

M I N U T E S

REGULAR COMMISSION MEETING
SOUTH PASADENA, FLORIDA

MONDAY, JULY 1, 2013
COMMISSION CHAMBERS 9:00 A.M.

MAYOR CALABRIA CALLED THE MEETING TO ORDER AT 9:00 A.M. THE INVOCATION WAS GIVEN BY COMMISSIONER NEIDINGER. ALL PARTICIPATED IN THE PLEDGE TO THE FLAG.

ROLL CALL: COMMISSIONERS BRUCE HOWRY, MAX ELSON, ARTHUR PENNY, VICE MAYOR GAIL NEIDINGER AND MAYOR DAN CALABRIA. ALSO PRESENT: CITY CLERK MARY BRAISTED, CITY ATTORNEY DAVID OTTINGER, FINANCE DIRECTOR JAMES GRAHAM, PUBLIC WORKS DIRECTOR GARRY ANDERSON, PUBLIC SAFETY DIRECTOR DAYTON SALTSMAN, AND COMMUNITY IMPROVEMENT DIRECTOR NEAL SCHWARTZ

PEOPLE' S FORUM

There was no participation under People's Forum.

AGENDA COMMENT

There was no participation under Agenda Comment.

REPORTS

Vice Mayor Neidinger stated a speed sign has been put up (Pasadena Avenue) for the holiday. She also stated that the Public Works Department continues to work in getting costs for undergrounding wires.

Commissioner Penny stated the Finance Department is working on the budget.

Commission Elson stated that revenues continue to increase in the Community Improvement Department.

Commissioner Howry stated that the new fire truck is under construction and that firefighter Union negotiations have started.

Mayor Calabria stated that he will be working on getting scholarship donation boxes at city businesses and a new city website. He proposed having incentive bonuses for employees that reduce the city's expenses. He proclaimed August 12-16, 2013 as Florida Water Professionals Week. Mayor Calabria explained the new red light camera law.

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DISCUSSION ITEMS

PUBLIC HEARING

NONE

UNFINISHED BUSINESS

(Continued from the June 11, 2013 Regular Commission Meeting.)

1. MOTION - TO RATIFY AND APPROVE THE MOTLEY RICE LLC CONTRACT OF INVESTIGATION AND REPRESENTATION IN CONNECTION WITH THE CITY OF SOUTH PASADENA'S CLAIM TO RECOVER DAMAGES RESULTING FROM THE DEEPWATER HORIZON OIL SPILL IN 2010.

Mayor Calabria stated that Attorney Kevin Dean, Motley Rice, is scheduled to be at this meeting. He further stated that Mr. Dean's flight does not arrive at Tampa International Airport until 9:00 a.m. and he should be here around 10:00 a.m. He suggested that this item be discussed at the end of the meeting.

The Commission was in agreement to move this item to the end of the agenda.

CONSENT AGENDA

NONE

NEW BUSINESS

2. RESOLUTION NO. 2013-09 - A RESOLUTION OF THE CITY OF SOUTH PASADENA, FLORIDA, AMENDING RESOLUTION NO. 2001-14 REVISING THE POLICY FOR THE DONATION OF FUNDS BY THE CITY COMMISSION.

Mayor Calabria read Resolution No. 2013-09 by title.

MOTION WAS MADE BY COMMISSIONER PENNY, SECONDED BY COMMISSIONER ELSON TO PASS RESOLUTION NO. 2013-09.

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COMMISSIONER HOWRY	AYE
COMMISSIONER ELSON	AYE
COMMISSIONER PENNY	AYE
VICE MAYOR NEIDINGER	AYE
MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

3. RESOLUTION NO. 2013-11 - A RESOLUTION OF THE CITY OF SOUTH PASADENA, FLORIDA, RETAINING WELLS, HOUSER, & SCHATZEL, P.A. TO AUDIT THE CITY'S FINANCIAL RECORDS AND PROVIDE SUPPORT FOR FISCAL YEAR ENDING SEPTEMBER 30, 2013.

Mayor Calabria read Resolution No. 2013-11 by title.

MOTION WAS MADE BY COMMISSIONER HOWRY, SECONDED BY VICE MAYOR NEIDINGER TO PASS RESOLUTION NO. 2013-11.

COMMISSIONER ELSON	AYE
COMMISSIONER PENNY	AYE
VICE MAYOR NEIDINGER	AYE
COMMISSIONER HOWRY	AYE
MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

4. RESOLUTION NO. 2013-12 - A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SOUTH PASADENA, FLORIDA, CERTIFYING THE PROPOSED MILLAGE RATE TO THE COUNTY PROPERTY APPRAISER FOR FISCAL YEAR 2013-2014.

Mayor Calabria read Resolution No. 2013-12 by title.

MOTION WAS MADE BY COMMISSIONER PENNY, SECONDED BY VICE MAYOR NEIDINGER TO PASS RESOLUTION NO. 2013-12.

City Clerk Braisted announced that the proposed millage rate is 1.6985. She stated that the amount cannot be raised, but it can be lowered.

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VOTE:	COMMISSIONER PENNY	AYE
	VICE MAYOR NEIDINGER	AYE
	COMMISSIONER HOWRY	AYE
	COMMISSIONER ELSON	AYE
	MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

5. RESOLUTION NO. 2013-13 - A RESOLUTION OF THE CITY OF SOUTH PASADENA, FLORIDA, DESIGNATING THE CITY'S CODE ENFORCEMENT SPECIAL MAGISTRATE TO SERVE AS LOCAL HEARING OFFICER PURSUANT TO CHAPTER 2013-160, LAWS OF FLORIDA; AUTHORIZING THE CITY CLERK OR DEPUTY CITY CLERK AND THEIR ADMINISTRATIVE STAFF TO IMPLEMENT CHAPTER 2013-160, LAWS OF FLORIDA; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Calabria read Resolution No. 2013-13 by title.

MOTION WAS MADE BY VICE MAYOR NEIDINGER, SECONDED BY COMMISSIONER PENNY TO PASS RESOLUTION NO. 2013-13.

VOTE:	VICE MAYOR NEIDINGER	AYE
	COMMISSIONER HOWRY	AYE
	COMMISSIONER ELSON	AYE
	COMMISSIONER PENNY	AYE
	MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

6. RESOLUTION NO. 2013-14 - A RESOLUTION OF THE CITY OF SOUTH PASADENA, FLORIDA, AMENDING AND RESTATING THE ELIGIBILITY AND AWARD CRITERIA FOR THE SOUTH PASADENA SCHOLARSHIP.

Mayor Calabria read Resolution No. 2013-14 by title.

MOTION WAS MADE BY COMMISSIONER PENNY, SECONDED BY COMMISSIONER ELSON TO PASS RESOLUTION NO. 2013-14

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COMMISSIONER HOWRY	AYE
COMMISSIONER ELSON	AYE
COMMISSIONER PENNY	AYE
VICE MAYOR NEIDINGER	AYE
MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

7. MOTION - TO AWARD THE 2013 CITY OF SOUTH PASADENA SCHOLARSHIP AWARD IN THE AMOUNT OF \$2,000 TO GRACE WHITTEN.

MOTION WAS MADE BY COMMISSIONER ELSON, SECONDED BY COMMISSIONER PENNY TO AWARD THE 2013 CITY OF SOUTH PASADENA SCHOLARSHIP AWARD IN THE AMOUNT OF \$2,000 TO GRACE WHITTEN.

COMMISSIONER ELSON	AYE
COMMISSIONER PENNY	AYE
VICE MAYOR NEIDINGER	AYE
COMMISSIONER HOWRY	AYE
MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

Mayor Calabria presented a scholarship certificate to Grace Whitten's mother, Crista Whitten, who accepted on her daughter's behalf.

Ms. Whitten thanked the Commission and explained that Grace could not be in attendance at this meeting as she is out of the country.

8. MOTION - TO APPOINT MAYOR CALABRIA TO SERVE AS SOUTH PASADENA'S VOTING DELEGATE AT THE 87TH ANNUAL FLORIDA LEAGUE OF CITIES ANNUAL CONFERENCE TO BE HELD AUGUST 15-17, 2013 IN ORLANDO, FLORIDA.

MOTION WAS MADE BY COMMISSIONER HOWRY, SECONDED BY COMMISSIONER ELSON TO APPOINT MAYOR CALABRIA TO SERVE AS SOUTH PASADENA'S VOTING DELEGATE AT THE 87TH ANNUAL FLORIDA LEAGUE OF CITIES ANNUAL CONFERENCE TO BE HELD AUGUST 15-17, 2013 IN ORLANDO, FLORIDA.

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VOTE:	COMMISSIONER PENNY	AYE
	VICE MAYOR NEIDINGER	AYE
	COMMISSIONER HOWRY	AYE
	COMMISSIONER ELSON	AYE
	MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

9. MOTION - TO APPOINT ONE ALTERNATE MEMBER TO THE PLANNING AND ZONING BOARD FOR A THREE YEAR TERM ACCORDING TO BALLOT AND RANKING.

City Clerk Braisted stated that there is only one applicant because Cynthia Skipwith withdrew her name from consideration.

MOTION WAS MADE BY COMMISSIONER PENNY, SECONDED BY VICE MAYOR NEIDINGER, TO APPOINT JOSEPH COLLINS AS ALTERNATE MEMBER TO THE PLANNING AND ZONING BOARD FOR A THREE YEAR TERM.

VOTE:	VICE MAYORA NEIDINGER	AYE
	COMMISSIONER HOWRY	AYE
	COMMISSIONER ELSON	AYE
	COMMISSIONER PENNY	AYE
	MAYOR CALABRIA	AYE

UNANIMOUSLY APPROVED

The meeting was recessed at 9:30 a.m. and reconvened at 10:00 a.m.

UNFINISHED BUSINESS

(Continued from the June 11, 2013 Regular Commission Meeting.)

1. MOTION - TO RATIFY AND APPROVE THE MOTLEY RICE LLC CONTRACT OF INVESTIGATION AND REPRESENTATION IN CONNECTION WITH THE CITY OF SOUTH PASADENA'S CLAIM TO RECOVER DAMAGES RESULTING FROM THE DEEPWATER HORIZON OIL SPILL IN 2010.

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MOTION WAS MADE BY COMMISSIONER PENNY, SECONDED BY COMMISSIONER ELSON TO RATIFY AND APPROVE THE MOTLEY RICE LLC CONTRACT OF INVESTIGATION AND REPRESENTATION IN CONNECTION WITH THE CITY OF SOUTH PASADENA'S CLAIM TO RECOVER DAMAGES RESULTING FROM THE DEEPWATER HORIZON OIL SPILL IN 2010.

Mayor Calabria suspended the rules of procedure to allow for Attorney Kevin Dean to speak at this meeting. He gave the timeline of filing this lawsuit.

Attorney Kevin Dean, Motley Rice, stated that the city was excluded from the class action settlement agreement because it was a government entity. He spoke regarding the statute of limitations and filing time. He stated that BP denied the city's Oil Protection Act (OPA) claim and Motley Rice amended the complaint.

Mr. Dean stated that conflict checks are done within the firm and Motley Rice and the other firms do not have any conflicts with suits against the city.

Attorney Sawyer Smith, Wilbur C. Smith III Law Firm, stated that his law firm cannot sue a city and there is no conflict.

In response to Commissioner Howry, Mr. Dean stated that there may be contingent fees, only if the city recovers. He further stated that he does not anticipate significant expenses.

In response to Commissioner Penny, Mr. Dean stated the court capped attorney's fees at 25% for non-governmental entities, but the fee for the city is 33-1/3%, per the contract.

Discussion ensued regarding attorney's fees.

Mayor Calabria distributed an article dated June 18, 2013 from the Tampa Bay Times (attached to Minutes as Exhibit A). He stated that Gray Robinson is the city's counsel and we pay them a retainer. He questioned the contingency fee.

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Mr. Dean stated that attorneys are doing the work for free for their activities on BP. He further stated that as long as Gray Robinson is not billing the city for working on the BP claim, then what they are doing is proper.

In response to Mayor Calabria, Attorney Smith stated that Gray Robinson has an office in Ft. Myers and Naples and they contacted his firm to assist in the BP lawsuit.

Mayor Calabria stated that he feels there is a conflict with the firm that we have on retainer now becoming a participant in a contingency fee case. He said that each law firm in this case will receive a share of fees that the city pays to Motley Rice. He questioned why we are paying Gray Robinson twice and why shouldn't that amount of money be a credit to our retainer.

Attorney Smith answered that the city is saving money by Gray Robinson taking the contingency fee as opposed to billing the city. He explained how the 33-1/3% was set and how there was a small window to get things done.

Commissioner Penny stated that he does not see anything ethically wrong and that he feels the agreement is fine.

Commissioner Elson stated that if we had an on-staff city attorney who entered into an agreement with these attorneys to receive a fee, then there would be problem. He further stated that we are a client of Gray Robinson and the work that they doing on the BP claim is significant. He said we are not being billed for this and it is not part of the original contract.

Commissioner Howry stated that he is okay with the arrangement. He further stated we signed the contract and if they win, the attorneys will get 33-1/3%.

City Attorney Ottinger stated that Gray Robinson has no legal conflict. He further stated the city is not being charged for any of his time on this lawsuit. He said that when time was running short to file the lawsuit, the Mayor wanted some attention to this. He further stated that Finance Director Graham said this was investigated last fall and was told the city was not eligible. The statute of limitations was running out, the firms responded immediately and filed the lawsuit.

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Mayor Calabria spoke regarding e-mails sent to City Attorney Ottinger.

Commissioner Penny called the question.

COMMISSIONER HOWRY	AYE
COMMISSIONER ELSON	AYE
COMMISSIONER PENNY	AYE
VICE MAYOR NEIDINGER	AYE
MAYOR CALABRIA	NO

DISPOSITION: APPROVED

There being no further discussion, the meeting was adjourned at 10:45 a.m.



Dan Calabria, Mayor

ATTEST:



Mary Braisted, City Clerk
07-01.13r

ST. PETERSBURG TRIBUNE 6/18/13

Trial of lawyer on bribery charge begins

Defense attorney: \$3,000 fee was legitimate referral

BY ELAINE SILVESTRINI
Tribune staff

TAMPA — No one disputes that St. Petersburg lawyer Vincent C. Rowley gave a bankruptcy trustee an envelope stuffed with cash wrapped inside a newspaper.

A federal prosecutor says Rowley was trying to bribe the trustee in exchange for business referrals.

Rowley's lawyer told jurors Monday that the money had nothing to do with bankruptcy and was merely a fee for a case the trustee referred to him outside of bankruptcy court.

The bribe — or the misunderstanding — all started one day in June 2006 when Rowley called bankruptcy trustee Angela Esposito and invited her to lunch at a downtown

restaurant, The Office, on Franklin Street. According to Assistant U.S. Attorney Robert Monk, the two engaged in small talk about a recent decline in personal bankruptcy filings.

Then, Rowley had a strange instruction, Monk said. "Put your hand under the table," Rowley said, according to a prosecutor.

"What?" Esposito responded. "Put your hand under the table," Monk quoted Rowley as saying. "No, really, I'm not trying to be fresh."

Esposito put her hand under the table, and Rowley handed her an envelope stuffed with cash. Esposito refused to take it.

Rowley, Monk said, urged her to take the money and "save it for a rainy day" or "go to Disney World." The back and forth continued under the table. Rowley told Esposito the

Rowley was suspicious at first and reluctant to discuss the matter on the phone, Monk said.

Then on Sept. 29, 2006, Rowley showed up unannounced at Esposito's bankruptcy hearing office. She excused herself and tried without success to contact the FBI agents she had been working with, Monk said.

Rowley walked Esposito to her car and handed her a folded newspaper, Monk said. Inside was an envelope containing 30 hundred-dollar bills. Esposito turned the envelope, the newspaper and the money over to the FBI.

In a later phone call, Esposito told Rowley her bosses had confronted her about taking money from him, Monk said. The prosecutor said Rowley then made up a cover story that the money had been a referral fee for another case in which Esposito had suggested a friend not involved in bankruptcy hire

Rowley. Defense lawyer John Fitzgibbons told jurors that was no cover story. Rowley was, thanking Esposito for suggesting the family of a woman killed in a Pinellas County accident hire him.

That case was settled for \$295,000 weeks before the restaurant encounter, Fitzgibbons said. Rowley's fee was \$78,000.

In Florida, lawyers who refer cases to other lawyers are routinely paid referral fees, Fitzgibbons said, although it is considered improper to pay referral fees to non-lawyers. Rowley didn't realize Esposito wasn't a lawyer, Fitzgibbons said.

The relationship between Rowley and Esposito centers on the handling of Chapter 7 personal bankruptcies, where individuals may walk away from debt after having certain assets liquidated and distributed among creditors.

Trustees are responsi-

ble for locating, liquidating and distributing those assets. Among the assets included in the process are pending lawsuits filed by debtors outside of the bankruptcy process. For example, if someone involved in an automobile accident files a lawsuit, that lawsuit is considered an asset if the person subsequently files for bankruptcy.

Bankruptcy trustees hire lawyers to handle those cases, sometimes allowing the original lawyer to remain and sometimes giving the cases to different lawyers, Monk explained.

Rowley developed a niche practice handling personal injury cases in the bankruptcy realm, Monk said.

About the time of the alleged bribe in 2006, Congress changed bankruptcy law, leading to a dramatic increase in filings.

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