

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

Town Commission Meeting Room

4501 Ocean Drive
Tuesday, April 14, 2009
7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clottey, Town Attorney Susan L. Trevarthen, 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

Vice Mayor McIntee requested New Business item 16L - Discussion regarding AMR ambulance service be moved forward for discussion immediately following Public Safety Discussion item 7a.

Vice Mayor McIntee requested the removal of item 16M as the problem was resolved.

Commissioner Dodd requested removal of New Business item 16j as it was a duplicate of 16g.

Commissioner Clottey requested New Business item 16f be removed as the problem was solved.

There were no objections. Mayor Minnet granted the requests.

a. BSO Deputy of the Quarter - January, February, March 2009 (Chief Gooding)

Chief Gooding nominated Deputy Craig Jacobson for January, Deputy Bob McDonald for February and Deputy Manual Alvarez-Jacinto for March.

b. Lighthouse Proclamation (Mayor Minnet)

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Mayor Minnet said that historian Hib Casselberry had been instrumental in identifying April 25th as Lighthouse Day. She believed it was appropriate for Lauderdale-By-The-Sea to also proclaim April 25th as Lighthouse Day since there was a lighthouse in the vicinity.

Commissioner Dodd pointed out that the "Big Diamond" at Hillsborough, through its 9 foot lens, projected its light farther out to sea than any other lighthouse in the world and acted as a night light shining westward over the City of Lighthouse Point. Mayor Minnet advised that Tours were available and encouraged everyone to visit.

c. Census Awareness Proclamation (Manager Colon)

Manager Colon stated that the census was to be taken in 2010 and the proclamation to bring forth awareness.

d. Alternative lighting / streetlights - FPL

Isabelle Hebert, FPL representative, explained that Florida beaches house the largest nesting for turtle hatchlings in the United States. She said the options available are to turn off the lights or place shields over the lights.

Commissioner Silverstone requested that FPL install the shields. Ms. Isabelle said there were costs involved for the shields.

Commissioner Dodd asked whether the shields were approved by the Department of Environmental Protection (DEP). Ms. Herbert said they would have to be determined by Florida Wildlife as to whether it would block sufficient lighting. She added that FPL would want to work with the Commission prior to installation to determine whether the shields would solve the problem. Commissioner Dodd asked whether the Town would be liable if they turned off lights. Attorney Trevarthen said it was an issue that should be looked at. She added that there was currently a statutory provision that protected FPL from liability but not municipalities.

Commissioner Clotey understood that the turtle conservationist constantly changed their mind as to what was acceptable and questioned why people had to change their lives to comply. Ms. Herbert said it was solely the decision of the turtle conservationist and FPL had no jurisdiction over their decisions.

Vice Mayor McIntee asked whether FPL was the sole provider of lights for Ft. Lauderdale, specifically A1A at Sunrise Boulevard, south. Ms. Herbert said she would have to check. Vice Mayor McIntee said the lights along that route were shielded on the west side of the boulevard and lights on the east side were not lit. He added that the lights were the same as the lights in Lauderdale-By-The-Sea. Vice Mayor McIntee asked whether any Towns under FPL jurisdiction had gone with Commissioner Clotey's idea to light every 3rd light. Ms. Herbert said she had no knowledge of that and that lighting every 3rd light would to be determined by the Wildlife commission. Vice Mayor McIntee questioned how the Town could be fined for not turning off the lights if there was no fine for non-compliance? Attorney Trevarthen said the decision would be

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up to the Commission. Vice Mayor McIntee believed the safety of the people was more important and supported leaving the lights on until it became affordable or a grant was available for light shields.

Manager Colon advised that there was a code in place that prohibited the lights and mirrored the Broward County Administrative code. She believed the Town would be in violation of the Endangered Species Act.

Commissioner Dodd inquired as to how long it would take for the Wildlife Commission to approve different lighting. Ms. Herbert advised that it was a long process.

Commissioner Silverstone believed the Town could compromise by putting shields up to protect both turtles and people.

Mayor Minnet thanked Ms. Herbert for her presentation. She believed the Commission had a lot to think about.

e. Presentation by the Students of the Art Institute of Ft. Lauderdale for the El Mar Drive Project (Paul Novak)

Paul Novak recapped the El Mar Drive Project and stated that Sandra Booth came up with the idea of going to the students for their ideas as was done regarding the Pavilion design. Mr. Novak said out of all the designers, five were chosen as finalist.

Ft. Lauderdale Art Institute Instructor for Industrial Design, Winn Minish stated that as a school and a class they appreciated the opportunity to participate in the project for the Town.

Isabella Serna from Columbia designed a pedestrian friendly walkway with a gazebo, picnic tables, low lighting for the turtles, and outdoor exercise areas.

Michael Evans from Jackson, Mississippi, presented his design focusing on social and physical activities such as an exercise station, a pavilion in the center to play cards or just relax, and a dog area. He displayed dolphin and pelican statues alongside the decorative paved walkway.

Alberto Ronan from Columbia presented a simple and basic design theme with a brick median bordered in low lighting and surrounded by grass and palm trees. He said the median was within the turtle protection requirements and open for bikers, joggers and relaxation. Mr. Ronan's design consisted of a pond, fences and rocks.

Wendy Thulen from Michigan designed the median with colored lighting, concrete arches, palm trees, tropical flowers, redwood gazebos, and a see through cinder block wall.

Oscar Bergis created islands in his design with one side paved for joggers and the other vegetation. He designed sculptures that identified the islands and also served as

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fountains. Mr. Bergis used recessed lighting that emphasized the sculpture fountains and the mosaic walkway.

Mr. Novak announced that the 1st place winner would receive \$500; 2nd place \$300; and 3rd place \$200. He thanked the students, Mr. Minish and Sandra Booth.

Vice Mayor McIntee believed all the designs were winners. He said he would like to see the water fountains with a doggie bowl on the bottom.

Commissioner Dodd thanked the students. He said the final project may consist of something from each design.

Vice Mayor McIntee made a motion to defer Old Business item 15c, Town sign at Commercial Blvd and A1A, to June 9, 2009 at the request of staff to allow time for work. Commissioner Silverstone seconded the motion. The motion carried 5-0.

5. PUBLIC COMMENTS

Mayor Minnet inquired of the procedure the Commission preferred regarding the order in which Public Comments are taken. It was determined take the comments at random as was the procedure, for this meeting and on the April 28, 2009 the public comments would be taken on a sign in basis.

Spiro Marchelos said he had not yet received an apology for being accused of forgery. He felt one Commissioner had a vendetta against his business.

Nancy Walker wanted to know why everyone could not get along.

Ron Piersonte wanted to know why a Commissioner could make personal attacks against citizens but citizens could not make a personal attack against a Commissioner.

Sal Conipio inquired of the hours the ATV's patrolled the beach, the number of volunteers on the ATV and their social behavior.

Louis Marchelos said staff had been advised not to speak with him. He said the legal issue was with the pier sign and nothing else. Mr. Marchelos said he had a right as a taxpayer to be heard.

Lawrence Wick recognized the pavilion opening and the Easter events as wonderful events. Mr. Wick believed the parking permits for the employees of the Sea Turtle Conservations should be handled by administration. He suggested that the Commission reconsider the location for launching fireworks. Mr. Wick suggested setting a date and time to review the Town Manager. He asked the Commission to move up one of the Planning and Zoning Board alternates as a regular member at the next meeting.

Diane Boutin suggested the Town ask FPL to lower some of the lighting arms as done in other communities. Ms. Boutin was pleased by the young innovative ideas for designing El Mar Drive.

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Frank Herrmann supported AMR, BSO and VFD. He was concerned with pressure on AMR from VFD. Mr. Herrmann thanked everyone for all their time donated to the Easter events.

Bob Fleishman believed that the Town was in the red and not in the black. Mr. Fleishman said the VFD was doing a good job.

Maureen McIntee thanked the students and Commissioner Clotley for the opening of the pavilion. She invited everyone to volunteer for the 4th of July event.

6. REPORTS

7. PUBLIC SAFETY DISCUSSION

a. AMR request for EMS Review Committee Meeting on May 21, 2009 at 1:00 p.m. (Operations Manager Liddle)

Brooke Liddle requested approval to meet at the selected date and time.

Vice Mayor McIntee made a motion to choose Commissioner Clotley to attend the meeting. Commissioner Dodd seconded the motion. Commissioner Clotley accepted. The motion carried 5-0.

b. Item 16L: Discussion regarding AMR ambulance service was moved here earlier in the evening for discussion.

Vice Mayor McIntee asked Operations Manager Brooke Liddle to describe the importance of the beach buggy. Operations Manager Liddle explained that the beach buggy increased the performance of medical rescue and gave the ability to transport the patient across the beach to the waiting ambulance. Vice Mayor McIntee added to the importance of beach buggies by using the drowning and jelly fish stings as life saving examples.

Commissioner Clotley believed that one of the reasons for the beach patrol was because there were no lifeguards. She asked that should the Town go for lifeguards would the VFD provide the service and would their insurance cover the service. Chief Perkins said the insurance would not cover lifeguard service for VFD. He added the Town would have to hire outside lifeguards.

Commissioner Dodd requested that the VFD increase their patrols during events. He asked for an explanation of procedure in relation to the proper care of the vehicle every time the ATV went out. Chief Perkins said the volunteers went through a check list and hosed off the ATV's every time they returned.

Commissioner Silverstone asked whether there were any complaints from the residents regarding the use of the beach buggies. Chief Perkins said only 1 from the gentleman in the north part of Town. Commissioner Silverstone asked how it was handled. Chief Perkins said the gentleman wanted to know why the beach buggy was in Pompano. He

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said an injured pelican was taken to the Pompano Pier as that was where they took the birds and on another occasion the VFD was looking for a lost woman and went about 1/4 mile into Pompano.

Mayor Minnet questioned when the ISO rating would be available. Chief Perkins believed it was sometime in June.

8. TOWN MANAGER REPORT

a. Discussion and/or action regarding award of RFP 09-02-01 Waste Haulers (Manager Colon)

Manager Colon stated that the agreement had been approved as to form by Attorney Hall. Mayor Minnet invited Mr. Hall to sit on the dais. Manager Colon noted the changes to the document. She said the date needed to change as Waste Management agreed to July 1, 2009.

Manager Colon noted additional changes to the document: 1) page 21. 6.7.1 should read "Chief Financial Officer" (6th sentence); 2) page 21 6.8 (6th sentence) should read "will be validated" not "will validate"; 3) page 27 section 11.1.2 (3rd sentence - should read "that are within" not "that are by"; 4) page 42 the form attached for disconnect should be 31 days and not 90 days; and 5) page 71 need to change Code Section 10.32 to "31 days" not "3 months".

Commissioner Dodd noted that on page 8 item L should be changed to "his/her" representative.

Commissioner Clotey inquired of getting new containers. Michael Savino stated that all residential and multi-family units would receive new solid waste containers. He said Choice could work with Waste Management on getting the old bins removed or perhaps recycle them.

Commissioner Dodd asked for Mr. Savino's reaction to the Town creating an Ordinance that would prohibit others from coming into Town on recycling day and taking the goods on bulk trash day. Mr. Saving said he would work with the Town.

Vice Mayor McIntee asked whether Choice's proceeds were reduced when the "scavenger's" took the materials. Mr. Savino said that the proceeds to Choice from metal would be reduced. He added that the proceeds from recycling went directly to the Town and not to the waste hauler.

Vice Mayor McIntee made a motion to accept the contract with the changes agreed to between the Town Manager and Choice Environmental Systems. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 4 - 0. Mayor Minnet recused.

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Commissioner Dodd confirmed that an Ordinance change would follow. Manager Colon added that the Ordinance amending Section 10-32 would be on the next agenda. She thanked Mr. Hall for his assistance in this matter.

9. APPROVAL OF MINUTES

There were no corrections, additions, or deletions.

Vice Mayor McIntee made a motion to approve all minutes as submitted. Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

- a. March 10, 2009 Regular Minutes
- b. March 11, 2009 continued from March 10, 2009 Regular Minutes
- c. March 24, 2009 Regular Minutes
- d. March 25, 2009 continued from March 24, 2009 Regular Minutes
- e. April 2, 2009 Conference Minutes

Mayor Minnet recessed the meeting at 8:55 p.m. and reconvened the meeting at 9:05 p.m.

10. ORDINANCES

- 1. Ordinances 1st Reading - "Public Comments"
 - a. Ordinance 2009-10:AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-21 "NON-CONFORMING USES AND STRUCTURES" TO AMEND REQUIREMENTS FOR CONTINUATION OF NON-CONFORMING USES AND STRUCTURES; AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS," SECTION 30-123 "APPLICATION FOR FINAL SITE PLAN APPROVAL" TO CLARIFY THE REQUIREMENTS FOR AN APPROVED SITE PLAN TO REMAIN EFFECTIVE; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-211"RS-5 DISTRICT—RESIDENCE" TO AMEND ROOF OVERHANG SETBACK REQUIREMENTS IN THE RS-5 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-271 "B-1 DISTRICT- BUSINESS" IN ORDER TO PROVIDE THAT COOKING SCHOOLS, CATERING BUSINESSES, MOTORIZED SCOOTER OR MOPED SALES AND RENTALS ARE PERMITTED USES IN THE B-1 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-313 "GENERAL PROVISIONS" IN ORDER TO AMEND THE REQUIREMENTS FOR FENCES, WALLS, AND HEDGES AND TO PROVIDE DEVELOPMENT STANDARDS FOR DRIVEWAYS, SWALES, AND GENERATORS; FURTHER AMENDING ARTICLE VIII "SIGN REGULATIONS," SECTION 30-507 "DEFINITIONS AND

RESTRICTIONS BY SIGN TYPE," TO AMEND THE DEFINITIONS OF "SIGN,"
"INFORMATIONAL, DIRECTIONAL OR TRAFFIC CONTROL SIGN," AND "REAL
ESTATE SIGN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR
CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2008-10 by title.

Mayor Minnet opened the meeting for public comments.
Barbara Cole was concerned she would not be able to re-build her house after a catastrophe.

Diane Boutin was thankful for the hard work behind the Ordinance. Was concerned with new south Florida building code criteria that would make her resize and get rid of her pool.

Lawrence Wick thanked everyone for making it easier for the Planning and Zoning Board.

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

Commissioner Dodd wanted to know what the next stage was to implement the recommendations of the Planning and Zoning Board.

Attorney James White explained that the Commission could incorporate changes between 1st and 2nd reading.

Commissioner Dodd made a motion to include the recommendations by the Planning and Zoning Board into Ordinance 2009-10. Commissioner Clotney seconded the motion.

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

Commissioner Dodd asked whether the Town would be open to a Burt J. Harris claim should a structure be damaged more than 50%. He believed current code restricted the height to 33 feet.

Attorney White stated that current Charter had built provisions that dealt with non-confirming structures in relation to height.

Attorney White did not see anything that would lay claim to a Burt J. Harris claim.

Commissioner Dodd said the Commission discussed zero scape plantings and permeable materials for driveways, and acceptable plant species, and yet there was nothing in the ordinance that addressed those issues. He believed the code should encourage the use of permeable material.

Commissioner Clotney said she remembered the Commission agreed to using the market value vs. assessed value and that did not make it into the document either.

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Mayor Minnet said it was all in there. She asked Attorney White to clarify that the purpose of two readings was to look at the amendments, review them, listen to residents, and the Commission could make changes even on second reading. Attorney White replied in the affirmative.

Vice Mayor McIntee made a motion to approve Ordinance 2009-10 as amended on first reading to include Planning and Zoning Board recommendations. Commissioner Clotey seconded the motion. In a roll call vote, the motion carried 5 - 0.

- b. Ordinance 2009-13: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, GRANTING AN EXCLUSIVE RIGHT, PRIVILEGE AND FRANCHISE TO CHOICE ENVIRONMENTAL SYSTEMS INC. TO OPERATE THE ONLY SOLID WASTE AND RECYCLABLE COLLECTION SYSTEM IN THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA; PROVIDING FOR THE TERMS, CONDITIONS, AND STANDARDS FOR SAID FRANCHISE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-13 by title.

Mayor Minnet opened the meeting to public comments.

Diane Boutin wanted to know if the document stipulated that Choice Environmental Systems was the only provider of choice with a construction dumpster for major debris. With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Vice Mayor McIntee made a motion to approve Ordinance 2009-13 on first reading. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 4 - 0. Mayor Minnet recused.

Manager Colon clarified that the bid document and the agreement stated that construction dumpsters would be provided by Choice.

- c. Ordinance 2009-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 13 "NOISE" OF THE CODE OF ORDINANCES TO PROVIDE FOR AMENDED NOISE REGULATIONS; AMENDING CHAPTER 17 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," ARTICLE VIII "SPECIAL EVENTS" TO AMEND THE REGULATIONS OF SPECIAL EVENT PERMITS TO PROVIDE GROUNDS FOR DENIAL OF A SPECIAL EVENT PERMIT FOR VIOLATION OF NOISE AND OTHER TOWN STANDARDS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-14 by title.

Mayor Minnet opened the meeting for public comments.

Lawrence Wick believed there was an Ordinance that allowed music until 10:00 p.m.

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Barbara Cole wanted to know what the current decibel level was. She did not understand the need for the Ordinance.

Guy Contrada believed the noise ordinance did not need amending but needed to be policed. He said the Town needed to keep businesses in Town to keep people coming to Town.

Louis Marcelos suggested a roundtable discussion with the Commission, the businesses and the residents and perhaps get a decibel expert involved.

David Moore saw family gatherings on Friday and Saturday nights. He said everyone thought it was a good place to go to have a good time.

Tony (last name inaudible) professional drummer said the majority of his emails were from residents of Lauderdale-By-The-Sea that referred to the entertainment within Town and where he would be playing.

Bob Fleishman said Lauderdale-By-The-Sea was a resort Town and the Town was alive.

Vito Chiarello believed the motorcycles were noisy.

Steven Bosculatos thought it would be a horrible mistake to fast track the Ordinance.

Diane Boutin said that many of her guests enjoyed the activity in Town. She pointed out that many of the new developments had impact windows. Ms. Boutin said motorcycle noise exceeded the noise from entertainment.

Debbie Surge said the entertainment was a fun weekend for her and the entertainers were making money.

Spiro Marchelos said the music had always been successful and brought life to Lauderdale-By-The-Sea. He believed that without the entertainment a lot of businesses would be affected.

Paul Novak said his properties are the closest to the entertainment section and never had a problem. He said the music should be kept going.

Ron Personte said visitors from Canada and Germany always asked for the music on Friday and Saturday night.

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

Commissioner Silverstone stated that the Ordinance was not created to shut down entertainment or shut down businesses; there were complaints about the noise. He stated that the Ordinance gave teeth to be able to enforce the noise ordinance.

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Commissioner Dodd wanted to know who drew it up and on what facts and figures it was put together.

Attorney Trevarthen explained that direction was given by the Commission to create a noise ordinance and the decibel limits were based on those from other cities. Commissioner Dodd did not believe the decibel should be equal to other cities that were not equal to our own.

Commissioner Dodd wanted to know how many complaints there were as he believed the happy visitors outweighed the complaints. He believed the Commission should have a roundtable with the businesses and come up with acceptable figures. Commissioner Dodd believed the music from Jazz on the Square should be measured for an acceptable number. He pointed out that line 4 of the Ordinance prohibited fireworks and therefore, the Town could not have fireworks at the 4th of July event.

Commissioner Clotley explained that no one ever said anything about shutting down the music. She said the problem was with the constant noise at 2:00 or 3:00 in the morning.

Commissioner Silverstone believed that the fireworks provision only applied to special events and not the 4th of July. He said the issue was more into constant dog barking or excessive motorcycle noise. Commissioner Silverstone believed that a person should not hear their neighbors.

Vice Mayor McIntee said the code would not fine the entertainers; it would apply to the business. He added that Code Enforcement always gave a warning before a ticket was issued. Vice Mayor McIntee said the Ordinance gave Code Enforcement the authority to enforce.

Attorney Trevarthen addressed the issue with motorcycles. She said line 367 of the Ordinance had an exemption for motor vehicles and line 70 and line 80 prohibited noises such as abuse of sounding of horns and loud noise vehicle noise, but there was nothing in the Ordinance that referred to motorcycles.

Commissioner Dodd said it was his opinion that tools were in place and police could enforce noise levels and another ordinance was big brother creeping in.

Dave Gadsby said he did not get any complaints, and when he felt the music was too loud he asked them to turn it down.

Mayor Minnet suggested looking at other like communities that had a downtown area. She said the Ordinance was in place and Code Enforcement should have the power and come to the events and enforce the Ordinance. Mayor Minnet believed business was a viable source to the Town and was needed.

Vice Mayor McIntee agreed that Code Enforcement should go out and enforce but the tool was not there for them to do so; they did not have the authority.

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Dave Gadsby said Code Enforcement had never given him a hard time. He would honor the tool for Code Enforcement but questioned whether there were enough complaints to go that far.

Mayor Minnet was confident that any business that received a call from the police or a Commissioner that the music was too loud, the business would turn it down.

Commissioner Clotley wanted to know what it was in the Ordinance that the businesses did not like. She said the issue was the noise in the very late hours.

Commissioner Silverstone pointed out line 114 of the existing Ordinance made it clear. He said that live or recorded music could not be played or broadcasted manually or electronically between the hours 11:00 a.m. and 9:30 p.m. and should not be heard within 25 feet of the origin of the music.

Vice Mayor McIntee made a motion to approve Ordinance 2009-14 on first reading. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 3 - 2. Mayor Minnet voted no. Commissioner Dodd voted no.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

11. COMMISSIONER COMMENTS

Commissioner Dodd thanked staff for putting backup material on the web site and for opening more available parking in front of Town Hall. He suggested dedicating individual parking spaces for department heads but wanted to wait a month or two. Commissioner Dodd thanked staff for setting up the FPL presentation. He thanked staff for placing the roundtable meeting under the video section on web site. He found it very valuable to hear what each Commissioner had to say. Commissioner Dodd said he appreciated staff's efforts and suggested notification when issues were resolved. Commissioner Dodd stated that Hollywood Beach charged \$150 annually for beach parking. He felt that was more realistic than the \$20 Lauderdale-By-The-Sea would charge.

Vice Mayor McIntee thanked Commissioner Clotley and everyone that worked on the Easter event. Vice Mayor McIntee stated that there was a vicious lie that accused him of being behind the recall in Mayor Minnet's condo association. He said he was not aware of the recall until recently and he had nothing to do with it.

Vice Mayor McIntee said staff worked very hard during and after the Pavilion event and the Easter event. He thought Don Prince was the greatest Municipal Director the Town ever had and Assistant Director Mike Walker was an incredible worker; always out there. Vice Mayor McIntee said Senior Office Specialist Nekisha Smith, Town Clerk June White, and Manager Colon were hard working, dedicated employees. He believed Lauderdale-By-The-Sea had great employees and if the Town lost them, the Town would be in trouble. Vice Mayor McIntee believed there was not a better crew in any Town in Florida. He also believed that beach patrol was one of the greatest attributes in the Town.

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Mayor Minnet thanked staff and Commissioner Clotley for the wonderful recent events. She reminded everyone of the non-emergency numbers 954-765-4321. Mayor Minnet clarified a statement written in By-The-Sea Times on March 6, 2009 that stated that she repeatedly opened the floor to repetitive comments once the public comment portion of the agenda was finished. She stated that the majority of the dais voted to allow it and it was not just her wishes. Mayor Minnet pointed out an article in the Travel section of the New York Times on April 5, 2009 regarding affordable fun in Lauderdale-By-The-Sea. She said a portion of the article mentioned a couple of spots in Town along with the pier.

Mayor Minnet reminded everyone that April 25th was lighthouse day and encouraged a trip to the Hillsborough Lighthouse. She announced the May 13, 2009 workshop for charter amendments and reminded everyone that a representative from Senator Klein's office would be in Town on May 14, June 11 and July 9, 2009 from 9:00 a.m. to 11:00 a.m. Mayor Minnet was disappointed at the last roundtable. She looked forward to positive dialogue and respect for each other at the next roundtable.

Commissioner Clotley thought the Pavilion was beautiful. She thanked everyone for showing up for the ribbon cutting and thanked staff for going the extra mile putting it all together. She thanked the singer, the cake maker and the entertainment. Commissioner Clotley stated that the Easter event was very successful. She said people volunteered to stuff the eggs and thanked them all. She thanked the Easter Bunny and the Photographer. Commissioner Clotley said that Marilyn Carr offered to design the first round of informational banners. She asked the restaurant owners to come forth and offer their suggestions. Commissioner Clotley wished a safe journey to those heading north to escape the hurricane season.

Commissioner Silverstone came to the conclusion that he had to either pass on commenting on a false rumor or a false statement or respond to a personal attack. He felt that those with credibility, the people that get out there and stuff eggs and do things for the Town knew how things worked in the Town; others made comments about things they knew nothing about. Commissioner Silverstone said that the backup currently on line was requested by him a long time ago and at that time it was a big expense. He said staff continued to find a way.

12. CONSENT AGENDA

Mayor Minnet pulled items 12c and 12g for discussion.

Commissioner Silverstone made a motion to approve items 12a, 12b, 12d, 12e, and 12f on consent. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

- a. Award of annual Air Conditioning Maintenance Agreement with Advanced Roofing for maintenance of equipment in Town properties (Assistant Town Manager Olinzock)
- b. Commission approval for emergency excavated sewer point repair by Madsen Barr at 258 Commercial Boulevard at a cost of \$5,342.50 (Assistant Town Manager Olinzock)

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- c. Commission approval to allow Athena By The Sea, 4400 Ocean Drive, to modify existing approved Sidewalk Café Permit (Assistant Town Manager Olinzock)

Assistant Town Manager Olinzock explained the intent was to extend into another office to allow flexibility in table arrangement. Commissioner Clotey inquired as to whether Athena would be allowed to serve alcohol in that area. Assistant Town Manager Olinzock said he would check with the State if the Commission requested it. Commissioner Clotey thought that Athena should have a permit to serve alcohol before addressing the issue or approve it subject to obtaining the permit.

Manager Colon said Athena would have to amend or reapply with a revised site plan.

Commissioner Clotey asked whether Mr. Marchelos would agree, should the Commission approve the modification, not use the space until he got the liquor license for Athena's Restaurant. Mr. Marchelos agreed and said the reason for the revision was to comply with Code when tables were moved 6 to 8 inches.

Manager Colon explained that the site plan on record would differ whether it was 1 foot or 5 feet. She said the process was not new for Mr. Marchelos. Manager Colon said that once they submitted their revised site plan it would go to Code for approval and move forward.

Commissioner Dodd made a motion to approve the modification as the first step in the process. Commissioner Clotey seconded the motion.

Mr. Marchelos said he would have to speak to legal council.

Commissioner Clotey wanted it in the record that Mr. Marchelos agreed that Athena by the Sea would not use the space until they obtained approval from the State. Mr. Marchelos stated he would agree if the Commission agreed that a table could go there if liquor was not being served, such as during breakfast on Sunday before noon.

Commissioner Clotey clarified her friendly amendment that Athena by the Sea should not use the new area until it is settled with the state. Commissioner Dodd accepted.

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

- d. Commission approval of 40 parking permits for the annual Caribe meeting on March 1, 2010 (Town Clerk)
- e. Commission approval of Special Event application for Walton Wedding, Saturday, May 16, 2009, 5:30 PM till 7:00 PM (Assistant Town Manager Olinzock)
- f. Commission approval of Workforce One Employment Solutions for participation in the Summer Youth Employment Program in conjunction with the Governor of the State of Florida for the implementation of workforce development programs (Manager Colon)

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- g.** Beach Patrol expenses approved by Commission of 5/13/2008 (invoices attached)
(Manager Colon)

Commissioner Dodd explained that extra money was not being given for beach patrol. He said that all the expenses did not fall within one fiscal year.

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

Mayor Minnet stated that the Commission needed to look at consolidating the meetings. Discussion followed regarding holding the remainder of the meetings in the evenings and/or on weekends. Mayor Minnet stated that Commission business should be completed in one night and not cause additional burden on staff.

Mayor Minnet recessed the meeting to Monday, April 20, 2009 at 2:00 p.m. Manager Colon advised that Assistant Town Manager Olinzock would sit in her place.

13. RESOLUTION - "Public Comments"

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

- a.** Commission approval of the Broward County Supervisor of Elections agreement for November 3, 2009 - Tabled at the March 10, 2009 by Vice Mayor McIntee (Clerk White)
- b.** Discussion and/or action regarding a clock in the pavilion (Requested at the March 11, 2009 Commission meeting by Vice Mayor McIntee)
- c.** Discussion and/or action regarding Town sign at Commercial Blvd and A1A - Vice Mayor McIntee (Tabled at the January 28, 2009 Commission meeting by Vice Mayor McIntee) (Tabled at the February 24, 2009 Commission meeting by Commissioner Dodd) (Tabled at the March 11, 2009 Commission meeting by Vice Mayor McIntee)

This item was deferred earlier in the evening.

- d.** Discussion and/or action regarding gravel driveways (Vice Mayor McIntee)

16. NEW BUSINESS

- a.** Discussion and/or action regarding the creation of a resolution opposing Senate Bill 1000/House Bill 365 entitled an Act Relating to Discretionary Sales Surtaxes (Mayor Minnet)
- b.** Discussion and/or action concerning funding for beach patrols (Commissioner Dodd)

Town Commission Regular Meeting Minutes

April 14, 2009

- c. Discussion and/or action to change the passes at Bougainvillea Parking Lot to the portals for employees of the Broward County Sea Turtle Conservation Program (Mayor Minnet)
- d. Discussion and/or action regarding a license agreement for parking meters with Bank United (Assistant Manager Olinzock)
- e. Appointment of a Director, Alternate and Second Alternate to the Broward League of Cities (Commissioner Clotney)
- f. Enforcement of "no prices on signs" policy on books, especially for lodging. Low advertised prices are attracting guests that cause problems (Commissioner Clotney)
- g. Commission approval of \$40,000 (excluding fireworks) for Town Sponsored Special Event, July 4th Beach Blast Celebration 2009, July 3 and 4, 2009, \$20,000 Town, \$20,000 donations authorization for Town Manager to execute Contracts/Agreements, and waiving Procurement Purchasing Policy related to the event (Vice Mayor McIntee)
- h. Discussion and/or action concerning review of the Town Manager as required in the contract (Commissioner Dodd)
- i. Discussion and/or action concerning Vice Mayor's inaccurate allegations made at Roundtable meeting dated April 2nd regarding a Commissioner's direct contact with the State Representative concerning funding of the Palm Club sewers (Commissioner Dodd)
- j. Discussion and/or action concerning budget for this year's 4th of July event (Commissioner Dodd)
- k. Discussion and/or action concerning lack of lighting in the Pavilion with regard to public safety (Commissioner Dodd)
- l. Discussion regarding AMR ambulance service (Vice Mayor McIntee)

This item was discussed earlier in the evening.

- m. Discussion regarding recusal of Mayor during Waste talks (Vice Mayor McIntee)
- n. Discussion and/or action regarding supplementary ideas to be included in the Commercial Pavilion (Commissioner Silverstone)
- o. Discussion on economic viability of the Town (Commissioner Silverstone)

17. TOWN ATTORNEY REPORT

18. ADJOURNMENT

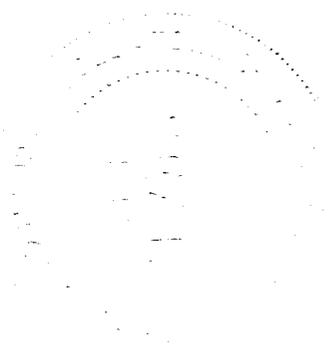
19. FUTURE AGENDA ITEMS

Roseann Minnet
Mayor Roseann Minnet

ATTEST:

June White
Town Clerk June White

4/29/09
Date



04-17-2009 P12-62

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

LAST NAME—FIRST NAME MIDDLE NAME Minnet Roseann Alexis		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE MAYOR
MAILING ADDRESS 2000 S. Ocean Blvd APT 11E		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 TOWN
CITY LAUDERDALE BY THE SEA	COUNTY BROWARD	NAME OF POLITICAL SUBDIVISION: LAUDERDALE BY THE SEA
DATE ON WHICH VOTE OCCURRED April 14, 2009		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 April 14, 20 09

(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 companies that submitted a proposal to the Town of Landudale. By The Sea to provide Sanitation/Waste Collection Services

April 17, 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.

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Monday, April 20, 2009 Continued From April 14, 2009

2:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 2:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clotkey, and Town Attorney Susan L. Trevarthen were present. Also present were Assistant Town Manager John Olinzock, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

15. OLD BUSINESS

- a. Commission approval of the Broward County Supervisor of Elections agreement for November 3, 2009 - Tabled at the March 10, 2009 by Vice Mayor McIntee (Clerk White)

Vice Mayor McIntee clarified that the agreement was ready to go.

Commissioner Dodd questioned whether the agreement was the go ahead with the November 2009 Referendum. Town Clerk White clarified that it was not. She added that the Town had to write a letter to the Supervisor of Elections requesting permission to have the Special Election. Vice Mayor McIntee asked when the Town needed to have everything to the Supervisor of Elections. Clerk White said the end of July at the latest. She reminded them that there were Ordinances that required two readings and that once the May 13, 2009 Workshop was complete the Commission should make their decision at the May 28, 2009 Commission meeting so the reading of ordinances could begin with the first reading in June and the second reading in July.

Mayor Minnet inquired as to whether there would be additional charges if the Commission held off on the referendums until the March 10, 2010 General Election. Ms. White said there would not be any additional charges. She explained that Town would have a Special Election November 3, 2009 as a stand alone and therefore would pay \$13,986 for that election.

Vice Mayor McIntee made a motion to defer the agreement until the May 28, 2009 meeting. Commissioner Silverstone seconded the motion.

Commissioner Dodd was concerned that they may be putting it off too long. He thought that by pushing it to May the ordinances would have to go in June and the Ordinances were not yet written. Clerk White believed there would be enough time even if the first reading of the Ordinances began with the first meeting in June and the second reading the first meeting in July. She added that the important thing was getting Commission approval to go to referendum with the November 3, 2009 Special Election in order to obtain permission from the Supervisor of Elections. She explained that once the Commission had their workshop and gave their approval at the May 28, 2009 Commission meeting she would send the letter to the Supervisor of Elections to obtain permission.

Mayor Minnet thought that spending an additional \$14,000 to rush through Charter Amendments did not make sense. She believed people needed time to review them.

Commissioner Clotey inquired as to whether the Town would be financially obligated once permission was granted. Clerk White said she would obtain the information.

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

b. Discussion and/or action regarding a clock in the pavilion (Requested at the March 11, 2009 Commission meeting by Vice Mayor McIntee)

Vice Mayor McIntee inquired of research done on prices for a clock in the pavilion. Assistant Town Manager Olinzock stated that staff solicited for concepts, not prices. Vice Mayor McIntee wanted to get the community involved in paying for the clock or one of the organizations such as Kiwanis or the Citizen's Initiative Committee.

Vice Mayor McIntee made a motion to direct the Town Manager to come up with concepts and costs. Commissioner Silverstone seconded the motion. He requested New Business item 16n be discussed at this time as it pertained specifically to this issue. Mayor Minnet approved.

Commissioner Silverstone suggested that a 24" weather proof clock would fit under the eave at the front of the pavilion. He said the clock had optional solar power capability and/or a wind measurement meter options at less than \$1,000. Commissioner Silverstone added that the clock adjusted time automatically throughout the day and automatically adjusted to daylight savings time.

Commissioner Silverstone offered a friendly amendment to go forward with a \$1,000 limit to include the 3 options on the clock.

Commissioner Clotey liked the idea of taking donations from the community rather than using Town funds. She preferred a general collection rather than have one organization donate the funds.

Mayor Minnet asked Commissioner Dodd if he wanted to speak on the subject in regards to supplementary ideas for the pavilion as he had not pressed his button. Vice Mayor McIntee called a point of order. He felt Mayor Minnet was directing Commissioner Dodd to speak when he did not push his button. Mayor Minnet said she wanted everyone to have an opportunity to speak. Vice Mayor McIntee made another point of order when a member of the audience told him to "shut up" and requested that Mayor Minnet issue a warning. Mayor Minnet issued the warning.

Commissioner Dodd explained that he did not press his button because he intended to speak on the issue when it came up. He thanked those for their input. Commissioner Dodd questioned whether a plaque would be placed recognizing those who donated funds.

Commissioner Dodd said the Commission had previously allocated \$3,000 for a clock and looked forward to more information in the backup. He believed a more expensive clock would hold up to the weather better and last longer.

Commissioner Silverstone had no objection to accepting donations. He was against accepting specific donations for the clock as it was for the Town. He believed the \$1,000 was well within range and sought approval of the clock with all 3 instruments, wind, time, and tide.

Vice Mayor McIntee withdrew his motion.

Commissioner Silverstone made a motion to allocate a maximum of \$1,000 to place 3 instruments, time, wind and tide on the pavilion with the center being the remote controlled clock, and the wind and tide on both sides. Vice Mayor McIntee seconded the motion.

Commissioner Dodd requested a point of information from Attorney Trevarthen. He said the Commission already approved \$3,000 and asked if the \$1,000 would overrule. Attorney Trevarthen said Commissioner Silverstone could clarify that. Commissioner Silverstone clarified the maximum amount was \$1,000.

Assistant Town Manager Olinzock pointed out that the minutes from the March 10, 2009 meeting did not speak of dollars; only the type of clock and location. Mayor Minnet thanked him for the clarification.

The motion carried 5-0.

- c. Discussion and/or action regarding Town sign at Commercial Blvd and A1A - Vice Mayor McIntee (Tabled at the January 28, 2009 Commission meeting by Vice Mayor McIntee) (Tabled at the February 24, 2009 Commission meeting by Commissioner Dodd) (Tabled at the March 11, 2009 Commission meeting by Vice Mayor McIntee)

This item was deferred by to June 9, 2009 by Vice Mayor McIntee at the April 14, 2009 Commission meeting.

d. Discussion and/or action regarding gravel driveways (Vice Mayor McIntee)

Vice Mayor McIntee believed there were approximately 6 gravel driveways in Town; 2 owned by seniors with limited income. He wanted to see the ordinance grandfather the 6 driveways.

Commissioner Silverstone inquired as to whether the gravel driveways were new in Town or a mixture of new and old. He asked whether there were any gravel driveways in Old Town. Assistant Town Manager said he would look into it.

16. NEW BUSINESS

a. Discussion and/or action regarding the creation of a resolution opposing Senate Bill 1000/House Bill 365 entitled an Act Relating to Discretionary Sales Surtaxes (Mayor Minnet)

Mayor Minnet explained the proposed resolution opposed sales tax and prohibited police and fire services from being controlled by an outside city.

Commissioner Silverstone thought it was a good idea.

Commissioner Silverstone made a motion to direct the Town Attorney to create the resolution with proper language for Lauderdale-By-The-Sea. Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

b. Discussion and/or action concerning funding for beach patrols (Commissioner Dodd)

Vice Mayor McIntee said Chief Perkins had an emergency and asked whether Commissioner Dodd would rather defer the item. Commissioner Dodd said if necessary the Deputy Chief could answer his questions.

Commissioner Dodd made a motion to provide a one time \$3,600 subsidy payment to the VFD exclusively to pay VFD staff on the AVT's for beach patrol. He explained that the VFD's original budget called for 10 hours and they have done much more, unpaid. Commissioner Clotey seconded the motion for discussion. She asked whether the money to be used was to be paid hourly individually or as a whole to the VFD. Commissioner Dodd explained it should be used for beach patrol. He added that the VFD budgeted for 10 hours for beach patrol and they did 100 hours in February and should be paid for their time. Commissioner Clotey asked whether the money could be allocated toward specialized courses rather than dollars in their pocket. Commissioner Dodd said he could entertain a motion to include money for education

and would speak with Chief Perkins but the \$3,600 was payment for the men actually working the on beach patrol to cover the additional hours.

Vice Mayor McIntee said the men and women of the VFD voted at their monthly meeting not to take additional money as they did not want people to think they were doing it because they were being paid. He believed Commissioner Clotley's request to have Chief Perkins put the \$3,600 in an education only fund made a lot of sense. Commissioner Dodd changed his motion to pay \$3,600 towards ATV's and a training course for Seadoos and rescue.

Although Commissioner Silverstone liked the idea of paid training, he said the VFD was based upon incentive and not money. He added that they received a \$2,000 check from a citizen of the Town and that was their incentive.

Mayor Minnet questioned whether a fund would need to be created. Attorney Trevarthen said an agreement could be created for her review and opinion. Vice Mayor McIntee directed the Town Manager to direct Chief Perkins to set up an educational fund rather than pay the Town Attorney. Mayor Minnet believed the VFD contract indicated the amount of funding and although she believed the VFD did a wonderful job, she did not think they needed any more money from the Town.

Commissioner Silverstone thought the VFD had enough money and the Town did not need to spend any more money. He believed that the VFD would feel good to know they were appreciated. Vice Mayor McIntee agreed. Commissioner Dodd asked whether there was adequate funding for Seadoo training. Vice Mayor McIntee said he believed there was. Commissioner Dodd withdrew his motion.

- c. Discussion and/or action to change the passes at Bougainvillea Parking Lot to the portals for employees of the Broward County Sea Turtle Conservation Program (Mayor Minnet)

Mayor Minnet received a letter from Mr. Lou Fisher of the Broward County Sea Turtles Conservation program. She said he believed that parking at the portals would be more convenient for equipment and monitoring devices.

Commissioner Clotley asked for the Town's opinion. Assistant Town Manager Olinzock said staff used Commission direction previously given. Commissioner Clotley thought that the Broward County Sea Turtles Conservationists were pushing it too far. Vice Mayor McIntee advised that the El Mar Parking lot took in \$2,000 a week. Mayor Minnet asked whether the turtle conservationists were at the portals last year. Assistant Town Manager Olinzock said permits were issued to them along the portals but not in the residential spaces.

Commissioner Clotley wanted to defer until the Town Manager would be available.

Commissioner Clotley made a motion to defer to the April 28, 2009 Commission meeting. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

- d. Discussion and/or action regarding a license agreement for parking meters with Bank United (Assistant Manager Olinzock)

Assistant Manager Olinzock stated that Bank United previously had an agreement to lease meters.

Commissioner Silverstone asked for clarification that the agreement was previously granted. Assistant Town Manager Olinzock said it was and when the bags went on the meters, Bank United canceled their agreement. Vice Mayor McIntee was concerned that if it was granted for them it would have to be granted to others. He said he remembered that it was agreed that once the lease option was taken away it would not be given back. Commissioner Dodd agreed and believed the meters should be used as intended.

Commissioner Dodd made a motion to direct staff to write a letter that the Commission had turned down their request. Commissioner Clotley seconded the motion. In a roll call vote, the motion carried 5 - 0.

- e. Appointment of a Director, Alternate and Second Alternate to the Broward League of Cities (Commissioner Clotley)

Commissioner Clotley asked whether anyone wanted to volunteer or make a selection.

Mayor Minnet said she was the representative for the Town and would do it again. After brief discussion Vice Mayor McIntee said he would be willing to fill in any open slot. He made a motion to select Commissioner Clotley as the Director, Mayor Minnet as the 1st alternate and himself as the 2nd alternate. Commissioner Dodd seconded the motion. The motion carried 5-0.

- f. Enforcement of "no prices on signs" policy on books, especially for lodging. Low advertised prices are attracting guests that cause problems (Commissioner Clotley)

This item was removed at the April 14, 2009 Commission meeting by Commissioner Clotley - problem solved.

- g. Commission approval of \$40,000 (excluding fireworks) for Town Sponsored Special Event, July 4th Beach Blast Celebration 2009, July 3 and 4, 2009, \$20,000 Town, \$20,000 donations authorization for Town Manager to execute Contracts / Agreements, and waiving Procurement Purchasing Policy related to the event (Vice Mayor McIntee)

Barbara Cole was concerned that last year every 4th of July Committee meeting was posted and this year there were no postings.

Vice Mayor McIntee stated that New Business item 16g was written as it was last year.

Commissioner Silverstone believed this was being taken out of context. He spoke with Mark Furth who indicated that everything would be done as it was done last year or as close to it as possible. He said it was unfair and incorrect to make accusations that something was being done wrong. Commissioner Silverstone stated that the way this item was presented on the agenda was exactly the same way it was presented last year and except for minor changes. He added that since most of the work was done last year there was nothing to do this year.

Commissioner Dodd said last year the 4th of July Committee meetings were done openly. He believed 4 rides instead of 6 rides would be better due to the economy. Commissioner Dodd had an issue with the fireworks RFP and wanted to know who made the decision on not using the pier for the fireworks display. He believed the public expected the decisions were under the control of at least 1 Commissioner. He had an issue with the fireworks off the beach as he did not see how people could come to El Prado Park to watch the fireworks when they had to be 280 feet away. Commissioner Dodd said with fireworks off the pier, seating areas could be rented out through the pier for people to watch the fireworks. He said these were issues that should have been brought up for the public to hear.

Mayor Minnet asked for the Town Attorney's opinion regarding the posting of the meetings. Attorney Trevarthen said if there were meetings they should have been posted. Vice Mayor McIntee asked for clarification that if only 1 Commissioner had the meeting and no other Commissioner attended, then the meeting would not need to be posted. Attorney Trevarthen said that was correct. Commissioner Dodd asked whether one Commissioner could go to the meeting and another person act as the go between to another Commissioner. Attorney Trevarthen said a third party may not engage in polling but they could work with elected officials for briefing purposes.

Commissioner Dodd asked whether anyone approached Mr. Marchelos regarding the use of the pier for fireworks. Mr. Marchelos said that Mr. Furth told him that the Town was going to have the fireworks on the beach. He added that Mr. Furth offered \$5,000 and the right to hold a special event in the pier parking lot.

Commissioner Silverstone said that Mr. Furth offered \$5,000 to Mr. Marchelos and Mr. Marchelos turned it down. He added that using the shore as the fireworks location would save the Town a lot of money. Commissioner Silverstone said Mr. Furth had a reputation of working hard and doing good events.

Commissioner Clotney said the Town paid \$20,000 last year for the 4th of July event. She said \$10,000 was paid to an event planner. Commissioner Clotney said other cities

were going off the beach and if the Town could save money it was a good idea. She pointed out that the Town needed to tighten their belts on spending this year.

Mark Furth clarified that he was not the "go between" for the Commission. He said he never called a Commissioner to say a Commissioner was going to vote for anything. He said all the accusations were untrue.

Vice Mayor McIntee asked Mr. Furth, as the 4th of July Committee Chairman last year, whether the Committee had meetings every time they had to talk about something last year. Mr. Furth said the reason for the meetings last year was because there were other people involved in the group. He added that the current Committee had not yet had an open meeting as they had not done anything differently from last year, but may have a public meeting at a later time.

Commissioner Dodd asked how much the fireworks would cost from the beach. Mr. Furth said approximately \$15,000 without barricades. He added that last year the Town paid \$20,000 for the pier. Commissioner Dodd clarified that the pier returned \$3,000 so the Town actually paid \$17,000. Commissioner Dodd asked Mr. Furth to explain his meeting with Mr. Marchelos. Mr. Furth said he told Mr. Marchelos what the plans were and that he was to meet with someone on April 24, 2009. He also told Mr. Marchelos that nothing was written in concrete. He said he offered Mr. Marchelos \$5,000 to use the pier and that if he did not hear back from Mr. Marchelos by the April 24, 2009 he would move forward. Mr. Furth clarified that he did not promise them an event but indicated that he would present the idea as Commission approval would be needed. Mr. Furth said he did not hear back from Mr. Marchelos.

Discussion followed regarding where people would view the fireworks. Mr. Furth said a large section of the beach would be quartered off and no one would be allowed in El Prado Park but people could view the fireworks from the beach outside the sectioned off area.

Commissioner Dodd wanted to know why the the plans for the fireworks structure and the location of the barricades were not included in the backup. Assistant Town Manager Olinzock said the item, as presented, specifically excluded fireworks. He said it also requested waiving procurement purchasing policy relating to the event.

Vice Mayor McIntee asked Assistant Town Manager whether there was a preliminary map from the Fire Marshal that showed the basic layout and whether he had received it. Assistant Town Manager Olinzock said he had received such a map and at the next meeting the agenda packet would include materials that addressed the fireworks component. He added that this agenda item excluded the fireworks. Vice Mayor McIntee asked whether a copy of that map would have been given to/or shown to any Commissioner that had called the Fire Marshal and asked to look at it. Assistant Manager Olinzock said yes. Vice Mayor McIntee pointed out that nothing was being held back; it was a work in progress. Mr. Furth agreed that things changed and had to be revised along the way.

Mr. Furth said last year the plans changed 3 times. He has not gotten it down 100% yet and agreed that the rides may come down to 3 this year.

Commissioner Dodd said that as a Commissioner he had not seen any Fire Marshal diagram as to the safety zone, or whether the structure was in front of El Prado Park or 100 yards the other way, yet the Commission was being asked to approve \$40,000 without a plan. Mr. Furth stated that it sounded like a trust issue and Commissioner Dodd did not trust the Commission nor did he trust him to do the right thing. He said that to some degree Commissioner Dodd would need to show trust. Mr. Furth stated that they were still in the preliminary stages of getting everything together and Commissioner Dodd or anyone could call him at any time. Commissioner Dodd asked whether Mr. Furth was able to get more than one bid for the fireworks. Mr. Furth said it was not his job to obtain bids.

Commissioner Clotley asked for clarification on the cost of fireworks last year at \$20,000 for the pier, \$3,000 back from Mr. Marchelos, totaling \$17,000 and \$35,000 for fireworks that came to a total of \$52,000. Mr. Furth agreed. Commissioner Clotley asked whether Mr. Furth proposed spending \$15,000 this year with a net saving of \$37,000 over last year. Mr. Furth did not want to confirm at that point. He explained that \$8,000 was spent on decorations last year and they were not doing that this year. He added that the installation of electrical boxes cost over \$5,000 last year and should cost half that this year. Mr. Furth believed the savings could amount to more than \$40,000 less than last year.

Mayor Minnet asked Commissioner Clotley and Commissioner Dodd when they had their first meeting last year. They believed it was sometime in April. Commissioner Dodd said the Town could provide that information. He believed that by this time, the Committee probably had 6 or 7 open meetings. Mayor Minnet wanted to know when the first meeting took place. Vice Mayor McIntee believed there was no need to have meetings at this stage. He believed it was unfair to micro-manage and it was not fair to Mr. Furth.

Commissioner Silverstone said Mr. Furth earned a substantial amount of credibility for the events that he and his wife had done and therefore, he did not need to ask Mr. Furth a lot of questions. Instead, he thanked Mr. Furth for everything he had done.

Commissioner Silverstone made a motion to accept. Vice Mayor McIntee seconded the motion. Commissioner Dodd questioned the \$20,000 donations. He wanted to know if the Commission was authorizing a full \$40,000 excluding any donations received. Commissioner Silverstone pointed out that the item stated "excluding fireworks amount".

Assistant Town Manager Olinzock clarified that the cost for the fireworks was not included in that dollar amount. He also clarified that approval allowed the Town Manager to execute the contracts as they took place and approved the waiver of the

purchasing policies.

Vice Mayor McIntee wanted to know how Commissioner Dodd interpreted the wording last year as this item was a word for word interpretation as what was on the agenda last year. Commissioner Dodd said he did not remember what was on the agenda last year. Commissioner Dodd still wanted clarification on this item as he believed that the Commission was authorizing \$55,000 without donations; \$40,000 plus \$15,000 for fireworks. Assistant Town Manager Olinzock clarified that the Commission was approving an expenditure of \$20,000 from Town funds and allowing the Town Manager to spend \$20,000 in donations for a total of \$40,000. He added there was no dollar amount for fireworks included in this item.

The motion to approve carried 5-0.

Mayor Minnet recessed the meeting at 3:50 p.m. and reconvened at 4:00 p.m.

h. Discussion and/or action concerning review of the Town Manager as required in the contract (Commissioner Dodd)

Commissioner Dodd made a motion to include backup material from other cities in order to decide whether the review should be open in public or one at a time in the Town Manager's office. He believed the review should be carried out and the Commission needed guidance on how it should be done. Commissioner Clotney seconded the motion. She thought it was strange to do a review on the Town Manager and ask her to conduct the research. Commissioner Clotney believed the Commission should do the research on their own time.

Vice Mayor McIntee said the Commission agreed that whatever was discussed at roundtable would not go on the next agenda. Commissioner Dodd said the intent of discussing the agreement at the roundtable was to determine whether it should go on the agenda and be discussed in public with public input.

Commissioner Silverstone said during the roundtable that he and Vice Mayor McIntee were not present during the time it was discussed and it was not brought to their attention when they arrived. Commissioner Silverstone felt there was no need to review the Town Manager as he reviewed her every time he went into her office. He pointed out that she had the right to review the Commission also.

Vice Mayor McIntee felt the discussion at the roundtable was a one sided discussion to put it on the agenda. He believed this was harassment and a continual attack on staff.

Commissioner Dodd said there was a quorum at the roundtable and was very constructive at the first part of that meeting. He welcomed a review by the Town Manager and believed it should be done as a formal review and said he would take the lead and do his own research. Commissioner Dodd said he proposed his motion

because he wanted to obtain feedback from the Commission as to whether the dais should do it as a whole or individually.

Commissioner Clotley made a motion to discuss the details at the next roundtable. She did not believe the details should be discussed at a Commission meeting.

Mayor Minnet said it was in the contract that the Town Manager had a review and the Commission should look at that. She was certain that the Town already had a review process that they followed.

Vice Mayor McIntee did not believe there was a rule or any guidelines on how to review the Town Manager.

Vice Mayor McIntee made a motion to table indefinitely.

Mayor Minnet inquired as to whether a vote was needed prior to the motion to table. Attorney Trevarthen stated that a motion to table took precedence unless it is withdrawn.

Vice Mayor McIntee withdrew his motion. Commissioner Dodd withdrew his original motion and Commissioner Clotley withdrew her second.

Commissioner Clotley made a motion to discuss at the next roundtable. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- i. Discussion and/or action concerning Vice Mayor's inaccurate allegations made at Roundtable meeting dated April 2nd regarding a Commissioner's direct contact with the State Representative concerning funding of the Palm Club sewers (Commissioner Dodd)

Commissioner Dodd said that one of the Commissioners made an allegation that he had contacted a State official to take away any funding for the Palm Club sewers. He said the accusation was false. He wanted to go on record that he asked the Town Manager to insure that the State representative was fully aware that the Palm Club was private land and he did believe the money should be spent on private property. Commissioner Dodd added that he wanted the State representatives to be 100% aware of the true situation before lobbying on behalf of the Palm Club as it would jeopardize any chance of future funding to the Town.

Vice Mayor McIntee read the words from the video of the roundtable and also the minutes of that meeting that proved he never accused Commissioner Dodd of calling the State. He added that Commissioner Dodd publicly stated that he would make sure that the officials were properly informed.

Commissioner Silverstone said the issue was about providing sewers to the Palm Club. He said if the government gave options to receive funding the Town should look at the

options. Commissioner Silverstone stated that shutting that door was not the way to go. He believed it was to the Town's benefit to look at negotiating options. There was no further discussion.

- j. Discussion and/or action concerning budget for this year's 4th of July event (Commissioner Dodd)

This item was removed at the April 14, 2009 - duplicate of item 16g

- k. Discussion and/or action concerning lack of lighting in the Pavilion with regard to public safety (Commissioner Dodd)

Commissioner Dodd found lighting plates inside the top of the pavilion, and questioned why there wasn't any lighting and whether the Town was liable if someone got hurt. He wanted a workshop to discuss lighting for the pavilion, in the parking lots and turtle lighting.

Commissioner Clotey said the plans were approved specifically to have no lighting. She said that made no sense to her.

Assistant Town Manager Olinzock advised that the administration was working on answers as they understood there was a concern.

Commissioner Silverstone added that the Department of Environmental Protection would not allow lighting because of the sea turtles. He believed the lighting was a safety issue and the Town should look into providing acceptable lighting.

Attorney Trevarthen stated that the permit condition stated no lighting and had not yet found any cases on the issue.

Vice Mayor McIntee requested for the next agenda emergency installation of temporary lights and to have Town staff determine the cost of temporary lighting.

Mayor Minnet made a point of information to Attorney Trevarthen. She said the Town had an Ordinance in place regarding turtle lighting and asked whether they would be going against the Ordinance by putting up temporary lighting.

Vice Mayor McIntee added to his motion to investigate lighting regarding sea turtles. Commissioner Silverstone seconded the motion. Commissioner Dodd suggested the Commission defer his item to the next meeting.

Assistant Town Manager Olinzock advised that he had received confirmation from Lou Fisher, Broward County Sea Turtle Lighting regarding his request for a workshop on May 18, 2009.

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

Commissioner Dodd made a motion to defer this item to the April 28, 2009 Commission meeting. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- l.** Discussion regarding AMR ambulance service (Vice Mayor McIntee)
This item was discussed at the April 14, 2009 Commission meeting.
- m.** Discussion regarding recusal of Mayor during Waste talks (Vice Mayor McIntee)
This item was removed at the April 14, 2009 Commission meeting - problem resolved
- n.** Discussion and/or action regarding supplementary ideas to be included in the Commercial Pavilion (Commissioner Silverstone)

Commissioner Silverstone suggested putting a compass on the floor of the pavilion that showed the longitude and latitude of where Lauderdale-By-The-Sea was located. He was also looking at a sun dial. Commissioner Clotey thought it was too late to rip up the floor. Mayor Minnet suggested the community put their suggestions in the suggestion box or in the Town Topics.

- o.** Discussion on economic viability of the Town (Commissioner Silverstone)

Commissioner Silverstone said there was some discussion that the Town was in the red because of a loan. He gave assurance that the Town had enough cash in the bank to pay that loan. Commissioner Silverstone said there was more money coming in than going out.

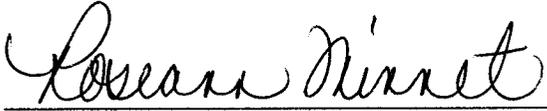
17. TOWN ATTORNEY REPORT

There were no reports.

18. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 4:35 p.m.

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

Town Commission Regular Meeting
April 20, 2009 continued from April 14, 2009

ATTEST:

June White
Town Clerk, June White

5/12/09
Date

