

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, March 24, 2009**

**7:00 P.M.**

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clotey were present. Also present was Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith and the City of Lauderhill Attorney W. Earl Hall.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Reverend George Hunsaker gave the Invocation.

Mayor Minnet stated that Consent Agenda item 12a was tabled to the April 14, 2009 Commission meeting. She added that Consent items 12e and 12f should be moved to New Business as 16f and 16g.

Mayor Minnet moved Old Business item 15b regarding RFP 09-02-01 as Presentation item 4c. Commissioner Silverstone questioned whether the Commission was voting on the award of the RFP. Mayor Minnet explained it was only the presentation that she wanted to move. Vice Mayor McIntee believed the presentation could be a long process and wanted to hold off on citizen comments regarding the RFP.

Mayor Minnet presented her suggestion regarding a process that placed a 5 minute time limit on the presenters; 3 minutes per public comment; and a 5 minute discussion and question time limit for the Commission.

Vice Mayor McIntee believed the vendors and the Commission were not aware of any limitations. He thought consideration should be given to allow enough time. Mayor Minnet asked for recommendations. Commissioner Silverstone recommended moving public comments. Mayor Minnet recommended listening to the presenters first as she believed public comments should follow.

Mayor Minnet asked the vendors whether 5 minutes was sufficient for their presentations. All five presenters agreed it would be sufficient time.

Commissioner Dodd said that by not sending a memo to the Commissioners it was a breach of Sunshine. Vice Mayor McIntee said she did send it to the Town Manager. Commissioner Clotey preferred the Commission stick with the agenda the way it was.

**4. PRESENTATIONS**

- a. Proclamation recognizing April 26 thru May 2, 2009 as Crime Victim's Rights Week (Mayor Minnet)**

Mayor Minnet read the Crime Victim's Right Week Proclamation into record.

- b. Presentation by Florida Fish and Wildlife Conservation Commission regarding turtle lights (Jean Higgins)**

Jean Higgins said she attended the meeting to answer any the questions the Commission may have regarding the light shields on El Mar Drive.

Vice Mayor McIntee asked whether there were any restrictions for lighting towards the beach. Ms. Higgins said lights should not point toward the beach. There were no further questions.

**5. REPORTS**

- a. Finance and Budget Monthly Report - February 2009 (Manager Colon)**

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

- b. Development Services Monthly Report - February 2009 (Assistant Town Manager Olinzock)**

Commissioner Dodd asked whether 18 violations for permits were unusually high for the month. Assistant Town Manager Olinzock advised that he would get that information. Commissioner Dodd asked whether the inspections at Aruba Beach Cafe and Athena's Restaurant were routine or on request. Assistant Town Manager Olinzock said it was a routine request. Commissioner Dodd asked where the violation occurred. Assistant Town Manager Olinzock said it was at Athena's Restaurant. Commission Dodd asked which Restaurant was Item 61. Assistant Town Manager Olinzock said it was both Aruba Beach Cafe and Athena's Restaurant.

Vice Mayor McIntee made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

c. Municipal Services Monthly Report - February 2009 (Assistant Town Manager Olinzock)

Commissioner Dodd referred to electrical work done by Al Siefert and inquired as to whether it was an emergency repair. Assistant Town Manager Olinzock said it was. Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

d. BSO Police Monthly Report - February 2009 (Chief Gooding)

Commissioner Clotey said people had repeatedly called her to say they were afraid to call the police and indicated it was fear of retaliation. Chief Gooding said they do not need to give their name. He said BSO received anonymous calls throughout the day.

Commissioner Clotey inquired of the 5 or 6 car Silver Shore burglary reports. She asked why there were still no reports. Chief Gooding said he only received 2 reports. He said people should be calling BSO and not a Commissioner.

Commissioner Dodd inquired of the job of the Deputy detail and why they were not doing anything regarding open containers in the streets. Chief Gooding said their job was to handle security and they were paid by the business that hired them. He said that people walk between bars with open containers. Chief Gooding said he needed to get the call when it was happening and not during an agenda/Commission meeting.

Vice Mayor McIntee asked whether BSO had a decimeter. Chief Gooding said they did not. Vice Mayor McIntee asked how BSO enforced the noise ordinance. Chief Gooding said if it was loud, and they received a complaint BSO would go there and ask them to quite it down; if they did not comply BSO would shut them down.

At Mayor Minnet's request, Chief Gooding gave the number for the Sergeant/Shift Commander 954-275-9939 and the non-emergency number 954-765-4321. He added that if a man was standing on the back porch in the middle of the night, call 911.

Mayor Minnet asked whether the City of Pompano Beach was going to a BSO central communication station. Chief Gooding said it was something BSO had been working on for years. He added that the City of Pompano Beach had their own dispatch center and resident 911 the calls went to their dispatch system.

Chief Gooding made a correction to his report regarding segway hours. He said it should be 20 1/2 rather than 11 1/2.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

e. VFD Fire Monthly Report - February 2009 (Chief Perkins)

Commissioner Dodd said that approximately 113 hours was spent on beach patrol. He wanted to know how much time was in the original budget for beach patrol. Chief Perkins said the VFD budgeted 10 hours a week paid or 40 hours a month. Commissioner Dodd thanked the Volunteers for the beach patrol activity.

Mayor Minnet questioned the reduction in fire fighters. Chief Perkins acknowledged that VFD loaded up on fire fighters when they first came in. He added that since then some fire fighters dropped out for personal reasons. He said it was a natural. Mayor Minnet thanked Chief Perkins for the outreach program.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

f. AMR Fire Rescue Monthly Report - February 2009 (Operations Manager Liddle)

Vice Mayor McIntee asked for average response time. Operations Manager Liddle said it was 3 minutes.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

6. PUBLIC SAFETY DISCUSSION

7. TOWN MANAGER REPORT

a. Street Lights (Town Wide)

b. Street Lights (El Prado)

c. Police Services

Manager Colon explained that Jean Higgins was at the meeting because a lot of questions were received regarding the town wide lights for the beach and El Prado Avenue. She asked whether the Commission did not want her to pursue the lights since the Commission did not present their questions to Ms. Higgins. Manager Colon said she contacted BSO for anticipated changes in staffing and advised that grants were available.

Commissioner Dodd wanted to know if the Town was getting a rebate from FPL when the lights were turned off. Manager Colon said they were. He asked whether anyone had approached the bulb manufacture regarding a shield/reflector on the bulb rather than on the light. Manager Colon said the bulb and/or the light must be approved by the Florida Fish and Wildlife Conservation Commission. She added that the light/bulb was put in by FPL and was recommended and approved by Florida Fish and Wildlife.

Commissioner Dodd asked Manager Colon to write to the appropriate people to find out whether the manufacturers have been approached to inquire about putting a shield, as an alternative on the outside of the fixture.

Vice Mayor McIntee said he saw no shortage of police services and felt there was no need to spend more money for additional police. Chief Gooding said that he was satisfied with what he had but would like 3 more police officers and a sergeant. He said he was looking into the grants.

Chief Gooding said sometimes because of their size they are not available for grants and most of the time grants are for overtime. Chief Gooding said he was satisfied but no Chief would say he did not want more police.

Commissioner Silverstone suggested Manager Colon seek grant funding for lighting. Manager Colon said she would obtain information from FPL and the Florida Fish and Wildlife for Commission review.

Commissioner Clotey thought it was very dark in that area and wanted to know what could be done in the meantime. Manager Colon said they can do nothing as it was turtle season. She said FPL would install the approved lights and it cost \$10,000 to install the bulbs in every third light. She added that Florida Fish and Wildlife had advised that it may be approved this year and not next year.

Mayor Minnet suggested FPL try it with every 6th light instead of 3rd light to cut the costs in half. Manager Colon asked the Mayor if she wanted FPL to do the study or have the Town pay for it. Mayor Minnet recommended every 6th light as a starting point. She believed there was enough police staffing.

Commissioner Dodd suggested the Town obtain a light expert to give advice. Mayor Minnet suggested that FPL come to the next meeting. Commissioner Dodd accepted.

**8. APPROVAL OF MINUTES**

**a. February 24, 2009 Regular Meeting Minutes**

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

**b. February 25, 2009 Regular Meeting Minutes**

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

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

**9. PUBLIC COMMENTS**

Lawrence Wick preferred the cost for beach parking be closer to \$20. He felt public comments should remain where it was on the agenda. Mr. Wick had no problem giving a discount to the Chamber of Commerce but the discount should not go below the cost to the Town. Mr. Wick said he did see the beach patrol; only vagrants. He agreed with giving Code Enforcement the authority to enforce the noise ordinance.

Spiro Marchelos thanked the Mayor, the Commissioners, BSO, and the VFD for their continuous support in his effort to restore and preserve the resort area and the community to high standards.

Bob Fleischman felt that when a Commissioner wished to explain something regarding the VFD he should come down to the podium to do it.

Rosa Micheliuck thanked the Commission for making her place a nice place to live.

Renee O'Neal thanked Commissioner Silverstone and Vice Mayor McIntee for wearing several hats. She hoped the parking permit fees would not be raised.

Louis Marchelos did not understand why the pier sign had become an issue after 46 years of recognition. He said Frank Myers and Everett Sorenson put that sign up. Mr. Marchelos believed the public should be educated to call BSO rather than Code Enforcement when there was a noise issue. Mr. Marchelos offered his parking lot for use during the sunrise service at the Pavilion should there be rain and flooding in the area.

Gail Albon was against bulk pickup for condos as there would be no control as to when the items would be placed out for pickup. She questioned whether garbage rates would be charged under taxes.

Gerald Apponte wanted to be grandfathered into Ordinance 2009-18.

Joe Couriel called 911 regarding rude behavior and they dispatched him to BSO. He said BSO responded very quickly. Mr. Couriel was in favor of swale and hoped that Public Comments would be moved up prior to presentations. Mr. Couriel thought that the RFP should be considered on the best the contractor had to offer and not on the lowest or highest bidder. He wanted to preserve beach parking.

Frank Herrmann believed that more was not always better. He believed in free parking permits for residents.

There were no more speakers.

**10. ORDINANCES**

**1. Ordinances 1st Reading - "Public Comments"**

- a. Ordinance 2009-18: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 19-26 OF THE CODE OF ORDINANCES TO CREATE A BEACH PARKING PERMIT; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2009-18 by title. Mayor Minnet opened public comments.

Joe Couriel did not understand the purpose of the Ordinance. Mr. Couriel wanted to know what the difference was between a beach parking permit and the resident permit they have now.

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

Commissioner Silverstone explained that the current Ordinance needed guidelines. He made a motion adopt Ordinance 2009-18 with a reduction to the fee from \$50 to \$20. Vice Mayor McIntee seconded the motion.

Mayor Minnet explained that the existing resident parking would be renamed to beach parking.

Vice Mayor McIntee asked to explain exactly where the beach spaces were located. Manager Colon stated that there were 2 by the Hibiscus Portal, 2 at Washingtonia Portal and 11 at El Prado with 6 of them in the middle where the resident spaces were and 5 in the El Prado Parking lot.

Commissioner Clotley wanted to make sure there would be no overnight parking in those spaces. Assistant Town Manager Olinzock said that a current residential parking permit had unlimited parking. Commissioner Clotley said that people that rent units were purchasing resident permits rather than hardship permits. Assistant Town Manager Olinzock said that only annual renters could get a residential parking permit.

Commissioner Clotley made a friendly amendment to the motion to not allow parking between 2:00 a.m. and 6:00 a.m. Commissioner Silverstone accepted the amendment. Vice Mayor McIntee allowed Commissioner Clotley to second the motion.

Commissioner Dodd questioned the number of spaces available for beach parking. Assistant Town Manager Olinzock said there were 15. Commissioner Dodd believed that residential parking should be amended to a 3 hour parking limitation. Commissioner Dodd did not think there were enough beach parking spaces for the amount of people that would want them and suggested charging more due to supply and demand.

Manager Colon advised that the Resolution would have to be amended when it comes forward later in the agenda if the rates changed. She said that the rates for both resident and beach parking were currently \$50.

Vice Mayor McIntee explained that if 150 residents purchased beach parking permits at \$50 each it would give the Town \$7,500 in revenue and at \$20 the revenue would drop down to \$3,000; a difference of \$4,500. He added that the Bougainvillea Parking lot gave the Town \$1,000 per month. Vice Mayor McIntee supported giving a break to the residents. Commissioner Silverstone believed \$20 was reasonable.

Mayor Minnet agreed that the parking spaces should be kept at minimum cost and supported it fully.

The amended motion carried 5-0.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

- a. Ordinance 2009-06 for 2nd Reading: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING SECTION 17-16 OF THE CODE OF ORDINANCES TO PROVIDE A DEFINITION OF SWALES, TO IMPOSE THE REponsibility FOR MAINTAINING SWALES ON THE ADJOINING PROPERTY OWNER OR OWNERS, AND TO REGULATE THE ITEMS THAT MAY BE PLACED OR PLANTED IN SWALE AREAS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE (Tabled on 1st reading at the January 27, 2008 Commission meeting by Commissioner Dodd) Approved 1st reading at the February 24, 2009 Commission meeting

Attorney Trevarthen read Ordinance 2009-06 by title. Mayor Minnet opened the meeting for public comments.

Barbara Cole did not feel that she should be responsible for watering grass on the swale when there was no grass in her yard to begin with.

Lawrence Wick said if the Town put the tree in the swale then perhaps it should be the Town's responsibility.

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

Commissioner Dodd asked Attorney Trevarthen who owned the swale. Attorney Trevarthen said the property owner owned the swale but the town had an easement or right of way to use it.

Commissioner Dodd wanted to know whether a home owner can chop down a tree that was planted on the swale by the Town. Although he thought the trees looked beautiful, he felt that it was unrealistic to force homeowners to maintain the trees. Commissioner

Dodd explained the same scenario applied to the grass in the swales whereby the homeowner who have to install sprinklers and/or water the grass. Attorney Trevarthen said it was a policy issue as to whether to impose the obligation or not. She added that it was legal to do so.

Commissioner Silverstone addressed line 23 of the ordinance. He asked how it was possible for an owner to own both sides of the property line. Attorney Trevarthen explained that area of the lot was under the sole control of the property owner. Commissioner Silverstone did not understand how it was possible for the property owner to own that area if it was abutting the property. The Town Attorney said the right-of-way was an easement and; it was the difference between the equitable and legal ownership of the property.

Commissioner Silverstone said he received a lot of calls from residents asking why they were responsible for maintaining a piece of land that the town controlled.

Commissioner Clotey asked whether the Town installed sprinklers on South Seagrape Drive. Assistant Town Manager Olinzock said there was irrigation on South Seagrape Drive and North Seagrape Drive. Commissioner Clotey asked if the Town was paying for that water. Assistant Town Manager Olinzock replied yes. Commissioner Clotey agreed that it was not fair that some residents had their swales taken care of by the Town and other residents were being forced to maintain their swales at their own expense.

Commissioner Clotey made a motion to table this item. Commissioner Dodd seconded the motion. Mayor Minnet asked for clarification regarding the motion to table. Attorney Trevarthen asked whether Commissioner Clotey would like this item tabled indefinitely or to a date certain. Commissioner Clotey said she would like the item tabled indefinitely.

The motion carried 5-0.

- b. Ordinance 2009-08 for 2nd Reading: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY- THE- SEA, FLORIDA, AMENDING SECTION 19-21 OF THE CODE OF ORDINANCES TO AMEND THE VESSEL PARKING AND STORAGE REGULATIONS FOR THOSE PROPERTIES THAT WERE ANNEXED INTO THE TOWN IN 2001, FOR SO LONG AS OWNERSHIP OF SAID PROPERTIES DOES NOT CHANGE; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE (Approved 1st reading at the January 27, 2009 Commission meeting as amended) Amended and Approved 1st reading at the February 24, 2009 Commission meeting

Attorney Trevarthen read Ordinance 2009-08 by title.  
Mayor Minnet opened the meeting for public comments.

Mar Jo Lexa requested the Commission pass an Ordinance such as the initial Ordinance that grandfathered all the residents currently in Bel Air.

Edmund Malkoon believed that line 39 of the Ordinance should be tightened up to say "prior to annexation" rather than "around the time of" annexation. He also believed that the names and addresses of those to be grandfathered in should be published in the Ordinance so residents knew who they were.

Kyle Campbell had a 13 foot whaler in his driveway and wanted to keep it there.

Frank Herrmann had no objections to where the boats were parked in the northern part of Town, as long as it wasn't in the southern part of town, where he lived.

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

Commissioner Silverstone believed the people that had boats prior to annexation were promised they would be grandfathered in. He did not feel that promise should be broken.

Commissioner Dodd had a problem with the wording on line 52 that indicated that the owner would not be able to replace the boat and that would take away their right. He felt that should be clarified. Commissioner Dodd believed peoples rights were being taken away but in order for him to bring this back before the Commission again, he would have to vote in favor of it.

Vice Mayor McIntee requested that line 52 be amended. Attorney Trevarthen suggested wording as "the vessel to be stored must be owned by the property owner". Commissioner Dodd accepted.

Commissioner Clotey was concerned that if the person that was grandfathered replaced their boat that they would not be able to park it on the driveway.

Attorney Trevarthen agreed that the Ordinance should say that the property owner must have parked their boat continuously since annexation.

Mayor Minnet requested clarification as to whether the west side on A1A in the north would fall into this Ordinance. She understood that in the south part of Town on the west side of A1A boats could be stored.

Attorney Trevarthen said the area was described on page 2, line 36 of the Ordinance as the North Beach Annexation area. Mayor Minnet wanted clarification as to whether boats could be stored on the west side of A1A.

Assistant Town Manager Olinzock said he would get the information for her.

Commissioner Silverstone wanted to know if this would allow the owner to replace his vessel with a 55 foot boat. Commissioner Dodd said there was a code that covered that.

Vice Mayor McIntee made a motion to amend Ordinance 2009-08 with the change that the vessel to be stored must be owned by the property owner and the property owner must have parked a vessel on the property since the time of annexation. Commissioner Dodd amended it to be worded as the "principal place of storage". Vice Mayor McIntee accepted. Commissioner Dodd seconded the motion. The motion carried 4-1. Mayor Minnet voted no.

Commissioner Silverstone made a motion to adopt Ordinance 2009-16 as amended on second reading. Commissioner Dodd seconded the motion. The motion carried 3-2. Mayor Minnet and Commissioner Clotey voted no.

- c. Ordinance 2009-17 for 2nd Reading: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING SECTION 5-62 OF THE CODE OF ORDINANCES AND AMENDING SECTION 19-21 OF THE CODE OF ORDINANCES TO PROHIBIT THE USE OF TARPS OR OTHER NON-CUSTOM FIT BOAT COVERS IN THE COVERING OF BOATS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE Approved 1st reading at the February 24, 2009 Commission meeting

Attorney Trevarthen read Ordinance 2009-17 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 Dodd made a motion to adopt Ordinance 2009-17 on second reading. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

Mayor Minnet recessed the meeting at 9:00 p.m. and reconvened at 9:15 P.M.

Commissioner Dodd made a motion to bring forward Old Business Item 15b, RFP proposals for trash to be heard prior to Commission Comments. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

Attorney Trevarthen arranged with Attorney W. Earl Hall from the City of Lauderhill to sit in on the RFP presentation as her firm had a conflict. Attorney Hall took his place on the dais.

Mayor explained the guidelines at 5 minutes for each presenter followed by public comments. The presenters accepted.

Tony Spadaccia, Waste Management said he brought consistency to the Town with 13,000 collections per month and few complaints. Mr. Spadaccia said Waste Management was the largest recycling company in the County. He said Multifamily Duplexes would not be required to use a dumpster; they would get totters. Mr. Spadaccia felt that Waste Management earned their trust with the Town.

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Paul DeBlasi, All Service Refuse surveyed the community as to what they were looking for and believed All Service Refuse would comply with the needs of the community. He believed recycling was important.

Russell Mackey, Waste Pro believed their proposal offered the residents and business owners the best service. He said they serviced 85 municipalities. Mr. Mackey used plastic or aluminum cans as they lasted longer and they were sprayed to deter rodents. Mr. Mackey said Waste Pro had 3 men on a truck.

Grant Smith, Choice Environmental Systems, Inc. stated that they were the lowest bidder. Neil Rodrigue, President said they bill the residents directly and provided service in Broward and Dade County. Mr. Rodrigue said they were aware of the needs of the community and would save the Town money. Mr. Rodrigue said Choice Environmental Systems, Inc., had fewer complaints than the other vendors.

Philip Banco, Southern Waste Systems was a full service waste company and the largest recycling company in the full service waste industry. He said they were located within 7 miles of Town which would come in handy during a catastrophe. Mr. Banco said there was a big difference between an RFP and an ITB.

Anthony Badala, Southern Waste Systems felt the pricing should be price per cubic yard and that the Town should also ask for additional options the companies would offer for special events.

Mayor Minnet thanked the presenters and appreciated their cooperation.

Attorney Hall clarified that the document submitted was a request for a proposal (RFP) and not a BID. He explained that a BID was used to purchase something such as paper goods at the best price. He pointed out that the language in the RFP indicated that the award of the proposal was, at the discretion of the Commission, awarded to the lowest bidder. Attorney Hall stated for the record the statement that the Town reserved the right to reject any and all proposals to waive any and all informalities and irregularities and to accept and/or all or any part of a proposal as they deem to be in the best interest of the citizen's of the Town. He also stated for the record that Section 2.18 of the General Instructions stated that the Town reserves the exclusive right to: 1) Waive any deficiency or irregularity in the selection process; 2) Accept or reject any or all qualifications statements in part or in whole; 3) Request additional information as appropriate; 4) Reject any or all submittals, if found by the Town Commission not to be in the best interest of the Town; and 5) Re-advertise the RFP for Solid Waste, Bulk Waste, and Recycling Collection Services.

Mayor Minnet opened the meeting for public comments.

Rosalie Malkoon wanted to know the number of collections per week and how many bulk pickups there would be per month.

Bill Ciani said Choice picked up in his neighborhood and they never had a problem.

Yahn Brandt wanted to know how much recycling was done on a percentage basis and how much it would cost. He thought it should be competitive.

Liliana Pomarada asked the Commission to take into consideration the portion of recycling. She wanted an additional recycling bin.

Spiro Marcleos believed it was time for a change.

Barbara Cole said she sat in on the pre-bid discussion. She said according to the bid each Multi-Family/Duplex unit would have to have a 96 gallon totter and a recycling bin. Ms. Cole favored Choice.

Louis Marchelos said he called Waste Management regarding recycling for the fishing pier. He said he had gotten no direction.

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

Vice Mayor McIntee requested one person from each company to respond to the individual questions as listed with the answer following each question:

Neil Rodrigue - Choice Environmental:

1-What was the average age of the trucks? 3.2 years but less than 1 year for Lauderdale-By-The-Sea.

2- What was the size of the compactor on the truck? 32 yards

3 - How many 96 gallon totes would it take? Unknown

4 - What was the biggest city serviced and the number of customers? Ft. Lauderdale 46,000 for recycling and 23,000 for all 3 components plus homes.

5 - Where was the terminal located? In Pompano

6 - How many trucks were located at the terminal? Approximately 35.

7 - What dump did they use? Per Broward County Interlocal agreement all waste collected in Broward County was required to go to one of the 2 Wheelabrator sites; north or south.

8 - How many new 96 gallon totes would be given to the Town if awarded the contract? 915 for residential single family trash and approximately 1830 fourteen gallon recycling bins.

Vice Mayor McIntee asked the following after questioning Southern Waste Systems:

9 - Would Southern Waste accept a shorter contract? Yes.

Anthony Badala Southern Waste Systems:

1 - What was the average age of the trucks? About 2 years. New trucks would be used for the Town of Lauderdale-By-The-Sea and were currently in stock.

2 - What was the size of the compactor on the truck? 28 yards

3 - What was the biggest city serviced and the number of customers? City of Pohokey in Palm Beach County - population 7,000.

- 4 - Where was the terminal located? State Road 84 in Dania and one off Martin Luther King Boulevard in Pompano.
- 5 - How many trucks were run within Broward County? Approximately 72.
- 6 - How many new 96 gallon totes would be given to the Town if awarded the contract? 955 for residential single family trash; unclear on the number of multi-family but each would get 1 totter as well as a 14 gallon recycling bin.
- 7 - Would Southern Waste accept a shorter contract? Yes, it is doable.

Tony Spadaccia Waste Management:

- 1 - What was the average age of the trucks? About 3 to 7 years.
- 2 - How many trucks in Broward County? 150 solid waste collection vehicles.
- 3 - What was the biggest city serviced? Coral Springs, Davie, Plantation.
- 4 - Where was the terminal located? Powerline Road just north of Sample Road.
- 5 - How many times is bulk pickup serviced in Lauderdale-By-The-Sea presently? Bulk pickup once a month and 2 garbage collections with 1 recycling pickup per week.
- 6 - Did Waste Management provide toilets? Yes.
- 7 - Would they need to change anything since everything was currently in place? The carts were in place; may need to bring in supplemental carts for additional service.
- 8 - Would Waste Management accept a shorter contract? Yes.

Russell Mackey, Waste Pro:

- 1 - What was the biggest city serviced? Jacksonville and Port St. Lucie.
- 2 - How many years with the two Cities? Going on 3 years with Port St. Lucie and 1 ½ years with Jacksonville.
- 3 - What was the size of the compactor on the truck? 29 yards.
- 4 - What was the average age of the truck? Broward County Division – 6 months.
- 5 - How many trucks with Broward County Division? 30
- 6 - Where was the terminal located? Pembroke Pines

Paul DeBlasi, All Service Refuse:

- 1 – How many employees serviced Broward County? 250
- 2 – Average age of the men throwing garbage? 29 years old
- 3 – What was the turnover rate? Less than 5%
- 4 – Does All Service have toilets? No.
- 5 – Would All Service accept a shorter contract? Yes
- 6 – For how long? 1 year.

Commissioner Clotney asked whether toilets would be supplied for events. Mr. Rodrigue, Choice said they could supply them with advance notice. Commissioner Clotney inquired of the number of times Choice would pick up bulk. Mr. Rodrigue said it would get picked up weekly but with a separate truck.

Commissioner Silverstone asked whether any of the proposers had objections to re-assessing the numbers or re-bidding. Mr. Rodrigue said Choice would have a problem as they put the time and effort and set the benchmark. Mr. Spadaccia of Waste Management thought they should revisit some of the requirements in the agreement. Mr.

Badala, Southern Waste Systems felt that the decision should be based on what would be the best option for the residents of the Town.

Commissioner Dodd asked if the vendors would prefer to be given specific totals on the items they were to bid on so they could come up with a total contract price. Mr. Spadaccia thought it would be more confusing. Mr. Mackey preferred to negotiate on a per item basis. Mr. DeBlasi preferred rating at a cubic yard rate. Mr. Badala agreed with rating containers at a cubic yard rate. Mr. Rodrigue said the current rating benefited the residents of the Town rather than the business owners that did not live in the Town.

Mayor Minnet asked Attorney Hall whether the current discussion was in relation to changing the bid. Attorney Hall explained that the Town would have to reject all bids and start over.

Vice Mayor McIntee believed the RFP's were put out fairly and the responses were reasonable and fair. He suggested that the Town Manager negotiate with the vendors after receiving direction from the Commission as to what bid they want.

Manager Colon suggested that the Commission follow the schedule that was presented. She stated that once the Commission gave direction the negotiation process would begin and the agreement would not come before the Commission until the negotiation was complete. Vice Mayor McIntee wanted 2 weeks to confirm the answers to the questions. Mayor Minnet thought that all the scheduled dates would be effected. Manager Colon said they would have to go back to Waste Management for an extension. Vice Mayor McIntee asked Mr. Spadaccia of Waste Management whether they would grant an extension. Mr. Spadaccia said he had no problem extending the contract.

Manager Colon asked Attorney Hall whether it was allowable for a Commissioner to speak individually with the proposers regarding any negotiation or changes for an RFP document. Attorney Hall said it was not advisable to talk with vendors individually.

Commissioner Clotey thought it would have been nice for them to cut profits a little more.

Commissioner Silverstone asked whether the Commission could choose 3 of the proposals for negotiation. Attorney Hall said they could pick by order and negotiate with the #1 choice and if that one failed, negotiate with #2. Commissioner Silverstone thought it would be wise to negotiate.

Commissioner Dodd made a motion to pick Choice Environmental Systems as #1 on the RFP. Manager Colon suggested the use of the grid to get the score. She said each Commissioner would score the vendors and a final score would result.

Mayor Minnet thanked the vendors for bringing positive opportunities to the Town. She also thanked staff for their arduous task. Mayor Minnet explained that the scoring criteria was a mechanism by which the Town can reasonably and fairly weigh each segment and determine the best provider. Mayor Minnet explained that 30% of the RFP was weighed

on the Commission's score. She explained that the lowest score would become the #1 choice.

Mayor Minnet recused herself from the scoring process and said she would file appropriate papers. She said her business was engaged by an interior design firm that worked for a business associate of one of the bidders (Memorandum of Voting Conflict attached hereto as part of these minutes).

Manager Colon announced the tabulation as Waste Management 3.25; All Service 3.75; Waste Pro 3.25; Choice Environmental Systems 1.00; Southern Waste 3.75.

Commissioner Dodd made a motion to start negotiations with Choice Environmental Systems and should negotiations fail with Choice, negotiate with Waste Pro, followed by All Service. Vice Mayor McIntee seconded the motion. 4-1. Mayor Minnet abstained.

Manager Colon requested direction from the Commission as to what they wanted her to negotiate. The Commission wanted new garbage trucks and bathrooms available for events.

**11. COMMISSIONER COMMENTS**

**12. CONSENT AGENDA**

Consent Agenda item 12a was tabled to the April 14, 2009 Commission meeting and Consent items 12e and 12f were moved to New Business as 16f and 16g.

Mayor Minnet pulled items 12d, 12h, 12i, and 12j for discussion.

Vice Mayor McIntee made a motion to approve items 12b, 12c, and 12g on consent. Commissioner Dodd seconded the motion. The motion carried 5-0.

- a. Commission approval of the Broward County Supervisor of Elections agreement for November 3, 2009 (Clerk White) Tabled at the March 10, 2009 Commission Meeting by Vice Mayor McIntee
- b. Royal Palm Tree Replacement on Commercial Blvd (227 Commercial Blvd) - waiving of Right-of-Way permit fees (Assistant Town Manager Olinzock)
- c. Commission approval of Special Event application for the Commercial Boulevard Pavilion Ribbon Cutting Ceremony, a Town Sponsored Event, Monday, April 6, 2009, 5:00 PM till 9:00 PM - Commission approval of concept on March 10, 2009 - Cost \$1,000 (Assistant Town Manager Olinzock)
- d. Commission approval of Special Event application for "Cruisin with Aruba/Village Pump" Thursday, April 30, 2009, 2:30 PM to 11:00 PM (Assistant Town Manager Olinzock)

Vice Mayor McIntee wanted assurance that the event would not turn into a recurring Thursday night event. Guy Contrada said it was only the one night.

Mayor Minnet inquired of the time the music would stop. Mr. Contrada said there was no live outside music.

Vice Mayor McIntee made a motion to approve. Commissioner Dodd seconded the motion. Commissioner Clottey inquired of the noise level from the loud speaker. Mr. Contrada said the speakers were in their full control and he could turn it down if necessary. The motion carried 5-0.

- e. Commission approval of Hold Harmless and Indemnification agreement for 223 Bombay Avenue (Assistant Town Manager Olinzock)

This item was moved to become New Business 16f.

- f. Commission approval for replacement trees at 4521 N. Seagrape Drive to be Canary Island Date Palms in the amount of \$11,763.60 in lieu of the Royal Palms previously approved by Town Commission in the amount of \$480.00 (Assistant Town Manager Olinzock)

This item was moved to become New Business 16g.

- g. Commission approval for placement of new AT&T fiber optic cabinet and to waive right-of-way permit fees - 2100 SE 15th St. (Assistant Town Manager Olinzock)
- h. Commission approval to Transfer Procat 26" Boat and Trailer from BSO Police to VFD Fire (Manager Colon)

Commissioner Dodd wanted to know where the vessel would be stored and where would it launch from. He also wanted to know what purpose it would serve.

Chief Perkins said the boat would come in handy during hurricane season and the VFD could fight fires with the installation of a pump. He added that the trailer would be stored at the marina.

Mayor Minnet asked whether boat safety training would be required. Chief Perkins said it would. Mayor Minnet had concerns with the agreement and believed there should be an addendum or review the areas in question such as the use that was not specific, the section on loss and damage and the area of insurance.

Vice Mayor McIntee said the boat was the property of the Town. He agreed that the boat could be a water source should a pump get put in.

Commissioner Clottey would like to put it to use and if not put it up for sale.

Town Manager stated that the VFD would maintain it and insure it and the Town would specify the use. She added that the Town Attorney would assist with the addendum.

Commissioner Silverstone made a motion to approve. Commissioner Clotley seconded the motion. The motion carried 5-0.

- i. Commission approval to distribute funds to El Mar Design Winners - \$1,000 (Manager Colon)

Commissioner Clotley requested clarification as to whether the Commission was picking a winner or just giving approval to pay the funds. Manager Colon said it was a request for approval to pay the funds.

Commissioner Silverstone made a motion to approve. Commissioner Dodd seconded the motion. The motion carried 5-0.

- j. Commission approval of \$500 for Title search for determination of ownership of pier sign (Manager Colon)

Commissioner Dodd was against the title search. He believed it was a waste of money and the Town should leave the sign alone as part of the Town's history and leave it with the pier on all sides rather than affix advertising or direction to it.

Commissioner Silverstone never knew the owner of the sign and believed it was worth the \$500 to determine the owner for liability reasons.

Vice Mayor McIntee stated that usually a privately owned sign was located on private property and this sign was located on Town property. He was also concerned with liability.

Commissioner Clotley pointed out that there was a fish sign up prior to the current sign and that fish sign was put up in the 60's. She was willing to spend the \$500 and settle the argument.

Commissioner Dodd said that DOT stated that the Town could not have Palm Trees because if someone ran into it, it would be a large liability.

Mayor Minnet concurred with Commissioner Dodd.

Commissioner Silverstone made a motion to approve. Commissioner Clotley seconded the motion. Mayor Minnet pointed out that Commissioner Dodd's motion failed for lack of a second. Commissioner Dodd withdrew his motion. The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no.

At Mayor Minnet's request, Vice Mayor McIntee made a motion to allow New Business 16f for discussion and/or action. Commissioner Silverstone seconded the motion. The motion carried 5-0.

**16f:** Commission approval of Hold Harmless and Indemnification agreement for 223 Bombay Avenue (Assistant Town Manager Olinzock)

Vice Mayor McIntee made a motion to approve with the stipulation that the Town Attorney approve the Hold Harmless agreement. Commissioner Silverstone seconded the motion. The motion carried 5-0.

Town Manager wanted to know whether the Hold Harmless would pertain to only to the owner or to future owners of the property as well. Vice Mayor McIntee said if the place was sold the new owner would have to agree.

Mayor Minnet recessed the meeting at 11:05 p.m. to Wednesday, March 25, 2009 at 3:30 p.m.

**13.** RESOLUTION - "Public Comments"

- a. Resolution 2009-12: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING RESOLUTION 2009-05 ESTABLISHING FEES FOR PARKING IN METERED PARKING SPACES; TO ALLOW FOR BEACH PARKING; EFFECTIVE APRIL 1, 2009

**14.** QUASI JUDICIAL PUBLIC HEARINGS

**15.** OLD BUSINESS

- a. Commission direction to Town Attorney regarding Rental Ordinances revision (Manager Colon)
- b. Discussion and/or action regarding RFP 09-02-01, Waste Haulers (Manager Colon)

**16.** NEW BUSINESS

- a. Discussion and/or action concerning current placement of Public Comments in the agenda and the order of the speakers - requested by Liliana Pomareda (Commissioner Dodd)
- b. Discussion and/or action concerning permit fees charged to the Chamber of Commerce over the Taste of the Beach or other events (Commissioner Dodd)
- c. Discussion and/or action to increase police beach patrols (Commissioner Silverstone)

- d. Discussion and/or action to hold a Town meeting with an independent facilitator with the objective to work out Commissioner issues with Town staff and each other. The goal is to further increase the efficiency of Town government (Commissioner Silverstone)
- e. Noise Ordinance: Music is very loud and neighbors are complaining. Should we be having weekend long event with music all afternoon and evening? (Commissioner Clotey)
- f. Commission approval of Hold Harmless and Indemnification agreement for 223 Bombay Avenue (Assistant Town Manager Olinzock)

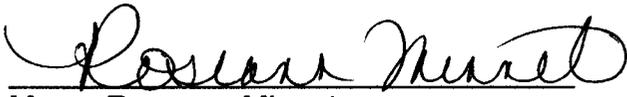
This item was discussed earlier in the evening.

- g. Commission approval for replacement trees at 4521 N. Seagrape Drive to be Canary Island Date Palms in the amount of \$11,763.60 in lieu of the Royal Palms previously approved by Town Commission in the amount of \$480.00 (Assistant Town Manager Olinzock)

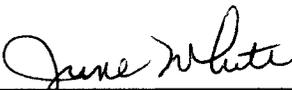
17. TOWN ATTORNEY REPORT

18. ADJOURNMENT

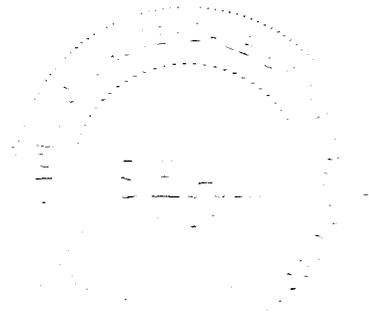
19. FUTURE AGENDA ITEMS

  
\_\_\_\_\_  
Mayor Roseann Minnet

ATTEST:

  
\_\_\_\_\_  
Town Clerk, June White

4-16-09  
\_\_\_\_\_  
Date



# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>MINNET ROSEANN ALEXIS</b>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>MAYOR</b>	
MAILING ADDRESS <b>2000 S. OCEAN BLVD APT 11E</b>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> OTHER LOCAL AGENCY <b>TOWN</b>	
CITY <b>LAUDERDALE-BY-THA-SEA</b>	COUNTY <b>BROWARD</b>	NAME OF POLITICAL SUBDIVISION: <b>LAUDERDALE-BY-THA-SEA</b>	
DATE ON WHICH VOTE OCCURRED <b>MARCH 24, 2009</b>		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

**IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:**

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Roseann Minnet, hereby disclose that on MARCH 24, 2009.

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of a BUSINESS ASSOCIATE, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The company, of which I am the principle officer of, has been retained by a Business associate of one of the company's that submitted a proposal to the Town of Laududale - By-The-Sea to provide Sanitation / Waste Collection Services

March 27, 2009  
Date Filed

Roseann Minnet  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.