

TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
SPECIAL COMMISSION MEETING
MINUTES
Jarvis Hall
4505 Ocean Drive
Thursday, June 2, 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. Vice Mayor Stuart Dodd, Commissioner Birute Ann Clotley, Commissioner Scot Sasser, and Commissioner Chris Vincent were present. Also present were Town Manager Connie Hoffmann, Town Attorney Susan Trevarthen, and Deputy Clerk Nekisha Smith.

2. PLEDGE ALLEGIANCE TO THE FLAG

Pursuant to Florida Statute 286.011(8), Attorney Trevarthen requested advise from the Town Commission on the litigation matter of John Olinzock vs. the Town of Lauderdale-by-the-Sea. She said a Shade Session with the Commission would be scheduled at a later date.

Commissioner Clotley requested that public comments be added to this meeting. Mayor Minnet stated that this particular meeting was created to move certain items forward and did not believe that public input was necessary at this time. Commissioner Clotley yielded to the Mayor's decision.

3. OLD BUSINESS

a. Town Fourth of July Celebration (Vice Mayor Stuart Dodd)

A brief description of Vice Mayor Dodd's speech follows. His complete typed speech is attached to these minutes as per his request.

Vice Mayor Dodd explained that he was incorrect when he previously stated that he was the only 4th of July Committee member. He said that there were several people involved and neglected to give them the credit they deserved. Vice Mayor Dodd also stated that he was not aware of the events requested by the pier owners on May 24, 2011 and he was accused of concealing the July 4th plans from the pier owners, and accused of secret planning, and that Mr. Marchelos wanted a special investigation.

Mayor Minnet advised Vice Mayor Dodd against attacks on any residents or business owners and asked Vice Mayor Dodd to be careful in his comments.

Vice Mayor Dodd continued and recalled the events of the May 24, 2011 Commission meeting. He said he believed the Commission would reject the offer provided by the Marchelos brothers.

Vice Mayor Dodd stated that a determination was made to revert to plan B and shoot the fireworks from the patio terrace behind Minto's, which would not upset the turtles as it was not on the beach. He agreed with Commissioner Clotney who was against 3 day events as he believed it was unacceptable to subject residents to 3 days of loud music.

Vice Mayor Dodd was sad that the Town's planned music event would no longer happen and therefore, wanted to make a motion that the offer to the Marchelos brothers remain \$10,000, for one year only, and did not include pre-approval for a 3 day event, or to take over the pier parking lot, or to have permission to place a band outside Kilwins, or for permission to use the pier for filming on June 13, 2011. He suggested a short recess to allow discussion between the Marchelos brothers and their attorney, should the Commission be in agreement.

Vice Mayor Dodd made a motion to approve a lease agreement with Fishermen's Pier, Inc. in the amount of \$10,000 for one year only and not subject to any other clauses. The motion failed for lack of a second.

Mayor Minnet inquired as to where the Town stood with the Town celebration events. Assistant Town Manager Bentley said that some modifications were needed based on changes that occurred. Mayor Minnet stated that items 3a thru 3e could not be discussed as there were no agreements to reference. Assistant Town Manager Bentley suggested discussing item 3e as a standalone item. Mayor Minnet asked whether Assistant Town Manager Bentley believed an agreement could be reached that would allow the event to move forward, should the Commission defer the remaining items to the June 14, 2011 Special meeting. Assistant Town Manager Bentley preferred that Vice Mayor Dodd answer that question. Mayor Minnet recommended that everyone work together. She said she was disappointed that it had gotten to this point.

Commissioner Clotney agreed that it needed to go back to the table. She was troubled that the Commission could only hear one side of the story. Commissioner Clotney did not believe that some of the decisions should be made by the Commission; the tradition had always been that the decisions were made by the committee chairperson.

Commissioner Sasser said he would be satisfied if the motion was made in a manner that he could see where the other items would go. He said decisions needed to be made in conjunction with the flow of events. Commissioner Sasser believed that all of this could have been avoided and questioned when it became not about the Town and not about the residents. He was against adding additional money just to make the

event happen and preferred it go back to the table for negotiations that would result in the best solution for the entire Town.

Mayor Minnet stated that items 3b thru 3e would come back at a later time for discussion. Assistant Town Manager Bentley said the Town was running out of time. He asked that the fireworks contract, item 3c, be considered to avoid losing the contractor at this late date. Assistant Town Manager Bentley also asked Vice Mayor Dodd whether he would consider seeking approval for a 3 day event by the pier owners in the pier parking lot. He explained that without that information, he could not go forward with negotiations.

Vice Mayor Dodd requested direction from the Commission as to whether they were to go with plan b, or continue negotiations with the pier owners. He explained that the license agreement was getting tied up with other elements and conditions from the Marchelos brothers that were relevant to the 3 day event, such as an increase from \$10,000 to \$15,000, staging outside Kilwins and a reduction on their parking burden. He did not believe the Town should be held ransom over a license agreement with other clauses that were not tied into it.

Commissioner Vincent said he had hoped this was going to be an easy meeting and was disappointed that it got to this point. He asked whether the contract price was based only on shooting fireworks from the pier. Assistant Town Manager Bentley said it was. He stated that if the Commission wanted to shoot fireworks from the location in plan b an amendment to the agreement would be needed. He asked if the event would be canceled if there were high winds. Fire Chief Paine said it was a 15 minute show and should the winds exceed 20 mph the show would not start by state law. Commissioner Vincent was not comfortable voting on something before it was discussed with the other party. He questioned why they were having an issue now with a 3 day event, when it was already included in the original agreement. He inquired as to who made the original changes to the contract prior to approval.

Commissioner Vincent said there were a lot of parties involved that were not aware of the changes that were made. Assistant Town Manager Bentley said that the pier lease agreement did not deal with the Town event; it never did. He added that there were no changes that all parties did not know about. Commissioner Vincent wanted to see this resolved.

Mayor Minnet recessed the meeting at 7:40 p.m. to allow for negotiations and reconvened the meeting at 7:55 p.m.

Assistant Town Manager Bentley requested that the pier owners come before the Commission to explain the agreement that had been reached.

Louis Marchelous said they agreed to \$10,000, with an event on Saturday night, July 2, 2011 and another event on July 4, 2011.

- b. 4th of July Special Event Application from the Town's 4th of July Committee proposed for Monday, July 4, 2011 (Code Enforcement Officer Kimberly Williams)

Assistant Town Manager Bentley recommended this item be deferred to the June 14, 2011 Special Commission meeting at 7:00 p.m. to allow staff time to revise the site plan within the application.

This item was deferred to the June 14, 2011 Special Commission meeting at 7:00 p.m.

- c. Award of Contract to the Zambelli Fireworks Manufacturing Company to produce the 4th of July Firework Shows in 2011, 2012 and 2013 (Assistant Town Manager Bud Bentley)

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

- d. License Agreement with Fishermen's Pier, Inc. to shoot fireworks from the fishing pier (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley requested that the Town Manager be authorized to execute the tentative agreement, as approved to form by the Town Attorney, with the inclusion of Athena's regular Saturday night event for Saturday, July 2, 2011 and the event on Monday, July 4, 2011 at the pier.

Vice Mayor Dodd made a motion to approve only a 1 year event at \$10,000 with the inclusion of Athena's regular Saturday night event for Saturday, July 2, 2011 and the event on Monday, July 4, 2011 at the pier. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

- e. Special Event Application from Fisherman's Pier for the 4th of July Weekend Celebration, proposed for Saturday, Sunday, and Monday, July 2-4, 2011 with a rain date of Tuesday, July 5, 2011 (Code Enforcement Officer Kimberly Williams)

This agenda item was no longer applicable.

- f. Annual Special Event Application from the Village Grill for Jazz on the Circle, proposed for Friday nights from August 5, 2011 to July 27, 2012. (Code Enforcement Officer Kimberly Williams)

Assistant Town Manager Bentley withdrew this item to allow for a cost analysis for crossing guards at A1A crosswalks.

4. NEW BUSINESS

- a. TVM Productions' request for reserved parking, street closure and use of Jarvis Hall on June 13th from morning to about sunset for the cast and crew of "The

Glades" TV series (Assistant Town Manager Bud Bentley)

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

5. ADJOURNMENT

Vice Mayor Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 8:05 p.m.

Mayor Roseann Minnet

ATTEST:

Town Clerk, June White CMC

Date

Meeting 0602

Please indulge me in a somewhat lengthy explanation

At the last commission meeting I answered Commissioner Clottey when she questioned me that the July 4th event has a committee of one. I misspoke and I must apologize since I did not give credit to all those people who have been helping me for many months now. I have enlisted over 15 people from Staff, BSO, VFD, AMR and the downtown businesses in varying roles to assist in all aspects of trying to put on a spectacular event

All was moving along smoothly until lunchtime Tuesday May 24th – the day of the Commission meeting - I thought I had a great event in the bag and then the bottom fell out.

I want to make it public knowledge that at the Tuesday Commission meeting on May 24th I knew nothing of any request from the pier to change their application and revise the request to in their normal Saturday night weekly event on July 2nd in the usual location and to hold no further events in the pier parking lot on Sunday July 3rd or the Monday July 4th. I was still operating under the premise stated in their original application, shown in the back-up to the Commissioners that they would do their own thing and that they did not want to be included with the Town's event as they informed me prior. I believe they had ample opportunity to contact me if their plans were changed.

At the Commission meeting I was accused of concealing the July 4th plans from the pier owners. I was accused along with staff, of secret planning. Mr. Louis Marchelos wanted me to go under oath and an investigation to take place. I answered on the record I would be happy to go under oath. For I know my plans and proposals as Chair of the event were made public, both on and off the dais on more than one occasion.

Mr. Marchelos went on to state the following at the podium: "No contract for fireworks. Am I angry? Absolutely. Am I disappointed? Yes. Do I intend to take advantage of the acts of a few and punish this whole Town? Absolutely not".

The first set of lease agreement negotiation clauses included an additional year of no parking fees for their Saturday events which the Assistant Town Manager said amounted to approximately \$2,600. The charge to the Town for the use of the pier for July 4th would go up from \$10,000 to \$12,600, and the pier owners would have an added benefit of no parking fees, not offered to other special event applicants.

The Commission approved an extra 48 hours between the regular meeting on May 24th and the special meeting on May 26th for further negotiations. I met with Town staff Wednesday 25th at lunchtime to try to find a way to accommodate the Marchelos Brother's request to get vehicles to the pier parking lot on July 4th, during the proposed road closures from 2.00 p.m. to 11.00 p.m. The road closures were to allow the set-up of the Town's own music event. Staff and I worked with BSO and the VFD Fire Chief to try to find the solution that would allow vehicles to use the pier parking lot on July 4th

since it appeared that the Marchelos brothers no longer wanted to erect tents or hold their own event.

Staff and I met with the Marchelos brothers Wednesday night and outlined our solution to permit them full use of the pier parking lot. The Marchelos brothers and attorney withdrew to consider the Town's offer. On returning, their attorney counter offered that the Marchelos brothers wanted to give the Town the pier parking lot for the whole day. They wanted music at their end of the Commercial Boulevard at no charge, and now additionally, they wanted \$15,000 since they felt they should have further relief from the money they outlay on parking for their special Saturday event. The Assistant Town Manager stated the parking issue was not negotiable and could not to be included in these negotiations. They still wanted \$15,000.

Their proposal for the lease agreement required the Town to lease or sub-let the pier parking lot, on July 4th for the whole day, and allow them to erect their own music event in front of Kilwins so they could still "do their own thing".

The implications of rejecting the pier lease agreement were none – I wanted this version presented to the Commission without further negotiations to show what a bad deal I considered it to be.

It is my opinion the Commission would have rejected the Marchelos brothers' offer completely since it was \$5,000.00 more than their first offer and approximately \$2,500 more than their May 24th proposal. It now required the Town to take over the responsibility for the pier parking lot and it would be up to the Town to lease it out to try to re-coup some of the money. It also required the Town to give them a free event and allow them a stage outside Kilwin's, and music that would conflict with the Town's own music event. I had understood the Marchelos brothers' original objection to the Town's music event was that their own music at the pier would conflict with the Town's music event.

On Thursday morning the Assistant Town Manager contacted Aruba's and offered the pier parking lot for their valet parking. Initially they accepted the offer for \$3,000.00 to take over the parking lot, but I subsequently learned this was not approved by all those involved and the offer was withdrawn.

On Thursday, a lunchtime meeting was held with Dave Gadsby, Peggy Mohler, Guy Contrada, Bud Bentley and I. The July 4th participants told the Assistant Town Manager and me they would not be holding the music event and that the Marchelos brothers would probably jump at the chance to hold a three day event. I am convinced the withdrawal of the downtown planned music event was the result of the Marchelos brothers' negotiations and stipulations over the preceding days.

Following this lunchtime meeting the Assistant Town Manager then contacted the Marchelos brothers, who then changed their minds again and offered to lease the pier for \$10,000, and now wanted to bring back their 3 day event at the pier parking lot. I

received this information at 4.00 p.m. Thursday. This was why the meeting was postponed on Thursday, May 26th before the University of Miami's presentation.

After the May 24th meeting Town staff and I made a decision that we needed to have a Plan B. The Town staff, the VFD, and I began working on it. This decision was due to the above actions as well as the Town's and my concern going forward. I heard just last night we have an excellent venue lined up – Plan B is a spectacular event staged from the patio terrace behind the Minto show offices. It is not quite on the sandy beach as such and will not upset the turtles.

If the Marchelos brothers do not want to accept the lease agreement offer that I will outline shortly, the Town can have an excellent firework display – Plan B visible from anywhere on the beach at the original budgeted fireworks price of around \$15,000. The town will save the cost of the \$10,000 of the pier lease agreement.

I have explained personally to the Marchelos brothers that as Chairman of the event I have a certain level of authority and control, but the terms of any lease agreement discussed last Wednesday, and any suggestions of a 3 - day event, must be presented to the full Commission for their approval.

I also want to point out that on more than one occasion Commissioner Clotney has spoken against three day events. I totally agree that to subject our residents and businesses to three days of loud music from the pier parking lot is not acceptable and I would vote against any three day event from the feedback and comments I have heard from the public about the impact of such an event. I can assure the Marchelos brothers I will continue to assess every event application on its merits and I will try not be influenced by what has happened over these negotiations.

You can all see that this year has been fraught with problems trying to reach a lease agreement for the pier. The goal posts kept on moving causing Town staff, the VFD, BSO, and me an enormous amount of unnecessary work. I am also very sad that the Town's planned music event will no longer happen as a result. I would therefore like to make a motion - The offer to the Marchelos brothers is – \$10,000 for this year only – making this a one year contract and this lease agreement is not subject to any extra clauses, such as pre-approval for a three day event, or the Town to take over the pier parking lot, or permission to place a band outside Kilwins, or permission for using the pier for filming on June 13th.

When I have finished I would like you all to discuss this and if you are in agreement then we should take a short recess while the Marchelos brothers and their attorney retire to consider the Town's offer. I took the liberty of asking the Assistant Town Manager to draw up a new lease agreement ready for signature by both parties before we consider the rest of this evening's business. The Town Attorney has also signed off on the proposed lease agreement language.

Whatever the Commission decides, I want to let the Townspeople know the Committee and I will carry on to provide what I hope will be a wonderful and enjoyable July 4th event with the 4th of July parade, VFD kids photo-op to follow, Beachfront activities and rescue demonstrations, LBTS July 4th burgers at local restaurants and a fireworks display on a day that not only celebrates the country's independence, but is also the VFD's 50th birthday!

I respectfully ask that this statement is entered in its entirety into the minutes.

I yield
