

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

*4505 Ocean Drive*

*Tuesday, February 22, 2011*

*7:00 P.M.*

#### **1. CALL TO ORDER, MAYOR ROSEANN MINNET**

Mayor Roseann Minnet called the meeting to order at 7:15 p.m. Vice Mayor Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Manager Connie Hoffmann, Town Attorney Susan L. Trevarthen, Town Clerk June White, and Deputy Clerk Nekisha Smith.

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

#### **3. INVOCATION - Reverend George Hunsaker**

Reverend George Hunsaker gave the Invocation.

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

Mayor Minnet added Taste of the Beach as item 9m.

Town Manager Hoffmann stated that the South Florida Water Management District presentation was rescheduled for the March 8, 2011 Roundtable. Mayor Minnet stated that she preferred the presentation be scheduled for the March 22, 2011 Commission meeting as there would be more people present. Town Manager Hoffmann said she would re-schedule.

#### **5. PRESENTATIONS**

##### **a. South Florida Water Management District (Carol Morris)**

This item was to be rescheduled as stated earlier in the evening.

##### **b. Presentation of Proclamation - Earth Hour (Mayor Roseann Minnet)**

Mayor Minnet explained Earth Hour and read the proclamation into record. She encouraged everyone to turn off their lights between 8:30 and 9:30 p.m. on March 26, 2011.

## **6. PUBLIC COMMENTS**

Cindy Geesey thanked all the business owners for their donations for the RR&R Program (Rest Relaxation and Romance). She said RR&R donated meals, accommodations, gifts and gift certificates to the men and women of the USO military recently returned from overseas combat. She also thanked the Property Owners Association for allowing her to organize the Sandy Paws Pack, for the Walk the Animals for the Broward Humane Society. She said they raised \$2,903 so far with 10 more days to go. Cindy Geesey stated that the memorial plaque was not maintained properly by the Town. She believed that out of respect, the Town should maintain them.

Diana Kugler believed the Commission and staff did a great job regarding the parking ordinance. She did not agree with the sailboat design as Lauderdale-By-The-Sea was not a sailboat community. She said that she preferred the Seashell design.

Diane Boutin preferred to see all other islands on El Mar Drive done prior to the completion of El Prado island as they were already landscaped. She suggested that a crosswalk be added south of Commercial Boulevard at the public access between the Windjammer Resort and the El Mar Condominium. Ms. Boutin asked that the Commission make sure there would be sufficient money in the budget to maintain all the structures and elements for the A1A landscaping project.

Yann Brandt congratulated Finance Director Doug Haag for making accounting simple. Mr. Brandt stated that with all the items on the Consent Agenda, it appeared that the Town was sitting on a lot of money. He believed that there should be a plan to spend the money wisely and make sure that the money goes back to the taxpayers. Mr. Brandt urged the Commission not to waste the money.

Marc Brown attended a lecture at the Community Center and found that 10 to 12 people were denied attendance because they were snowbirds (a part-time renter). Mr. Brown explained that snowbirds had to sign up, fill out forms, and pay \$30 to join the Community Center. He believed that if the Town was to have a Community Center it should serve the community the best way it can. Mr. Brown suggested that the Community take another look at the way it was set up and perhaps tweak the requirements.

Guy Contrada invited everyone to the Taste of the Beach, February 23, 2011 from 6:00 p.m. to 9:00 p.m. He said there will be 35 restaurants, a silent auction and entertainment at \$30 per person.

Pete Sebastiani explained that SunTrust bank had attempted to obtain a parking permit for the evening hours over 14 months ago. He said he was told recently that perhaps

the permit would be issued sometime in June or July if all went well. Mr. Sebastiani said people used the parking lot at night and not only destroyed the sprinklers and the curb, but the garbage left behind had to be picked up daily. He added that in 2010 SunTrust had over \$6,000 in damage. Mr. Sebastiani stated that on any Friday or Saturday night there were 80 to 90 cars parked in the SunTrust parking lot. He asked the Commission to expedite the process.

There were no more speakers.

## **7. PUBLIC SAFETY DISCUSSION**

### **a. BSO Monthly Report - January 2011 (Chief Oscar Llerena)**

Mayor Minnet stated that she received numerous calls and complaints regarding dogs on the beach and the music. Chief Llerena said BSO increased patrol on the beach and implemented a general code enforcement sweep over the last two weeks. He said they found that a large percentage of the dogs on the beach were service animals; others were visitors that were not aware that dogs were not allowed on the beach. Chief Llerena stated that noise complaints were generally received on Sunday mornings and usually work related, such as with weed blowers and power tools. He added that most people did not know it was against the code and cooperated. Chief Llerena stated that BSO measured the noise for special events for approximately two weeks. He added that current code allowed a decibel reading of 90 decibels before 10:00 p.m. and 75 decibels after 10:00 p.m.; the readings indicated that the noise level was within code. Chief Llerena noted that the sound radiated but did not violate the code.

Chief Llerena said that the Deputy of the Month award went to Charlie Swift and support personnel who volunteered to adjust their hours when three deputies went out on extended leave.

Mayor Minnet inquired of a recent incident at a local hotel. Chief Llerena explained that it was an accidental injury; a railing gave way when a guest leaned on the balcony, the bolts came loose and he fell. He said there was nothing criminal involved.

Vice Mayor Dodd inquired as to when installation of cameras would take place at the entryways that would have the capability of a reading license plate numbers. Chief Llerena stated that the portable license plate reader in use was a new technology that allowed reading tags for stolen cars. He said additional research was being done on new cameras and would be forthcoming.

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

### **b. VFD Monthly Report - January 2011 (Chief Steve Paine)**

Mayor Minnet inquired of the ISO (Insurance Services Organization) rating. Chief Paine said ISO gave the VFD an unofficial score of 79.64, just shy of a Class 2. He said VFD went from a Class 4 to just below a Class 2. Chief Paine said ISO could come back in 9 months to 1 year to re-rate VFD.

Commissioner Vincent thanked Chief Paine for getting the rating improved for the Town. He asked whether there was a dress code policy for the men and women driving the ATV vehicles. Chief Paine stated that they wear their jump suits or uniforms. They could not wear beach shorts when they ride in the front seat and firefighters were not required to wear bumper gear or boots in route to a fire; when they arrived at a scene they were required to put their gear on.

Commissioner Clotey thanked Chief Paine for getting the Town a new ISO rating and a lower insurance rate. She thanked Chief Paine for the improvements regarding training.

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

**c. AMR Monthly Report - January 2011 (Operations Manager Brooke Liddle)**

There was no discussion on this item.

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

**8. APPROVAL OF MINUTES**

In regards to item 8a, the Minutes of January 11, 2011 Special Meeting, Mayor Minnet questioned whether Commissioner Clotey's motion to discuss was in the correct place as her motion came after Public Comments. Clerk White explained that the motion was made for Commission discussion and was in the correct order.

In regards to item 8b, the Minutes of January 11, 2011 Roundtable meeting, Mayor Minnet questioned a typo on pages 6 and 7. Clerk White stated that a sentence was repeated twice and had been corrected.

In regards to item 8d, the January 25, 2011 Regular Commission meeting, Mayor Minnet questioned whether the motion and second was correctly portrayed. Clerk White said the motion and second was correct as was written.

Commissioner Vincent made a motion to approve the minutes with the changes as stated. Commissioner Clotey seconded the motion. The motion carried 5-0.

**a. January 11, 2011 Special Meeting Minutes**

- b. January 11, 2011 Roundtable Meeting Minutes
- c. January 25, 2011 Workshop Meeting Minutes
- d. January 25, 2011 Regular Commission Meeting Minutes
- e. February 8, 2011 Special Meeting Minutes
- 9. CONSENT AGENDA

Mayor Minnet pulled all items on the Consent Agenda for discussion.

- a. Special Event Application for Angel's Pediatric Heart House "Toes in the Sand" event, April 2, 2011 (Code Compliance Officer Kimberly William)

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

- b. Special Event Application for Village Grille and 101 Ocean's St. Patrick's Day Party, March 17, 2011 (Code Compliance Officer Kimberly William)

Vice Mayor Dodd was concerned with having two St. Patrick's Day parties on the same day. He stated that the site plan indicated that the pier parking lot was not available and the valet service at 101 Ocean would be using the El Mar Drive parking lot. Vice Mayor Dodd suggested opening part of El Mar Drive for event parking as he believed there would be large number of people at the two events.

Assistant Town Manager Bentley stated that staff did not have any objection. He asked whether Vice Mayor Dodd wanted to open sections north of the square on Commercial Boulevard. Vice Mayor Dodd said he wanted to open sections south of the Square, down to the Windjammer. Assistant Town Manager Bentley pointed out there was only one lane south of the square and parking was not allowed in that section. Mayor Minnet asked whether multiple events occurred New Year's Eve. Assistant Town Manager Bentley said there were, but one event was on El Mar Drive and the other was on Commercial Boulevard. Mayor Minnet asked whether additional parking was allocated for those events. Assistant Town Manager Bentley said there was not. Mayor Minnet did not believe there would be any more people at the St. Patrick's Day event than there was at the New Year's Eve event. She added that she preferred that people fill up the parking lots and pay for metered parking.

Vice Mayor Dodd withdrew his suggestion.

Vice Mayor Dodd made a motion to approve as presented. Commissioner Vincent seconded the motion.

Commissioner Clotey asked Chief Llerena if he had any problems with the application. Chief Llerena anticipated there would be less of a crowd than there was for the New Year's Eve event.

The motion carried 5-0.

c. Athena's St. Patrick's Day Party, March 17, 2011 (Code Compliance Officer Kimberly William)

Commissioner Vincent believed that the applicant was unaware that the event could be extended to the same time as in the application for the Village Grille. He explained that the applicant requested an extension of hours. There was no objection from Town staff that the two events would end at the same time.

Commissioner Vincent made a motion to approve items Athena's St. Patrick's Day Party, item 9c and Athena's Wine and Food Festival, item 9d with extended hours to 1:00 a.m. to allow cleanup time. Commissioner Clotey seconded the motion. The motion carried 5-0.

d. Athena's Wine and Food Festival, March 12, 2011 and March 13, 2011 (Code Compliance Officer Kimberly William)

This item was considered with item 9c.

e. ~~Pay-by-Phone (Assistant Town Manager Bud Bentley)~~ REMOVED  
This item had been withdrawn by staff.

f. Mitigation of Recorded Liens for 266 Avalon Avenue, Case # 08-KP-00591 (Director of Development Services Jeff Bowman)

Commissioner Vincent asked whether there were any other serious violations, citations or actions taken during the time the permit expired. Development Services Director Bowman said there were no serious violations; the violations related to landscape debris and overgrowth.

Mayor Minnet stated for the record that the amount of the lien was \$66,150 and the settlement offered was \$9,922.50.

Commissioner Vincent asked why it took an additional 17 months after permit expiration to complete the house.

Dino Sebastiani said one of the lenders applied for bankruptcy and therefore, he had no financing. He said he borrowed money to get things done, and the house was not being rented. Mr. Sebastiani said they closed the permit on the house in July and the house was up for sale; however the people that were interested were unable to get financing.

Vice Mayor Dodd asked for clarification that the lien amount was \$66,150 and the Town offered a settlement. Mayor Minnet clarified that Mr. Sebastiani offered the settlement; not the Town.

Vice Mayor Dodd wanted to address in the Town code, a length of time to complete a house. He believed that 20% was more appropriate in lieu of the delay, rather than \$9,922.50.

Commissioner Sasser inquired as to the circumstances in which the fines were issued. Development Services Director explained that they had 18 months to complete the project and once that time expired, the builder was notified that their building permit had expired. He explained further that the builder could obtain an extension from the Commission; in this case they did not and the case went before the magistrate.

Commissioner Sasser asked why the owner did not show up for the Magistrate hearing. Mr. Sebastiani said the property put him in a state of depression; he lost everything, ruined his credit, was under a doctor's care, and he almost gave up until a friend came along and helped him.

Commissioner Vincent believed Mr. Sebastiani suffered an extenuating hardship financially and personally. He wanted to reduce the lien settlement to half of what had been proposed due to the extenuating circumstances.

Commissioner Vincent made a motion to authorize a reduction from the settlement offer of \$9,922.50 to half that amount.

Commissioner Clotey stated that discounts were always given to the banks but not individuals that fell on hard times. She explained that she wanted to accept the discount as was presented, but would back Commissioner Vincent if he wanted to lower it more.

Commissioner Sasser agreed to go with the recommended amount from Town Staff.

The motion to reduce the \$9,922.50 settlement offer to half that amount failed for lack of a second.

Commissioner Clotey made a motion to approve the mitigation settlement offer of \$9,922.50. Commissioner Sasser seconded the motion. The motion carried 3 - 2. Commissioner Vincent voted no. Vice Mayor Dodd voted no.

**g. Purchase of Street Sweeper (Municipal Services Director Don Prince)**

Commissioner Vincent questioned the number of miles the street sweeper was capable of sweeping and the hourly rate; based on his calculation, the in-house cost is actually lower than shown on the report. He asked if the costs could be reduced by hiring a part-time person to operate the machine rather than use a full time maintenance worker at a higher hourly rate. Municipal Services Director stated that the cost was

based on his highest paid employee and included insurance and benefits. Commissioner Vincent asked whether Municipal Services had a set schedule for sweeping that would allow hiring a part-time light equipment operator. Municipal Services Director Prince said it was scheduled within a 40 hour work week. Town Manager Hoffmann stated that a part-time employee received employee benefits but not health insurance, sick leave or vacation time.

Vice Mayor Dodd asked whether Municipal Services recently purchased a sweeper.

Municipal Services Director Prince said a vacuum sweeper was purchased in 2007 that was not designed to handle the things it was used for, such as picking up sand and therefore, the machine constantly needed repair. He added that Municipal Services discontinued its use because it was too costly.

Vice Mayor Dodd inquired as to whether Municipal Services Director Prince obtained bids from outside vendors. Municipal Services Director Prince said he did not but he did speak with vendors.

Commissioner Sasser asked whether the purchase of a new sweeper was in the budget.

Town Manager Hoffmann said it was not but there were funds in the Vehicle Reserve Account. Commissioner Sasser preferred to wait and consider it for next year's budget.

Commissioner Vincent asked whether the current machine was operable. Municipal Services Director Prince said it was but he could not justify using it as it was too costly to run. Commissioner Vincent asked whether they could use the current machine only for what it was meant to be used it for and use the bigger machine for the things that the current machine was not capable of doing. Municipal Services Director said he could put a new battery in the vacuum sweeper and get it operable.

Mayor Minnet questioned whether the current sweeper was purchased in 2007 by a previous Municipal Services Director. Municipal Services Director Prince said it was.

Town Manager Hoffmann asked whether the Commission wanted staff to obtain bids to see what private companies would charge to provide both machines. Mayor Minnet said she would like to contract them out and recommended comparing costs between the contracts and the Town.

Commissioner Sasser asked where this sat in the Town Manager's priority list as he did not see it listed when they went over the list at the Workshop.

Mayor Minnet believed that staff had been looking into this. She added that Director Prince may have known this was needed and did not bring it forward. Town Manager Hoffmann said that Municipal Services Director Prince had requested the street sweeper during the budget process and was skeptical that the Town could do it cheaper

than the private sector. She said she insisted that Municipal Services Director Prince, Assistant Town Manager Bentley, and Finance Director Doug Haag go over the numbers carefully. Town Manager Hoffmann believed that Municipal Services Director made his case for the sweeper financially. Commissioner Vincent stated the contract had 4 months prior to expiration and could be extended monthly if needed.

Town Manager Hoffmann stated she was fine with bidding and comparing the costs to staff's analysis.

Vice Mayor Dodd made a motion to table to budget time. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

**h. Use of Jarvis Hall for the Property Owners Association of Lauderdale-By-The-Sea, Inc. (Municipal Services Director Don Prince)**

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

**i. Landscaping Upgrade for El Mar Drive (Municipal Services Director Don Prince)**

Vice Mayor Dodd asked whether Green Island Ficus was white fly resistant. Municipal Services Director Prince said it was. He added that it was also drought resistant and salt water resistant. Vice Mayor Dodd asked whether the new plants would force people to walk around the plants rather than through them. Municipal Services Director Prince said Bougainvillea plants were recently planted by the Bougainvillea parking lot. He added that he believed they would be effective as a deterrent, but would not know for another month.

Town Manager Hoffmann advised that Bougainvillea plants will be located at the ends of the medians, except where they would be directly exposed to the ocean wind they would be planted in the center; otherwise dwarf hibiscus would be planted in the center. She said Commissioner Clottey recommended walkways through the longer medians and asked whether the Commission had any objections to placing some brick walkways through the center of some of those islands. Vice Mayor Dodd believed it was an excellent idea. Mayor Minnet said she had no problem with the idea.

The consensus of the Commission was to put brick walkways through some of the islands.

Commissioner Sasser did not believe it was fiscally responsible when no plans were done for El Mar Drive. He did not want to spend the money to do the work and then tear it up later, unless it was the first part of the plan.

Commissioner Vincent said Commissioner Sasser made a great point; however he did not believe they should delay it or ignore it. He believed it was a small price to pay for the beauty of El Mar Drive until a decision was made on the bigger project.

Commissioner Clotey believed El Mar Drive was looking tired and could use maintenance to make it look nicer.

Commissioner Sasser made a point of information that the landscape upgrade should be part of the overall plan, and if it took 3 months to get the overall plan, then it was worth it; get the landscaping upgrade done at the beginning of the overall plan

Town Manager Hoffmann said that was a big project and the MPSC (the Master Plan Steering Committee) recommended burying utility lines, which was a huge expense and getting the funds and doing the planning would take time. Town Manager Hoffmann did not see that project happening for well over a year due to the design time frame, obtaining funding, and the decision making process.

Mayor Minnet agreed that a plan was needed and stated that they were moving forward with that plan and looking to beautify the area. She believed that if the plants were maintained and kept in good shape they could be utilized somewhere else in the future. Mayor Minnet said she had concerns with doing the area in front of Minto Communities, Inc. She believed they should concentrate on the other medians first and reduce amount of money spent. Mayor Minnet suggested asking Minto Communities, Inc. if they would maintain that median.

Town Manager Hoffmann stated that the planting plan called for very few plants to be added to the medians in front of the Minto property. Vice Mayor Dodd believed that El Mar Drive was in need of a landscaping upgrade.

Vice Mayor Dodd made a motion to approve landscaping upgrade on El Mar Drive. Commissioner Vincent seconded the motion. The motion carried 4 - 1. Commissioner Sasser voted no.

**j. Create a Town Hall Conference Room (Municipal Services Director Don Prince)**

Mayor Minnet believed this should be put aside and brought up at budget time. Vice Mayor Dodd agreed. He said residents were going to be impacted by the sewer rate increase. Vice Mayor Dodd wondered whether the sprinklers would need upgrading.

Vice Mayor Dodd made a motion to approve. The motion died for lack of a second.

**k. Bid Award and Budget Amendment for Credit Card Processing Fees (Interim Finance and Budget Director Doug Haag)**

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

**l. Increase Florida Youth Conservation Group (FYCC) Contract Amount (Municipal**

Services Director Don Prince)

Municipal Services Director Prince explained that the Florida Youth Conservation Group worked on the Town's sidewalks hired young adults to introduce them to a career path. He added that the Town piggybacked off the contract that the Florida Youth Conservation Group had with Fort Lauderdale. Director Prince asked for an increase in the total amount of the contract. He said the Commission authorized \$40,000 and he needed \$49,500 in order to do some work at the parking lots. He added that the additional funds to cover the increase were budgeted in the parking.

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

m. Taste of the Beach Special Event location change (Kimberly Williams)

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

**10. ORDINANCES - PUBLIC COMMENTS**

**1. Ordinances 1st Reading**

i. Ordinance 2011-02: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, TO AMEND PARKING REQUIREMENTS, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2011-02 by title.

Mayor Minnet inquired as to whether the Ordinance was discussed by P&Z (the Planning and Board). Attorney Trevarthen said it was discussed and recommended by P&Z.

Development Services Director explained the parking changes were to be done in three ordinances. He said the intent was to take all the parking regulations out of zoning and maintain them in one location within Town code, under General Provisions.

Director Bowman explained the following changes: at line 231, if existing property was destroyed credits would be maintained upon redevelopment of that property; and at line 247 shared parking was added to Mixed Uses; at line 312, "single family duplex" was clarified and "condominiums" was added to Sec. (b) and defined as a multi-family and if there were 3 bedrooms or more, an additional parking space was required.

Attorney Trevarthen noted that the word "family" was missing in line 314 and would be added to read "single family" in the final version. Development Services Director added that floor area was defined in line 350.

Commissioner Clotey referenced line 324 and stated that there were people that flew into Town and did not rent a car. She asked whether the ordinance could be more lenient in that area. Development Services Director Bowman said that hotels and motels would be addressed in an upcoming ordinance and a recommendation would be provided at that time.

Development Services Director Bowman said that Sec. 3-320 line 392 added new language for shared parking and clarified existing language. He added that a third ordinance would address hotels motels.

Mayor Minnet opened the meeting for public comments.

Marc Brown referred to line 317 regarding multi-family dwellings (condominiums). He believed the section stated 1 and 1/2 parking spaces were required for every condo unit of 2 bedrooms or less and 2 parking spaces for every condo unit of 3 bedrooms or less. Mr. Brown did not believe there were many condominiums in Town that could meet that kind of parking requirement.

Development Services Director Bowman said it would only affect future condominiums. He added that existing condominiums would be legal non-conforming.

Diane Boutin noted that the Town was 99% built out and the existing building or parking was what the Town had. Ms. Boutin added that over the years the Commission made many efforts to assist the hoteliers, retailers and multi-family properties with hardship permits.

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

Vice Mayor Dodd referred to line 231, shared credits. He questioned whether a property that was totally rebuilt should receive the credits for non-existing parking that they probably did not have in 1995. Vice Mayor Dodd addressed the language that parking facilities shall be brick, asphalt or concrete in line 289. He said that he believed the Town was going green and should allow pervious pavers. Town Manager Hoffmann said staff would incorporate wording that would address that and bring it back on 2nd reading.

Mayor Minnet discussed shared parking, line item 407. She was against shared space if residential was on one side and commercial was on the other.

Development Services Director Bowman explained that shared parking would apply if a bank closed at 5:00 p.m. and another business opened at 5:00 p.m., the two businesses could share the parking.

Vice Mayor Dodd stated that his only issue was for the Commission to consider the shared credits that he questioned earlier and referenced at line 231.

Vice Mayor Dodd questioned that if the property owner was going to redevelop should they not redevelop to a code that was consistent rather than carry forward something that existed in the past. He asked whether they would still get the credits they had in 1995 if they changed the use of the building.

Town Manager Hoffmann suggested they confine such allowances to hotels. She believed Vice Mayor Dodd's concern with the change of use was a good one. Town Manager Hoffmann said staff would look at that issue and work on the language.

Vice Mayor Dodd made a motion to approve with revisions. Direction was given to staff to look at the shared credits at line 231 and parking facilities at line 289, and bring back language for 2nd reading.

Commissioner Sasser suggested bringing the Ordinance to the March 8, 2011 Roundtable for additional discussion. Mayor Minnet agreed to place it on the Roundtable for additional discussion prior to 2nd reading at the March 22, 2011 Commission meeting.

The motion carried 5 - 0.

- ii. Ordinance 2011-03: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-313(4), OF THE CODE OF ORDINANCES TO AMEND REQUIREMENTS FOR FENCES, WALLS AND HEDGES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2011-03 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.

Mayor Minnet referred to line 100. She believed that gates were not allowed in Lauderdale-By-the-Sea and asked why they were added. Development Services Director Bowman said gates were always allowed. He explained that the Ordinance referred to the height. Development Services Director Bowman said the code was silent to gates; however the gates were looked at as though they were fences. Mayor Minnet stated that she was thinking entry gates. Mayor Minnet wanted clarification that it was for pedestrian gates. Development Services Director Bowman said it was.

Vice Mayor Dodd expressed concern that according to this ordinance, an existing gate that currently opened inward and was replaced by a sliding motorized gate, would require a variance. He believed that in that case, the property owner would be penalized for modernizing. Development Services Director Bowman said they could modernize without a variance as long as it was on their property and did not obstruct the public right of way.

Commissioner Vincent made a motion to adopt Ordinance 2011-03 on 1st reading. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

Development Services Director Bowman pointed out that the Board of Adjustment and staff had recommendations regarding repair and/or replacement of the wall. Mayor Minnet directed Development Services Director Bowman to include both the Board of Adjustment's recommendation and staff's recommendation with the Ordinance for the March 8, 2011 Roundtable.

## 2. Ordinances 2nd Reading

- i. Ordinance 2011-01: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-272 "SETBACKS," IN THE B-1 DISTRICT, OF THE CODE OF ORDINANCES TO AMEND PARKING REQUIREMENTS; AMENDING SECTION 30-318 "MINIMUM PARKING REQUIREMENTS," TO REVISE PARKING REQUIREMENTS FOR PLACES OF PUBLIC ASSEMBLY, RESTAURANTS AND THEATRES; AMENDING SECTION 30-321 "MODIFICATION OF PARKING REQUIREMENTS," TO PROVIDE PROCEDURES FOR MODIFICATION OF MINIMUM PARKING REQUIREMENTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE Approved 1st reading at the January 11, 2011 Special Meeting - Deferred at the January 25, 2011 Commission meeting by Commissioner Vincent

Attorney Trevarthen read Ordinance 2011-01 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.

Attorney Trevarthen stated that the ordinance was put on this agenda to avoid the cost of an additional ad. She added that staff's recommendation was to continue this item to a specific meeting date to address issues raised at the 5:00 p.m. Workshop; whether to do an overall cap or a four year time limit or both.

Vice Mayor Dodd made a motion to defer Ordinance 2011-01 to the March 8, 2011 Roundtable.

Attorney Trevarthen recapped the changes that the Commission agreed upon at the 5:00 PM Workshop: fee in lieu aspect to be applied generally; reserve the right to discontinue the program early; cap the number of spaces per restaurant at 30; clarify that the 1995 credits for parking were honored and not replaced by the exemption; bi-annual report rather than annual; remain at the 150 square feet per customer service area. She added that the question remained as to whether there would be an overall cap as recommended, 4 year time limit or whichever was first.

Town Manager Hoffmann said the issue of the Town having 2 districts should be added to the ordinance. Attorney Trevarthen agreed.

Mayor Minnet inquired as to whether there was Commission consensus to give an additional incentive to the west side of A1A. There was no objection.

Assistant Town Manager Bentley suggested that a cap be established by Resolution for the two districts. Attorney Trevarthen explained that it could be written into the ordinance as "shall be subject to a cap which shall be determined by Resolution". Vice Mayor Dodd recommended adding the square footage required for parking.

Attorney Trevarthen explained that was a Land Development Regulation.

Commissioner Clotey suggested deferring this ordinance until decisions were made regarding other parking issues. She made a motion to defer which failed for lack of a second.

Mayor Minnet believed the community and the Commission was ready to move on with this ordinance. She believed Assistant Town Manager Bentley's suggestion to set the cap by Resolution was a good option.

Town Manager Hoffmann understood that the ordinance would continue to have the 4 year time limit and would reference a cap that would be set by Resolution.

Commissioner Vincent seconded the motion to defer and to have a 4 year time frame subject to the cap set by Resolution and established by the Commission.

Mayor Minnet asked for clarification that once the cap was accomplished it could end before the 4 year period. Attorney Trevarthen stated that the proposal was the language "whichever was first".

Attorney Trevarthen clarified that the motion was to defer to March 8, 2011 Special Meeting to adopt the ordinance at 2nd reading.

Commissioner Sasser asked for clarification that the program would operate until the 4 years or the cap was reached. He added that the cap was to be done by Resolution so that the cap could be easily changed. Commissioner Sasser believed that if the Commission did not want the program to end they would need to change the Resolution

beforehand, or the program would automatically end as soon as the cap was met. Attorney Trevarthen clarified that as long as the ordinance was drafted to say "the cap or the 4 years, whichever came first", that would happen, subject to the bi-annual report. Commissioner Sasser pointed out that the cap could be reached before the bi-annual report and thus self-execute. Assistant Town Manager Bentley explained that reaching the cap would mean that no more exemptions would be issued; it did not mean that the program would go away. Commissioner Sasser did not agree and preferred language that addressed that. Attorney Trevarthen said that as the program progressed and the annual report suggested the cap was near, changes could be made. She added it was also possible to write something into the program to address that concern.

Vice Mayor Dodd reminded the Commission they did not have to be fixed on a cap as that would be decided when the Commission received the figures from staff as to the changes in the utilization of the current parking lots, and it should not be etched in stone; it needed to be actively monitored in order to make a decision one way or the other.

Commissioner Vincent asked whether a folio or entity where that cap existed, would be included in the event two restaurants opened in one location. Attorney Trevarthen said she had not heard discussion or a consensus on that issue. Commissioner Vincent explained that he was concerned that one entity may abuse it, but if there was a folio there would be no confusion. Mayor Minnet asked whether the Commission wanted staff to look at preventing that from happening. Commissioner Vincent wanted to see some type of restriction.

Vice Mayor Dodd asked for clarification on Commissioner Vincent's statement as to whether they both received an exemption or only the one building could have the cap. Commissioner Vincent explained that if a building had one property ID and had 30 parking spots and 4 different entities were allowed to open in that building, each would be allowed 7.5 parking spaces.

Assistant Town Manager Bentley said there seemed to be a consensus that one restaurant would receive one exemption; if the Commission gave direction, staff would work with the Town Attorney to address that issue.

Attorney Trevarthen questioned whether the Commission wanted one per building or one per restaurant establishment. Vice Mayor Dodd inquired of shared kitchens. Commissioner Vincent said if there was one property ID with two restaurants, one on top of each other they should not be entitled to share; but if one kitchen served three property IDs they would be entitled. Attorney Trevarthen said she was hesitant with going along with the concept of property IDs. She asked, for purposes of getting direction, whether the Commission wanted one restaurant with one exemption, a shared kitchen with one exemption, or otherwise. Commissioner Vincent agreed it would need to be looked at and determine the right language.

Mayor Minnet believed clarification was needed and at this time, language could not be determined.

Attorney Trevarthen suggested drafting the ordinance with one restaurant, one exemption and if there was a shared kitchen it would be one exemption for the two restaurants sharing the kitchen and evaluate the details beyond that.

Mayor Minnet agreed that language would give the applicant the opportunity to come back.

Vice Mayor Dodd amended his motion to defer to the March 8, 2011 Special Meeting for 2nd reading with all the changes. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

Manager Hoffmann asked whether the Commission wanted to schedule a Special meeting for the 2nd reading of the Ordinance on March 8, 2011 following the Roundtable meeting.

Mayor Minnet inquired as to whether the Commission would begin the Roundtable meeting, suspend it, and then have the Special meeting.

Attorney Trevarthen said the Special meeting could follow the Roundtable as the Town Manager believed that the Mayor wanted to convene the Roundtable then suspend it to go into the Special meeting. Mayor Minnet asked whether the Special meeting would have to be scheduled for a time certain. Attorney Trevarthen said yes, and explained that the Special meeting could take place a little later than advertised, but not earlier.

Mayor Minnet recessed the meeting at 9:25 p.m. and reconvened at 9:35 p.m.

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

- a. Resolution 2011-01 - Public Hearing on the Notice of Intent: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING LAND DEVELOPMENT REGULATIONS**

Attorney Trevarthen read Resolution 2011-01 by title. She explained that the Commission approved the Resolution at the last meeting and this was the Public Hearing for the Notice of Intent, as was required by Town Code.

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

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

**12. QUASI JUDICIAL PUBLIC HEARINGS**

**13. COMMISSIONER COMMENTS**

Commissioner Sasser said that his 12 year old son, Jake requested that the Town get an iPhone app so he could watch the Commission meetings on his iPhone.

Commissioner Clotey said she learned at the Water Academy that Broward County had the best water supply in the nation. She said there was no need for anyone to be spending money on bottled water or any purification system.

Commissioner Vincent said he was happy to see everyone jamming on the weekends and during the week. He said it was a pleasure to see.

Mayor Minnet expressed her condolences to the owner of Andres Bakery on the loss of his son and to the Wisniewski family for the loss of their father. Mayor Minnet reminded everyone that the Taste of the Beach was Tuesday, February 23, 2011. She stated that the Easter egg hunt was to occur on Saturday, April 23, 2011 and as the Chairperson she asked that those who wish to volunteer should contact Town Hall.

Vice Mayor Dodd had no report regarding the Hillsboro Inlet. He said he received an email from the Town Manager regarding consultants and will be meeting with her to discuss the issue and staffing. He said the Town Manager's report indicated that a large sum of cash accrued and would be discussed at Roundtable as to the use of those funds. Vice Mayor Dodd believed that some of the money should be used to keep the millage rate the same since many of the residents were hit with a sewer rate increase. Vice Mayor Dodd requested volunteers for the 4th of July event.

**14. OLD BUSINESS**

**a. Discussion regarding draft Ordinance 2011-04 on Beaches and Waterways (Town Manager Connie Hoffmann)**

Mayor Minnet said that this item was brought forward at the February 8, 2011 Roundtable and placed on the agenda. Town Manager Hoffmann explained that additional changes were made to clarify issues throughout the Code regarding the waterways.

Mayor Minnet questioned whether the Ordinance could be placed on the March 8, 2011 special meeting for first reading. Attorney Trevarthen said it could if the Commission desired to do so.

Town Manager Hoffmann asked if the intent was to adopt the Ordinance on second reading at the March 22, 2011 Regular Commission meeting.

Mayor Minnet preferred not to rush it along that quickly. She wanted the first reading on March 22, 2011 and the second reading on April 26, 2011.

Vice Mayor Dodd reminded the Commission that skimboards were not included. He added that any reference to the use of watercraft, catamarans, and kayaks within the proximity of bathers was deleted and anything to do with concessions, beach chairs, lounge chairs, boats or other equipment on the beach was not addressed. Vice Mayor Dodd said that a designated watercraft launch or landing sites, where these activities were permitted was not discussed. He believed that rather than getting bogged down with modifications, the Commission should move this ordinance through and consider all the other aspects later.

Attorney Trevarthen explained that the reason the references to watercraft was removed from line 55 was because a separate provision in the Code already prohibited watercraft in a watercraft prohibited zone.

Town Manager Hoffmann referenced the issue on skimboards. She said that the way the Code was written, skimboards were allowed and kayaks were not considered a watercraft, as watercraft was defined as a propelled boat; therefore kayaks were allowed.

Mayor Minnet said that Ordinance 2011-04 would be presented for first reading at the March 22, 2011 Commission meeting.

## **15. NEW BUSINESS**

### **a. Master Plan Steering Committee recommendation for the architectural element for the A1A Enhancement Project (Assistant Town Manager Bud Bentley)**

Assistant Town Manager Bentley said that PBS&J (Post Buckley Schuh & Jernigan, Inc.) budgeted \$7,000 for each architectural feature, or \$84,000 for all 12 seating walls. He added that amount came out of the \$647,000 allocated for the entire project. Town Manager Hoffmann asked whether the Commission wanted to continue with the architectural feature considering the cost. Commissioner Clotey asked for the amount that the Town would contribute. Assistant Town Manager Bentley said the Federal Grant was \$477,000 and our match was \$200,000, or approximately one third.

Commissioner Sasser said that the MPSC (Master Plan Steering Committee) spent a lot of time on this and at this point the Commission believed it was too expensive. He asked whether PBS&J was aware of the Town's allocated budget. Assistant Town Manager Bentley said PBS&J proposed several different architectural features throughout the process that began on a small scale and grew in size to make a statement for that particular area, which also contained different material. He believed that PBS&J estimated a higher amount for the design rather than under-estimate it. Town Manager Bentley said that PBS&J maintained that the entire project would remain within the total budget.

Town Manager Hoffmann stated that the project was 99% designed at this time. Town Manager Bentley said the architectural feature was the only thing pending a decision. He added that everything else had been approved by FDOT (Florida Department of Transportation). Town Manager Hoffmann said that FDOT wanted the Town to put an end to the process and they were waiting for a date as to when the Town would put out the Bid and award a construction contract.

Commissioner Sasser asked whether the cost would be within the budgeted amount. Assistant Town Manager Bentley said that PBS&J indicated it would be with the total budget of \$640,000. Commissioner Sasser asked whether there would be a savings if a cheaper structure or benches were used instead. Assistant Town Manager Bentley said that the Town eliminated the architectural feature the project cost would go down \$7,000 per structure, or \$84,000, and the Town would save approximately one third of that amount.

Commissioner Sasser asked what the options were. Assistant Town Manager Bentley said they could bid the project with the architectural feature or without it. Commissioner Sasser asked whether they should go with the smaller, less expensive sail design and whether a project manager would kick the cost up higher. Assistant Town Manager Bentley asked whether a smaller, less expensive design would achieve the goal of funding a project manager and the visual concept the Commission desired.

Town Manager Hoffmann believed the Town ran out of time to come up with a new design. She said the Town could come in later to add an element of choice, but it would be at the Town's expense. She stated that at this point PBS&J had not provided an estimated total project cost, and therefore staff did not know whether there was enough money to cover a project manager. Mayor Minnet asked whether there was any idea what a project manager would cost. Town Manager Hoffmann said it usually was a percentage of the total construction cost.

Commissioner Clotey asked whether our Town Engineering Firm could manage the project. Town Manager Hoffmann said they had to be FDOT certified and she was not aware as to whether Chen and Associates was FDOT certified. Commissioner Clotey noted that if the project manager cost was 12% of the construction cost, or approximately \$30,000 of taxpayer's dollars, the other amount came from other government sources. She said Chen and Associates spent a lot of time on the project and the Commission needed to think about that.

Town Manager Hoffmann said that PBS&J needed to advise as to whether the project manager could be paid out of the budget for the project.

Vice Mayor Dodd believed \$7,000 for a stainless steel sail was unrealistic. He asked what the cost of a curved concrete bench with a decorative top would cost.

Mayor Minnet said she was not pleased with the seal either. She believed the Town needed to have their own recognition and there would be other opportunities for branding. Mayor Minnet said that the Commission needed to give staff direction.

Vice Mayor Dodd made a motion for staff to go back to PBS&J to investigate a more economical feature. Town Manager Hoffmann said the problem was timing. Assistant Town Manager Bentley stated they were out of time with FDOT. The motion failed for lack of a second.

Assistant Town Manager Bentley asked that assuming an extension would be granted from FDOT and Town staff asked PBS&J for a redesign, what amount would be acceptable to the Commission? He advised that FDOT requested that a full grant agreement contract be placed on the agenda for March 8, 2011.

Vice Mayor Dodd believed that the architectural feature should remain simple. He believed it could be added at a later time. Commissioner Sasser believed staff should advise the Commission what the project cost was and whether the budget included a project manager. Lengthy discussion followed regarding the design of the architectural feature for the seating walls, resulting in Commission consensus to sand etch a standing Pelican into the end of the seating wall.

Vice Mayor Dodd made a motion to go with a simple architectural feature with the pelican on the end. Commissioner Clotey seconded the motion. Assistant Town Manager Bentley asked if there was a cost limitation. Commissioner Sasser said the cost must be low enough to allow a project manager.

Commissioner Sasser amended the motion to include a project manager and Vice Mayor Dodd accepted. The motion carried 5-0.

**b. Consideration of enforcement of paid parking regulations (Town Manager Connie Hoffmann)**

Town Manager Hoffmann said that current code prohibited anyone from offering parking to the public for compensation on their lot. She added that an ordinance coming before the Commission at the March 8, 2011 Roundtable could be adopted in April, but implementation would not occur until June or July as the applicant had to go through both the P&Z Board and the Commission. Town Manager Hoffmann stated that the Town Attorney indicated that the Commission could decide, pending adoption of the ordinance, to suspend enforcement to allow application's from properties now. She said staff would determine whether those applicants would meet the requirements of the ordinance that was under consideration.

Mayor Minnet stated that before she would recommend suspension, every business that was already doing it should also come in and make application.

Attorney Trevarthen clarified that there were details in the conditional use proposal and it would not apply to any parking. Mayor Minnet understood that it was conditional on that particular use.

Vice Mayor Dodd inquired of the time scale and asked why, after the 1st and 2nd reading of the Ordinance, it could not be completed by March 28, 2011.

Town Manager Hoffmann said that once the ordinance was adopted, the applicant would have to make an application and be heard before the P&Z (Planning and Zoning Board) and then the Commission. Vice Mayor Dodd asked why it could not go before the P&Z in April.

Attorney Trevarthen explained that first the Ordinance had to be adopted to create the opportunity; then application must be made and the applicant would go through P&Z for conditional use review. She explained that once the P&Z reviewed the application, the Commission would be required to approve the conditional use.

Town Manager Hoffmann said that P&Z would meet on a Wednesday and the agenda item for the Commission would have to go out that Friday. She believed it would be a quick turnaround.

Commissioner Sasser believed the Commission should be careful in their decision making. He said that it seemed to him that this ordinance was being rushed.

Commissioner Clotey was not sure there was a choice since it was spoken publicly and SunTrust pointed out that other businesses were already doing it.

Attorney Trevarthen cautioned that this would only be for similar property and other businesses may qualify for the conditional use.

Commissioner Sasser asked whether they should or should not feel the pressure based on Commissioner Clotey's statement, or do they have the option to sit back and review it better. Attorney Trevarthen explained that only those who made application, met the requirements, and was approved for the conditional use would have the right.

Commissioner Vincent asked whether it would be immediate if the Commission suspended enforcement. Attorney Trevarthen explained that the ordinance would authorize Town staff to suspend enforcement only against those who made a complete application and Town staff determined that the property would be eligible for such approval. Commissioner Vincent inquired of the time frame from application to suspension of enforcement. Town Manager Hoffmann said each case would be different pending on the amount of necessary research.

Vice Mayor Dodd made a motion to continue the meeting past 11:00 p.m. Commissioner Sasser seconded the motion.

Commissioner Vincent asked whether SunTrust would be able to do what they intended to do. Assistant Town Manager Bentley said under the ordinance they would be able to make application for conditional use. He said a trial period could be implemented which could help fine tune the requirements and evaluate use.

Vice Mayor Dodd was concerned with number of business that may open up and wondered whether they were opening a can of worms. He said he would be hesitant without guidance from staff as to which businesses could qualify.

Mayor Minnet asked the Commission whether they wanted to go with Town staff recommendation or leave it as is until the March 8, 2011 Roundtable. Vice Mayor Dodd questioned whether the ordinance would be put on for 1st reading or for discussion. Mayor Minnet said it would go for discussion. Vice Mayor Dodd believed that would delay the process.

Commissioner Clotney made a motion to authorize Town staff to suspend enforcement of the prohibition against paid parking as an accessory use as per staff recommendation.

Commissioner Sasser asked whether additional discussion could be made at the Roundtable and then direct staff to proceed.

Attorney Trevarthen said the Commission could direct staff at the current meeting or on March 8th. Mayor Minnet clarified that the ordinance would be discussed and the Commission would consider the ordinance and the item on March 8, 2011.

Commissioner Vincent seconded the motion.

Mayor Minnet clarified that the ordinance was on the March 8, 2011 Roundtable for discussion.

The motion carried 3-2. Commissioner Sasser and Vice Mayor Dodd voted no.

## **16. TOWN MANAGER REPORT**

Mayor Minnet wanted Town Manager Hoffmann to look into the questions raised by Marc Brown during Public Comments, regarding the Community Center. Town Manager Hoffmann suggested placing it on the Roundtable for discussion.

Mayor Minnet said that she would put it on the Roundtable.

Town Manager Hoffmann announced that Elizabeth Plater-Zyberk, Planner and Architect will be doing an Urban Design Seminar on March 1, 2011 in Jarvis Hall at 6:30 p.m. She invited everyone to attend.

Commissioner Sasser requested an update on the Coral Reef Project. Town Manager Hoffmann said the agreement was executed and Dr. Goreau indicated that installation would not occur until April or May due to the currents.

Commissioner Sasser inquired of the BSO Halloween investigation. Chief Llerena said that most of the investigation was wrapped up and pending a telephone conference with the State Attorney.

Town Manager Hoffmann asked whether the Commission had any conflicts with the following dates planned for discussions regarding the Master Plan: Saturday mornings on March 12, 2011 and March 26, 2011 and an evening session, either on Wednesday, March 23, 2011 or Thursday, March 24, 2011. There were no objections.

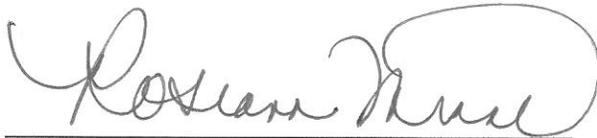
**17. TOWN ATTORNEY REPORT**

Attorney Trevarthen asked whether the Commission wanted her to address the comments made by Mayor Parker at the last meeting regarding the Sea Ranch Condominium issue. Mayor Minnet explained to the public that former Mayor Oliver Parker had made some comments and allegations to which she had requested the Town Attorney look into. She added that the Town Attorney will present her findings at the March 22, 2011 Commission meeting.

**18. ADJOURNMENT**

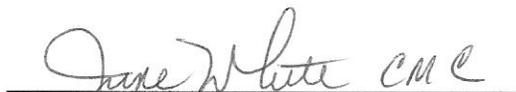
Commissioner Sasser made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 11:17 p.m.

**19. FUTURE REGULAR COMMISSION AGENDA ITEMS**



Mayor Roseann Minnet

ATTEST:

  
Town Clerk, June White CMC

3-24-11  
Date

