

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

PREPARED BY: Barbara McDaniel, MMC, Assistant Town Clerk

SUBJECT: August 9, 2007 minutes

AFFECTED DISTRICT: n/a

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: August 9, 2007 (Special Meeting)

REPORT IN BRIEF: Council minutes from the August 9, 2007 Council meeting.

PREVIOUS ACTIONS: n/a

CONCURRENCES: n/a

FISCAL IMPACT: not applicable

Has request been budgeted?

RECOMMENDATION(S): Motion to approve

Attachment(s): August 9, 2007 minutes
n/a

SPECIAL MEETING
AUGUST 9, 2007

The meeting was called to order at 6:50 p.m. and was followed by the Pledge of Allegiance. Present at the meeting were Mayor Truex, Vice-Mayor Caletka and Councilmembers Crowley, Luis (via phone) and Starkey. Also present were Town

Administrator Shimun, Attorney Alexander, and Assistant Town Clerk McDaniel recording the meeting.

Mayor Truex:

Okay, I called this special meeting and I don't want to take up too much of anyone's time. I called it for after the budget meeting because I figured we would all be here anyway. As a matter of fact, what I have to say is not going to take too long. I have five points and my notes are only front and back of one three-by-five index card so I don't think it's going to take me too long.

Point number one: I wanted to just say one thing about the employees, the four employees that were laid off recently. First of all Chief DiPetrillo, I have nothing but the utmost respect for Chief DiPetrillo. I think he had a distinguished career before he got to the Town of Davie. I think he distinguished himself here in the Town of Davie. I consider Chief DiPetrillo's finest moment probably when we had the hurricanes and he actually, not everyone realizes this, he was actually in charge of this Town for a few days during that emergency, and even the Town Administrator, Interim Town Administrator then, yielded and Chief DiPetrillo took over during that emergency. I respect Chief DiPetrillo for his integrity and honesty, and in short, pretty much all the traits that I would ask of anybody. Larry Peters, I believe was a talented engineer; he was extremely knowledgeable about his profession and about Davie's Town Code. I have nothing but respect for Mr. Peters, his integrity, his dedication to the Town. Candice Ordway, I think was the longest of these four employees having worked in the Town of Davie for about 18 - 19 years give or take and again to my knowledge, a very dedicated and hard-working, long-term employee that was dedicated to the Town and gave her job her all. Deputy Chief Eggnatz, I left him out. It's not because I have anything bad to say about him, I just honestly didn't know him as well as the other three.

Apparently, these terminations were not budget related because I know the Town Council specifically asked the Administrator in the budget process or instructed we did not want to make any personnel cuts due to the budget. Apparently, these terminations were not related to performance. All of them had exemplary records with the Town of Davie as reflected in their personnel files. And, I guess some may disagree, but that's my opinion.

Point number two: The procedure of dismissing these individuals, I don't know for sure if this is true, but it was reported in the newspaper. Usually they're, what they report on is based on true events, if not 100%. But, it was reported that Mr. Shimun discussed these terminations with one or more other Councilmember before the fact, before they were fired, and I have a very big issue with that. I was elected by the residents of the Town of Davie at large twice. I represent all 90 to 95,000 permanent residents of the Town of Davie. I represent the billions of dollars of business interests and property values. I represent the tens-of-thousands of students that are in the Town every day and I'm not taking issue with the fact that you didn't discuss it with me Mr. Shimun, but I take great issue that you discussed it with one or more other Councilmember. And, I would certainly ask that in the future, to provide, I'm not asking, I don't think I'm too far out of line if I told you that I thought the Mayor should have more access since I represent the entire Town, but I'm not asking for that; but I'm asking for equal information and access in anything of this major nature. I would certainly request, and I think I'm within my right to request that you, if you're gonna discuss this with one Councilmember, that you discuss it with all and certainly with the Mayor. That's point number three, number two.

Point number three: These terminations were not in accord with the procedure that was discussed when you were hired and also after the former finance director was hired, you told the Town Council and you told me that if there were employees that were going to be terminated at some point, that there would be a the procedure, there would be a management procedure where they would be counseled, they would be given a chance to rehab their self and I remember, I the exact wording, but along the lines that they, individuals would be warned and be given a chance to correct whatever their action was - given a corrective plan. And, you know, certainly I didn't have any reason to believe that individuals were going to be fired without cause, you know, without any opportunity to rehab themselves or to have some corrective action in place.

Point number four: The reason for the terminations. I acknowledge Mr. Shimun that you, Charter doesn't require you to give any reason to anybody, not me or anybody else. I realize that, apparently that sovereign State of Florida, the laws of this state don't require you to give any reason for firing somebody; but I'll give you my personal opinion, these were

all fine employees, just confine it to the three that I know, but again I don't know, I'm not excluding Deputy Chief Eggnatz but I don't know him as well - but in my opinion, you know I believe that these employees are owed some type of acknowledgement that they were good employees and, you know, that somehow that every one of those employees that were terminated now have

sort of a cloud over their head. I think anybody, if you're called in and fired on a Friday afternoon, that that's a cloud over your head. I don't think that it's fair, I don't think it's right, I don't believe in management by fear. I think that many people in Davie, me included, believe that the motivation for firing these individuals was more political and more in wanting staff who agrees with you, Mr. Shimun. I acknowledge you're within, I guess, your contract rights, your legal right to do what you want, but I'll tell you personally, I always appreciate the people on staff who will tell me when I'm wrong, although it hasn't happened too often, or who will disagree with me and stand up and give me, you know their opinion. And perhaps it's coincidence, but it appears again that some of the individuals were in that category - that they just told you as they saw it and I think that it's going to be a very, very sad thing if employees of this Town feel that it's in their best interest to protect their job rather than do their job.

My last point, point five: The future and what my requests are. Number one - I would ask Mr. Shimun to reconsider some of these terminations.

Vice-Mayor Caletka: Mayor?

Mayor Truex: I'm not yielding yet.

Vice-Mayor Caletka: I object to that statement though.

Mayor Truex: You can object, but just wait until I'm finished and then you can speak.

Number two. I'd like to ask you, Mr. Shimun to acknowledge and thank the employees for their service, if in fact they were not fired for cause. When I'm finished, I'd like to ask the Town Council to agree to give direction to do a Council resolution for each one of these employees thanking them for their service, be it either long service or certain loyal services as the case may be. I'd like to ask Mr. Shimun specifically, with the hurricane season upon us and my great concern about other people being fired, that might impact on the emergency management team, when I'm finished, I'd like to ask you to respond what other firings are possible. And I'd like, personally, I believe and I'd like and I believe that Council should strongly request that you not fire anybody else, except for cause, until our hurricane season's over. And lastly, I'd

like you to respond at some point in, if I was mistaken in what I understood the circumstances would be that you would terminate employees, I'd like to ask if you would reiterate if you have any philosophy or policy going forward as to who you would terminate.

Now I yield to Mr. Caletka.

Vice-Mayor Caletka: I'd like to say first of all, I would appreciate it if the minutes of this special session would be transcribed verbatim. I received notice yesterday from the Town Administrator that Councilmember Luis is ill. And I was disappointed in the Mayor for calling a special session knowing that Councilmember Luis could not be here. I have to say that of all the time that I've served with you Mayor, this is the first time that I've been gravely disappointed.

I think that the requests that you have made are completely inappropriate - it is meddling with the Charter. The sole authority to hire or fire lies with the Town Administrator, period. I think it sets a bad policy for the Town Council to start meddling in affairs of the operations of the Town. That's clearly why we hire and fire the Town Administrator and he hires and fires everybody else - to make operations run smoothly.

Your requests violate the Charter. I think it's completely inappropriate. The very fact that you called this meeting, I feel just like the last time you called a special session - I feel it is an abuse of power. There is no eminent or dangerous threat to the residents. If you feel that there are any concerns, you can do the same thing that I do and walk into his office and ask him questions. He's always provided every piece of information that I've asked. Sometimes it takes longer, lately it's been a very quick turnaround. I think that it's in the best interest of all the Councilmembers to follow the Charter exactly as it says and allow the Town Administrator to do the job we hired him to do. I appreciate your opinion. I agree with some of them and disagree with the others, but regardless, it's inappropriate for us to take action in this matter. I object to the resolutions because it's up to the Town Administrator. At no point in the Charter does it say that we have a right to start interfering with the dealings of the operations of the Town. It's inappropriate, I will not take part of it. I object to the fact that you even called this special session; and I actually make a motion that you adjourn this meeting immediately.

Mayor Truex: Okay, is there a second motion.

Councilmember Crowley: Not right this second, no.

Councilmember Starkey: No, I think we have public here and we all need to kind of talk about it since we're up here.

Mayor Truex: Hold it a second. Mr. Caletka, are you finished?

Vice-Mayor Caletka: I yield.

Mayor Truex: Okay, who's next?

Councilmember Crowley: I'll be glad to go next.

Mayor Truex: Mr. Crowley

Councilmember Crowley: First of all I do agree with you - I think all Councilmembers should have been informed, I wasn't aware of that Mr. Shimun. I know we sat down, and I just to let you know Mayor, there was no direction from me. I was merely, he was just bringing it to my attention that he was going to make some changes within the Town. I did mention I did not agree with all of them and, but I'm not going to object to them because I know that's his position - his is position to hire and fire, as Administrator, that's part of his position. So I do support what Mr. Shimun did and I am not going to, as it was quoted in the paper, I'm not going to micromanage the Administrator. It is his position to administer the Town itself and take direction from us, but not in the areas of hiring and firing. It's not our position to do that. That's all I have for right this second.

Mayor Truex: Okay, Ms. Starkey.

Councilmember Starkey: I after the fact, after receiving - first of all, not the e-mail on Friday, I was not aware that this was even coming. I knew that there were changes in the horizon and I know that it would have been nice and I did discuss on Sunday and then again, I guess it was Tuesday, once I finally got into the office to, Mr. Shimun did afford me a few moments to discuss this, his vision with the Town and what he has proposed, which was my main concern. Also, in my main concern was, as you reiterated Mayor, it is the hurricane season and this coming such as a surprise at this time, I figured maybe budget time we would start, begin to discuss some of these issues, but, or you may have discussed with others in the Council. And it's not so much that I think it's important for us to micromanage, I most definitely believe in the respective roles of government, one being legislative which looks at the budget and policies; and the other, of course, being the administrative day-to-day. But when it does impact major positions within the Town, and there are more I understand on the horizon, and I'm not saying that they're all good or bad, I just, hear it out there more than I hear it here, I hear it out there. And, the public seems to know a lot more than we seem to at times. But, it would be nice if we did sit down, as we do with this budget, and we begin as we did with our goal-setting session and discuss some of these things and then your plan to implement them as you see them.

My biggest offense that I think, having read in the paper was Mr. Caletka's response that he was totally ecstatic over, and that was quoted in him, in the newspaper in this article, I'm not sure which paper it is - the Miami Herald, maybe, Saturday, August 4th, he said "Bryan Caletka said that he was ecstatic about these departures and went on to say ..." I just think that in itself is not

exactly what we should be saying. Then, you know to find fault with the Mayor and maybe myself for wanting to find out more information from Mr. Shimun what his plans are, I think that comments like that were really out of hand and out of line.

I think the appropriate thing is to, for all of us to plan, we're doing good, plan and move forward, but when it comes to major decisions like this, my concern was not only just be hurricane season which we've experienced - back to back hurricane seasons we've made great strides in improving our fire response and our EOC and our police and fire and all our public works and everyone was working so well together. I think it's important for us also, you know look at this as it's a budget process too - was concerning to me. So, I might have had those questions. Had I not been reading the paper and getting phone calls at 7:30 on a Saturday morning, non-stop from residents that wanted to know why one of their favorite employees, and there were several, a lot of various sides here on different employees, that called and said they had nothing but good things to say about these individuals who might have helped them with this or with that.

It is your responsibility to run the day-to-day and ultimately I told you Tuesday that would be your responsibility and I'm not going to interfere with what that responsibility would be. Ultimately, that's going to be where you're going to be held accountable, is if in the big picture and the big scheme of things here, we don't see that the Town is being run sufficiently and management seems to be and morale seems to be slipping even further. I hope that you know, you will, you know bring us in the loop and I hope that this Council understands what these changes would mean to the Town and what the timing might be if we do have concerns and perhaps in the future, you could answer and address those concerns prior to this kind of a decision. And I hope the Council doesn't go out and put statements in the paper on any occasion when it comes to an employment issue because that being said, gives me even more concern. And, I think, you know, having not had the opportunity to discuss it, I just wanted to discuss the concerns that I had overall and that's how it fits into the bigger picture of our goals which is to make sure we're prepared for a hurricane, make sure that we have somebody who can answer to these budgetary issues within our various departments and that, of course, answer that procedural question of whether or not the process, the due process and other things were afforded, and if we were, in fact, and my question was also, on legal

bounds to do so. And, none of those questions did I have, as I picked up the phone time after time on Saturday morning after I read it in the paper. So, I can say that in the future, that hopefully I'm not, you have my word that if changes are to be made, you have my word that I'm not running to the press on these issues. But, if it's something I'm not aware of I'm going to be very disappointed that it wasn't discussed. Ultimately, the

performance of this Town and the vision of this Town needs to move forward and I do find concern over people that have been with the Town for so long being let go abruptly on a Friday afternoon at 5:30 and, to be honest, it really hurt me. These folks I've dealt with in not only just the six years that I have been on this Town Council, but several of them I have known even prior to that were at Town Hall and worked through things and you know, maybe termination, it could have possibly been a different performance somewhere else - and I needed to have those questions answered prior to it, I think, occurring. As far as reconsideration of the, I think that the had Mayor mentioned reconsideration of the termination, It's unfortunate that we have to find ourselves in this place now, but I don't know that the employees would want to be back under these circumstances, and I don't know how we would go about even making an offer to come back. It just, you know legally, it's that you were well, as I understood, within at-will employees to be able to do so. But, I did hear and have heard over time that there were concerns over a few of the employees. It wasn't that they had such an unblemished, I didn't even review their particular performance evaluations as it's not up to me to do. I don't know if anybody has reviewed their performance evaluations and I don't think I ever would, but my whole premise is that I would like to have at least have had some time to understand what it is you're doing as you plan the Town because it effects the big picture of what we're doing. And, where we go from here, I guess that's tomorrow and the day-to-day operations of this Town again and I do believe that a lot of it had to do with politics and I'm very disappointed in that. I did ask you if it did and you told me it didn't; it had to do with your personal vision for the Town and cooperation, but I see it a little differently the way cards are played and that concerns me that it might be a little political. So, I hope that that's not the case and you can, you know, at least justify things a little better for our Council for when we approve budgets we understand who's going to be there because, you know, clearly that's within your right, but, you know, ultimately you'll be responsible for the performance of the day-to-day operations.

Mayor Truex:

Mr. Luis, did you have anything you want to add?

Councilmember Luis:

Again. I want to say is that I know Mr. Shimun is new, he hasn't been here long and he has to assemble a team that he feels comfortable with. Whether I agree with who he let go or not, is another matter. I'm going to judge him on performance

that he does as a whole. With that said, I'm going to back him and if he decides to let people go, I'm not, to use Mr. Crowley's words, I'm not going to micromanage. If the Town Council wants to vote and consider having a strong mayor form of government, then we should direct the Charter Review to put that on. But as long as we have the city manager form of government as it is right now, I'm going to backup Mr. Shimun in this matter.

Mayor Truex: Okay. Mr. Crowley, do you want to say something.

Councilmember Crowley: Good point. Mr. Luis, I hope you do feel better.

Councilmember Luis: Thanks.

Councilmember Crowley: Just to touch on the emergency management, and, you know, I know both of you are concerned. Personally, I'm not concerned about it, emergency management is not just on the shoulders of just one person, one personnel - Mr. DiPetrillo. Emergency management is all the staff, all the departments and I feel we still have and definitely, professionals that are able to handle the emergency management area in case of a hurricane. I don't think Mr. Shimun would put somebody in there that was not qualified or is not qualified. Knowing the person that is assigned to that position now, I'm not really sure who that's going to be, but as far as the Acting Fire Chief, I know he does come with a lot of experience from Pembroke Pines, I believe 25 years within the emergency management area. It doesn't necessarily mean that's who is going to be appointed as far as emergency manager, he might have already decided, I'm not sure. But, whoever that is, I do support it once again. But, I'm not concerned because of the terminations that we're still not going to be able to manage this Town, I'm not concerned about that. Thanks.

Mayor Truex: Did you have anything you wanted to comment on or respond to Mr. Shimun?

Mr. Shimun: Just a short comment is that, you have a defining moment here with the Town. You can either stay the course and continue to try to push the manager around or you can let the manager manage and I'm trying to assemble a team that I believe will help effectively and efficiently run this Town. A team that I can have faith in that will work with me and I believe that the only recourse that I have is to get people into positions that I feel comfortable with and I believe that I'm fully within the Charter to do so. I certainly have made sure that we have stayed within state law for at-will employees, and beyond that, I have nothing else to say.

Mayor Truex: Is that appointment of the Fire Chief, is that an interim or permanent position?

Mr. Shimun: It is permanent now.

Mayor Truex:

Okay. I don't know when you were going to tell us that, but let me just say I have heard that he's a, I've heard only good things about him and my comments tonight are not a reflection on him. Like I've said, I've only heard positive things about him and certainly he's got my full support.

Okay, everybody had their hands up and I don't know who was first - Mr. Caletka.

Vice-Mayor Caletka: I just. I have my personal opinions, everybody on this Council has theirs, but I think we're entitled to them whether people agree with us or not. But you know, like I said, the decision lies with the Town Administrator. We should not get in the business of meddling in the affairs of the operations of the Town. The day that we start doing that is the day that the good old boys ride back into Town. I find this entire special session inappropriate and I once again move to adjourn the meeting.

Mayor Truex: Okay, that dies for a lack of second again

Mr. Crowley and Ms. Starkey, but I sense that we are sort of winding up. Maybe we can make another comment around and then close out.

Councilmember Crowley: That's why I wasn't going to second, 'cause we're just about finished. If I, I'd just like to mention to Mr. Shimun once again, you know, your evaluations were a few weeks ago and my evaluation was very low. Not as low as some of the other members, but it was low and those ratings are coming up and I, not only in that area but in other areas in the Town that you've been working on and I do support what you've been doing the last few weeks, anyway. And, definitely stay the course.

Mayor Truex: Okay, Ms. Starkey?

Councilmember Starkey: In the future, do you have any problems with discussing this with Council prior to? It is not considered meddling, it is just informing us that there will be some administrative changes that affect us as well as affecting the budget and other issues that we have of a big concern.

Mr. Shimun: As long as I feel that it doesn't have an impact on our legal position, yes I'd be happy to do that.

Councilmember Starkey: Thank you.

Mayor Truex: And my only request, again, is if you discuss with one, I think you should discuss with all. Do you agree with that point?

Councilmember Crowley: I agree.

Councilmember Starkey: I agree with that too. Is there, I know there's people in the public that would, are we

Mayor Truex: I don't really wanna -

Vice-Mayor Caletka: It's inappropriate.

Mayor Truex: Okay, I think nobody else is in favor of opening it up.

Mayor Truex: Any other discussion? Do I have a motion?

Councilmember Crowley: Just one Mayor. I think, honestly, I really think that you could have waited until next week during your comments.

Mayor Truex: Okay.

Councilmember Starkey: I think he answered the question. Mr. Montopoli is now chief.

Councilmember Crowley: Move to adjourn.

Vice-Mayor Caletka: Seconded.

Mayor Truex: All those in favor, say aye.

All said aye.

Mayor Truex: The meeting is adjourned.

There being no further business to discuss and no objections, the meeting was adjourned at 7:20 p.m.

Approved _____

Mayor/Councilmember

Town Clerk