

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION REGULAR MEETING MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, October 23, 2012

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 Scot Sasser, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Reverend George Hunsaker

Reverend George Hunsaker gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

There were no additions, deletions or deferrals.

5. PRESENTATIONS

a. Bel-Air Drainage Assessment (Municipal Services Director Don Prince)

Municipal Services Director Prince gave a brief overview of the Assessment as detailed in the backup, noting prioritized recommendations:

- Priority 1 - address collapsed pipes in the near future
- Priority 2 - address pipes still in a stable shape
- Priority 3 - long-term solution to redo the whole drainage system in the entire neighborhood.

Mayor Minnet thanked Commissioner Dodd for requesting a full assessment of the situation; she was sure the residents of Bel-Air appreciated the effort. She requested the matter be brought forward to see what projects had been done.

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Town Manager Hoffmann remarked the first few pages of the presentation showed the higher priorities listed when the storm water master plan was done a few years prior, and of the seven top priorities listed, the majority of them were complete. Two would be constructed in the present fiscal year, leaving only Poinciana undone. She indicated, of the second-level priorities, Hibiscus Avenue was presently in design and scheduled for completion this year, and the other half of the second Bougainvillea project would be finished this year as well, that is, from Washingtonia to the fire station. She noted Harbor Drive was already finished, as City staff combined the two Harbor Drive projects, so tremendous progress had been made on drainage improvements over the last two years. There were a number of unexpected projects for example, there was flooding in two parking lots on Commercial Boulevard, and funds were included in the West Commercial Boulevard Improvement Project to address that issue. That too would be under construction in this year. Town Manager Hoffmann stated 19th Street in Bel-Air would kick off the assessment, due to its failing last fall. The design was now complete and City staff had been waiting on the permits.

Municipal Director Prince affirmed the designs were complete, City staff received the permits, and they were going over the bid tabs with the contractor and engineer. He hoped to bring the matter before the Commission for approval at their next meeting.

Town Manager Hoffmann pointed out the Town included money in the current fiscal year's CIP for this project, as it would be one of the most expensive drainage projects the Town would do with an estimated cost of \$500,000. In addition, Town staff alerted Florida Department of Transportation (FDOT) to problems on Commercial Boulevard with their drainage system, meeting with them and Flynn Engineering Systems. FDOT informed Town staff of their intentions to make corrections on Commercial Boulevard this year, and asked the Town to do the work, and FDOT would reimburse the cost. She affirmed Mr. Prince's point that the Town needed to revisit the prioritization of the drainage projects Chen had done. The information about the condition of the Bel-Air drainage was new, and Town staff noticed other areas seemed to have more severe drainage problems than in some places on the list of priorities. She commented, as Town staff went into the budget preparation phase in spring 2013, they would bring the Town Commission a recommended reprioritization of the drainage projects.

Vice Mayor Sasser asked if the West Commercial Boulevard drainage improvements could be included in the current improvement projects, taking the funds from FDOT to help with the costs from a budgeting standpoint.

Town Manager Hoffmann felt unsure if any type of profit would be made with regard to the reimbursement FDOT would give the Town for the work done.

Commissioner Vincent questioned if the Town had to come to an agreement with FDOT prior to expending the funds on the work they desired of the Town.

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Town Manager Hoffmann answered yes; the Town would enter into a joint project agreement (JPA) with FDOT. They were currently working on the design and were likely to come back to the Town with that design before Christmas.

Mayor Minnet inquired as to the estimate of the overall cost of taking care of Bel-Air.

Municipal Services Director responded if the Town was to do the new drainage for the whole neighborhood the cost estimate was \$1.5 million for all the projects combined.

Mayor Minnet requested Town staff go back over the history in response to prior questions about such improvements being done before or during the permitting process.

Municipal Services Director Prince responded, neither Jason McClair of Chen & Associates or Bonny McCloud was able to find anything on record when they individually looked for any type of permit/construction date. The assumption was that any improvements were done over 20 years ago by the County.

Commissioner Dodd wondered if staff could confirm that Terra Mar did not have the same problem.

Municipal Services Director Prince indicated that would be Town staff's next step. Televac had been televising and cleaning the drains, but he had yet to receive any of those reports. The money in the storm water budget would be used to cover the costs of the cleaning and televising.

Commissioner Dodd queried if there were any other areas in the Town laid with that particular variety of pipe at that time, likely to have the same problems.

Municipal Services Director Prince said there were none that he was aware of, as all the drainage in the southern section of Town was either reinforced concrete pipe or merely a French drain with a hole in the ground. There were some small sections with corrugated metal, though not a significant amount.

Commissioner Vincent questioned if any issues at Terra Mar had been documented to date that should be looked into immediately or in the near future.

Municipal services Director Prince answered he was aware of any others. There had been the one issue on Terra Mar with the catch basin that sat a few feet above the ground. Town staff went in there and had the hole cordoned to the side, and they redid some swale areas. He understood it was working well.

Mayor Minnet acknowledged a Commission consensus to accept Town staff presenting a complete report in the spring of 2013.

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Rich Barnhart mentioned item 17a, the shooting of a television program in Lauderdale-By-The-Sea. He stated there was a program called Scuba Nation that aired on the Sun Sports Network, a Fox sports network, and they wished to shoot a 30-minute television program in the Town about scuba diving, noting it was also a destination travel show. Thus, the focus would be on the Town's underwater resources, as well as the activities happening above sea level, including the local restaurants and hotels. It was a tremendous opportunity for the Town. He felt proud to be involved in such a project and had discussions with Scuba Nation and businesses in the Town, stating there was tremendous support for the program, and hoped the Town would get behind the program as well. He urged the Town Commission to approve item 17a to allow them to move forward with selecting what night the program would air.

Steve Gagas supported item 17a and urged the Town Commission to approve it.

John Boutin echoed support for the approval of item 17a and urged the Town Commission to approve it. Many things were happening in the Town, and this would be just one more progression in keeping the Town forefront in the eyes of the public. It did not take the local businesses long to recognize the potential value of such programming, and they readily jumped on board with contributions to the production costs, as did the Greater Fort Lauderdale Convention Business Bureau. They too contributed dollars toward the program's production.

Edmund Malkoon stated as Vice President of the Property Owners Association, he wished to thank the residents for attending and the continuing generosity of local businesses that donated; the food and entertainment this year was second-to-none. He thanked Vice Mayor Sasser for his show of support, noting he was the only Town Commissioner in attendance, stating it was important to remain visible and interact with residents all the time and not just during elections. With regard to the sign, he seemed to remember the arrow design like the Pompano Air Park signage, and he felt the Eiffel Tower was best left in Paris. He indicated, recently, the Town's events posted a link to facebook to the President's web page for tickets to see him, but he thought the Town's events were supposed to promote the Town and should not be political and show support for any one politician. Mr. Malkoon noted the videos that were posted on the website were too small, had no advance bar, and it was not possible to click on an agenda item to see that particular portion of the meeting. This weekend Mr. Malkoon had the pleasure of welcoming the latest USO couple, Navy Sergeant Evan Moreau and his wife Channel, noting this was an amazing program spearheaded by Cindy Geesey that gave the Town great exposure. He expressed gratitude to all the businesses for their donations and support to the Country's troops.

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

7. PUBLIC SAFETY DISCUSSION

b. BSO Monthly Report – September 2012 (Chief Oscar Llerena)

Vice Mayor Sasser noticed several times going north on A1A people passing in the center aisle; this was an activity he previously mentioned to Chief Llerena. He asked that the police make sure, particularly with the busy season approaching, there were extra patrols to monitor the situation, as it tended to get worse during the season. He appreciated any efforts the police could make in this regard.

Chief Llerena responded their motion specialist had been part time detached as a training officer, but the Town currently had three traffic specialists in the district, and this was something he would have them focus on.

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

c. VFD Monthly Report – September 2012 (Chief Judson Hopping)

Mayor Minnet believed the VFD had been dispatched on only one medical call in the month of September.

Chief Hopping clarified the VFD was actually dispatched on nine, but the battalion on command at the time were canceled en route on eight of those calls.

Mayor Minnet thanked Commissioner Dodd for taking the lead on that activity, as well as the VFD for listening.

Chief Hopping indicated the VFD received the new fire truck, but it was still being finalized. When it was complete, they would hold a ceremony for the formal presentation and blessing of the truck, to which all were invited.

Town Manager Hoffmann added Town staff would try to do the ceremony just prior to a regularly scheduled Commission meeting, possibly at 6:30 p.m.

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

d. AMR Monthly Report – September 2012 (Chief Brooke Liddle)

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

8. TOWN MANAGER REPORTS

a. Chamber of Commerce Monthly Report

Town Manager Hoffmann indicated the report was given to Town staff and the Commission late afternoon the previous day.

Mayor Minnet stressed that timeliness was important, as Town staff worked very hard to get the agendas out, which was not an easy task. The Chamber's cooperation would be greatly appreciated.

Chamber President Mark Silver mentioned their Visitors Guidebook looked incredible and would be out by November. This coming weekend, the Chamber would host the Arts and Crafts Festival to which everyone was invited. He discussed the plans for the Christmas-By-The-Sea event, as they wished to introduce the Christmas marketplace concept, inviting restaurants, retailers and unique crafters to sell Christmas inspired goods. The Chamber would invite local businesses to participate at the inner downtown core and west of A1A, as this would make the event more inclusive. He noted tents and tables would be provided to the vendors at nominal a fee to be determined. Santa would arrive on a fire truck and light the tree with Mayor Minnet. There would be other entertainment, such as face painters, professional music, and a borrowed snow machine the Chamber would ask the Town to fill with the proper fluids and operate. Mr. Silver added the suggested time of the event was from 6:00 p.m. to 9:00 p.m. on Wednesday, December 12, 2012. He said the Chamber would provide media marketing in newspapers, on website and postcards, musical entertainment, face painters, staging costs, manpower, and would organize the tables, tents and chairs. The directors would work to make this event a success, and volunteers were always welcome. He remarked the sponsorships for the events were being worked on, and any excess monies received from the event could be saved for next year's Christmas event.

Mayor Minnet commented the Town Commission and staff were very happy to hear about the new plans.

Commissioner Vincent asked if the Chamber kept records of the confirmed non-renewals and businesses that closed in the last year, or were such happenings over the present year indicative of what was happening in the national economy. He sought clarification if those businesses were local and / or members of the Chamber.

Mr. Silver replied he reviewed the nonrenewal information and realized they were due to the businesses no longer operating. They discovered this when they tried to contact them and found out they were out of businesses. They confirmed non-renewals were those that actively said they would not renew, and it was not due to an oversight. He mentioned the Chamber would be hosting a power breakfast the coming Friday at Blue Moon from 7:30 a.m. with attendance by both Senate candidates for District 34.

Vice Mayor Sasser wondered how much Town staff projected the Town would pay for the Christmas-By-The-Sea event.

Town Manager Hoffmann replied the Town would spend \$4,500 on the tree; the policing cost would be absorbed within the BSO budget, as the funds would come out of some savings in that area. She asked if the Chamber expected the Town to pay for the fluid for the snow machine.

Mr. Silver answered yes.

Town Manager Hoffmann believed that cost would be \$250 to \$300, and the Town would have to pay some employees overtime to work the night of the event. She figured the overall estimate was about \$5,500.

Vice Mayor Sasser asked if it would be a Town-owned tree.

Town Manager Hoffmann answered no.

Vice Mayor Sasser wished it made clear, if the Town was putting money toward the tree, there should be an agreement with the owner of the tree as to repairs. He thought the assumption was the Town would investment funds in the repair of the tree, but it was not likely to last much longer. If the Town was going to invest money in the tree, he wished it to be clear who owned the tree.

Mr. Silver said the Chamber was the present owner of the tree, though they would be donating it to the Town for the last use at the upcoming event, after which the tree would be disposed of.

Vice Mayor Sasser questioned if a new tree would be purchased for the 2013 event.

Town Manager Hoffmann responded the Chamber and the Town would have to decide on the best route to take in that regard.

Chamber Executive Director Malcolm McClintock pointed out the \$4,500 was to pay the company responsible for putting up the tree and then taking it down later.

Vice Mayor Sasser thought, in the past, the VFD helped put the tree up.

Town Manager Hoffmann believed the Chamber entered into an agreement with the company storing the tree throughout the year, and the monies paid included putting the tree up, taking it down after the season, and storing it.

Mr. Silver affirmed the contract ran from taking the tree down, transportation, cleaning and storing it throughout the year, and then putting it back up the following season, as well as maintaining the tree while it was up; its lights, etc. The cost was \$5,500 per year of which the Chamber already paid the first \$1,000, and would then hand the tree over

to the Town. He hoped early next year after the season the Town could find a suitable replacement tree at a reduced cost.

Vice Mayor Sasser wondered if the Town bought a new tree if it could be housed at one of the Town's storage facilities and have the VFD help erect it and pull it down.

Mr. Silver agreed it would be more cost effective for the Town to go that route.

Mayor Minnet found it unfortunate that the situation had come to this, as it placed the Town in a precarious position, making the VFD so instrumental in the process. She believed the Town did not pay for the existing tree; it was a donation.

Mr. Silver concurred it was spearheaded by Dave Gatsby at the time, and the event morphed into a Chamber responsibility.

Vice Mayor Sasser fully supported Christmas-By-The-Sea, but if the Town was going to invest in the tree, and there was an assumption the tree would be disposed of and the Town did not own the tree, some sort of an agreement was needed.

Town Attorney Trevarthen replied staff could work with the Manager to draft simple documentation in that regard. The larger point was that of public purpose, and she interpreted that to be that the Town Commission had no wish to lose the Christmas-By-The-Sea celebration, and this was the cost of presenting it.

Town Manager Hoffmann thought drafting an agreement was only adding extra cost, as it took time to create agreements. The process could be less expensively handled through a purchase order by the Town. The other option would be to pay the Chamber the \$4,500 and have them fulfill their obligations to the storage company for erecting and disposing of the tree.

Vice Mayor Sasser indicated he would be more comfortable with the latter arrangement.

Mayor Minnet concurred.

Commissioner Vincent felt it was better to assess whether the tree would be disposed of at the end of the season, and who would make that determination, including the pulling down and discarding the tree if that was the decision. He understood this season was the "last shot" for the tree, and it would be disposed of after this season.

Mr. McClintock stated the Chamber was advised this should be the last year the tree should be used.

Commissioner Vincent wanted to know who made that assessment.

Mr. Silver clarified the company making the determination were the "tree people" and they gave the Chamber a proposal for refurbishing the tree of \$27,000; a new tree would cost in the low \$30,000s.

Commissioner Brown mentioned on October 6 he went to the Chamber sponsored beach cleanup. There was a group of children and parents there but no one from the Chamber was in attendance, nor were there any garbage bags, gloves, etc. There was no authorized person there to sign the community service forms for the children. He went to Village Grill, who donated garbage bags, and he signed the forms for them. The beach cleanup did not always have a big turnout, but there were those who were interested, and he hoped the Chamber would find a way to staff the cleanup on Saturdays with at least with one person so the program would continue.

Commissioner Dodd remarked the Commission did not authorize the \$4,500 for the Christmas tree at the start of the cycle, so this expense was being presented at the end of the cycle. He was interested to know how long a tree was expected to last, particularly if the Town was looking at spending \$30,000 for a new tree. He had severe reservations about approving the funds when he did not know the realistic life span of the Christmas tree. If it was, for instance, 15 years, then the Town could say the Chamber should deal with the existing tree, as they created the problem, and the Town would use its resources to purchase a new tree for the next Christmas season. He added the \$4,500 was taxpayers' money the Commission did not approve for storing the tree for a year and erecting it again. One might say the Chamber created the problem, and they should think about paying for it, as the Town now had to think about running the Christmas event in future years.

Town Manager Hoffmann inquired if anyone knew when the tree was purchased.

Paul Novak believed the tree was purchased around 2003 or 2004, so the life of the tree was probably about ten years.

Town Manager Hoffmann pointed out the location of the tree subjected it to salt air and high winds from the ocean which caused the tree to have a shorter lifespan than if it was further inland.

Mr. Silver added the technology had improved, such as with the lighting, and a new tree might have a longer lifespan.

Mr. Novak remarked the VFD was good enough to put the tree up over the years, noting when the tree was being taken down it had to be done in a special manner. There were a number of years when the Chamber had a problem with the way the VFD took down the tree, as the VFD was unaware of the special technique required to take the tree down. This contributed to the trees current state.

Mayor Minnet commented the Town Commission had to determine if it wanted to have a Christmas tree for the Christmas-By-The-Sea event. Though the situation with the tree

was not of the Commission's making, the Town could prove that the monies were being used for a public purpose. She sought a consensus, as to whether to go forward with the existing tree at the price given knowing next year a new tree would be purchased.

Commissioner Vincent clarified some of the expense of the \$4,500 went toward putting up and taking down the tree. He preferred to pay to have the existing tree put up and taken down, and then purchase a new tree for Christmas 2013.

Vice Mayor Sasser understood the Town's estimated cost was \$5,500.

Commissioner Dodd made a motion to approve allocating \$4,500 to erect and dismantle the Christmas tree for the Christmas-By-The-Sea event on December 12, 2012, at 6:00 p.m. Commissioner Vincent seconded the motion. The motion passed 5-0.

The report was accepted with no further discussion.

b. Sewer Lateral Repair Report (Municipal Services Director Don Prince)

Municipal Services Director Don Prince noted all but one line was complete; it could not be lined due to the presence of concrete material. Town staff had to find another method to fix it.

Town Manager Hoffmann pointed out the cost for all the repairs detailed in the report would be paid from the sewer fund. She asked Mr. Prince to mention the remaining 106 laterals whose condition Town staff had yet to determine.

Municipal Services Director Prince affirmed Town staff had to install a cleanout first then televise their interior. That could lead to additional costs based on the findings. He mentioned staff was over on Hibiscus Avenue, where they were doing a demonstration for a swale restoration and, while they were there, they did not have a cleanout and no one could access the area in the event of an emergency. Town staff dug up the area and replaced it, taking less than two hours to do the job at a cost of less than \$300 to the Town.

Commissioner Brown restated a question he previously posed to the Commission as to why the Town continued to own half of a sewer system; what benefits was the Town deriving from ownership. The answers received from the Commission at that time were civic pride and home rule; the civic pride was puzzling, as when people asked him what made him proud of the Town, owning half a sewer system did not come to mind. He accepted home rule as a valid argument, stating home rule meant the Town was responsible for paying \$767,000 to clean out the laterals, plus the unknown cost of the 106 laterals for which their condition remained unidentified. The Town had the privilege of paying over \$1 million to replace the lift stations in a few years, and hundreds and thousands of dollars in maintenance and repair costs over the years. Additionally, in exchange for exercising this home rule authority, the Town got the headaches that came with having to set sewer rates that were based on water charges the Town had no

control over. In addition, there was the 25 percent surcharges the Town did not control, as it was a captive market to the City of Pompano Beach and Fort Lauderdale. Commissioner Brown remained unconvinced it was in the best interest of the Town to continue to own half of a sewer system. He would support the request but called on the Commission to give the matter more thought, asking the Town Manager to casually reach out to Fort Lauderdale and Pompano to discover if they had any interest in purchasing the Town's sewer lines. He was aware there were some side issues, such as the Master Sewer Agreement, which he was sure could be a negotiated term if the process got to the point of a sale. All the money the Town continued to sink into its sewer system was a waste.

Vice Mayor Sasser questioned how the Town planned on paying the costs noted in the report, questioning if they were being paid with the current reserves.

Town Manager Hoffmann answered yes. Most of the money for next year would come from the fund balance in the sewer fund. As the Town moved forward, in 2015, there was a projected three and a half percent sewer rate increase.

Municipal Services Director Prince noted, since working with the Town, this was the first time such a comprehensive analysis of the Town's sewer infrastructure had been undertaken. In the past, it was mostly patchwork, and the current comprehensive plan sought to address major defects in the Town's sewer system that were reducing the infiltration that, in the long run, would reduce the Town's costs. He indicated, though the costs were large up front, Town staff did not anticipate having to make such repairs on a continuous basis; they were fixing infrastructure that was installed in the late '60s.

Commissioner Dodd was opposed to the Town selling its portion of the sewer system, as owning it gave the Town a major break in terms of a single user and a master sewer agreement. If the Town were to pass off its sewer system to Fort Lauderdale or Pompano, their rate would include five different sectors, and one of their charges would be for maintenance that included profit and other costs. He added, getting rid of the sewer system meant the Town would pay all those costs plus a 25 percent profit surcharge to Fort Lauderdale that would have to be borne by the users. Presently, as the Town was maintaining its own repairs to the sewer, it did not have to pay that 25 percent overhead to Fort Lauderdale. He thought it was an unwise move when the Town sold \$10 million worth of new sewers it installed in the northern part of the Town. In the long term, the Town would end up paying much more.

Commissioner Vincent concurred with Commissioner Dodd, adding the worst time to sell the Town's sewer system would be while it was in its current state, as any buyer would come back with a list of repair costs that would exceed the Town's estimates. Hopefully, with the anticipated infrastructure improvements to the sewer system, the Town would have a long run of not having to do any major repairs, while remaining in control of the sewer system and the rates. If, in the future, after the sewer system was improved and it was determined it was a commodity worth selling and for which the Town could get top dollar, the Town Commission could then explore that possibility.

c. Town Manager's Report

Town Manager Hoffmann requested the Commission's approval for the Town to apply for two grants. One was a grant application for \$35,000 to help local businesses plan how to recover from a major hurricane or other natural disaster; no Town match was required.

Mayor Minnet received a Commission consensus for staff to go ahead with the first grant application as stated above by the Town Manager.

Town Manager Hoffmann indicated the second grant was for art in public places, and the application would be for a grant up to \$100,000 to do the four reef sculptures in the West Commercial Boulevard Improvement Project. She received Commission consensus for Town staff to submit the application. She discussed the recommendation by the Resource Recovery Board to the County Commission to redistribute the large sum of money being held in reserve by the County to the Broward cities participating in the Resource Recovery Board operation. The Town's share would be about \$150,000, being based on the tonnage each city delivered last year.

9. TOWN ATTORNEY REPORT

a. Update on the 2012 Charter Review Board

Town Attorney Trevarthen reviewed the Charter Review Board's recommended changes to the Town's Charter, as well as an article recently published in the *Town Topics* on this subject. She mentioned the next Charter Review Board meeting would take place on November 14, 2012, at 6:30 p.m., and the Charter Review Board was eager to increase public input in that process. The topics for discussion would be Article VI - Elections, and Article VII - Planning & Zoning, and the changes illustrated in the backup were meaningful and substantive, as the role of the Charter Review Board was to make recommendations and present them to the Commission. The Town Commission had the ability to accept or reject any recommendations made by the Charter Review Board, and the Commission would have to vote to put those changes they approved on a ballot to get the vote of the people as to changes in the Town's Charter.

Vice Mayor Sasser questioned, in the review of the 33 and 44 feet, was the discussion of the Charter Review Board at any point about raising building height limits from what it was currently in certain areas of the Town, or was it a matter of clarifying current acceptable heights.

Town Attorney Trevarthen replied there was discussion of whether to recommend a flat 44-foot height limit town wide for all areas, but the Charter Review Board concluded the proposal for the 33 feet in the single-family and duplex areas was a better route to take. On the issue of whether this was a change, she advised the Charter Review Board the

most likely interpretation of the language was to clarify, but it could later change the scope of the existing provisions. She noted, at present, the Charter had provisions for 33 feet and for 44 feet. The part that was unclear was where those height limits should apply.

Vice Mayor Sasser stated he would be very interested to see if there was an area in Town the Charter Review Board recommended increasing the building height to 44 feet, as this was a hotly contested issue.

Town Attorney Trevarthen commented the question and the interpretation did not so much turn on geography as it did on timing. The relevant phrase in the Charter had a date of 2006, and the question was whether the lower heights applied to every building after that date or how else to give meaning to that date. She believed the construction of the sentence was such that it seemed to modify the boundaries of the Town and nullified a portion of the section.

Vice Mayor Sasser agreed there was a need to have clear, comprehensive language to facilitate a better understanding of the section, reiterating his request that the Commission be given a clear idea of what the Charter Review Board was recommending. On the issue of the limitation of the Commission's powers, he thought they were put in place so no one serving on the Commission had the ability through districts to get around the height limits. He felt if this was the reason for the limitation of the Commission's powers, and there was a loophole that would allow a future Commission to change districts and raise building height limits, he needed to know, as he was not in favor of allowing that possibility.

Town Attorney Trevarthen replied there were distinctions drawn in the current code under section 7.1 based on identifying zoning districts. She surmised the belief was if the ability was left open for the Commission to create new zoning districts, this would be a loophole of some kind. The methodology the Charter Review Board was considering was different; it would be mapping geographic areas in the Town and would not be tied to a zoning district boundary the Town Commission could then change. In response to what the Charter Review Board perceived and discussed at length, they devised a proposal based on geography that could not be subject to manipulation by the Town Commission. She reminded everyone the Commission did not have the power to change the Town Charter, only the vote of the people could. The Charter Review Board's recommendations, as a whole, reinforced each other and made sense.

Vice Mayor Sasser wished there to be no loopholes of which future Town Commissions could take advantage.

Mayor Minnet asked that the Commission's thankfulness be passed on to the Charter Review Board for everything they were doing recognizing the Charter review was a difficult task.

10. APPROVAL OF MINUTES

- a. August 21, 2012, Regular Commission Meeting Minutes
- b. October 9, 2012, Special Commission Meeting Minutes

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

11. CONSENT AGENDA

Consent agenda items 11h and 11i were pulled for discussion.

Commissioner Dodd made a motion to approve items 11a, 11b, 11c, 11d, 11e, 11f and 11g on consent. Commissioner Vincent seconded the motion. The motion carried 5-0.

- a. Application for Five Hardship Parking Permits for FY13 from the Coral Key Inn Located at 4601 El Mar Drive (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- b. Application for Three Hardship Parking Permits for FY13 from Ocean Terrace Located at 4565 El Mar Drive (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- c. Application for Four Hardship Parking Permits for FY13 from the Santa Barbara Inn Located at 4301 El Mar Drive (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- d. Application for Four Hardship Parking Permits for FY13 for 4344 LLC Located at 4346 & 4344 E. Tradewinds Avenue (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- e. Approval of the Town's Application to Broward County for 39th Year Community Development Block Grant (CDBG) funds for the Town's Senior Programs (Finance Director Tony Bryan)

This item was approved on consent.

- f. Special Event Application for Christmas by the Sea Application (Town Manager Connie Hoffmann)

This item was approved on consent.

- g. Special Event Application for Marie White's Santa is Coming to Town
(Assistant Town Manager Bud Bentley)

This item was approved on consent.

- h. Application for Relief of Code Lien at 1684 Bel Air Avenue (SE 21st Avenue)

Commissioner Dodd claimed not to know much about the legal process involved but expressed surprise the foreclosure happened in February, yet the purchaser did not discover the outstanding lien until April 2012. Nor did it seem once the lien was discovered that the purchaser acted expeditiously to address the matter. He questioned the reason for the delay, wondering if it was in the permitting process, as the timeline illustrated in the backup it took them from early April to May 22 to acquire a permit, and then it took to the end of June before hookup was achieved. He added not being thrilled with their offer of a \$5,000 settlement against a \$70,000 lien, as there appeared to be no major efforts to expedite the sewer connection.

Vice Mayor Sasser thought, historically, the Commission tried as much as possible to stay at settlements that were 20 percent of the total lien amount. He concurred with Commissioner Dodd, pointing out the \$5,000 was only for the time the bank actually possessed the property and not for the entire time the violation existed.

Commissioner Dodd stated he could accept 20 percent of the amount from the time the purchasers acquired the property. They foreclosed on the February 28, 2012.

Mayor Minnet did not favor the offered amount. She asked if Town staff wished to renegotiate or did they prefer the Commission set an amount.

Assistant Town Manager Bentley indicated the offer of \$5,000 was 38 percent of the time of the lien for which the bank had control of the property. In the past, Town staff witnessed the Commission modify and agree to lien settlements for the amount of time that the purchaser had control of the property. Town staff would appreciate further instructions from the Commission as to what constituted an acceptable amount.

Vice Mayor Sasser favored 20 percent of the total lien on the property, rather than the offered 38 percent from the time of the bank's ownership.

Commissioner Vincent felt comfortable with the bank's offer of 38 percent, so they could move forward with getting the property sold.

Commissioner Dodd made a motion to approve the mitigation amount of \$14,160 or 20 percent of the total lien amount, plus administrative costs, and payment within 30 days. Commissioner Brown seconded the motion. The motion carried 4-1. Commissioner Vincent voted no.

i. Purchase of Recycling and Waste Collection Carts (Assistant Town Manager Bud Bentley)

Commissioner Brown said a number of residents objected to having three trash receptacles at the front of their homes due to lack of space and the hassle of hauling them in and out all the time; they were afraid to leave them in sight and risk a citation. The Town received a \$121,000 grant to purchase 2,700 recycling carts. There were 931 single-family homes in the Town, and 4,462 condominiums. He received feedback from some condominiums that they wished to be a part of the Town's recycling program. Ahead in the agenda, under item 13b, there was a resolution that discussed the Town receiving a \$16,000 refund from Choice, which he wanted to be rounded off to \$20,000 and set up as a pool just for condominium residents to purchase the small blue recycle baskets or the 13-gallon recycling baskets. He envisioned leaving it up to the condominium to determine the level of interest among their residents, and this would be a greater incentive for them to recycle and participate in the Town's recycling program. The residents of the condominiums interested in recycling could come to Town staff and request the purchase of the number of recycling units using the funds from the \$20,000-pool. Commissioner Brown noted the \$20,000 was not Town money but from an outside source and the Town had the ability to purchase the carts cheaper than if the condominiums purchased them privately. Thus, he wished the condominiums to be in charge of their own operational side of the process, but have it run through the Town for the purchase and repayment aspect. Commissioner Dodd demonstrated at a previous Town Commission meeting that the Town was one of the leading Broward municipalities with regard to the amount of recyclables. He noted everyone was excited about moving into the recycling program, and he could not understand why 80 percent of the residents were being excluded, that is, residents living in condominiums. He sought to make a motion to approve the item, with the change of setting aside \$20,000 out of the grant and money from Choice exclusively for a recycling pilot program for the Town's condominiums, the details of which would be worked out by the Town Manager.

Commissioner Dodd preferred to take recycling by the condominiums as the next step and do it properly once the Town had the single-family recycling program sorted out. Condominiums should see a major benefit from recycling, simply due to their not having to empty their dumpster as often. He thought the amount of work Town staff currently had in order to properly implement the recycling program in the single-family residential area was sufficient. Once the recycling carts were delivered to residents, Town staff had to follow up with a major educational program on such factors as materials that were recyclable, how to separate them, and whether they should be rinsed. He was 100 percent in support of a recycling program for the Town's condominium residents, but he would defer to Town staff on whether they could undertake that task at present. Commissioner Dodd mentioned the \$17,000 dedicated to educating the residents of the program would be insufficient, and in the calculations, it seemed Town staff assumed 100 percent of the large, blue containers would be given back to the Town, which he doubted, as many might want to keep them for yard waste. The same applied to the expectation that 100 percent of the recycling bins would be returned to the Town.

Commissioner Vincent commended Commissioner Brown for his diligence in addressing the issue of recycling at the condominiums. However, he did not feel the Town's current recycling program restricted any condominium owner from recycling, as most had been recycling for many years. The reason recycling carts were being ordered for the single-family homes was to facilitate residents having to wheel the carts out to the front of their yards, and for identifying purposes for those picking up the various types of trash. He said condominium residents brought their recyclables to a designated area and a custodian for the building took them to a recycling container. Therefore, carts were being given to single-family homes for identification purposes, whereas condominiums had the luxury of getting their recycling to the designated bins in a variety of ways and not being burdened with housing a container. He was not in favor of establishing a fund to facilitate condominiums participating in the Town's recycling program, as they already did.

Commissioner Brown commented it made no sense to him to conduct an educational program on recycling that focused only on single-family homes, as it was just as easy to get the same materials out to the condominium residents at the same time. He discussed his abovementioned views with Town staff, and they expressed their enthusiasm and support. He agreed the condominiums were not restricted from recycling and were doing so at present. The hope was to encourage more people to recycle by affording them the opportunity to obtain the small blue recycling bins to keep in their homes to recycle containers rather than throwing them in the trash. Having the recycling bin meant they could take it out a few times a week and throw them into the outside bin. He thought the goal of the Town's recycling program was to encourage participation in recycling.

Vice Mayor Sasser thought it was about options, and if the Town was creating more options to participate in recycling available, he fully supported that effort. With regard to Commissioner Brown's comment that Town staff was enthusiastic about his suggestions on condominium recycling, if this were the case, he wondered why those suggestions were not in the backup as part of staff's recommendations.

Assistant Town Manager Bentley stated Town staff identified the \$16,400, which was not committed money, and recommended that the monies be placed in a contingency fund. Town staff was not focused on the condominium recycling at present, as their focus was getting the recycling carts and trash carts out to the single-family homes. He reminded the Commission the 2012 Recycling Plan adopted by the Commission had a component in it to increase business and multifamily recycling, but when the plan was adopted, funding had yet to be identified. Thus, it was a future activity that had merit and one Town staff would eventually undertake. He thought this went to Commissioner Dodd's comments that the Town staff had a significant job rolling out 2,700 carts to single families, multifamilies with carts, and the business communities. Town staff would be dealing with new trash carts and new recycling carts. If the language in the backup gave the impression there would be three recycling carts per residential unit, Town staff apologized for that misunderstanding. Mr. Bentley stated all carts would be new carts,

and they hoped to have them distributed by the first of the year. After that task was complete, Town staff could then turn their attention to the commercial and multifamily recycling. He noted it was a policy question for the Commission whether to allocate the funds from the Choice dollars, but Town staff supported the effort and funding would be needed to work with the commercial and multifamily units to increase their recycling.

Vice Mayor Sasser believed the message Town staff was sending was that they were fully committed to doing a recycling program with the condominiums, but they preferred to do so at a different time.

Assistant Town Manager Bentley recalled in his conversations with Commissioner Brown there was no suggestion that they all had to happen at the same time rather both were doable in the current fiscal year. Initially, all Town staff's energy would be focused on rolling out the recycling carts, and Commissioner Brown wished Town staff to consider what would come next. By establishing the funds as suggested, this would give staff clear direction such actions would be taken in the current fiscal year.

Town Manager Hoffmann stated she was enthusiastic in speaking with Commissioner Brown on extending the Town's recycling program on a trial basis with a few condominiums to see how it worked.

Vice Mayor Sasser commented the Commission supported having the Town's recycling program include the condominiums and were committed to funding it when the time came. He questioned the difference between what Town staff was requesting and what Commissioner Brown recommended, as there seemed to be little difference.

Commissioner Brown indicated his suggestion could not be included in the backup, as he met with the Town Manager and Assistant Town Manager the previous day to go over his suggestions. Secondly, he was very general in his suggestions, and his only specific request was to earmark \$20,000 for a pilot recycling program for condominiums, setting no particular timeframe for when it should commence. Since the Town Commission was going to vote on the item, he thought only to have the Town make a commitment to involving the condominiums in the Town's recycling program. As the \$20,000 would be coming to the Town, there seemed no reason why the Town Commission and staff should not make an effort to show the condominiums the Town was serious about bringing them into the program at an appointed time, earmarking \$20,000 out of the \$136,000.

Mayor Minnet said, as the only other condominium owner sitting on the dais, the residents at her condominium had been recycling for years, and no one had given them any funds to do so. The residents continued to recycle, as they understood the sustainability aspect of recycling. Before she would venture in approving the setting aside of dollars to promote recycling in condominiums, she wished to first meet with the boards of the condominiums and ask them whether they were on board with the program and what, if any, were their recommendations. She doubted the condominiums would view the Town's recycling program as a priority, and she resided in a

condominium for 20 years. There were other means to recycle, and if it meant she had to take a walk up and down A1A to find out the views of condominium boards of directors on recycling, she would happily do so. She supported a recycling program for the condominiums, but she was unsure if the program was the right one.

Commissioner Brown made a motion to approve item 11i but to include a \$20,000 pilot program to encourage recycling in the Towns condominiums.

Town Manager Hoffmann pointed out the \$20,000 would come out from lines five and six on the second page of the agenda item.

Mayor Minnet received no second to the above motion by Commissioner Brown, so the motion died. She sought clarification there was a General Fund Contingency of \$16,369, asking if those monies were earmarked for any particular project.

Assistant Town Manager Bentley noted this was a transfer into the contingency of the uncommitted portion from Choice. Thus, Town staff could adjust lines five and six, create a line item of \$20,000 for multifamily recycling programs. Town staff would come back to the Commission with the information they learned from the multifamily homes and present a program on how those funds would be expended. He expressed concern that there might be a perception among the multifamily and condominium units that the Town was ignoring recycling among them. If this were so, the matter was worth addressing, but this was not the case; it was simply a matter of timing. Town staff could make readjustments to create that line item.

Mayor Minnet believed it was already there.

Town Manager Hoffmann clarified the funds would leave there and go into General Fund Contingencies if the Town Commission adopted the plan. It was an easy matter to cross out General Fund Contingency, put the funds in Miscellaneous including the multifamily recycling trial program.

Commissioner Vincent indicated, upon reconsideration, he would second Commissioner Brown's motion if Town staff would look into the matter in the future. He wished to show the condominiums that the Town wanted them to participate in the Town's recycling program. He invited Commissioner Brown to go out and lobby to the condominiums by sending them a letter asking them to indicate whether they wished to participate in a future pilot recycling program for condominiums, so the Town could get feedback from the associations. Everyone had their own ideas on how they wanted to do things within each association, and he had no problem setting aside the funds as recommended by Commissioner Brown. He noted nothing was being forced on anyone, and he wished to see them make a decision on how much they wanted to participate, and if they were interested in the containers.

Mayor Minnet asked if the proper procedure was to have the maker of the motion remake the motion.

Town Manager Trevarthen thought the Commission could recognize the first motion.

Commissioner Dodd could not support the Town Commission approving a nebulous sum until Town staff provided the Commission with a recommendation as to the dollars Town staff wished to do for a pilot program. Most of the Town's residents and businesses were 100 percent committed to recycling.

Commissioner Brown made a motion to approve item 11i and to include a \$20,000 pilot program to encourage recycling in the Towns condominiums. Commissioner Vincent seconded the motion. The motion failed 2-3. Mayor Minnet, Vice Mayor Sasser and Commissioner Dodd voted no.

Commissioner Dodd made a motion to approve item 11i as presented. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

12. ORDINANCES – PUBLIC COMMENTS

1. **Ordinances 1st Reading**

- i. **Ordinance 2012-13: 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 2, SANITARY SEWER SYSTEMS, SECTION 20-19, RATES AND CHARGES, AND SECTION 20-23, DEFINITIONS, IN ORDER TO ADOPT REVISIONS TO THE SCHEDULE OF RATES AND CHARGES FOR SANITARY SEWAGE COLLECTION, TRANSMISSION AND DISPOSAL; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND FOR AN EFFECTIVE DATE.**

Mayor Minnet opened the discussion for public comment.

Louis Marchelos stated over the past months he observed Mr. Burton addressing the Commission, along with a number of public complaints regarding the Town's hotels, etc. In his review of the backup, the restaurants were being billed in excess of a 60 to 80 percent increase. He had five water bills and accepted costs did increase, but he noticed their sewer bill was being charged by water usage, which was unfair with a restaurant business. For instance, they used a soda gun for sodas not cans, and with a soda gun, the water usage was high, as water was used to mix drinks for patrons, so this was not water that went into the sewer. He said the same applied to the making of iced tea and coffee, and their ice machines. About 40 percent of their water usage went into the sewer, and they should not be billed at such a high percentage increase. Hotels guests took showers, etc., and their usage of water into the sewer system was closer to 90 or 95 percent, while restaurants were closer to less than 50 percent. The only usage in restaurants that contributed to the sewer system was dishwashers and bathrooms. Mr. Marchelos wondered about the survey done by Burton and sought some clarification, as he wanted the increase to be fair and even.

George Hunsaker urged the Town Commission to move the proposed ordinance forward, as their condominium would have had about a 35 to 40 percent drop in sewer costs. Every month the matter was delayed was another month of them paying the current rate, and the latest study showed a 35 to 40 percent drop in their rate was fair.

Mayor Minnet closed the public comment portion of the discussion after receiving no further input.

Commissioner Vincent commented the issue of usage by restaurants was previously brought to the attention of the Town Commission, but new light was being shed on the situation. He agreed the matter should be moved forward but wished to add an addendum, whereby Town staff calculated or found information based on the findings of either Burton & Associates or another methodology where they found that with restaurant usage there was a percentage that showed they were almost being double billed. He could agree with Mr. Marchelos' view to some degree but needed the support of data, asking the Town Manager to have a representative of Burton & Associates look at figures for restaurants or at a study of similar uses in other municipalities.

Finance Director Bryan requested the above information of Mr. Burton earlier in the day; that is, if he was familiar with any municipalities that made any adjustments for restaurants in consideration of the arguments presented, and he awaited a response.

Commissioner Vincent reiterated this was an important issue and asked that Town staff secure a response on the matter from Burton & Associates, including data, if possible, to justify or establish usage. Restaurants were going to be hit the hardest by the proposed increase.

Town Manager Hoffmann remarked it was important to keep in mind the Town used empirical data to support the recommended sewer rates. For any adjustments to be justified, they too had to be based on empirical data. She suggested the restaurateurs speak with the National Restaurant Association to determine if there were any studies on the percentage of water used in a restaurant that ultimately reached the sewer system. However, in the absence of such empirical data, she was unsure how the Town could make such an adjustment. When the rates were adjusted in January 2011, restaurants experienced very small increases, while other categories of businesses suffered large increases. Some condominiums saw well over 100 percent increase in their fees, so some of this would be an evening out of the rate structure. She noted Town staff could come back prior to the second reading, and report on the feedback received from Burton & Associates and any data from restaurant owner's staff was able to acquire from the National Restaurant Association.

Finance Director Bryan reminded everyone that the rates that were currently in effect used water consumption as a proxy for sewer usage, and that would not change. Why had this become an issue, was the Town moving more toward a volumetric rate, and, due to the high volume of their usage, were restaurants being hit the hardest? He said

if there was a significant financial impact due to such an adjustment, the question became where the Town would make up the gap left in the revenue.

Commissioner Brown agreed with Mr. Marchelos that some amount of water usage by restaurants was not going into the drainage system. Therefore, it was unfair to bill them as though 100 percent of their water went into the sewers. As the Town made a presumption with single-family homes that anything over 7,000 gallons was used to water lawns and would not go into the drainage system, there was no reason not to make some kind of presumption for restaurants. He supported the need for empirical data to justify such an adjustment, noting there was already language in the ordinance that gave restaurants the right to contest their bill. The way it was written in the ordinance, it only addressed the volume of water that was used and not how the water was actually being used. He was unclear which Town entity would hear the request for review of a water bill from restaurants or what the criteria would be, as the questions were not about overall usage but about percentages of usage. There needed to be a procedure, whereby a restaurant could make its case to the Town, present evidence, and get a decision; how that review process would work needed clarification.

Finance Director Bryan sought to clarify the cap on the single-family use was 10,000 gallons and applied not only to single family but to all residential on a per unit basis.

Commissioner Brown understood but reiterated the Town presumed anything over the cap in residential usage was due to watering lawns. The same presumption could be made as to different water usage in restaurants rather than arbitrarily assuming 100 percent of their water went into the sewer system.

Town Manager Hoffmann disagreed that the basis for the restaurant sewer rate was arbitrary, restating the rate was based on empirical data evaluated by rate consultants all over the country. This was a very commonly used figure.

Finance Director Bryan remarked the adjustment included in the ordinance was to calculate the base facility charge that was a very simple calculation based on their usage for the prior 12 months. That was a very small portion of the overall bill in the case of large restaurants, so if that calculation was looked at, it would not have a material impact. He said, in terms of coming up with empirical data to see how much water was actually going into the sewer system, he questioned if some kind of meter could be installed on the pipe and meter the flow into the sewer system for one or two restaurants. The Town would want to have some kind of control to ensure that meter was not tampered with, but this was a better way to do it than going out to do a study that might not be representative. He noted the issue Town staff was having, was the base facility charge for commercial properties, and that the usage varied widely.

Town Manager Hoffmann was unsure what sizes flow meters came in, but Town staff could look further into that possibility.

Commissioner Dodd was pleased the Town Commission chose to go the present route, despite the fact that he would be voting for an increase for his own family residence and for the Town's water rates to increase. He felt the Town reached a fair model on which to base its sewer rates; it was not perfect, as before the Town Commission was the assumption that all the water from the commercial properties returned to the sewer, and that was not strictly correct. It was claimed that a significant portion of the water went to drinks, which he did not believe and would have been very surprised if it was 98 percent rather than 100 percent, so only a small percentage of water used did not go into the sewer system. He believed, in the interest of moving forward, Town staff should come up with a model that was as fair as possible to all branches of consumers in the Town. He felt the ordinance should be approved as is.

Vice Mayor Sasser realized there were a variety of ways to approach a situation, and in the subject matter, with the study data and the help he received from Town staff over the past week, certain thoughts emerged. When the matter was discussed at the last Commission meeting, he mentioned being uncomfortable with the number of projections and how the ERUs were calculated, then used to calculate the base rates. He met with staff, had them pull numerous reports and argued his points, and Town staff was both patient and diligent, and he did not think anything nefarious was taking place with regard to the sewer rates. The Town had an expert do a study and then took the word of his findings; however, mistakes had been found in expert opinions in the past, and necessary adjustments were needed even in the report. After looking over the projections and calculations, he could not reconcile them. Vice Mayor Sasser mentioned a few items that gave him cause for concern: the Town took in too much revenue each year, as overall costs were about \$1 million, yet the Town collected up to \$1.4 million in revenue. The Town assumed a compounded annual growth rate (CAGR) of five percent on expenditures to Pompano, while only projecting a two-percent increase year over year; this meant some years the Town would be short and would have to dip into its reserves. He preferred things cleaner and suggested the Town bill what it needed, and if Pompano increased its rates, so would the Town. After speaking to residents and businesses, they indicated they did not understand the ERU calculations. He realized he might be the only one on the dais with such concerns, and it appeared Town staff's having answers to his questions led them to feel that merited the proposed ordinance being approved. With these concerns and the answers he received, he could not support the approval of the ordinance in its present form.

Mayor Minnet observed it appeared the Town Commission did not have a consensus on the proposed ordinance unless the Commission could accept its approval on first reading, as there was still the possibility of making changes during the second reading. She hoped, in the interim, Town staff could address some of the Commission's remarks on their concerns, providing answers where possible, or they might prefer to seek Commission direction only.

Finance Director Bryan responded to some of the comments made by Vice Mayor Sasser, the first being in terms of not having increases that matched the increases from Pompano. The rate structure and the proposed increases in the outer years recognized

that the Town had \$1.5 million in the sewer fund. At the end of the ten years, Town staff projected a small deficit in the sewer fund as the Town was spending that down to avoid those increases. Secondly, in terms of collecting more than the Town was paying out in a particular year, the model also recognized that beginning the current fiscal year the Town would spend \$2.6 million to make improvements and repairs to the sewer system. He said the model attempted to smooth that out to some extent, spreading the cost evenly over that period of time.

Vice Mayor Sasser heard Mr. Bryan's comments earlier in the conference room, and this was to the point he made earlier to the Town Manager, as there were already funds in the sewer fund to take care of the major repairs that were what he called "one-time shots." It was a difference in philosophy, and he realized there would be another shot at the proposed item at second reading.

Commissioner Brown stated he was prepared to vote for the ordinance, as he thought Mr. Burton did an excellent job doing what he was asked to do, which was to come up with a methodology that was based primarily on volume of usage. He felt there should be an appeals procedure, whereby any local business owner could come to the Town and challenge their bill, whether it was based on overall usage or differences in how the water was being used.

Commissioner Vincent commended Burton & Associates for doing a fine job on its report, trying to keep it fair and equitable. However, his approach to the situation was philosophical, and it seemed as though the biggest users were paying more than their fair share and he had a problem with that. Regardless of whether the adjustment to the overall bill would be small, it was money that belonged to the customer and not for the Town to judge the amount as significant or not and whether it was worthy of any action on the Town's part. The restaurant customers were complaining, and he felt the Town needed to be given them the benefit of the doubt and allow them a fair and equitable chance to ensure they were paying their fair share across the board. It should not only be because their usage was more than others', and he believed some sort of study or additional data was needed.

Finance Director Bryan thought he might have been misunderstood and sought to clarify his position. His point was that the calculation and the appeals process specified in the backup pertained only to the base facility charge; the latter was a very small percentage of the entire bill. Thus, exercising the appeals process, in the case of the largest restaurant, would have a marginal effect on their overall bill, as the majority of the bill was based on usage.

Commissioner Dodd made a motion to adopt Ordinance 2012-13 on first reading, with direction to Town staff to contact Burton & Associates to discover if any data existed on how restaurant water usage was billed; this should be done prior to the second reading of the ordinance on November 13, 2012. Commissioner Vincent seconded the motion. The motion carried 4-1. Vice Mayor Sasser voted no.

b. Ordinances 2nd Reading

There were no ordinances for second reading.

13. RESOLUTIONS – PUBLIC COMMENT

- a. Resolution 2012-49: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, SUPPORTING THE ADOPTION OF A PLAN FOR COOPERATIVE COUNTYWIDE CONSOLIDATION OF E911 COMMUNICATIONS AND DISPATCH, WHILE OPPOSING ITS FUNDING EXCLUSIVELY THROUGH COUNTY AD VALOREM TAXES, URGING THE COUNTY COMMISSION TO CONTINUE ITS CURRENT LEVEL OF PROPORTIONATE FUNDING FOR EMERGENCY COMMUNICATIONS, WITH SUPPORT BY THE PARTICIPATING CITIES BASED ON A 33%/33%/33% FUNDING FORMULA, URGING OTHER CITIES TO JOIN IN THIS RESOLUTION, DIRECTING THE TOWN CLERK TO TRANSMIT COPIES OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Minnet opened the discussion for public comment and closed the public comment portion of the discussion after receiving no input.

Commissioner Brown made a motion to adopt Resolution 2012-49. Commissioner Dodd seconded the motion. The motion carried 5-0.

- b. Resolution 2012-50: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE 2012/2013 FISCAL YEAR BUDGET; APPROPRIATING SAID AMOUNTS TO SPECIFIC DEDICATED ACCOUNTS IN ACCORDANCE WITH THE ATTACHED EXHIBIT "A" TO THE SPECIFIC DESIGNATED FUNDS; AUTHORIZING THE EXPENDITURE OF THOSE AMOUNTS IN ACCORDANCE WITH THE BUDGET AS AMENDED; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

Mayor Minnet opened the discussion for public comment and closed the public comment portion of the discussion after receiving no input.

Commissioner Dodd made a motion to approve Resolution 2012-50. Commissioner Vincent seconded the motion. The motion carried 5-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

There were no Quasi-Judicial hearings

15. COMMISSION COMMENTS

Commissioner Dodd mentioned the Hillsboro Inlet Chairman reported that he wrote to three permitting agencies, asking for conditions that the permit had changed to better reflect the continuous nature of the dredging sand bypass operation rather than the rigorous conditions applied in a single dredge operation. The request was made to allow the inlet to replace some sand on the north shore adjacent to the lighthouse and the Coast Guard dock area as part of the routine site maintenance, as the current permit only allowed the inlet to bypass sand to the south shore. Hopefully all three agencies would agree. He thanked the Town Commission for their perseverance through the Imperial Lane Entryway Project, which he believed made the junction safer when turning from Thomas Way into Imperial Lane. The change appeared to be slowing the traffic, and the consensus of those to whom he spoke was that it was a great improvement. He indicated they needed a few more volunteers for Halloween to help the increased influx of parents and children on Halloween night; volunteers should come to the Town Hall by 5:30 p.m. on Wednesday, October 31st.

16. OLD BUSINESS

a. A1A Parking Lot – Conceptual Sign Plan and Final Lot Design (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley noted the focus of the presentation would be the signage for the public plaza, and the project would come back to the Town Commission for final award once staff received cost estimates.

Peter Ebertol 2:37:42 and Hugh Johnson of Architectural Alliance gave a presentation on the subject item as detailed in the backup, focusing on the three options.

Town Manager Hoffmann summarized the cost of the structure, as it appeared in the illustration was about \$94,000; with the sign only, the cost was about \$30,000; and with a fabric rather than a metal covering the cost was \$58,000. Town staff desired direction from the dais on which way to go. She noted about \$500,000 was budgeted for parking improvements, and if the choice was the \$94,000 structure, the total cost of the A1A project, including the signage, would be around \$260,000. Later on in the agenda, there would be an item proposing the addition of parking along south Bougainvillea, and she believed that cost was under \$100,000, bringing the cost of improvements in the region to \$360,000. She stated another proposed location for developing a parking lot was behind Jarvis Hall of which the parking fund would pay about one third of that cost. Thus, the Town should be fine in terms of the budgeted dollars for all the projects mentioned as envisioned. Town Manager Hoffmann remarked the funds for the temporary parking lot on the Minto property would come out of a different fund.

Commissioner Vincent believed some sort of shelter was needed but the proposed structure was scaled fairly high at 33 feet. He was unsure a structure of such height was warranted, even though it was a beautiful structure.

Mr. Ebertol indicated the scale was drawn to what the design team thought was appropriate but, by the Commission's direction, they could make it smaller.

Commissioner Brown commented the structure presented was what the Town needed and wanted for a long time, a big, visible, aesthetically pleasing sign that guided people to the parking area. It was a great design, and he favored it without the shelter. He regretted the Town was not addressing more signage on Commercial Boulevard to intercept the cars as they came across the bridge, pointing them into the lot by Bougainvillea and not just A1A.

Commissioner Dodd wondered if it would be possible to incorporate a bench and trash receptacle. He expressed concern that the Town proposed spending these funds on a sign where, by the time southbound A1A traffic saw the sign, they were past the entrance to the parking lot, and northbound A1A traffic were not allowed to turn left into the car park. He thought the design of the sign was great, and it alerted people to the presence of a parking lot in the subject location, but there was some misdirection as it pertained to the actual entrance.

Mr. Ebertol indicated they checked with FDOT and, with the new design, it would be possible to take a left into the parking lot, acknowledging the actual entrance into the parking lot was at the northern most end. In terms of the southbound traffic, this was the reason for making the sign 33 feet high, to alert them as they came south on A1A.

Mr. Johnson remarked, with regard to the shelter, it started as signage, but when the design team and Town staff looked at it from Commercial Boulevard, it had taken on an iconography for the Town. The idea was for it to be not only signage, but a sculpture for the Town; an eye catching feature from the main intersection of Commercial Boulevard and A1A. He stated the cover put over the area was for protection from inclement weather, but it became a meet-me-at place, hence the incorporation of benches.

Commissioner Dodd said his version would be for the sign and the awning type cover rather than a permanent cover, as he thought the \$58,000 was a better investment. There could be numerous replacement awnings over time to make up the cost difference of having a permanent, cast concrete roof, along with benches and the trash receptacle.

Mr. Johnson noted within the one of the graphics two benches were illustrated, and a trash receptacle could fit.

Commissioner Vincent asked about the replacement value of the canvas awning and its expected lifespan.

Mr. Johnson responded he would get the information and relay it to Town staff for the Commission.

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Commissioner Vincent liked the look of the hard ceiling, as it would become an iconic piece that would be in the Town for generations to come. He was unsure the canvas awning would convey that iconic look, and the concrete cover would be a one-time expense that would require no replacement or worry about deterioration.

Vice Mayor Sasser liked the concept very much, but a cost of \$94,000 for the concrete covered structure was unacceptable, as he thought about how much one could add onto one's house for that amount, and the Town was getting a sign with a bench. The presentation seem to indicate to him a square block of concrete was worth \$35,821.64; he could approve the concept but not the cost.

Mr. Johnson pointed out the next logical step would be to bid out the project, as the figures quoted in the presentation were just estimates from a particular vendor, seeking to give the design team and Town staff a sense of what it might cost. The process needed to go further to get more realistic figures.

Vice Mayor Sasser appreciated Mr. Johnson's comments, noting if the Town Commission sought to vote only on the concept at present, he could vote to approve, but not as it pertained to cost estimates.

Mr. Ebertol explained this was an expensive structure to build, partly due to its proximity to the beach and, as it was difficult to build it was likely to be expensive. The figures presented were guesstimates, and a fabric structure was less expensive than a solid, concrete structure due to the calculations of the foundation, columns, etc., were based on a solid roof structure that remained in place. With a fabric cover, the wind load calculations assumed the fabric covering would be taken down.

Vice Mayor Sasser asked about the size of the square.

Mr. Ebertol thought it was about 22 feet by 16 feet.

Commissioner Dodd commented, being in the marine industry, a fabric covering would work very well on the structure, mentioning Fort Lauderdale Airport with the sails that incorporated other structures with fabric. The fact that the edge of the structure would have an aluminum frame around it, giving a visual appearance of being a solid roof, and with the fabric stretched tight, the savings from using canvas material was acceptable. He felt he could make a motion to approve Alternative 2.

Mayor Minnet thought the proposed structure was great, and she wished to see the Town Commission vote to move forward with the project, agreeing that the canvas covering would work very well. It was possible to have an aluminum roof, knowing the design team utilized the particular structure with the Midcentury Modern look in mind, into which an aluminum roof would not have fit. She said, however, the cost of an aluminum roof would likely be less expensive.

Mr. Ebertol responded it would be less expensive incrementally but not as significantly when compared to moving from a concrete to a canvas roof. The canvas roof allowed a reduction in cost for the entire structure as it pertained to changes in the columns, the foundation, and there was no need to calculate the uplift load. He noted, once the roof was solid, accommodations had to be made for the foundation, support columns, etc., as the structure was, essentially, a sail that wanted to fly away in a hurricane, so the foundation had to accommodate that possibility.

Mayor Minnet agreed with Commissioner Dodd, but if Vice Mayor Sasser preferred to have more specific figures before voting to move forward with an option and its pricing, she was willing to do that as well.

Town Manager Hoffmann replied, in order to get more concrete figures, the structure would have to be completely designed and bid two ways. If the Town Commission could approve the canvas structure, then this was the route to go, so the design team and Town staff could move forward.

Commissioner Dodd made a motion to approve item 16a Alternative 2, with the canvas covering. Commissioner Brown seconded the motion. The motion carried 4-1, Vice Mayor Sasser voted no.

Commissioner Dodd commented, with Alternative 2 approved by the Commission, Town staff could move forward with getting more realistic figures to build the structure and bring those back to the Commission for approval.

Vice Mayor Sasser believed the approval of item 16a, Alternative 2, included the price given in the presentation with the canvas, so he questioned what further information the Commission wanted.

Commissioner Dodd clarified his motion was to approve Alternative 2 with the canvas structure, and that would go forward as the design, so the Town was committed to paying the design costs for that structure. Town staff would move forward with getting the actual cost to produce that structure and bring those figures back to the Commission for approval. He thought it was not possible to have a realistic cost without knowing exactly what would be erected.

Town Manager Hoffmann indicated the project, as approved by the Commission, would be bid out and that would be the actual cost presented to the Commission, as it was designed with the cost given in the presentation in mind.

Vice Mayor Sasser indicated the interim step of getting more realistic costs was there.

Commissioner Vincent questioned if the design team had sufficient information on the designs for a more realistic value engineering cost estimation.

Mr. Johnson answered yes.

b. Conceptual Plans for Median Parking on Bougainvilla Drive South of Commercial (Assistant Town Manager)

Assistant Town Manager Bentley reviewed the details regarding the plans.

Mayor Minnet thought the plans were great.

Commissioner Dodd asked if anyone noticed the plans showed parallel parking, yet the design photographs included diagonal parking. He wished to know if Town staff knew the ballpark figure as to the tentative revenue the 26 new parking spaces might generate to see how that compared with the costs. He was pleased to read that the people attending the meeting were generally in favor. Commissioner Dodd wondered if a final set of plans should be put up in Town Hall and advertised accordingly so the public would have a chance to comment to avoid a larger number of residents voicing their disfavor when the groundbreaking began. Commissioner Dodd noticed the plans appeared not to include any lighting and asked staff to review that aspect of the plans prior to declaring them complete. He did not want the Town to miss an opportunity if additional lights were needed in the median to improve public safety. At a minimum, the Town should consider some ducting in the ground, to accommodate future plans, should they arise, to install additional lighting.

Assistant Town Manager Bentley noted the diagonal parking seen in the picture next to JoJo's was out of operation. On the plans, it showed striping, etc. that Broward County requested the Town include in that section of the road, despite it being outside of the project area. The rest of the parking was parallel. On the issue of the streetlights, Town staff received no comments from the eight residents in attendance about the need for additional lighting for public safety, though there was one gentleman interested in whether the Town would do any decorative lighting. The gentleman had been told there were no plans, as it was beyond the scope of the project. These were parking funds and no general funds or capital improvement project funds were dedicated to this project. He indicated there was an opportunity for about two more cobra heads on existing poles, should there be a need to upgrade the lighting.

Town Manager Hoffmann questioned how the public meeting was noticed.

Assistant Town Manager Bentley replied Town staff sent letters to the property owners, as well as to the physical property addresses for those bordering Bougainvilla; the property owners going all the way through to A1A received notices as well. Town staff could provide more information via posting it on the Town's website, and the project would come back to the Town Commission with final pricing for award.

Commissioner Vincent thought the project was a beautiful one that would take Bougainvilla Drive to a whole different level. He too asked if some underground piping could be installed for future lighting while the road was torn up where it was determine future poles might be placed, as this would be inexpensive to do.

Mr. Flynn commented the plans did not provide a place for lights down the middle of the road, as the light could not be placed in close proximity to the trees. There were seven cobra heads on the street in the strip they would be doing, so there was sufficient lighting. He mentioned there was no irrigation, and the landscaping was designed to thrive without irrigation, similar to that done on north Bougainvillea Drive. The design team and Town staff had been through three reviews with Broward County and, though the County's signature was not yet in hand, County staff had given the plans its blessing. He stated the County's approval was now simply a formality.

Mayor Minnet asked if it were possible to have a sign with a large "P" for parking to alert drivers there was additional parking in the area.

Commissioner Dodd made a motion to approve the conceptual plans. Commissioner Vincent seconded the motion. The motion carried 5-0.

c. Bel Air Entrance Neighborhood Grant Project (Project Manager Bill Cole)

Project Manager Bill Cole reviewed the details noting they had a design the neighborhood was happy about and ready to proceed with, and it was within their budget. Town staff sought Commission approval to award the bid to the lowest bidder.

Town Manager Hoffmann asked Mr. Cole to point out what had changed from the item the Commission received the previous Friday to the one handed out earlier in the day.

Mr. Cole explained the low bidder excluded the cost of the permit, possibly due to him not knowing what that cost was, as it was a calculation done in house. Town staff did the calculation and added it to his cost, and notified the bidder of the change, and even with that being done, he was still the lowest bidder.

Town Manager Hoffmann informed the Commission Town staff checked with the Town Attorney's office and they indicated this action on Town staff's part was acceptable. The procedure used was a little unusual, in that Town staff sought bids, and the neighborhood property owners began negotiating with the low bidder, both to try to get the costs down and to change the scope. When they did, they came back to Town staff and the low bidder gave the Town a new quote, at which point staff realized all bidders should be afforded the same opportunity, so the offer was put out to the other bidders, and one of them came back with a lower bid. She commented Town staff was requesting that the Town Commission waive the normal purchasing policies to approve the award. If not, Town staff would have to begin the bid process from scratch, putting it out to bid once more; the purchasing policy allowed the Commission to waive them. Town Manager Hoffmann noted Town staff and the Town Attorney drafted an agreement with Bel-Air that they produce their share of the funds up front before construction began, and if there were any unforeseen additional costs occurring on the project due to field conditions, they would be obligated to fund those additional costs.

Commissioner Brown was surprised how close the north gate was to what was almost a "dead man's" curve when one came down 21st Street where it became 15th Street heading east. When coming around that curve, one came upon the north gate very quickly, and for those who did not know of the gate's presence, there was the possibility that the gate would be knocked down a few times. He spoke to about ten residents in Bel-Air and found no one in Bel-Air supported the subject project. When he alerted them to the specific location of the gate and the fact that they would be asked to contribute funds to the cost of the project that lack of support increased. Commissioner Brown felt this was not a Town Commission problem but a Bel-Air problem, as Town staff handled the project the way all other neighborhood improvement projects were handled. If the neighborhood association could come up with the money, which he assumed would come from individual assessments on residents and the funds were forthcoming, that would be an indication of support. He would vote to approve the item with the following conditions: 1) Bel-Air provide its share of the funding up front; and 2) they sign and accept the responsibility for all maintenance, repair and replacement of the gates.

Commissioner Vincent expressed concern that this would be Town right of way and the project would be permitted through the Town, questioning how the Town was covered with respect to a dispute between the contractor and the Town or Bel-Air. He wondered if such an eventuality was covered in the agreement, and should the Town include contingency funds to cover any cost overrides, rather than going to Bel-Air after the fact. That is, Bel-Air would come up with the difference up front that was due, and establish a contingency to offset any resulting cost overrides.

Town Attorney Trevarthen indicated the agreements were not before the Town Commission and staff at the present meeting, and she was unsure what was included in the Terra Mar Agreement. These considerations could certainly be taken into account in the final documents.

Town Manager Hoffmann clarified the Town was contracting with the contractor, and Bel-Air was giving the Town their share of the funds for the cost of the project, so it was possible that Bel-Air could be unhappy with the final product. She was unaware of there being any provision in the proposed agreement for dealing with dissatisfaction with the final product on Bel-Air's part.

Commissioner Vincent thought, once Bel-Air gave the Town the money and signed off on anything, there should be no dispute.

Town Manager Hoffmann felt it needed to be clear that it was the Town that had control of the final product. However, Commissioner Vincent raised the point that pertained to another change Town staff made in the item; to add in the Commission's approval a \$5,000 contingency to the total amount.

Commissioner Dodd received an email from a resident stating the association did not represent their wishes. He asked what percentage of the property owners the

community association represented. Perhaps, the association needed to survey the residents it claimed to serve. He wished to see at least a 60-percent show of support for the project from the total number of properties in Bel-Air. When the Town did the project in Imperial Lane, 29 out of 31 properties responded in favor of the project, and the Town experienced past problems with associations not being representative of the residents. He believed if the Town was going to spend public money, there needed to be some confirmation, via a survey of all the residents to get a majority of support for the project. He had no objection to some members of the association being prepared to dig into their pockets to put the money up, if it was not possible to share it evenly among all residents, as long as the money was there prior to commencement of the project.

Mayor Minnet recognized Edmund Malkoon, Vice President of the Bel-Air Association. She reminded the Commission that as a member of the association, Mr. Malkoon might not represent the views of the residents who contacted the Commission.

Town Manager Hoffmann advised that Mr. Bentley would retrieve the neighborhood grant write up, as it explained what the rules were, and whether there was any provision that there had to be a minimum amount of support for the project.

Edmund Malkoon commented the funds were already in the bank and ready to be utilized, so there was no need to collect from or assess residents. The association provided a survey to the Commission earlier showing the majority of the residents were in favor of the project, but there were always those persons who did not want the project. On the issue of the bend and the north gate discussed by Commissioner Brown, he knew there would be sensors placed in the roadway, so upon approach they would go up, and they thought this would address the situation. A sign could be erected to warn approaching vehicles as well. He inquired if \$5,000 was being added to the total cost.

Town Manager Hoffmann clarified \$5,000 was not being added to the total cost, rather the sum was being put in as a contingency in the event of additional costs. In the draft agreement, the language stated, in the event of any change orders, Town staff would advise the property association of them and the amount it would involve, and the agreement would be the association would be expected to cover those costs.

Mr. Malkoon thanked the Town Commission and staff, noting the association worked very hard on the project, and they did try to revise the agreement to include the contingency.

Commissioner Brown observed at the time the project was proposed by the association and the survey was conducted, the project was no more than a concept, and residents did not know specifics as to cost or the location of the gates. He wondered if those things might have changed in some people's minds and led to the lack of support currently expressed by some residents who might have originally supported the project. He asked if the association was scheduled to meet in the near future, and was there a possibility of canvassing the affected community in some manner to determine the level

of support now that the costs and locations were more established. He inquired if the association had a regularly scheduled meeting at which residents could have a conversation with the board members, and then the association would relay the outcome of the meeting to the Town Commission and staff.

Mr. Malkoon responded the way the association first presented the project was at its annual meeting earlier in the year. They took a picture of Terra Mar's gates, which were very similar to what they planned and showed the residents what they would look like. The funds raised were based on individual generosity to the project and their commitment to enhancing the neighborhood.

Vice Mayor Sasser made a motion to approve the project design with the added conditions of money up front from Bel-Air prior to commencement and the inclusion of contingency monies. Commissioner Vincent seconded the motion. The motion carried 4-0. Mayor Minnet abstained.

17. NEW BUSINESS

a. Fox Sun Sports Scuba Diving Program on Lauderdale-By-The-Sea (Public Information Officer Steve d'Oliveira)

Public Information Officer Steve d'Oliveira mentioned being approached two weeks prior by Rich Barnhart of By The Sea Realty, who was also a member of the Bug Fest Organizing Committee. Mr. Barnhart had been in recent contact with the producers at Scuba Nation, a Fox Sun Sports show that aired on weekends between April and October, and asked to them to do a story on diving in the Town. Talks further ensued, and it appeared the program was a 21-minute commercial of the designation of the show. He informed Mr. Barnhart Town staff would be willing to approach the Town Commission about possibly funding half the production cost if the rest of the local business community would come up with the other half. That was two weeks ago, and the local business community contributed \$5,000: there was a \$1,500 donation from the CDB, as it would be the first diving program done in Broward County; \$500 from the Town's Chamber, and \$500 donations from five other local businesses - 101, Windjammer, Village Grill, Aruba, and Gold Coast Scuba. Mr. d'Oliveira spoke with someone in Fort Myers where the show did a program about the sinking of a ship in that area in July 2012, and he was told they received a tremendous amount of support and publicity in reaction to the program. Since a variety of efforts were made to promote diving in the Town, it seemed this was a good idea to present to the Town Commission. It would be a huge benefit to the Town, as the market in Florida was basically scuba diving.

Commissioner Dodd made a motion to approve a Town contribution of \$5,000 to the event. Commissioner Vincent seconded the motion. The motion carried 5-0.

b. Updated South Silver Shores Resurfacing (Municipal Services Director Don Prince)

Municipal Services Director Don Prince stated the total project cost would be \$39,874; \$36,249, plus a recommended ten percent contingency to cover any unknowns. He indicated work would commence on October 24, 2012.

Town Manager Hoffmann added the funds were available in the current budget in the CIP for the subject project.

Vice Mayor Sasser wished to confirm all the roads would be paved at the same time.

Municipal Services Director Prince affirmed this to be the case, noting the Town had to be concerned about black marks down the street that resulted whenever asphaltting was done.

Vice Mayor Sasser asked if the price from Fort Lauderdale came in lower than what the Town budgeted and, if so, what was the savings.

Municipal Services Director Prince believed the last time the item was on the agenda, he believed the cost was \$69,000.

Vice Mayor Sasser thanked Town staff for all their hard work putting the project together, and for the savings of some \$30,000.

Town Manager Hoffmann thought it showed the buying power of a bigger city.

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

18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:35 p.m.

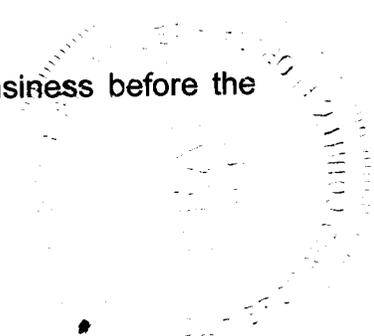


Mayor Roseann Minnet

ATTEST:


Town Clerk, June White CMC

1-9-2013
Date



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME MINNET ROSEANN ALEXIS	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE MAYOR
MAILING ADDRESS 2000 SOCEAN BLVD NE BROWARD	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: TOWN OF LAUDERDALE-BY <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY HA-Sea
CITY COUNTY OCT 23, 2012 LBTS-FL	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Roseann Minnet, hereby disclose that on October 23, 20 12

(a) A measure came or will come before my agency which (check one)

inured to my special private gain or loss;

inured to the special gain or loss of my business associate, _____;

inured to the special gain or loss of my relative, _____;

inured to the special gain or loss of _____, by whom I am retained; or

inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The company, of which I am the principle owner, has in the past done business with one of the respondents

October 25, 2012
Date Filed

Roseann Minnet
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.