

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

**4505 Ocean Drive**

**Tuesday, January 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. Vice Mayor Stuart Dodd, Commissioner Birute Ann Clotey, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Manager Connie Hoffmann, Town Attorney Susan L. Trevarthen, Town Clerk June White, and Deputy Clerk Nekisha Smith.

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

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

Reverend Hunsaker gave the Invocation.

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

Mayor Minnet added a presentation from the Lauderdale-By-The-Sea Property Owners Association as item 5A.

#### **5. PRESENTATIONS**

Linda Ritchie and Cindy Geesey presented certificates to the following holiday contest winners; Ocean Reverie for hotel/motels; Athena by the Sea for restaurants; the Schuylers for single family homes; Parkhill for apartments/multifamily; Jo-An's Papers for merchants; and for hi-rise condominium to Hampton Beach and Gardens by the Sea.

#### **6. PUBLIC COMMENTS**

Diane Boutin said she wanted to put to an end the rumor that parking had not been discussed sufficiently since 1989. Ms. Boutin believed it was time to move forward with a 4 year exemption. She added that staff could correct any problems that may arise.

Cindy Geesey said she had problems with Comcast cable since August. She asked whether staff had a contact person for Comcast and asked that staff request AT&T to provide U-Verse to the residents.

Linda Ritchie asked the Commission to approve the POA (Property Owners Association) to use Jarvis Hall for their meeting. She advised that an insurance specialist would be present at the meeting to answer questions. Ms. Ritchie invited all property owners to attend.

John Oughton believed it was unfair to give parking gratis to new restaurants and not to existing restaurants. He stated that the sewers were 40-50 years old and there were major problems in the south end of Town. Mr. Oughton stated that leaking sewage entered into the Intercostal and the ocean. He believed that the Commission needed to address this issue immediately.

Raymond Trainor said that the condominium budget did not include a sewer rate increase. He said if the sewer rate increased, the condominium association would pay \$10,695, an increase of \$4,560. Mr. Trainor added that the cable rates were going up along with homeowners insurance. He asked whether the increase could be done over a period of time.

Frank Herrmann believed that since the City of Pompano Beach controlled the sewer charges it would be advisable to sell the sewer infrastructure to the City of Pompano Beach, as the Town did with their water pipes to the City of Fort Lauderdale few years ago. Mr. Herrmann questioned why the ordinance referred to rates for "commercial structures" instead of "commercial units".

## 7. PUBLIC SAFETY DISCUSSION

### a. BSO Police Monthly Report - (Chief Oscar Llerena)

I. November 2010

II. December 2010

Chief Llerena announced Sergeant Peter LaGana & Deputy Roberta Ditullio as Employees of the Month for December 2010. He introduced Captain Mick Weiner from the City of Pompano Beach and Sergeant Gary Brown who replaced Sergeant Doug Brown.

Mayor Minnet asked Chief Llerena to address claims that were made during the beach workshop. Chief Llerena explained that BSO focused on code compliance and their enforcement was either to make an arrest or issue a warning; they did not have the authority to issue a civil summons or a civil fine. Chief Llerena requested that should an issue occur, residents should call BSO and it would be addressed with the public. He added that there was little conflict regarding skimboarding, kiteboarding and surfing.

Chief Llerena added that the problems were mostly medical and/or beach rescue. Chief Llerena said the biggest issue appeared to be commercial instruction and this was an issue he needed to work with Code Enforcement on as well as with the Town Attorney regarding enforcement.

Town Manager Hoffmann suggested amending the code to prohibit teaching kitesurfing rather than address the issue of commercial teaching where the exchange of money was involved.

Vice Mayor Dodd congratulated BSO on their year-end successes. Chief Llerena believed the crime statistics will indicate that the rate would be 5% less than last year. He added that there were no major crime trends and vehicle break-ins were reduced 50%.

Commissioner Clotey inquired of the marine law enforcement patrol program. Chief Llerena said grant money was earmarked for additional enforcement because Lauderdale-By-The-Sea was a beachfront community.

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

**b. VFD Fire Monthly Report - (Chief Steve Paine)**

I. November 2010

II. December 2010

Commissioner Clotey questioned whether the VFD was getting ready for their ISO review in February. Chief Paine stated that ISO was to do their review of the fire department on February 1st & 2nd. He believed the Commission would be happy with the rating as all their documentation was in order and everything was updated. Commissioner Clotey questioned the A/C fire in Bel-Air due to the installation manual being attached to the A/C unit. Chief Paine explained that when residents get their A/C installed they should make sure all documentation was removed from the unit and handed to them.

Vice Mayor Dodd thanked Chief Paine for the cut back on the responses to medical calls. Mayor Minnet requested the status on the training in the condominiums. Chief Paine said the VFD completed training in four (4) hi-rise buildings.

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

**c. AMR EMS Monthly Report - (Chief Brooke Liddle)**

I. November 2010

II. December 2010

Commissioner Clotley made a motion to accept the reports. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

8. APPROVAL OF MINUTES

- a. November 22, 2010 Roundtable Meeting Minutes
- b. December 7, 2010 Regular Commission Meeting Minutes
- c. December 14, 2010 Special Meeting Minutes
- d. December 14, 2010 Roundtable Meeting Minutes

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

Vice Mayor Dodd thanked staff for including in the minutes that when something was passed on Consent it was recorded correctly.

9. CONSENT AGENDA

Mayor Minnet pulled consent items 9a and 9h for discussion.

Vice Mayor Dodd made a motion to approve items 9b, 9c, 9d, 9e, 9f, 9g, and 9i on consent. Commissioner Clotley seconded the motion. The motion carried 5 - 0.

- a. Special Event - Chamber of Commerce Arts & Crafts Show (Code Compliance Officer Kimberly Williams)

Commissioner Clotley asked whether there should be a third sign near the bridge to alert people that an event was coming to Town. Lieutenant Cedeno said that BSO placed a sign near the bridge for every major event.

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

- b. Special Event - Super Bowl Sunday (Code Compliance Officer Kimberly Williams)

This item was approved on consent.

- c. Special Event - Alley Oop Beach Event (Code Compliance Officer Kimberly Williams)

This item was approved on consent.

- d. Special Event - Galt Ocean Mile 5K Walk / Run against hunger Feb 27, 2011  
(Code Compliance Officer Kimberly Williams)

This item was approved on consent.

- e. Bel-Air Civic Association Annual General Meeting Monday, Thursday February 24, 2011 6:00 - 9:00 PM, Jarvis Hall / parking waiver for non-permit holders at Town Hall parking lot (Municipal Services Director Don Prince)

This item was approved on consent.

- f. Poinciana 4630, Inc. Annual Meeting of Unit Owners Monday, February 7, 2011 2:00 - 4:00 PM, Jarvis Hall / parking waiver for non-permit holders at Town Hall parking lot (Municipal Services Director Don Prince)

This item was approved on consent.

- g. Government Fleet Fuel Card Program Contract (Municipal Services Director Don Prince)

This item was approved on consent.

- h. Revocable License Agreement for Valet Parking - Between the Town and Beach Restaurants, Inc. (Development Services Director Jeff Bowman)

Vice Mayor Dodd questioned whether there were any incidents or complaints since the implementation of the program. Assistant Town Manager Bentley said there were issues regarding implementation during the first period; however there were no complaints in the second period. Commissioner Sasser believed that the valets were parking the cars in the Town parking lot. Assistant Town Manager Bentley confirmed that they were parking there. Commissioner Sasser asked what the Town could do if they were so successful with their valet business that they took over the whole Town parking lot. Assistant Town Manager Bentley said the valet acted as an agent for the owner of the vehicle and fed the meters. Commissioner Sasser suggested that since the trial period was off season, and the valet service wanted to extend parking into the El Prado parking lot, he would be interested in considering it. Assistant Town Manager Bentley explained that the reason for the six (6) month contract was because the trial period was not clear, due to cold weather and special events.

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

- i. Use of Jarvis Hall for the Property Owners Association of Lauderdale-By-The-Sea Thursday, January 27, 2010, 6:30 p.m. to 8:00 p.m. (Municipal Services Director

Don Prince)

This item was approved on consent.

**10. ORDINANCES - PUBLIC COMMENTS**

**a. Ordinances 1st Reading**

There were no Ordinances on 1st reading.

**b. Ordinances 2nd Reading**

- i. Ordinance 2010-20: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 20, "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE II, "SANITARY SEWER SYSTEM," SECTION 20-19 "RATES AND CHARGES" TO ADOPT REVISIONS TO THE SCHEDULE OF RATES AND CHARGES FOR SANITARY SEWAGE COLLECTION, TRANSMISSION AND DISPOSAL SERVICE; AMENDING SECTION 20-22 "PROHIBITED DISCHARGES, PENALTY" TO SPECIFY ADDITIONAL MATERIALS THAT MAY NOT BE DISPOSED INTO THE SANITARY SEWER SYSTEM; CREATING SECTION 20-23 "DEFINITIONS" TO PROVIDE DEFINITIONS FOR ARTICLE II; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE Approved 1st reading at the December 7, 2010 Commission meeting

Attorney Trevarthen read Ordinance 2010-20 by title.

Mayor Minnet inquired of the history regarding the sewer system in regards to multiple water management between the City of Fort Lauderdale and the City of Pompano Beach.

Town Manager Hoffmann explained that the Town-owned sewer system was located from Pine Avenue south and built in the early 1960's. She added that the Town did not own a sewer treatment plant and therefore entered into a Master Sewer Agreement with the City of Pompano Beach to transmit the wastewater north to the City of Pompano Beach, who sent it on to the County's water treatment plant on Copans Road. Town Manager Hoffmann said that the Town projected the City of Pompano Beach would charge the Town \$680,000 to carry our wastewater away in 2011. She said in addition to the City of Pompano Beach charges, the Town had to maintain the sewer system within the Town including 2 lift stations that forced the water into the City of Pompano Beach's system. Town Manager Hoffmann said the Town also paid for the maintenance of the sewage pipes with an approximate cost of \$300,000 per year. She added that \$64,000 annually went into a fund to replace the aging infrastructure. Town Manager Hoffmann explained that Sea Ranch Condominiums received sewer service directly from the City of Pompano Beach, but for the last ten (10) years the City of Pompano Beach sent the bill to the Town and the Town paid the sewer bills for the Sea

Ranch Condominium; the Town then billed Sea Ranch Condominium the Town's sewer rate which historically, was lower than the City of Pompano Beach's sewer rate. Town Manager Hoffmann explained that the Town had not raised the sewer rate since 2002 and therefore the costs increased. She added that a significant increase took place when the City of Pompano Beach changed the way they billed the Town and none of the cost were passed on. Town Manager Hoffmann stated that if the Town's sewer rates were not raised the Town's sewer system would operate under a \$400,000 loss, which would draw down the money in reserve. She added that the Sewer Fund balance of approximately \$1.5 million was there to replace the aging sewer system and at the current sewer rate, that amount would drop to \$1 million. Town Manager Hoffmann said that in order to make up the shortfall the Town would have to adopt the City of Pompano Beach's rate structure, in which Ordinance 2010-20 did. Town Manager Hoffmann pointed out that the commercial rate per "structure" was an error in the Ordinance and should read per commercial "unit". She noted that the Notice was mailed with the correct language; commercial rate per "unit".

Mayor Minnet opened the meeting for public comments.

David Devons, Sea Ranch Club resident, stated that the cost to the condominium would double and they would have to find the funds to implement a special assessment. He asked whether it was possible to increase the sewer rates over a period of four (4) years. He asked what the reserve requirement was and inquired as to how many years it would take to meet the requirement. Town Manager Hoffmann said there was no defined construction or replacement reserve. She added that the Town had not done a study on the condition of the sewer system, but a study should be completed by this time next year.

Pat Pererro inquired of the dollar amount that Sea Ranch Club was subsidized over the years and asked whether any of that money could be reimbursed. Town Manager Hoffmann stated that the Town had not done an analysis to obtain the amount.

Reggie Black said he was not in a position to challenge the increase; however the timing was poor. He said the increase affected the condominium budget that was completed a few months ago. Mr. Black believed a phase-in process would be very helpful.

James Northrup asked whether a notice would be mailed informing him of the cost. Town Manager Hoffmann explained that she could not give him the cost without knowing the meter size, or volume usage. She advised Mr. Northrup to contact her office for further assistance.

Dan Russo said he would appreciate it if the Town phased in the increase over time.

George Hunsaker believed there was a false logic in the sewer rate structure. He said that a unit in the condominium did not equate to a single family unit. Mr. Hunsaker explained that the Poinciana by the Sea Condominium, consisting of 96 units, had only

50% of the units occupied year round; 25% were seasonal and the other 25% were only occupied a few weeks out of the year. He explained further that 96 single family units required approximately 2400 feet of sewer pipe, while Poinciana by the Sea Condominium only required 200 feet of sewer pipe. Mr. Hunsaker said that the average water consumption per unit at Poinciana by the Sea Condominium was approximately 3,000 gallons vs. 5,000 gallons for a single family unit. Mr. Hunsaker stated that with the proposed sewer rate increase their fees would double and requested that the increase be phased in over a 3 year period, with one (1) increase effective February 1, 2011 another effective October 1, 2011 and the 3rd effective October 1, 2012. Mr. Hunsaker pointed out that property taxes paid for the installation of sewers north of Pine Avenue and west of A1A. He asked that everyone's taxes provide some of the reserve needed for the maintenance of sewers in the south part of Town.

Former Mayor Oliver Parker recalled that the last sewer rate increase was in 2004. He stated that even if he was wrong in his recollection, the last sewer rate was sufficient in that there was no deficit in the sewer costs until 2009. Former Mayor Parker said that between 2001 and 2008, when he left office, the sewer rate generated enough income, not only to pay off sewer costs, but also to create a \$1.6 million surplus to repair and/or replace the sewers. He added that according to the recent documents 2010 was the first year of the deficit that ate up \$100,000 of the \$1.6 million surplus, leaving \$1.5 million at the start of this fiscal year. He believed that with the \$40,000-\$60,000 raised annually in sewer rates and the \$1.3 million in expenses an approximate deficit of 45% remained, yet the Town intended to raise rates 100%. Former Mayor Parker stated that in his condominium the rate increase would actually be 150% as the per unit water usage was overestimated. He explained if the sewer rate was raised only 45% there would be a \$100,000 shortfall that could be drawn from the \$1.5 million surplus. Former Mayor Parker further explained that if the rate was raised over the next three (3) years the Town could get themselves where they want to be without crunching people during a recession. He pointed out that if the Town's projected increase went into effect, the Town would make \$700,000 this year, over and above the sewer costs, and the following year the Town would make \$1.1 million per year.

Former Mayor Parker also pointed out that no one subsidized the Sea Ranch Condominium's sewer fee. He explained that when the Sea Ranch Condominium came into the Town along with Sea Ranch Lakes North, the condominiums requested that they be treated like everyone else in the Town. Former Mayor Parker added that they wanted four (4) things at the same cost that was charged to Town residents: 1) buoys in the north; 2) beach cleaning; 3) Town to assume a unified sewer service; and 4) two (2) additional deputies. Mr. Parker said the Town attempted to negotiate with the City of Pompano Beach to have the Town's contract cover the four (4) condominiums and the City of Pompano Beach refused, therefore the Town assumed the liability, basically having the condominiums' contracts assigned to the Town. He added that was when the City of Pompano Beach stopped billing the condominiums and began billing the Town, and in turn, the Town billed the condominiums for their sewer service. Former Mayor Parker stated that because of the annexation of the four (4) condominiums the millage

rate went from 4.9 to 4. He added that, as a result of the annexation, the Town's net profit was \$900,000 a year.

Town Manager Hoffmann said she did not know where Former Mayor Parker came up with the \$750,000 figure. She explained that the rate hike would cover the operating costs, place approximately \$100,000 into the reserve, pay \$50,000 for a study for the sewer system and also pay for \$55,000 in repairs to the existing sewer system. Commissioner Clotey requested that the Town Attorney address the legality of Former Mayor Parker's statement regarding the annexation agreement. Attorney Trevarthen stated that based on the Town Manager's investigation of this issue, a written agreement that bound the Town into paying the sewer fees to the City of Pompano Beach for the Sea Ranch Condominium was nowhere to be found, and based on that, Attorney Trevarthen did not believe the Town was legally obligated.

Commissioner Clotey asked through the Chair, where the former Mayor Parker obtained his information. Former Mayor Parker explained that the November Workshop minutes stated that the Commission discussed granting that should the Sea Ranch Condominium come into Town, their sewer rates would be equalized to the Town's sewer rates. He believed that if a written agreement could not be produced it could be proven by a pattern of behavior.

Myra Sullivan requested that the sewer increase be spread out as it was difficult to have a budget and not produce what was promised.

Marie Chiarello asked whether the Town entered into an agreement when the north end of Town annexed into Town to pay for the Palm Club sewers. She believed an agreement was an agreement.

Ron Piersante said he did not understand his \$39 water bill. He said water charge was \$9 and the sewer charge was \$15. He thought that the first \$3,000 gallons were free. Mr. Piersante asked why he paid more for the sewer than the water. Town Manager Hoffmann said she would review his bill and give him an answer.

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

Mayor Minnet reminded everyone that the millage rate was not raised because the Commission knew that the sewer rate increase was coming.

Commissioner Vincent stated that not a single person objected to the sewer rate increase and commended everyone for their understanding. He said, however he did hear an overwhelming public consensus to spread the increase out over time. Commissioner Clotey requested pulling the commercial structure section of the ordinance as many hotels would be affected. Town Manager Hoffmann said she had not received any calls from a commercial property owner and was concerned that they did not understand the impact the increase would have on them. She asked whether

additional efforts should be made to make them aware. Town Manager Hoffmann asked whether they should defer the adoption of the rate increase until the commercial property owners could present their views and if so, go forward with the adoption of the volume increase to residential property owners. She added that she and the Town Attorney prepared two (2) Ordinances; one with the residential rate increase and the volume increase only, and the other with the commercial rate increase clarified.

Commissioner Clotey said that the sewers in the north part of Town were obtained through the taxpayers of the entire Town. She believed that the surcharge that would be applied to the southern part of Town, and going into the reserve to rebuild the infrastructure was unfair. Commissioner Clotey believed it should be absorbed by every property owner in Town. She added that it was about principal, not money, but she would vote for the increase as it was needed.

Vice Mayor Dodd stated that this Commission inherited the problem. He did not believe one part of Town should pay for the sewers for another part of Town; everyone should pay an equal amount. Vice Mayor Dodd stated that to increase the rate over a period of time may result in an increase in the millage rate to cover the shortfall. Vice Mayor Dodd stated that Sea Ranch Condominiums asked to pay the same sewer rate as the south end of Town. He believed the Town was honoring that request by charging a rate town wide, affecting both the north and south ends of Town. He clarified further that the rate that the Sea Ranch Condominiums would pay would be the same as the south end of Town. Vice Mayor Dodd stated that he would not condone the use of other resident's money to phase in the increase.

Commissioner Sasser stated that this Commission inherited this issue. He said he did not want make these type of decisions even though they had to be made. Commissioner Sasser said that the money was not paid to the City of Pompano Beach by the Sea Ranch Condominiums and was still paid by the Town. He added that residents put the money into the reserve account and therefore, it was not necessarily the Town's money to pay for the Sea Ranch Condominiums subsidy. Commissioner Sasser realized that the Sea Ranch Condominiums did not request the subsidy; however, as a Commissioner, he had to base his decision based on the entire Town. He said that the Town was not in charge of the sewer rates from the City of Pompano Beach and believed that everybody should pay the same amount that the City of Pompano Beach charged.

Mayor Minnet agreed that this Commission inherited this issue. She said the Commission had to be equitable. Mayor Minnet stated that the entire community benefited from the annexation and therefore, needed to quickly move forward as one community.

Commissioner Sasser questioned when the Commission and/or the Town Manager would address the issue as to where Sea Ranch Condominiums belonged. Mayor Minnet stated that it would be addressed under Old Business 14b.

Commissioner Clotley questioned whether the hook up charge for commercial properties within the ordinance would be removed for now. Mayor Minnet stated that there were two (2) ordinances before the Commission: commercial rate clarification and residential rate increase only.

Town Manager Hoffmann stated the "residential rate increase only" ordinance was really a "residential rate increase only plus volumetric charge for all, commercial and residential".

Commissioner Clotley believed there was some confusion that a fifty (50) unit hotel would have to pay the hook up charge the same as a fifty (50) unit condominium. She added that the hotel is not full all year as some condominiums were not. Commissioner Clotley believed that was an issue for discussion.

Commissioner Vincent questioned whether the Town would still be equitable if the Commission moved forward with a split ordinance and raised the sewer rates for single family residential and delayed raising the sewer rates on commercial properties.

Mayor Minnet asked whether the commercial properties and condominiums were billed the appropriate rate under the current structure. Town Manager Hoffmann stated that under the current rate structure the base rate was based on the size of the pipe that came into the property owner's meter, and then \$3.00 per 1,000 gallons for volume usage. She added that there was a cap for volume usage for residential properties but not for commercial properties. Town Manager Hoffmann explained that what was proposed was a complete change in the structure, and instead of paying based on meter size, a base fee would be paid for every unit whether it was residential or commercial.

Commissioner Sasser made a motion to approve Ordinance 2010-20 with the commercial rate clarification on second reading. Vice Mayor Dodd seconded the motion. The motion carried 4 - 1. Commissioner Clotley voted no.

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

Town Attorney Trevarthen clarified the City of Pompano Beach sewer rate structure would be used in place of any classification not addressed in the ordinance.

Town Attorney Trevarthen read Ordinance 2011-01 by title. Mayor Minnet opened the meeting for public comments.

Mark Brown was concerned with the language regarding the parking requirements for churches and asked it needed to be included in the ordinance. He questioned where additional cars would park when the church offered bingo. Mr. Brown requested clarification that the changes in the ordinance only affected the church during services or at all times. He wanted to see the questions answered before the Commission moved forward with that portion of the ordinance.

Frank Herrmann questioned the number of parking spaces the Commission intended to set aside for the program. He suggested the Town welcome new businesses under the current code instead of the proposed ordinance. Mr. Herrmann said that either the rule be changed permanently or not at all.

George Hunsaker was concerned that the ordinance did not include a limit on the size of the restaurant allowed to participate in the program. He suggested the Commission set a square footage limit prior to approval.

Edmund Malkoon requested to know how many parking spaces were located in Town, which businesses were using which spaces to meet the current parking requirement, and the effects the new rule would have on the local businesses. He added that the back-up material was missing examples of other municipalities that successfully implemented the program along with the opinion of experts. Mr. Malkoon questioned who would market the program to the public. He requested the ordinance be tabled for one month to allow staff additional time to gather the information requested.

David Gadsby explained that a parking exemption program would create a "Welcome" sign for the Town. He understood that the program would not create a flood of new restaurants. Mr. Gadsby said that the area west of A1A needed this ordinance to help build it back up.

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

Commissioner Vincent recommended tabling the ordinance for one month. He suggested that staff assess and agree on the number of parking spaces the Town could realistically waive in any of the parking districts. He added that a cap on the number of parking spaces granted per restaurant needed to be addressed as well.

Commissioner Vincent said he wanted to avoid allowing one (1) or two (2) restaurants the ability to absorb the majority of the parking spaces dedicated to the program. He reminded the Commission that the purpose of the program was to encourage a variety of restaurants to consider opening in Town. Commissioner Vincent recommended

tabling the ordinance for one month. He clarified that he was in favor of the exemption but believed there were additional factors that needed to be addressed.

Commissioner Clotey recommended deferring the ordinance as there was another speaker coming in March to address the issue and some of the concerns brought up by Commissioner Vincent were valid. She believed that the four (4) year time table for the program was too long. Vice Mayor Dodd was disappointed that the Commission was discussing further delaying the ordinance. He understood that the code may need to be changed later on but was concerned that if the Commission continued to push the ordinance back, they would not get anywhere.

Commissioner Sasser did not believe the Town was obligated for parking. He agreed with Mr. Gadsby that the ordinance would not create a flood of restaurants looking to open in Town. Mayor Minnet said it was important to adjust the ordinance now prior to approval.

Commissioner Vincent made a motion to defer Ordinance 2011-01 to the February 22, 2011 Commission meeting. Commissioner Clotey seconded the motion. The motion carried 3 - 2. Commissioner Sasser voted no. Vice Mayor Dodd voted no.

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

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

Attorney Trevarthen read Resolution 2011-01 by title.

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

Commissioner Sasser inquired as to how the issues discussed at the January 11, 2011 Roundtable, such as fuel storage tanks, wine bars and other items, would follow the Notice of Intent. Attorney Trevarthen explained that each item would be drafted as a separate ordinance and, over time be presented to the P&Z (Planning and Zoning Board) and then the Commission for review. She added that some or all of the issues may again come before the Commission for Roundtable discussion.

Commissioner Sasser asked for clarification that these items would not get lost in the process. Attorney Trevarthen said the Notice of Intent would be treated as their guide while they go forward.

Vice Mayor Dodd made a motion to adopt Resolution 2011-01. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- b. Resolution 2011-02: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, REPEALING TOWN RESOLUTION NO. 1222 REGARDING FLORIDA MUNICIPAL HEALTH TRUST FUND INSURANCE PLAN ELIGIBILITY FOR TOWN RETIREES; PROVIDING FOR CONFLICT AND AN EFFECTIVE DATE Discussed at the December 14, 2010 Roundtable Meeting

Attorney Trevarthen read Resolution 2011-02 by title.

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

Commissioner Sasser made a motion to adopt Resolution 2011-02. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

## 12. QUASI JUDICIAL PUBLIC HEARINGS

## 13. COMMISSIONER COMMENTS

Mayor Minnet announced the Broward League of Cities was holding a seminar regarding social networking, Thursday, January 27, 2011, 4:00 PM at the Renaissance Hotel in Plantation. She added that the Galt Ocean Mile Association advised that they were having a meeting at the Galt Mile Community Center, February 3, 2011 at 4:00 p.m. She added that Congressman Allen West and State Senator Ellen Bogdanoff would be present and encouraged everyone to attend. Mayor Minnet requested this information be advertised on Channel 78. Mayor Minnet thanked everyone for attending the meeting and appreciated how well the Commission worked together, even though there were differences of opinion.

Commissioner Sasser believed that the Commission should be looking toward the future; however they kept getting pulled into the past. He added that difficult decisions would need to be made by this Commission and understood they would not agree on every issue; even so he respected each person's opinion, not only on the dais but that of the residents in Town also. Commissioner Sasser stated that change was inevitable and believed that government needed to get out of the way of positive progress.

Commissioner Clotey explained her "no" vote on the sewer rate ordinance. She said she believed everyone should pay an equitable rate. Commissioner Clotey was concerned with the confusion over "commercial structure" verses "commercial unit". Commissioner Clotey clarified that she was not against raising the rate; it had to be done. She believed additional notice should have been given to those who would be affected. Commissioner Clotey said she attended the Broward Water Academy last week and learned that other municipalities were also facing aging infrastructure. She said she also learned that the State of Florida was responsible for 1% of the total emissions. She added that Broward County was responsible for one cent (\$.01) of that.

Vice Mayor Dodd said that the Hillsboro Inlet discussed insurance policies. He added that sections of the submerged pipe were replaced due to blockage which was accomplished with ease with the acquisition of the two (2) new work boats. Commissioner Vincent had no comments.

**14. OLD BUSINESS**

**a. Town Master Plan (Town Manager Connie Hoffmann) Requested at the January 11, 2011 Roundtable**

Mayor Minnet referenced page 13, item 8 interpretive stations along the beach and said that signage could be expanded to make the public aware of the rules on the beach, such as no dog walking. Commissioner Sasser requested the time frame for completion of the Master Plan project. Town Manager Hoffmann explained that the project should be complete within two (2) to three (3) months. She added that the next step was to hold a series of public forums which would be scheduled.

Commissioner Clotley questioned whether staff could retrieve figures on an approximate cost to build a parking garage. Town Manager Hoffmann explained that there was an item on the list to look into pricing for a parking garage. She said a rough estimate could be determined after looking at a few Town-owned parcels. Attorney Trevarthen explained that another coastal community recently received an estimate of approximately \$20,000 per structured parking space. Commissioner Sasser understood that parking garages were expensive but did not believe that it should come as a Town expense.

There was no further discussion.

**b. Sea Ranch Condominium Sewer (Vice Mayor Stuart Dodd) Requested at the January 11, 2011 Roundtable**

Vice Mayor Dodd believed that previous administrations let the Sea Ranch Condominiums down by agreeing to take them into the south part of town, knowing that they did not own the sewer pipes at that time. He added that the Town could not continue to be the "pass thru banker" knowing the full situation. He said he would like to see the Sea Ranch Condominiums be part of the south end of Town, but believed it would not happen as the Town did not own the sewer pipes, and there was nothing to negotiate with the City of Pompano Beach to make it happen. Vice Mayor Dodd believed that there was no other action that could be taken except to have the Sea Ranch Condominiums pay the City of Pompano Beach directly.

Vice Mayor Dodd made a motion to approve that the City of Pompano Beach bill the Sea Ranch Condominiums directly instead of through the Town and as soon as practical. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

c. Chamber of Commerce Funding Agreement (Town Manager Connie Hoffmann)

Commissioner Clotey believed there was no incentive for the Chamber of Commerce to seek additional funds. She believed it was strange that the Chamber of Commerce had to reimburse the Town dollar for dollar for any funding they received.

Vice Mayor Dodd inquired as to whether Town staff contacted any of the Broward Representatives to get additional funding. He added that originally he wanted the Chamber of Commerce to go after the money and, if they failed the Commission would have the option to help, but at the previous meeting it was voted to have Town staff obtain funding from Broward County for running one (1) of the two (2) information centers. Vice Mayor Dodd believed that should the Chamber of Commerce receive \$10,000 in funding from Broward County, the Chamber of Commerce should only reimburse the Town \$5,000. Mayor Minnet clarified that Section 3.6 of the contract specified that if the County funded \$10,000 the Town would reduce their funding by \$10,000. Commissioner Clotey clarified that her concern was not where the responsibility to obtain funds was, but that she believed the Chamber of Commerce should only reimburse half the amount of the additional funds they received, as reimbursement of the full amount took away the incentive for the Chamber to seek additional funding. Mayor Minnet believed the Chamber was diligent in looking for funding from outside sources. She believed they should move forward this year and if this was a concern it could be addressed next year.

Town Manager Hoffmann said she was not aware that the Town was to seek additional funding from Broward County and believed that the Chamber of Commerce was looking into it. She said she would obtain clarification and report back to the Commission.

Commissioner Vincent did not recall who was elected to obtain additional funding for the Chamber of Commerce. He believed that the Commission wanted to let the Chamber know that they supported them regarding the advertising expense. He believed Commissioner Clotey made a good point but did not believe it would happen.

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

**15. NEW BUSINESS**

a. Mitigation of Liens (Development Services Director Jeff Bowman)

Code Enforcement Officer Kim William said this was the first time 1960 E. Terra Mar Drive came before the Commission for mitigation.

Carl Vaneyssen, Deutsche Bank representative said there were two code violations: 1) house number not displayed on the building and 2) \$360 due for waste services. He said both code violations are currently in compliance. He added that the house was set to close in February, 2011. Town Manager Hoffmann said that the staff recommended

the mitigation amount that the listing agent proposed to pay; \$5,500 on the first violation (house number), and \$2,200 for the second code violation (trash service). Vice Mayor Dodd questioned the amount. Mayor Minnet explained that the total amount of the lien for the first case was \$38,250 and that the lien was reduced by \$31,000 bringing the requested amount to \$5,500. She added that lien amount for the second case was \$16,600 and the request was to reduce that lien amount to \$2,250, reducing the lien approximately \$14,000.

Commissioner Vincent made a motion to accept the recommendations from staff and reduce the lien amount from \$64,850 to \$7,750 with payment within 30 days. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

#### 16. TOWN MANAGER REPORT

Town Manager Hoffmann suggested that the Town's planning consultant have a workshop with the Commission, P&Z (Planning and Zoning Board) and MPSC (Master Plan Steering Committee) to review her findings and suggestions on moving forward. She asked whether the Commission would be interested in having such a meeting on February 22, 2011, at 5:30 p.m. Mayor Minnet favored the date and time and believed it was necessary to move forward. Town Manager Hoffmann stated she would confirm the date and time with the consultant and if not in agreement would provide an alternate date. Attorney Trevarthen suggested 5:00 p.m. and Vice Mayor Dodd was concerned that members of the subcommittees may not be able to make a 5:00 p.m. meeting. Mayor Minnet suggested looking into a date and time that would be workable with the majority of the members of P&Z and the MPSC. Town Manager Hoffmann said she would get back to the Commission with a date and time once she finalized it.

Town Manager Hoffmann stated that the parking signs were installed for the A1A lot. Vice Mayor Dodd reminded Town Manager Hoffmann that RFP drafts needed to come before the Commission. Town Manager Hoffmann requested clarification as to whether that was policy as it would slow down the process. Commissioner Sasser said he wanted to know which RFP's were going out so that he knew whether he needed to be involved; it did not matter whether he was notified by email, a status report or another way. Mayor Minnet agreed and stated that the RFPs were the Town Manager's responsibility and notification would be made to the Commission as to what RFPs were going out. Town Manager Hoffmann said she noted the RFPs in her Town Manager report. Mayor Minnet accepted that form of notification.

#### 17. TOWN ATTORNEY REPORT

Attorney Trevarthen advised that the County Charter was changed to enable Broward County to adopt an ordinance that regulated ethics within cities. She added that she would keep the Commission updated as the process had just begun. Attorney Trevarthen stated that the Florida League of Cities created a membership committee to look at this issue.

Attorney Trevarthen stated that the Statewide Grand Jury released a detailed report on public corruption and may require statewide responses to potential changes to the State Statute.

Attorney Trevarthen said the Supreme Court took a case (out of Nevada) that held that states could not enforce conflict of interest requirements in voting because they violated the first amendment rights of elected officials. She added that the State of Florida filed a brief in opposition.

**18. ADJOURNMENT**

Vice Mayor Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:30 p.m.

**19. FUTURE REGULAR COMMISSION AGENDA ITEMS**



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

ATTEST:



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

2-23-11

\_\_\_\_\_  
Date

