

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

SPECIAL MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Monday, March 5, 2012

6:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 6:00 p.m. Also present were Vice Mayor Scot Sasser, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Harlene Kennedy, Town Manager Connie Hoffmann, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ITEMS FOR DISCUSSION AND/OR ACTION

a. Beach Nourishment Project (Town Manager Connie Hoffmann)

i. Broward County Beach Nourishment Report

Town Manager Hoffmann stated that Eric Myers, Broward County representative, gave a PowerPoint presentation to the Town Commission in December 2011. At that time the County had to decide whether the sand for the project would be brought in from offshore or trucked to the site. She said since then, the County had tentatively decided to go with the trucking option, and the Commission asked Town staff to schedule a public meeting to get input from residents and businesses on the project and its impact on the Town.

Approximately two weeks prior, Town staff sent notices to the beachfront condominiums north of Pine Avenue, the Caribe and the Fountainhead, and all the property owners on El Mar Drive.

Mayor Minnet advised that information had also been placed on channel 78, as well as in a number of articles in *The Pelican* and *The Highriser*. She felt sure the Town's local newspaper, *By The Sea Future* would do the same. It was important for residents and business owners to know what was happening, the impact it would have within the community, and give the Commission feedback as to what direction they wished the Town to take in the County's Beach Renourishment Project.

Eric Myers gave an updated PowerPoint presentation on the proposed Beach Renourishment project.

Mayor Minnet asked if the County was leaning toward a truck haul system for the sand and had a decision been made as to the type of sand that would be used.

Mr. Myers was unaware of a formal decision by the County, but County staff was recommending the sand be bought from inland sources. Town staff and the Commission received copies of a letter sent by the County in the backup.

Mayor Minnet clarified the source of the sand was based on County staff's recommendation and not on a decision made by the County Commission.

Mr. Myers affirmed this to be the case.

4. PUBLIC COMMENTS

Mayor Minnet opened the meeting to public comments.

Shirley McCullen noted when an earlier project was proposed to replenish the beaches using sand from the ocean, she, along with many others strongly objected to it, as their philosophy was that sand came and went. Since the time of that proposal and present day, the beach looked very similar, and she felt the County had money that would be better utilized in other areas in far more dire need than spending it on spreading sand on the beach. There were other beaches that were in a worse condition, and she wished to confirm it was County monies that were to be spent on the beach renourishment project.

Dan Clark, Director of Cry of the Water, opposed the proposed project because the reef was buried and destroyed from the 1980s beach renourishment project. Cry of the Water sued and stopped the work in segment two of the 2005 beach project, and made an agreement not to object to segment three if they did not do segment two. Their objection to segment two was that much of the area, mainly from Lauderdale-By-The-Sea south had never experienced beach renourishment, and it had some of the best near-shore reefs left. Mr. Clark said if the County went back to dredging, Cry of the Water would file to prevent its continuance; if the truck haul was done properly, it might be possible to put some sand in certain places without too much harm. He reiterated the need for the beaches to be better managed, as some of the erosion was due to land-based sources. Sediment was an enemy to the corals in the area, and Cry of the Water was doing some work with diseases on the corals; they discovered one reason was due to a bacteria living in sewage called soratia. He said soratia in the water by itself did not necessarily infect the corals, but experiments showed that the bacteria mixed with sediment and sand would cause the coral to be infected. The various beach projects put so much silt and sediment into the system that acted as a catalyst, opening up the corals to infection. Mr. Clark urged the Town Commission to proceed slowly.

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Michael Gittings found some portions of the presentation surprising, noting at the Fountainhead they had seen no sand loss in 47 years. The outflow pipe was no longer in use and there was no need to put sand where none had been lost. On the issue of dumping sand over a three year period, he pointed out there was no access to the beach in the whole of Galt Mile from the south at Sunrise Boulevard up to Flamingo Drive. The residents of his community had no desire to see a dumping of sand for three years in their front yards. He expressed concerns about the truck routes, as traffic was already horrible in the winter, and it was unwise to have trucks hauling sand daily, particular during the height of the tourist season.

Donna Harland, member of the Turtle Volunteer Program, questioned scarping. She said during turtle season there were deep ledges after storms that prevented mother turtles from climbing over the ledges to lay their eggs; the same applied for the baby turtles trying to get to the ocean.

Edmund Malkoon was not in favor of the Town funding and/or participating in the subject beach re-nourishment. He asked how much it would cost the Town to participate. He believed it would be a waste of taxpayer money. He noted that if the County indicated it would try to minimize damage to the reefs, this meant damage to the reefs was expected to occur. The Town implemented a project it hoped would stimulate the growth of the corals, so it made no sense to approve a project that might damage and possibly destroy those corals.

Kath Lawrence indicated she worked with Ms. Harland on the beach, doing their best to protect the turtles, expressing similar concerns for their safety, as well as the negative changes to the reef and diving conditions. The reefs needed a chance to recover from existing damage and begin to flourish again and for the other reef inhabitants to return. She agreed the subject project did not sound well planned.

Diana Kugler remained unconvinced the project was needed in the Town, acknowledging the municipalities to the north and south did need it. The project would not benefit the Town's businesses.

Ron Piersante wondered if the Town could advertise part of its amenities as the shore diving capital of South Florida after the project was implemented. He had concerns with traffic congestion and the health of the reefs.

Paul Novak acknowledged there were some benefits to past renourishment projects, though he was unaware until the present public feedback of the threat to the Town's reefs. The Town's beach did not appear to need nourishing, but if a strong storm moved through it could narrow the beaches and threaten the Town's tourist industry. He asked how trucking in sand would adversely affect the reefs. It would be an economic hardship if the Town were to lose its beaches through some erosion episode and have to wait another 20 years for another renourishment project.

With no one else wishing to speak, Mayor Minnet closed the public comments.

Mr. Myers addressed funding and the Town's financial involvement, stating great consideration was given to the cost and need for the project. As in the past, the County was trying to coordinate the Army Corp of Engineers to make it a federally reimbursable project, though the federal government's financial involvement in the third segment of the past project did not go well.

Mayor Minnet asked how much the federal government still owed the County for the past beach renourishment project and when it was done.

Mr. Myers replied the project was completed in 2006, and the federal government still owed the County about \$12 million. Assuming the proposed project moved forward as a federal project, the federal government would pick up about half the project cost, with the County and the municipalities splitting the other 25. With this expectation, County staff would move forward with this as a starting point, and the Town would be expected to pay about 12.5 percent of the project.

Mayor Minnet requested an estimate of what 12.5 percent of the project cost represented.

Mr. Myers responded the Town's portion was a relatively small portion of the project, probably less than 20 percent. County staff proposed replenishment for those portions of the beach that tapered in the north and south as it seemed to be the most effective way to end a project; not just a blunt square end, but to taper it down to a zero width. Using offshore sand meant pipelines coming across the reefs, and the other impact from sand that worked itself downhill from the beach where it was put on to where the initial hard bottom began. Their goal was to have as little impact on reefs as possible.

Mr. Myers mentioned scarping, stating newly constructed beaches had a habit of erosion that could create a vertical scarp. The County was usually required in every beach nourishment permit he viewed, including their past ones, for the County to go out and knock those scarps down with a grader. He pointed out all turtles could access the beach to lay eggs after the project was complete and their babies could find their way back to the sea.

On the issue of ownership, the state required the establishment of an erosion control line that was the demarcation between private property and public property. He explained if there was no control line, often the eastward or seaward boundary of a piece of property was described as the mean high water line of the Atlantic Ocean. This meant those properties were either widened with accretion or narrowed with erosion. This was an issue in the south end of segment two where it was now a major hike out to the ocean. For those previously constructed areas, he expected the ownership was fixed with an erosion control line, and for those areas that had not been constructed, such as some of the area south of the pier, the portion of the proposed project, they would have to create an erosion control line and deal with the ownership. This would be where the mean high water line was presently. Mr. Myers remarked on the

inconvenience of trucking in the sand and its contributing to the traffic congestion in the winter season. The industry had various ways of conveying the sand to reduce the need for full truck access to the beach, such as running a conveyor belt from a certain point in a parking area or the nearest road to the beach. He said the County was exploring various ways to move along the beach and minimize the time a particular property would be affected by the project activity.

Commissioner Brown asked if the Town were to opt out of the subject project, would it jeopardize Fort Lauderdale's participation; that is, did Lauderdale-By-The-Sea have to be a part of the project in order for Fort Lauderdale to participate?

Mr. Myers replied the Town's opting out would not hurt Fort Lauderdale, but it would make for a much less desirable design, probably with less longevity and function.

Chris Creed, Broward County consultant, indicated one of the most critical areas of the Fort Lauderdale portion of the proposed project was along Galt Ocean Mile; the beach's narrowest point. By design, they tapered the project into Lauderdale-By-The-Sea in an attempt to ensure the Galt Ocean Mile shoreline could have a sustainable beach width.

Commissioner Brown sought clarification if the Town decided not to participate, would it prevent the other affected municipalities from moving forward with the project.

Mr. Myers was unsure of the answer. He could present the Town's feedback to his board and explain what the projected effects would be on the overall project. He speculated it might result in a redesign of the project.

Commissioner Brown asked if the Town embarked upon a more aggressive program to plant sea oats and dune grass on the beach, could that be piggybacked onto the permit application and project, or would it be something the Town would have to pursue on its own?

Mr. Myers responded it was a different permit process and occurred at the state level to get permission to plant sea oats on the state's beach. The County would consider this option if this was the recommendation of the Town Commission. Planting sea oats would not widen the beach, but it would be of some help in the instances of large waves and capturing windblown sand and starting dunes.

Commissioner Brown expressed concern that the proposed project would not be available for another 30 years. He was concerned about Fort Lauderdale and had no wish to be responsible for jeopardizing a project they really needed. It was difficult to justify the project for the Town, as the beaches were already quite wide.

Mr. Myers acknowledged the Town's beach area was not excessively erosive, and certain parts of the beach were getting wider; the County had no intention of doing any work in those areas. They monitored the width of the beach annually.

Commissioner Brown stated he could not support offshore dredging, and if the Town were to participate in the proposed project, he was more inclined to trucking the sand.

Commissioner Dodd learned the sand the County intended to use in the beach nourishment project was better and more suited to nourish the Town's beaches than some of the sand currently in the offshore sites. He understood the reef would suffer some damage, though no one could say by how much, and the staging of the process over a three-year period could prove beneficial, as it meant less sand might end up on the reef. Trucking the sand meant the sand was not being delivered from a dredge hose squirting a wet mix all over the beach with a substantial runoff back into the water. Sand migrated in a southerly direction; Lauderdale-By-The-Sea would be directly affected by sand placed on the Pompano Beach shoreline. It was important for the reef that the sand was properly washed and graded to prevent the reef being covered in silt and dying. He asked whether the County could assure the Town the sand used in the project would be properly washed, graded and consistently uniform in quality. He noticed the document the County provided contained no mention of the health of the coral reef, and questioned if anyone would be monitoring and reporting on the health of the reef throughout the project. The Town's tourism industry, its hotels and motels would suffer acutely if the County failed to closely control the impacts of the project once it began; the health of the Town's reefs was equally important as the width of sand the tourists sat on.

Mr. Myers said the mines were set up to process sand in a variety of ways, utilizing the prescribed quality control process to produce the sand desired. There would be inspections, and the County's team would closely examine the process before selecting a mine, and they would create a very tight specification for the sand quality.

Mr. Creed added, with the truck haul process, every truckload of sand was an opportunity to quality control the project, whether at the mine or at the beach site.

Mr. Myers reiterated the County's goal was to have as minimal an environmental impact as possible at all the sites.

Commissioner Dodd inquired if the County would do a study of the reef as it is to facilitate a more realistic judgment of the impact of the project on the reef; there should be an annual report on the impact to the reef to determine if it was safe for the project to continue.

Mr. Myers referred to the Five-Year Monitoring Report that discussed the biological monitoring the County did on the reefs in segment three. The County was looking at the biological composition of all the near-shore and first reef within 100 to 250 meters off shore, and employed similar actions to monitor all those environments at each site.

Commissioner Vincent questioned who would set up the quality control measures.

Mr. Myers replied Broward County, working in conjunction with their consultants and state staff would establish standards for quality control that they would be required to carry out. The implementation of the quality control measures would be under contract with their consultants, as well as under the State's permit requirements. He suspected the County's quality control measures would be even more stringent than the State's.

Mr. Creed remarked ensuring the consistent quality of the sand and taking steps to minimize environmental impacts were a permit condition culminated under FDEV permits for all beach renourishment projects statewide and what they referred to as the sediment QA/QC plan. These were an extended set of terms and conditions the applicant, Broward County, had to implement, including the protocol for reporting to the state and the community.

Commissioner Vincent asked if there was a barometer the County watched to determine when a beach needed renourishing.

Mr. Myers explained that this did occur and the engineers designed projects based on average wave condition and historical observations of erosion to establish their theories over the last ten to 12 years. They used their theories to guess when an area might need renourishment in the future.

Commissioner Vincent inquired if the County considered using the rail system to help truck in the sand to reduce trucking costs.

Mr. Myers indicated the County explored all modes of transportation for the sand, and they were in the process of moving one of the mines into closer proximity of a rail line. It was unlikely to reduce the cost substantially, as every time the sand had to be moved from one receptacle to another, there were added costs.

Commissioner Vincent said the impact on the Town's tourist season for three years was unacceptable.

Mr. Myers commented the impact to the Town would not be for three years.

Mr. Creed affirmed this to be the case, stating the Town's portion represented about 15 percent of the project; it was likely to impact one full tourist season and a portion of another.

Commissioner Vincent asked how would the estimated project cost of \$38 million be distributed.

Mr. Myers had not divided the costs among the Broward municipalities, as his current direction was to make it a federally reimbursable project.

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Commissioner Vincent remarked on being an avid diver and snorkeler all his life, and his main concern was with the reefs. He inquired as to whether all that work would be lost if a category four hurricane came through the area.

Mr. Myers answered there as always a possibility that this would occur.

Commissioner Vincent said if there was no sense of urgency for the Town to become involved in the proposed project, but the opposite was true for Pompano Beach and Fort Lauderdale, perhaps they should absorb a greater portion of the cost. The Town could not afford an equal participation in the cost.

Vice Mayor Sasser asked if property owners had the right to refuse beach renourishment activity.

Town Attorney Kennedy responded the answer needed to be researched, but she believed the established boundary lines would take precedent.

Steve Higgins, of Coastal Planning & Engineering, was working with the County on the project and recalled there was a recent Florida Supreme Court case where a group of property owners successfully stopped a beach project; it was still being resolved. When there was an established erosion control line, then everything seaward of that line belonged to the state; the state established that line in order to provide for future nourishment of the beach. He said it was a state law to prevent working on people's private property, hence permanently establishing a mean high waterline.

Vice Mayor Sasser questioned if any sand would be placed in front of any hotels.

Town Manager Hoffmann said no sand would be placed in front of any hotels. She found it interesting only one hotel representative was present; this could indicate the minimal impact the project was felt to have on hotel beachfronts.

Mayor Minnet pointed out there were hotels south of the pier that would be affected. Town Manager Hoffmann said the Major was correct.

Vice Mayor Sasser questioned the Town's rights to refuse to participate.

Town Attorney Kennedy believed, pending further research, the Town could stop the project on its beaches.

Vice Mayor Sasser stated he saw no value of the proposed project for the Town whatsoever.

Mayor Minnet thanked the Commission for its questions, and thanked the County representatives for their presentation and feedback, and the members of the public who gave their input. She believed the Town had vital concerns in reference to the reef, disruption to its businesses and residents, serious concerns about erosion,

environmental issues, the viability of the project and the cost. She invited Commission input as to a decision on how to proceed.

Commissioner Brown desired answers to specific questions, such as whether Fort Lauderdale's beaches would be put in jeopardy if the Town opted out; he need to get a better handle on how much sand would be needed on the Town's beaches, and what share of the cost this represented. It was important to justify participation in light of all the negatives raised.

Mr. Myers inquired as to the Town's process for recording or documenting the discussions, questions and answers for the meeting.

Town Manager Hoffmann stated the Town produced very detailed minutes.

Mayor Minnet added the Town ensured that all residents and businesses affected by the project were notified and kept updated. She asked whether Mr. Myers wanted more time to obtain answers to the questions posed by the Commission and the public.

Mr. Myers thought the County could provide more detailed responses if the Town gave them the opportunity to do so. The County was looking at the regional picture, and they were hoping the Town would permit sand to be placed on the small tapers to the north and south. It was a dynamic system, and the Town's beaches was the beneficiary of activities to the north, while at the south end, the Town was losing sand to the municipality to the south. He found it challenging to find a balance between risk, cost and inconvenience across the board for all three municipalities.

Commissioner Dodd felt the Town needed to adopt a policy of being good neighbors to Pompano Beach and Fort Lauderdale, as there was no telling that in the next beach nourishment project if Lauderdale-By-The-Sea's beaches might be the most in need. The Town was relying on the County to come up with a project that benefited all the municipalities along the stretch; despite the numerous negative impacts and the excellent condition of the Town's beaches, the view of the project had to be in totality.

Vice Mayor Sasser remarked when the Town was in desperate need of a solution for the Fountainhead, and the City of Fort Lauderdale was the neighbor in that scenario, they put forth absolutely no funds to help in that endeavor. He reminded everyone of what Commissioner Vincent suggested: since the two cities were more in need of the proposed project, they could absorb the Town's portion of the cost.

Mayor Minnet noted once the Town received more concrete information as to the apportioning of the cost of the project, Town representatives and Broward County could meet with Fort Lauderdale.

Town Manager Hoffmann affirmed this would be possible once the Town Commission decided on an overall policy.

