

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, November 25, 2008

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

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

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Mayor Minnet gave the Invocation.

4. PRESENTATIONS

5. REPORTS

a. **Finance and Budget Monthly Report - October 2008 (Manager Colon)**

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

b. Development Services Monthly Report - October 2008 (Assistant Town Manager Olinzock /Bowman)

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion. All voted in favor, 5-0.

c. Municipal Services Monthly Report - October 2008 (Assistant Town Manager Olinzock /Colon)

Vice Mayor McIntee received a phone call from a gentleman in Bel Air regarding a notice he received regarding his boat. He indicated that the

gentleman thought he received a citation and suggested that future notifications be clearer to avoid misinterpretation.

Commissioner Clotley inquired as to whether the letters sent to Bel Air residents was to inform them that they had to remove their boats and whether Motor Homes were issued fines for parking.

Jeff Bowman, Director of Development Services said only two boats were in violation. He added that boats were not prohibited provided they met Town Code. Director Bowman stated that Motor Homes required a 3 day permit.

Commissioner Silverstone made a motion to accept the report. Commissioner Clotley seconded the motion. All voted in favor, 5-0.

d. BSO Police Monthly Report - October 2008 (Chief Gooding)

Vice Mayor McIntee requested Chief Gooding to enforce the open container law in relation to the downtown events on Friday and Saturday nights.

Commissioner Silverstone made a motion to accept the report. Commissioner Clotley seconded the motion. All voted in favor, 5-0.

e. VFD Fire Monthly Report - October 2008 (Chief Perkins)

Commissioner Dodd requested a detailed breakdown of fire calls to reflect the number of specific calls such as electrical and false alarms. He wanted to know when the VFD would stop responding to ambulance calls and when medical exams would be complete. Chief Perkins approximated the VFD would respond to ambulance calls for another month and stated that the medical exams should be completed by the end of the year.

Commissioner Dodd wanted the record to show that Vice Mayor McIntee's son was being paid to train firefighter 1's. Chief Perkins said there were 2 certified instructors, Bo McIntee and Deputy Chief Joseph Patton.

Commissioner Dodd publicly stated that the volunteer firefighters were not lifeguards and hoped they would receive "in water" training should they chose to enter the water so they would be better equipped. Chief Perkins said he had spoken with Mr. Falor who had offered his assistance.

Commissioner Clotley inquired as to whether a fire truck should follow along with an ambulance in case a door needed to be knocked down upon arrival. Chief Perkins believed that 40% to 50% of the time a firefighter

was needed and in his opinion, a fire truck should accompany an ambulance.

Vice Mayor McIntee pointed out that BSO always sent a fire engine with an ambulance and believed if VFD did not send a fire engine it would be considered that VFD was providing less service.

At Vice Mayor McIntee's request Chief Perkins gave a brief description regarding the near drowning that took place on October 25, 2008 when he arrived at the scene. He said only Vice Mayor McIntee was there from the Fire Department and Mr. Mitchell along with 3 deputies and citizens. He added that AMR was there and applied oxygen to the woman at the shoreline. Chief Perkins said that volunteer firefighters arrived approximately 2 minutes after he did.

Mayor Minnet inquired of a detailed report that would be presented in the future showing response times, who attended and their fire status. Chief Perkins said the report would show how many firefighters were at the scene but not their names. Mayor Minnet preferred to see firefighter status. Chief Perkins said it would require a lot of work but could be done. Mayor Minnet inquired of the availability of pagers to the Commission. Chief Perkins said they were available.

Vice Mayor McIntee made a motion to accept the report. Commissioner Silverstone seconded the motion.

Commissioner Dodd wanted the report to show which fire fighter attended what call and how many calls per month that fire fighter had in order to determine activity.

Commissioner Clotey suggested using a code rather than the actual names. Commissioner Dodd agreed. Chief Perkins said each firefighter was assigned a number.

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

f. AMR Fire Rescue Monthly Report - October 2008 (Operations Manager Liddle)

Vice Mayor McIntee requested Operations Manager Brooke Liddle to give a brief description of their actions involved during the beach rescue. Operations Manager stated that certain types of patients required different amounts of oxygen such as near drowning and respiratory problems. He gave a demonstration on the use of an oxygen mask.

Commissioner Dodd made a motion to accept the report. Commissioner Silverstone seconded the motion. All voted in favor, 5-0.

At this time Mayor Minnet inquired of any additions, corrections or deletions to the agenda. Manager Colon stated that the date in Consent Item 12c should have been December 31, 2008 rather than December 21, 2008 and the time in Item 12a should have been from 2:00 PM to 1:00 AM. Corrections were noted and confirmed. Manager Colon requested moving New Business Item 16b under Quasi Judicial as Item 14b. She added that all future requests for extensions would be listed as a Quasi Judicial.

Manager Colon requested tabling New Business Item 16m to the December 16, 2008 Commission meeting to allow time to obtain rates. This item was voted on later in the meeting.

6. PUBLIC SAFETY DISCUSSION

7. TOWN MANAGER REPORT

Manager Colon informed the Commission that staff had been working on a large public records request for Palm Yacht Club. She added that she requested Attorney Abbott to proceed with the claim for \$1 million regarding the Oriana project. She added that on September 25, 2008 Attorney Abbott offered two options: 1) follow the current easement and create a promenade; 2) allow the easement to expire and return it to Oriana. She requested direction from the Commission as to how to proceed with the design.

Commissioner Clotley inquired as to how long it would take to receive the \$1 million. Attorney Abbott said it depended on whether Oriana agreed or disagreed that the funds under escrow were deliverable to the Town.

Vice Mayor McIntee stated that the Master Plan Steering Committee was to address El Mar Drive as their priority and spend extra time working on the 3 over 1 height limits. He suggested the Master Plan Steering Committee work aggressively toward an El Mar Drive plan.

Commissioner Dodd felt that addressing the 3 over 1 was more important at this time as it would give direction and guidelines to Developers. He believed that the Master Plan Steering Committee and the Planning and Zoning Board should put all their efforts in determining where the Town stood since the overlay districts were gone.

Commissioner Clotley did not believe the \$1 million dollars was a sure thing.

8. APPROVAL OF MINUTES

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

a. September 25, 2008 Revised Minutes

Commissioner Silverstone made a motion to approve the minutes of September 25, 2008 Revised. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

b. October 14, 2008 Revised Minutes

Commissioner Silverstone made a motion to approve the minutes of October 14, 2008 Revised. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

c. October 28, 2008 Regular Minutes

Commissioner Dodd made a motion to approve the minutes of October 28, 2008. Commissioner Clotey seconded the motion. All voted in favor, 5-0.

d. November 10, 2008 Workshop Minutes

Commissioner Silverstone made a motion to approve the minutes of November 10, 2008 Workshop. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

e. November 10, 2008 Regular Minutes

Commissioner Dodd made a motion to approve the minutes of November 10, 2008. Commissioner Clotey seconded the motion. All voted in favor, 5-0.

9. PUBLIC COMMENTS

Frank Herrmann believed that if the opportunity to purchase property was there it should be purchased but not taken by eminent domain.

Louis Marchelos stated that with the construction of the Pavilion he had no access to the fishing pier parking lot in morning hours. He requested temporary access during construction.

Bill Ciani stated that some of the business wanted to have sidewalk sales once a month to stimulate business. Mr. Ciani felt that the 10 bagged spaces around Athena, is on A1A and 4 on Commercial Boulevard should be available for public

use and not sold and assigned to one business. He wanted to see this as an agenda item.

Ronald Rupp stated that after he purchased a foreclosed home he noticed that the sewers were not installed. Mr. Rupp said he installed the sewers and then received a letter from the Town of Lauderdale-By-The-Sea stating that a lien had been placed against his property for \$6,950. He requested property relief.

George Crossman congratulated everyone involved with the sidewalks on North Seagrape Avenue. He was impressed with the attention to detail and the consideration the workers showed to the motorists.

Bob Fleishman was scared that AMR and VFD protected the Town.

Lawrence Wick liked the Bel Air sign. Mr. Wick wanted the Artificial Reef to go forward. He felt the Oversight Committee should be delayed for 6 months and was against an appointment of a Commissioner to the Oversight Committee.

10. ORDINANCES

1. Ordinances 1st Reading - "Public Comments"

- a. Ordinance 2008-25: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 4: ARTICLE II, SECTION 4-30 OF THE CODE OF ORDINANCES OF THE TOWN OF LAUDERDALE-BY-THE-SEA IN ORDER TO ESTABLISH PROVISIONS PROTECTING THE PUBLIC FROM DANGEROUS DOGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Attorney Abbott read Ordinance 2008-25 by title. Mayor Minnet opened the meeting for public comment. With no one wishing to speak, Mayor Minnet closed the public portion of the meeting.

Commissioner Dodd felt the Ordinance was not written to penalize the owner and therefore was against it.

Vice Mayor McIntee explained that there had to be some kind of viciousness to the dog. He added that it did not apply to the average dog on the street.

Mayor Minnet was in favor of leaving the Ordinance the way it was and look at other means. She believed the owner should made be responsible and not penalize the dog.

Commissioner Silverstone believed the Ordinance could be used as a tool to prevent a situation from happening.

Vice Mayor McIntee believed it was important to have such an Ordinance on the books. Mayor Minnet said there was a vicious dog Ordinance on the books already.

Vice Mayor McIntee made a motion to adopt Ordinance 2008-25 on first reading. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 3 - 2. Mayor Minnet voted no. Commissioner Dodd voted no.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

11. COMMISSIONER COMMENTS

Mayor Minnet wished everyone a warm and safe Thanksgiving. She addressed the Artificial Reef project and looked forward to the plan for lifeguards. Mayor Minnet looked forward to a decision regarding parking at the Dec. 16, 2008 meeting. She advised that the meeting was changed because a Commissioner was going on Vacation. Mayor Minnet reminded everyone of the tree lighting service on December 2, 2008 on the square.

Commissioner Clotey wished everyone a safe Thanksgiving. She was disappointed that Christmas by the Sea would not occur this year but was looking forward to the tree lighting ceremony. She addressed the rental issue and believed that people should be considerate of their neighbors.

Commissioner Clotey talked about the lifeguards and stated that BSO was not criticized for not being present to pull people out of the water and asked why the VFD was being criticized. She added that the people needed to decide whether they wanted lifeguards or not. Commissioner Clotey gave the remainder of her time to Lawrence Wick to make an announcement regarding Marie White's Christmas event.

Mr. Wick pointed out that donation boxes were to be displayed at Town Hall, Aruba's Cafe, Village Grill and other places in Town. He added that the toys would go to For Children's Safe for underprivileged children.

Commissioner Silverstone was amazed that the division in Town was caused by misinformation. He suggested residents make a call to the Commissioners to get their information.

Commissioner Dodd asked the Commission to come up with ideas to bring peace and harmony to the dais. He referenced several items on the agenda that

should not have been there and could have been discussed in a round table meeting.

Vice Mayor McIntee said that staff was being worked with so many public information requests. He said he would get a true number of how many public information requests were made by certain people and pointed out that valuable time was taken away from other work that needed to be done. Vice Mayor McIntee talked about getting money for lifeguards. He stated that the Volunteers were asked to patrol the beach and nothing more.

12. CONSENT AGENDA

Mayor Minnet pulled Consent Items 12b and 12c for discussion. Manager Colon confirmed that the times requested for the events were correct as there was time allowed for set up and breakdown.

Vice Mayor McIntee made a motion to approve items 12a and 12d on consent. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

- a. Commission approval of Special Event Application for Village Grille and 101 Ocean Saint Patrick's Day Party 2009, Tuesday March 17, 2009, 2:00 PM till 1:00 AM (Assistant Town Manager Olinzock /Bowman)
- b. Commission approval of Special Event Application for Village Grille and 101 Ocean SuperBowl Party 2009, Sunday February 1, 2009, 3:00 PM till 11:00 PM (Assistant Town Manager Olinzock /Bowman)

Commissioner Clotey was concerned with music past 10:00 PM. Manager Colon pointed out the event itself ran from 4:00 PM to 10:00 PM. She added that the additional hour was for tear down time.

Commissioner Dodd inquired as to how many porta potties would be required. Development Services Director Jeff Bowman indicated that the restaurants could accommodate the crowd.

Commissioner Dodd made a motion to approve the Special Event Application. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

- c. Commission approval of Special Event Application for Village Grille and 101 Ocean New Year's Eve Party 2009, Wednesday December 31, 2008, 5:00 PM till 2:00 AM (Assistant Town Manager Olinzock /Bowman)

Dave Gadsby, Village Grille requested Athena's Restaurant be added to his permit and a change in site plan revision so that Athena could have

their event on Westbound Commercial Boulevard between El Mar Drive and Ocean Drive rather than in the parking lot as his previous application stated. Louis Marchellos stated that he was unaware that the Village Grille was doing the event with 101 Ocean so he requested to join in on Dave Gadsby's permit so they would not have to wait until the December 16, 2008 Commission meeting. Manager Colon asked whether the current application would become null and void should Mr. Marchellos be approved with the Village Grille and 101 Ocean. Mr. Marchellos said it would. Mr. Gadsby noted that northbound El Mar Drive in front of the Village Grille and Village Pub would be closed and southbound El Mar Drive would be open to traffic. He added that westbound between El Mar Drive and Ocean Drive would also be closed with the addition of Athena's Restaurant.

Commissioner Silverstone made a motion to approve the Special Event Application with the addition of Athena's Restaurant and revised site plan, and rescinding Athena's current application. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

- d. Commission approval of Special Event Application for Exclusive Sports Marketing and United Way A1A 2009, Sunday February 22, 2009, 4:00 AM till 1:00 PM (Assistant Town Manager Olinzock /Bowman)

13. RESOLUTION - "Public Comments"

- a. Resolution 2008-31: A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, URGING THE FLORIDA LEGISLATURE TO EQUALIZE FUNDING BASED ON POPULATION TO PROVIDE EACH REGION OF FLORIDA, INCLUDING SOUTH FLORIDA, ITS FAIR SHARE OF STATE FUNDING; SUPERSEDING CONFLICTING RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

Attorney Abbott read Resolution 2008-31 by title.

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

Commissioner Silverstone explained that the Resolution was to further equalize funds from Tallahassee to the taxpayers.

Commissioner Silverstone made a motion to adopt Resolution 2008-31. Commissioner Clotey seconded the motion. In a roll call vote, the motion carried 5 - 0.

- b. Resolution 2008-32: A RESOLUTION OF THE TOWN COMMISSION OF

THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE 2007/2008 FISCAL YEAR BUDGET; APPROPRIATING SAID AMOUNTS TO SPECIFIC DESIGNATED ACCOUNTS IN ACCORDANCE WITH THE ATTACHED EXHIBIT "A" TO THE SPECIFIC DESIGNATED FUNDS; AUTHORIZING EXPENDITURE OF THOSE AMOUNTS IN ACCORDANCE WITH THE BUDGET AS AMENDED; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND AN EFFECTIVE DATE.

Manager Colon explained the Resolution adopted the annual budget.

Mayor Minnet opened the meeting for public comments. 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 2008-32
Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

14. QUASI JUDICIAL PUBLIC HEARINGS

- a. An appeal by Coral Key Ocean Club (Half Ventures Ocean Development of Florida) pertaining to letter received by Development Services July 14, 2008 regarding interpretation of Town Code Section 30-123 (g). Property: 4601 El Mar Drive, Coral Key Ocean Club - Appeared before BOA on October 15, 2008 (Assistant Town Manager Olinzock/Bowman) Tabled at the November 10, 2008 Commission meeting at the request of applicant

Attorney Abbott swore in those wishing to testify.

Michael Weiner handed out documents regarding Coral Key Ocean Club and entered them into evidence. He referred to the Table of Contents and explained each of the items entered into record.

Michael Arker described the project at 4601 El Mar Drive as a hotel condominium. Mr. Arker gave testimony regarding the steps he had taken to obtain extensions, monies paid out, and plans for the project permit #08-01617.

Vice Mayor McIntee referred to a letter dated July 14, 2008 (Exhibit "D") from Development Services Director Rabinowitz to Mr. Michael Arker that denied his request for an extension of the Site Plan until July 9, 2008 due to non issuance of a building permit. Attorney Weiner stated that testimony was given that a building permit was issued. He added that documents in the record included the Broward County stamp with a permit number. Vice

Mayor McIntee referred to a letter dated August 8, 2007 (Exhibit "C") from Development Services Director Bell that approved a 1 year Site Plan extension to July 9, 2008 and requested contact should further delays occur. Mr. Arker said he had met with Mr. Rabinowitz. Vice Mayor McIntee asked whether Mr. Arker knew why the Board of Adjustment turned him down. Mr. Arker believed that some people did not understand exactly when a permit was issued.

There were no other questions from the Commission nor were there any other witnesses.

Development Services Director Bowman recommended the Board of Adjustment's recommendation to deny the request. Manager Colon stated that the minutes of October 15, 2008 Board of Adjustment meeting were in the agenda packet and explained why staff recommended denial.

Attorney Abbott invited comments from the public.

Board of Adjustment member George Crossman stated that the Board only received a dated receipt by the Broward County Building Department and it was submitted to the Broward County Building Department on the date of expiration, July 9, 2008. He added that nothing the Board of Adjustment had was signed off and without the code approvals it was impossible to issue a building permit. Mr. Crossman explained that was the basis of the rejection from the Board of Adjustment. There were no questions for Mr. Crossman.

Attorney Weiner questioned Mr. Crossman as to whether the stamp on the plans referred to a permit number. Mr. Crossman stated that it was a reference number. He explained that the Broward County Building Department assigned a reference number that they called a permit number that was carried out throughout the entire process as everything was checked off per Code, such as electrical and structure, and did not actually mean there actually was a permit.

Commissioner Silverstone asked whether Mr. Crossman knew whether there actually was a permit issued. Mr. Crossman said it was not. Attorney Abbott swore in Marc Saval, Architect to give testimony. Mr. Saval stated that in May of 2008 he knew there was a time limitation and applied for a foundation permit to get the project started. Commissioner Clotey asked Mr. Saval what was done during the time lapse. Mr. Saval stated he had to comply with DEPA reviews.

Vice Mayor McIntee asked when Mr. Saval came aboard the project. Mr. Saval said he had taken over in January 2008. Vice Mayor McIntee asked whether Mr. Saval was aware of the July 9, 2008 deadline at that time. Mr.

Saval believed he did. There were no other questions for Mr. Saval. No other member of the public wished to be heard.

Attorney Wiener gave his closing remarks and explained the definition of the word "secure". He said the Ordinance did not refer to the word "issuance"; it used the word "secure" and pointed out that a foundation permit was "issued" on July 9, 2008.

In conclusion of the presentation Attorney Abbott explained that the issue before the Commission was whether administrative staff made an error when they concluded that the applicant had not secured a building permit within the time constraints composed in Section 30-123 of the Code of Ordinances.

Commissioner Silverstone believed that the issue was whether a "building" permit had been issued and it was not.

Vice Mayor McIntee believed that Mr. Arker had enough time to get his paperwork in on time.

Commissioner Dodd believed that what mattered was whether Mr. Arker received the permit on the date and within the time frame. He believed Mr. Arker did.

Commissioner Silverstone said he was to secure a building permit which was different than a foundation permit. Commissioner Dodd did not believe it made any difference.

Commissioner Clotey did not feel that Mr. Arker received a building permit.

Vice Mayor McIntee said it was a reference number and that the Board of Adjustment had rejected it.

Mayor Minnet felt there was a problem within the Ordinance and believed Mr. Arker should go forward. She believed it was one of the best projects that could move the community forward to solidify a hospitality district. She asked Attorney Abbott for an explanation of the right to reconsider. Attorney Abbott said that to grant the appeal would be to hold the administrative staff in error. He advised it was time to make a decision. There were no further comments from the Commission.

Vice Mayor McIntee made a motion to deny. Commissioner Silverstone seconded the motion.

In a roll call vote, the motion carried 3 - 2. Mayor Minnet voted no. Commissioner Dodd voted no.

Mayor Minnet recessed the meeting at 9:50 p.m. and reconvened at 10:05 p.m.

Item 16b and 16c was moved to become Quasi Judicial Item 14b and 14c.

Attorney Abbott stated that the applicant had agreed to combine New Business items 16b and 16c. He explained that item 16b was a correction to the Development Order.

- 14b.** Correction of Development Order Buena Vista Oceanside LLC located at 4217 and 4225 El Mar Drive. Time frame to secure a building permit indicated eighteen (18) months and the code provides for twelve (12) months per Town Code Section 30-123 (g) (1) (Assistant Town Manager Olinzock/Bowman)

Attorney Abbott swore in those wishing to testify.

Attorney Nectaria Chakas explained that on January 8, 2008 the Town Commission approved site plans for the Buena Vista Hotel and talked about the steps that were taken to apply for building permits. Attorney Chakas requested extension for a minimum of 6 months and preferably until January 2010 due to the downturn in the economy.

Attorney Abbott opened the meeting to questions.

Commissioner Silverstone asked for a definition of a building permit. Attorney Chakas explained that some municipalities define a building permit, not as a foundation permit, but a permit for a vertical building. Commissioner Silverstone asked how long before the current extension expired. Attorney Chakas said that staff required a building permit by January 8, 2009.

Commissioner Clotley asked why staff would not give the extension. Development Director Bowman stated that the error was noted and brought before the Commission to request Commission approval for staff to make the correction to the Development Order. He added that the Town Ordinance only allowed 12 months. Director Bowman indicated that the original Development Order expired on July 8, 2009. Commissioner Clotley inquired as to why it should not remain at July 8, 2009 and whether staff or the applicant requested the extension. Director Bowman stated that he requested Commission approval for a corrected Development Order per Town Code.

Commissioner Clotley recommended a motion to deny and have the applicant comply with the original Development Order as issued. Mayor Minnet pointed out that the original Development Order stated 18 months.

Attorney Chakas clarified that Director Bowman only pointed out the error in the Development Order and that the applicant was not hassled by staff. She added

that the applicant would like the Development Order to stand and requested an extension until January 8, 2010.

With no further questions or comments before the Commission, Attorney Abbott opened the meeting for deliberation and consideration of any motions.

Commissioner Dodd noted that the original Order should have expired July 2008, had it been given the correct 12 months. Attorney Chakas explained that Town Code allowed 12 months for projects that were located west of the coastal construction line and 18 months for project east of the coastal construction line. She further explained that the Development Order was valid for 18 months, to July 2009.

Attorney Abbott explained that the provision that allowed the site plan to stay viable to July 2009 was contrary to Town Code. He added that he would not feel comfortable if the Commission revised a Development Order that would move back the time previously granted. Attorney Abbott recommended denial of New Business item 16b. He had no opinion on the extension.

Vice Mayor McIntee believed the applicant should come back in 6 months to request an extension. Commissioner Silverstone asked for clarification as to whether the extension request was for an additional year. Attorney Chakas confirmed it was for an additional 6 months.

Commissioner Clotey made a motion to deny New Business item 16b and leave the Development Order at 18 months. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

14c. Letter received from Buena Vista Oceanside requesting a one-year extension from January 8, 2009 to January 8, 2010 (Assistant Town Manager Olinzock/Bowman)

Attorney Abbott advised that given the previous vote, New Business item 16c should be reclassified as a request for a 6 month extension from July 8, 2009 to January 8, 2010. Commissioner Clotey asked why the applicant wanted 6 months and not 12 months. The applicant felt 6 months was sufficient if he reserved his right to come back should it be necessary, and stated he would accept 12 months should the Commission allow it.

Attorney Abbott clarified and verbally modified the applicants request from July 8, 2009 to July 8, 2010.

Vice Mayor McIntee made a motion to approve a one year extension for Buena Vista Oceanside. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

15. OLD BUSINESS

- a.** Discussion and/or action regarding drafting an Ordinance to pull bags from the parking meters on Bougainvilla and Poinciana (Tabled at the March 25, 2008 Commission meeting by Vice Mayor McIntee) Staff requests table to December 16, 2008

Mayor Minnet reminded everyone that this item was tabled by staff to the December 16, 2008 earlier in the meeting. Commissioner Dodd believed that the Commission needed to decide who would decide on the vote in the Town Topics whether it was registered voters, businesses or residents. Commissioner Silverstone asked how that could be proven.

Vice Mayor McIntee made a motion to table to the December 16, 2008 Commission meeting. Commissioner Dodd seconded the motion. All voted in favor, 5-0.

- b.** Discussion and/or action regarding shade trees on the beach at Washingtonia Avenue Portal (Tabled at the November 10, 2008 Commission meeting by Commissioner Silverstone) Staff requests table to December 16, 2008 - Garden Club report not received

Mayor Minnet reminded everyone that this item was tabled by staff to the December 16, 2008 earlier in the meeting.

Commissioner Silverstone made a motion to table the December 16, 2008 Commission meeting. Commissioner Clotey seconded the motion. All voted in favor, 5-0.

- c.** Report from AMR about the incident that occurred on October 25 on the beach near Ocean Colony. Please make sure a representative of AMR is in attendance at the 11/10 meeting to give a report on the incident and answer any questions commissioners may have (Mayor Minnet) Tabled at the November 10, 2008 Commission meeting by Commissioner Dodd)

Commissioner Dodd said that he listed questions and forwarded them to AMR. He added that he was impressed at AMR's immediate response to set up a medical review board and recommended one of the Commissioners to attend the meeting.

Commissioner Dodd jumped ahead to New Business item 16f and nominated Vice Mayor McIntee.

Dr. Joe Nelson, AMR Medical Director corrected the name of the review board as "Emergency Medical Review Committee" and referred to Florida Statute 401.425 that empowers the Committee to meet and discuss

confidential information. He envisioned the Committee would meet quarterly. Commissioner Silverstone suggested the Commission alternate their turns. He inquired as to whether Dr. Nelson felt it would benefit the Town. Dr. Nelson said it may alleviate any concerns the Town may have.

Mayor Minnet clarified that Commissioner Dodd jumped ahead to New Business item 16f to appoint a Commissioner. Commissioner Dodd agreed and apologized.

Discussion continued regarding appointing a new commissioner every 3 months. Dr. Nelson suggested 6 month increments as there were rules that needed to be followed. Vice Mayor McIntee preferred 3 month rotations with one Commissioner being prepared for the future and the other being the on-call Commissioner for the 3 month period. Dr. Nelson thought that was feasible. Vice Mayor McIntee clarified that one Commissioner would be appointed for a 3 month period and at end of the 3 months, and during the quarterly meeting, the next Commissioner would sit with that Commissioner, and follow through until all Commissioners had the opportunity to sit.

Attorney Abbott felt that Vice Mayor McIntee's suggestion made eminent sense, but believed the Sunshine Law would get in the way with 2 Commissioners sitting at a meeting and therefore, would have to sit one at a time.

Commissioner Dodd made a motion to appoint Vice Mayor McIntee as the first representative on the Emergency Medical Review Committee for the first 3 month period effective January 1, 2009. Mayor Minnet pointed out that the Commission was voting on New Business Item 16f. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

- d. Town Commission approval of Conceptual Bel Air subdivision sign design (Assistant Town Manager Olinzock/Colon)

Commissioner Clotey made a motion to table this item to the December 16, 2008 Commission meeting. Commissioner Silverstone seconded the motion. All voted in favor, 5-0.

- e. Discussion and/or Action regarding:

1. Provide assurance, including financial assurance, that the artificial reef structure be maintained throughout its design life, and removal of in a timely manner because of adverse effect on essential fish habitat to NOAA National Marine Fisheries.

2. Approval of execution of USCG Private Aids to Navigation application for Artificial Reef Project. (Assistant Manager Olinzock/Colon)

Manager Colon said that the State required assurances, including financial assurance that the reef structure would be maintained throughout its life and removed in a timely manner if advised to by the National Marine Fisheries. She requested Commission approval for the execution of the Private Aids application. Manager Colon advised that the cost to maintain it was at least \$80,000 and more if the structure needed to be removed.

Vice Mayor McIntee and Commissioner Dodd agreed that money spent would be worth it and it would not be as costly to remove the reef.

Vice Mayor McIntee made a motion to move forward with the application. Commissioner Dodd seconded the motion.

Mayor Minnet understood that although she agreed that the Artificial Reef project was a good project and a small project, anything could happen and the Town needed to be fiscally responsible. Commissioner Clotey thought the reason for the project was very good and felt the Commission should go ahead with it.

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

- f. Discussion and/or action to form an Oversight Committee for Public Safety (Mayor Minnet)

Mayor Minnet suggested this item be tabled due to the lateness of the meeting. Commissioner Dodd did not agree. Discussion followed.

Commissioner Clotey made a motion to table this item to the meeting of December 16, 2008. Commissioner Dodd stated he would put this item as his item on the December 16, 2008 Commission meeting agenda. He explained that he had this item as well and withdrew it as Mayor Minnet also had the same agenda item and now she wanted to table it. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 4 - 1. Commissioner Dodd voted no.

16. NEW BUSINESS

- a. Discussion and/or action to find funds to complete the Seagrape Drive Project (Requested at the November 10, 2008 Commission meeting by Vice Mayor McIntee) (Assistant Town Manager Olinzock/Colon)

Camilla Frisone asked when Seagrape Drive was to be completed and paved. She said the section in question was owned by the Town of Lauderdale-By-The-Sea.

Vice Mayor McIntee made a motion to go forward, obtain bids, and find the funds to finish Seagrape Drive. The motion failed for lack of a second.

Manager Colon clarified the direction of the Commission was to transfer funds from Capital Projects. She said funds had been transferred and a change order had been made. Manager Colon requested a recommendation to approve that change order so that the project could proceed.

Vice Mayor McIntee made a motion to recommend approval of the change order. The motion failed for lack of a second. Discussion followed regarding where the funds would transfer from and whether there would be sidewalks. Manager Colon said the funds came from transportation and sidewalks were not to be installed.

Commissioner Dodd believed the drainage problem should be solved first and a recommendation should be obtained from an engineer.

Frank Zamola believed that if a swale was properly installed the drainage problem would be corrected. Manager Colon pointed out that she was not directed to obtain a cost for drainage because at the last meeting the Commission stated there would be no drainage, only paving.

Vice Mayor McIntee made a motion to give Manager Colon direction to go forward. He felt the drainage problem would correct itself. Commissioner Silverstone seconded the motion. Commissioner Clotey believed Manager Colon should find out the cost for the drainage.

Vice Mayor McIntee withdrew his motion and made a motion to table to December 16, 2008. Commissioner Silverstone accepted the motion. All voted in favor, 5-0.

Vice Mayor McIntee made a motion to extend the meeting to 11:20 p.m. to discuss New Business item 16e, and to recess the remaining of the meeting to December 1, 2008 at 4:00 pm. Commissioner Silverstone seconded the motion. All voted in favor, 5-0.

- b.** Correction of Development Order Buena Vista Oceanside LLC located at 4217 and 4225 El Mar Drive. Time frame to secure a building permit indicated eighteen (18) months and the code provides for twelve (12) months per Town Code Section 30-123 (g) (1) (Assistant Town Manager Olinzock/Bowman)

This item had been moved earlier in the evening as Quasi Judicial Item 14b.

- c. Letter received from Buena Vista Oceanside requesting a one-year extension from January 8, 2009 to January 8, 2010 (Assistant Town Manager Olinzock/Bowman)

This item had been moved earlier in the evening as Quasi Judicial Item 14c.

- d. Discussion and/or action concerning drafting a referendum for a Charter change to take effect after the next election in 2010 to prevent a conflict of interest ever occurring between employment with a public safety provider for the Town of Lauderdale-By-The-Sea and that of an elected official (Commissioner Dodd)
- e. Discussion and/or action regarding complete accounting of Green Fest - copies of all material made. Why were bills sent to Coconut Creek, FL and why were supplies sent there? (Vice Mayor McIntee)

Vice Mayor McIntee pointed out the proper procedure for accepting donations for a Town event. He also pointed out that one of the donations for the Green Fest event was accepted from a lobbyist. He did not feel that was appropriate for a town wide event and wanted the funds refunded to the lobbyist. Vice Mayor McIntee noted a discrepancy in the billed amount and the handwritten amounts on the invoice from Innovations. He pointed out that the hand written numbers were written to equal the total billed amount of \$1749 which included tax and the actual amount was \$1650.

Vice Mayor McIntee stated that the account for the deposit of the donations was opened under Lauderdale-By-The-Sea Green Fest but that particular organization was not registered with the State or the County. Vice Mayor McIntee did not feel a crime had been committed but did feel that it was not handled properly. Vice Mayor McIntee placed this item on the agenda for the December 16, 2008 Commission meeting as discussion and or action regarding setting requirements for Town wide sponsored events regarding bills, income and donations.

Mr. Terry Arthur inquired as to whether he had committed a felony in the way he handled the event. Commissioner Clotey asked why Mr. Arthur was involved with a Town sponsored event. Mr. Arthur indicated he had been unofficially involved with Town sponsored events in the past. Mayor Minnet thanked Mr. Arthur and called the vote on the motion to recess the meeting. All voted in favor.

**Town Commission Meeting
November 25, 2008**

Commissioner Clotley made a motion to recess the meeting. With no further business before the Commission, Mayor Minnet recessed the meeting at 11:25 p.m. to Monday, December 1, 2008 at 4:00 p.m.

- f.** Discussion and/or action to appoint a Commissioner to AMR's Medical Review Board (Commissioner Dodd)

This item was voted on earlier in the meeting during Old Business Item 15c.

- g.** Discussion and/or action on the Oriana walkway lights (Commissioner Dodd)
- h.** Discussion and/or action - Feasibility and estimated costs of updating the Town's web site to allow interactive Town wide straw polls for those with PC's and e-mails. Continue with Town Topics for those without (Commissioner Dodd)
- i.** Discussion and/or action regarding Town entryway flag poles (Commissioner Dodd)
- j.** Discussion and/or action regarding increasing fines for false fire alarms (Vice Mayor McIntee)
- k.** Discussion and/or action regarding an offer to Town to buy the property adjacent to Town Hall directly west of the recent property acquired by Town for housing public safety (Commissioner Silverstone)
- l.** Discussion regarding accusations made by Commissioner Dodd on actions by the Town Manager regarding the distribution of information to all Town Commissioners (Commissioner Silverstone)
- m.** Discussion and/or action concerning adjusting the cost of hardship and other parking permits to be more in line what other municipalities charge (Commissioner Clotley)
- n.** Discussion and/or action concerning the attachment of light fixture to the electric power transmission pole on SE 19 St. just west of A1A. Area is very dark (Commissioner Clotley)

17. TOWN ATTORNEY REPORT

18. FUTURE AGENDA ITEMS

19. ADJOURNMENT

Town Commission Meeting
November 25, 2008

Roseann Minnet

Mayor Roseann Minnet

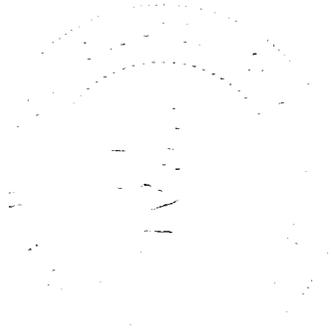
ATTEST:

June White

Town Clerk, June White

1/15/09

Date



TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Monday, December 1, 2008- Continued from November 25, 2008

4:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Minnet called the meeting to order at 4:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clotey were present. Also present were Town Attorney Richard Weiss, Town Manager Esther Colon, and Senior Office Specialist Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Manager Colon requested that the meeting begin with New Business item 16e, the Green Fest item, rather than New Business Item 16d. She said Commissioner Dodd thought that the item was recessed from the November 25, 2008. There were no objections.

16. NEW BUSINESS

- e. Discussion and/or action regarding complete accounting of Green Fest - copies of all material made. Why were bills sent to Coconut Creek, FL and why were supplies sent there? (Vice Mayor McIntee)**

Commissioner Dodd asked the Town Attorney, the Commission and the public whether they believed Mayor Minnet committed any illegal acts. He believed Mayor Minnet did a great job and was not being treated fairly.

Vice Mayor McIntee talked about the items that were requested from Mayor Minnet such as canceled checks, deposits, receipts and account slips and inquired as to whether Manager Colon received them. Manager Colon said she did not.

Mayor Minnet stated that she had provided the information to the Town Manager and will provide all the information as soon she received it from the bank.

Vice Mayor McIntee thought a Charter Amendment was an important issue and should be brought to a workshop before any action was taken. Attorney Weiss stated that Broward County required an Ordinance to put it on the Ballot.

Vice Mayor McIntee made a motion to table to January 27, 2009 to set up a workshop. Commissioner Clotney seconded the motion. In a roll call vote, the motion carried 5-0.

Manager Colon advised there was a workshop on January 13, 2009 at 5:00 p.m. The Commission voted in favor to place this item on the January 13, 2009 Workshop agenda.

g. Discussion and/or action on the Oriana walkway lights (Commissioner Dodd)

Commissioner Dodd explained that he received a complaint from a resident pertaining to the lights on the Oriana property. He discovered that the lights were bright and blinding and thought they were a public safety issue. Commissioner Dodd requested staff to research code to see whether shields could be put in place.

Manager Colon stated that the bulbs installed were as per the approved site plan and approved by the Florida Department of Transportation and approved for turtle season.

Commissioner Clotney thought that maybe they could take some of the lights out. Manager Colon suggested asking Oriana whether every other light could be taken out.

Commissioner Silverstone recommended that Manager Colon write a letter to Oriana suggesting shields or less light.

h. Discussion and/or action – Feasibility and estimated costs of updating the Town's web site to allow interactive Town wide straw polls for those with PC's and e-mails. Continue with Town Topics for those without (Commissioner Dodd)

Commissioner Dodd wanted to update the Town website to make it interactive for residents to participate in straw polls. He asked Manager Colon to investigate and report the cost at the January 27, 2009 Commission meeting. Manager Colon explained there was currently a trial run on the website for parking meters and could be changed at any time for any other issue. Commissioner Dodd thought that was excellent.

Commissioner Clotney was against the idea. She believed people would vote several times. Commissioner Silverstone liked the idea but agreed with Commissioner Clotney. He wanted to maintain the integrity and keep it honest. Manager Colon asked for perimeters that could be used.

Commissioner Dodd did not believe someone would take the time to hack into our small town. Mayor Minnet thought there were other issues and perimeters that needed to be

**Town Commission Regular Meeting Agenda
December 1, 2008 continued from November 25, 2008**

addressed such as whether one Commissioner or the majority of the Commission could request a straw poll. Vice Mayor McIntee believed that the entire Commission would have to request a straw poll.

Commissioner Clotey was concerned that more than one person in a household would vote and some may vote more than one time.

Mayor Minnet also had reservations. She felt that knocking on doors was more interactive and a better approach.

- i. Discussion and/or action regarding Town entryway flag poles (Commissioner Dodd)

Commissioner Dodd preferred displaying pelicans for entryways as compared to the flag poles. Commissioner Dodd thought the Commission should revisit the idea of the Pelicans. He felt the flags were too small.

Commissioner Clotey stated she received a letter that Fountainhead did not agree to giving the land for the entryway. Manager Colon confirmed as the structure was too big. Commissioner Clotey preferred the sign in the median rather than on the side of the road. Commissioner Silverstone said the intent of the entryway was to give the feeling of being in a special place. He thought the flags should be larger also. Commissioner Silverstone added that most people did not like the pelicans and the costs were outrageous. Manager Colon said the flags were sized according to the wind load.

Mayor Minnet asked how much was put aside for the entryway. Manager Colon approximated the amount at \$130,000 which included the Bel Air structure.

- j. Discussion and/or action regarding increasing fines for false fire alarms (Vice Mayor McIntee)

Vice Mayor McIntee wanted to change the fine from \$50 to \$250 after 4 false alarms within 12 months without changing Ordinance 271. Attorney Weiss advised that an amendment to Ordinance 271 would be required along with justification for the increase. He suggested contacting other municipalities.

Vice Mayor McIntee made a motion to direct the Town Manager to provide the necessary information to increase the fine from \$50 to \$250. Commissioner Silverstone seconded the motion for discussion and questioned the amount of \$250. Vice Mayor McIntee said he just threw out a figure. Commissioner Silverstone believed the charge should be per call.

Commissioner Dodd did not agree that everyone should be charged the same rate.

He offered a friendly amendment to the motion to change the fine to \$100 for single family and \$250 to the condominiums. Vice Mayor McIntee accepted. Commissioner Silverstone offered a second friendly amendment to accept whatever the Town Manager felt was a fair cost.

Vice Mayor McIntee made a motion to change the fine from \$50 to \$100 maximum for single family and \$250 maximum for any other alarm system. Commissioner Clotey suggested allowing the Town Manager to do her job rather than pull figures out of the air. Manager Colon pointed out that it not only related to fire but all public safety. Commissioner Clotey preferred tabling the item until all information was received. Discussion continued.

Vice Mayor McIntee withdrew his motion. Commissioner Silverstone withdrew his second.

Attorney Weiss said the ordinance could be brought before the Commission for first reading after the information was acquired, and the figures could be added to the Ordinance at that time, and changed at that time.

Vice Mayor McIntee made a motion to direct the Town Attorney to draft an Ordinance for first reading with the figures provided to him by the Town Manager. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5-0.

- k. Discussion and/or action regarding an offer to Town to buy the property adjacent to Town Hall directly west of the recent property acquired by Town for housing public safety (Commissioner Silverstone)

Commissioner Silverstone thought it made sense to discuss the offer to purchase adjacent property for future use. Commissioner Clotey inquired as to whether there had been any nibbles on the offsite property. Manager Colon said there were, but no positives because the property was too large. There was no further discussion.

- l. Discussion regarding accusations made by Commissioner Dodd on actions by the Town Manager regarding the distribution of information to all Town Commissioners (Commissioner Silverstone)

Commissioner Silverstone referenced a negative email written by Commissioner Dodd to Manager Colon that indicated something was inappropriately going on and that was not the direction the Town should be going in.

Manager Colon explained she was not that the type of person. She added that she shared her information with the Commission.

Commissioner Dodd pointed out that when one Commissioner emailed the Town Manager she must respond to all Commissioners. Commissioner Dodd said that at the

last meeting heavy allegations were brought about concerning Mayor Minnet. He apologized to Manager Colon if he had offended her in his letter but pointed out that both she and Vice Mayor McIntee brought about the accusations. Commissioner Dodd felt that it had appeared that there was some collusion since he and Commissioner Clotley were left out and knew nothing.

Commissioner Silverstone pointed out that he had requested bank statements from Mayor Minnet which had not yet been received. He added that he was not attacking anyone or accusing anyone when he requested them. Commissioner Silverstone stated that he had asked Manager Colon some questions and she had told him that Terry Arthur was involved. Commissioner Dodd explained that was exactly what he meant, because he did not get that information. Commissioner Silverstone pointed out that he simply asked.

Manager Colon stated that every member of the Commission came to her with questions. She added that if she knew the answer off the top of her head she responded and did not put it in writing to every Commissioner. Manager Colon stated that memorandums get distributed to everyone regarding Town business. She stated

that "collusion" was a bad word and she had nothing to hide from the Commission or the townspeople. Manager Colon said she did not invite people to her office, and could not help it if one Commissioner came in more often than another. She hoped that any misunderstandings were cleared.

Vice Mayor McIntee explained he brought the subject up in the first place to see if the Republican National Party paid for the event and that was when he saw things that required the difficult questions. He added that it should not take this long to get the information Mayor Minnet was suppose to submit. Vice Mayor McIntee said it was not his fault or anyone's fault that Commissioner Dodd did not go into the office that day and ask questions.

Commissioner Clotley asked whether Manager Colon was required to write a memo to all Commissioners regarding a conversation she had with one. Attorney Weiss said that legally she did not unless there was written policy.

Manager Colon verified that was how she handled it; if it was on the top of her head there would be no memorandum, but if research or retrieval was required she would write a memorandum to everyone.

Commissioner Clotley pointed out that she was out of town when the event took place and explained that she did not talk to anyone on the Dais about the Green Fest event.

Mayor Minnet said she reviewed the minutes and the tape and supplied copies of the checks.

Town Commission Regular Meeting Agenda
December 1, 2008 continued from November 25, 2008

- n. Discussion and/or action concerning the attachment of light fixture to the electric power transmission pole on SE 19 St. just west of A1A. Area is very dark (Commissioner Clottey)

Commissioner Clottey stated that the entrance to Bel-Air on 19th Street was very dark and requested that a light fixture get attached to an existing light pole. Manager Colon advised that the light would be up and running in approximately 60 days.

17. TOWN ATTORNEY REPORT

18. FUTURE AGENDA ITEMS

19. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn the meeting. With no further business before the Commission, Mayor Minnet adjourned the meeting at 5:41 p.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White



Date