverde was one of only three cities who had representatives attend. Councilman Burns stated that he thought membership could provide a lot of valuable services, but volunteers would be needed. Sean Parks replied that the organization would help to organize the volunteers.

Mayor Bennett asked for an update on the boat ramp grant from the Florida Fish and Wildlife Commission. Sean Parks stated that \$1.6 million was added to the Legislative Agenda for the boat ramp park. He said that the boat ramp has a lot of support from some powerful legislators.

Mayor Bennett also asked Sean for an update on the Lake County Water Authority Grant. Sean replied that he spoke with a representative just recently, and he did not have an update yet.

**Councilman Billy Bates**

Pass.

**Councilman Jim Pierce**

Councilman Pierce noted that the Deputy's report for January was very lean. He stated that there were two stops, two warnings given, and that was it. He asked if there was any criteria for this report, or if this report was just something that the deputy put together on her own. Mayor Bennett replied that there was no criterion for the report. Mayor Bennett suggested that staff could ask the deputy for the call log. Town Clerk Graham Wells noted that the report stated that the Sheriff's Office responded to 22 calls for service. Councilman Pierce agreed, but stated that the report does not give any real information for these calls. Under the section "Notable Calls", it states that there were none. Councilman Pierce said that month after month, the report is lean, and while he hopes that the reason is because there is no crime in Montverde, he is suspicious that every month shows no activity.

**Mayor Troy Bennett**

Pass.

## **POLICKE V. TOWN OF MONTVERDE – CONSIDERATION OF SETTLEMENT OFFER**

Mayor Bennett gave residents an overview of this subject. He said that this matter concerned the former Librarian who worked for the Town for a year or two. He said that during her tenure, he and staff began to have a few conduct issues with her. She was written up a couple of times, and she wrote some rebuttals. He then explained that all employees had a timesheet that they have to fill out in Excel. They print the timesheet, and then there is a statement saying that the hours they submitted are true and accurate, and then the employee must sign under that statement. For a while, staff noticed that there was some cheating going on with her timesheet, and so she was written up a couple of times to get her to record her accurate times and make it as accurate as possible. Chris, the cashier, had discovered that the addition on Martha's timesheet was wrong. In December, staff figured out that Martha was over-writing the formulas on her Excel spreadsheet, and when the Mayor discovered this, he realized she was owed some overtime. Then timesheets from previous weeks were reviewed, and it was noted that there were inaccuracies on those as well. So Mayor Bennett sent her an email asking her to take a look at her timesheets for the past few months and tell him how much overtime she worked, and how much overtime was owed to her. She replied with some data, somewhere around 70 hours. Mayor Bennett reminded residents that during this time, there was a budget crunch, and he had sent out several emails to all staff beforehand that no overtime was to be work unless first authorized by the Mayor. Staff was directed to talk to the Mayor if overtime was needed. He then stated that staff's math on the amount of overtime she worked was about 41 hours, which equaled about \$1100 or \$1200. Martha then came back with a later revision that stated that she had now worked 200 overtime hours. It was at this time that she presented a lawsuit to the Town, based on two counts: that she was not paid the overtime that was owed to her, and that she was constructively discharged. Constructive discharge means that life was just so miserable that she just could not take it anymore. Mayor Bennett introduced the Town's attorney on this matter, Jay Seegers. Mayor Bennett stated that he felt count two would be difficult to prove. He stated that the attorney Martha hired was an attorney from Orlando who was involved in a lawsuit against the Town before when the previous Librarian sued the Town. Mayor Bennett stated that the issue tonight was whether the Town should continue to fight or settle.

Jay Seegers introduced himself and stated he worked for Baker Hostetler, and specializes in labor law. He has practiced law for 17 years now. Jay stressed that he felt that Town staff did everything right in handling this matter. He said that they had a very difficult situation to deal with, and they handled it the right way. He said that they tried to mediate the matter in front of a federal magistrate in Ocala, and the magistrate did not express anything that he felt the Town did wrong. The magistrate's point was that there was a business decision to be made here. At some point, the cost of going forward to win this lawsuit will far exceed the cost to just get rid of it now. It really is a business decision at this point. When he met with the federal magistrate, he did everything possible to get the number as low as he could.

Mayor Bennett stated that part of the issue is that Martha's attorney initially thought that there was insurance involved. It was almost the first thing out of his mouth. But the Town does not have insurance for this.

Jay Seegers said that the reason the Town does not have insurance for this is because Martha is suing for wages that she feels should have been paid to her, and the insurance company takes the position that it is not responsible for paying the Town's debts.

Mayor Bennett summarized that the other attorney took Martha on as a client because he thought there was insurance money involved. He said that insurance agents like to settle quickly. And that is kind of what happened to the Town in the prior lawsuit. The insurance company said that the Town had a 94% chance of winning its case, but since it was covered by insurance, the insurance company decided to settle to cut its costs. Mayor Bennett said that this case is similar, except that there is no insurance coverage.

Mayor Bennett opined that the opposing attorney thought that there was insurance for this matter, and that Martha probably does not have to pay any fees unless she recovers something. Martha "has no chips in the game," so she can go all the way to a jury trial. Mayor Bennett stated that it feels like the Town has been set up. He said when he gave Martha an annual or six month review, she very thoroughly wrote up a four page rebuttal, and yet she claims she made mistakes on her timesheets. She submitted several revisions on her timesheets, and he finds it incredible that an employee can keep submitting new revisions of timesheets long after the fact.

Mayor Bennett stated that Martha wanted \$90,000 for this matter, and the Town wanted to pay \$0. After four or five hours of battling in mediation, she will take \$29,750 and walk away. Mayor Bennett stated that this is the decision that Council is presented with tonight. They must decide to either pay her the money, or continue to fight the case, which would result in large sums of attorney's fees. If the Town loses, the Town would have to pay double the fees, plus her attorney fees, and the Town's attorney fees.

Mayor Bennett explained that the Town has incurred some cost to date in attorney's fees to fight the lawsuit. These fees plus the settlement amount total to around \$50,000. He said that what is frustrating to him that she could win this case on the slightest little thing. He said that the Town's staff was the one who identified the problem initially, not her.

Mayor Bennett asked Jay if he felt that their side had a case with count two regarding the constructive discharge. Jay responded that constructive discharge is very hard to prove and it requires a very extraordinary circumstance.

Mayor Bennett said that he felt that her attorney had to substantially reduce his fees to get Martha the money that she wanted. Jay concurred, and said that her attorney certainly had to put in a lot of time and effort in to this case.

Mayor Bennett said that the judge presented him with the idea that Martha thinks she is owed \$6500 (which does not correlate to what the Town thinks she is owed). But even if she is owed \$6500, if the Town loses the case, she would be awarded double that amount, which would be \$13,000. Then on top

of that, the Town would be responsible for her attorney's fees, and the Town's attorney's fees. Mayor Bennett said that he feels she would go all the way to a trial because there probably is not any money out of her pocket at this point. She has nothing to lose.

Mayor Bennett summarized that there are all kinds of things on the table: morals, principles, good business practices, money, etc. Council has to take all these things into consideration and come up with a decision. Mayor Bennett said that it seems like the practice ought to be that the Town fire all the attorneys, because the Town just seems to end up writing a check for these lawsuits. Mayor Bennett said that he does not know what to do. He said that Council has had two closed-door meetings on this subject, and then stated that he thought that Jay Seegers has done a fantastic job for the Town.

Mayor Bennett said that this lawsuit frustrates him because his business practice is to pay someone a good day's wage for something that he has worked on, but he feels like this is just being stolen out of his hands.

Mayor Bennett said staff did the right things: the Town has an employee handbook, staff wrote her up when necessary, etc. He said there is a piece of him that feels like the handbook could be thrown in the trash, because it did not do the Town any good. He now knows that someone can sue the Town for anything and get away with it. He said that Councilman Bates told him earlier that a handbook would simply keep the *honest* people honest.

Councilman Pierce said that he looked at the matter this way: our attorney feels strongly that the Town would win this lawsuit, so what does winning look like? If the Town won, it would probably have to pay \$90,000 to \$100,000 for a year's worth of work for our attorney to fight this. In his opinion, this does not seem like winning. If the Town were to lose, it could cost several hundred thousand dollars. He said that the lawsuit is at a point where the lawyers are about to start getting really busy taking depositions. He said that he looked at what point it would be best to "pull the parachute" and get out of the lawsuit. This seemed like the right time to him before the attorney's fees started to escalate. He said that he is not looking at this as right and wrong, but rather preserving the tax dollars that are going to be used to pay this lawsuit. He said that we cannot change the system, and there is no way around paying attorney's fees. He said that if the Town does not settle now, the cost will only get worse. He said that Mayor Bennett does not want to settle because he feels he and staff have done everything right. And he said that our attorney feels like we would win this case. But he said that winning and/or doing the right thing would cost a lot more money. Mayor Bennett said that he understands that, but the question is why have all these professionals and attorneys if the Town is going to settle whenever there is a lawsuit? Councilman Pierce said that his question would be since we cannot change the system, what can be done in the future to better protect the Town? Does the Town need to go out and get insurance to better cover us? Councilman Pierce said that the Town was at the mercy of the insurance company during the last lawsuit, which actually turned out to be good, because all that the Town had to give up was a \$2,000 deductible. Councilman Pierce said that there are aspects about the law that cannot be changed, but that maybe the Town needs insurance that would cover us from top to bottom.

Mayor Bennett interject that the crazy thing about this is that if the Town loses, the Town has to pay Martha's attorney's fees. If the Town wins, she does not have to pay our attorney's fees.

Councilman Pierce said that his recommendation is to pull the parachute on this thing, and to not fight the lawsuit based on principles, because principles would only cost us more money.

Councilman Bates stated that since he is an insurance guy, he has been looking at the business side of this. He said that everything the attorney is saying is that we have a strong case; everything has been documented. He said that there was an original set of timesheets that was turned in, there was a second set of timesheets that was turned in (when she was asked to make corrections), and then there was a third set of timesheets that was turned in. And the third set of timesheets was turned in with an attorney. He said that this changed the way he was looking at the case. He said that it did not make sense that she had a third set of timesheets. But, he looked at this case from the standpoint of "what does winning look like?" He said that this is a common phrase and approach used in the insurance industry. He said that the Town has to look at this from a business standpoint, and not from a personal level. If the Town takes this matter personally, the money will be spent and the Town will never get it back. From a business perspective, the Town could spend \$50,000 and be done with the lawsuit instead of spending much more than that to fight it. He said that the Town has a strong case, but it would cost a whole lot more than \$50,000 to win this case. He asked if winning looks like spending \$50,000 and being done with it, or does winning look like spending \$100,000?

Councilman Glenn Burns stated that the whole thing disgusts him, but he feels like the Town should cut its losses and settle. He said this thing could end up being a big, black hole that costs hundreds of thousands of dollars. He said that he is for getting out now. He said that this is not his money; that it is the residents' money, and he does not want to take any more chances with it than he has to.

Councilman Joe Wynkoop said that he feels it is cheaper to get out now. He also thinks about how we could stop this from happening again. He said that it was mentioned to get insurance, but could the Town get enough insurance to cover everything that could happen? He said he would like to hear public comment. Mayor Bennett said that public comment time would be next.

Mayor Bennett then read an email from Councilman Nix, who is absent from this meeting. The email read, "Concerning the Martha Policke case, I want to express my opinion. The Town is in a very strong position to win this, and I am against settling out of court for anything more than \$18,000. And even that amount is not agreeable with me. All of the background work is done; we have a really good attorney. I say let's begin in court."

Mayor Bennett opened the floor for public comment:

*Jim Peacock, 16549 Lowry Road.* Mr. Peacock said that he has yet to hear a total of what this is going to cost the Town, including her payout, her attorney's fees and our attorney's fees. Mayor Bennett replied that a settlement would mean \$29,750 for her, plus our attorney's fees. He said the total for both is around \$45,000 to \$50,000. He said that the Town does not have to pay her attorney's fees. Her

attorney's fees would come out of her \$29,750. He said that once settled, the Town would be informed as to how much of the \$29,750 her attorney received. Mr. Peacock then asked if the Mayor had the only authority to hire and fire employees. Mayor Bennett responded yes.

*Bob Tomlinson, 16634 Magnolia Terrace.* Mr. Tomlinson said that what he is perplexed about is that this seems to all be about timecards. He asked if that was all this was about. Mayor Bennett responded yes, and then referred to Jay. Jay Seegers responded that Martha is claiming that there are hours that she worked that are not reflected on her timesheet. She is also claiming that there was constructive discharge; that when she complained to the Town, the Town made her life so miserable that she had no choice other than to quit. While she quit, she is claiming that it was essentially a discharge; that she was fired because of her complaints. Mr. Tomlinson asked how much of the \$29,750 is attributable to the timecards, and how much is attributable to the constructive discharge. Jay responded that there is no splitting it out; it does not have to be apportioned out to any specific claim. Mr. Tomlinson said that he does not know how the Town works, but he knows how employment practices have worked for him. He said that in his experience "your timecard is your responsibility" and what an employee turns in is final. He said that he does not know how she can come back and change her timecard and make it legal. He said that if he changed his timecard at work, then he would be fired, because it is a legal document that he is turning in. He then asked how the Town is being sued in the first place, and how is it being allowed. He said that he is upset that the Town is having to pay \$50,000 for something like this. He said that that sum of money is a whole year of employment, or equates to a new roof on the Library. Mr. Tomlinson asked Jay Seegers to help him understand how the Town is being sued on this. Jay replied that there is an on-going litigation, so he has to be a little bit careful about what he says here, because there is no attorney-client privilege here. So he does not want to inject his legal theories on the case, because it will get right back to opposing counsel. Mr. Tomlinson asked how the Town is going to prevent this from happening again in the future. He said that this happened before with the prior librarian. Mayor Bennett said that he thinks her attorney is out her fishing; he found a nice pond out here where he can make money. Anita Geraci-Carver interjected that one of the things the Town did to prevent this from happening in the future was to install a timeclock. Employees no longer use timesheets, and instead have to punch in and out of a timeclock. Mr. Tomlinson said that this was great because it could prevent something like this from happening in the future. Jay Seegers said that this case was under the Fair Labor Standards Act, and that Florida is ground-zero for FLSA cases. The types of cases are clogging up the system; judges do not like them. 30-40% of a judge's caseload is dealing with FLSA cases. These cases include the guy who mows lawns who says that his hours are actually overtime that was not paid as well as a timeshare salesman who was making several hundred thousand dollars a year that decided he was not exempt from overtime. Mr. Tomlinson then asked if the timeclock would prevent this from happening again. Jay responded that nothing could keep something like this from happening again. Mr. Tomlinson then asked how much the Library is now costing us, and is it worth it. Councilman Bates said that it is not the Library; it could be any Town employee. Mr. Tomlinson said that the Town needs to get some form of insurance. He also said he is sad to see this happen.



*Allen Hartle, 16191 Hillside Circle.* Mr. Hartle said that as a citizen, it irritates him that residents are having to pay for something like this. He is concerned that taxes are going to increase because of this. He said that he is a health-safety manager, and it seems to him that this is the new American legal system, and we better get used to it. Lawyers are dangling carrots in front of employees, and litigation is extremely expensive, so companies end up settling. There is business, and then there are principles and morals. He said it sounds to him like we are right, the citizens are right, and our side is morally right. But in litigation, it is going to cost us more to be right. It will seem like we won, but we actually lost money. Councilman Pierce said that he wrestled with the same issue. He said that if winning this lawsuit would fix our problem going forward and if it would ensure that we did not have any suits anymore, he would definitely vote to fight it. But the problem is that even if we win, there could be another ten lawsuits lined up behind it, and we would have to fight every one of them. He said that there is no reward for taking this and winning. The system is not set up that way. Mr. Hartle said that it seems to him that judges rule that someone has to pay something, and the Town could be out a lot of money, even though they did nothing wrong. Mr. Hartle then said that his company uses a finger-print timeclock. Employees clock in and out by using their fingerprint. He said this reduces fraud. He asked if the Town could do something like that. Councilman Pierce said that he thinks an attorney could still take the case even in the instances of fingerprint timeclocks. He said that if that was the solution, that he is sure our attorney would have advised that. Mr. Hartle asked Mayor Bennett if he could find out how much the cost would be to get insurance for this. Mayor Bennett responded that he is not sure that the Town could get insurance for this. Mr. Hartle asked Jay Seegers if there was something that could be put in the Employee Handbook to give the timesheets more teeth. Jay responded that if the Town instructs its employees to not work overtime, and they do work overtime anyway, the Town must still pay them for those hours. He said that you could have it in your policy that you pay them, but then you fire them. He said that she feels she has the ability to say that she worked overtime hours that she was not paid for. He said that the Town has quite a bit of documentation where she was told repeatedly not to work overtime unless first authorized by the Mayor. She never obtained that preapproval. He said that her story is that it was told to her that she just should not put it down, no matter what everyone else said on paper. But he said that this scenario is played out by litigants hundreds of times a day in the state of Florida. He hears this excuse constantly.

*Soloman Sorrano, 18600 Florence View Drive.* Mr. Serrano said that he thinks Council is trying to resolve the situation as best as they can. He said that it is easy to point fingers, but he does not feel the Town should do that. He said that this is something that affects each resident. He said that he heard Council say that this is a business decision. He said that we live in a litigation society. He said that the longer this goes on, the more money will be lost. He said that employees are getting smart, and you see all the time where they are trying to look for ways to get money that they are not entitled to. He said that even though the Town has a strong case, the judge does not always go that way.

*Lynette Phillips, 17630 Windy Pine.* Ms. Phillips said that this is awkward for her. She said that she was on the Library Committee while Martha was the Librarian. She said that she knew that when Martha first came on board, she was salary, so overtime was not an issue. She said that Martha would come in early, and overtime was not an issue because she was salary. She said that this became an issue when

she was moved to hourly. She said that the Library is open 36 hours a week, and Martha was there during these hours. She said that she thought that during her time on the Committee, she saw that there were a lot of good achievements. She said that she is sorry that it came to this, and that she would like to make a motion that the Town move on, and settle this presently. She said that if the Town had paid Martha the overtime initially, it would not have been that much money. She said that to her knowledge, Martha is still looking for a job. She said that she feels the Town should settle this at present cost, as horrible as it is. She said that she was a school teacher, and she does not like to reward evil. She would like to see justice, but she does not want to see hundreds of thousands of dollars leave the Town. She is asking that the Town settle this. Mayor Bennett thanked Ms. Phillips and said that he heard that Martha has a job with Waste Pro. Ms. Phillips said that she heard that she is a mentor for Lake County schools.

Councilman Pierce said he wanted to address the idea that the millage rate will increase. He said that the millage rate was 2.99 for 19 years, and that eight years ago, it was lowered to 2.83, and that it is where it has been ever since.

*Jim Ley, 17328 First Street.* Mr. Ley asked if the Town had paid Martha the overtime initially, would it have only amounted to \$3500. Mary Gillis responded that when staff discovered the formulas had been overridden on her timesheets, staff wrote a check to Martha for this overtime, and she refused to cash it. Mayor Bennett also reminded Mr. Ley that Martha would have been paid time and a half, so the amount was actually much higher. Mr. Ley said that if the overtime amount totaled \$7,000, what is the rest of the settlement amount for? Mayor Bennett said that her attorney's fees are in there. He said that at the time when staff had discovered that Martha had overwritten the formulas, there was dialog going back and forth between him and Martha about this. He said he asked her "what do we owe you" and in the blink of an eye, she had an attorney, and the dialog stopped. Mr. Ley asked if she was salary in the beginning. Mayor Bennett said yes. Mr. Ley asked how long the timesheets go back to where she feels she is owed overtime. Mayor Bennett responded that she feels she is owed overtime since she began employment. Mr. Ley asked how staff would see the light on in the Library and not realize that she needed to be paid overtime. Mayor Bennett said that that is the whole point: staff definitely did not see the light on or the overtime being worked. Mayor Bennett said that in eight years, he has had the same staff: Mary, Chris, and Terry. He said that he had the first librarian for several years, and the problem with her was basically a budget crunch. He said that with Martha, the problems surfaced after about six months. Mr. Ley said that there have been two lawsuits under Mayor Bennett's watch. Mr. Ley said that the Fair Labor Standards Act hit Florida in the mid-1980s and that some companies have gotten sued because of it. But he said that most solid governments do not get sued. Mayor Bennett disagreed, and said that Clermont get sued all the time. Mr. Ley said that he was referring to "solid" governments. Mayor Bennett said that the County constantly gets sued. He has spoken several times to the County Attorney. Sean Parks agreed, and said that it is amazing what the County gets sued for. Mayor Bennett said that the Town did not do anything wrong; that the Town handled this by the book. Mr. Ley said that he is personally opposed to settling. But he believes in making good business decisions, and settling would be the good business decision. Mr. Ley asked how many more times is the Town going to face the issue of wages. Mayor Bennett responded that he did not know; he said that he

personally feels like the Town was set up. Mr. Ley said that there are unscrupulous people out there. But he also feels like there are solid forms of supervision to prevent this type of thing from happening. Mr. Ley asked what changes were made since the first settlement to prevent this from happening again. Mayor Bennett replied that the first settlement has nothing to do with this settlement. The first settlement was over pregnancy/adoption. It had nothing to do with wages. It fell under the Family Medical Leave Act. Mayor Bennett said that she was adopting a child, and he gave her the time off like she was supposed to have. He said that he did not do it in writing because he had given her the time off before when she had a child. However, the adoption did not go thru, and sometime later, Mayor Bennett and the Librarian parted ways. He said that she mixed it all together to make it seem like the Town would not give her the time off. Jay said that he wanted to address Mr. Ley's comment that employers have gotten better about protecting themselves. Jay said that that comment was absolutely true. But at the same time, law schools are churning out more and more lawyers every single year. With so many lawyers, the good cases do not walk in the door anymore. The lawyers have to do anything they can to make out a living, so they take any case that walks in the door. Mr. Ley argued that Labor Law is pretty much set in place. Jay responded that somewhere along the way, lawyers figured out that if they can argue that someone was not being paid just an hour of overtime, that they could get their attorney's fees paid. So lawsuits started springing up all over the place. Jay said that there are Fortune 500 companies and mom-and-pop companies being inundated with these lawsuits. The FLSA regulations are so hard to interpret, and all companies are screwing it up. This is the reason why the lawyers can make money in this area. Mr. Ley then asked what the maximum amount of losses are, if the Town decided to fight. Jay responded that Martha can recover what she should have gotten paid in overtime times two (called liquidated damages), plus the amount that she should have gotten paid had she still been working for the Town, plus future wages, plus her attorney's fees. Mr. Ley asked if the Town would hit the \$200,000 mark if they lost. Jay responded yes. Jay rhetorically asked how the Town would feel if he told them that they won, but then presented them a bill for \$100,000. Jay said that the Town has a good case, and did nothing wrong, but he would classify these cases as legal quicksand. The more you fight, the more you spend.

Mr. Hartle asked if the case would go before a judge or jury. Jay responded that she requested a jury. Councilman Pierce said that the jury trial was a big issue for him, because now it does not matter what the law says; it matters what the jury thinks or feels.

Seeing no further comment, Mayor Bennett closed public comment.

Councilman Wynkoop said that it seems they discussed the overtime part of this. But how can the Town prevent the second part of the lawsuit from happening again? Jay responded that he does not think that the Town did nothing wrong in regards to the constructive discharge claim. He said that he does not think that she was constructively discharged; he thinks that Martha did not want to work here any longer. He said that her attorney then used that as an opportunity to claim constructive discharge. Lawyers throw every claim in. Mayor Bennett said that we did all the things that we could do. Everything was documented. Jay reiterated again that he did not think she had a good case with the constructive discharge claim. He said that he would be happy to give some small pointers in the future,

but he said that he feels like the Town did everything right, especially in regards to the constructive discharge claim.

Mayor Bennett also explained that there were some other conditions of the settlement: that Martha could walk thru the Library and make sure she did not leave anything behind, etc.

**MOTION by Councilman Pierce to approve the settlement of \$29,750; SECONDED by Councilman Bates.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

### **INTERLOCAL AGREEMENT BETWEEN LAKE COUNTY AND THE TOWN OF MONTVERDE REGARDING THE E911 SYSTEM**

Anita Geraci-Carver explained that the Town uses the 911 system to receive calls from the County for emergency services. This is the agreement that allows for this to occur.

Councilman Pierce asked if there was anything different in this agreement than the prior agreement. Anita responded no. Mayor Bennett asked if this was a one year agreement. Anita said that this was not a term agreement; if the Town wanted to terminate, then the Town would have to give back the equipment.

**MOTION by Councilman Pierce to adopt the Interlocal Agreement regarding the E911 System; SECONDED by Councilman Burns.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

### **REGULATION OF ADULT ENTERTAINMENT IN THE TOWN OF MONTVERDE**

Anita Geraci-Carver read the Ordinance in title only.

Mayor Bennett explained that this Ordinance came up during election time when the State voted on whether to legalize medical marijuana. He said that that issue pointed a light on the adult entertainment issue. He said, like the marijuana issue, it is not known whether the Town will need this Ordinance, but it is best to address it and have some regulations in place just in case.

Sean Parks said that this ordinance will prohibit adult entertainment in all current zonings, and regulate adult entertainment establishments in the Town. He said that the Ordinance is lengthy, but it must be very specific to be able to prohibit these establishments in certain areas. The Ordinance creates Chapter 19, entitled Community Protection, which will regulate adult entertainment in the Town. The Ordinance also creates a new zoning the Town called "C2, Commercial with the Special Exception of Adult Entertainment". He said that this new zoning designation is not currently anywhere on the Montverde

map. Councilman Pierce clarified that if someone wants to locate an adult entertainment establishment in Montverde, they would have to come before Council and apply for a rezoning. Sean Parks said that at this point, the Town would have to notify area residents about the application for rezoning for adult entertainment. The rezoning would require Planning and Zoning and Council approval. Then, the site plan would have to be approved, thru both Planning and Zoning and Council. Then, the applicant would have to go thru the Mayor's office for licensing and fees. Sean said there are very strict guidelines in the Ordinance for the Town to grant the license.

Councilman Bates said that he is concerned that there is a school in Town, and the F&M Market sells adult magazines. But he also said he saw that the F&M would be grandfathered in. Councilman Bates noted that the Academy owns several buildings/homes that are very close to the F&M.

Councilman Bates also noted that the F&M would be grandfathered in, but per this new Ordinance, they could not expand. Anita explained that the F&M would not have to relocate, but they would be given time to come into compliance for licensing.

Councilman Bates noted that the Ordinance says that the adult entertainment establishment must be more than 2,500 feet away from a school. Anita noted that since the F&M is already selling magazines, that they would be grandfathered in, and would not be required to stop selling or relocate.

Councilman Bates stated that the ordinance grandfathered in the F&M, but stated that it could not expand operations. He asked if they have one rack of adult entertainment now and added a second rack, would that be prohibited. Anita replied no. She said an expansion would be to add movies to their magazine products, or to expand their building for adult entertainment.

Councilman Pierce suggested that since the ordinance was not clear on what the definition of "expanding" was, that the Ordinance could read that the percentage of the store dedicated to adult entertainment should not increase. Anita opined that she did not know if the ordinance could be that strict, but she would look into the additional language.

Mayor Bennett noted that according to the Ordinance, if the owners of F&M were to sell the property, the store would no longer be grandfathered in.

Mayor Bennett asked about whether there was anything in the Ordinance about signage. Anita responded that the ordinance prohibited pictures, neon signs, etc.

Sean Parks stated that the Planning and Zoning Board reviewed the Ordinance. Councilman Pierce commended the P&Z Board on their thoroughness.

Mayor Bennett opened the floor for public comment.

*Chris Mitchell, Montverde Academy.* Mr. Mitchell stated that on behalf of Montverde Academy, he supports the adoption of this Ordinance. He also stated that the F&M Market may be in violation of Florida Statute, as the sale of adult entertainment is not allowed within 2,500 feet of a school. Sean Parks stated that the Town can look into that.

Seeing no further comment, Mayor Bennett closed public comment.

Anita Geraci-Carver stated that the law makes very clear that there has to be a zoning designation for this. It cannot be prohibited. She also said that when the ordinance is adopted, there have to be properties in Town that could be available for this type of use.

Councilman Wynkoop pointed out that in the Carolinas, they have established private clubs that essentially act like adult entertainment establishments, but because they are private, they are exempt from the regulations. Anita and Sean stated that they would look into adding additional language to prevent this.

Councilman Pierce suggested a change to page 5, paragraph 4: "City Council" should be changed to "Town Council".

**MOTION by Councilman Pierce to adopt Ordinance regulating adult entertainment establishments in Montverde, with correction; SECONDED by Councilman Wynkoop.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

#### **COMPREHENSIVE PLAN AMENDMENT FOR ECONOMIC PROSPERITY ELEMENT**

Anita Geraci-Carver read the ordinance in title only.

Sean Parks explained that this adoption is for the transmittal of the Economic Prosperity Element of the Comprehensive Plan. Mayor Bennett explained that staff has been working on this for the past year and a half.

Mayor Bennett opened the floor for public comment. Seeing none, he closed public comment.

Councilman Bates asked what will be staff's responsibilities once the ordinance is adopted. Sean replied that it requires staff be involved with the County and Chamber in efforts to promote Lake County. Sean stated that staff will have to participate in efforts to promote ecotourism, as well communicate regularly with Lake County and the Chamber.

Councilman Burns asked to add "heritage tourism" to the ordinance. Sean stated that this change was already made, policy 1-1.4.4.

Mayor Bennett opened the floor for public comment. Seeing none, he closed public comment.

**MOTION by Councilman Pierce to adopt the Comprehensive Plan for the Economic Prosperity Element; SECONDED by Councilman Wynkoop.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

**ORDINANCE AMENDING THE BUDGET FOR 2014-2015 FISCAL YEAR**

Anita Geraci-Carver read the ordinance in title only.

Mayor Bennett explained that these additional funds for the Fire Department were already discussed at the Town Council Workshop.

Mayor Bennett opened the floor for public comment. Seeing none, he closed public comment.

**MOTION by Councilman Wynkoop to adopt the Ordinance amending the Budget for 2014-2015 Fiscal Year for the Fire Department; SECONDED by Councilman Pierce.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

**RECOMMENDATION OF MEMBERS TO SERVE ON COMMITTEES AND BOARDS IN 2015**

Mayor Bennett explained that he is hoping to have each committee establish four annual meetings this year. Mayor Bennett encouraged Council to email him any issues that they would like addressed by the committees.

Mayor Bennett then said that Kasey Kesselring's name should be removed from the Cemetery Committee recommendation. He also asked resident Allen Hartle to be on the Planning and Zoning Board.

Councilman Wynkoop said that he texted Karin Arellano, and one of her employees that is on the Visioning Committee is not within the 180 district. Graham Wells said that it is her employee Ashley that does not live in the 180 district. Mayor Bennett said that he will get with those individuals tomorrow.

**MOTION by Councilman Bates to approve the recommendations for Committees and Boards, including the addition of Allen Hartle; SECONDED by Councilman Wynkoop.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

**PROFESSIONAL SERVICES AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS**

Mayor Bennett explained that this agreement is needed for Raftelis to continue performing water and sewer rate studies. Anita Geraci-Carver stated that this contract will be similar to the Engineering Contract where Council would approve individual services as they are presented.

**MOTION by Councilman Pierce to approve the professional services agreement with Raftelis Consultants; SECONDED by Councilman Wynkoop.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

**RESOLUTION ADOPTING THE TOWN OF MONTVERDE STANDARDS AND CONSTRUCTION SPECIFICATIONS MANUAL**

Mayor Bennett stated that this is something that Steve Romano and Terry Burden have worked to put together. Steve Romano explained that with the construction going on, it is prudent for the Town to adopt specific construction standards. He said that in the past, the standards for Montverde dictated that the standards for Orange County be followed. This Resolution would simply move these standards under the heading of Montverde, instead of Orange County.

Steve also explained that there would be updates to this document in the next few weeks.

Anita Geraci-Carver read the Resolution in title only.

Mayor Bennett opened the floor for public comment. Seeing none, he closed public comment.

Councilman Wynkoop said that he wished Councilman Nix was here so that Council could get his opinion. Mayor Bennett stated that Council could adopt tonight, and then in March, Arthur could bring up any changes he identifies.

**MOTION by Councilman Pierce to adopt Resolution for Standards and Construction Specifications Manual; SECONDED by Councilman Bates.**

**For: Burns, Bates, Pierce, Wynkoop**

**Against: None**

**ADJOURN**

**MOTION to Adjourn by Councilman Wynkoop; SECONDED by Councilman Bates at 9:20. Passed unanimously.**



Respectfully submitted,

  
\_\_\_\_\_  
Troy A. Bennett, Mayor

  
\_\_\_\_\_  
Glenn Burns ,Council President

ATTEST:

  
\_\_\_\_\_  
Graham Wells, Town Clerk

