

# TOWN OF LAUDERDALE-BY-THE-SEA

## TOWN COMMISSION

### REGULAR MEETING MINUTES

Jarvis Hall

*4505 Ocean Drive*

*Tuesday, October 25, 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, Assistant Town Manager Bud Bentley and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Students from City College led the Pledge of Allegiance

3. INVOCATION - Reverend George Hunsaker

Reverend Hunsaker gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Minnet pulled / moved the following items:

- 1) 11a pulled from the Consent Agenda and moved forward for discussion immediately after agenda item 7c.
- 2) 11f pulled from the Consent Agenda for discussion
- 3) 14a moved forward for discussion prior to consideration of agenda Item 12

5. PRESENTATIONS

There were no presentations.

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

John Boutin commended Vice Mayor Dodd for his foresight in inviting Allen Sherrod to Lauderdale-By-The-Sea to do his World Record attempted. He thanked staff for their efforts in facilitating the event. The Town received increased publicity as the media kept abreast of his progress. He suggested as a thank you to Mr. Sherrod for the publicity

he brought to the Town. Mr. Boutin requested that the Commission allocate \$1,000 for a congratulatory dinner.

Edmund Malkoon suggested ways for the Town to market itself, such as a hospitality table at Commission meetings displaying guides, local business discounts and promotions, or giving away bags with information to help people explore and enjoy the Town. The Town's historical sites needed to be preserved, such as Spicola Park, currently used as a parking lot for the Volunteer Fire Department (VFD) trailers and ATVs. Lauderdale-By-The-Sea was not a drive through town, and he urged the Town Commission to restore and rededicate Spicola Park and other sites to the purpose for which they were intended. Mr. Malkoon stated that the Town Charter was the Town's Constitution and needed to be updated, as items were still not codified; there was no mention of term limits, an issue which the voters passed overwhelmingly.

Mark Brown was always reluctant to name parks after particular individuals, as many people contributed to the Town's progress. However, he supported the reinstatement of the Friedt family's name at the Municipal Park, as it would rectify a wrong to them that should never have taken place.

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

## 7. PUBLIC SAFETY DISCUSSION

### a. BSO Monthly Report – September 2011 (Chief Oscar Llerena)

Mayor Minnet requested clarification regarding a Sun Sentinel newspaper article that reported an increase in the crime rate in Lauderdale-By-The-Sea. She stated that every report the Commission received said the crime rate was decreasing.

Chief Oscar Llerena said the article contained numbers from the Uniform Crime Reports. He stated that the Town had low number and explained that the article was based on a comparison of two static points in time: 2007 to 2010, with the specific crime of burglary to residence. Under the Uniform classification adopted by all 50 states, burglary of residences included break-ins to hotel/motel rooms, as well as break-ins by persons that knew each other, but were involved in a domestic dispute. He said the price of gold was driving the type of crimes, as individuals were now targeting jewelry, and these were crimes never seen in the Town before. Unfortunately, there was a large upswing in robberies, taking property by force, mostly chain snatchings. He asked residents to stay aware of such trends, read the reports he submitted to the Commission, always check the BSO websites where the Sheriff posted his message for general crimes happening in the community, and to take steps to become less of a target.

Commissioner Vincent requested an explanation as to how the police were able to keep the Town's crime rate down, considering its proximity to Pompano Beach and Fort Lauderdale.

Police Chief Llerena said the Town was situated between two of the largest cities in Broward County, and there were numerous transients passing through the Town. In 2010, the police arrested two murderers in Lauderdale-By-The-Sea; neither resided in the Town nor had they committed murder in the Town. He stated many such persons drove through the Town, and the police sought to make Lauderdale-By-The-Sea the least attractive place for them as possible, but this was not something they could do alone. The level of police presence helped, but residents' awareness of their neighborhoods was an added deterrent if they notified the police of any suspicious persons and/or activities. He mentioned a trend of criminals traveling to distant areas and counties, sometimes 50 miles away from their place of residence to commit crimes.

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

**b. VFD Monthly Report – September 2011 (Chief Steve Paine)**

Mayor Minnet expressed appreciation for Chief Paine and his staff highlighting in the report via an asterisk which staff members were Town residents.

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

**c. AMR Monthly Report – September 2011 (Chief Brooke Liddle)**

Vice Mayor Todd congratulated Chief Liddle and his staff for achieving 3 minutes and 28 seconds again, and for continuing to maintain a very high level of service to residents.

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

**8. TOWN MANAGER EPORTS**

Assistant Town Manager Bentley recommended the Town obtain public input. Commissioner Sasser suggested Tuesday, November 8, 2011, at 5:00 p.m. or 5:30 p.m. Mayor Minnet stated she would be out of Town, but the meeting should occur.

There was Commission consensus to schedule a workshop for November 8, 2011, at 5:30 p.m. to get public input regarding solid waste issues for business and residential.

Assistant Town Manager Bentley believed the Terra Mar ribbon cutting ceremony for their new gate, originally scheduled for November 8, was moved to November 14.

**9. TOWN ATTORNEY REPORT**

Attorney Trevarthen updated the Commission on the status of the Garden Court and Short Court properties regarding approval of their permit extensions. She said the Florida Legislature took action by preempting the Town's ability to deny a permit extension, and both properties received extensions though the current year. She noted the 2011 Florida Legislature repeated this action and two additional years of permit extensions were granted, again preempting in all but very limited circumstances the Town's ability to deny permit extensions. The project had come forward to request that statutory permit extension, and this was under review by the Town's building official and staff; it was likely the property owners would qualify for those extensions.

Commissioner Vincent asked if the extensions were mandated, or had to be applied for.

Attorney Trevarthen replied the extensions had to be applied for and letters on behalf of the projects requesting the extensions were required by Town staff.

Commissioner Vincent questioned if there was a set time by which the new requests had to be made after the original extension expired.

Attorney Trevarthen said Town staff was reviewing the details to ensure the applicants fit within the statutory requirements.

Commissioner Clotey asked for clarification that the Town was awarding a four-year extension to some properties.

Attorney Trevarthen stated in 2011 the Florida Legislature prohibited applicants from stacking extensions on one another for more than four years. In the present case, the applicants already had two years of extensions and were entitled to two more.

Mayor Minnet stated that, as it was a Florida Legislature mandate, there was little the Town could do but grant the extensions. She asked if there was anything in the Town statues requiring property owners to improve the appearance of the sites, such as planting sod.

Attorney Trevarthen replied that a number of things were identified in the Town's Code related to the maintenance of vacant properties, and staff was checking to ensure those aspects of the Code were being respected, such as fencing. The Town was not preempted from enforcing the maintenance of such features. She noted the statute said property owners were not allowed to maintain a nuisance.

Attorney Trevarthen updated the Commission on the recently approved Broward County Ethics Ordinance. She proposed a workshop to review the ordinance, November 29, 2011, at 5:30 p.m., and noted the effective date of the Ordinance was January 2, 2012.

There was a Commission consensus to set a Commission workshop accordingly.

**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, 11e and 11f.

Vice Mayor Dodd made a motion to approve Items 11b and 11c on the Consent Agenda. Commissioner Vincent seconded the motion. The motion carried 5-0.

**a. Chamber of Commerce Monthly Report (Town Manager Connie Hoffmann)**

This item was pulled from the Consent Agenda and discussed prior to the Town Manager's Report.

Vice Mayor Dodd asked if the statistics in the report were for the previous month; he was curious if the Chamber had an increase in the number of inquiries for diving in the present month as a result of Allen Sherrod's presence. Executive Director Judy Swaggerty stated they saw no increase in light of the large publicity.

Mayor Minnet inquired as to whether visitors were staying in the Town.

Ms. Swaggerty stated there was no way to track where a visitor stayed after leaving the Visitor's Center. She believed a number of hoteliers asked their guests how they heard about the hotel.

Mayor Minnet wondered if that feedback was relayed to the Chamber.

Ms. Swaggerty answered, no. She said since October 1, 2011, the Visitors Center saw an increase in visitors from Brazil, China, Holland, France, Germany, Denmark, England, Switzerland, Singapore, Canada, Israel and Japan. Most of them were directed to the Visitor's Center by the signs posted on the Turnpike.

Commissioner Sasser asked the Commission if they desired to have dollar amounts tied to each walk-in, to the Visitor's Guide, etc. He said the aim was to track expenses into the next fiscal year, and he wanted to ensure the information contained in the subject report was sufficient or if Mr. Bryan's aid was needed in further narrowing down the dollar amounts. Assistant Town Manager Bentley indicated he would follow up to determine if Finance Director Bryan met with the Chamber.

Ms. Swaggerty said she had not met with Finance Director Bryan, but in her discussions with Town Manager Hoffmann, they spoke about her meeting with Mr. Bryan in the near future.

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

- b. Commission approval of Hardship Permit Applications (Town Clerk June White)

This item was approved on Consent.

- c. Special Event Application for the Marie White's Santa is Coming to Town Event on Saturday, December 10, 2011 (Assistant Town Manager Bud Bentley)

This item was approved on Consent.

- d. Special Event Application for a Pet Parade and Block Party on Sunday October 30, 2011 (Assistant Town Manager Bud Bentley)

Gerri Ann Capotosto spoke on behalf of the Terra Mar Island Civic Association, requesting the Commission's support for their pet parade and block party, which they hoped would bring about island unity. Part of their community was in Pompano Beach and the other part was in Lauderdale-By-The-Sea; such events built membership and feelings of community spirit. She thanked the Mayor and Commission for supporting their improved entryway, as they believed the improvements would inspire residents to renovate their properties and might draw real estate agents to their area.

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

- e. Traffic Planning & Engineering Work Authorization for the East Commercial Boulevard Streetscape Project – Hughes & Hughes (Town Manager Connie Hoffmann)

Vice Mayor Dodd supported hiring Hughes & Hughes. However, he noticed the public were not invited to provide input at the conceptual design meetings, and he felt at least one of the meetings should be open for public input. There might be businesses and hoteliers along El Mar Drive that wished to give input on the project.

Molly Hughes stated they would extend one of the two required focus meeting to include public input or schedule an additional meeting if necessary.

Commissioner Sasser echoed support for Hughes & Hughes. He noted that he was unable to determine whether it was a low bid or a high bid compared with that of other firms.

Assistant Town Manager Bentley said Florida law had a Competitive Consulting Negotiations Act (CCNA) under which there were certain services municipalities had to send out for Request for Proposals (RFPs). Candidates responded to an RFP with their qualifications from which the best qualified firm was selected, and then a price was negotiated. If negotiations failed, the city was free to move to the second choice firm.

In the present instance, the Town had continuing services contract, and about four months prior, a series of engineers, designers, traffic consultants, etc., made proposals to the Town. Multiple well-qualified firms were selected and approached for a price on specific projects; the savings to the Town was that it did not have to go through a CCNA process for every job. To know if the Town was getting a reasonable deal in this instance, Town Manager Hoffmann invited two firms to make specific proposals, which involved walking the sites; their proposals were evaluated based on price and services offered. He mentioned there was further information in the next item that justified why Town Manager Hoffmann recommended the Commission approve the slightly more expensive firm of the two.

Assistant Town Manager Bentley stated if members of the dais thought there were deficiencies in the scope of services, such as the need for more public input, or more/less services, these could be addressed but might affect the prices, up or down.

Commissioner Sasser said his only issue was the number of hours the company would dedicate to the project, and that Town Manager Hoffmann was satisfied with the estimate given by Ms. Hughes.

Ms. Hughes affirmed this to be the case, stating Town Manager Hoffmann had a scope of services, and she was satisfied Hughes & Hughes could accomplish that scope in a certain number of hours.

Assistant Town Manager Bentley stated the Town previously employed the services of Hughes & Hughes for two or three projects in the area. For example: they did the traffic counts at the intersection at Ocean Drive; they did a signal timing study, and worked with Florida Department of Transportation (FDOT) to get the numbers; they did the study for continuing the two westbound lanes through the intersection. He felt these experiences provided Hughes & Hughes with a competitive edge whereby another consultant would have to spend time becoming familiar with each component.

Commissioner Sasser thought there were other firms the Town had done business with that had similar advantages. It was at this stage prices got astronomical, and he preferred having some type of price comparison.

Mayor Minnet noted the cost was for \$23,600 for the work authorization for traffic engineering services for the East Commercial Boulevard Streetscape Project.

Attorney Trevarthen explained certain services such as architecture and engineering services fell under a statute preventing cities from selecting firms solely on the basis of price. The Town went through a lengthy process in summer 2011 from which she believed continuing contracts with 15 firms were entered into to provide a variety of engineering and other consulting services. She stated it was at that point rate comparisons of qualifications were conducted. Now that the firms were under contract with the way the CCNA worked, the Town could not pit firms against one another but could acquire multiple quotes and select the one believed to be in the best interest of

the Town. The best quote was usually a combination of the scope and hours needed to achieve that scope.

Vice Mayor Dodd was comfortable approving the proposed work authorization based on the cost of the project, the many meetings with the Town Commission and staff, and the outstanding work Hughes & Hughes had done for the Town.

Vice Mayor Dodd made a motion to approve the work authorization in the amount of \$23,600. Commissioner Vincent seconded the motion. The motion carried 4-1. Commissioner Sasser voted no.

- f. Work Authorization to Jaime Correa and Associates for the Design of the East Commercial Boulevard Streetscape and Drainage Project (Town Manager Connie Hoffmann)

Assistant Town Manager Bentley discussed the project, the revisions and the inclusion of sustainable materials within the whole package with Jaime Correa & Associates, as noted in the backup. He pointed out the lined language in the backup would be removed, and the negotiated amount of \$186,805 should be reflected.

Mayor Minnet questioned why the change was made from two to one focus group, as she thought it important that one focus group allow for public input.

Assistant Town Manager Bentley believed it was to bring the cost down, as well as due to the considerable work already done on the project, including a lot of community input at the master planning session at the University of Miami charrette. From all the public input, the feeling was to have one last sit down and then have the group present a design the community could respond to.

Vice Mayor Dodd felt it was vital to get the traffic correct, as insufficient on-the-street parking could be detrimental to businesses. He knew of places where the streets were made more pedestrian friendly, and it led to businesses closing. The number of public meetings in the subject contract was inadequate, as no forum was provided for public comment. The Town was trying to do everything it could to make its projects environmentally friendly, and he desired to see the use of permeable materials emphasized in the design areas where trees were to be planted, to prevent runoff water flowing back into the Town's drainage system.

Commissioner Sasser saw the names of various engineers and urban designers in the backup and wished to be sure the bid included all those companies. He wondered if the figures reflected in the backup were estimates or actual prices given by the various companies, and whether the Town or the contractor would be responsible for paying those companies. Also, if there were overages with any of the companies, who would be responsible for covering the additional cost.

Assistant Town Manager Bentley stated the primary contractor secured the services of the various subcontractors and would be responsible for paying them.

Commissioner Sasser questioned if all the charettes and other steps taken included public input. The Commission was requesting just one last meeting prior to beginning the project to give everyone a chance for final input in the process.

Assistant Town Manager Bentley believed the Commission desired one focus group be open one to allow input by any stakeholder in the project, resident or business; this change could be easily made.

Mayor Minnet concurred, as it was important everyone understood what the plan was. She pointed out the backup stated after the focus group meetings, the designers were to present the conceptual drawing at a Commission meeting and obtain direction from the Commission on the alternatives presented, and to address any stakeholder concerns with the design concept. Thus, the requirement was already addressed in the language.

Vice Mayor Dodd supported the presentation of the conceptual design at a Commission meeting. He thought it best to hold a workshop at 6:00 p.m. just prior to the Commission meeting at 7:00 p.m. to allow public input.

Commissioner Clottey believed it better to have more than one conceptual plan from which to select the best design to address the various concerns, such as adequate parking, etc.

Commissioner Vincent reminded the Commission the conceptual designs would be presented by the contracted firm from the University of Miami which included people to ensure affected businesses and residents of the area were part of the process, before the conceptual design was presented to the Commission. If the input at the Commission workshop resulted in a redesign, the Town would have to pay for those changes based on the language in the contract.

Assistant Town Manager Bentley affirmed a redesign could lead to increased cost to the Town. If the public input at the workshop led to changes in the design, those adjustments could be made prior to the item being presented to the Commission for approval.

Mayor Minnet stated there would be two conceptual designs presented, one plan and an alternative. It was important for residents and the Commission to see a feasible traffic plan, including parking; she directed attention to the backup information on that plan. She asked whether Ms. Hughes would be working hand-in-hand with the designers to address the issues brought forth by Vice Mayor Dodd.

Ms. Hughes replied that the University of Miami charrette set the general tone for the design and the Town Commission could direct the designers as they chose.

Mayor Minnet summarized:

- Architects to incorporate green, sustainable elements in the project
- Schedule a Commission workshop prior to the Commission meeting to allow for a presentation of the conceptual design and invite public input

Commissioner Vincent made a motion to approve the work authorization for \$186,805 as corrected with the backup materials distributed earlier, with the inclusion of the above items, and opening the one stakeholder meeting to include public input. Vice Mayor Dodd seconded the motion. The motion carried 5-0

## 12. ORDINANCES – PUBLIC COMMENTS

### 1. Ordinances 1<sup>st</sup> Reading

- a. Ordinance 2011-18: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA SETTING JANUARY 31, 2012 FOR THE TOWN'S 2012 GENERAL MUNICIPAL ELECTIONS DATE TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATE AS ALLOWED BY SECTION 101.75, FLORIDA STATUTES; ESTABLISHING THE QUALIFYING PERIOD FOR THE 2012 GENERAL MUNICIPAL ELECTIONS TO OCCUR FROM NOON ON TUESDAY, NOVEMBER 8, 2011 THROUGH NOON ON TUESDAY, NOVEMBER 22, 2011, AS REQUIRED BY THE SUPERVISOR OF ELECTIONS; PROVIDING FOR THE DATE ON WHICH ELECTED OFFICERS TAKE OFFICE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

Attorney Trevarthen clarified the proposed ordinance: set the date of the election as January 31, 2012; and set the qualifying period to match the dates required by the Supervisor of Elections, between November 8 and November 22, 2011. There were two alternatives related to the date of swearing in for the Town Commissioners on which Town staff needed guidance. If the January elections were held, the Commissioners would be sworn in the second Tuesday following the January 31 elections, or they could be sworn in in March. The Town Commissioners were elected in January of 2008, so their terms had two extra days, but the Mayor's term began March of 2010. Under the law, municipalities were not permitted to shorten an office holder's term; thus, the choice was whether to have everyone sworn in in March or to have the Commissioners sworn in in February and the Mayor sworn in in March. The matter had to be resolved by the second reading of the ordinance.

Mayor Minnet opened the meeting for public comment.

Tom Slaten stated, historically, the Town's election was not on the same date as the larger election. He supported people making an extra effort to vote on a separate day for their hometown elections.

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

Attorney Trevarthen pointed out there was a scrivener's error on page three of four of the ordinance, as lines 20 and 21 made no sense and should be deleted.

Mayor Minnet recommended having a swearing in of Commissioners right after the January 31 election, as delaying it until March would not be prudent.

Attorney Trevarthen commented this would be indicated in section four, not alternate section four. Specifically, page three, line two, noting the Mayor supported the swearing in taking place the second Tuesday following January 31.

Vice Mayor Dodd thought the matter was resolved in 2007. He stated the Town did not need the added expense of a special meeting two days after the election results were announced. The new Town Commission should be sworn in at the first scheduled Commission meeting following the announcement by the Supervisor of Elections. If the next meeting occurred the day after the results were announced, this would present a problem for Town staff to make the alteration, and in such an instance the swearing in could be at the next Commission meeting.

Attorney Trevarthen indicated if the Commission followed Vice Mayor Dodd's suggestion, in section four where it currently stated the second Tuesday after the election, that language would be changed to say, "... shall be held at the first scheduled Commission meeting following the announcement of the results or at least two days following that announcement." The notion was to allow Town staff time to notice and pull together this aspect of the meeting.

Commissioner Sasser understood an elected official could not be forced to shorten their term of office.

Attorney Trevarthen clarified the backup stated the Mayor could not be forced to shorten her term but she could opt to do so. She believed Mayor Minnet consented to shorten her term to allow one swearing in, in February. Mayor Minnet affirmed this to be the case.

Commissioner Sasser made a motion to approve Ordinance 2011-37 on first reading with the swearing in to occur on the first scheduled Commission meeting following the announcement of the election results, as long as that meeting was at least two days after that announcement. Commissioner Vincent seconded the motion. The motion carried 5-0

### 13. RESOLUTIONS – PUBLIC COMMENT

- a. **Resolution 2011-37: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, OPPOSING THE PERPETUAL 25% NON-RESIDENT SURCHARGE ON POTABLE**

WATER AND WASTEWATER SERVICES PURSUANT TO SECTION  
180.191, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE  
DATE

Attorney Trevarthen said that the modified resolution protested a statutory perpetual 25 percent surcharge on top of the rate supplier cities charged their own residents. She questioned whether the charge was appropriate if the funds were no longer being used for the purposes for which they were intended. Attorney Trevarthen added that Town staff derived that the surcharge was originally placed in the statute to help cover the cost that supplier cities incurred making the services available. Attorney Trevarthen reiterated the proposed resolution opposed the perpetual nature of the 25 percent surcharge on utility services placed on nonresidents of the community providing that utility. The resolution would go to the legislative delegation to request the law be changed to ensure the surcharge was related to the actual costs of supplying the utility.

Mayor Minnet opened the meeting for public comment.

Arthur Franzcak distributed a handout to the members of the dais, stating he supported the resolution. He believed it was despicable for the cities of Pompano Beach and Fort Lauderdale, or any municipality to impose hidden taxes on taxpayers, particularly those outside their cities. In calculating his bill from 2010 and comparing it to 2011, his utility bill increased by 361 percent; even including the 25 percent surcharge did not explain such a high increase. He asked for the sewer methodology to be placed on the next Commission meeting agenda for discussion.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting. She thanked the Town Attorney and staff for bringing the matter forward, and it was good to get the clarification on using the correct verbiage. She noted this was an issue affecting municipalities across the state, and it had to be dealt with sooner rather than later; she urged residents to get involved and call their representatives in Tallahassee and the County Commission.

Commissioner Clotley asked whether any of the municipalities Attorney Trevarthen represented were in a similar position as the Town and, if so, how were they handling it.

Attorney Trevarthen responded this had been a problem for some municipalities, stating the 25 percent surcharge had been a part of the statutes for a long time. One city in Dade County was pursuing a statutory change on a slightly different basis, but the basic aspect of their concern was they were paying too much for utilities as a customer city.

Vice Mayor Dodd suggested also sending the approved resolution to the Florida League of Cities for their consideration.

Vice Mayor Dodd made a motion to approve Resolution 2011-37. Commissioner Clotley seconded the motion. The motion carried 5-0.

**14. QUASI-JUDICIAL PUBLIC HEARINGS**

Attorney Trevarthen reviewed the quasi-judicial process, requesting and receiving no *ex parte* disclosures by the Commission; all persons wishing to speak on the following item were collectively sworn.

**a. Cloisters Co-op's Variance Application to Maintain a Fence and Gate Within the Front Setback (Assistant Town Manager Bud Bentley)**

Edward Smith, president of the Cloisters Co-op, requested the Town Commission ratify the findings of the Board of Adjustments hearing held on October 4, 2011.

Town Planner Linda Connors reviewed the details of the application noted in the backup, including the three conditions of approval recommended by Town staff.

Commissioner Vincent asked if the first condition had been met.

Ms. Connors responded no, but the applicant agreed to meet the conditions upon Commission approval.

Commissioner Vincent commended Town staff for all their work; he had no issue with approving it.

Commissioner Clotey noticed when the Cloisters initially submitted a plan to build the fence it was approved though no permit application for a fence was included at that time. She felt this showed Town staff needed to re-examine the Town's guidelines to ensure this did not happen to another applicant. It should be stressed to applicants the need to be very specific as to what structures already existed on the property and what was being proposed.

Mayor Minnet recalled asking staff years prior about what transpired in reference to a similar issue. She requested Assistant Town Manager Bentley give an explanation for the benefit of the public as to the differences between the two variances, mentioning the two permit applications made in 2006 and 2008.

Ms. Connors replied the Town staff's inclusion of that information in the backup was in response to the applicant's argument that other people in their neighborhood had similar conditions. Town staff pointed out, after looking at one of those cases, the permit applications were processed prior to that area being under Town regulation. She explained the need for a variance arose due to them being built under County regulations, but they currently fell under Town regulations.

Assistant Town Manager Bentley commented, unlike the example alluded to by Mayor Minnet, the subject variance was only on the applicant's property, and there was no encroachment on the public right of way as in the Mayor's example.

Vice Mayor Dodd supported the current location of the existing fence on the applicant's property, as the sea grape trees were saved, and the applicant had three extra parking spaces. Though he agreed fencing the neighborhood was a major improvement, this did not give the applicant the right to build a 15.8 foot fence without a permit. The applicant was currently going through the correct procedure to apply for a variance, and he congratulated them on including technology in the gate that allowed emergency vehicles to sound their siren to gain immediate access to the property.

Mayor Minnet received no further input from the Commission or staff and opened the meeting for public comment.

Mark Brown stated the building he lived in was within the 300-foot sightline of the subject property to the east. They received a notice of the application from the Town about the variance, and the board of his building reviewed the notice and wished it known they had no objections and encouraged the Town's granting the variance.

Bonnie Myers, Coastal Arms, stated their community fully supported the approval of the subject variance.

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

Vice Mayor Dodd made a motion to approve Item 14a with the applicant satisfying the following conditions:

1. Submit a traffic statement certified by a state-licensed engineer
2. Apply for a building permit for the fence and gate within 60 days of approval of the variance
3. The variance must be recorded in the public records of Broward County at the applicant's expense with a certified copy of the recorded document presented to the Town within 30 days of the close out of the building permit.

Commissioner Sasser seconded the motion. The motion carried 5-0.

## **15. COMMISSION COMMENTS**

Commissioner Clotey stated the coming Monday was Halloween, and the Town's event would take place 6:00 p.m. to 8:30 p.m., with entertainment to include hayrides, barnyard games, and costume contests for children and adults. Anyone wishing to have a display table should call 954-895-6595 or contact Town Hall.

Mayor Minnet wished everyone a safe and Happy Thanksgiving, as she would not be attending the November 8, 2011 Commission meeting.

Commissioner Vincent thanked the Town and participants for attending the Town Hall meeting with Congressman Allan West and Broward County Commissioner Chip

LaMarca. She thanked resident John Boutin for his graciousness to the crew that stayed at his hotel and brought publicity to Lauderdale-By-The-Sea.

Commissioner Sasser reminded everyone to attend the November 8, 2011 Commission meeting.

Vice Mayor Dodd said that the Hillsborough Inlet had a meeting and the committee agreed to settle the dispute over the paint system; an offer of \$5,000 was made for spare parts when they were required. The inlet would begin pumping sand to rebuild the erosion in front of the Coast Guards' property just north of the inlet. He stated a great time was had by all at the Oktoberfest event, and he thanked the Property Owners Association for all their hard work organizing the event. He looked forward to helping with the Halloween decorations the coming Wednesday and Thursday.

## 16. OLD BUSINESS

### a. Municipal Park (Deferred at the September 13, 2011 Commission Meeting) (Town Clerk June White)

Ted Friedt stated Friedt Park had lost its name. He was the youngest son of Glen and Lucy Friedt, who had done many wonderful things for the Town of Lauderdale-By-The-Sea since 1938. He said his father went to Tallahassee in 1947 to secure a new Charter for the Town and brought it out of bankruptcy. Mr. Friedt said that when Oliver Parker was Mayor, he called Mr. Friedt and told him the Town would be doing reconstruction on Friedt Park, and the signage would be temporarily removed until after the reconstruction. When the sign was not put back up, he called former Mayor Parker to inquire why and was told a private name could not be given to a park where County funds were used to pay for the work done. Mr. Friedt believed that was untrue, as there were numerous public parks named after private individuals statewide. He asked the Commission to consider the Municipal Park as originally built and named for his father and mother for the innumerable positive contributions they made to the Town since moving there in 1938. He thought it tragic that the history of those contributing to the success of towns and institutions were being forgotten. This was something he wished to correct before he died, and he was now 85 years old.

Commissioner Vincent thanked Mr. Friedt for his presentation, stating the Friedt family was well known for its generosity throughout Broward County for over half a century. He emphasized, in order to keep historical credibility in Lauderdale-By-The-Sea, the park should be renamed Friedt Park, as this made complete sense to him. The Friedt family was the founding family of the Town after the bankruptcy of the original Charter of Lauderdale-By-The-Sea, and the Town should be responsible for maintaining this historical value by keeping the Friedt name on the park signage. They originally funded the creation of the park and its renaming was owed to the Friedt Family and the Town.

Vice Mayor Dodd wished to publicly apologize for the removal of the Friedt Family's name at the park; he was honored to make the motion to restore it.

Commissioner Clotley echoed the sentiments expressed by Commissioner Vincent and Vice Mayor Dodd.

Mayor Minnet thanked Mr. Friedt for bringing the subject matter to the Commission's attention, as well as for the books his grandson sent to the Commission.

Vice Mayor Dodd made a motion to direct the Town Attorney to create an ordinance for the renaming of the Municipal Park to "Friedt Park". Commissioner Vincent seconded the motion. The motion carried 5-0. Town staff should meet and discuss the appropriate design for signage with Mr. Friedt.

Mayor Minnet recessed the meeting at 8:50 p.m. and reconvened at 9:00 p.m.

## 17. NEW BUSINESS

- a. Ordinance Addressing Future Election and Qualifying Dates, Terms of Office, and Swearing in Schedule (Town Attorney Susan T. Trevarthen)

Attorney Trevarthen explained in 2007 an ordinance was adopted that perpetually changed the election; in the presidential election years, the Town's elections coincided with the presidential preference primary. However, that ordinance did not call for itself to be codified. Town staff was now aware of the ordinance's existence, and the changes made in 2010 to the elections code were to remove conflicts with the Town's Charter and worked to repeal the 2007 ordinance. As the repealing of the 2007 ordinance was not part of the Commission's 2010 discussion, she was bringing the item before the Commission to get direction. She stated two alternatives: 1) every four years the Commission would revisit the subject matter to decide whether to remove the election date, which left room for some uncertainty as to a date and 2) have a continuing commitment in the presidential election years to hold the Town elections at the time of the preference primary to save money. If the latter was chosen, she would ensure the current ordinance said it had to be codified to know these were the rules and she would bring the matter before the Commission as an ordinance for first reading. If the Commission chose not to have a continuing rule, no action was necessary.

Commissioner Clotley did not wish to tie the hands of future Commissions. She believed this was something that should be decided at each election, as there could be a variety of reasons to go one way or the other in any given year.

Commissioner Sasser asked for clarification on the issue of the changing dates.

Attorney Trevarthen concurred this would always be an issue, as in the years when there was no presidential election, the Town's Charter provided for elections to be held in March. On that cycle, seats one and two would remain as March elections. She said only the Mayor's seat would pose a problem as her seat was up for election every two years, and would be affected with the date change.

Mayor Minnet recommended placing the matter before the Charter Review Board that was coming in 2012, as these were issues they needed to discuss.

There was a Commission consensus not to go forward with an ordinance; the matter should be given to the 2012 Charter Review Board for high priority consideration.

b. Contract/Agreement Approval Procedure (Vice Mayor Stuart Dodd)

Vice Mayor Dodd desired general discussion, stating this was no reflection on the Town Manager but more of a desire for the Commission to view the final agreements prior to them being signed when they exceeded \$25,000. The Commission was involved in the RFP process; however, once the RFP was negotiated, the Commission was unaware of any changes that might have taken place in the final contract. He suggested having the final agreement placed on the consent agenda to afford the Commission the opportunity to see the final draft of the contract.

Mayor Minnet saw no problem with the final contract being placed on the consent agenda; this would make it public for everyone to review.

Assistant Town Manager Bentley recommended tabling the discussion to the next Commission agenda when Town Manager Hoffmann returned.

There was a Commission consensus to table the matter to the November 29, 2011, Commission meeting to allow for the Town Manager's participation in the discussion.

c. Commission Approval for Appropriation of \$1,000 for a Dinner in Appreciation to the Alan West who Brought Increased Publicity to the Town

This item was added by Mayor Minnet at the request of John Boutin during the public comments portion of the meeting.

Vice Mayor Dodd felt this would be money well spent, as the Town had paid nothing for the large amount of advertising on public television it received. He favored the expenditure.

Commissioner Vincent thought the request would be a gesture of goodwill by Lauderdale-By-The-Sea, and the Town would likely be repaid tenfold with the publicity and notoriety generated by the activities.

Commissioner Clotey thanked Mr. Boutin for bringing the matter forward to the Commission; it was a great opportunity of wonderful publicity for the Town.

Commissioner Sasser thought it was a great idea, and he would personally contribute money to such an effort. He questioned why the Town Chamber or local businesses were not stepping up to show their appreciation in this fashion for the added business and publicity they received. He was unsure if taxpayers' dollars should be used in this fashion.

Mayor Minnet echoed thanks for the matter being brought to the Commission. She had some trepidation on where such action might go, as it was not the Town's responsibility to fund such a gesture of appreciation, rather it should be placed in the hands of the Chamber and local businesses benefiting from the added publicity. She thought the intent was wonderful, but the source of the funding should not be taxpayers' dollars, stating when items were added on at the last minute to the Commission agenda, it gave very little notice to residents to allow them to speak on the matter. This was an issue she would have preferred to have resident input on before making a decision.

Assistant Town Manager Bentley commented if the subject item were approved, Town staff would recommend the expenditure be limited to food only.

Vice Mayor Dodd made a motion to approve \$1,000 to fund a dinner (food only). Commissioner Vincent seconded the motion. The motion carried 3-2. Commissioner Sasser and Mayor Minnet voted no.

**18. ADJOURNMENT**

Vice Mayor Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 9:40 p.m.

**19. FUTURE AGENDA ITEMS**

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

ATTEST:

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

\_\_\_\_\_  
Date