

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, September 13, 2011

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Stuart Dodd, Commissioner Birute Ann Clotey, Commissioner Chris Vincent, Commissioner Scot Sasser, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Reverend George Hunsaker

Reverend Hunsaker gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Minnet moved item 13a – Resolution 2011-30 forward for discussion prior to presentations.

Item 14a, Quasi-Judicial Hearing was deferred to the September 27, 2011 Commission meeting.

Item 17e, Municipal Park was deferred to October 25, 2011, for additional information to be presented by Mr. Freidt

5. PRESENTATIONS

There were no presentations.

6. PUBLIC COMMENTS

Barbara Cole urged residents to attend the Town's budget hearings and give their feedback. She was disappointed in the failure of the Commission to lower the millage rate, which could be reduced by using dollars from funds such as the Parking Fund.

Arthur Franczak discussed the Town's reserves, citing information from a series of news articles about Broward County municipalities hoarding excessive reserves. Though the Government Financial Officers Association recommended that municipalities hold 17% of annual expenditures as cash reserves, Mr. Franczak believed the Town was holding 82%. He said cash reserves were taxpayers' dollars, and the more the Town held in reserve to deal with emergencies, the less the taxpayers had to cover personal emergencies. Mr. Franczak believed the question of what constituted sufficient reserves had never been addressed, and should be done before the Town engaged in any master planning for capital improvements. He believed some of the funds should be used to lower the millage rate. Mr. Franczak submitted the articles he referred to into the record.

Yann Brandt believed that the credentials of the Town Manager position should be amended in the Town Charter to allow a wider pool of qualified persons. Mr. Brandt suggested that residents be allowed to vote on having a balanced spending amendment where, for every dollar spent in residential areas, a dollar would be spent in commercial areas as well. He believed that certain areas of the Town were being neglected. Mr. Brandt stated that the budget process would be more transparent if residents were shown how the millage rate was associated with items in the Capital Improvement (CIP) Budget and the General Fund rather than being given a blanket figure of 3.999.

Marie Chiarello expressed disappointment in the outcome of the last two Commission meetings. She urged the Commission to stick to business and not engage in campaigning. Ms. Chiarello believed the last election illustrated that residents were not interested in hearing lies or bickering. She stated that the Town Commission worked well over the past 2 years to maintain the Town as a great place to live, and residents should stay vigilant.

Bill Vitola was surprised the Commission voted 3 to 2 to pass the millage rate of 3.999 rather than a unanimous vote, as the Commission previously agreed 5-0 to the Capital Improvement projects and their funding.

7. PUBLIC SAFETY DISCUSSION

- a. Selection of a Representative to the Emergency Medical Services Review Committee (EMSRC)

Vice Mayor Dodd suggested that each Commission be given the opportunity to serve on the EMSRC.

Commissioner Sasser made a motion to reappoint Commissioner Vincent as the EMSRC Representative until after the 2012 Municipal Election. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

8. TOWN MANAGER EREPORTS

Town Manager Hoffmann gave an overview of her report:

a. Projects Update

Municipal Services Director Prince stated the rubber padding was installed and the playground was finished. He stated that it would be opened to the public as soon as staff cleaned up the area. Municipal Services Director Prince said the West Trade Winds Drainage project and the Sea Grape speed humps should be complete by the end of the next week, as they were waiting on the asphaltting. He noted work on the Terra Mar entryways would begin later in the week and completed by September 30. Municipal Services Director Prince said Town staff worked on the drainage on Terra Mar to get the water to the catch basin more rapidly and did some swale restoration. However, as water continued to pool in the center of the road due to the way the road is pitched, a small section of the road would be re-paved from Seaward to Cypress Creek to allow water to run to the swale area for better drainage.

Commissioner Sasser understood the savings were substantial due to the manner in which Town staff addressed the drainage problems on Terra Mar. Mr. Prince replied that, including Town staff time and materials, the cost of the job was \$1,000; the largest expense being to rent the Bob Cat for the day.

Town Manager Hoffmann believed the estimated cost of that project had been \$25,000. Mr. Prince said the paving of the streets to prevent standing water cost around \$13,000, so the project was still well under budget.

Commissioner Vincent thanked Mr. Prince for his hard work and leadership, and the great job he and his staff were doing, completing many projects expeditiously.

Municipal Services Director Prince added the Pavilion drainage project was complete and working well beyond Town staff's expectations. He said that the original design did not take into account the great deal of water that flowed in from the surrounding area. Municipal Services Director Prince said that 200 feet of exfiltration trench and two structures to the very west end of either side of the road were placed. He added that with more trench in the ground, volume and storage increased, dispersing more water over a broader area.

Town Manager Hoffmann commended Municipal Services Director Prince on his excellent work ethic; he thrived on getting the job done and it was a pleasure to work with him. She distributed a handout containing an update on the Flamingo Avenue Drainage Project, noting the bids came in much lower than the original estimate. Town Manager Hoffmann said that Town staff wanted to speak to the Plaza East Condo Association regarding their contribution to the problem, and Commission direction prior to the meeting was desired. She said the Town Engineer calculated how much each party contributed to the problem.

Assistant Town Manager Bud Bentley said Municipal Services Director Prince and he visited the Plaza East Condo property and were able to review historical files; they put together a presentation, as illustrated in the handout. They learned the current drainage had been a joint project between The Fountainhead and Plaza East, with the Town agreeing to maintain the drainage, as it was located in the public right of way. He indicated about 32 percent of the water came from The Fountainhead and 55 percent came from Plaza East; the remaining 13 percent was from the road area. A meeting was scheduled for the coming Friday to discuss a cost sharing arrangement with Plaza East, which is located in Fort Lauderdale, to pay their portion of the improvement cost. He noted the question was whether to make the same request of The Fountainhead; the Town had many storm water and drainage projects planned, and property owners were not being asked to contribute; thus, policy direction from the Commission was desired. Assistant Town Manager Bentley said the project had been bid, the contractor's price was excellent, the design was complete, and work was ready to proceed.

Mr. Prince believed the lowest bid on the project came in at \$112,000.

Town Manager Hoffmann said a 15% contingency would be built in for unknowns.

Mayor Minnet asked how far back did the Town identify Flamingo Avenue as being a storm water problem. She added that the Fountainhead and Plaza East took steps to remedy the situation, and that lasted about seven years before it became a problem again, as accumulating sand shortened the lifespan of the structures.

Town Manager Hoffmann did not feel the Fountainhead should be asked to contribute, as other private properties in the Town were not asked to contribute to storm water improvements. She said the Fountainhead recently made a large investment to reduce the amount of water flowing into the street.

Mayor Minnet pointed out Flamingo Avenue was the Town's road.

Town Manager Hoffmann indicated there was no public parking along Flamingo Avenue; only back-out resident parking.

Municipal Services Director Prince commented that the City of Fort Lauderdale vacated their portion of the road to Plaza East for resident parking.

Commissioner Vincent agreed that the Fountainhead should not pay for any portion of the storm water improvements, as it was the Town's practice not to estimate how much each property contributed. He asked whether it would be equitable for the Town to charge the Fountainhead, having never charged other private properties.

Town Attorney Trevarthen recommended a consistent approach was always best. She added that staff was right to raise the matter with the Commission, as their decision would set a precedent as to how similarly situated cases should be treated in the future.

Commissioner Clotley asked why Plaza East should pay for the storm water improvements and not the City of Fort Lauderdale. Town Manager Hoffmann reiterated the City of Fort Lauderdale vacated the subject roadway to Plaza East.

Commissioner Sasser questioned whether the new drainage would run into Flamingo Avenue by Plaza East. Assistant Town Manager Bentley replied the existing drainage structure farthest south would remain, as it was made of solid pipe in good condition. He added that the part to be replaced ran down the center of the road and the existing pipes would be replaced with a bigger trench and wider pipes for more capacity which included laying another 200 feet to the west.

Commissioner Sasser was not pleased with the City of Fort Lauderdale being absent from the discussion, as here was a private property outside the Town causing a problem within the Town that was being rectified at the Town's expense.

Vice Mayor Dodd inquired how the sand would be prevented from harming the new system. Municipal Services Director Prince mentioned installing baffles around the pipes; the sand would settle at the bottom of the drain and the water would go over the baffle.

Vice Mayor Dodd wanted the improvements to be done once, so it was important to get them right the first time. He was surprised the property outside the Town was not required to rectify their side of the situation, as the Town would again be expected to fix the problem if it reoccurred. Vice Mayor Dodd believed the Town should deal with its drainage issues, and properties outside the Town should deal with their own.

Municipal Services Director Prince explained Plaza East sat higher than The Fountainhead, and all the water from the former drained into the parking garage of the latter, creating property damage.

Commissioner Vincent thought there was a governmental guideline that stated no property could allow their drainage to go onto any adjacent property. It appeared Plaza East should have some fiduciary responsibility to either co-partner with the Town or, by mandate, resolve the issue themselves.

Assistant Town Manager Bentley responded that Town staff understood, that at some future time, Plaza East would have to address the issue of retaining more water on their property. The Town was electing to propose an agreement with Plaza East that would cost Plaza East less to address the existing problem; the purpose of the upcoming meeting was to determine if they were willing to pay 55% of the improvement costs.

Mayor Minnet wished to know the Town's legal stand if Plaza East refused to pay for their portion of the improvements.

Town Attorney Trevarthen spoke with Assistant Town Manager Bentley, and the strategy for now was to speak with Plaza East to see if they would voluntarily cover their

portion of the cost. She stated that if they refused, she would research the matter to discover what options the Town had to remedy the situation.

There was Commission consensus for Town staff to meet with Plaza East to discuss their willingness to cover the cost of the project, proportionate to the percentage their property contributed to the problem.

Town Manager Hoffmann noted when Municipal Services Director Prince approached Plaza East about the improvements previously he did not have the bid results. She advised that now that the numbers were in, a meeting with Plaza East was scheduled to let them know how much they would be expected to pay. Town Manager Hoffmann explained that if they were unable to pay the full amount up front, Town staff would return to the Commission with payment options.

Mayor Minnet wondered how the Town could be informed if Plaza East applied for a change of use permit from the City of Fort Lauderdale or Broward County, as this would determine whether the Town would be able to require them to bring their property up to code.

Municipal Services Director Prince pointed out that Broward County code required the property to be up to code, which the City of Fort Lauderdale enforced; the Town would not be notified of the application.

Mayor Minnet wished Town staff to make it a condition of any agreement with Plaza East, that if they applied for a change of use or renovation permit with Broward County or the City of Fort Lauderdale, the neighboring property in the Town must be notified.

Town Manager Hoffmann believed the County could be asked to put a note in the file to notify the Town if any such application were submitted by Plaza East.

Mayor Minnet asked whether a pervious pavement would help the drainage problem. Municipal Services Director Prince said he would speak with the engineer to determine the possibilities. He pointed out that would increase the cost of the project, as such materials were more expensive.

9. TOWN ATTORNEY REPORT

Town Attorney Trevarthen said, pursuant to Florida State Statute section 286.0118, she wished to schedule an executive session to seek the Commission's advice in the case of the Palm Club et al vs Town of Lauderdale-By-The-Sea. The shade session would be scheduled at a later time.

10. APPROVAL OF MINUTES

There were no minutes for consideration.

11. CONSENT AGENDA

The following items were pulled from the Consent Agenda: Items 11a, 11b and 11e.

Vice Mayor Dodd made a motion to approve items 11c and 11d on the Consent Agenda. Commissioner Sasser seconded the motion. The motion carried 5-0.

a. Commission approval of seventy-two (72) parking permits for use by the Women's Club of Lauderdale-By-The-Sea (Town Clerk June White)

Commissioner Sasser asked whether the number of parking permits was the same as the previous year. Vice Mayor Dodd answered yes.

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

b. Contract with Realtor to Lease Town Warehouse (Public Information Officer Steve d'Oliveira)

Commissioner Vincent asked whether copies of the information he requested from Public Information Officer d'Oliveira were made available to the other members of the Commission. Public Information Officer d'Oliveira affirmed they were, noting Commissioner Vincent inquired of By The Sea Realty's previous work experience with commercial lease rentals. He said they currently represented Basin Drive, LLC, and 3000 Federal Highway, both in the City of Fort Lauderdale, and they worked with another client on obtaining 20,000 square feet of retail space in the city of Fort Lauderdale.

Commissioner Vincent expressed concern with 8½% on the gross value of the lease, which was approximately 3% more than the norm. He said there was no mention of whether a continuation of compensation would be granted whenever a tenant renewed. He believed the one-time lease compensation for a realtor's commission did not repeat on a renewal basis; this was not addressed in the proposed contract. The negotiation of a broker's fee versus a co-broker's fee was not included in the contract if they were the only broker. Commissioner Vincent said he was uncomfortable with By The Sea Realty's experience being more in residential than commercial. He stated that Town staff needed to be more aggressive when the request for proposal (RFP) was sent out again, explaining that local commercial realtors should be contacted; he was concerned there had been only one response to the first RFP.

Public Information Officer d'Oliveira stated that Town staff contacted seven commercial realtors and none responded to the RFP, including firms suggested by the Commission and others.

Commissioner Vincent reiterated the need to seek out other commercial realtors, as he spoke to a number of realtors who expressed an interest in the RFP.

Public Information Officer d'Oliveira thought the market might have shifted since the first RFP was sent out and acknowledged that resending it could yield more responses.

There was Commission consensus to send the RFP out again.

Vice Mayor Dodd thanked By The Sea Realty for their interest in doing business with the Town.

Commissioner Sasser noted they were welcome to rebid on the next RFP.

Commissioner Clotley made a motion not to accept the contract. Commissioner Vincent seconded the motion. The motion carried 5-0.

Town Manager Hoffmann thought the RFP should be revised to include the conditions mentioned by the Commission to prevent a reoccurrence of the same situation.

Town Attorney Trevarthen stated the Town reserved the right to do nothing and start over in the first RFP.

c. Harbour Drive Drainage Design Improvements (Municipal Services Director Don Prince)

This item was approved on Consent.

d. Vision and Dental Insurance (Director of Finance Tony Bryan)

This item was approved on Consent.

e. Expand the Use of Mini-Spaces (Vice Mayor Stuart Dodd)

Vice Mayor Dodd believed the Neighborhood Electric Vehicles (NEV) parking spaces should be extended to scooters and motorcycles, payable through the parking meter for an NEV space. He believed that presently, NEV parking spaces were underutilized.

Commissioner Sasser was concerned that NEVs would be deprived of their parking spaces if the use was extended.

Commissioner Clotley commented at the last Metropolitan Planning Organization (MPO) meeting, Florida Power & Light (FPL) and the Broward MPO teamed together on a grant that would provide educational information and funding for charging stations. NEVs needed to be recharged after a certain amount of time.

Commissioner Vincent thought NEV spaces were installed for the sole purpose of motivating residents to purchase NEVs, and they should not have to compete with motorcycles and scooters for parking. He favored leaving things as they were.

Mayor Minnet said that people with NEVs were parking in regular parking spots, as they had resident passes. She added that one solution was to have Town parking attendants put stickers on NEVs, letting them know that there was designated NEV parking. Mayor Minnet did not think that sufficient time had passed to see how the designated spots were working; the matter could be revisited after the season, perhaps in six months.

Vice Mayor Dodd made a motion to defer consideration on whether to extend the use of NEV spaces to motorcycles and scooters for six months. Commissioner Sasser seconded the motion. The motion carried 5-0.

12. ORDINANCES – PUBLIC COMMENTS

There were no ordinances for consideration.

13. RESOLUTIONS – PUBLIC COMMENT

- a. RESOLUTION 2011-30: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AN AGREEMENT BETWEEN THE TOWN OF LAUDERDALE-BY-THE-SEA AND THE BROWARD COUNTY SHERIFF'S OFFICE FOR LOCAL POLICE SERVICES; DIRECTING THE APPROPRIATE TOWN OFFICIAL TO EXECUTE THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Mayor Minnet opened the meeting for public comment.

Barbara Cole stated she was thrilled with the agreement between the Town and Broward Sheriff's Office (BSO), as it was in the best interest of the Town, and the officers were as familiar to residents as a local police force would be.

Edmund Malkoon thanked Town Manager Hoffmann for her negotiations on the subject contract, echoing Ms. Cole's commendations to BSO for their service in the Town. Mr. Malkoon believed that public safety was the Town's top priority, constituting the largest expenditure in the budget, and it was the Town's responsibility to ensure Lauderdale-By-The-Sea was adequately protected.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting. She recognized Broward Sheriff Lamberti.

Sheriff Lamberti thanked Mayor Minnet and Commissioner Vincent for attending BSO's Patriot's Day Ceremony the previous Sunday to commemorate victims of September 11, 2001. Though it was business, BSO considered its agreement with the Town about

partnership and serving the community. He commented that when officers were assigned to Lauderdale-By-The-Sea they stayed, and there was a waiting list of officers wanting to work in the Town; this was due to residents making them feel appreciated.

Commissioner Vincent thanked Sheriff Lamberti for the excellent service to the Town.

Commissioner Sasser commended the BSO police force for their service to the Town, noting the unique culture of Lauderdale-By-The-Sea was one the officers helped cultivate. The local community considered the BSO officers as family and knew the officers protected them like family.

Vice Mayor Dodd made a motion to approve Resolution 2011-30. Commissioner Sasser Seconded the motion. The motion carried 5-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

- a. Fishermen's Pier Inc.'s Conditional Use Application for Outside Seating (Zoning and Code Supervisor Jeff Bowman)

This item was deferred earlier in the evening to the September 27, 2011 Commission meeting.

Mayor Minnet recessed the meeting at 8:25 p.m. and reconvened at 8:40 p.m.

15. COMMISSION COMMENTS

Mayor Minnet said anyone wishing to see changes to the Town's Charter would have a chance to make suggestions during the Charter Review in 2012. She thanked the Lauderdale-By-The-Sea Chamber of Commerce for the beach cleanup in September and noted that By The Sea Realty would undertake the task on October 1, 2011, at 9:00 a.m. at the Pavilion; everyone was invited to participate. Mayor Minnet stated that a meeting was held in Town Hall with Director Nicki Grossman of the Greater Fort Lauderdale Convention & Visitors Bureau and was attended by Town Manager Hoffmann, Chamber representatives and herself. The aim was to explore steps to improve the partnership between the Town, the Chamber and the Visitors center, and how to help local hotels; it was a very encouraging meeting.

Commissioner Clotley noted that most of the MPO funds the City of Fort Lauderdale was receiving for A1A were federal dollars. She added that the MPO will sponsor a special session in October for cities, to walk them through the application process and help smaller municipalities get their fair share of MPO dollars.

Commissioner Clotley said Dr. Goreau was working to complete the reef project and noted that he mentioned discovering a species of coral thought to be extinct. She said he would be applying for federal permission to put that coral in the reef they were

building. Commissioner Clotley stated that Dr. Goreau informed her that the reef to the north of the Town was in better condition than the reef to the south.

Commissioner Clotley thanked Town Manager Hoffmann and Municipal Services Director Prince for completing the drainage project at the Pavilion so quickly. Improvements in street lighting and road resurfacing in the southern area of the Town were discussed under the previous Town Manager, but Town staff had been unable to locate any written plan detailing the changes. She requested that Town staff consider street lighting improvements when planning road resurfacing for this area of the Town; lower, more pedestrian-friendly lighting was preferable to the lighting along A1A, as it provided better security. Commissioner Clotley mentioned receiving a letter from the U.S. Commerce Association (USCA) indicating the Blue Sea Courtyard was awarded the 2011 Best of the Fort Lauderdale Award in the motel category; she read and entered the letter into the record. As chair of the Halloween Committee, she invited anyone interested in helping to plan, organize and run the special events to call the Town and leave their name and telephone number or call her directly at 954-895-6595.

Commissioner Vincent commended Town Manager Hoffmann for the exemplary work she did for the Town; when the Town Commission hired her, they went above the Charter guidelines for hiring a Town Manager. He believed that her extensive work experience in both the public and private sector enabled the Town to move forward the way it had since her arrival. On the matter of the Town's reserves, Commissioner Vincent recalled asking Town Manager Hoffmann if there was a mandated amount the Town had to retain as reserves, and he learned that reserves were required for some funds but not others. He felt that, as a coastal community, the Town had different needs and responsibilities than other municipalities located elsewhere in Broward County, and this might cause differences in the reserves compared to cities located to the west. Commissioner Vincent believed that the issue of the Town's reserves should be revisited to ensure balances were being maintained as they should, or to find out if they were excessive.

16. OLD BUSINESS

There was no old business to be considered.

17. NEW BUSINESS

- a. Planning Priority No. 1: Proposed Amendments to Section 30.9 Architectural Standards (Planner Consultant Cecilia Ward)

Town Manager Hoffmann stated that Planner Consultant Cecilia Ward found that the Town's Comprehensive Plan called for the maintenance of the Town's character and identity. She said that further research revealed the Town had a considerable amount of mid-century (MIMO) architecture and could be built upon and celebrated to identify the Town's uniqueness. Town Manager Hoffmann said that an ordinance adopted in 1993 mandated the Mediterranean style of architecture for new buildings and where

renovations exceeded 50% of a structure. Ms. Ward felt this was inconsistent with the Comprehensive Plan requirement and, based on the Commission's direction, worked on an amendment to the Town code to eliminate the mandate for the Mediterranean style. Ms. Ward's amendment proposed that MIMO architecture be declared to be the preferred style rather than having a mandated style. Town Manager Hoffmann believed the amendment was presented to the P&Z Board in September and was tabled with a 3 to 2 vote, with members taking a variety of positions, including for there to be no architectural style. She said the P&Z Board tabled the item until November, recommending Town staff conduct an economic analysis on the value of the two styles. Since this was a Commission priority, Town Manager Hoffmann thought it was best to bring it back to the Commission for direction, noting that an economic study was very costly.

Mayor Minnet asked for a brief explanation of how other municipalities established an architectural style, and how important it was from an aesthetic and monetary point of view to maintain such standards.

Ms. Ward believed it could be beneficial if a large city did not have an architectural style, as this might prove unwieldy. However, a small community with a particular architectural style that was celebrated and valued was a great advantage.

Town Manager Hoffmann remarked it was all about a sense of place, which Lauderdale-By-The-Sea had and this was reflected in its architecture.

Town Attorney Trevarthen concurred that having an architectural style was an accepted planning proposition, noting that communities lacking an architectural definition were spending considerable funds to create an architectural style after the fact.

Commissioner Clotey desired background on how Mediterranean was selected as the Town's architectural style. She suggested Town staff ask former Town Commissioners what transpired in the 1990s before making a decision to discard one style for another.

Commissioner Vincent questioned whether there had been any efforts to create the Mediterranean look in the Town, since its adoption in 1993.

Ms. Ward affirmed the records indicated the code was adopted in 1993 using the language of a Coral Gables ordinance. Thus, the attempt was to capture an Italian/Venetian/Mediterranean style for the Town. She said, based on the analysis of architect Gianni Feoli, there was a prevalence of MIMO architecture in Lauderdale By The Sea, though there was evidence of some Mediterranean architecture seen in the multi-family homes and renovations of existing hotels.

Commissioner Vincent observed since the code was passed, there appeared to be no rush to create the Mediterranean style around the Town. However, the MIMO style remained with some being enhanced. He did not want to see the Town go through an identity crisis and preferred to see the Town continue with the MIMO architectural style.

Ms. Ward agreed, stating the research of the renovations occurring in the Town revealed enhancements to the MIMO style. She added that unless the code was amended, renovations that exceeded 50% of the building, would be required to go to a Mediterranean style to be code compliant. Thus, building owners might have made more extensive renovations that improved their services and facilities, but they opted not to, due to the code requirements related to architectural style. Ms. Ward felt the existing code was becoming an impediment from a value added standpoint.

Vice Mayor Dodd agreed completely with Ms. Ward's recommendations and code amendment. He believed the present architectural style was in keeping with the surrounding architecture; no economic study was needed to show this. Vice Mayor Dodd believed the language in the proposed ordinance was very specific and would prevent anyone from bringing in a style that was not in keeping with the Town's existing architecture. He supported passing the item on first reading with the Commission adopting the third recommendation set forth. Vice Mayor Dodd stated the matter should be sent to the P&Z Board for further review before the second reading. He said the proposed code suggested a preference for MIMO, not exclusivity, and allowed something different if compatible with surrounding buildings. He noted there was a list of qualifications included to ensure buildings stayed within the proposed architecture style.

Commissioner Sasser agreed with the opinions expressed by Vice Mayor Dodd. On the campaign trail two years prior, it was clear that preservation was important to residents, that the Town's identity should remain intact. Equally clear was that the Mediterranean architectural style was not the Town's identity. Differentiation in architectural style increased rather than detracted from value, and he did not need an economic study to know this. Changing the mandated Mediterranean style to a preference for MIMO was less expensive to comply with and opened up opportunities for renovations for many hotels and businesses. He added it should be made clear to the P&Z Board, if the matter went back to them for further review, that the Commission desired MIMO as the preferred architectural style for the Town.

Mayor Minnet thought the important issue was the difference between mandatory and preferred. The proposed amendment advocated MIMO as the preferred architectural style, allowing for more flexibility in the style of architecture and it would facilitate rejuvenation. She was in favor of moving the matter forward.

Commissioner Clotey thought herself in the minority, as she had no wish to impose any architectural style on anyone. She would support the decision to move forward and vote for the proposed amendment in order to present a unified front.

Commissioner Vincent agreed with moving forward with the proposed amendment.

Town Attorney Trevarthen clarified the Commission's consensus was that the first reading of the proposed ordinance should take place at the Commission meeting on

September 27, 2011. The Notice of Intent would expire at the end of September, so Town staff would bring a new Notice of Intent to cover the Town through the time necessary to complete the adoption process. She assumed, as the P&Z Board was scheduled to meet in a few days, it was unlikely that they would receive the proposed ordinance for review before October.

Mayor Minnet clarified the motion would be: to approve the scheduling of the first reading of the proposed amendment at the Commission's second meeting in September; and for the P&Z Board to review the matter at its October meeting. Town staff would bring back a new notice of intent, and there was to be no economic study.

Vice Mayor Dodd made a motion to approve the above as stated by Mayor Minnet. Commissioner Sasser seconded the motion. The motion carried 5-0.

Ben Freeney stated that despite the varying opinions at the P&Z Board meeting as to architectural style, there was a unanimous agreement on the need to remove the mandatory clause, as it was too restrictive. He added there was also a consensus that there was no need for an Architectural Review Board, as Town Staff, working with developers, architects, etc., could ensure applicants satisfied the Town's architectural style requirements.

Town Manager Hoffmann pointed out there would be two public hearings held for the proposed amendment, allowing ample opportunity for public input, and staff would give a presentation to clarify what constituted the MIMO architectural style.

Commissioner Clotey asked what the P&Z Board's response was to the section of the proposed amendment eliminating them from the approval process. Town Manager Hoffmann stated the proposed amendment did not change anything in present approval process, including applications going to the P&Z Board for review.

Town Attorney Trevarthen affirmed the proposed amendment facilitated a review of proposed architecture, an addition to the other steps in the regular approval processes.

b. Proposed Expansion of the Commercial Boulevard Sidewalk in front of the Athena Restaurant and adjoining Properties (Assistant Town Manager Bud Bentley)

Commissioner Vincent asked if Town staff would be removing the tire stops.

Assistant Town Manager Bentley answered, yes, from the subject location to the west.

Commissioner Vincent thought the tire stops in front of 101 Ocean could not be removed, due to the condition of the building and the setbacks.

Assistant Town Manager Bentley replied that there were no tire stops prior to the installation of the pay stations, when single-space parking meters were removed. He

said that parked vehicles pulled too far onto the sidewalk, so staff installed the tire stops. Assistant Town Manager Bentley said the stops could be removed, but staff recommended they remain, as the curb was relatively low.

Mayor Minnet asked why the curb could not be continued all the way and the tire stops removed. Assistant Town Manager Bentley reiterated the curb in the area was very low and the tire stops were installed for safety reasons.

Commissioner Clotey understood the safety issue but wondered if it would be costly to raise and extend the curb all the way down, as it was not aesthetically pleasing to have the tire stops going in one direction and not the other.

Assistant Town Manager Bentley stated that one alternative would be to pour concrete for a new sidewalk at a higher level or to mill down the height of the street to a lower level. Both would be expensive, as well as premature in light of the Town's plans to rebuild the whole stretch of road soon.

Commissioner Clotey suggested large flowerpots, rather than tire stops, to prevent cars parking on the sidewalk.

Town Manager Hoffmann indicated Town staff could explore other options and present them to the Commission.

Assistant Town Manager Bentley stated there was already limited space in the subject area. He added that another option would be to remove the tire stops and have Town staff monitor the situation.

Vice Mayor Dodd disclosed that he met with the applicant and assured him his application would be superseded by the Town's project in 2012. He added that the CIP for the next fiscal year would result in the widening of the sidewalk, abutting the applicant's property when the downtown sidewalk and road project was completed. Vice Mayor Dodd said he informed the applicant the present delay was due to the Town's investigation into the possibility of undergrounding the overhead wires. He said the Commission was aware of time constraints, and the businesses would face minimum disruption if the Town's redevelopment plans and permits were completed, so construction could begin after July 4, 2012. Though he supported the applicant's project, Vice Mayor Dodd thought it would disrupt the area businesses twice in light of the Town's plans for their project to begin in summer 2012. He suggested Town staff could explore combining both projects, so as to avoid digging up the same street twice.

Commissioner Vincent thought the applicant should address those concerns, as it appeared the only disruption would be to the applicant's and his tenants' businesses. The Town had yet to receive a conceptual drawing for the downtown project and it was unlikely to take place any time soon. He wanted Mr. Marchelos to make a decision with good information.

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Commissioner Clotney felt similar concerns to those expressed by Commissioner Vincent. She believed that if the applicant was willing to pay for his project, the Commission should not be concerned with how much the improvements would cost the applicant. Commissioner Clotney thought the disruption would be minor.

Mayor Minnet commented the agreement could contain a condition that the project be completed within a reasonable period of time.

Commissioner Sasser stated he was very excited about the subject project, as it went back to the changes the Commission discussed and debated over: parking exemptions, sidewalk cafes, and allowing the Town's businesses to make such changes.

Mayor Minnet summarized the three issues to be addressed: 1) continuing the curbing; 2) the disruption to other businesses; and 3) the cleaning of the sidewalks. On the third matter, Mayor Minnet asked staff if there were any provisions within the conditional uses for sidewalk cafes to clean the sidewalks.

Assistant Town Manager Bentley stated the Town pressure cleaned the sidewalks in the downtown area once a month. He added that the storefronts were responsible for cleaning the sidewalks in front of their businesses.

Mayor Minnet recommended that staff include in the conditional uses the requirement that sidewalks should be pressure cleaned once a week, as the sidewalks in that area of Town were not very attractive. She said this was a condition not just for the present applicant, but for future applicants as well.

Vice Mayor Dodd believed that 101 Ocean pressure washed the sidewalk daily. He added the disruption could be minimized if the Town adopted a similar proposal to that of the drainage scheme, where work was done between 3:00 a.m. and 10:00 a.m.

Commissioner Sasser asked if there was any way for Town staff to supervise the construction to ensure the conditions of the agreement were strictly adhered to. Assistant Town Manager Bentley affirmed this was possible and would be worked out with the applicant.

Town Manager Hoffmann reiterated staff would explore other options to the tire stops, as raising the sidewalk, lowering the road or extending the curb would be costly.

Mayor Minnet accepted Town staff's position on the matter of the tire stops and curbing.

Assistant Town Manager Bentley stated that Town staff would specify the number of construction days and hours they could work as a condition of approval.

Town Manager Hoffmann indicated Town staff would add a cleaning requirement to the Town's sidewalk café agreement.

Assistant Town Manager Bentley said the applicant sought the Commission's approval for the plan in concept, and for them to authorize the Town Manager to execute the necessary agreement after the form was approved by the Town Attorney.

Louis Marchelos emphasized he would not be disrupting the business of his tenants or his own restaurant, as that would not be cost effective. Mr. Marchelos believed the project would be completed in four days. He said he was aware of the Town's improvement plans for the area in 2012 but, as no designs were drawn to date, he preferred to go ahead with his project. On the issue of cleaning the sidewalks, Mr. Marchelos said they pressure cleaned the Town's right of way, adjacent to their outdoor café on the west, about once every three weeks for the last eight years.

Vice Mayor Dodd made a motion to authorize the Town Manager to execute the necessary agreement once the form was approved by the Town Attorney with the following provisions: 1) include a construction schedule; and, 2) include a cleaning requirement in the sidewalk cafe license; Mr. Marchelos understood and accepted the provisions. Commissioner Sasser seconded the motion. The motion carried 5-0.

c. Discussion regarding Town Manager Performance Evaluation (Town Commission)

Commissioner Clotley believed no justice could be done to an evaluation of the Town Manager due to the late hour, though discussion was needed to establish rules in the evaluation process. Town Manager Hoffmann had been with the Town for just over a year, and a ten-minute review by each Commissioner could not do justice to her work. She requested a postponement of the evaluation to the next Commission meeting or to hold a special meeting for that purpose.

Town Attorney Trevarthen reminded the Commission the Town Manager's contract stated by October 1 of each year, the dais had to agree upon the performance, goals and objectives, after which the performance review would be conducted in October. She pointed out that the agenda item was for discussion of the process not the actual evaluation.

Mayor Minnet asked the Commission if they in agreement with how to proceed based upon their review of the backup information pertaining to the evaluation process.

Commissioner Vincent inquired if after each Commissioner filled out each item, their answers could be tabulated to a certain score. He was unsure if the public desired more transparency as to the details of the Commission's evaluation and suggested that the completed evaluations could be placed in the backup, and the Commission and the public could give their comments.

Commissioner Clotley was concerned that the scoring of the review process was very subjective and therefore, a clear understanding of what each score meant should be established.

Commissioner Sasser thought there was little need to discuss items for which there was a consensus of a high score; however, low scores assigned by any one Commissioner could be brought up and discussed. He believed that both the high and low ratings, if any, could be consolidated for all the Commissioners and then discussed publicly.

Mayor Minnet did not agree with the 1 through 5 rating process. In reading the performance review portion of the Town Manager's contract, it stated both parties should prepare a written evaluation with pros and cons, which she preferred. She supported each Commissioner writing a review in their own words regarding how they felt the Town Manager was doing. The numbering system used last year failed.

Vice Mayor Dodd recalled the reason the numbering system failed was due to a member of the Commission refusing to fill out their evaluation, stating they would award the then Town Manager high scores of five across the board, which completely destroyed the validity of the evaluation. He advocated for a consistent approach and felt a more structured process was better than simply writing an evaluation in one's own words, nor did he see varying scores for a particular item as problematic.

Mayor Minnet pointed out the definitions of the existing rating system of 1 through 5, whereby 1 meant "does not meet expectations", 3 meant "meets expectations" and 5 meant "exceeds expectations" were clear. If the Commission was satisfied with this system, it would be used to conduct this year's evaluation of the Town Manger. She said there was space provided for additional comments.

Commissioner Sasser thought it was very important for the evaluation to tie into the goals provided by the Town Manager. He questioned how the evaluation would be presented in the Commission meeting, whether each Commissioner would go over each line item, or as an overall review; the detailed evaluations would be part of the backup.

There was Commission consensus to use the same format as the previous year to maintain consistency; comments should be made within that form, constituting the written portion of the evaluation. The goals listed by the Town Manager would be emphasized.

Commissioner Sasser observed the Town Manager's goals had not been integrated into the form, and a decision was needed as to how to integrate them. He asked if the goals were something the Commission should think about as they filled out the form.

Mayor Minnet suggested making a Category V for Performance/Goals Evaluation; the Commission could then review previous goals to determine the extent to which Ms. Hoffmann had fulfilled them. She thought there should be an overall number assigned at the end, and this was the score the Commission could discuss in the meeting, letting residents know why particular scores were awarded.

Town Manager Hoffmann asked when the Town Manager's goals be set for the next fiscal year.

Mayor Minnet felt that would require a separate meeting. She clarified the Town Manager's performance evaluation would take place at the October 11, 2011 Commission meeting, in place of Commission comments. Mayor Minnet stated the evaluation would consist of attachments in the backup, and the addition of a Category V for performance/goals evaluation. She said an agenda item would be placed on the October 11 Commission agenda to set a meeting date and time to discuss performance goals for FY 2011/2012.

d. Medical and Prescription Drug Benefit Coverage (Director of Finance Tony Bryan)

Director of Finance Tony Bryan reviewed the information contained in the backup, including cost comparisons that would yield about \$60,000 in savings to the Town, along with an attractive benefit package for employees.

Town Manager Hoffmann explained there were two pieces to the new coverage: 1) the insurance program with Coventry; and 2) A Gap contract, enabling the Town to offset some of the higher deductibles that came with the Coventry plan.

Finance Director Bryan clarified the Coventry plan had very high deductibles and co-pays, but Mr. Goodman, the insurance consultant, suggested the Town enter into a Gap plan to help cover the deductibles and co-pays. The backup illustrated the net effect of the two plans.

Town Manager Hoffmann pointed out the one problem with the new plan was the prescription co-pays were much higher than the Town's current plan, some being almost double. Finance Director Bryan and Mr. Goodman found one way to address this was to establish a flexible spending account that allowed employees to put pretax money aside to help with those costs. This could be offered to employees at a maximum of \$400 a year; this coverage was comparable to the present coverage.

Vice Mayor Dodd made a motion to approve the medical and prescription drug benefit coverage and flexible spending accounts. Commissioner Sasser seconded the motion. The motion carried 5-0.

e. Municipal Park (Town Clerk June White)

This item was deferred to October 25, 2011, for additional information to be presented by Mr. Freidt.

f. Appointment of 1 Voting Delegate and 1 Alternate to the National League of Cities' Annual Business Meeting, Saturday, November 12, 2011 in Phoenix, Arizona (Town Clerk June White)

There was no need to appoint a delegate as no member of the dais wished to attend the National League of Cities' Annual Business Meeting.

Commissioner Sasser was likely to attend, but work obligations could cause him to be absent. He requested and received Commission consensus granting him a provisional excused absence for the public hearing of September 26, 2011.

18. ADJOURNMENT

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

19. FUTURE AGENDA ITEMS

Mayor Roseann Minnet

ATTEST:

Town Clerk, June White

Date