

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, February 10, 2009

6:30 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 6:30 p.m. Also present Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clotney, Town Attorney Daniel L. Abbott, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

George Hunsaker gave the Invocation.

4. PRESENTATIONS

There were no presentations.

5. REPORTS

There were no reports.

6. PUBLIC SAFETY DISCUSSION

Kim Rubio, telecommunications specialist explained how a call 911 from a land line was processed. She said when a call was placed to 911 there was an automatic number identifier and an automatic location identifier. Ms. Rubio added that there was a big screen in front of the call taker who looked at the address and verified where the emergency was located. She said that once the address was validated the call taker typed it into the system and sent it to the proper dispatcher. Ms. Rubio explained that a 911 call received from a cell phone usually came up with a cell phone number and XY coordinates which gave a general idea of where the call originated. She said the call taker inquired as to what city the caller was calling from and whether an address or landmark could be provided.

Ms. Rubio pointed out that an address was the most important thing. She added that once a location was provided the call taker had to determine what the emergency was.

Commissioner Dodd requested that Chief Perkins submit the incident reports for the fire that occurred on Monday, February 2, 2009 at 11:51 a.m. Chief Perkins distributed the report at the meeting. Commissioner Dodd asked whether a Commissioner was allowed to attend a VFD Board meeting. Chief Perkins said the meetings were always confidential, however they did allow a request to sit in when necessary. Commissioner Dodd explained that his questioning of the ATV breakdown was not meant to imply that the driver at that point in time was responsible; he was only pointing out that the part would only break with abuse, which could have occurred prior to purchase.

Vice Mayor McIntee questioned the time runs at the time of the fire. Chief Perkins stated that VFD arrived within less than 5 minutes with 3 trucks and all the officers.

Commissioner Clotey asked for an overview of ISO. Chief Perkins thought the meeting was positive and ISO was impressed with the Town and with the VFD. He hoped that within 1 month the rating would be available.

Commissioner Silverstone suggested that Chief Perkins put together a PowerPoint presentation sometime in the future, to go over the basics of the fire department response times with a comparable analysis to show the people what the VFD did. Commissioner Silverstone was confident that the VFD would keep the 4 rating.

Mayor Minnet asked for clarification that the ISO said it would be a 90 day turnaround for the report and not a month. Chief Perkins agreed that ISO indicated 90 days and/or up to 4 months.

7. TOWN MANAGER REPORT

Manager Colon stated that ISO scheduled a workshop to inform elected officials and members of the fire department what ISO was all about. She advised that the tentative date was March 19, 2009 from 9:00 a.m. to 1:00 p.m.

Manager Colon said there were referendums regarding the height, the sale of capital assets, fire department provider coming up. She suggested workshops should begin and outline the proper wording for the referendums so that the Town Attorney and staff could draw up the proper documents.

Commissioner Clotey asked for the tentative completion date for the beach pavilion. Manager Colon said it was March. Assistant Town Manager Olinzock advised that March 4, 2009 was the date on the Notice to Proceed.

8. APPROVAL OF MINUTES

a. January 13, 2009 Regular Meeting Minutes

Mayor Minnet read the following changes / additions made to the January 13, 2009 Regular meeting minutes. 1) page 8, 6th paragraph under Ordinance 2009-01 - after "motion carried 3-2" the following was added for clarity: "Vice Mayor McIntee and Commissioner Silverstone voted no in error. They chose not to reconsider because the motion carried". It previously stated "Vice Mayor McIntee and Commissioner Silverstone voted no"; 2) page 12 paragraph 5, third line under Ordinance 2009-05 the words "was inspected" were added so that the sentence read "Manager Colon said the tennis court "was inspected" and approved by the Florida League of Cities; 3) page 10, paragraph 8 – Beginning with Vice Mayor McIntee – a hyphen was added between the word high-rises.

There were no other changes, additions, or deletions.

Vice Mayor McIntee made a motion to approve the minutes. Commissioner Silverstone seconded the motion. All voted in favor.

b. January 21, 2009 Conference Minutes

There were no changes, additions, or deletions.

Commissioner Dodd made a motion to approve the minutes. Commissioner Clotey seconded the motion. All voted in favor.

c. January 21, 2009 Continued from January 13, 2009 Workshop Minutes

There were no changes, additions, or deletions.

Commissioner Silverstone made a motion to approve the minutes. Vice Mayor McIntee seconded the motion. All voted in favor.

d. January 26, 2009 Special Meeting Minutes

There were no changes, additions, or deletions.

Commissioner Silverstone made a motion to approve the minutes. Commissioner Dodd seconded the motion. All voted in favor.

9. PUBLIC COMMENTS

Bob Fleishman believed that keeping people from speaking was against the 1st amendment.

Spiro Marchelos said he was accused of forging Vice Mayor McIntee's signature. He said he had permission to add that name to the list. Mr. Marchelos requested a public retraction. Mr. Marchelos felt Vice Mayor McIntee had a personal vendetta against him and wanted Vice Mayor McIntee barred from his restaurant.

George Crossman defined carbon.

Michael Ross offered a stimulus package for the Town of Lauderdale-By-The-Sea. He encouraged the promotion of surfing and board rentals. Mr. Ross suggested a classic car night and/or a restaurant bike night for motorcyclists.

Louis Marchelos believed one of the Commissioners was trying to make his business fail. He believed that Commissioner should be removed and censured by the other Commissioners.

Vice Mayor McIntee called a Point of Order. Mayor Minnet would not recognize it. Vice Mayor McIntee made a motion to overrule the Chair. Commissioner Silverstone believed the comments were slanderous and seconded the motion.

Vice Mayor McIntee asked whether a Commissioner had a right to express their Point of Order when they call a Point of Order. Attorney Abbott said the Commissioner should be given time to explain the motion.

Vice Mayor McIntee explained that he had no problem with what Mr. Marchelos said but when he made personal attacks using the word "bully" he was using slanderous terms and there was no foundation or proof to what he was saying.

Commissioner Clotey asked for his opinion as she did not hear a name mentioned. Attorney Abbott stated that a speaker could be out of order when slanderous comments were made without using a name and that was a matter for the Commission to decide. The motion failed 3-2. Commissioner Dodd, Mayor Minnet and Commissioner Clotey voted no.

Mayor Minnet allowed the comments to continue under her advisement to adjust conversation.

Louis Marchelos stated that "he" refused to make peace and stated that the "bully" must be stopped.

Lawrence Wick asked the Commission to consider moving the next meeting from February 24, 2009 to February 23, 2009 due to the Taste of the Beach. He asked whether a road survey was done for safety regarding valet parking. Mr. Wick wanted to know whether the Master Plan Steering Committee and the Planning & Zoning board should continue with their studies or wait until the Commission makes a determination on the height referendum. Mr. Wick believed that in the past no one was ever allowed to sign in for someone else to speak during public comments.

Gary Condra waited for over 4 years for the Leisure Tower item to come before the Commission.

Diane Boutin thanked the Commission for rescinding the blue bags on the parking meters.

Mar Jo Lexa was concerned with the language in Ordinance 2009-08. Ms. Lexa was informed that the wording was that of the previous meeting and the correct wording would be included on second reading.

10. ORDINANCES

1. Ordinances 1st Reading - "Public Comments"

- a. Ordinance 2009-15: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 17 OF THE CODE OF ORDINANCES BY AMENDING SECTION 17-14 OF THE CODE OF ORDINANCES TO CHANGE THE FEE STRUCTURE FOR USE OF TOWN TENNIS COURTS; PROVIDING FOR AUTOMATIC ANNUAL FEE INCREASES; PROVIDING FOR PRORATED FEES FOR TENNIS KEYS PURCHASED DURING THE FISCAL YEAR; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE

Attorney Abbott read Ordinance 2009-15 by title. Mayor Minnet opened the meeting for public comments.

Mike Banter clarified the tennis courts were unique in the fact that the residents paid for the maintenance in taxes and fees. He said the hotel guests were encouraged to use the facility and were effective at sharing the tennis courts.

Michael Ross suggested programs for scuba diving, snorkeling and/or surf boarding.

Diane Boutin said she made a public records request to find out what the costs associated with the tennis courts were.

With no other speakers, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Dodd made a motion to approve Ordinance 2009-15 on first reading. Commissioner Silverstone seconded the motion. All voted in favor.

- b. Ordinance 2009-16: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING CHAPTER 8.5 OF THE CODE OF ORDINANCES TO BE ENTITLED "EMERGENCY MEDICAL SERVICES" TO AUTHORIZE THE IMPOSITION OF FEES FOR THE PROVISION OF

EMERGENCY MEDICAL SERVICES; PROVIDING FOR SEVERABILITY;
CODIFICATION; AND AN EFFECTIVE DATE

Attorney Abbott read Ordinance 2009-16 by title.

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

Commissioner Dodd made a motion to accept Ordinance 2009-16. Commissioner Clotey seconded the motion.

Commissioner Dodd wanted know if the fee schedule was discussed with, and agreed to by AMR and not confused with the fire department. He felt there should be a separate Resolution or part of a separate contract.

Vice Mayor McIntee did not see the crossover between AMR and VFD. Commissioner Dodd referred to item 3 of the draft Resolution for standby medical services. Vice Mayor McIntee explained that the VFD did not do standby services; AMR did.

Manager Colon said this was the same fee structure set by Broward County and nothing had been changed except that the fees for fire, fire inspection, and Fire Marshall fees were extracted.

Manager Colon explained that if BSO were to provide air rescue they had a right to charge the fees. She said the fee schedule was the same rate structure that BSO used and was adopted by Broward County.

Commissioner Dodd explained that he believed the wording and the fees should be specific to our town and specific to AMR services.

Manager Colon said that the AMR contract stated that AMR would abide by the Broward County rate structure.

All voted in favor.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

11. COMMISSIONER COMMENTS

Vice Mayor McIntee stated that VFD was to purchase a new fire truck with their own funds. He added that the ATV's were a tremendous success. Vice Mayor McIntee said the GPS system kept track of the ATV's. He added that the ATV's could not go over 20 miles an hour unless there was an emergency. Vice Mayor McIntee announced that the VFD was getting one or two walk-ins a month to join the VFD. Vice Mayor McIntee stated that it was unacceptable and out of line for anyone to call his wife a name.

Mayor Minnet read a letter from Vice Mayor Keechl regarding a one time supplemental check of \$20,000 for the Chamber of Commerce. She said Vice Mayor Keechl

was scheduled to be present for the March 10, 2009 Commission meeting. Mayor Minnet acknowledged the Women's Club had an enjoyable tea function and invited everyone to join the Club. Mayor Minnet learned a lot about the VFD and enjoyed her ride on the ATV. She encouraged everyone to ride the Pelican Hopper even if just to tour the community. Mayor Minnet said she was invited to a Mayor's breakfast where Congressman Klein discussed the stimulus package and the items that were out there for the Town. She thanked staff for working with Congressman Klein.

Commissioner Clotey was impressed with the nice job the employees did to make the public safety building look nice. She was concerned about handicap parking on the southern most part of Commercial Boulevard and Bougainvillea Drive and believed it was dangerous to cross to the parking lot and to cross Commercial Boulevard. She said Town staff was looking into 2 or more handicap spaces for the Business' clients to use.

Commissioner Clotey believed that the people expected a different pavilion, but was certain that the finished product would look quite nice. Commissioner Clotey talked about short term rentals. She said she received calls regarding people living in 2 family homes. Commissioner Clotey said people must fill out a complaint form before an investigation can occur. Commissioner Clotey had a problem with private deals done on a handshake that gave away things. She added that when the current administration tried to research records the information did not add up and raised red flags. Commissioner Clotey did not feel that elected officials should authorize the use of tax payer's money for improvements on private property. She said if someone approved it on a handshake, this Commission should not approve it.

Commissioner Clotey wondered how many people would like to have a bike night in Town. She expected a lot of emails on that subject. Commissioner Clotey said there was an image associated with that even though there were professionals that rode them and she did not believe people would want them. Commissioner Clotey addressed a letter from the County Commissioner regarding a \$20,000 check for the Chamber. She would like to see the Chamber inquire of annual donations for tourism.

Commissioner Silverstone asked whether this was an appropriate time to entertain a motion to move the February 24, 2009 Commission meeting due to the Taste of the Beach event on the same evening. Commissioner Dodd stated he had a conflict as the Hillsboro Inlet meeting was on the 23rd. Mayor Minnet suggested that the meeting start earlier.

Commissioner Clotey was not in favor changing the time of the meeting. She believed that all future Commission meetings should return to 7:00 p.m.

Commissioner Silverstone said he was participating in the kid's basketball on Saturday morning and invited all kids between the ages of 6 and 12 to join in from 9:00 to 11:00 a.m. Commissioner Silverstone wished tempers would settle down and sometime in the near future issues would be resolved.

Commissioner Dodd admitted that he was very naive and initially thought there would be 5 Commissioners on the Dais that would work together and get along. He looked forward to next year and going forward having learned from his mistakes. Commissioner Dodd insisted that the Town Manager give her final sign off on plans and projects so there's no possibility of confusion anymore. Commissioner Dodd believed the job of the Commission was to ensure that the Town ran efficiently and was to serve the people. He added that he would continue to ask questions should he find that things did not add up, and when necessary, would do his own research to get to the truth. Commissioner Dodd said that public information was the tool to get to the truth and he would not allow it to be suppressed. He believed in the right to free speech and people had rights to come before this Commission to give their opinion. He believed it was the right of every citizen to address the Commission by name and their right to criticize the Commission without being insulting. Commissioner Dodd thanked the Commissioners for a very productive roundtable and hoped they could use that as a way to go forward and help solve some of the problems and to keep the agenda short. He suggested seeking a grant for the Terra Mar Bridge repair as the perfect sort of municipal project needing some of the \$16 billion that was heading into South Florida and instructed the Town staff to send in an application immediately to try and get some of the funds particularly for that project. Commissioner Dodd said he was told that the Dixie Highway property was empty and wanted to know what aggressive steps were being taken to sell this property. He asked about the relocation of the Comcast box on Washingtonia and stated that \$10,000 was an enormous figure for moving a Comcast box. Commissioner Dodd referred to an audit that was recently done for \$31,000. He wanted to know what the conclusion was.

Commissioner Dodd thought Manager Colon was doing a good job. He admitted they had crossed swords but thought it might be his English sense of humor or his inability to dance that had caused some differences of opinion. Commissioner Dodd hoped that the next 12 months would be more constructive once they learned to work together better.

Commissioner Dodd said that a resident suggested using the Old Mack's Grove sign as an advert for our parking lot and thought it was worth a follow up. Commissioner Dodd felt it was wrong to restrict the people who vote no on an agenda item from bringing it up again. He said Robert's Rules clearly intended to stop the losing side from bringing all items back on the next agenda. He believed it was important that the Commission should not restrict themselves if they had further information, ideas, or concerns not previously expressed on an item. He thought it created a mockery if a Commissioner was required to disguise an issue and invent a roundabout description to bring the discussion back to the original issue and believed that once the Commission realized the reason behind Robert's Rules it was up to the Commission to decide to apply them.

Commissioner Dodd made a motion to take a 10 minute recess. Mayor Minnet recessed the meeting at 8:25 p.m. and reconvened at 8:40 p.m.

12. CONSENT AGENDA

- a. Commission approval of Special Event Application for Cole Wedding Saturday, April 11, 2009, 4:00 PM to 6:00 PM (Assistant Town Manager Olinzock)**

Vice Mayor McIntee questioned whether alcohol would be at the wedding. Assistant Town Manager Olinzock said there was not. Vice Mayor McIntee made a motion to approve the application. Commissioner Silverstone seconded the motion. All voted in favor.

- b. Commission approval of Special Event Application for the LBTS Chamber of Commerce Event Craft Festival, Saturday, March 14, 2009, 5:00 AM thru Sunday, March 15, 2009, 7:00 PM.**

This item was moved to become New Business 16 i earlier in the evening.

13. RESOLUTION - "Public Comments"

- a. Resolution 2009-04: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING FIRE RESCUE AND SAFETY SERVICE FEES BY DECREASING BY 10% THE PERIODIC/ANNUAL FIRE SAFETY INSPECTION FEES FOR EXISTING BUILDINGS**

Attorney Abbott read Resolution 2009-04 by title.

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 stated that the Town of Lauderdale-By-The-Sea was the only Town in Broward County that lowered fire inspection fees.

Commissioner Dodd referred to charges in the back up material on page 14. He was concerned with the cost and whether the Town would receive a discount for Town sponsored events. Commissioner Dodd was not happy that the Town would be charged those fees for the use of the Town's fire truck.

Commissioner Clotey wanted clarification from the VFD regarding use of the fire truck. She did not believe that the VFD would charge the Town for that. Vice Mayor McIntee said that in the past the VFD had not charged and believed that they would give their assurance that they would not.

Commissioner Clotey made a motion to table to the February 24, 2009 Commission meeting. Commissioner Dodd seconded the motion.

Attorney Abbott advised that the provision could be fixed during the meeting. Commissioner Dodd was willing to amend that section.

Vice Mayor McIntee withdrew his second to table. Commissioner Clotey withdrew her motion to table. She believed that Chief Perkins would have to agree.

Manager Colon stated that if the Town had to get someone other than the VFD to be at these events, sometimes for 10 hours, they would not do it for free. Commissioner Dodd had no problem if someone from the outside came in and charged those fees. He did not feel the Town should have to pay for use of their vehicle. Manager Colon did not want to take it off completely. She suggested verbiage to not include the VFD.

Commissioner Silverstone stated that the word "discretion" was used. Therefore, it should be up to the VFD as to whether they would charge the fees.

Commissioner Clotey made a motion to table to February 24, 2009. Vice Mayor McIntee seconded the meeting. All voted in favor.

- b. Resolution 2009-05: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA ESTABLISHING FEES FOR PARKING IN METERED PARKING SPACES

Attorney Abbott read Resolution 2009-05 by title.

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

Commissioner Clotey was not sure that "out of state" should mean "out of town". She felt that "hardship" permits should be higher, equivalent to the employee rate or just below that rate.

Commissioner Dodd questioned whether the hourly rate at Commercial Boulevard of 25 cents was correct. Mayor Minnet said it was. Commissioner Dodd wanted to know whether an annual permit included the El Prado or the Beach parking lot. Manager Colon believed it was the consensus of the Commission that residents could park anywhere. She said the change that was made was that the employee parking spaces were going to become beach parking spaces. Commissioner Dodd agreed to that but questioned why someone would pay \$200 for an employee parking permit when beach parking was \$15. Assistant Town Manager Olinzock clarified that residential parking permit spaces would be changed to beach permit parking spaces. He added there would be no resident permit parking category and an employee parking permit could park anywhere.

Commissioner Clotey questioned \$15 for beach parking which was prime parking. Assistant Town Manager Olinzock said there was a limited supply of those spaces and the current 11 residential spaces in the El Prado parking lot would become

beach parking. He said that was the desire of the Commission. Commissioner Clotley believed beach parking should be the same as regular parking. She believed there should be a category for "out of town" unless "out of state" was a typo or perhaps call it "non-resident". Manager Colon stated that staff would comply with Commissioner Clotley's request.

Commissioner Clotley made a motion for the beach parking to be the same as resident parking and wanted to raise the hardship up to at least \$150. Commissioner Silverstone seconded the motion.

Mayor Minnet agreed with Commissioner Clotley but felt the hardship should be higher than \$150. She believed there should be 25 designated beach parking spaces and asked the Commission to look at the Bougainvillea Drive parking lot and pointed out that that area, at 50 cents lower than the other areas. She believed that people going to the beach would park there because it cost less and would cause concern for the business district. Assistant Town Manager Olinzock pointed out that there was a 2 hour limit at the Bougainvillea Drive parking lot and was actively enforced. Mayor Minnet believed that as long as staff felt they were actively taken care of that she was ok with that. Assistant Town Manager Olinzock pointed out that the Commission made it clear that they wanted the time limits monitored on those meters and that was what Parking Enforcement was doing.

Commissioner Clotley wanted to know whether she would have to purchase 2 permits, one for a resident and one for the beach, if she wanted to park at the beach. Assistant Town Manager Olinzock said a beach parking was offered to someone who only wanted to come to the beach.

Commissioner Clotley clarified that as a resident she could park anywhere and if she wanted to go to the beach she would have to have 2 permits on her car. Assistant Town Manager Olinzock explained that if Commissioner Clotley wanted to park at the beach she could park in the El Prado parking lot, on Washingtonia Avenue, but not in the spaces that were labeled "beach permit only".

Vice Mayor McIntee believed there were too many stickers. He did not feel a resident should be denied parking on the beach. Vice Mayor McIntee suggested taking out the beach parking and residents should be able to park anywhere for \$50. Commissioner Dodd seconded that and added that the beach designated spots were metered out as regular meter spaces and make the beach and the resident one permit.

Mayor Minnet pointed out that there was a motion to change the amounts and asked Commissioner Dodd if he would include that in his motion. Commissioner Dodd agreed and Commissioner Clotley accepted but wanted to raise the hardship permits to \$200.

Mayor Minnet clarified the motion as amended: the motion was made by Commissioner Clotley and seconded by Commissioner Dodd as 1) "out of state" changed to "non-Lauderdale-By-The-Sea resident"; 2) hardship to increase to \$200; 3) category "beach"

to be eliminated; and 4) the beach hourly meter rate would stand at \$1.25. All voted in favor.

Vice Mayor McIntee made a motion for reconsideration. He stated that there were a lot of people that purchased beach parking. He believed there should be beach parking only for residents. Commissioner Silverstone seconded for reconsideration and suggested tabling this matter until feedback from the residents was obtained.

Vice Mayor McIntee believed the Commission needed to protect beach spaces for the residents as others would come to the beach and take up all the beach spaces. He believed they should set areas. Mayor Minnet stated that was why staff set the designated areas that were just eliminated. Assistant Town Manager Olinzock said spaces were designated at \$15 only for those who wanted to come to the beach. He said it offered a value.

Commissioner Clotley questioned whether a resident could park in the beach parking area. Assistant Town Manager clarified that a resident could park anywhere.

Vice Mayor pointed out that a non-resident that parked there would pay the meter, but a resident with a resident sticker would not. Vice Mayor McIntee stated that on Saturday people could come and park in all the spaces by the beach. Assistant Town Manager Olinzock explained that was the intent of the beach parking spaces. Commissioner Clotley thought the problem could be solved by leaving the 12 spaces on a trial basis for the residents and only 1 parking permit that people had to buy.

Vice Mayor McIntee reinstated his motion to reconsider. Commissioner Silverstone seconded the motion. The motion failed 3-2. Commissioner Dodd, Mayor Minnet and Commissioner Clotley voted no.

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

- a. Discussion and/or action pertaining to referendum ie: City of Cape Canaveral (Vice Mayor McIntee) Tabled at the September 12, 2008 Commission meeting by Vice Mayor McIntee

Vice Mayor McIntee requested a workshop in May 2009 to discuss the Cape Canaveral referendum and the height referendum. Commissioner Silverstone added that he wanted to include "purchase and capital sales" to that workshop. Mayor Minnet clarified that the workshop would include the fire department, the height limit and capital purchases.

Attorney Abbott stated that an Ordinance would have to pass 2nd reading in order to be placed on the ballot and would have to meet the Supervisor of Elections deadline. Manager Colon believed the deadline was August.

Commissioner Dodd made a motion to table indefinitely. He believed that if the fire department was doing their job correctly there would be no need for a referendum, and if they were not the Commission should have the power to do something about it immediately. The motion failed for lack of a second.

Commissioner Clotey did not object to what Commissioner Dodd was saying. She believed that if the referendum was worded properly it would give the power to the Commission.

Vice Mayor McIntee stated that the referendum would be decided by the Commission as to what it would say. He added that it would be up to the voters whether to protect the Fire department or not.

Commissioner Silverstone referred to a recent suicide and believed that the issue could be brought up again by a future Commission who could terminate the Volunteers. He said the referendum did not address safety but allowed the people to decide whether to keep the fire department. Commissioner Silverstone said there was a way to create a referendum that would address both issues.

Commissioner Dodd suggested scheduling the workshop in April to allow time to obtain acceptable wording for the referendum. Mayor Minnet suggested the Commission wait until the March 2010 election and get the referendum right. Vice Mayor McIntee agreed. Commissioner Silverstone believed that the March elections would have too many things on the ballot. Vice Mayor agreed to having the workshop sometime in May.

The Commission scheduled the workshop for Wednesday, May 13, 2009 at 7:00 p.m. to discuss fire, height and capital expenditures.

Vice Mayor McIntee asked Attorney Abbott whether a document, created by a Commissioner and read word for word, became public record. Attorney Abbott said it depended on whether it was meant to permanently record a recollection or not. He added that rough notes could be drafted, even rough notes for a speech and, if not intended to permanently record thoughts it would not become a public record. Vice Mayor McIntee wanted to know whether he was entitled to copies of the notes. Attorney Abbott stated that if the note was not circulated to others and was not intended to permanently record recollection, it did not become a public record. He added that if the note was shown to another Town official or was meant to permanently record recollection it would become a public record.

- b. Discussion and/or action regarding Valet Parking for 101 Ocean and Village Grill (Vice Mayor McIntee) Tabled at the January 27, 2009 Commission meeting by Vice Mayor McIntee

David Gadsby of the Village Grille said his intention was to make valet parking easier and supplement the Town parking lot. Mike Batt of 101 Ocean asked for a 90 day trial and believed it would take a lot of traffic off the streets and ease congestion. They requested 7 spaces on El Mar Drive with 2 spaces outside Country Ham and Eggs and 5 spaces within the car park, and a variable number of spots in the Bougainvillea Drive parking lot.

Commissioner Dodd did not have enough time to work out what the impact the 7 spaces would have on the Town. He believed it would benefit the Town and be a great help to the parking. He requested to hear from the other businesses and Mayor Minnet allowed it.

Peggy Mohler of Aruba Beach Cafe stated that closing streets created traffic and believed a valet service on A1A would cause more traffic.

Guy Contrada of Aruba Beach Cafe asked how it would be policed. He suggested using another parking area north of Country Ham and Eggs where people could get in and out.

Louis Marchelos of Athena's Restaurant had leased parking spaces in front of their restaurant. He said the Commission recently voted there would be no more bags and no more leasing. Mr. Marchelos suggested using valet pickup and drop off in front of Athena and in front of 101 Ocean on Commercial Boulevard, which was a wider street. He believed the Aruba Beach Cafe valet caused gridlock.

Spiro Marchelos agreed on valet parking with pick up on private property. He offered the pier parking lot for valet parking and on the side of Athena's Restaurant.

Bill Ciani said he was not approached for spots for valet parking. He was in favor of valet parking but was not in favor of bagging and reserving spaces in the public square in the middle of Town.

Peggy Mohler suggested a roundtable workshop where everyone could express their opinion.

Commissioner Clotey asked Mike Batt of 101 Ocean and Dave Gadsby of the Village Grille to explain how the valet service would work. Mr. Batt said people would drive their car south on El Mar and pull into the spots outside Country Ham and Eggs and 101 Ocean where their cars would be taken, and later returned by valet service for a charge of \$10. He added there was a business optional \$4 refund.

Vice Mayor McIntee asked who paid for the spaces and what the hours were. Mr. Batt said he would pay for the spaces and their hours were from 5:00 p.m. to 10:00 p.m. Monday through Thursday and 5:00 p.m. to midnight on Friday and all day Saturday and Sunday till 10:00 p.m. Vice Mayor McIntee ask whether Mr. Batt would be happy

with a 30 day trial. Mr. Batt said he would.

Vice Mayor McIntee suggested the business owners sit down with their own roundtable and work things out. Mr. Batt requested the Commission make a decision and if they did not like the way it was going he would cancel it in one day.

Commissioner Dodd asked for clarification on the 7 spaces on El Mar. Mr. Batt said he was requesting 5 spaces within the car park on El Mar and 2 outside the Country Ham and Eggs. Commissioner Dodd asked if these spaces were currently used by Aruba Beach Cafe valet. Peggy Mohler said that valet had nothing to do with Aruba. She said there were many issues. Ms. Mohler urged the Commission to think as there was a public safety issue and traffic issues.

Commissioner Dodd suggested the businesses do a roundtable meeting and come back to the Commission in 2 weeks. He proposed a motion to that effect and withdrew his request to table to allow more discussion.

Commissioner Clotey invited Diane Boutin, Paul Novak and Marc Furth to offer their comments. Ms. Boutin had not had time to review and therefore could not say whether she was in favor or not or whether it would affect her business. Paul Novak did not believe it would work. He thought traffic would jam up. William Ciani believed that the retailers would not be inclined to give up 7 spaces for that many hours. He was not in favor of tying up traffic and blocking two ends of the street. Marc Furth wanted to participate in the roundtable.

Manager Colon believed there was a code issue, a liability issue, safety and engineering issues, and pointed out that the current parking the Town had was on private property.

Commissioner Silverstone suggested that Dave Gadsby and Mike Batt get together with the other business owners and with Town for code issues, and work things out. He believed more work was needed and believed it would work with the right motivation.

Mayor Minnet believed there were a lot of issues that needed to be looked at. She looked forward to a proposal in the future.

Commissioner Dodd made a motion to table to the February 24, 2009 Commission meeting. Commissioner Silverstone seconded the meeting. All voted in favor.

- c. Discussion and/or action regarding an RFP 09-02-01 for Solid Waste, Bulk Waste, and Recycling Collection services (Requested by Commissioner Dodd at the January 27, 2009 Commission meeting)

Manager Colon advised the Commission that Mayor Minnet provided input to the RFP regarding recycling, multi-family, and condominiums.

Tony Spadaccia of Waste Management said they had serviced the Town for a number of years. He was uncertain as to why discussion did not occur for the recycling. Mr. Spadaccia asked the Commission to reconsider and discuss the extension of their agreement with the Town. Vice Mayor McIntee believed that Waste Management had done an exemplary job.

Commissioner Silverstone believed that the Town was getting good service but there was a process to follow and the Town had to go out to bid.

Commissioner Dodd agreed that Waste Management did a good job. He had issues with the bins; he liked the smaller bins. Commissioner Dodd said there were issues with the amount charged for multi-families.

Mayor Minnet advised that staff would have the revised dates for the RFP and would be available for the proposals.

16. NEW BUSINESS

a. Leisure Towers FP&L Easement request (Mayor Minnet)

Mayor Minnet invited Gary Condra of Leisure Towers Condominium to explain the series of events that occurred. Mr. Condra said Leisure Towers was asked to participate in underground wiring and had to pay over \$12,000 to vacate the easement to FP&L. He added that there was an incident where the well needed to be re-dug and was told at that time that there was a hole at the entrance of their property, which was where the underground service was. Mr. Condra had that repaired and paved along with other improvements, including fencing to the property. Mr. Condra hoped the Commission would reimburse Leisure Towers \$3,983.

Vice Mayor McIntee believed Leisure Towers deserved the money.

Commissioner Clotey said it was her understanding that the Town spent about \$33,000 making improvements to the Leisure Towers' parking lot and other improvements to the property. Assistant Town Manager Olinzock stated that it was approved by the previous Commission. He asked the Commission for direction. Assistant Town Manager explained that the easement for the burial was with FP&L and the condo association and the Town of Lauderdale-By-The-Sea was not part of that agreement. He added there may have been promises in the past but the process had to follow the Town's purchasing code and required the blessing of the Town Commission in order for anything such as this to happen. Assistant Town Manager Olinzock was not comfortable with spending tax payer dollars on private property.

Commissioner Clotey thought the Towers should give money back to the Town and go after FP&L for reimbursement. She felt the Town needed to stop spending tax payer money on private property.

Commissioner Dodd was horrified that this made it to the dias. He read a letter written by previous Assistant Town Manager Laura Ward that indicated the Town would provide fencing. He said the Towers had been trying to get their money for the fencing for 4 years. He felt the Town should send the check along with an apology as it was a legal binding letter by a Town official.

Vice Mayor McIntee said the Town was returning what the Condo Association negotiated. Mr. Condra stated that the Town stated that the fencing would be there as part of the project and the Association would be reimbursed for it.

Commissioner Silverstone remembered that FP&L was supposed to be responsible. Manager Colon said that the Town Attorney at that time recommended against it as it was a contractual agreement between FP&L and the Condominium Association. Commissioner Silverstone believed the Town was committed and suggested making the payment.

Mayor Minnet believed in moving forward and requested a motion. Vice Mayor McIntee made a motion to approve payment. Commissioner Dodd seconded the motion. The motion carried 4-1. Commissioner Clotley voted no.

- b. Discussion and/or action: Putting a referendum on the Ballot to let the citizens decide on height regulations in our Town (Vice Mayor McIntee)

Vice Mayor McIntee believed there were a lot of different opinions on the height issue and hoped a workshop would clear them up.

Commissioner Dodd believed a workshop was needed. He stated that he spoke out many times that 44 feet should be measured from the ground up. Commissioner Dodd believed that the Master Plan Steering Committee and the Planning and Zoning Board should come before the Commission with guidelines as to what they felt was appropriate. Commissioner Silverstone believed the height limit should be set in stone as to what the maximum allowable height should be.

Commissioner Clotley believed that the only way to go was with a referendum so that 3 people on the Dais could not change things.

- c. Garden Court - Discussion and/or action rescinding donation of land to developer back to the Town (Vice Mayor McIntee)

Vice Mayor McIntee believed this was a perfect example of how the Town was hustled into giving away a tremendous piece of valuable property to Developers.

Attorney Abbott stated that since the construction had begun the abandonment on the Town's behalf was completed. Attorney Abbott explained that the motion made by the Commission required as a condition, that the Vacation be contingent upon the project beginning within a certain period of time and concluded by a certain period of time. He

added that when the abandonment document came back it did not have the completion deadline guarantee and the Town Attorney at that time, along with the Town Manager at that time stated the vacation was ok with them; there was no vote on file. Attorney Abbott said that if the Commission had insisted that a completion date be included in the Vacation and, if the direction was not followed, it may have been possible for the Town to contend that that Vacation was an unauthorized filing. Attorney Abbott believed that would be an upward battle.

Commissioner Dodd stated that the backup was missing some pages. Commissioner Dodd asked whether the Town could challenge it if nothing was done within the next 36 months. Attorney Abbott said it did not appear so. Commissioner Silverstone believed there may be some grounds to go forward but agreed it would be an uphill battle. Vice Mayor McIntee believed that a lawsuit might work. Attorney Abbott stated that at the May 27, 2007 meeting a motion was made to require the abandonment be conditioned both upon commencement and conclusion of construction. He added that at the July 10, 2007 meeting an actual abandonment document was presented to the Commission. Attorney Abbott said there was no vote taken at that meeting. He advised that the first thing to do would have an attorney thoroughly investigate the history and find out why the document that was recorded seemed to vary from the direction that was given by the Commission.

Vice Mayor McIntee made a motion to direct the Town Attorney to investigate further. Commissioner Silverstone seconded the motion. Commissioner Dodd wanted to know whether the Commission could ask the previous Town Attorney as to what he had put into the abandonment. Attorney Abbott said that would be part of his investigation. Vice Mayor McIntee made an addition to the motion to look into the financial stability of the main parties as they may be in bankruptcy. Attorney Abbott agreed to look into it. All voted in favor.

d. Discussion and/or action concerning downspouts, curbs and repaving Sea Grape Drive extension at the North end (Commissioner Dodd)

Mayor Minnet asked Attorney Abbott whether Commissioner Dodd could bring this issue before the Commission again since it had already been heard at a previous meeting. Attorney Abbott explained that Robert's Rule for a motion to reconsider can only be made by someone on the prevailing side.

Commissioner Clotey asked whether there were contracts out there. Manager Colon confirmed that the Department of Environmental Protection approved the project, the permits had been obtained, and the purchase order was issued. Commissioner Dodd asked the Commission to reconsider as he believed that the Town did not really need to re-do the curbing in order to address the drainage problem in that area. He understood that he could not request reconsideration as there was a contract.

Commissioner Dodd pointed out that he had the right to bring this back as he had voted on the prevailing side. He felt that Walter Keller rightly pointed out that problem was

self inflicted by the building and the Commission did nothing about it. He did not feel the money should have been spent on the curbing. Manager Colon said the Town did not propose the entire job; somebody added on to it. Mayor Minnet agreed.

e. Discussion and/or action regarding North Trade Winds resurfacing and petition (Commissioner Dodd)

Commissioner Dodd admitted that he had previously voted no on this item. He believed if the Town went ahead with this everyone would be petitioning the Town.

Commissioner Clotley made a motion to put this back on the table as she did not like the stunts the previous Commission pulled. Attorney Abbott said there were no limitations as far as Robert's Rules for discussing a matter. He explained that someone on the prevailing side could motion to reconsider the item and someone on the non-prevailing side could motion to rescind the item.

Mayor Minnet asked whether there was a contract on this item. Manager Colon said a binding contract was not yet in place.

Vice Mayor McIntee questioned the time period a motion to rescind could occur. Attorney Abbott explained that a motion to rescind an item was not limited by a time frame.

Commissioner Clotley made a motion to rescind. Attorney Abbott explained that a motion to rescind required notice to the elected officials and if there was no previous notice of a motion to rescind it would require a two-thirds vote. He added that the agenda could be used as notice if it stated that the item would be rescinded.

Commissioner Clotley asked for Joe Couriel to speak. Mr. Couriel wanted clarification as to what Commissioner Clotley's intention was to revisit this issue. He would like to see the road fixed. Mr. Couriel did not believe it should be re-milled and re-paved.

Mayor Minnet asked Commissioner Dodd what he wanted. Commissioner Dodd said he wanted to ask the Commission to reconsider to allow staff time to go out and look at the road and come back with a better suggestion.

Manager Colon stated that two years ago the Town started a town wide Sidewalk Project and this year the Town started town wide Stormwater Drainage Project and this year she suggested the Town start a Resurface Project as it could be the beginning to do the whole Town. Commissioner Silverstone stated that once the Commission passed an issue, and then brought it back before the Commission without proper notification to the people was wrong.

Commissioner Clotley withdrew her motion to rescind.

Commissioner Dodd wanted confirmation that the Stormwater maintenance would be complete in 5 years. Manager Colon said currently the Town was identifying the roads that were collapsing and hoped the stimulus package would aid in the maintenance.

f. Discussion and/or action concerning adoption of the Miami - Dade code of ethics ordinance (Commissioner Dodd)

Commissioner Dodd believed that an Ordinance such as the Miami-Dade Code of Ethics Ordinance would once and for all resolve the conflict of voting on subjects that effect an organization where it was required to wear 2 hats. He added that he wanted to propose a change to the Miami-Dade Ordinance and add the words "member of a public service organization" to the list to clarify whether they are BSO, AMR or VFD.

Commissioner Silverstone believed that was a slap in his face as Commissioner Dodd was saying that a fire fighter could not be a Commissioner. Commissioner Silverstone said that was what the Town had been founded on. He added that history showed that almost every Commission had a member of the Volunteer Fire Department. Commissioner Silverstone added that there were no benefits involved. He thought it was outrageous to take a County Ordinance and make it work in a small town.

Vice Mayor McIntee agreed that the VFD was part of the Town's history. He said it was determined that there were no ethics violations.

Vice Mayor McIntee made a motion to extend the meeting to 11:10 p.m. Commissioner Silverstone seconded the motion. The motion carried 4-1. Commissioner Dodd voted no.

Vice Mayor McIntee continued with his discussion. He said he would support a referendum.

Commissioner Clotey did not believe the Ordinance should say "public service organization". She felt it should say at the very least, "a member or employee of a vendor". Commissioner Clotey believed it was discriminatory.

Mayor Minnet asked Commissioner Silverstone whether he received a pension from the VFD. Commissioner Silverstone said he did, based upon his prior years of service.

Commissioner Dodd said the Ordinance was placed on the agenda in order to resolve some of the ethics complaints that went through Tallahassee because Commissioner Yanni had many arguments as to whether he was allowed to vote on the BSO issues when he was on the dais. He added that he was trying to prevent that from happening and it had nothing to do with the VFD. Commissioner Dodd said it was the problem with the 2 hat conflict.

Commissioner Silverstone did not believe it was being presented before the Commission as a thought. He said there were 2 Commissioners that probably knew

more about the fire department and the police department than any other previous Commission. Commissioner Silverstone added that Commissioner Dodd always brought up the 2 hat issue as something that was negative. He believed it was a positive thing as Lauderdale-By-The-Sea was a small Town and to de-motivate that was dangerous and took away the spirit and the heart of the Town.

- g.** Discussion and/or action: Oriana North side alley - Can it, by law, be used for another use other than beach access (Vice Mayor McIntee)

Vice Mayor McIntee said he researched the law and the alley could only be used by pedestrians. He said the Town had to have bathrooms and he believed that spot would be perfect.

Mayor Minnet said she had previously discussed that possibility with Manager Colon and that staff had recommend El Prado as an alternative. Manager Colon said she had called the State regarding the El Prado area but not about the alley area.

Vice Mayor McIntee made a motion to direct the Town Manager to see if it was feasible to put bathrooms in the alley area. Manager Colon asked how an exit way for a parking lot, a pedestrian access way and bathrooms could be in that area. Vice Mayor McIntee felt it would help everyone. Commissioner Clotley seconded the motion.

Commissioner Dodd stated that the Development Order in 2001 indicated that Oriana granted a 17 foot easement for roadway access. He added that to make pedestrian access on this side the Commission would have to look at the other side on Aruba Beach Cafe to keep it equal. Commissioner Dodd felt that the bathrooms would hinge upon the pedestrian access part and stop the roadway from going ahead.

Commissioner Silverstone pointed out that the item before them was to determine whether the alley could be used for anything other than beach access. Attorney Abbott stated that the quick claim deed that was filed with the Town can only be used for road, sidewalk access, drainage, utility and landscape purposes. He added that it did not appear that the dedication would allow for bathroom construction. Commissioner Clotley suggested portable bathrooms just east of the entry way.

Mayor Minnet called the vote on the motion by Vice Mayor McIntee and seconded by Commissioner Clotley to have the Town Attorney determine whether it was feasible to put bathrooms in ingress / egress at the north end of Oriana. The motion carried 3-2. Commissioner Dodd and Mayor Minnet voted no.

- h.** Clean Energy Day - Discussion and/or action concerning a Town sponsored event to inform residents and businesses of the various solar products/systems currently on the market. Event would include presentations by experts and/or sales reps of companies making or selling products that are appropriate for use in LBTS (Commissioner Clotley)

Commissioner Clotley said she put this on agenda as a Town resident had sent emails regarding rebates given to residents if they switched to solar energy. She did not feel rebates should be given for a solar hot water tank; it should be offered at a higher level. Commissioner Clotley said there were a lot of products on the market that people were not aware of and suggested a video to show how some of the products worked and/or a Town sponsored event. Assistant Town Manager Olinzock suggested an energy day with sponsors. Commissioner Clotley did not believe it would require a lot of money from the Town.

Commissioner Clotley made a motion to have a clean energy day. Commissioner Dodd seconded the motion. All voted in favor.

- i. Commission approval for issuance of five (5) parking permits to be used in the Bougainvillea Drive parking lot from March 1, 2009 thru February 28, 2010 by Nova Southeastern University staff during Sea Turtle Stranding and Disorientation Events (Clerk White)

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

Commissioner Clotley asked why the University requested permits for a full year. Lou Fisher said they needed to respond to emergency calls and late nesting. Mr. Fisher provided 954-328-0580 as the number to call.

- j. Commission approval of Special Event Application for the LBTS Chamber of Commerce Event Craft Festival, Saturday, March 14, 2009, 5:00 AM thru Sunday, March 15, 2009, 7:00 PM.

This item was moved from Consent earlier in the evening.

Mayor Minnet explained this was a request for a time change. Vice Mayor McIntee made a motion to approve the event with the time change. Commissioner Silverstone seconded the motion. All voted in favor.

17. TOWN ATTORNEY REPORT

Attorney Abbott reported that from time to time he was requested to offer a legal opinion on subjects such as speech during public comments, the differences between a motion to reconsider and a motion to rescind. He said he was asked recently to give an opinion on the difference in the Roberts Rules of Order on a motion to table and a motion to postpone. Attorney Abbott stated that unless the Commission insisted he would report on that sometime in future when time allowed.

Commissioner Clotley wanted the Commission meetings to return to their regularly scheduled time of 7:00 p.m. Commissioner Dodd seconded. There were no objections. Mayor Minnet stated that the Commission meetings were back to 7:00 p.m.

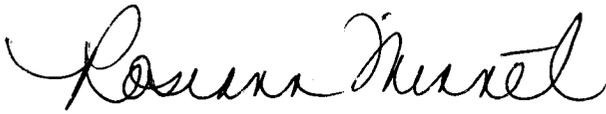
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Vice Mayor McIntee asked Attorney Abbott whether he received any information from Mr. Terri Arthur regarding Green Fest. Attorney Abbott said he did not. Vice Mayor McIntee placed this item on the February 24, 2009 Commission agenda for discussion and/or action.

18. FUTURE AGENDA ITEMS

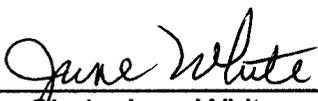
19. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 11:45 p.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

3/11/09

Date

