

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

**4505 Ocean Drive**

**Tuesday, October 12, 2010**

**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 Stuart Dodd, Commissioner Birute Ann Clotley, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffman, Town Clerk June White, and Deputy Clerk Nekisha Smith.

#### **2. PLEDGE OF ALLEGIANCE TO THE FLAG**

#### **3. INVOCATION**

Mayor Minnet called for a moment of silence.

#### **4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS**

Mayor Minnet stated that an additional request for free parking had been made for Consent items 9a and 9b. She also noted the addition of the item, "transfer of location for the Music by the Sea event on October 30, 2010", to the Consent agenda as item 9f.

Attorney Trevarthen stated that information was received in relation to the Town's involvement with the challenge to Senate Bill 360. Mayor Minnet stated that it would be addressed under the Town Attorney report.

Mayor Minnet welcomed Constance Hoffmann as this was her first Commission meeting as the "official" Town Manager. She added that October was the start of the new schedule of Commission meetings; one (1) regular Commission meeting and one (1) Roundtable meeting. Mayor Minnet said that the schedule was a work in progress and under the Resolution it could be changed to fit the needs of the Commission and Town staff. Attorney Trevarthen stated that the Resolution was written to be open-ended which allowed the Commission to have meetings when they were needed.

#### **5. PRESENTATIONS**

There were no presentations.

## 6. PUBLIC COMMENTS

Linda Ritchie, stated that the Oktoberfest was on Saturday, October 16, 2010, 6:00 p.m. in Jarvis Hall. She added that people could contact her through the website. Ms. Ritchie encouraged everyone to become a member of the Property Owners Association at a cost of \$10 per year. She stated that the Property Owners Association Board members were JJ Jones, Liliola Grey, Bonnie Clark, Marilyn Clark and Bill Shoman.

## 7. PUBLIC SAFETY DISCUSSION

### a. BSO Police Monthly Report - September 2010 (Chief Oscar Llerena)

Vice Mayor Dodd asked for an update on recent events in Town. Chief Llerena stated that after three (3) weeks of searching, they apprehended a burglary suspect. He added that BSO was doing their best to stay on top of prescription pill issues and narcotics. Chief Llerena said there were two (2) great arrests in October and that he was proud of his Deputies.

Vice Mayor Dodd inquired of the status of the cameras. Chief Llerena said there were two (2) phases to the project; an upgrade to the infrastructure and placement of additional cameras in approximately one (1) month. Chief Llerena stated that license plate readers required expensive hardware.

Commissioner Clotey asked whether BSO could place surveillance cameras in some of the neighborhoods to cut back on crime. Chief Llerena said there were six (6) burglaries in October which was high for this Town, and BSO caught the burglar. He added that the cameras would be of better service if they were kept on the major roadways to capture traffic entering the neighborhoods.

Commissioner Vincent urged Chief Llerena to advise Town residents to feel free to install cameras on their own properties. Chief Llerena stated that would be very helpful.

Commissioner Sasser thanked Chief Llerena for doing a great job. He urged residents to look at the agenda backup for the BSO report on the Towns website.

Mayor Minnet asked that Chief Llerena explain the recycling box in the BSO office. Chief Llerena explained that BSO was collecting aluminum pop tops that benefitted cancer research charities.

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

### b. VFD Fire Monthly Report - September 2010 (Chief Steve Paine)

Commissioner Vincent requested updates on fire training with the beach patrol as it was not in the current report. Chief Paine said American Red Cross lifesaving training was scheduled to take place on the beach in November.

Vice Mayor Dodd asked for an explanation as to the steps taken to reduce medical calls and fire drill progress in the high-rise buildings. Chief Paine stated that the run cards were straightened out as to who and when they were to respond to medical calls. He said they planned to work out the kinks within 30 days. Vice Mayor Dodd stated that there would not be deterioration in the medical response; only that the VFD would not respond to unnecessary medical calls. Chief Paine stated that a PowerPoint presentation was planned for the VFD to aid in setting up their program and would be presented to the Commission at a future roundtable to receive their feedback. He said an educational program for the high rise buildings would follow.

Mayor Minnet asked whether any books or plans of the condominiums were provided to the VFD by BSO Fire Rescue. Chief Paine stated that the plans in the computer were not updated. He added that he was seeking a grant to help update the plans and eliminate the books. Chief Paine believed it would take approximately two (2) months. Mayor Minnet said she was not comfortable waiting that long.

Commissioner Sasser asked whether a response was being sent to the Board of Directors at the Fountainhead and requested that the Commission be copied on that response. Town Manager Hoffmann said the tapes on that particular call were being reviewed by Chief Paine, and that she and Chief Paine would speak to the Directors of Fountainhead in person to discuss all their concerns regarding that call, and would report back to the Commission. Commissioner Sasser asked whether Chief Paine should be in attendance when they discussed the VFD contract. Chief Paine confirmed that he would be in attendance.

Commissioner Clotley said that if the letter received from the Fountainhead was true, then it should not have happened. She asked whether other condominiums were in a similar situation. Chief Paine said the VFD was in the process of getting their records updated and an educational program was planned. Commissioner Clotley said she did not see how records could be missing.

Chief Paine stated that when the BSO Fire Rescue left the Town, records were turned over. He added that all the records were in the Building and Zoning Department and contained missing dates and years. Chief Paine said it was important to do yearly inspections. Mayor Minnet stated that it was the VFD's responsibility. She added that whatever was done in the past was the past, and it was up to Chief Paine to make sure the VFD had all the programs and communication with the 39 condominiums in Town.

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

c. AMR EMS Monthly Report - September 2010 (Chief Brooke Liddle)

Mayor Minnet said she observed an AMR ambulance driving into oncoming traffic and was speeding. Chief Liddle explained that AMR had a national driving policy that permitted driving into oncoming traffic under certain circumstances. He added that in that particular circumstance it was allowable as there was a critical patient on board. He agreed that the speed limit was exceeded and the driver was re-educated. Mayor Minnet asked whether the national policy was only for AMR or all ambulances. Chief Liddle was not sure whether every service had it.

Commissioner Vincent asked whether the policy gave the driver discretionary judgment calls. Chief Liddle said that although it was not encouraged, the operator must use sound judgment when necessary.

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

#### **8. APPROVAL OF MINUTES**

Commissioner Vincent made a motion to approve the minutes of the Special Public Hearing meeting and the Regular Commission meeting on September 27, 2010. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

#### **9. CONSENT AGENDA**

Mayor Minnet pulled all items from the Consent Agenda.

- a. Use of Jarvis Hall for a Sweet Sixteen Birthday Party, Saturday, November 6, 2010, 7:00 p.m. to 11:00 p.m. (Municipal Services Director Don Prince)

Vice Mayor Dodd made a motion to approve with free parking during the event in the Town Hall parking lot only. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- b. Use of Jarvis Hall for Morning Star Condominium annual meeting, Saturday, November 20, 2010, 11:00 a.m. to 2:00 p.m. (Municipal Services Director Don Prince)

Commissioner Clotney made a motion to approve with free parking during the event in the Town Hall parking lot only. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

- c. Special Event Application for a Public Menorah Lighting Ceremony on Sunday, December 5, 2010 (Interim Assistant Town Manager Bud Bentley)

Commissioner Vincent said he received letters from 101 Ocean, Inc., the Village Grill and Aruba Cafe allowing public use of their restrooms. He asked that that provision for portables be removed from the application.

Mayor Minnet asked for clarification on whether the applicant would be charged for the electrical use. Town Manager Hoffmann said they would not be charged.

Commissioner Vincent made a motion to approve and to delete the provision requiring portables and not to charge the applicant for electrical use. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

d. Modification to Advertising Policy to Fill a Position Permanently (Town Manager Connie Hoffmann)

Commissioner Vincent made a motion to approve. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

e. Valet Trial Period: 60-day Evaluation Report (Interim Assistant Town Manager Bud Bentley)

Mayor Minnet stated that the valet was working although it was not at the height of the season. She stated that there was an evaluation report that recommended another 60 day trial period.

Vice Mayor Dodd made a motion to approve. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

Town Manager Hoffmann later stated that the recommendation was actually a 90 - 91 day extension for valet or until February 27, 2011. She noted the motion was made for 60 days. Attorney Trevarthen stated there was no need to redo the motion as the motion to approve was general in nature. She said it could be interpreted to extend the valet service to February 27, 2011.

## 10. ORDINANCES - PUBLIC COMMENTS

### 1. Ordinances 1st Reading

a. Ordinance 2010-15: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 30 OF THE CODE OF ORDINANCES BY AMENDING SECTIONS 30-261, "B-1-A DISTRICT - BUSINESS" AND 30-271, "B-1 DISTRICT - BUSINESS" TO REVISE THE USES PERMITTED IN THESE ZONING DISTRICTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2010-15 by title. Development Services Director Bowman explained that this Ordinance would allow additional business uses within the B-1 and B-1A Business District. He added that staff recommended approval.

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

Vice Mayor Dodd inquired as to why the height section, line 143, section b (2), was included in the Ordinance. Attorney Trevarthen explained that this section was put together based on the study prepared by Planner Keller and recommended by the Planning and Zoning Board. She said sub-sections b (2) and b (4) and was existing text and included in order for the Commission to see all of the B1A provisions.

Commissioner Sasser inquired of the recommended recreational uses and the criteria. Attorney Trevarthen said that Planner Keller prepared the report with recommendations that included permitted uses and referred to conditional uses. She added that was not anticipated at the time of the Notice of Intent.

Commissioner Sasser asked whether everyone considered all of the uses. He said he had questions and rather than go through each one, he inquired as to whether the Ordinance could be approved on 1st reading and placed on roundtable to discuss changes for 2nd reading. Attorney Trevarthen said yes.

Commissioner Clotley asked why the Ordinance was not written to allow all permitted uses except certain uses. Mayor Minnet wanted to encourage business coming in to town. She asked whether discretion could be given to the Town Manager to give flexibility.

Attorney Trevarthen said that from a legal standpoint, a list of prohibited uses and a list of permitted uses were the most common style nationally. She added that it was possible to write in a phrase that said "or similar uses", creating an interpretation that could be carried out by staff; a process would need to be put in place.

Mayor Minnet agreed with Commission Sasser to approve the Ordinance on 1st reading and move it to Roundtable for further discussion.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-15 on 1st reading and to place on the October 26, 2010 Roundtable agenda for discussion regarding possible changes. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- b. Ordinance 2010-16: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE VIII. SIGN REGULATIONS, TO REVISE PROVISIONS AND CLARIFY TERMS, REQUIREMENTS AND STANDARDS REGARDING SIGN REGULATIONS; FURTHER CREATING A NEW SECTION 30-510, SEVERABILITY REGARDING SIGN REGULATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2010-16 by title. She explained that this ordinance would provide clarification and interpretation. Attorney Trevarthen added that the severability clause was good to have if the Ordinance was challenged.

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 Vincent asked for clarification on the language "depicting any part of the human body was prohibited". He asked whether that would be something that was deemed offensive. Attorney Trevarthen noted that that particular language was in the existing sign code and was a policy question. She said she could only speculate what the intent was. Commissioner Vincent referred to the real estate signs section on page 16, line 665, which indicated that the name and phone number shall be listed. He said the names and phone numbers change and as a result, they would have to purchase new signs all the time. Commissioner Vincent asked to have that language removed. Attorney Trevarthen stated that was also existing text and the Commission could recommend changes to the existing language.

Mayor Minnet stated that the Town Attorney brought this Ordinance forward as an interpretative code change.

Attorney Trevarthen stated that there were a few areas that were discussed for legal reasons and those areas were refined to address implementation problems, although they may have gone further than the legal limit. Mayor Minnet stated that if the Commission felt that the whole Ordinance needed to be reviewed, that it be done cumulatively. She inquired as to whether the Commission wanted to take the Town Attorney's recommendations or create a new sign ordinance.

Commissioner Sasser did not agree with the Town Attorney because changes were made to address inconsistencies and implementation issues. He suggested the Commission send the Ordinance back to the Planning and Zoning Board and do it the right way.

Attorney Trevarthen stated that where there was inconsistency, the decision rule was to preserve the way in which the code was interpreted over time.

Vice Mayor Dodd believed all the issues needed to be addressed properly, including the number of signs that were non-conforming. He believed the current sign code needed to be looked at in its entirety. Commissioner Clotey believed the ordinance needed to go back to the Planning and Zoning Board.

Vice Mayor Dodd stated that the Planning and Zoning Board needed direction as to where the Commission was headed. He thought that it may need to go to Roundtable first to determine that direction. Mayor Minnet believed a workshop was needed to obtain public and business input. She added that it was very costly because it fell under a Notice of Intent that needed advertising. Attorney Trevarthen said a lot of staff time and planning consultants would also be needed.

Commissioner Clotey inquired as to whether old signs could be grandfathered in. Attorney Trevarthen stated that they were the non-conforming signs.

Attorney Trevarthen advised that the Commission could adopt the Ordinance on 1st reading or defer the Ordinance for Roundtable discussion. She reminded the Commission that they would

not be able to vote at the Roundtable.

Town Manager Hoffmann pointed out that the October 26, 2010 Roundtable agenda contained over fifteen (15) items. Mayor Minnet believed that at that Roundtable the Commission would need to discuss parameters for the Roundtable as they were becoming very lengthy.

Commissioner Sasser asked whether the Planning and Zoning Board could begin some of the work such as meeting with the businesses. He recognized that it was a lot of work but needed to be done.

Commissioner Sasser made a motion to defer Ordinance 2010-16 to the Planning and Zoning Board for them to work with staff and the businesses in Town and to forward their recommendations to the Commission.

Attorney Trevarthen added that during the Planning and Zoning Board process a new Notice of Intent may be brought forward and that took a couple of months. She said that while the Planning and Zoning worked, staff could run through the time frame on the broader Notice of Intent so that everything would come together when presented to the Commission. Commissioner Sasser agreed. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

Mayor Minnet requested that the Town Attorney briefly explain what the Notice of Intent was under the Town Attorney Report.

- c. Ordinance 2010-17: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS" TO CREATE SECTION 30-22 "ZONING RELIEF PROCEDURES" TO ADDRESS POSSIBLE UNINTENDED VIOLATIONS OF FEDERAL AND STATE LAWS IN THE IMPLEMENTATION OF THIS CODE OR ITS RELATED RULES, POLICIES, AND PROCEDURES; PROVIDING FOR SEVERABILITY, CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2010-17 by title. She explained that the provision was not intended to apply until every other aspect of the code was exhausted to avoid a possible law suit.

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

Vice Mayor Dodd made a motion to adopt Ordinance 2010-17 on 1st reading. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- d. Ordinance 2010-18: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-313(31) "ACCESSORY BUILDINGS AND

**STRUCTURES," OF THE CODE OF ORDINANCES TO AMEND REQUIREMENTS FOR SHEDS, STORAGE BUILDINGS AND OTHER ACCESSORY BUILDINGS AND STRUCTURES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE**

Attorney Trevarthen read Ordinance 2010-18 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 Vincent thanked Development Services Director Bowman for following through with this Ordinance. Commissioner Sasser also thanked staff for adding the Planning and Zoning minutes along with other meeting minutes to the backup.

Mayor Minnet inquired as to how it would be monitored; how code enforcement would know whether someone had a Rubbermaid shed that blew away. She believed this needed to be addressed better; she was not pleased with Ordinance 2010-18.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-18 on 1st reading. Commissioner Sasser seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

Commissioner Sasser wanted to hear more on Mayor Minnet's concerns. Attorney Trevarthen suggested that the Ordinance could be discussed and changed at the 2nd reading in November. Mayor Minnet said she would accept approving Ordinance 2010-18 on 1st reading. She felt it was important to see what other coastal communities did. Vice Mayor Dodd suggested placing on the November Roundtable and have the 2nd reading in December. Attorney Trevarthen said that would be acceptable.

Vice Mayor Dodd made a motion to place Ordinance 2010-18 on the November 22, 2010 Roundtable meeting agenda and place on the December 7, 2010 Commission meeting for 2nd reading. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

**2. Ordinances 2nd Reading**

- a. **Ordinance 2010-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE BY-THE-SEA, FLORIDA, AMENDING CHAPTER 10 "GARBAGE AND REFUSE", ARTICLE III "SOLID WASTE", DIVISION 1 "GENERALLY" BY ADDING SECTION 10-46 ENTITLED "DEBRIS COLLECTION ON PRIVATE ROADWAYS DURING AN EMERGENCY", PROVIDING FOR DEBRIS REMOVAL ON PRIVATE COMMUNITY STREETS IN EMERGENCIES FOR PUBLIC SAFETY PURPOSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE *Approved on first reading at the September 14, 2010 Commission meeting.***

Attorney Trevarthen read Ordinance 2010-14 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 Sasser questioned whether only the Town Manager had the ability to declare a state of emergency. He believed the Town Charter allowed the Mayor to do so. Attorney Trevarthen explained that the Town Charter stated that the Mayor may govern through proclamation in the event of a state of emergency, and that type of emergency could only be declared by the Town Commission and therefore, the Mayor's involvement would be limited. Attorney Trevarthen added that Ordinance 2010-14 gave authorization to additional people in the event that the primary person was incapacitated.

Commissioner Sasser believed the Town Attorney stated that the only way a state of emergency could be declared was through the Town Commission. Attorney Trevarthen said she was concerned with making the Mayor as part of Ordinance 2010-14, as the person to declare an emergency, as the only way the Mayor could declare the emergency would be through the Town Commission. She explained that it was customary for staff to play the role and in many cases the declaration fell to a Chief as first responder.

Commissioner Sasser asked that if the Town Commission stated the emergency, should Ordinance 2010-14 state that "should the Town Commission state the emergency", that the Mayor could do this instead of the Town Manager. Attorney Trevarthen did not believe it needed to be written that way, as that section of the Charter only dealt with the Mayor governing by proclamation. She said she had concerns that if the Mayor was named in this Ordinance, it would be challenged that it was not done properly. Commissioner Sasser said he wanted to make certain, whether it was a person or a body, that it was the Commission making the language as to what it truly was.

Town Manager Hoffmann stated that the language in this Ordinance only related to debris collection, which was a service issue in mobilizing the resources to clear the roadways. She did not see where that would rise to the elevation where the Mayor would have to get involved to govern the community.

Commissioner Sasser said he was concerned that someone might sue the Town because the Town Manager did not declare the emergency; the Mayor or the Commission did.

Attorney Trevarthen stated that this was a recommendation from FEMA in order to obtain reimbursement.

Mayor Minnet believed it was important to defer this to get clarification from the Town Attorney or the Town Manager. Commissioner Sasser stated that if the Commission and the Town Attorney felt that the language in the Ordinance covered the Town and everyone else was comfortable with it, then he would be ok with voting on it tonight, rather than deferring it.

Municipal Services Director Prince stated that the language was also in the Comprehensive Emergency Plan also provided it was the Town Manager or designee.

Attorney Trevarthen did not believe the Town Commission had to declare an emergency. She explained that the Town Charter said that when the Mayor played the role of governing the Town, the Town Commission must declare the emergency. Attorney Trevarthen did not believe it was best to name the Mayor in this Ordinance; the Ordinance worked as intended and provided FEMA with the basis needed in order to reimburse the Town.

Commissioner Sasser asked whether the Charter allowed the Town Manager to do this. Attorney Trevarthen stated that the Charter did not prevent it.

Commissioner Vincent wanted confirmation that this was only about getting funds back from FEMA if the Town Manager or designee called an emergency.

Municipal Services Director Prince explained that if the Town went in to clear private roads after a natural disaster, the Town would not get reimbursed from FEMA without this Ordinance in place. Commissioner Vincent asked for clarification that not only was this ordinance about public safety, it was about getting reimbursement from FEMA.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-14 on 2nd reading. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

**11. RESOLUTION - "Public Comments"**

- a. RESOLUTION 2010-33: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING PARTICIPATION IN THE LOCAL GOVERNMENT SURPLUS FUNDS TRUST FUND INVESTMENT POOL (FLORIDA PRIME) AND AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO TAKE ACTIONS NECESSARY TO CONDUCT TRANSACTIONS WITH FLORIDA PRIME, PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION, SEVERABILITY, AND AN EFFECTIVE DATE.

Attorney Trevarthen read Resolution 2010-33 by title.

Acting Finance Director Haag explained that Resolution 2010-33 allowed the Town to continue to do business with the State Board of Administration.

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

Vice Mayor Dodd asked what the current balance was. Acting Finance Director Haag believed the amount in both the A and B funds were approximately \$160,000.

Commissioner Sasser made a motion to adopt Resolution 2010-33. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

- b. RESOLUTION 2010-34: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AUTHORIZING PARTICIPATION IN A COMMERCIAL CREDIT CARD

**ACCOUNT WITH SUNTRUST BANK AND AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ESTABLISH AND ADMINISTER THE ACCOUNT AND CONDUCT TRANSACTIONS WITH THE ACCOUNT, PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION, SEVERABILITY, AND AN EFFECTIVE DATE**

Attorney Trevarthen read Resolution 2010-34 by title.

Acting Finance Director Haag said this was a first time request for the use of a credit card to take advantage of discounts, online purchases, and to avoid sales tax that was incurred by staff and not reimbursed. He said that the procurement policy would continue to be followed.

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 Vincent asked whether this was common in other municipalities. Acting Finance Director Haag said it was throughout the country. Commissioner Vincent asked whether it was common practice to use a purchase order system over a certain amount of dollars to track purchases, and whether the Finance Director would recommend using a Town credit card rather than a personal credit card. Acting Finance Director Haag stated that the Town had a purchase order system in place that included credit card purchases.

Town Manager Hoffmann explained that, in some cities the use of individual staff cards bypassed the bidding process up to a certain dollar amount, but Town staff was not requesting that. She said Town staff asked for two (2) credit cards to facilitate online purchases and to avoid sales taxes.

Commissioner Sasser asked whether there were any fees associated with that and did the Town check with other banks besides SunTrust. Acting Finance Director Haag said he would find out whether there was an annual fee. He added that the Town only used SunTrust because it was the Town's primary bank. Acting Finance Director Haag said they were going to be bidding banking services this year. Commissioner Sasser said he wanted Acting Finance Director Haag to make sure there was a grace period. Acting Finance Director Haag said they could set up automatic withdrawals from the Town's checking account to avoid interest.

Vice Mayor Dodd assured everyone that the credit cards would be in the names of the Town Manager and Assistant Town Manager and that the records would be public record.

Commissioner Vincent stated that with the use of a personal credit card, sales tax would be charged and with the use of the Town credit card the Town would be exempt from sales tax on purchases.

Acting Finance Director Haag stated that when personal credit cards were used by Town staff to purchase items for the Town the staff paid the sales tax out of their own pocket as Town policy was that they were not reimbursed the sales tax.

Vice Mayor Dodd made a motion to adopt Resolution 2010-34. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- c. RESOLUTION 2010-35: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING A CONSTRUCTION AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION, INSTALLATION AND MAINTENANCE OF SIGN IMPROVEMENTS WITHIN THE STATE RIGHT OF WAY; DIRECTING THE APPROPRIATE TOWN OFFICIAL TO EXECUTE THE AGREEMENT; PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Attorney Trevarthen read Resolution 2010-35 by title.

Municipal Services Director Prince explained that Resolution 2010-35 provided State authorization to allow us to install signs directing traffic to the Bougainvillea (A1A) and El Prado parking lots. He added that the Town would incur the cost of the signs along with the costs to install and maintain the six (6) or seven (7) signs that would be installed on the right of way.

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 Sasser made a motion to adopt Resolution 2010-35. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

- d. RESOLUTION 2010-36: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADOPTING THE FIRST AMENDMENT TO THE AGREEMENT BY AND BETWEEN THE TOWN AND THE LAUDERDALE-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT, INC. FOR FIRE PROTECTION AND FIRE PREVENTION SERVICES; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE

Attorney Trevarthen read Resolution 2010-36 by title.

Mayor Minnet opened the meeting for public comments.

Bill Vitollo wanted to make sure that the VFD would continue to respond to some medical calls where they were needed and not eliminate all medical calls. He suggested a time limit be placed on a percentage of calls and to work something out with Station Watch through the Town Manager and the VFD. Mr. Vitollo believed that the VFD should not respond to medical calls if they could not arrive within 10 minutes. He stated that fire inspections should be done by the VFD and agreed that a fire inspector should be appointed and approved by the VFD and the Town Manager. Mr. Vitollo believed that the command vehicle should stay within 35 miles outside of Town.

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

Commissioner Sasser said that the annual contribution of \$725,580 plus \$187,314 for equipment purchases equaled \$912,894. He pointed out that the regular 4% increase in the original contract equaled \$912,870. Commissioner Sasser did not believe the Town was saving any money. Town Manager Hoffmann explained that the Town would not save in the first year but would in the second year. She said the base would be lower for future years by taking out the automatic adjustment. Town Manager Hoffmann added that the monies for purchasing of equipment (\$187,314) would not happen every year and that amount would be negotiable.

Commissioner Sasser questioned why there was no cap in regards to the VFD's proposed budget (Budgeting Process, Section 6.1.c). Town Manager Hoffmann explained that the decision was ultimately made at the Commission level. She added that if an agreement could not be reached by September 1st of each year, the Town could decide that the contract amount would revert back to \$725,580.

Commissioner Sasser questioned how the \$187,314 was spent. Manager Hoffmann said the revised contract said both the Town and the VFD had to mutually agree on how the money was spent and, if no agreement was reached, the money would not be spent and would be held by the Town for the duration of the agreement, or until they agreed. Commissioner Sasser asked whether the apparatus purchased would belong to the Town. Town Manager Hoffmann said it would.

Commissioner Sasser questioned a process of leasing equipment. Town Manager Hoffmann said that would be something that would have to be looked into. Commissioner Sasser asked whether the fire inspection fees were legal for the Town to take. Town Manager Hoffmann said that according to State law, fees charged for fire inspections could only be used to pay the cost of doing the inspections. She added that the funds collected were placed in the Fire Fund.

Commissioner Sasser asked why the Town paid for the VFD pension plan annual audits. Town Manager Hoffmann said the Code of Ordinances required the Town to do an actuarial evaluation, but the Finance Director recently determined it only needed to be done every other year, rather than annually.

Commissioner Sasser questioned the amount of hours required for training within one (1) year. He thought that two (2) weeks of training for life saving personnel was less than he believed to be necessary. Chief Paine stated that the Statute required a minimum of 40 hours for volunteer fire fighter training. He said the VFD exceeded that training.

Commissioner Vincent asked whether the VFD were able to spend money for the purchase of equipment or did they come before the Town first. Town Manager Hoffmann said they were able to make purchases within their budget without the Town's permission. Commissioner Vincent inquired as to whether the new contract said the VFD would have to return any of the reserves or the amount of money not spent for their equipment to the Town. Manager Hoffmann said it was not in the contract.

Commissioner Clotley believed that the fire fighters needed to respond to a certain percentage of calls. She was not sure what the percentage should be, but the members needed to be obligated to respond to a certain number of calls.

Chief Paine said it was already in the VFD Constitution Bylaws and Standard Operating Procedure. Commissioner Clotley asked whether the provision was removed. Town Manager Hoffmann said it was part of the negotiating process and that the revised contract was a big improvement from the current contract. She thanked the VFD for their cooperation. Commissioner Clotley had a problem with removing the provision; however, she said she would accept it as long as the provision was in the VFD Bylaws. She stated that everyone wanted trained and experienced fire fighters.

Vice Mayor Dodd believed there were excellent changes in the contract and the contract was fair to both parties. He believed the VFD would do their best to respond quicker than the minimum requirements.

Commissioner Sasser asked whether they could lower the 20% of calls to a level of comfort. Mayor Minnet suggested it just be stated "as per the bylaws of the VFD". Chief Paine said that the percentage was over the top and was taken from paid professional fire departments. He said the level of performance for a VFD was less restrictive. Town Manager Hoffmann said that neither the Chief nor the Board could make changes; it had to be voted on by the entire membership. She suggested adopting the contract and then she and Chief Paine could talk to the VFD Board about putting that provision back in the contract or modifying it in some fashion.

Mayor Minnet had concerns with the number of calls and said that as long as Chief Paine assured that the VFD bylaws addressed it, and that there was a minimum of 20% of calls, she would accept that. She believed it was important to have an Oversight Committee to address many questions and concerns. Mayor Minnet said there was much talent in the community who could bring experience and knowledge to the Board.

Vice Mayor Dodd made a motion to adopt Resolution 2010-36 as written and without changes. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

Mayor Minnet recessed the meeting at 9:20 p.m. and reconvened at 9:35 p.m.

Mayor Minnet asked whether the Commission wanted the Town Manager to come back with responses from the VFD regarding the issues that were discussed earlier.

Commissioner Clotley made a motion to authorize the Town Manager to continue negotiations with the VFD to clarify the 20% response time provision and obtain clarification regarding the hiring of a fire inspector. Commissioner Vincent seconded the motion.

Commissioner Vincent asked whether the VFD had the authority to hire a fire inspector without approval of the Town or the Town Manager. Town Manager Hoffmann said she would look into that issue.

Mayor Minnet clarified that the motion was in regards to discussion. Mayor Minnet wanted to add to the motion to have discussion regarding an Oversight Committee. Commissioner Clotey said she would not agree to the motion as it was a more controversial issue and needed to stand on its own.

Vice Mayor Dodd believed that the motion should not be limited to discussion on the subjects only approved by Commission and the Town Manager should be free to discuss other issues as they came up. Town Manager Hoffmann said she understood the motion and stated that there had been a give and take between the Town and the VFD as in all negotiations. She said that any issues that became stumbling blocks would be brought before the Commission.

The motion carried 5 - 0.

## **12. QUASI JUDICIAL PUBLIC HEARINGS**

## **13. COMMISSIONER COMMENTS**

Mayor Minnet said the Pier was recognized in the newspaper as a popular place for fishing. She encouraged people to vote on November 2, 2010 and thanked the Chamber of Commerce for the Fish Fry on October 6, 2010. She said it was a great event with many attendees. Mayor Minnet hoped do more recycling at every future event. She welcomed back members of the Women's Club and members of the Garden Club and encouraged the residents to become a member. Mayor Minnet said she had the pleasure of meeting the Basketball Coach from Boyd Anderson High School at the beach cleanup on Saturday. Mayor Minnet thanked Town staff for the backup and noted that it was available online for residents to look at and, should the residents have any questions as to what was going on, they should contact the Commission.

Commissioner Vincent had no comment.

Commissioner Clotey thanked the Chamber of Commerce for the Fish Fry although she was not able to attend. She reminded everyone to vote on November 2, 2010.

Commission Sasser thanked the volunteers for the Halloween event and stated that there was always room for more volunteers. He noted that Town staff sent out donation letters.

Vice Mayor Dodd complimented staff on the use of the agenda forms. He said they offered concise information on the direction staff intended to go. He stated there was nothing to report on the Hillsboro Inlet as there was no meeting in October. Vice Mayor Dodd said he was meeting with a local recycling contractor on Wednesday, October 13, 2010 to help people understand how the Town could increase recycling.

## **14. OLD BUSINESS**

## **15. NEW BUSINESS**

a. Commission meeting and Roundtable schedule for November and December (Town Clerk June White)

There was Commission consensus to keep the Regular Commission meeting on November 9, 2010 and reschedule the November 23, 2010 Roundtable meeting to Monday, November 22, 2010. The Commission also agreed to re-schedule the December 14, 2010 Regular Commission meeting to December 7, 2010 and reschedule the December 28, 2010 Roundtable meeting to December 14, 2010.

b. Commission approval of Three (3) Hardship Permit Applications (Town Clerk June White):  
\* Paradise by the Sea Motel \* Sea Cliff Apartments \* Parkhill Apartments

Vice Mayor Dodd made a motion to approve. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

16. TOWN MANAGER REPORT

Town Manager Hoffmann requested direction on whether the Chamber of Commerce was to receive the \$9,400 withheld by the previous Town Manager. She said that if the Commission desired that the money be issued, it should be done before the 2010 fiscal year closed out. Vice Mayor Dodd believed the Chamber of Commerce should not receive the \$9,400 in addition to their \$11,159 for advertising. Commissioner Sasser said that if the \$9,400 was in the budget last year, and it was not paid to them, it should be paid and taken off the \$11,159 advertising budget. He believed the Commission should stand firm on past commitments.

Mayor Minnet inquired as to whether the \$9,400 was still in the budget. Town Manager Hoffmann said the \$9,400 was from last year. Commissioner Vincent believed it was wrong to try and work it in with next year's budget. He said he would not want to take the money away from the Chamber of Commerce's advertising budget as they were different issues. He believed the Chamber of Commerce was entitled to the \$9,400.

Vice Mayor Dodd suggested reducing the amount for advertising to \$2,100 and pay them the \$9,400. He believed that if the Chamber of Commerce was guaranteed the \$9,400 they would not have requested \$11,159 for advertising; they would have asked for another \$2,100 in order to complete their budget. Commissioner Sasser agreed with Vice Mayor Dodd and wanted to keep them separate. He said he was in favor of paying the \$9,400 as long as discussion continued on the merits of this year's budget of \$11,159. Commissioner Vincent stated that adding the \$35,000 plus the \$11,159 to the \$9,400 brought the amount up to \$55,000 which the Chamber of Commerce originally requested. He did not believe that if the Chamber of Commerce had been granted the \$9,400, they would have requested \$45,000. Commissioner Vincent wanted to keep it separate; \$9,400 for the prior fiscal year and \$11,159 for the current fiscal year.

Commissioner Sasser made a motion to fund the Chamber of Commerce \$9,400 from the FY2009-2010 budget. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

Vice Mayor Dodd made a motion to reduce the \$11,159 expenditure for the Chamber of Commerce advertising budget to \$2,100. Mayor Minnet asked whether the Town was capable of doing the advertising through the Town's Public Information Officer. Town Manager Hoffmann said it was not within the Town's expertise. The motion died for lack of a second.

Commissioner Vincent made a motion to approve \$11,159 to the Chamber of Commerce for advertising. The motion died for lack of a second.

Commissioner Vincent made a motion to approve an expenditure of \$5,579, half of the \$11,159 for the Chamber of Commerce advertising. The motion died for lack of a second.

Commissioner Clotey said she had no problem paying the money for advertising but wanted to see an agreement with the Chamber of Commerce as to what they would do for the Town. She suggested the Commission postpone until an agreement was in place. Commissioner Sasser believed the advertising amount should be in the contract; however, if the amount was agreed upon, it could be added to the contract as an exhibit. Mayor Minnet said she would not agree to any amount without an agreement.

Commissioner Clotey made a motion to contract with the Chamber of Commerce that would delineate exactly the responsibility of the Chamber of Commerce to the Town and the Town to the Chamber and then talk about the money. Mayor Minnet asked whether Commissioner Clotey wanted to frame her motion to include the amount of advertising for the budget. Commissioner Clotey believed that could be put in there as an agreed variable amount. The motion failed for lack of a second.

Town Manager Hoffmann asked for some indication as to whether the Commission desired to fund any amount of advertising and whether the concern was with the advertising plan. She said she would work with the Chamber of Commerce if the plan was not detailed enough.

Vice Mayor Dodd pointed out that the Chamber of Commerce gave the Commission an \$11,159 sample budget that included advertising on Facebook, Google and Orbitz in Europe, Canada and the United States. He said the Commission approved the \$9,400 and in order to match their advertising budget the Commission would need to give them approximately \$1,759.

Commissioner Vincent did not want to put the two (2) amounts together as they were separate.

Commissioner Sasser asked whether the Commission could make an agreement with all the terms and conditions, with an overall funding as well as the \$11,159 for marketing and bring it back for Commission review and drop the numbers in at that time.

Commissioner Clotey believed there were two (2) separate items; the \$11,159 for advertising and the \$9,400 owed to them. She said the Commission should not tell them how to spend that money.

Mayor Minnet said that this year the Commission agreed to fund the Chamber \$35,000. She asked whether in prior years, the Chamber of Commerce was able to do this type of advertising without this additional funding. Town Manager Hoffmann said the Chamber of Commerce spent a sizeable amount in prior years on advertising, and when the Chamber received additional money from Broward County they were able to spend the money on advertising. She added that and they were not able to do so last year without the \$9,400. Commissioner Clotley asked whether the Chamber of Commerce was willing to adjust the requested amount since they were getting the \$9,400.

Mayor Minnet passed the gavel in order to make a motion.

Mayor Minnet made a motion to enter into an agreement with the Chamber of Commerce and fund \$11,159 for advertising, with the understanding that any funds the Chamber of Commerce received from Broward County would be returned to the Town. Commissioner Vincent seconded the motion. The motion carried 4 - 1. Vice Mayor Dodd voted no.

There was no further discussion regarding the Chamber of Commerce.

Town Manager Hoffmann stated that \$65,160 was spent from the LETF fund for the renovation of the Public Safety Building. She added that out of that amount \$12,141 was spent on the Jail cell and approximately \$9,700 was spent on the sally port which equaled \$21,841. Town Manager Hoffmann explained that \$43,319 was spent on the general renovation of the building. She believed that Vice Mayor Dodd suggested that only the \$21,841 was the legitimate expenditure of LETF funds and that the remaining funds should be returned to the LETF fund and charged to the General Fund. Vice Mayor Dodd confirmed. Town Manager Hoffmann requested Commission direction on that issue.

Vice Mayor Dodd made a motion to return \$43,319 to the Law Enforcement Trust Fund (LETF) from the Undesignated Fund Balance of the General Fund. Mayor Minnet seconded the motion. The motion failed 2 - 3. Commissioner Clotley voted no. Commissioner Vincent voted no. Commissioner Sasser voted no.

Commissioner Sasser inquired as to whether the VFD beach patrol caused any liability through the perception of that being life saving services. Attorney Trevarthen believed that the conclusion to previous discussions was that that it was ok with what beach patrol was doing. Commissioner Sasser requested that the Town Attorney email that information to the Commission.

Commissioner Vincent preferred that the beach patrol be certified as lifeguards for the simple reason that if a certain perception was given to the general public that beach patrol may be lifeguards, they should be certified and certified without additional cost to the Town. He added that there should not be any signage on the ATV's stating that they were certified.

Commissioner Clotley believed the signs on the ATV's that stated that they were beach patrol. She added that the Fire Chief was getting the fire fighters certified as lifeguards.

Commissioner Vincent stated that as a Commissioner he already knew that the VFD beach patrol were not lifeguards. He did not believe the general public knew that when they saw the ATV's patrolling the beach.

There was no further discussion regarding beach patrol.

Mayor Minnet said that Town code stated that the Town shall provide beach parking permits.

Assistant Town Manager Bentley explained that beach and resident permits had been combined. He added that all beach parking was reassigned to read "resident permit only" but there was no time limit on those spaces. Mayor Minnet requested this item be placed on the October 26, 2010 Roundtable. Assistant Town Manager Bentley stated that the October 26, 2010 Roundtable was stacked and he suggested that a draft revision to the Code be presented to the Commission for the November Roundtable. Commissioner Vincent inquired as to how the parking situation would be handled until that time. Assistant Town Manager Bentley said Parking Enforcement would recognize that there was unlimited parking in those areas. Town Manager Hoffmann stated that staff would use discretion in dealing with those abusing the unlimited time limit in those spaces.

#### **17. TOWN ATTORNEY REPORT**

Attorney Trevarthen stated that discussions continued regarding the Reef contract and she will report back at later date.

Attorney Trevarthen explained that the Senate Bill 360 Challenge was brought by twenty (20) cities and counties against Senate Bill 360, against the Senate, the Speaker of the House, the Governor and the Secretary of State. She added that the Challenge alleged that Senate Bill 360 violated the Florida Constitution in two (2) ways: 1) it violated the "single subject" requirement; and 2) it violated Article VII, Section 18(a), the unfunded mandates provision, by requiring local governments to "spend funds or take an action requiring the expenditure of funds" without the requisite vote of the Legislature.

Attorney Trevarthen explained further that Judge Francis found the provision in SB 360 which mandates local governments to adopt comprehensive plan amendments and strategies to "support and fund mobility" could require "minimum mandated expenditures statewide by 246 local governments" ranging from "\$10,150,944 to \$25,625,820." He found these amounts to be in excess of the Legislature's standard for determining whether a mandate is "fiscally insignificant" for purposes of the single subject requirement. She added that Judge Francis however, did not accept the single subject argument, and held that it was rendered "moot" (open to question) because the Legislature generally re-codified the entire Florida Statutes in the 2010 legislative session. Attorney Trevarthen explained that his order invalidated Senate Bill 360 in its entirety, including its permit extension provisions. Attorney Trevarthen stated that the Speaker of the House and the Senate President moved for rehearing, which was denied and an affordable housing group separately moved to intervene and sought rehearing, which was also denied. She added that the legislative defendants have now appealed the decision regarding the unfunded mandate issue. The City of Weston, as the lead plaintiff, determined

that, in addition to defending the appeal, the plaintiffs should cross-appeal as to the single subject issue, and request that the Florida Supreme Court hear the matter directly. Attorney Trevarthen said that the City of Weston would file the notice of cross-appeal on Thursday, October 14, 2010, and requested that each plaintiff indicate whether they did not wish to remain involved and defend the appeal and be included in the cross-appeal. She added that the City of Weston was not seeking any further financial contributions from the other local governments to participate in the appeal. Attorney Trevarthen asked whether the Commission wished to opt out.

Mayor Minnet believed the Commission needed time to review the information. Attorney Trevarthen stated that the City of Weston needed to know immediately and advised that he Commission could agree to stay in now and opt out later.

Commissioner Sasser made a motion to continue with the Cross Appeal for Senate Bill 360. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

**18. ADJOURNMENT**

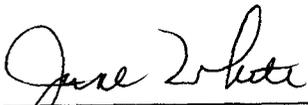
Commissioner Sasser made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:53 p.m.

**19. FUTURE REGULAR COMMISSION AGENDA ITEMS**

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



ATTEST:

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

11-12-10  
Date