

# TOWN OF LAUDERDALE-BY-THE-SEA

## TOWN COMMISSION

### REGULAR MEETING

### MINUTES

Jarvis Hall

*4505 Ocean Drive*

*Tuesday, May 8, 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 Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan Trevarthen, Town Manager Connie Hoffmann and Town Clerk June White. Vice Mayor Sasser was excused.

#### 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. A Proclamation declaring the Week of May 20 to 26, 2012, as Emergency Medical Services Week

Mayor Minnet presented the proclamation.

#### 6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Bill Ciani believed revenues from parking meters should go towards building a parking facility. The funds could be used to reduce the burden on residents having to contribute to the cost of building a parking facility. On the issue of sidewalk cafes, it did not seem proper to take public parking needed by businesses and used by residents, and turn it into an area for private establishments to use for sidewalk dining.

Lawrence Madigan preferred a four-way stop sign to a roundabout at Washingtonia Avenue and Bougainvillea Drive. He questioned whether the roundabout met ADA requirements. He believed guest and private parking would be lost with a roundabout, as well as existing trees. There was also the noise and pollution nuisance of the roundabout that would disturb the private enjoyment of residential properties. Though roundabouts might be safer for motorists, they were not safer for pedestrians, as the traffic would be yielding rather than coming to a full stop. Washingtonia Avenue was the main thoroughfare for everyone.

Dorothy Martucci felt one roundabout would do little to beautify the area, and she suggested installing more attractive street lighting with hanging baskets instead. She was concerned with safety of roundabouts for pedestrian traffic.

Pat Pereira stated she represented 128 residents of Bougainvillea Drive that signed a petition for the Town to install the pervious concrete that was voted against for the Bougainvillea Drive drainage improvements. The community already gave up most of the beautification improvements in order to preserve their parking and the Town budgeted \$800,000 for the project. The pervious pavers were a green product recommended by the Environmental Protection Agency (EPA) and geotechnical engineers throughout the country. She said the residents wanted the Town to spend the funds that would have been used for the beautification and the greenbelt to make the whole street and the swales of pervious concrete, citing numerous advantages of its use. The Town was already spending millions to beautify Commercial Boulevard and, therefore, should not seek to take away the funding for the Bougainvillea Drive project. Rosa Michailiuk urged the Town to use the funds that would have been used for the beautification and greenbelt to give the area the best drainage system possible. She asked the Town to do a better job with the landscaping beautification on her street.

Patrick Pointu commented the Bougainvillea Drive drainage improvement project was a priority and beautification was secondary. The funds should be spent to do the drainage improvements right the first time. He questioned if the Town planned for any long term project for the collection of storm water. The water could be used to irrigate landscaping. It was important for the Town to get a guarantee in writing that the fire truck would be able to maneuver around the roundabout. The last draft of the plans for Bougainvillea Drive showed many swale parking spaces would be lost, despite promises this would not happen. Mr. Pointu asked why he should pay more for water and sewer than his neighbors if he was using the same meter and volume of water. He requested an explanation and questioned why the Town was calling upon consultants to justify the increased cost.

Dale Cooper recently received a notice from Code Compliance informing him that he should have a five-foot high gate around his pool and gave him 60 days to comply. He lived north during the summer and their pool had been in place since the '50s, and the existing gate was properly approved and grandfathered in. He said the notice was improperly sent to him. It made little sense for Code Enforcement staff to be going along residential streets and citing people for violations, particularly if the houses were not new construction and were grandfathered in. The notice was unsigned, and his

efforts to speak to a live person on the matter were unsuccessful. The policy needed improvement and notices should be signed.

Dennis Ritchie noted on Thursday, May 17, 2012, the Property Owners Association would hold its annual Hurricane Preparedness seminar, and there would be speakers from BSO, the VFD, AMR, Florida Storm Protection, Publix and Coastal Computer. They would provide a comprehensive refresher course on how to properly prepare for a hurricane. He commented the Association would be electing a hometown hero.

Ben Freeny supported pervious pavement installation in the Bougainvilla Drive drainage improvement project. He recalled about six years a roundabout was at the same location, and there was insufficient room to install one according to the County or State. There was a group of people that desired gates installed around Silver Shores as a traffic calmer, and that was expected to cost \$40,000 and would negate the need for a roundabout.

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

Commissioner Dodd requested a letter sent to the Commission by Yann Brandt be entered into record as part of the meeting minutes per Mr. Brandt's request.

Mayor Minnet thought Mr. Brandt's comments would be addressed in the next item, but Commissioner Dodd was welcome to read the letter into the record if he wanted.

Commissioner Dodd summarized Mr. Brandt's lengthy and detailed letter that focused on public safety issues and requested Commission consideration to place the letter as part of the minutes (attached hereto as part to these minutes). Police Chief Llerena had responded to these issues in an agenda item under Public Safety Discussion.

Commissioner Brown felt it was inappropriate to enter the letter into the record under public comments. He expressed concern that the Town might be creating a precedent by admitting Mr. Brandt's letter into the record with regard to emails sent to the Town's website on various issues. A distinction had to be made between information that came forth from discussions during the course of Commission meetings that would be reflected in the minutes, versus the insertion of unlimited, uncontrollable email communications. He was willing to make an exception in the present case, as the letter in question dealt directly with agenda item 7a but had no desire for it to become policy.

Mayor Minnet thought Commissioner Brown's points were valid, but found it acceptable to include the letter for discussion under item 7a. The letter was not a public comment but a written comment and would be included in the information for item 7a.

## 7. PUBLIC SAFETY DISCUSSION

- a. Response to Commissioner Dodd's Questions Regarding Police Issues in North Silver Shores Area (Chief Oscar Llerena)

Chief Llerena made a presentation to address concerns which included the following highlights: 1) deputy patrol zones; 2) a breakdown of crimes by area; 3) discussion of street closures; and 4) a breakdown of crimes by type.

Commissioner Dodd was pleased with the staffing levels. He commended Chief Llerena and the BSO staff for doing an excellent job for the Town.

Commissioner Vincent appreciated the comprehensive report. BSO was to be commended for their work in the Town. He noted the Town was located between two large Broward cities, and criminals did not acknowledge being in a different jurisdiction when leaving the Town's neighbors to the north or south. Yet, the Town had the lowest crime rate in the County, and this spoke volumes with regard to the impressive job BSO was doing keeping crime down.

Commissioner Brown supported the job BSO was doing for the Town. He noted many residents fail to take basic precautions to protect their property such as locking doors or keeping garage doors closed. He supported getting FPL to install better lighting, but he had a problem with blocking off streets as Mr. Brandt suggested unless there was an overwhelming sentiment in Silver Shores to do so.

Chief Llerena said BSO offered security assessments of houses and businesses at no charge. He felt residential lighting was the best way to keep crime away from one's home.

Mayor Minnet thanked Chief Llerena for addressing the issue so expeditiously. At some point citizens need to take some personal responsibility to protect themselves and their property. She mentioned new street lighting that would be added, though some residents declined the offer of backyard lighting.

**b. License Plate Reader Camera Update (Chief Oscar Llerena)**

Alan Bock, Director of Operations at Aware Digital, gave a PowerPoint presentation on license plate reader cameras. The BSO was interested in hosting the infrastructure in their main frame computer that would provide the information for automatic license plate recognition (ALPR) throughout Broward County as a regional approach to reducing crime. The main obstacle was getting the Florida Department of Transportation (FDOT) to approve the installation of cameras along the roadways. This had been overcome in Miami-Dade County by using the County's traffic poles. He stated they were not meant as revenue producers; they were a form of vehicle surveillance for the police.

Commissioner Vincent commented there were three points of entry into the Town, wondering if it was at these points the ALPRs would be installed.

Chief Llerena answered yes, at a minimum they would be the first three areas to go online. He stated the funding for the Town's ALPR system would come out of the Law Enforcement Trust Fund, monies seized from criminals by BSO deputies. The Town would not have to expend general funds. The three intersections were key and they were controlled by FDOT.

Commissioner Vincent inquired if placing them at the three points of entry would be sufficient to achieve a 92 percent hit rate.

Chief Llerena replied the hit rate was on a per camera basis and the more cameras in place the better. However, the realistic aim was to have the least amount of cameras in the most effective locations. He was confident the funding was adequate to put together an exceptional system.

Commissioner Vincent asked how quickly a hit on a license plate was transmitted.

Chief Llerena indicated the information would be transmitted in seconds.

Commissioner Dodd sought assurance the ALPR system would be a fully integrated one that would work in Broward County for vehicles entering and leaving the Town. He asked whether the data would be stored in Lauderdale-By-The-Sea.

Mr. Bock said they expected the data to be housed by BSO at their Fort Lauderdale headquarters.

Chief Llerena added the Town Manager requested a meeting with the Sheriff Lamberti on that specific issue, as it involved a comprehensive effort by law enforcement and someone knowledgeable with the communication systems. The radios needed to talk to each other, and many city managers felt strongly about the project.

Commissioner Dodd queried how soon the cameras would be up and running. He requested that reports on the Town's ALPR system be included as a part of the monthly public safety report.

Chief Llerena said the system would begin operation when Broward County permitted the Town to mount the cameras on their traffic fixtures. This would be discussed in the meeting between Sheriff Lamberti and the Town Manager.

Town Manager Hoffmann understood the Town sought and failed to get FDOT's approval for some six or seven months, and an overture was made to Broward County Traffic Engineering Department about installing the cameras and the County staff refused. Mayor Minnet and she would be attending a meeting on May 15, 2012, with Sheriff Lamberti, at which they would ask that he take the lead for at least five cities wishing to install the ALPR system. They hoped to use his influence to get the Broward County Commission to sanction the system, and she would contact County Commissioner LaMarca to ask for his support.

Mayor Minnet urged citizens to call their County Commissioners and voice their support and request that the County sanction the system.

## **8. TOWN MANAGER REPORTS**

### **a. Town Manager's Report**

Town Manager Hoffmann gave a status report on the Town's request to FP&L for additional lighting in the Silver Shores community. Municipal Services Director Prince and she met with an FP&L representative to voice their displeasure with FPL's lack of responsiveness, received assurances that FP&L would take quick action.

Mayor Minnet acknowledged the presence of FP&L representative Isabel Hebert at the meeting, thanking her for her work with the Town.

Town Manager Hoffmann said when the Town requested that FP&L upgrade the wattage of the existing street lights we were advised the Town's only cost would be a one dollar increase per light per month. Town staff has since discovered FP&L charges an installation fee for changing the bulb that would result in a cost of \$4,800 for 32 lights, including the extra dollar per month. She recalled in November 2011, the Town explored with FP&L where additional poles could be installed on the street front and identified existing poles without a light. After numerous discussions with FP&L, the latter concluded they could install only seven new poles in the entire neighborhood and put lights on four existing poles that had no lights.

Municipal Services Director Prince explained the reason for the limited eleven installations was due to the fact that the power lines in the rear of properties where there were many trees. FP&L refused to run wires from backyards to the front road when trees and other vegetation would create a constant maintenance nightmare.

Town Manager Hoffmann sought Commission direction to proceed with the installation of the eleven lights.

Isabel Hebert of FP&L indicated it would take six to nine weeks to complete the light installations, though FP&L would do what they could to expedite the process.

Town Manager Hoffmann responded to Commissioner Dodd's inquiry regarding the cost to tunnel under resident's driveways where the installation of the lighting was limited due to the problems described earlier. The Town had requested a cost estimate for that, but FP&L had yet to cost out such an undertaking. Town staff thought it best to move ahead with the first set of installations and then get FP&L to move forward with the cost analysis to do the tunneling.

Commissioner Dodd asked if all existing 37 lights were working.

Municipal Services Director Prince answered yes, the last time he checked, they were.

Town Manager Hoffmann mentioned significant action took place at the County Commission meeting held earlier in the day, regarding new agreements for solid waste disposal. The existing agreements expired in June 2013, and she would provide the Commission with a full report of what transpired at the next Commission meeting. She noted Broward County agreed to negotiate with two different firms to give municipalities a competitive option to choose from. A negotiating team from the County included the City Managers from Fort Lauderdale and Coconut Creek negotiated with the two firms,

Sun Bergeron and Wheelabrator, and received further reductions in the tipping fee compared to what Miramar had received. She believed this was good news for municipalities and residents, as this would be passed on as savings in the 2013 garbage rates.

Commissioner Brown received a call from a constituent stating she was almost hit by a car making a U-turn. The car was coming east on Commercial Boulevard, got to A1A and then made a U-turn in the intersection and began heading west on Commercial Boulevard. He thought there was a "No U-turn" sign at that intersection but upon investigation he saw no sign there and asked Town staff to check if one should be posted. Another constituent questioned why Town staff was picking up the trash in the waste baskets next to the bus stops rather than Choice.

Town Manager Hoffmann said the trash cans next to the bus stops belonged to the Town and the trash was picked up by Town staff, as were other public trash receptacles owned by the Town. She could ask Choice what it would cost to pick up the trash from every garbage can in the Town daily.

Municipal Services Director Prince commented his staff emptied the Town's trash cans every day and that Choice was not in the Town on a daily basis. He did not know how much Choice would charge to do daily pickups.

Commissioner Brown stated he would defer to Town staff's judgment if they felt this was the most efficient and cost effective way to do such trash disposal. He expressed confusion on whether to install the roundabout in Bougainvillea. When the matter was first discussed two meetings ago, he was not in support of it and thought it best to focus only on the drainage improvements and leave the landscaping and parking alone. The feedback of the residents at that time seemed to reflect a similar sentiment. At the last Commission meeting residents favored the roundabout. Installing a greenbelt was problematic, but he was willing to approve the installation of the roundabout if that was what the residents desired. Now, at the current meeting, residents said they did not want a roundabout, and a petition of 128 names stated they only wanted the drainage improvements, and the project should not be held up in an attempt to include landscape improvements in the project. Commissioner Brown stated he would no longer support the roundabout, as his earlier concerns were now solidified with all the feedback from the residents present at the current meeting.

Mayor Minnet believed Town staff had been given Commission direction to proceed with the schematic design for the Bougainvillea improvements that included a roundabout, as reflected in the minutes of the previous Commission meeting. The various questions of both the Town Commission and residents needed to be answered when the schematics were presented to the Commission in June; that is, whether a fire truck could negotiate the roundabout, the general safety of roundabouts, the aesthetic value, could it meet ADA requirements, could we include some sustainable materials in the drainage improvements. She clarified the drainage improvements were being designed to a ten year ten-year storm level.

Town Manager Hoffmann pointed out the engineer stated the ten-year storm drainage system would perform. She responded to claims that the proposed drainage system would not work, stating the same type of system was installed on east Commercial Boulevard in front of the Pavilion in summer 2011 and it was draining the area perfectly. The same drainage system was installed on Flamingo Drive. The adjacent condominium was very pleased with the rate at which it cleared away water. She mentioned the project manager for the Bougainvilla improvements project intended to contact the property owners at each location where the designers wished to plant a tree. When designers counted the existing parking spaces, they counted lined parking spaces, including those not to code. Now residents are saying they also park in the swale areas, so the designers are proposing to plant trees where people sometimes park, but those areas are not marked for parking. At some point before the design gets too far advanced, the Commission needed to decide if the practice of parking in the unmarked swale areas owned by the Town between parcels should continue.

Mayor Minnet asked what the Town's ordinance allowed under such circumstances.

Town Manager Hoffmann responded the ordinance allowed for parking in the swale with the adjacent property owner's authorization. The Town would not ticket for parking in the swale unless the adjacent property owner requested it.

Commissioner Dodd stated he was 100 percent in favor of the roundabout. They were safer than a four-way stop sign intersection, and the accidents occurring at a roundabout were less tragic due to the oblique angle of approach rather than a T-bone angle. On the issue of taking away parking in the swale to plant trees, this was Town property, and the Town tried to accommodate the residents' wishes by compromising what was to have been a substantial beautification project to leave the existing parking as is. He supported moving forward as much as possible with the beautification and drainage improvements, including the installation of the roundabout and streetlight improvements.

Commissioner Vincent thought it best to decide on the tree planting when the project manager returned with the results of his interaction with the affected residents. The way the landscaping is on Washingtonia Avenue, Poinciana Street and Bougainvilla Drive, it is not possible to walk the sidewalk in a straight line, and one had to walk onto someone's property to negotiate around the landscaping. He was unsure who designed the plantings in this manner, and Town staff needed to look into the matter further as to why there was landscaping directly in the line of crossing at those corners. He questioned which agency signed off on inspections of whether the fire truck could negotiate the Town's roads.

Town Manager Hoffmann responded it would be the Town's fire department that would inspect and sign off on such inspections, as seen with the east Commercial project.

Commissioner Vincent mentioned receiving calls from residents about the violation notices mentioned by Mr. Cooper earlier, and their attempts to contact the agency dispensing the notices also yielded only voicemail and no return calls. This matter needed to be addressed.

Town Manager Hoffmann assured him the matter would be looked into.

Mayor Minnet restated her position on the Bougainvillea Drive improvements: she was in favor of the roundabout; drainage was a priority; and landscaping should be explored to determine where it was feasible. On the issue of the citation notices, she was glad they were sent out but unhappy there was no follow-up with a live person. There were code enforcement issues in need of addressing a long time ago, and residents needed to look around their homes and yards and be more proactive in bringing them up to code.

**9. TOWN ATTORNEY REPORT**

There was no report.

**10. APPROVAL OF MINUTES**

**a. March 27, 2012, Regular Commission Minutes**

Commissioner Dodd made a motion to approve the March 27, 2012 Regular Commission minutes. Commissioner Vincent seconded the motion. The motion carried 4-0.

**11. CONSENT AGENDA**

Items 11b and 11d were pulled from the Consent Agenda for discussion.

Commissioner Dodd made a motion to approve items 11a, 11c and 11e on consent. Commissioner Vincent seconded the motion. The motion carried 4-0.

**a. Special Event Application for Silver Screen's Family Night Proposed for Wednesdays, from May 16, 2012 to August 14, 2012 (Assistant Town Manager Bud Bentley/Assistant to the Town Manager Pat Himelberger)**

This item was approved on consent.

**b. New Event, Soulful Sundays, an Event Proposed for Sundays from May 20, 2012 to August 19, 2012 (Assistant to the Town Manager Pat Himelberger)**

Commissioner Brown expressed appreciation for the work Town staff put into preparing the proposal, but he could not agree with it. When he went downtown on Friday and Saturday nights, he saw few Town residents, and the same applied to other special events, such as Halloween or Easter. The Town's events appeared to be geared more toward tourists and visitors rather than residents, particularly those concerning music. He believed if the Town was going to spend public dollars to host more events, then the ideas for those events should appeal more to residents, such as a lecture series on urban planning and architecture in the Town. The Town could partner with the community center to bring in some of the speaker events and hold them in the evening at Jarvis Hall at times when residents could attend.

Commissioner Vincent commented the music events on Friday and Saturday nights catered to adults, and the Sunday event would be a 1:00 p.m. to 3:00 p.m. event that was meant to cater to families. There was a local business that wished to host the Sunday event on a trial basis. He went downtown regularly on Friday and Saturday nights and saw many residents there.

Commissioner Dodd was willing to try it and see if it pulled a crowd.

Mayor Minnet was concerned at how hot it might be.

Assistant to the Town Manager Pat Himelberger said Katie Hendricks, the producer of the event, stated they were used to performing in all types of weather and saw no problem.

Town Manager Hoffmann mentioned if there was a serious concern with the weather, the event could be delayed and held in the fall when it was cooler.

Mayor Minnet wondered if it was simpler to hold it later in the day. She inquired if Ms. Hendricks' promotion was strictly music or whether there were other types of performing arts.

Assistant to the Town Manager Himelberger believed Ms. Hendricks gave instruction for voice and acting.

Town Manager Hoffmann understood Commissioner Brown's position, but Town staff felt by holding the event in El Prado Park, the event would be primarily for residents.

Mayor Minnet wished to confirm there would be some diversity in the music events.

Town Manager Hoffmann answered yes.

Assistant to the Town Manager Himelberger said research and providing the sound system was very expensive. She stated Ms. Hendricks provided the sound system.

Mayor Minnet wanted the event to move forward. Whether anyone would want to attend an outdoor event between 1:00 p.m. and 3:00 p.m. in the summer would remain to be seen.

Commissioner Brown preferred to delay the event until the fall and, in the interim, Town staff could devise other ideas for programming that did not involve music and were more likely to be attended by the Town's residents.

Commissioner Dodd stated he would second the motion to delay it until the fall, and leave it to staff to come up with a more suitable time in the day for the event.

Commissioner Brown made a motion to delay the event until the fall. Commissioner Dodd seconded the motion. The motion carried 4-0.

- c. Amendment to the Special Event Permit for the Chamber of Commerce's "Mother's Day Jazz By-The-Sea" event on Sunday, May 13, 2012 (Assistant Town Manager Bud Bentley / Code Compliance Officer Tuchette Torres)

This item was approved on consent.

- d. Approval of Planned Activities for Family Fun Week, Saturday, June 23, 2012 to Saturday, June 30, 2012 (Assistant to the Town Manager Pat Himelberger)

Commissioner Dodd requested an approximate accounting of the Town's financing at the end of the event, particularly with regard to staff time, meetings and other planning activities. He realized the event was unlikely to show a profit in its first year but was disappointed to read that the Town was turning to the Tri-county area in the hopes of booking more hotel rooms.

Commissioner Dodd made a motion to approve. Commissioner Vincent seconded the motion. The motion carried 4-0.

Town Manager Hoffmann pointed out many of the events held during Family Fun Week were free, such as two outdoor movies, a sea turtle walk at night, a concert, an arts and crafts workshop, as well as a sandcastle contest, all of which could be enjoyed by Town residents.

Mayor Minnet thought this would be a great event and commended staff for the all they were doing in that regard.

- e. Renewal of Contract with Grau & Associates for Annual Audit (Finance Director Tony Bryan)

This item was approved on consent.

Mayor Minnet recessed the meeting at 8:50 p.m. and reconvened at 9:05 p.m.

## 12. ORDINANCES – PUBLIC COMMENTS

### 1. **Ordinances 1<sup>st</sup> Reading**

There were no ordinances on first reading.

### 2. **Ordinances 2<sup>nd</sup> Reading**

- a. **Ordinance 2012-07: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES BY AMENDING THE PROVISIONS APPLICABLE TO THE PLANNING AND ZONING BOARD AND THE BOARD OF**

**ADJUSTMENT; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE *Approved 1st reading at the March 13, 2012 Commission Meeting***

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

Commissioner Dodd made a motion to adopt Ordinance 2012-07 on second reading. Commissioner Vincent seconded the motion. The motion carried 4-0.

**13. RESOLUTIONS – PUBLIC COMMENT**

- a. **Resolution 2012-23: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING LAND DEVELOPMENT REGULATIONS TO ADD STANDARDS TO SCREEN VACANT COMMERCIAL STOREFRONTS AND BUILDINGS, INCLUDING HOTELS AND MOTELS.**

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

Town Planner Connors gave an overview of the resolution.

Commissioner Dodd stated he inspected the properties in the Town and concurred the major problem was the vacant commercial properties. At the current time, he did not wish staff to spend time dealing with the issues at occupied properties, as some 95 percent of the problem would be solved dealing with the issues of the vacant properties.

Commissioner Vincent made a motion to adopt Resolution 2012-23. Commissioner Dodd seconded the motion. The motion carried 4-0.

- b. **Resolution 2012-24: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING LAND DEVELOPMENT REGULATIONS TO ADDRESS MINIMUM PARKING REQUIREMENTS.**

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

Town Planner Connors reviewed the proposed resolution as illustrated in the backup.

Commissioner Dodd made a motion to adopt Resolution 2012-24. Commissioner Vincent 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

Commissioner Brown said he met with Town Planner Connors and Gregory Stuart, the Executive Director of the Broward Metropolitan Planning Organization (MPO). They discussed a number of potential projects for which the Town might secure some financial assistance from the MPO. He inquired of the Town's South Entryway Project, which he hoped to dovetail with Fort Lauderdale when they did their extensive greenway project along Galt Ocean Mile. Mr. Stuart informed him the plan was to do the first phase of the Galt Ocean Mile project in 2012 or 2013, restriping A1A through Fort Lauderdale first and narrowing the existing three lanes down to two lanes. This would make the roadway consistent with the lanes in the Town. The ten-year plan called for the extension of the pedestrian greenway as far as Hillsboro beach. Therefore, the Town should not move forward with any work on A1A until the work on Commercial Boulevard was complete, and it made more sense to hold off and consolidate the Town's A1A projects with the County's project. He had no problem proceeding with the Town's south entryway project from the point of the Visitors Center or at the "Welcome to Lauderdale-By-The-Sea" sign. Mr. Greg indicated the Town would be in a very strong position to compete for a grant to pay for the project, so Town staff should get an application together and submit it.

Mayor Minnet wished all mothers a Happy Mother's Day and hoped they would attend the Jazz By The Sea Mother's Day event sponsored by the Chamber of Commerce in El Prado Park from 1:00 p.m. to 4:00 p.m. She mentioned Father Handrahan, who for many years gave the invocation at the Town Commission meetings, had passed away. She asked everyone to keep him and other residents who might be sick and in the hospital in their thoughts and prayers.

Commissioner Dodd thanked everyone for their continued vote of confidence with his reappointment to the Hillsboro Inlet Commission. He was both happy and sad at the closure of one of the Town's anchor hotels over a simple matter of paying their water bill, as this caused a major disruption for a number of visitors. Commissioner Dodd commented the Town was trying to promote its hotel industry that was currently in a state of disarray with the southern hotel still closed and unlikely to open any time soon, and now the closure of the northern hotel. He urged Town staff to unleash the code department to inspect the hotels and motels rather than upset residents with their overenthusiastic code inspections. The code enforcement staff should deal with individual complaints as the number one priority, as in any residential neighborhood there was always some code violation, regardless of the severity. Commissioner Dodd felt the priority should be the hotel/motel premises, as staff time was limited with having to deal with the volume of work created by albeit friendly notices of possible code violations sent to residents. He requested an excused absence for the next Commission meeting on May 22, 2012.

Commissioner Dodd made a motion requested an excused absence from the May 22, 2012 Town Commission. Commissioner Vincent seconded the motion. The motion carried 4-0.

Town Manager Hoffmann noted there would be some major items for discussion at the May 22 meeting and wondered if they should be deferred. The items were the sewer rate study and the schematic design for east Commercial Boulevard.

Mayor Minnet wondered if Commissioner Dodd would be allowed to phone in if he wished and whether he could vote on the items.

Town Attorney Trevarthen said it was possible for Commissioner Dodd to call in and participate in the meeting if his physical presence was not needed to make up a quorum. He would need to be physically present at the meeting to vote.

Commissioner Dodd indicated he would be overseas.

Mayor Minnet wanted to move forward on the scheduled items, and if it was a matter of a presentation and discussion without voting, Commissioner Dodd could participate telephonically.

Town Manager Hoffmann commented the sewer rate would be a presentation and discussion, and Town staff would be seeking Commission direction, so they could come back with ordinances at a later time. The schematic design for east Commercial Boulevard was a different matter.

Town Attorney Trevarthen remarked Commissioner Dodd could meet with the Town Manager ahead of time if the information on the east Commercial Boulevard was available and convey his position and concerns, if any.

Commissioner Dodd indicated he would be satisfied with this arrangement.

## 16. OLD BUSINESS

- a. Beach Nourishment Project Position Statement (Town Manager Connie Hoffmann) *Deferred at the April 24, 2012 Commission Meeting*

Town Manager Hoffmann said that although Eric Meyers of Broward County said the calculation of the Town's cost, if charged only for the actual sand placed on its beaches, showed a cost drop from \$442,000 to \$356,000, only the County Commission could make that commitment.

Commissioner Brown intended to support the project, There was no asset more valuable to the Town's economy or security than the beach; residents and businesses came to Lauderdale-By-The-Sea because of the beach, and it was the economic engine driving the Town. He said the Town was only six feet above sea level, and there were billions of dollars worth of property located along the beach, and sand was the only barrier protecting the Town's buildings in the event of a weather disaster. He thought

the cost share reduction relayed by Mr. Meyers was fair, and this should be considered in the light of the Town's willingness to spend \$1 million to widen the sidewalks along west Commercial Boulevard. The question is whether it was better to spend dollars widening sidewalks or widening the Town's beaches. Rather than looking at the beach nourishment project as an expenditure for the Town, it should be seen as an investment in the future of the Town. It was hoped the Town could spread its share of the cost over the course of two or three years to minimize the impact on the Town's budget. He acknowledged there would be disruptions with the sand being trucked in, but such inconveniences were the price of progress. Mr. Meyers indicated it would take 30 days for the project on the north end of the Town and about 70 days for the southern portion, and though this seemed lengthy, it should be viewed in light of the benefits to be gained. He felt the only caveats should be if the County damaged the portal to access the beach, they would repair the damage, and allow the Town to spread its portion of the project cost over a two or three-year period.

Commissioner Dodd was prepared to second Commissioner Brown's motion when it was made, as he was a proponent of being a good neighbor, and the formula based on the volume of sand was considerably more equitable than basing it on linear footage. If the project did not proceed, then the Fort Lauderdale beach would likely continue to disappear, as would the Town's beach at the southern edge of Town.

Commissioner Vincent mentioned having second thoughts on the project, and he was now in support of it moving forward. He was in favor of proceeding with the conditions posed by Commissioners Brown and Dodd. The County Commission had yet to approve going down to the 12.5 percent, so securing that approval should be included as a condition of the Town Commission's approval.

Mayor Minnet understood the importance of supporting the project for the Town's neighbors, but after speaking with numerous residents, she discovered they were not in favor of the project. She was also concerned that the County was to determine how the cost percentages were to be evaluated, as there was a big difference between the two amounts mentioned earlier in the meeting. Thus, she needed to see some major caveats in the position letter for her to approve the project.

Commissioner Brown indicated he spoke to County representatives and asked them, since the federal government had yet to pay the \$7 million it still owed for the beach renourishment project that took place some seven years prior, who paid the shortfall. The answer received was that the County was the sponsor of the project and, therefore, had to pay any shortfall. He was told the County was budgeting for the likelihood of having to pay for the entire project and, as such, would be more amenable to the Town's participating in the project and letting them spread the payments over two or three years. He could think of no other concessions or conditions the Town should put on the County regarding the project, as the County had granted the Town everything it asked for thus far. The proposal they presented the Town with was completely fair and met all his tests. He spoke to members of the public earlier in the day that did not support the project, as they felt the sand on the Town's beaches looked sufficient. However, the beach renourishment project would not be on the books if it was unneeded. He believed it was the Commission's responsibility to protect the Town's

resources and property, and most times elected officials hoped to do what their constituents wanted, but other times their job was to lead, and this was one of the times to show leadership. The Town needed to make a decision, as both Pompano and Fort Lauderdale had consented to participate with the County on this project.

Mayor Minnet remarked the Town's citizens would pay for the beach nourishment project anyway through their County taxes. She asked Commissioner Brown if he was agreeing to the higher or lower cost given by Mr. Meyers.

Commissioner Brown stated he would support the project regardless of the cost; he was confident the cost would come out at the lower level, as the fair way was to charge the Town only for the sand it would receive and not by the beach footage.

Mayor Minnet clarified the first caveat of approval was listed under number six in the position letter presented by the Town Manager, and the second was that the Town's cost share in the project would be paid in installments over a three-year period.

Commissioner Brown felt other than the two above conditions of approval, the remaining conditions stated in the position letter were unnecessary.

Commissioner Dodd wanted the \$356,000 cost share to be made a part of the position letter to the County.

Commissioner Brown agreed with the third condition.

Town Manager Hoffmann indicated the amount of the cost share was listed under condition four in the position letter.

Commissioner Brown made a motion to approve Lauderdale-By-The-Sea's participation in the Broward County Beach Renourishment Project as proposed with three conditions: 1) Broward County would pay for any damage to the Town's roads and/or portals caused by the project; 2) the Town's cost share would be no more than \$356,000; and 3) Broward County would spread the payment of the Town's cost share in the project in equal installments over a three-year period. Commissioner Dodd seconded the motion. The motion carried 3-1. Mayor Minnet voted no.

**b. Discussion of Creating a Nuisance Abatement Board (Town Manager Connie Hoffmann) *Deferred at the April 24, 2012 Commission Meeting***

Mayor Minnet reiterated her support for the creation of the board.

Town Manager Hoffmann clarified the decision before the Commission was whether to set up a board comprised of Town residents to hear the cases and make decisions, or have a special magistrate have that responsibility. She directed their attention to the table provided by Town Attorney Trevarthen outlining the differences between the two approaches.

Commissioner Dodd preferred code compliance to handle the nuisance abatement process, he did not believe, based on the Town's size, that it needed a separate board to hear and review such cases. As the Town's code compliance staff was capable of achieving the results desired and reach the property owner in order to bring them into compliance with the threat of a hefty \$5,000 fine for each "irreparable and irreversible" event, this was an easier solution. He felt, based on the Town Attorney's report, going with code enforcement appeared to lower the Town's liability issue.

Commissioner Brown preferred creating a nuisance abatement board, acknowledging both the code enforcement magistrate and the nuisance abatement board would hear similar cases and have almost the same enforcement authority. The idea of having a jury of one's peers reviewing such cases appealed to him. He believed there were some Town Attorney costs associated with using the code enforcement magistrate that would not be incurred with the use of the nuisance abatement board. It made sense to institute some process that would allow the Town to go after repeat offender property owners outside the court system.

Commissioner Vincent was in full support of having a magistrate to oversee the nuisance abatement procedure, but he could not support a board that pitted neighbor against neighbor, as at some point there could be personal conflict or vendettas.

Town Attorney Trevarthen responded there would be little difference with regard to Town Attorney costs with either method. With either method, it was important for the Town to be careful how cases were brought forward, making sure they were adequately presented working with BSO representatives. Thus, the Town Attorney would play a similar role in either process, and in both there was the ability to seek cost shifting for attorney fees to the individual cited.

Mayor Minnet inquired of the Town Manager what she saw as additional time involved utilizing a nuisance abatement board versus a code enforcement magistrate.

Town Manager Hoffmann replied that a major part of the staff burden fell on BSO, and Chief Llerena indicated to her he was very supportive of using the nuisance abatement board. There were certain properties in the Town where the nuisance abatement process would assist the police.

Mayor Minnet questioned if BSO would have the same authority under a code enforcement magistrate as they would under a nuisance abatement board.

Chief Llerena responded he had no preference for either process. His only concern was for the Town to put in place an effective mechanism for instituting and collecting the fines.

Town Attorney Trevarthen stated the fines were reduced to liens in both cases, and sometimes collections were successful and other times they were not, but this was the enforcement mechanism. She clarified both methods were not the same, as the Town would have a heavier fining ability with the irreversible violations if so found by the special magistrate. There were also certain powers with the nuisance abatement board

where a variety of actions could be ordered, and continuing jurisdiction could be exercised over the property. Her report contained an explanation of how the special magistrate process could be used to this same purpose, but those kinds of equitable relief were possible only if agreed to by Town staff, BSO and the offender. The nuisance abatement board had the ability to impose conditions without agreement, though Mr. Saunders of the Fort Lauderdale's Nuisance Abatement Board indicated at the last Commission meeting most property owners agreed to comply.

Commissioner Dodd made a motion to approve utilizing the Town's Code Enforcement process by Special Magistrate for nuisance abatement issues. Commissioner Vincent seconded the motion. The motion carried 3-1. Mayor Minnet voted no.

**c. Proposed Amendments to the Zoning Code to Require Window Screening for Vacant Storefronts (Town Planner Linda Connors)**

Town Planner Connors gave an overview of the item.

Commissioner Vincent clarified the amendments were not a government intervention to try to place additional costs on property owners. The aim was to avert the design to create a more uniform aesthetic in the Town.

Commissioner Dodd concurred and recommending proceeding to Planning & Zoning.

Town Attorney Trevarthen mentioned a few things that needed to be ironed out in the language when it was reduced to ordinance format. They would revisit the definition of vacancy, and adjust the language pertaining to the B2 zoning district.

**17. NEW BUSINESS**

**a. Fire Assessment Fees (Finance Director Tony Bryan)**

Finance Director Bryan reviewed the information on the Fire Assessment Fees.

Commissioner Dodd stated he was an advocate of being as fair and reasonable as possible when instituting fees, but the Commission faced a difficult decision as to what constituted a fair analysis. For instance, why base the commercial fire assessment fee on a square foot rate, but not the residential fee?

Commissioner Brown preferred the fire assessment fees to remain as is, as the Town was in the process of purchasing a new fire truck that would take up most of the reserves in the Fire Assessment Fund. There were two possible solutions that might allow the Town to lower its fire assessment fee in the future: 1) the Fire Chief indicated he was actively looking for ways to reduce the VFD budget, primarily by limiting the number of medical calls they responded to. He wished to wait on that report to see how successful that effort would be. 2) In the next year or two, the contract Sea Ranch Lakes had with Pompano Beach to provide fire and EMS services would expire, and he hoped to see the Town's VFD bid for the Sea Ranch Lakes contract. He felt the VFD could make a very compelling case that they had the qualified staff and equipment to do

as good as job as Pompano. Based on the revenues that would come in if the VFD got that contract, the Town could be in a position to lower the fire assessment fees.

Commissioner Vincent believed the residential community should pay the same amount, regardless of the size of the home, as public safety should not be determined by how many calls were made or the size of the house. The commercial properties should pay a higher rate than residents, and it should be based on a square footage flat rate. It was unnecessary to address the issue at the moment, and he did not support spending \$30,000 for a study, as other studies could be looked at first, nor was he in favor of the current methodology for calculating the fire assessment fees. It might be best to come up with an average over the last seven or eight years, and stick with the percentage difference and not address it again.

Finance Director Bryan noted GSG provided some arguments in support of their methodology including tiering. One of the arguments in favor of the tiering was it was easier to administer. There was no need to have the precise square footage to calculate the rates. If a business did improvements to their building, it would not necessarily throw them into the next tier. Another of GSG's arguments was the cost to respond to the fire calls was correlated to the size of the properties, but that did not change within the tiers, and when the size of the property reached a certain point, the cost to respond would not increase. He was unsure what empirical data GSG used to support their statements. He acknowledged a Commission consensus to let the fire assessment fees remain as is for the time being.

Town Manager Hoffmann questioned if Town staff should explore the use of other methodologies for the next year.

Mayor Minnet inquired if the current fire assessment fee would yield sufficient revenue to cover the cost of a study.

Town Manager Hoffmann answered yes.

Mayor Minnet stated she would be in favor of doing another study, and it should include a proposal of alternative methodologies.

Commissioner Dodd questioned if Town staff was aware of the methodologies used by other cities such as Pompano Beach, Fort Lauderdale or Lighthouse Point.

Town Manager Hoffmann indicated Mr. Bryan and she had discussed gathering that information to see how different municipalities handled their fire assessments, and they would provide the Commission with the results during the budget process.

## **18. ADJOURNMENT**

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

**19. FUTURE AGENDA ITEMS**

*Roseann Minnet*

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Mayor Roseann Minnet

ATTEST:

*June White*

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

*6-28-12*

\_\_\_\_\_  
Date

