



# AGENDA ITEM REQUEST FORM

Item No. 3j

**Town Manager's Office**

**Bud Bentley**

Assistant Town Manager

**REGULAR**  
**COMMISSION MTG**  
**Meeting Dates - 7:00 PM**

**DEADLINE TO**  
**Town Clerk**

**ROUNDTABLE**  
**MEETING**  
**Meeting Dates - 7:00 PM**

**DEADLINE TO**  
**Town Clerk**

- April 26, 2011
- May 24, 2011
- June 28, 2011
- July 26, 2011

- April 15 (5:00 pm)
- \*\* (5:00 pm)
- \*\* (5:00 pm)
- \*\* (5:00 pm)

- April 12, 2011
- May 10, 2011
- June 14, 2011
- July 12, 2011

- April 1 (5:00 pm)
- \*\* (5:00 pm)
- \*\* (5:00 pm)
- \*\* (5:00 pm)

\*Subject to Change

- |                                       |   |                                       |  |
|---------------------------------------|---|---------------------------------------|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent      | <input type="checkbox"/> Ordinance               |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input checked="" type="checkbox"/> New Business |

**SUBJECT TITLE: Retention of Second Code Enforcement Special Magistrate**

**EXPLANATION:** Under Section 6.5-2 of the Code, the Town is required to retain one or more Special Magistrates to preside over code enforcement hearings. On May 13, 2008, the Commission authorized the Town Manager to execute an Agreement for Special Magistrate Services (**Exhibit 1**) with Gordon B. Linn, Esq. ("Linn"). Currently, Linn is the only Special Magistrate for the Town.

Recently, Linn suggested that the Town retain an additional Special Magistrate to preside over code enforcement hearings in the event of a conflict of interest or scheduling conflict. A second Special Magistrate can serve either as a substitute when a conflict arises (as Linn suggested) or as an alternate in an ongoing rotation system.

There are benefits to implementing a rotation system. Making use of both Special Magistrates on an ongoing basis will ensure that they are equally knowledgeable with regard to the Town's history, Code, geography and unique circumstances and issues.

Additionally, implementation of a rotation system will reinforce the reality and appearance of a fair and impartial code enforcement decision-making process. Since Special Magistrates are retained by local governments, there is some speculation with regard to a perceived tension between the decision-makers' sense of duty to the local government and their independence in the decision-making process. By retaining more than one Special Magistrate, the appearance of an alliance between a single Special Magistrate and the Town is eliminated.

Under a rotation system, code enforcement cases shall be assigned at random and will remain under the jurisdiction of the assigned Special Magistrate until the case is concluded. In there is a conflict of interest, the case will be reassigned and placed on the next regular Code Enforcement Special Magistrate Hearing Agenda of the alternate Special Magistrate.

**RECOMMENDATION:** Direction is requested as to the Commission's desire to retain a second Special Magistrate and, if desired, whether to retain the Special Magistrate as a substitute or as an alternate in a rotation system. If the Commission is interested in retaining an additional Special



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Magistrate, a candidate meeting the qualifications for the position has been identified and we will prepare a resolution authorizing the entry of an Agreement for Special Magistrate Services (**Exhibit 2**) with the candidate, Thomas J. Ansbro, Esq., for the Commission's consideration.

The rate of pay for the second Magistrate would be the same as for the current Magistrate (\$100 per hour).

### EXHIBITS:

Exhibit 1 – Agreement for Special Magistrate Services with Gordon B. Linn, Esq.

Exhibit 2 – Draft Agreement for Special Magistrate Services with Thomas J. Ansbro, Esq.

**FISCAL IMPACT AND APPROPRIATION OF FUNDS:** No change anticipated

Reviewed by Town Attorney

Yes  No

Town Manager Initials CB

**AGREEMENT FOR SPECIAL  
MAGISTRATE SERVICES**

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**THIS AGREEMENT**, made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between:

**TOWN OF LAUDERDALE-BY-THE-SEA**, A Florida municipal corporation, with offices located at 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida (hereinafter referred to as "TOWN"),

and

**THOMAS J. ANSBRO, ESQ.**, of 6529 N.W. 103<sup>rd</sup> Terrace, Parkland, FL 33076 (hereinafter referred to as "SPECIAL MAGISTRATE").

**W I T N E S S E T H:**

**WHEREAS**, Chapter 162, Florida Statutes, provides that municipalities may contract with a Special Magistrate as an alternative method of hearing code enforcement cases; and

**WHEREAS**, the TOWN also retains a SPECIAL MAGISTRATE to hear parking cases; and

**WHEREAS**, the SPECIAL MAGISTRATE is not a charter officer of the Town of Lauderdale-By-The-Sea; and

**WHEREAS**, the SPECIAL MAGISTRATE is not an officer pursuant to Article II, Section 5(a) of the Florida Constitution; and

**WHEREAS**, the SPECIAL MAGISTRATE serves at the pleasure and at the will of the Town Commission of TOWN; and

**WHEREAS** at its meeting of \_\_\_\_\_, 2011, the Town Commission of TOWN authorized the Town Manager to execute an Agreement for Special Magistrate Services with Thomas J. Ansbro, Esq., as SPECIAL MAGISTRATE for parking and code enforcement cases; and

**WHEREAS**, TOWN and SPECIAL MAGISTRATE wish to enter into this Agreement in order to set out the terms and conditions of employment related to this appointment.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, TOWN and SPECIAL MAGISTRATE, agree as follows:

**SECTION 1. Recitals.**

The above recitals and findings set forth above are hereby adopted by reference and incorporated herein as if fully set forth in this section.

**SECTION 2. Services.**

(A) SPECIAL MAGISTRATE agrees to provide special magistrate services by adjudicating code enforcement cases that may be assigned to SPECIAL MAGISTRATE by TOWN, on an as needed basis.

SPECIAL MAGISTRATE is authorized to hear cases involving, but not limited to, parking, vacant properties, multi-family residential properties, neighborhood preservation, non-residential properties and cases involving an immediate threat to health and safety.

(B) SPECIAL MAGISTRATE agrees that at the conclusion of each hearing a written order, which shall include findings of fact and conclusions of law, shall be promptly prepared by TOWN, reviewed and signed by SPECIAL MAGISTRATE, and furnished to the parties. The above notwithstanding, SPECIAL MAGISTRATE acknowledges and agrees that the Orders shall be drafted by the Special Magistrate's Clerk for review and execution by SPECIAL MAGISTRATE unless otherwise agreed by the parties. TOWN shall be responsible for furnishing a copy of the Order to the applicable parties.

(C) SPECIAL MAGISTRATE is an independent contractor under this Agreement. Services provided by SPECIAL MAGISTRATE shall not be as an officer or employee of TOWN.

(D) SPECIAL MAGISTRATE acknowledges that he is a member in good standing of the Florida Bar engaged in the practice of law. Further, SPECIAL MAGISTRATE acknowledges that he has no existing client relationship, which would pose a conflict of interest to his service as a SPECIAL MAGISTRATE for TOWN

**SECTION 3. Payment.**

(A) TOWN agrees to pay SPECIAL MAGISTRATE One Hundred Dollars (\$100.00) per hour or fractional part thereof for time spent by the SPECIAL MAGISTRATE in preparation and research for special magistrate hearings, for attendance at said hearings, and if required, for drafting appropriate orders and documents which result from such hearings.

(B) SPECIAL MAGISTRATE agrees to provide TOWN with a monthly invoice outlining the services provided and time billed as SPECIAL MAGISTRATE under the conditions set out in this agreement. Said invoice shall be submitted to Connie Hoffmann, Town of Lauderdale-By-The-Sea, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308.

(C) Payment for the SPECIAL MAGISTRATE's services shall be made monthly to:

**THOMAS J. ANSBRO, ESQ.**  
6529 N.W. 103<sup>rd</sup> Terrace  
Parkland, FL 33076

**SECTION 4. Terms of Agreement.**

(A) This Agreement shall be effective upon the approval of the Town Commission and shall be effective until terminated by the TOWN. This Agreement with the SPECIAL MAGISTRATE may be terminated at any time by the Town Commission and without cause. The SPECIAL MAGISTRATE acknowledges that he serves at the will and pleasure of the Town Commission.

(B) The Agreement may be terminated by either party at will upon thirty (30) calendar days' written notice to the other party.

**SECTION 5. Amendments, Assignments.**

(A) No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

(B) SPECIAL MAGISTRATE agrees that the services provided in this Agreement are personal in nature and may not be assigned or transferred to any other party without the prior consent of TOWN.

(C) The TOWN will indemnify and defend the SPECIAL MAGISTRATE in his capacity as a Special Magistrate for Code Enforcement and Parking Violation cases, from any cause of action that may arise from the performance of duties as SPECIAL MAGISTRATE on behalf of the TOWN, and within the scope and course of each employment.

IN WITNESS WHEREOF, the TOWN OF LAUDERDALE-BY-THE-SEA and Thomas J. Ansbro, Esquire, SPECIAL MAGISTRATE, have caused these presents to be executed in their respective names by the proper officials the day and year first above written.

**TOWN OF LAUDERDALE-BY-THE-SEA,  
FLORIDA**

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

Approved as to form:

Attest:

\_\_\_\_\_  
Susan L. Trevarthen, Town Attorney

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

**SPECIAL MAGISTRATE**

\_\_\_\_\_  
Thomas J. Ansbro, Esquire  
5629 N.W. 103<sup>rd</sup> Terrace  
Parkland, FL 33076

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011 by THOMAS J. ANSBRO, ESQUIRE. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**AGREEMENT FOR SPECIAL  
MAGISTRATE SERVICES**

---

**THIS AGREEMENT**, made and entered into the 13<sup>th</sup> day of May, 2008, by and between:

**TOWN OF LAUDERDALE-BY-THE-SEA**, a Florida municipal corporation, with offices located at 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida (hereinafter referred to as "TOWN"),

and

**GORDON B. LINN, ESQ.**, of 443 NW 38<sup>th</sup> Way, Deerfield Beach, FL 33442 (hereinafter referred to as "SPECIAL MAGISTRATE").

**WITNESSETH:**

**WHEREAS**, Chapter 162, Florida Statutes, provides that municipalities may contract with a Special Magistrate as an alternative method of hearing code enforcement cases; and

**WHEREAS**, the TOWN also retains a SPECIAL MAGISTRATE to hear parking cases; and

**WHEREAS**, the SPECIAL MAGISTRATE not a charter officer of the Town of Lauderdale-By-The-Sea; and

**WHEREAS**, the SPECIAL MAGISTRATE is not an officer pursuant to Article II, Section 5(a) of the Florida Constitution; and

**WHEREAS**, the SPECIAL MAGISTRATE serves at the pleasure and at the will of the Town Commission of TOWN; and

**WHEREAS**, at its meeting of May 13, 2008, the Town Commission of TOWN authorized the Town Manager to execute an Agreement for Special Magistrate Services

with Gordon B. Linn, Esq., as SPECIAL MAGISTRATE for parking and code enforcement cases; and

**WHEREAS**, TOWN and SPECIAL MAGISTRATE wish to enter into this Agreement in order to set out the terms and conditions of employment related to this appointment.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, TOWN and SPECIAL MAGISTRATE, agree as follows:

**SECTION 1.** *Recitals.*

The above recitals and findings set forth above are hereby adopted by reference and incorporated herein as if fully set forth in this section.

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SPECIAL MAGISTRATE is authorized to hear cases involving, but not limited to, parking, vacant properties, multi-family residential properties, neighborhood preservation, non-residential properties and cases involving an immediate threat to health and safety.

(B) SPECIAL MAGISTRATE agrees that at the conclusion of each hearing a written order, which shall include findings of fact and conclusions of law, shall be promptly prepared by TOWN, reviewed and signed by SPECIAL MAGISTRATE, and furnished to the parties. The above notwithstanding, SPECIAL MAGISTRATE acknowledges and agrees that the Orders shall be drafted by the Special Magistrate's Clerk for review and execution by SPECIAL MAGISTRATE unless otherwise agreed by the parties. TOWN shall be responsible for furnishing a copy of the Order to the applicable parties.

(C) SPECIAL MAGISTRATE is an independent contractor under this Agreement. Services provided by SPECIAL MAGISTRATE shall not be as an officer or employee of TOWN.

(D) SPECIAL MAGISTRATE acknowledges that he is a member in good standing of the Florida Bar engaged in the practice of law. Further, SPECIAL MAGISTRATE acknowledges that he has no existing client relationship, which would pose a conflict of interest to his service as a SPECIAL MAGISTRATE for TOWN.

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(A) TOWN agrees to pay SPECIAL MAGISTRATE One Hundred Dollars (\$100.00) per hour or fractional part thereof for time spent by the SPECIAL MAGISTRATE in preparation and research for special magistrate hearings, for attendance at said hearings, and if required, for drafting appropriate orders and documents which result from such hearings.

(B) SPECIAL MAGISTRATE agrees to provide TOWN with a monthly invoice outlining the services provided and time billed as SPECIAL MAGISTRATE under the conditions set out in this agreement. Said invoice shall be submitted to Esther Colon, Town of Lauderdale-By-The-Sea, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308.

(C) Payment for the SPECIAL MAGISTRATE's services shall be made monthly to:

Gordon B. Linn, Esquire  
443 NW 38<sup>th</sup> Way  
Deerfield Beach, FL 33442

**SECTION 4.** *Terms of Agreement.*

(A) This Agreement shall be effective upon the approval of the Town Commission and shall be effective until terminated by the TOWN. This Agreement with the SPECIAL MAGISTRATE may be terminated at any time by the Town Commission and without cause. The SPECIAL MAGISTRATE acknowledges that he serves at the will and pleasure of the Town Commission.

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IN WITNESS WHEREOF, the TOWN OF LAUDERDALE-BY-THE-SEA and Gordon B. Linn, Esquire, SPECIAL MAGISTRATE, have caused these presents to be executed in their respective names by the proper officials the day and year first above written.

TOWN OF LAUDERDALE-BY-THE-SEA,  
FLORIDA

Roseann Minnet  
Roseann Minnet, Mayor



Approved as to form:

Daniel Abbott  
Daniel Abbott, Town Attorney

Attest:

June White  
June White, Town Clerk

SPECIAL MAGISTRATE

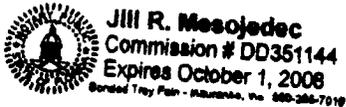
Gordon B. Linn  
Gordon B. Linn, Esquire  
433 NW 38<sup>th</sup> Way  
Deerfield Beach, Florida 33442

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of April, 2008 by GORDON B. LINN, ESQUIRE. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

Jill R. Mesojedec  
NOTARY PUBLIC, STATE OF FLORIDA  
JILL R. MESOJEDEC  
(Name of Acknowledger Typed, Printed or Stamped)



\_\_\_\_\_  
Commission Number