

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, May 22, 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 Chris Vincent, Town Attorney Susan Trevarthen, Town Manager Connie Hoffmann, and Town Clerk June White. Commissioner Stuart Dodd's absence was excused.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Pastor James Corgee

Pastor James Corgee gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Town Manager Hoffmann requested the deferral of item 16a, Sewer Rate Study.

Town Clerk White noted a correction had been made in the title to the minutes of May 15, 2012 from a Special Organizational Meeting to a Special Commission meeting.

5. PRESENTATIONS

There were no presentations

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Susan Gambon stated Town staff was contacted regarding installation of a shower station at the beach access between 1620 and 1700 S. Ocean Drive. She indicated since there was no public parking lot near the beach at this access point, it should be used by residents living along A1A or in Bel-Air. Other residents believed beachgoers would find it beneficial to wash off before going home, and if a full shower was too

costly, a foot shower would be welcome. She asked the Commission to place this project on its agenda for the next budget discussions.

Patrick Pointu failed to understand why the Town had to charge different sewer fees to consumers. It seemed the Town was trying to find a solution to include two things in the same bill: the meter-based use of water and infrastructure fees that should be paid town wide. He felt if the Town wished to do fair billing, it should use the same meter-based fee for all consumers, and do an ad valorem for the sewer infrastructure as was done for EMS and law enforcement. He felt it was a waste of money for the Town to do another fire assessment fee study, when it was fairer to do an ad valorem tax.

Bill Ciani spoke on the behalf of the local business community east of A1A, all of whom he stated signed the petition did not want to lose parking spaces. They depended on the convenient angled parking surrounding their stores at all times, not just weekends. The residents and businesses agreed the area should be more pedestrian friendly and include a courtyard for sitting and enjoying the surroundings; local business owners were willing to have this put in the area of the pavilion at the cost of the parking. They believed this could be done without the removal of any angled parking, with sidewalks of 16 to 18 feet wide, rather than 22 feet, a big improvement from the existing six feet. Mr. Ciani was confident no resident was uncaring of the needs of the local business owners who poured their life savings into their investments in the Town.

Edmund Malkoon found it ridiculous to make such statements regarding beach nourishment as "this is our one-time opportunity; the next time would not be for 30 years or more; and "it was now or never". Broward County had yet to reduce the Town's cost share to the amount discussed at the meeting. He felt it unwise and not fiscally responsible for a member of the Commission to publicly state, "I am willing to do this at any cost." It was difficult to see the County agree to a reduction in the Town's cost share with such a statement. He thought the Town Commissioners who voted for the project should sign a document taking full responsibility for future loss of revenue to the Town and hospitality industries, due to the damage to the Town's environment. The possible damage included the hard bottom reef parallel to Palm Club which dangerously abutted the sand taper, and it seemed the Commission was taking action that would harm the Town's assets it swore to protect. He questioned how Commissioner Vincent changed his emphatic refusal to approve the renourishment project to one of approval and felt Commissioner Brown should disclose his close relationship with the president of the Galt Ocean Mile Association. Commissioner Brown should have abstained from voting on the matter, as he would receive a benefit in property values and marketability since the improvements would be directly in front of his apartment. Commissioner Brown was an officer/secretary of the Cornice Condominium, a listed Town vendor and, due to the ethics ordinance recently enacted by the County, this was not permissible and a violation of that ordinance. He strongly urged Mayor Minnet to put the matter up for a revote at the present meeting.

Frank Herrmann stated he was thankful for the different ad valorem taxes the Town's taxpayers paid rather than relying on manmade judgment guesses as to what one

property classification should pay over another. He felt, as with BSO, all sewer-related expenses should fall under ad valorem taxes, with the exception of those incurred for sewage treatment, and the fee should be paid by each property owner at the same kilo/gallon rate times the number of kilos/gallons of water consumed and recorded by the property's water meter. Mr. Hermann supported item 12a and was sure most of the Town's citizens would too. He reminded the Town Commission and staff bad things happened to good landlords, as there was no guarantee tenants would be law abiding.

Arthur Franczak thought the reason for postponing the sewer study was not a good one. Even if the numbers included the Sea Ranch Revenue, they included the Sea Ranch costs, so the overall effect of such data was likely to be insignificant. On the issue of the Towns Comprehensive Annual Financial Report (CAFR), there was \$300,000 in uncollected revenue in the sewer fund. He urged the Town Commission and staff to ensure those revenues were included in the study. He noticed there was a big project included in the last year of the study for about \$1.5 million. Town staff could take advantage of the time and ask Mr. Burton to run the numbers again excluding that project. The cost of that project would be spread out over ten years, and the benefit of the project would be seen only in the last year, so many of those contributing to the cost might not be around to benefit from the final outcome. Asking taxpayers to fund a project that took nine years to complete was unfair, so other ways to pay for that project should be explored, such as funding the project closer to the time of its expected completion or taking out a bond in the year 2021.

Diana Kugler was disappointed with the Commission's decision not to go forward with the east Commercial Boulevard project in 2012. She had been reassuring residents that the project would go forward and be a major improvement for the Town. However, thanks to a number of businesses, a small percentage of residents, and others who were neither residents nor business owners, the project along with other projects was being delayed. She said this group submitted a petition, suggesting a scaling back of the improvement project for a few parking spaces, reallocating the funds to a residential area west of the A1A. She questioned the right of this group of people to dictate to the Commission how the Town's taxpayers' dollars should be sent, as well as their routine attempts to stall forward thinking. Perhaps they were the reason the Town had difficulty moving forward and they had no true interest in the improvement of the Town, only their self-interest. Ms. Kugler applauded the Commission's constant attempts to promote the interests of local businesses, but it was time to do the same for residents and the future of the Town. As elected officials, the Commission's responsibilities were to the residents, not the business owners, and she challenged the Commission to consider what was in the best interest of the majority of the Town's people and move forward with the project. She said the ability to park at the front door of a business was not crucial to its success, as seen in other cities, such as Las Olas Boulevard in Fort Lauderdale, Atlantic Avenue in Delray Beach or Lincoln Road in Miami Beach. There was sufficient parking in the A1A, El Mar and El Prado lots, and pedestrian traffic was more effective for business than three people getting a parking spot at a business' front door. She urged the Commission to move forward with the project, and if the few

dissenting businesses objected, they could leave the Town and allow less self-serving and shortsighted businesses to replace them.

George Hunsaker felt disappointment in Town staff, speaking to the issue of the sewer rates study and wondered why it took them such a long time to discover the error. In the winter of 2012, the Town Commission and staff seemed to rush through implementing an ordinance that raised his sewer rates. At the time he spoke of the new rates being unfair for certain classifications. He stated there was now a study proving that unfairness to large condominium complexes such as his; they were to have a 27 percent reduction under the proposed rates. The Town owed it to those rate categories that were overcharged to have the proposed rates enforced as soon as possible. If the Town wished to do adjustments, they should be forwarded to Mr. Burton now, so the study would produce results ready for action.

Marie Chiarello stated a gentleman told her the improvement project would be delayed until a parking garage was built, and stated the businesses or revenue from the parking meter would pay for the garage. A business owner interjected that the Town could take out a bond to pay for the garage, to which she responded a parking garage was unjustified, and she found the petition sent to the Commission outrageous and disgraceful. To try to dictate to the Commission that it should scale back Town improvements was totally unacceptable, as the signatures on the petition included persons who did not live in the Town, such as restaurant owners and their workers.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO Monthly Report – April 2012 (Chief Oscar Llerena)

Commissioner Vincent made a motion to accept the report. Commissioner Brown seconded the motion. The motion carried 4-0.

b. VFD Monthly Report – April 2012 (Battalion Chief Riley Paine)

Commissioner Vincent made a motion to accept the report. Commissioner Brown seconded the motion. The motion carried 4-0.

c. AMR Monthly Report – April 2012 (Chief Brooke Liddle)

Commissioner Vincent made a motion to accept the report as amended. Commissioner Brown seconded the motion. The motion carried 4-0.

8. TOWN MANAGER REPORTS

a. Town Manager Report - Status Report on Multiple Efforts to Reduce the Cost of Solid Waste Disposal in Broward County

Town Manager Hoffmann updated the Commission on the negotiations between Wheelabrator and Sun Bergeron, with the City of Miramar and Broward County to get reductions in the tipping fees. Town staff would continue to monitor the developments. The Town Commission made the right decision in December 2010 refusing to sign the Interlocal agreement (ILA) the Resource Recovery Board (RRB) tried to force cities to sign. She noted competition had entered into the field, Sun Bergeron and the City of Miramar, which would result in the significant reduction of disposal fees. The agreement with the current disposal company would not expire until 2013, but in October 2012, a minor decline in the tipping fees could be seen. RRB was talking about reducing their portion of the tipping fees too. Town Manager Hoffmann said there was no action necessary on the Commission's part at present, but when the process got to that point, staff would bring the matter back to the Commission.

Mayor Minnet thanked Vice Mayor Sasser, as it was through his leadership that the Town Commission voted to hold back on signing the ILA.

Vice Mayor Sasser felt the commendation should go to Assistant Town Manager Bentley and his staff for clarifying the situation that allowed him to reach his decision.

Town Manager Hoffmann noted the new parking contractor would assume the Town's parking service operations on June 1, 2012. Two of the Town's parking employees accepted employment with the new contractor, a third chose to retire, and the fourth parking employee accepted work in another capacity with the Town. In response to why Town staff recommended a delay on the sewer item on the agenda, she clarified they believed the revenue from the Sea Ranch condominiums was included in Mr. Burton's analysis but not the Sea Ranch expenses. The expenses were correctly stated in the study, but the revenues were overestimated.

b. Chamber of Commerce Monthly Report

Lauderdale-By-The-Sea Chamber of Commerce Director Leanne Barber noted the Chamber was working on new benefits to encourage membership growth and retention. They would be holding a monthly Chamber breakfast at the Blue Moon restaurant from 7:30 a.m. to 9:00 a.m. on the fourth Friday of every month at a cost of \$20; the first meeting would take place June 22, 2012. She said the purpose of the breakfast was both educational and for networking. There would be speakers on topics such as leadership, marketing, etc. They were planning a semiannual members meeting in mid July to bring Chamber members together to discuss various aspects of the Chamber.

Town Manager Hoffmann reminded the Chamber that Town staff needed the Chamber's budget request for Fiscal Year (FY) 2013.

c. Finance Report for March 2012.

The Finance Report was accepted and there was no discussion on this item.

d. Town Manager Report

Mayor Minnet commented Town Manager's Report included an update on the goals the Commission assigned Town Manager Hoffmann and her staff.

Vice Mayor Sasser noticed the list of tasks did not include the coral reef project, questioning if Town staff knew if the buoy was working or had an update.

Town Manager Hoffmann spoke with the coral reef team the previous week and learned only one buoy was presently deployed; the second buoy had yet to be replaced. The mooring lines broke in a storm and they wished to reconnect the buoy with heavier line.

Vice Mayor Sasser wondered if Town Manager Hoffmann could ask them to take pictures and give the Town Commission a presentation on the state of the buoy.

Commissioner Brown recalled, at the last Commission meeting, he requested a status report on a "No U-turn" sign at the intersection of A1A and Commercial Boulevard.

Assistant Town Manager Bentley learned in the mid 2000s the Town Commission specifically approved a U-turn at that intersection, and this was consistent with similar actions that allowed U-turns along Commercial Boulevard. It facilitated the movement of traffic to businesses on either side of Commercial Boulevard. He indicated Town staff observed the intersection and noticed if a pedestrian followed the traffic lights, there was no conflict between vehicles making the U-turn and the pedestrians.

Town Manager Hoffmann said it was staff's conclusion that if the Town Commission wished to change the existing situation, the County was likely to require more research and a vote by the dais was required for any change.

In her report, she updated the status of the parking exemption program, in which she stated no restaurant exemptions were given in the commercial district west of Sea Grape. However, she did sign one exemption for one parking spot for that area earlier in the day.

Mayor Minnet wished the Commission to discuss the shower station mentioned during public comments. She inquired if the budget discussions would include a list of requests being made by residents and businesses, wondering if it was possible for the Commission to get the list ahead of time prior to the budget discussions.

Town Manager Hoffmann answered yes, though she was not aware of there being many requests from residents for projects.

Mayor Minnet stated a few requests had been sent to her, including the shower stall and the paving on Tradewinds Avenue South. She requested they be included

Town Manager Hoffmann replied the paving on Tradewinds Avenue South was budgeted for the current year.

Mayor Minnet encouraged residents and businesses to get any budget requests to members of the Commission or the Town Manager to be included in the upcoming budget discussions on June 19, 2012.

9. TOWN ATTORNEY REPORT

There was no report

10. APPROVAL OF MINUTES

- a. April 10, 2012 Regular Commission Meeting Minutes
- b. April 16, 2012 Special Commission Meeting Minutes
- c. May 15, 2012 Special Commission Meeting Minutes

Vice Mayor Sasser made a motion to approve the minutes as listed. Commissioner Vincent seconded the motion. The motion carried 4-0.

11. CONSENT AGENDA

Consent agenda item 11c was pulled for discussion.

Vice Mayor Sasser made a motion to approve items 11a through 11b on the Consent Agenda. Commissioner Vincent seconded the motion. The motion carried 4-0.

- a. Approval of Planned Activities for BugFest-By-The-Sea, Saturday July 21, 2012, to Saturday, July 28, 2012 (Public Information Officer Steve d'Oliveira)

This item was approved on consent.

- b. FPL Streetlight Upgrade in Silver Shores (Municipal Services Director Don Prince)

This item was approved on consent.

- c. Fourth of July Fireworks Permit (Commissioner Vincent)

Commissioner Vincent recalled the Commission previously approved the deployment of the upcoming Fourth of July Fireworks behind the Minto sales center on the hardscape of their back patio. He mentioned meeting at the site with the Public Safety officials, Zambelli, and Walter Dennis from the Department of Environmental Protection (DEP). It was determined that deploying fireworks from the beach near the water's edge was acceptable. He said by deploying the fireworks from that location, they could create a larger safety zone and allow the use of 3-inch shells at the location. El Mar Drive would not have to be blocked off, and Mr. Dennis issued a field permit for the purpose of the fireworks display. Though the display from the location was approved, some new issues had arisen that Town staff would continue to monitor.

Municipal Services Director Prince stated Lou Fisher of Broward County informed him a turtle laid a nest in the safety zone area. This would not affect where the fireworks would be launched, but some amount of flexibility as to the exact location of the launching was needed. Zambelli stated only a 25-foot footprint was needed for the fireworks. He commented the launch location had to be at least 100 feet from any turtle nest, and Town staff desired the leeway to move the launching within the area in the event other nests were discovered between the present day and July 4th. The Fish and Wildlife persons were informed that if turtle nests were discovered but outside the safety zone, Town staff would widen the safety zone to include those nests to prevent them being disturbed by the public viewing the fireworks.

Commissioner Vincent indicated the cost of the fireworks display would remain at \$15,000 without having to reduce the scope of the display seen in previous years.

Vice Mayor Sasser sought clarification if, within the circle, there were any resident or hotel guest properties with access the beach to the rear of their property to view the fireworks show.

Municipal Director Prince replied the display would be angled such that all the beach accesses, including El Prado, would be available.

Vice Mayor Sasser suggested informing nearby property owners if the circle had to be moved.

Municipal Director Prince stated he would be at the site daily monitoring what was happening, and he would give the Town Commission updates as the time neared; with the turtles, one never knew where they might choose to nest.

Commissioner Brown made a motion to approve item 11c. Commissioner Vincent seconded the motion. The motion carried 4-0.

12. ORDINANCES – PUBLIC COMMENTS

1. Ordinances 1st Reading

- a. **Ordinance 2012-08: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING ARTICLE IV, PUBLIC NUISANCE, OF CHAPTER 14, OFFENSES, OF THE CODE OF ORDINANCES, TO REGULATE PUBLIC NUISANCES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.**

Attorney Trevarthen read Ordinance 2012-08 by title.

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

Commissioner Vincent made a motion to adopt Ordinance 2012-08 on first reading. Vice Mayor Sasser seconded the motion. The motion carried 4-0.

- b. **Ordinance 2012-10: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF PROPOSED AMENDMENTS TO THE TOWN CHARTER, PURSUANT TO SECTION 166.031, FLORIDA STATUTES, FOLLOWING TOWN COMMISSION REVIEW AND CONSIDERATION OF CHARTER AMENDMENTS RECOMMENDED BY THE CHARTER REVIEW BOARD IN ACCORDANCE WITH SECTION 2.7 OF THE TOWN CHARTER; SUBMITTING PROPOSED CHARTER AMENDMENTS CONCERNING AMENDMENT OF SECTION 6.1 "MAYOR-COMMISSIONER AND COMMISSIONERS, TERM OF OFFICE, ELECTION, TRANSITION," AND SECTION 6.3. "QUALIFICATIONS OF MEMBERS OF TOWN COMMISSION;" CALLING A SPECIAL ELECTION ON THE PROPOSED CHARTER AMENDMENTS TO BE HELD ON TUESDAY, THE 6TH DAY OF NOVEMBER 2012, IN CONJUNCTION WITH THE GENERAL ELECTION BEING HELD ON SAID DATE; PROVIDING FOR VOTING AT THE POLLS; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR INCLUSION IN THE CHARTER, SEVERABILITY AND FOR AN EFFECTIVE DATE.**

Attorney Trevarthen read Ordinance 2012-08 by title.

Mayor Minnet opened the meeting for public comment.

Mr. Herrmann commented Mayor Minnet proved to him he should not vote for the term changes. Others said it was too costly to run for Mayor every two years, and he disagreed with them, using Mayor Minnet as an example. Mayor Minnet did such a great job in her first two terms, she was unchallenged for her third term, and he guessed she spent very little to retain her seat for the third term. It appeared to him Mayor Minnet's desire to be productive as Town Mayor and win voter approval on a regular

basis was greater than her desire to be simply a figurehead and do nothing. He felt it could be costly to be reelected if one's performance was wanting. He did not object to the elimination of term limits for the Mayor's position or, if preferred, extend the term limits to four two-year terms, but he did not support a four-year term.

Mr. Malkoon mentioned at the Charter Review Board (CRB) meeting, Board Member Brandt inquired if it was the Board's responsibility to give a recommendation. Thus, should the Board give an opinion on a four-year term for the position of mayor, or was the Board to simply state if there was merit in posing the question to the voters in a referendum. He observed the only recommendation to a four-year term for the mayor from the CRB was that it should be placed on the ballot. He wished to share some resident concerns voiced to him, noting the past ballot was a result of a resident petition initiative, and the vote passed with a voter majority of close to 90 percent. There was a feeling that the Commission was not being respectful to the wishes of the people, nor should the "wheel have to be reinvented" each time there was a new majority in office. He commented on finding Commissioner Dodd's about face on the issue interesting after campaigning for it very hard in the past. Commissioner Dodd was believed to have stated the same reason about the mayoral candidate spending money but rationalized it by saying the Town's Mayor should always feel the need to please his/her constituents and never feel comfortable.

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

Commissioner Vincent recalled having reservations when the topic was discussed previously. After watching the meeting and reviewing the minutes of the CRB, it was clear to him that the key concern of the Board members was to promote public input and transparency before sending it to the Commission for a vote on placing the matter on the ballot. The CRB of 2002 was very clear on procedures it would use before submitting anything to the Commission. He believed the discussion was overlooked by the new Board due to the absence of the Town Attorney at its first meeting, and then passed over again in error at the second meeting. He added it was acknowledged that a referendum would not be possible for the 2012 election ballot due to time constraints with the deadline to the Supervisor of Elections (SOE) of June 8. A 2012 referendum meant having to call two special meetings in order to get the matter on the ballot, and the CRB agreed earlier there were no pressing issues to warrant such action. Commissioner Vincent voiced a number of concerns against moving the ordinance forward. These included there being no public outcry for increasing the Mayor's term from two to four years; and there was no shortage of candidates for the Mayor's seat. The Town's voters now had the ability to remove the majority at every election cycle, and a four-year term would not allow this. He indicated the two-year term had been the rule in 2004 when it was voted by referendum to create a four-year term. In 2008 that rule was voted out by referendum and brought back to a two-year term with a three term limit. He questioned the hasty forcing of a referendum without a clear understanding of what they were trying to accomplish. There was a need to address all potential referendum items with the same responsibility and due diligence, as this was the

Charter, the Town's Constitution. He desired a motion for the CRB to filter public opinion thoroughly, and it should be determined if the matter should return to the Town Commission. If the community had viable concerns, the matter should be placed before the Commission for consideration for the 2014 ballot. Commissioner Vincent suggested the CRB review Rule 6, Charter Amendment 6.1, 6.2 of the 2002 CRB Rules of the voting procedures and adopt that rule. That language clearly outlined what process should take place with any proposed Charter amendments.

Commissioner Brown noted at the last Commission meeting he voted in favor of having the Town Attorney draft the language presently on the agenda, having expressed great reservations about having a four-year term limit applied retroactively. Since approval of the Ordinance's first reading, he spoke with numerous residents and he now felt that if any change was approved, it should not apply retroactively to the current Mayor's term. He expressed other concerns about the ordinance being fast tracked, though he understood the time constraints imposed on the Town by the Supervisor of Elections. Thus, he could not support the CRB's position or the proposed ordinance. It was a fair issue that should come before the voters, but it was not one that had to come before the voters in the 2012 elections if it meant having little or no public input before the Commission or the CRB, even with two special meetings to rush it onto the ballot. He believed this went against the Constitutional process. The CRB could take a more thorough look at the issue and place it on the ballot for 2014. He believed the perception was the Ordinance was being rushed through to benefit Mayor Minnet.

Vice Mayor Sasser stated he was in complete disagreement with the first two speakers from the public and Commissioners Vincent and Brown. It was valuable for members of the dais to give the voting public their opinion on how such matters should be handled. He thought nothing was being rushed through, as the aim was to get the proposed Ordinance on the ballot, and there would be sufficient time for public discussion between now and the 2012 November elections. The aim was not for members of the Commission to say how they would vote if an item was placed on the ballot; he would not waffle on his previous vote to approve the ordinance and would stand by his earlier approval. It was the democratic process for the voters to make the decision, not the Commission's, and this was the reason for his voting to support the Ordinance.

Commissioner Vincent felt no valid reason was given why the matter should be brought to the voters. Though cost efficiency was mentioned, rushing the proposed ordinance was a trade off of taking the will of the voter away and putting a forced ballot on an election without anyone knowing why. There had been no public outcry for a change or any public input, and it seemed to be putting something on the ballot for a vote when citizens made no such request.

Vice Mayor Sasser made a motion to approve the second reading of Ordinance 2012-10, and the motion failed due to the lack of a second.

Commissioner Brown asked if it were possible to make a motion to send it back to the CRB for discussion as per their regular meeting and discussion process.

Town Attorney Trevarthen indicated it would be appropriate for the Town Commission to send the ordinance back to the CRB, making a specific motion on how the dais wished the CRB to handle the matter rather than simply sending it back to them.

Commissioner Vincent clarified the language of his earlier motion, which was for the proposed ordinance to go back to the CRB and have them filter public opinion thoroughly. If viable concerns were expressed by the community, then it should be brought back to the Commission for review and a vote as to placing it on the 2014 ballot. He again suggested the CRB adopt Charter Rules 6.1 and 6.2 of the 2002 CRB - Rules of Voting Procedures. His motion failed due to the lack of a second.

Commissioner Brown made a motion to send the subject matter back to the CRB for further review using their normal review process.

Vice Mayor Sasser questioned the expectation of the Commission when the matter was sent back to the CRB for further review, whether they were being asked to provide further recommendations. The CRB already recommended the Ordinance. To send it back to them without any specific instructions seemed useless.

Commissioner Brown made a motion to send the Ordinance back to the CRB with instructions to place it on their list of items to review. This would include public input and they could forward their recommendation(s) to the Commission. Vice Mayor Sasser seconded the motion. The motion carried 3-1. Commissioner Vincent voted no.

2. Ordinances 2nd Reading

There were no Ordinances for 2nd reading.

13. RESOLUTIONS – PUBLIC COMMENT

- a. **Resolution 2012-25: A RESOLUTION OF THE TOWN OF LAUDERDALEBY- THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A GRANT AGREEMENT FOR FUNDING \$26,640.00 THROUGH THE BROWARD COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR FISCAL YEAR 2011/2012 FOR SENIOR CENTER ACTIVITIES; AUTHORIZING THE EXPENDITURE OF MATCHING FUNDS IN THE AMOUNT OF \$33,360.00; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

Town Manager Hoffmann indicated the Town Commission authorized staff to apply for the grant and the Town was already operating under the grant, but it had taken Broward County a long time to get the agreement back to the Town for execution.

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

Vice Mayor Sasser made a motion to adopt Resolution 2012-25. Commissioner Brown seconded the motion. The motion carried 4-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

There were no quasi-judicial items for public hearings.

15. COMMISSION COMMENTS

Vice Mayor Sasser mentioned his absence at the previous Commission meeting prevented him from taking part in the discussion on the beach renourishment project. He expressed disappointment at the discussion which blurred the facts. The experts stated the Town did not need the sand, as it was a taper. Another fact was the sand is needed by the Town's neighbors to the north and south, and it was a valid argument whether the Town should be a good neighbor. He said there was a hazard to the environment, and the beaches, coral reefs and everything that lay beyond were very important to the Town. The project not only presented an environmental hazard, there would be disruptions to businesses, residents, and there was a cost involved to the Town for something it did not need. Vice Mayor Sasser stated the only valid reason for the Town to become involved in the project was to be a good neighbor, and he could not justify doing so at a cost of close to half a million dollars.

Commissioner Brown stated he had filed a complaint with the Florida Elections Commission against his opponent, Edmund Malkoon. In his complaint, he listed a number of violations of the Florida Election Law, and the complaint was taken up by the Florida Elections Commission. The initial staff review determined the complaint legally sufficient and a full staff investigation was opened on the complaint. Mr. Malkoon hired former Town Mayor Oliver Parker to represent him, and they presented their defense against his complaint. Recently the Florida Elections Commission ruled to uphold two of the complaints filed against Mr. Malkoon, and the latter entered into a consent order with the Florida Elections Commission and was fined \$150 on each count.

Mayor Minnet mentioned continuing to work on the zip code problem in the north part of Town, contacting the offices of Senator Nelson and Senator Rubio and encouraging everyone to sign the petitions circulating in the communities. The matter needed to be resolved, so the U.S. Postal Service recognized 33062 as a Lauderdale-By-The-Sea zip code. She reminded everyone the sewer rate issue would be discussed on June 19, 2012. The upcoming weekend was Memorial Day and she urged everyone to take a

moment and celebrate the lives of country's many men and women who fought hard in the past so that U.S. residents might enjoy their freedoms.

Mayor Minnet recessed the meeting at 8:25 p.m. and reconvened at 8:40 p.m.

16. OLD BUSINESS

a. Sewer Rate Study (Town Manager Connie Hoffmann)

Town Manager Hoffmann indicated the item had to be deferred, as in Town staff's discussion with Mr. Burton earlier in the day, they discovered he based his revenue projections on the Town's 2011 sewer billing files which included the four Sea Ranch condominiums. This threw off the revenue numbers substantially. Mr. Burton would have to redo his analysis as a result of this discovery. Mr. Burton would not be available to attend the next Town Commission meeting on June 12, 2012, though he would be available if the Town Commission desired a special meeting on June 19, as well as for the June 26, 2012, regularly scheduled meeting.

Town Manager Hoffmann asked and received confirmation that members of the Town Commission were available for a special meeting on June 19, though Town staff needed to confirm the date with Commissioner Dodd when he returned.

Commissioner Brown asked if Town staff foresaw any changes being enacted before the fiscal year changed. If changes were expected in the next fiscal year, then Town staff could take the time to ensure the data was absolutely correct and all the necessary steps were taken; if it was possible to give immediate relief to anyone, then the process might have to be expedited.

Town Manager Hoffmann indicated there were a number of steps to go through to revise the rates, the first being to send notice via the Fort Lauderdale billing statement to all customers. Fort Lauderdale gave Town staff a deadline of June 25 in order for the notice to be included on the July bill, putting the public hearing in either July or August. She noted Fort Lauderdale wanted four to six weeks to implement any changes. It would take until the beginning of the next fiscal year to implement any rate changes if that schedule was adhered to.

Mayor Minnet believed the public hearing should begin at 6:00 or 6:30 p.m. She received a consensus for the public hearing to be scheduled for 6:00 p.m. on Tuesday, June 19, 2012. The meeting would be a special Commission meeting at which action could be taken by the Town Commission, and the matters for discussion would be the sewer rates and other budget items.

b. Long-term Parking Strategy for East and West Commercial Boulevard. (Vice Mayor Scott Sasser)

Vice Mayor Sasser stated his reason for voting “no” on the West Commercial Boulevard project was due to his belief the Town was settling for less than the best in the improvements due to the parking issue. He observed there was now a petition from area businesses wishing to amend the East Commercial Boulevard project, and the main reason given was parking. The issue of parking kept arising and the Commission’s decisions were being affected. He felt the Commission needed to have a long-term parking strategy in place to facilitate the vibrant business district that was the Town’s goal. He suggested addressing the improvements in two sections; the first was if the Commission thought the Town needed to devise a parking strategy; and the second dealt with the immediate question was how that strategy would be paid for. If the decision was to implement a long-term parking strategy, then businesses could be so informed when improvement projects arose, and residents would be made aware of how the costs of implementing that strategy would be covered. The idea of losing parking spaces without a plan for alternate parking nearby would be unacceptable to businesses. He noted if the Commission decided the Town had no parking problems, now or in the foreseeable future then the Commission could decide the improvement projects delayed due to parking issues could move forward. If the Commission agreed a long-term parking strategy was necessary, then he desired some agreement there would be future discussions on that issue, including how it would be paid for, whether from parking revenues, a taxing system, or a combination.

Commissioner Brown agreed the Town’s parking issue needed to be addressed. He did not believe it necessary to build a parking garage immediately or in the near future. However, a planning process should commence to work out the Town’s parking issues. He suggested the Town use parking revenues to hire a professional to study the Town’s parking and look at a number of locations where a parking garage could be situated. Private developers could be alerted to the Town’s interest in building a parking garage and its willingness to consider working with a private developer.

Commissioner Vincent believed some strategies to address the existing parking issues had been discussed previously. One of those discussion involved creating a parking lot in front of the Public Safety building to add some 25 more parking spaces.

Town Manager Hoffmann reported Town staff was negotiating with a firm to design a new parking lot situated between the Public Safety Building and Jarvis Hall. The additional parking at the Public Safety building would be used by BSO, AMR and VFD staff, and some of the Public Works staff. It would remove the need for Town employees to park in the Town’s A1A lot and free up eight to ten spaces there during the day.

Commissioner Vincent wondered if the Town Commission requested a feasibility study regarding the utilization of the A1A parking lot and if there was some possibility of increasing the number of spots there.

Town Manager Hoffmann affirmed when the parking study was done in 2011, the parking consultant had a parking lot designer look at the Town’s A1A parking lot. The designer thought it possible to get 18 to 20 more spaces by reconfiguring the lot,

combining it with the "Wings lot" to make it more efficient, and replace some full size spaces with compact spaces. She said Town staff was working on a design contract for that reconfiguration.

Commissioner Vincent wished to inform the public that the Town was working on the A1A parking lot reconfiguration and not simply removing parking spaces on east Commercial Boulevard without considering how to address any net loss. The A1A parking lot was within walking distance of the downtown area; people did not mind walking to the stores from a block and a half away. In the past two years, he felt the Town Commission proved how respectful it was of the needs of residents and businesses and would continue to do so.

Mayor Minnet acknowledged the importance of parking to a vibrant downtown district, though parking spaces in front of every store location was not a necessity. Everyone had been to venues where it was necessary to walk a few blocks. She acknowledged there would be some growing pains with the east Commercial Boulevard improvements, but those changes would add to the vitality of the community. She agreed the Town should have a long-term parking strategy of how to provide more parking, and it could be funded with the parking revenue. That revenue did not come only from residents, but from visitors. The restaurant parking exemption program should be revisited, stating she was hesitant on the program previously, and the impacts of the exemption program could be long term and needed further exploration by staff. The impact of the exemptions for the future could hold a lot more problems rather than figuring out where to relocate parking spaces. She added, most parking spaces lost in the east Commercial Boulevard area would be relocated to the underutilized A1A parking lot. A long-term parking strategy should be established so the Town could keep businesses and residents assured and informed, and it was a project that could be considered for 2013. She thought Town staff needed a list of goals for parking.

Vice Mayor Sasser believed there was a Commission consensus to look further into the Town's establishing a long-term parking strategy. He opined the parking exemption program was very successful thus far, people were signing up, there was development taking place downtown, and the area was being improved by existing and new businesses. Many of the Town's people were troubled by two issues: 1) that a parking garage might be unsightly, and 2) they did not want to pay for the garage. He reiterated establishing a long-term parking strategy would make parking arguments academic.

Mayor Minnet asked staff to bring the parking study to the budget discussion.

c. Broadcasting Channel 78 on AT&T U-Verse (Public Information Officer Steve d'Oliveira)

Public Information Officer (PIO) Steve d'Oliveira mentioned Town staff was directed by the Commission to examine the issue a year prior but the Commission decided against any action. The matter was reexamined in the previous week, and Town staff learned the costs had reduced; if the Town contracted with AT&T U-Verse, the annual costs

would be \$2,400, with a one-time cost of \$6,000 - \$7,000 for equipment. AT&T claimed to have approximately 300 U-Verse customers in the Town.

Commissioner Brown questioned the threshold the Commission desired to justify the service. In his condominium there was considerable frustration with Comcast, and their bulk user contract would be up soon. It was likely the same situation existed with others in the Town. Comcast was not very cooperative in renegotiating more favorable terms in the new contracts and was building up considerable resentment among condominium customers in the Town. He remarked whether the 300 U-Verse customers was accurate, over the next few years that number was likely to increase and, at some point, the Commission had to acknowledge its responsibility to make as much of the government's information available as possible. He questioned what was being sought before an agreement was possible to have U-Verse broadcast the Town's government channel.

Vice Mayor Sasser inquired how the Dish Network and Direct TV customers would be affected. He thought the Town should offer additional access of other service providers. The matter had nothing to do with Comcast, rather it was a matter of the cost to include all the customers with the various cable providers, and if a better deal was possible by including them all and how that would work with the Town's T-one lines, etc. Thus, he supported the item but needed more information on how to combine the service for all cable consumers.

Commissioner Brown stated he was unfamiliar with Direct TV and unsure if they had any government access programming.

Commissioner Brown concurred with contacting other cable providers about their terms. Those cable providers with no government access programming should not be made a part of the equation in debating the issue.

Mayor Minnet asked why Comcast was the Town's cable provider and not any of the other providers, wondering if the reason was legislative.

Town Attorney Trevarthen responded the Town had a franchise agreement with Comcast. Part of that agreement addressed public access educational or governmental (PAEG) channels. The Town had no franchise agreements with the other cable providers, and many of them were providing service in different ways. She noted there were state and federal laws hampering the process of engaging in a traditional franchise approach to the different technological ways of providing the same service, such as using phone lines or satellites.

Vice Mayor Sasser accepted if a cable provider did not offer government access programming the point was moot; he wished an answer to his question before voting.

Commissioner Brown asked, if Town staff could gather the information by the next Commission meeting, to defer further consideration of the matter until that time.

Mayor Minnet requested Town staff determine the users in the Town, and explore what other municipalities were doing, as she was sure the Town was not the only one encountering the subject issue.

Commissioner Brown remarked being aware that channel 99 was the U-Verse government access channel that aired information for only four municipalities, three in Miami and one in Pembroke Pines.

Mr. d'Oliveira indicated AT&T informed him Broward County and Fort Lauderdale were in the process of coming on board with them, and he felt sure more cities would move to U-Verse over time. He was unaware of any Broward municipalities with broadcast agreements with Dish Network and/or Direct TV.

Commissioner Brown added Comcast owned all the wiring in the Town. They informed his building if they wished to cease using their service, they would not be allowed to use that wiring to get cable service from another provider. This would make it hard for other providers to become as established as Comcast.

Mayor Minnet acknowledged a Commission consensus for Town staff to acquire additional information and bring it back to the dais.

17. NEW BUSINESS

- a. Application for Relief of Code Enforcement Lien at 1749 Blue Water Terrace (Code Enforcement Officer Tuchette Torres & Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley reviewed the details of the application. Based on that information, Town staff recommended a settlement of \$15,000 as requested. The settlement amount was payable within 30 days or the offer would be terminated.

Vice Mayor Sasser made a motion to approve the settlement agreement amount of \$15,000 as recommended by Town staff to relieve the Code Enforcement Lien at 1749 Blue Water Terrace payable in 30 days. Commissioner Vincent seconded the motion. The motion carried 4-0.

- a. Application for Relief of Code Enforcement Lien at 1821 W. Terra Mar Drive (Code Enforcement Officer Tuchette Torres & Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley went over the backup information on the item, stating the circumstances were similar to item 17a; the offer was for a settlement amount of \$1,500.

Vice Mayor Sasser disagreed the circumstances were similar for items 17a and 17b, as the code violation in 17b was a failure to apply for a vacation license. The violation was not necessarily as egregious as the violations listed for 17a.

Assistant Town Manager Bentley concurred, clarifying the similarity had to do with a former owner not taking responsibility for addressing the code violation on the property, and the new owners were coming forward to resolve the issue(s).

Vice Mayor Sasser wondered if the new owner intended to sell or rent the property.

James Lowe, owner, replied it was their intention to sell the property, noting they brought the property into compliance prior to purchasing it.

Vice Mayor Sasser reiterated there appeared to be nothing for the new owners to fix.

Assistant Town Manager Bentley noted there had been no complaints from the neighbors concerning any activities on the property.

Commissioner Vincent made a motion to approve the mitigation amount of \$1,500 to satisfy the Code Enforcement Lien at 1821 W. Terra Mar Drive. Vice Mayor Sasser seconded the motion. The motion carried 4-0.

18. ADJOURNMENT

Vice Mayor Sasser made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 9:22 p.m.

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White, CMC

7-11-2012

Date