

# TOWN OF LAUDERDALE-BY-THE-SEA

## TOWN COMMISSION

### REGULAR MEETING

### MINUTES

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, February 26, 2008**

**7:00 p.m.**

1. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Minnet called the meeting to order at 7:02 p.m. Mayor Roseann Minnet, Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Birute Ann Clotey, and Commissioner Stuart Dodd were present. Also present were Town Attorney Shana Bridgeman, Town Manager Esther Colon, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Reverend George Hunsaker gave the Invocation.

4. PRESENTATIONS

5. REPORTS

Vice Mayor McIntee wished to amend the agenda to add two items: 1) a 911 call at 4540 Ocean Boulevard and 2) a death at 4617 El Mar Drive.

Commissioner Dodd made a motion to amend the agenda to add the items under New Business as 14e and 14f. Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

a. Financial & Budget End of Month Report - January 2008 - (Town Manager Colon)

Commissioner Silverstone made a motion to accept the report  
Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

b. Development Services End of Month Report - January 2008 - (Director of Development Services Rabinowitz)

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Commissioner Clotley questioned the placement of the fire hydrant at Oriana. Director of Development Services Rabinowitz said he would look at it to see if the fire department required placement closer to the buildings.

Commissioner Dodd requested the installation of a temporary, safe sidewalk at that location. Director Rabinowitz said he would contact the engineer.

Commissioner Silverstone made a motion to accept the report  
Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

- c. Municipal Services Monthly Report - January 2008 (Assistant to the Town Manager Olinzock)

Vice Mayor McIntee made a motion to accept the report Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

- d. Broward County Sheriff's Office Monthly Report - January 2008 (Chief Gooding)

Vice Mayor McIntee requested permission to question Chief Sievers regarding the 911 call at 4540 Ocean Boulevard. He thought one of the agenda items he requested earlier could be handled now, rather than later as an additional agenda. There were not objections.

Vice Mayor McIntee understood the caller had hung up, but wanted to know why no one got back to the caller and why a unit was not dispatched. Chief Sievers replied that neither the address nor the phone number showed on the call, so once the caller hung up there was no way to track the call.

Chief Gooding advised tickets would be issued to people using the parking lot outside Town Hall as a cut through. He advised that the Broward Sheriff's web site, [www.sheriff.org](http://www.sheriff.org), now contained information on sex offenders in the community. He said one only needed to input an address to find the location of the sex offender within several miles.

Chief Gooding explained the 911 process. He said when someone called in and then hung up, the responder would call the caller back and ask if assistance was needed. He added that if no one answered, then a unit would be dispatched to the address and, if a child should answer, the responder would ask to speak to an adult. Mayor Minnet said she was privy to such a call while at the command center and the responder did call the caller back.

Commissioner Dodd made a motion to accept the report Commissioner Clotley seconded the motion. In a roll call vote, the motion carried 5 - 0.

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- e. Broward Sheriff's Office Fire Rescue Monthly Report - January 2008 (Chief Sievers)

Vice Mayor McIntee said he could also clear up the other issue he requested as an additional item, if the Commission had no objection. There were no objections. Vice Mayor McIntee questioned Chief Sievers regarding a death that took place at 4617 El Mar Drive. He said that he was told that Broward Sheriff's Office sent a two-man crew to the call and when a third man was requested Broward Sheriff's Office refused. Vice Mayor McIntee asked Chief Sievers what he knew about that incident. Chief Sievers explained that he had spoken with the Assistant Chief who said some of those facts were not correct and believed a three man crew was sent. Vice Mayor McIntee requested a written report from Chief Sievers to be provided to the Commission.

Commissioner Silverstone made a motion to accept the report  
Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

6. APPROVAL OF MINUTES

- a. February 12, 2008 Special Meeting Minutes

Mayor Minnet requested that the votes for Commissioner District 1, Birute Ann Clotley should read 1367 and not 1267. The correction was noted.

Commissioner Silverstone made a motion to approve the minutes as corrected  
Commissioner Clotley seconded the motion. In a roll call vote, the motion carried 5 - 0.

7. PUBLIC COMMENTS

Paul Novak reminded everyone that the Taste of Beach was going to be held at the north end of El Mar Drive at the Lauderdale Beachside Hotel, Wednesday, February 27, 2008 from 6:00 p.m. to 9:00 p.m. He added that tickets were \$37 at the Chamber and \$40 at the gate.

John Toohey advised that when a switchboard operator wanted to take a break there would be no one to respond to a 911 call. He believed the Commission should rethink American Medical Response.

Al Alvarez, General Contractor for Mulligan's Restaurant handed the Commission information regarding a zoning issue that he was building on. Mayor Minnet advised that this was not the proper agenda to present his item and asked him not to speak at this time. Vice Mayor McIntee objected and believed Mr. Alvarez should have the same opportunity to speak as anyone else. Attorney

Bridgeman agreed this was not the proper time or place to present the information.

Arthur Frankczak wanted to know if any of the Town's money was frozen. Mayor Minnet advised that his comment would be addressed.

Rosa Michailiuk was happy that the Commission seemed to be working toward the same goal. She asked if the Commission could make space for Botchee. Ms. Michailiuk complained about the noise from the motorcycles.

L. Peanuts Wick thought Resolution 2008-03 was an excellent idea. He suggested that if a building department was not affordable, perhaps the Commission would consider a permit department instead. Mr. Wick believed any Civic group should be allowed to use Town Hall, but that broadcasting should be brought before the Commission for approval.

Chuck Clark believed a workshop regarding the creation of a building department should be held prior to any action being taken. Mr. Clark thought the water line had no asset to the Town, but was a liability. He believed the overlay district item should go for referendum vote. Mr. Clark felt a workshop for fire support was a "must".

Beverly Kennedy asked that a service, Seniors vs. Crime be considered at the next meeting to offer their services to the seniors of Lauderdale-By-The-Sea, with such issues as wills and scams. She asked permission to bring the Executive Director in charge of South Florida, to bring that service to Lauderdale-By-The-Sea. Ms. Kennedy requested that the Commission keep two rescue trucks in Town in order to be prepared for any possible situation.

James Marfarlane was pleased with the new construction along El Mar Drive.

Frank Herrmann thought the Commission was harmonious. He thought the sale of the deteriorating water lines was a good idea.

Lisa Mitchell did not believe a workshop was needed as the people had already spoken.

8. ORDINANCES (2nd Reading) "Public Hearings"

9. COMMISSIONER COMMENTS

Vice Mayor McIntee explained a reporter's comment that he was untouchable to developers. He said that he recorded conversations with developers that he met with in Town Hall and put everything on the table. Vice Mayor McIntee clarified that he was untouchable to the people that tried to hassle the Commission.

Mayor Minnet was looking forward to promoting a government academy to educate residents about the complexities of operating a small municipality. She believed it would enrich the lives of citizens and staff.

Commissioner Clotey hoped that once the numbers were provided regarding the annexation of the north, reality would set in and the healing process would begin. She hoped everyone would volunteer for the 4th of July picnic. Commissioner Clotey assured everyone that the Commission lived in this Town and wanted to be safe when it came to fire protection. She agreed with Ms. Kennedy that the Town of Lauderdale-By-The-Sea should have more than one rescue vehicle on the Island and asked that the presentation be limited to Emergency Medical Services and not include terrorist attacks or chemical fires. Commissioner Clotey felt the people should decide by referendum whether the Overlay Districts should remain.

Commissioner Silverstone assured the people that nothing would happen with Emergency Medical Services unless it was safe. He addressed Arthur Franczczak's question regarding the funds. He said at one point the interest was at 2%. Manager Colon explained that the note disclosure in the audit indicated that there was a \$2 million dollar transfer taken and the Town never had a redemption fee. She said she would rather have the Town earn 4% than the 2% and added that at this time there were no problems, the Town never paid a redemption fee and the funds were safe.

Commissioner Dodd explained that the line item on the tax bill for the Inlet Commission was to keep the waterways free. He explained that the breakwater on the northern shore of Hillsboro Inlet was designed to act like a sand trap that caught the sand and deposited the sand into an area where it was convenient for dredging. He added that it was then pumped from the settling area into pipes under the Inlet to the south shore where the next storm carried it away. Commissioner Dodd believed it was a very intelligent way of keeping the natural order of the environment.

**10.** ORDINANCES (1st Reading)

**11.** CONSENT AGENDA

Items 11a, 11b and 11c were removed from the Consent Agenda for discussion.

Commissioner Dodd made a motion to approve items 11d and 11e on consent. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

- a.** Commission approval for after-the-fact request for refund of \$100 use fee (Assistant to the Town Manager Olinzock)

Assistant to the Town Manager Olinzock said the Gardenia Club requested a \$100 application fee refund. Manager Colon added that the application fee was waived for other organizations and the Gardena Club felt they should not be charged. Discussion followed regarding the Town's Ordinance that said only Local Civic Organizations were allowed to use Jarvis Hall without charge. Mayor Minnet said that if Gardenia Place Condominium Association was not a Civic Association they would need to be charged the fee. Attorney Bridgeman explained that a Civic Organization could be for profit or not for profit and must maintain jurisdictional boundaries within the Town.

Vice Mayor McIntee made a motion to authorize the return of the \$100 application fee. Commissioner Clottey seconded the motion.

Discussion followed regarding the costs involved. Manger Colon said considering the labor involved for setting up, cleaning, maintaining Jarvis Hall, maintaining the kitchen area, and keeping the air conditioning running cost the Town more than \$100.

In a roll call vote, the motion carried 5 - 0.

- b. Commission approval for Issuance of five (5) parking permits to be used in the Bougainvilla Parking Lot from March 1 thru February 2009 by Nova Southeastern University Staff during Sea Turtle strandlings and disorientation events. (Assistant to the Town Manager Olinzock)

Commissioner Clottey questioned the number of permits requested. Assistant to Town Manager Olinzock explained it was for the monitoring of the sea turtles and had been requested in the past. Commissioner Clottey understood the need for a couple of parking spaces, but wanted justification for five.

Commissioner Clottey made a motion to table for two weeks, to the meeting of March 11, 2008. Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

- c. Commission approval of Special Event Permit Application for Saint Patrick's Day Celebration Event, Monday, March 17, 2008, 3:00 p.m. till 2:00 p.m. at Commercial Blvd & El Mar Drive (Assistant to the Town Manager Olinzock)

Vice Mayor McIntee amended the agenda item to read 12:00 a.m. rather than 2:00 p.m. He questioned the closing of El Mar Drive and whether Athena's Restaurant needed to give permission to use the roadway. Dave Gatsby recommended closing eastbound Commercial Boulevard from El Mar Drive to the beach so that just the circle would be open.

Louis Marcello said Athena's Restaurant was supposed to give their parking lot for public access, but their restaurant was not included. Vice Mayor McIntee suggested both Mr. Gatsby and Mr. Marcello talk things over during recess and return with a solution.

Mayor Minnet called recess at 8:25 and reconvened at 8:35

Mr. Gatsby & the Marcello brothers were agreeable to leave the roadway eastbound, east of El Mar Drive, open for emergency access and area parking. He suggested that public traffic could be directed northbound on El Mar Drive, around the circle, and southbound on El Mar Drive, around the circle; and in addition, eastbound Commercial Boulevard to El Mar Drive.

Vice Mayor McIntee believed both restaurant owners should pay the town \$9 per meter and asked for a gentleman's agreement. Mr. Gatsby and the Marcello Brothers agreed to send a check.

Commissioner Clotey requested clarification on where the flow of traffic would be closed. Mr. Gatsby said the closure was westward on Commercial Boulevard between El Mar Drive and Ocean Drive between Kilwin's, 101 Ocean Drive, and Athena's Restaurant.

Commissioner Dodd made a motion to approve with the new travel route and that the applicants will pay for the parking meters for the time specified for the event. Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

- d. Emergency Repair-Municipal Park Playground Safety Surface Rehabilitation (Assistant to the Town Manager Olinzock)

This item was approved on consent.

- e. Town Hall Generator Relocation-Change Order to Contract (Assistant to the Town Manager Olinzock)

This item was approved on consent.

## 12. RESOLUTION

- a. RESOLUTION 2008-03: A RESOLUTION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA REDUCING AND FIXING THE BASE APPLICATION FEE FOR VARIANCES FOR SINGLE FAMILY HOMES TO \$453 AND PROVIDING FOR AN EFFECTIVE DATE (Attorney Cherof)

Mayor Minnet read the resolution by title.

Vice Mayor McIntee believed, in fairness to all, the Resolution should read \$453 for any residential property per unit.

Commissioner Silverstone made a motion to approve Resolution 2008-03. Commissioner Clotey seconded the motion for discussion.

Discussion followed regarding setting a fee base that would cover the Town's cost and the number of single family homes requesting variances. Commissioner Clotey asked whether the Town was recovering the costs involved. Manager Colon clarified that \$453 would cover a simple variance that included publication, the application fee, and internal review. She added that it would not cover external review such as engineering or planning or any additional advertising. Director of Development Services added that an Attorney was required to attend a Quasi Judicial Hearing at the Board of Adjustment.

Vice Mayor McIntee believed the Resolution should read \$453 for simple variances up to a 4 plex units and for more complicated variances the Town should put the people on notice. He made a motion to table to the second meeting in April, 2008.

Commissioner Silverstone suggested changing the wording to read \$453 for simple variances. Vice Mayor McIntee agreed and withdrew his motion to table. Attorney Bridgeman suggested bringing this item up at a later time to be certain the wording was correct.

Vice Mayor McIntee made a motion to table to the March 25, 2008 Commission meeting. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

### 13. OLD BUSINESS

- a. Discussion and/or action regarding the creation of a Lauderdale-By-The-Sea building department (Commissioner McIntee) (Requested at the December 11, 2007 meeting)

Vice Mayor McIntee believed that Lauderdale-By-The-Sea wanted to reduce costs. He requested that Manager Colon present an outline and come before the Commission in June. Manger Colon said she submitted a historical background going back to 1999 to 2000. She suggested a workshop prior to the creation of the department. She added that there would be a deficit for a department that would not have development. Discussion followed regarding the fees for permits and agreed that a workshop would be a good idea.

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Vice Mayor McIntee made a motion to schedule a workshop for discussion on the creation of a building department on June 3, 2008 at 5:00 p.m. Commissioner Dodd seconded the motion.

Commissioner Clotey suggested having the workshop on June 10, 2008 rather than June 3, 2008. Vice Mayor McIntee changed his motion to have workshop on June 10, 2008 5:00 p.m. Commissioner Dodd accepted.

Vice Mayor McIntee made a motion to schedule a workshop for discussion on the creation of a building department on June 10, 2008 at 5:00 p.m. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

**b.** City of Ft. Lauderdale / Sale of Water System (Commissioner McIntee) (Tabled at the December 11, 2007 meeting)

Manager Colon recommended selling the water distribution system as the Town did not have the funds to make repairs.

Vice Mayor McIntee made a motion to authorize the sale of the water system. Commissioner Silverstone seconded the motion.

Mayor Minnet questioned whether Fort Lauderdale would repair the lines for the Town of Lauderdale-By-The-Sea and asked if fees could be negotiated for the future. Manager Colon said the agreement states that Fort Lauderdale would be responsible for any repairs at their expense. She added that the Town of Lauderdale-By-The-Sea would still receive the franchise fees.

Assistant to the Town Manager explained there were multiple components in the agreement. He explained that once the agreement was executed, Fort Lauderdale would maintain the responsibility for the operation of the distribution system and must meet all future regulatory requirements and water transmission.

Commissioner Dodd asked how much money would be freed up once the system was sold. Manager Colon replied it was approximately \$1.2 million.

Mayor Minnet clarified the motion TO APPROVE SALE with conditions

Manager Colon clarified the conditions were \$350,000 was to be returned to the Town; no future liability as it pertained to the Bougainvillea project, the master meter, or any project off Commercial Boulevard; and continue to receive franchise fees.

In a roll call vote, the motion carried 5 - 0.

- c. Discussion and/or action amending the Jarvis Hall Ordinance to allow the Town Manager the authority to decide which functions should be recorded and broadcasted (Commissioner McIntee) (Requested at the January 22, 2008 meeting)

Vice Mayor McIntee clarified that his request was to authorize the Town Manager to authorize normal use of Jarvis Hall.

Manager Colon explained that she would not approve anyone for televising unless it was a Town sponsored event and she would not approve anyone to use Jarvis Hall unless it was Town business.

Vice Mayor McIntee made a motion to not to allow Town Manager to allow anyone to record or broadcast any events in Jarvis Hall without permission from the Dias. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

#### 14. NEW BUSINESS

- a. Discussion and/or action on Ordinance for Term Limits (Commissioner Dodd)

Attorney Bridgeman said the Commission had the power to move to rescind the prior Ordinance.

Commissioner Dodd made a motion to rescind the Ordinance. Commissioner Clotey seconded the motion. In a roll call vote, the motion carried 4 - 1. Mayor Minnet voted no.

- b. Discussion and/or action to repeal Overlay Districts Ordinance (Commissioner Dodd)

Commissioner Dodd promised to do his best to repeal the Overlay District. He believed the Commission needed to go back to the drawing board and make sure it does not happen again.

Discussion followed as to whether the overlay district and referendum should be reviewed. Attorney Bridgeman advised that if the Ordinance was created by referendum then it would also have to be changed by referendum.

John Thompson gave his historical view and suggested doing referendum by mail and not by ballot. Manager Colon asked Mr. Thompson's opinion as to whether a change in zoning it would repeal the overlay district. Mr. Thompson replied that there were certain zoning aspects in the past that had been overtaken by events. He added that there was nothing in state law that authorized or prohibited the initiative of referendum unless it was in the

Town Charter. Mr. Thompson added that anything passed by the vote of the people, such as an amended Charter or electoral ordinance could only be overturned the same manner in which it was passed.

Manager Colon repeated her question as to whether Mr. Thompson believed there would be a change in zoning if the Town repealed the Overlay District. Mr. Thompson believed the Town would return to the original zoning which was what the people wanted.

Mayor Minnet felt it was important to know where they were going. She requested Town Attorney's opinion.

Commissioner Dodd made a motion to repeal the Overlay Districts in accordance with the Ordinance that had been prepared and later changed to put it out for first reading. Commissioner Clotney seconded the motion. In a roll call vote, the motion carried 4 - 1. Mayor Minnet voted no.

- c. Discussion and/or action regarding setting up a Fire-EMS workshop to discuss all alternatives for the Town of LBTS (Mayor Minnet)

Commissioner Clotney made a motion to schedule an Emergency Medical Services workshop. Vice Mayor McIntee seconded the motion.

Discussion followed regarding the Request for Proposals. Manager Colon thought the Commission had agreed to discuss the other issues she requested for the workshop besides Emergency Medical Services, such as debt management, capital improvement projects, and land acquisition.

Vice Mayor McIntee withdrew his second. Commissioner Clotney withdrew her motion.

Mayor Minnet clarified that a workshop was scheduled for March 11, 2008 at 4:00 p.m. along with discussion on debt management, capital improvement projects, and land acquisition.

- d. Discussion and/or action regarding Resolution No. 2000-1458 regarding the agreement between the Town of LBTS and the SBCA (Mayor Minnet)

Mayor Minnet pulled Item 14d from the agenda. There were no objections.

## 15. TOWN MANAGER REPORT

Manager Colon believed a Transition Agreement needed to be in place. She wanted to know where the \$84,000 was going. She recommended leasing the vehicles and turning over the remaining equipment. Manager Colon requested direction.

Vice Mayor McIntee believed a transitional agreement had already been submitted. Manager Colon said that out of the \$83,754, \$27,454 was for the Fire Administrator from March to September 30, 2008. She added that \$15,000 was allocated for professional training, drug testing, and physicals. Manager Colon said the remaining amount would be applied to supplies and office rental. Discussion followed regarding receipt of a transitional agreement and whether the Commission agreed on it.

Manager Colon said the motion from last meeting was not to have an agreement. She felt someone should be fiscally responsible and believed that is why a transitional agreement should be in place. Mayor Minnet felt the Commission needed to review it in more detail. Discussion continued

Commissioner Silverstone made a motion to accept the Transition Agreement that the Volunteer Fire Department sent to the Town Attorney for review and, once the Town Manager approved it, the funds would be allocated as she saw fit to the Volunteer Fire Department. Commissioner Dodd seconded the motion.

Discussion by Commissioner Dodd believed the Volunteer Fire Department was supposed to get the money on an "as need basis" and asked for clarification. Manager Colon believed the Volunteer Fire Department should not be treated any differently than the Broward Sheriff's Office - Fire, and therefore, if the \$84,000 was approved for a six month period she would divide the amount and send the Volunteer Fire Department six monthly payments.

In a roll call vote, the motion carried 4 - 1. Mayor Minnet voted no.

Vice Mayor McIntee questioned Chief Sievers regarding the number of air packs and the whereabouts of an inventory sheet. Chief Sievers agreed that there were air packs but not sure of the count. He said he had them boxed and inventoried.

Vice Mayor McIntee made a motion to direct the Town Manager to turn over all equipment pertinent to the Volunteer Fire Department's fire suppressant effort and when vehicles arrive from the Sheriff's department to lease the vehicles to the Volunteer Fire Department for \$10 a year, with the Volunteer Fire Department paying the insurance on the vehicles. Commissioner Dodd seconded the motion.

Discussion followed with clarification on the motion. Mayor Minnet reminded everyone that a contract was not in place and believed it was important for the public to understand that.

In a roll call vote, the motion carried 4 - 1. Mayor Minnet voted no.

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Manager Colon said all agreements and receipt of fire station and equipment had been sent to the Town Attorney's Office along with emails to the Commission containing the documents submitted for the March 11, 2008 meeting.

16. TOWN ATTORNEY REPORT

There were no reports.

17. FUTURE AGENDA ITEMS

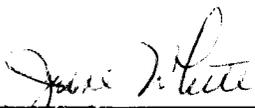
18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:16 p.m.



Mayor Roseann Minnet

ATTEST:

  
Town Clerk, June White

3/27/08  
Date