

TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING
MINUTES - REVISED

Town Commission Meeting Room
4501 Ocean Drive
Thursday, September 25, 2008
7:04 P.M.

Revised to reflect item 15e omitted in the original version.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Minnet called the meeting to order at 7:00 p.m. Mayor Minnet, Vice Mayor McIntee, Commissioner Silverstone, Commissioner Dodd, and Commissioner Clotey were present. Also present were Town Manager Colon, Town Attorney Daniel L. Abbott, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Mayor Minnet gave the Invocation.

Mayor Minnet asked for a motion to amend the agenda to place the Adopt-A-Street Program under New Business as item 15f.

Vice Mayor McIntee made a motion to amend the agenda for placement of the Adopt-A-Street Program as Item 15f. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

Manager Colon requested an item be placed on the agenda regarding outstanding bills received by the Volunteer Fire Department under Old Business as Item 14c for discussion and/or action.

Commissioner Clotey made a motion to amend the agenda to add Item 14c for discussion and/or action regarding outstanding invoices. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

4. PRESENTATIONS

- a. Portrait donation to the Volunteer Fire Department (Vice Mayor McIntee)

Vice Mayor McIntee presented a portrait painted by Michael Israel to Chief Perkins. He said Mr. Israel would be honored if the Volunteer Fire Department would sign and return his painting.

5. REPORTS

Commissioner Dodd pointed out that the Volunteer Fire Department was going to be the primary Fire Department as of October 1, 2008 and that 40 of the 80 members were trained EMTs and 13 fully qualified paramedics.

Mayor Minnet pointed out that 39 firefighters, 4 of which were paramedics, lived in Town; and 41, 9 of which were trained paramedics, lived outside of Town.

Commissioner Dodd was not happy that a letter regarding the Volunteer Fire Department was mailed out under Town Commission stationary and wanted to set policy that anything that is sent out under Commission stationary is forwarded to the Town Manager and copies are supplied to the Mayor and Commissioners. Vice Mayor McIntee apologized and explained that the Volunteer Fire Department was not yet official at the time he sent the letter to the Condominiums. The Commission agreed that anything sent out on Commission letterhead was to be forwarded to the Town Manager as public record and copies supplied to the Mayor and Commissioners.

- a. Finance & Budget Monthly Report - August 2008 (Manager Colon)
- b. Development Services Monthly Report - August 2008 (Assistant Manager Olinzock)
- c. Municipal Services Monthly Report - August 2008 (Assistant Manager Olinzock)
- d. Broward County Sheriff's Office Monthly Report - July 2008 (Chief Gooding)
- e. Broward County Sheriff's Office Monthly Report - August 2008 (Chief Gooding)
- f. Volunteer Fire Department Monthly Report - August 2008 (Chief Perkins)

Items 5a through 5f were voted on concurrently.

Vice Mayor McIntee made a motion to approve Items 5a through 5f. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

6. TOWN MANAGER REPORT

Manager Colon stated that the testing regarding the American Medical Response (AMR) and the Volunteer Fire Department (VFD) dispatch was going well. She stated that Sal's towing was a certified mechanic for the VFD vehicles except for transmission repair, which had to go to Broward County.

Manager Colon updated the Commission on El Mar Drive and reminded them that turtle season started in March and ended October 31st. She asked the Commission for assistance as staff offered to pay for the bulbs or the shields but Florida Power and Light was hesitant in responding.

Manager Colon advised that final approval on the Commercial Boulevard Pavilion was pending Broward County Environmental Protection and once received, construction could begin.

7. APPROVAL OF MINUTES

There were no corrections, additions, or deletions to the minutes.

a. September 9, 2008 Special Meeting Minutes

Vice Mayor McIntee made a motion to approve the minutes of September 9, 2008. All voted in favor, 5-0. Commissioner Silverstone seconded the motion.

b. September 12, 2008 Special Public Hearing Minutes

Commissioner Silverstone made a motion to approve the minutes of September 12, 2008. All voted in favor, 5-0. Vice Mayor McIntee seconded the motion.

8. PUBLIC COMMENTS

Joyce Murray invited the Commission and residents to a 5K walk to raise awareness and funds for the needy of this area on Saturday, September 27, 2008 around St. Gabriel Parish, Pompano Beach. She added that registration began at 7:00 a.m. and the walk started at 8:00 a.m.

Bonnie Myers expressed her support for Mayor Minnet's Adopt-A-Street program. She hoped everyone would attend the green fest.

Frank Herrmann said when the Town was small governing was done with little red tape.

9. ORDINANCES

- a. Ordinances 1st Reading - "Public Comments"
- b. Ordinances 2nd Reading - "PUBLIC HEARING"

10. COMMISSIONER COMMENTS

Mayor Minnet thanked everyone for attending the Budget Hearings and thanked those who participated. She said the Greenfest was on October 4, 2008 and was the kickoff to recycling.

Billy Hart was allowed to speak at this time as he was not called during Public Comments. He was concerned about a citation he received concerning the boat he had in his yard since 1992.

Commissioner Clotey believed that if things continued as they have, the millage rate may be lowered again next year. She encouraged more people to ride the Pelican Hopper and requested that staff look into the concerns regarding pit bulls. Commissioner Clotey liked the idea of the Adopt-A-Street program but wanted to look at the number of signs around Town.

Commissioner Silverstone suggested Mr. Hart contact Code Enforcement as the boat may be outdated and may need to be revised. He said volunteers were needed for the Halloween Party. Commissioner Silverstone added that the basketball league started up on Saturday mornings from 9:00 a.m. to 11:00 a.m. and that a Soccer Coach was also needed. He requested a professional volley ball player to join in on the activities. Commissioner Silverstone wanted to sponsor a 5K run in Town. He thought it was a great thing for the Town. He commended Mayor Minnet on the Green Project and welcomed the Volunteer Fire Department.

Chief Perkins stated that the Volunteer Fire Department was having a small parade on Saturday, September 27, 2008 and on Wednesday, October 1, 2008 a barbeque at the Fire Station at 7:00 p.m.

Commissioner Dodd asked that staff schedule a workshop in late October or November to discuss minor code adjustments or Ordinance changes to continue with the process of making the Town green. Commissioner Dodd said he would vote against any ordinance against Pit Bulls.

Vice Mayor McIntee believed the Volunteer Fire Department earned their way back and referred to the Beach Patrol. He said there were 30

firefighters currently training. Vice Mayor McIntee said he received negative phone calls regarding signs that had no permits issued. He believed they were illegal because they were not informational, and did not meet size requirements. He felt the fair way to handle the signs was to put one at each entryway. Vice Mayor McIntee requested placement on the agenda for the October 14, 2008 Commission meeting.

Manager Colon stated that Mr. Hart's boat did not have any violations. She added that the issue had been corrected. Manager Colon said she had informed staff to stop placing signs until further notice.

Mayor Minnet received an email from concerned citizens regarding the signs. She said that if the Dias wanted to remove the signs she would abide by it. She was disappointed in the reaction to the signs but believed the Adopt-A-Street program was a good program.

Discussion followed regarding the number of signs and whether the signs could be smaller to meet code. Commissioner Clotey did not feel there should be any signs although she did believe in the program.

Commissioner Silverstone made a motion to remove the signs. Commissioner Clotey seconded the motion.

Commissioner Dodd offered a friendly amendment to reduce the number of signs, exchange them for smaller and more discrete signs, bring them into code and place them in the entryways.

Commissioner Silverstone added to the amendment that the people who adopted a street made a choice as to whether they wanted a sign in their yard. Commissioner Dodd and Commissioner Clotey accepted the amendment. All voted in favor, 5-0.

11. CONSENT AGENDA

- a. Commission approval of Change Order # 2 to Walter H. Keller, Inc., in the increased amount of \$8,500.00 and 157 additional calendar days for the North Seagrape Drive Streetscape Project as recommended by Engineer of Record, Walter H. Keller, P.E. (Assistant Manager Olinzock)
- b. Commission approval of Change Order # 2 to Tenex Enterprises, Inc., in the increased amount of \$15,196.18 and additional 157 calendar days for the North Seagrape Drive Streetscape Project as recommended by Engineer of Record, Walter H. Keller, P.E. (Assistant Manager Olinzock)
- c. Commission approval of Change Order # 1 to Comcast Cable, in the increased amount of \$10,000.00 for the relocation of utility equipment on

the Washingtonia Avenue Sidewalk Project as recommended by Engineer of Record, Walter H. Keller, P.E. (Assistant Manager Olinzock)

The Commission discussed the relocation of the utility box. Commissioner Dodd made a motion to allow a resident, directly affected, to speak on this issue. Commissioner Clotey seconded the motion. Barbara Cole said the new box was already in and located further back on her neighbor's property. Commissioner Dodd made a motion to approve. Vice Mayor McIntee seconded the motion. All voted in favor, 5-0.

- d. Commission Approval of Maintenance of Traffic (MOT) Plan, Submitted by Coastal Contracting & Development, Inc., for the Construction of the Commercial Boulevard Pavilion, and Waiving of Town Right-of-Way permit fee of \$15,982.40 (Assistant Manager Olinzock)

Commissioner Dodd thought that penalty clauses were to be added to the contract. Assistant Town Manager Olinzock said the clauses were in there. Commissioner Dodd made a motion to accept. Commissioner Clotey seconded the motion. All voted in favor, 5-0.

- e. Commission approval of the issuance of 3 Hardship Parking Permits for Ocean Time LLC, 4200 El Mar Drive (Assistant Manager Olinzock)
- f. Commission approval of the issuance of 3 Hardship Parking Permits for Ocean Treasure LLC, 4308 El Mar Drive (Assistant Manager Olinzock)
- g. Commission approval of Special Event Application for the Memorial Day Beach Bash to be held on Monday, May 25, 2009 from 7:30 AM to 8:30 PM (Assistant Manager Olinzock)

Commissioner Dodd made a motion to approve. Vice Mayor McIntee seconded the motion. All voted in favor, 5-0.

- h. Commission approval of the First Amendment to the Broward County Agreement for Public Transportation Services (Clerk White)
- i. Commission approval of the VFD Fire Protection and Fire Prevention Services Agreement due to clarification of sections 3.5.2; 4.3; 7.4 (Clerk White)

Commissioner Dodd expressed his concern for the wording in sections 7.4 and 7.5 of the contract. He recommended that future contracts clearly reflect the requirement of four personnel at a fire instead of three which the current contract states. Chief Perkins explained that when the VFD arrives at a fire they require a minimum of three personnel on site, a driver, an officer and a certified firefighter. Commissioner Dodd understood that three

was the minimum but wanted future contracts to reflect that four would be on the scene within a certain amount of time to agree with the "two in/two out" procedure. He did not believe the current contract presented a realistic explanation of performance. Commissioner Dodd said he was okay with the current contract but would like to see more clarification on the requirements in the future.

Commissioner Silverstone believed that there was a misunderstanding. He noted that Chief Perkins would also be on hand making him the fourth person on the scene. Chief Perkins agreed. Commissioner Silverstone explained that AMR would also be on the scene.

Commissioner Dodd explained again that he simply wanted the contract to be clear for the residents to understand that the requirement was nine minutes for a complete unit to be on the scene. He also pointed out that AMR might be considered a part of that response team, however they are there as medical personnel and not firefighters.

Manager Colon explained that the minimum requirement of personnel put forward by the VFD had nothing to do with AMR. She made sure that Chief Perkins and the Commission understood that. Chief Perkins explained that there is a certified firefighter onboard the AMR vehicle and they could be called if needed. Manager Colon said that per the contract between the Town and AMR, they always have three people on their truck, not as a fourth person for the VFD. Chief Perkins asked if the VFD were allowed to use the firefighter on the AMR truck if needed. Manager Colon said they were not.

Commissioner Dodd explained that the contract should reflect that the Fire Chief would be on the scene making it four personnel on site to follow the "two in/two out" method. He said that he would like a clause or an amendment added to the contract to include that the Fire Chief would be one of the four people on the scene. Attorney Abbott explained that that information was already outlined in section 7.2 of the contract.

Mayor Minnet expressed that she would like to see a Fire EMS Oversight Committee created. Vice Mayor McIntee reassured her that the level of service and number of members of the VFD were better than before and ready for any challenges the Town may have. Commissioner Clotey wanted to know why Mayor Minnet had not included BSO Police in her Oversight Committee proposal. Mayor Minnet had no problem with adding BSO Police to her suggestion. Commissioner Dodd agreed with the Mayor's suggestion but felt that they would not have very much to report. Vice Mayor McIntee wanted to know why the Mayor did not suggest an Oversight Committee for BSO Fire Rescue. He felt that the VFD should be given the chance to prove themselves. Manager Colon explained that she

had BSO place a software system in Town computers to verify the VFD reports. Chief Perkins explained that each report has to be logged in to the system by the VFD. Commissioner Silverstone agreed with the idea of an Oversight Committee but not for the Town based on its size. Commissioner Dodd made a motion to approve the Volunteer Fire Department contract. Vice Mayor McIntee seconded the motion. All voted in favor, 5 – 0.

- j. Commission approval of emergency storm drain repair - Man Con (Assistant Manager Olinzock)
- k. Commission Approval of Hibiscus Force Main - W.D. Jackson (Assistant Manager Olinzock)

12. RESOLUTION - "Public Comments"

- a. RESOLUTION 2008-24: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, DESIGNATING INSURANCE CARRIERS FOR VARIOUS CATAGORIES OF INSURANCE COVERAGE FOR THE TOWN AND TOWN OFFICERS, EMPLOYEES, AND AGENTS; DIRECTING THE TOWN ADMINISTRATION TO PROCESS APPLICATIONS FOR INSURANCE COVERAGE; AND PROVIDING FOR AN EFFECTIVE DATE (Manager Colon)

Mayor Minnet opened Resolution 2008-24 for public comment. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Vice Mayor McIntee made a motion to adopt Resolution 2008-24. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

- b. RESOLUTON 2008-27: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA ESTABLISHING FIRE RESCUE AND SAFETY SERVICE FEES (Manager Colon)

Mayor Minnet opened Resolution 2008-24 for public comment. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Vice Mayor McIntee made a motion to adopt Resolution 2008-24. Commissioner Clotley seconded the motion. All voted in favor, 5-0.

13. QUASI JUDICIAL PUBLIC HEARINGS

14. OLD BUSINESS

- a. Discussion and/or action of the annual Christmas By-The-Sea - sponsored by Town, Chamber and local business (Tabled at the September 15, 2008

by Commissioner Silverstone)

Commissioner Silverstone made a motion to fund \$7,000 to the annual Christmas-By-The-Sea event. Commissioner Clotey seconded the motion. Manager Colon said that amount was not in the current budget and would have to come out of reserve account. Discussion followed regarding back up material being supplied to agenda requests. Mayor Minnet emphasized that it was up to each Commissioner to supply and/or attach backup material and not up to staff. All voted in favor to \$7,000 to the annual Christmas-By-Sea event, 5-0.

- b. Discussion and/or action regarding an electronic voting system (Clerk White) (Requested by and tabled to September 25, 2008 by Commissioner Dodd) Town Clerk requesting tabling until October 14, 2008. Formal quote with specifications not received.

Clerk White advised that the information requested was not obtained in time for this meeting, but would be available for the October 14, 2008 Commission meeting.

Commissioner Dodd made a motion to table to the October 14, 2008 Commission agenda. Commissioner Silverstone seconded the motion. All voted in favor 4-0. Vice Mayor McIntee was excused from voting.

- c. Discussion and/or action regarding repair bills to fire vehicles - Manager Colon added at the meeting

Manager Colon received \$12,831.49 in repair bills for fire trucks that she was not aware of. She added that the Commission had previously approved \$3,576. Manager Colon requested approval for funds to pay the difference. She added that, per contract, the Volunteer Fire Department will pay for the maintenance and repair of the vehicles.

Commissioner Dodd inquired as to whether these were repairs that should have been done by the Broward Sheriff's Office. Chief Perkins said it was. Commissioner Dodd felt that the Broward Sheriff's Office should pay for the repairs. Manager Colon said she had forwarded a request to them for the \$3,576. She said their policy stated that their SOP indicated that they did not maintain after 3,000 miles. Commissioner Dodd said he would leave it to Manager Colon to do what she can. Manager Colon said that although the Broward Sheriff's Office said they would work with her, she will talk with the Town Attorney.

Commissioner Silverstone made a motion to approve payment of \$12,831.49 with an additional request to make every possible measure to

obtain reimbursement from the Broward Sheriff's Office. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5-0.

15. NEW BUSINESS

- a. Discussion and/or action to appoint a representative to attend the National League of Cities Convention in Orlando, November 11 - 15, 2008 (Mayor Minnet)**

Mayor Minnet requested the Commission appoint a representative to attend the National League of Cities Convention. There were no recommendations.

- b. Discussion and/or action for the Town of Lauderdale-By-The-Sea to be Green Certified by the Florida Green Building Coalition (Mayor Minnet)**

Mayor Minnet believed the Green program would be a positive program for the Town.

Commissioner Silverstone wanted to know if it would be beneficial to hire a consultant and whether it was worth the cost. Commissioner Clotley did not feel it was. Vice Mayor McIntee wanted to know the cost. Manger Colon advised that Chen & Associates was to address those issues.

Commissioner Silverstone made a motion to table to the October 14, 2008 Commission meeting. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

- c. To approve \$1,000.00 towards expenses for the First Annual Lauderdale-By-The-Sea Greenfest 10/04/08 (Mayor Minnet)**

Vice Mayor McIntee made motion to approve \$1,000. Commissioner Silverstone seconded the motion.

Commissioner Clotley questioned where the money would go. Mayor Minnet said the funds were for refreshments, snacks, supplies, and printing. All voted in favor, 5-0.

- d. Discussion and/or action regarding future capital improvement projects and Discussion and/or action regarding placing the funding mechanism on the next referendum with the below four (4) options: (Commissioner Silverstone)**

1. Tax Increase

2. Bond Issue
3. Special Assessment
4. None of the above

Commissioner Silverstone wanted to give the people the power to make a choice as to how to pay for capital improvement projects by choosing one of four options.

Commissioner Silverstone made a motion to discuss the suggested items and the funding mechanism at a workshop. Vice Mayor McIntee seconded the motion. Discussion followed, and was agreed that the item would be combined with the Code and Capital Improvement Workshop on January 13, 2009. All voted in favor, 5-0.

- e. Discussion and/or action regarding cost of putting up ID posts and beach equipment (Commissioner Dodd)

Chief Perkins recommended about 20 wooden posts, 6 x 6, with lifeguard rings and numbers on them, be placed on the beach every 500 feet at an approximate cost of \$28 each. Discussion followed regarding monies that had not been budgeted. Attorney Abbott thought that state approval would be required. Chief Perkins advised that the poles were not a permanent structure. Manager Colon asked if the Volunteer Fire Department would be able to purchase the poles by September 30, 2008. Chief Perkins said he would.

Commissioner Silverstone made a motion to appropriate up to \$2,000 to pursue pending state approval. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5-0.

16. TOWN ATTORNEY REPORT

Town Attorney Abbott recalled that the Town was given a pedestrian easement with the approval of the Oriana site plan. He noted that per the agreement the easement would expire if it were not upgraded to a promenade. He spoke with one of Oriana's attorneys to get approval to have the area be made of sea grass instead. Sue Delegal, an attorney for Oriana, passed on the request but had not received an answer as of yet. Attorney Abbott said that the Town options were: 1) follow the current easement and create a promenade, 2) allow the easement to expire and return it to Oriana, or 3) challenge the original easement.

Commissioner Silverstone asked if at that time a decision would need to be made pertaining to the easement. Attorney Abbott said they did not have to,

however if wanted to construct the boardwalk, time was running out. Commissioner Silverstone asked if the Town had the money to do this. Manager Colon responded that it was not budgeted and there were no funds to move forward with the project. Vice Mayor McIntee recalled that the Commission decided to put a walkway through the boardwalk to offset the promenade. Attorney Abbott said that was not sufficient and that they needed to construct the boardwalk or they would lose the easement. Manager Colon pointed out that the Master Plan does not allow sea oats as an alternative for the promenade.

Commissioner Silverstone made a motion to direct the Town Attorney to pursue the easement. Commissioner Clotney seconded the motion. Commissioner Dodd wanted an estimate of the hours and the legal cost to have the Town Attorney pursue the easement. Attorney Abbott could not give an exact estimate, however he concurred with Commissioner Dodd that if a lawsuit were filed it could go to five figures. Commissioner Clotney clarified to Commissioner Dodd that they were not voting on pursuing a lawsuit, but preserving the area for the future. Vice Mayor McIntee agreed with Commissioner Clotney and offered a friendly amendment to the motion to have the Town Attorney do the research and report back with a projected cost before they make the decision to move forward with a lawsuit. Commissioner Silverstone accepted to the friendly amendment.

Commissioner Dodd asked if anyone was currently allowed to walk on that easement. Attorney Abbott said they were not because the land was owned by Oriana. Commissioner Dodd requested a map of the area that could be walked on before money was spent. In roll call vote, the motion passed 3-2. Mayor Minnet and Commissioner Dodd voted no.

Attorney Abbott pointed out the five pending lawsuits pertaining to the Burt J. Harris act. He said that none of them had been filed as of yet; however all of the administrative prerequisites had been completed. Commissioner Dodd recalled that the Commission granted Sea Colony a site plan extension. Attorney Abbott said that was correct and because of that he did not believe their lawsuit would be filed. Commissioner Silverstone asked if there was a time limit on filing the lawsuits. Attorney Abbott replied that it was about four years and all five of them still had time.

17. FUTURE AGENDA ITEMS

18. ADJOURNMENT

Town Commission Regular Meeting - REVISED
September 25, 2008

Vice Mayor McIntee made a motion to adjourn. With no other business before the Commission, Mayor Minnet adjourned the meeting at 9:45 p.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

11/25/08

Date

