

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

**4505 Ocean Drive**

**Tuesday, June 26, 2012**

**7:00 P.M.**

#### **1. CALL TO ORDER, MAYOR ROSEANN MINNET**

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Scot Sasser, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, and Town Clerk June White.

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

#### **3. INVOCATION - Pastor Jim Goldsmith**

Pastor Jim Goldsmith gave the Invocation

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

There were no additions, deletions or deferrals.

#### **5. PRESENTATIONS**

There were no presentations.

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

For the record, Mayor Minnet read Town Code Section 2-23, pertaining to order and protocol requirements for the public attending Town meetings. Public comments were becoming unkind and malicious, and attendees were reminded "public" comments did not mean "personal" comments. She trusted the public to adhere to proper meeting protocol henceforth, as she, the Town's Mayor, was charged with the enforcement of the rules of decorum and order governing Town meetings.

Mayor Minnet opened the meeting for public comment.

Adam Geesey referred to a letter received from St. Lucie County, Florida indicating how they planned to fund their current beach nourishment project. The letter was provided the Town Clerk for distribution to the Town Commission. Mr. Geesey believed it was a fair way to fund a project of this type. Property owners reaping the benefits from the project would fund a larger portion of the cost than the general community would and those who did not live on beachfront property would contribute to the cost of the project through state and county taxes. He asked that this method of payment be put on a future Commission agenda for further discussion if the Town Commission voted to move forward with the beach renourishment project to allow resident input.

Edmund Malkoon asked how the sewer rates for vacation rentals were treated, as they were commercial in nature. He mentioned sending members of the Commission pictures of Pompano's beach to show its width. He was against the Town's involvement in the County's beach renourishment project. He hoped the Town Commission and staff would look into the drainage issue on 19<sup>th</sup> Street where it flooded recently. Mr. Malkoon wished the Town and its businesses good luck in Family Fun Week, as it was a great event for the visitors, businesses and residents.

Rosa Michailiuk said there had been no improvements on Bougainvilla Drive for 50 years. At the last Commission meeting, there was a discussion about the petition with 128 residents' signatures presented to the Town, and it was stated that the Commission would look into it; yet she heard nothing more about it. She loved trees but could not afford to lose any parking space and would forfeit the tree in front of her property. The Commission decided not to do the roundabout or the greenway, and this was a big mistake, as streets with less space than theirs did landscaping improvements. Ms. Michailiuk urged the Commission to do some of the improvements promised and to look into the matter further.

Cindy Geesey explained the Rest, Relaxation & Romance (R, R & R) Program she implemented and operated with the Chamber of Commerce was a program in which military service members and their spouses were treated to an all-expense paid, three-night weekend in Lauderdale-By-The-Sea. She noted the program would continue in July with another six couples in 2012 that would enjoy snorkeling, couple's massages, wine, chocolates, flowers, all their meals, custom T-shirts and jewelry, and meet dozens of patriotic people around the Town. Any citizen wishing to contribute was welcome, as they could not continue to offer this unique, patriotic program without the help of the Town's generous businesspersons and women.

Ms. Geesey said residents on Imperial Lane were waiting a considerable time for some traffic calming on their cul de sacs. They were told they would have to pay for the suggested plantings around the traffic calming, as it was considered beautification and not a part the calming. She noted Imperial Lane residents continued to put up with the eyesore of an unfinished home year after year; the building had no permit and fines were accruing. The residents desired a status on that building and the amount of the legitimate fines to date, as they hoped those fines would not be mitigated. Ms. Geesey suggested the Commission pass an ordinance requiring any question from a resident or

business owner to the Commission, whether written as a letter/email or asked during a meeting, would receive a response within ten business days. She was not asking for a complete resolution in that timeframe, but there should be some acknowledgement of receipt of the communication and the steps being taken to address the matter, along with follow up.

Carroll Bowers thanked the Town Commission for considering the Hotel Improvement Program (HIP), as the hotel/motel owners strived daily to improve their service, facilities in every way they could. Since manning the booth provided by the Lodging Association of Lauderdale-By-The-Sea for Family Fun Week, she was visited by about 12 families per hour, handing out schedules and speaking with many people who won some of the scavenger hunts. Many families visiting the Town said they were having an absolute "blast" at the event.

John Boutin was proud to address the Commission as the Chairperson of the Lodging Association of Lauderdale-By-The-Sea. He urged the Commission to vote in favor of the Hotel Improvement Program. Mr. Boutin indicated he too manned a booth at Pelican Square during Family Fun Week, and many visitors were very pleased to know the Town's businesses united to provide entertainment at their own expense. He thanked everyone who participated in Family Fun Week.

Frank Herrmann believed a marketing theme was needed in order for the hotel industry to generate leads and be successful. Five hotels of the 37 featured listings in the Chamber's web pages were located in Fort Lauderdale. The five "out-of-towners" represented 16 percent of the hotels featured on the Chamber's web pages. He urged the Commission to grant the Chamber whatever they asked with the condition that they remove conflicting, competing, out-of-town hotels from its website.

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 – May 2012 (Chief Oscar Llerena)

Mayor Minnet requested an update regarding the incident on May 22, 2012, on Poinciana Street.

Chief Llerena said a 19-year-old female was found deceased in a vehicle in front of an apartment complex on Poinciana Street on that date. He indicated the investigation revealed no signs of trauma or force. The incident was still being classified as a suspicious death with the cause of death unknown. It could take several months to get the toxicology report.

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

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

Commissioner Dodd expressed his gratitude to Chief Paine for the substantial reduction in medical calls; of the 89 calls that came in, 65 were not dispatched to VFD personnel, representing considerable savings for the Town.

Vice Mayor Sasser echoed commendations. He recalled there was an incident on the beach during the last Fourth of July celebrations, and he wondered if the Town was reinforcing security around the beach to prevent accidents.

Chief Paine replied operational plans had been drawn up for the Fourth. A Fire Chief would be present and in charge of the beach, as well as two units each manned by two officers situated at either side of the event location. Both jet skis would be out and ready to go if needed, and personnel would be rotated throughout the day until the fireworks display was complete.

Commissioner Brown inquired as to whether VFD's members were down to 50 from 62 at the beginning of the year.

Chief Paine answered yes, that was correct. Some members resigned, others took leave, but the main reason for the reduction was they were being hired in paid positions elsewhere. This was a common occurrence, but they had a stack of new hire applications.

Commissioner Vincent was impressed with the details laid out by BSO, VFD and AMR to ensure public safety for the event.

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

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

Commissioner Vincent commented on the recent EMSRC review meeting, which went well, and AMR got rave reviews from Dr. Nelson regarding the calls in the Town. He continued to be impressed with AMR's performance for the Town.

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

Commissioner Dodd inquired when the Town was due for a rotation to serve on the EMSRC, as Commissioner Brown had yet to serve on that group.

Mayor Minnet asked Town Clerk White to place the matter on the next agenda for discussion.

Town Manager Hoffmann thanked Chief Liddle and the AMR, stating they agreed to waive the increase in their budget for the next fiscal year, in light of the Town's willingness to discuss and negotiate a possible renewal of their contract.

Vice Mayor Sasser asked if the reduction took place until the negotiations were complete or was it part of the negotiations to renew AMR's contract.

Town Manager Hoffmann stated from the Town's perspective, it was a condition of entering into the negotiations, and the Town Attorney would draft a legal instrument to deal with that. The new agreement would not be a reduction in the amount AMR was currently paid, but they would not take the contractually allowed increase in the budget.

## 8. TOWN MANAGER REPORTS

### a. Chamber of Commerce Monthly Report

Mark Silver, representative for the Chamber, thought the Commission requested a quarterly not monthly report from the Chamber.

Town Manager Hoffmann clarified the quarterly report was the Chamber's financial report, while the monthly report was to update the Commission on statistics concerning visitors, inquiries, etc.

Commissioner Vincent noticed an increase in the number of walk-ins in May 2012, as opposed to May 2011. He asked whether this was a progressive change since May 2010.

Mr. Silver believed the new signage attracted more walk-ins to the Visitors Center.

Commissioner Vincent commented everything had increased across the board, which meant something right was being done.

Vice Mayor Sasser appreciated receiving the Chamber's monthly report, but Town staff needed to tell the Chamber what numbers were needed to equate them to revenue received from the Town. He was not blaming the Chamber. He was including Town staff and the Commission for not qualifying the request.

Commissioner Brown requested the Chamber add to their monthly report a figure illustrating how many volunteer hours were donated to the Chamber every month.

Mr. Silver said the number of volunteer hours was included in the Chamber's monthly report, and there was usually an annual projection of volunteer hours. He believed the current projection was 914 volunteer hours that resulted in a cost savings of \$10,511.

Mayor Minnet noted the line item said May's report said there were 62 Welcome Center volunteer hours worked at a value of \$10 per hour, confirming this meant if those hours

were to be paid, they would equate to \$620, and this was the amount saved for the month of May for that service.

**b. Finance Report – May 2012 (Finance Director Tony Bryan)**

The report was accepted with no discussion.

**c. Town Manager Report**

Town Manager Hoffmann commented the Harbor Drive Drainage Project was essentially complete, with only some swale repairs remaining. The drainage performed extremely well in the previous large storm as did all the areas in which the Town installed new drainage this past year. She provided updates on: getting additional streetlights in Silver Shores from FP&L; sewer system repairs; moving forward with the 19<sup>th</sup> Street Drainage Project; Family Fun Week and the possibility of a children's entertainment Halloween show.

Mayor Minnet expressed concern as to how the proposed Halloween show might interfere with the Town's usual Halloween activities.

Town Manager Hoffmann explained the show would take place on a Friday night, and Halloween was on a Wednesday in 2012. The people putting on the show would not need the Hall decorated, though a stage would be needed.

Town Manager Hoffmann said the Town was approached by a health club located in another city to do fitness classes on the beach. She wished to confirm with the Commission that the beach could only be used by businesses physically located in Town and that we did not want to open that kind of beach use to businesses located outside the Town.

Commissioner Brown witnessed fitness classes every Saturday on the beach during the beach cleanups, and the group that taught the classes had a business sign they inserted in the sand. Though unsure whether it was the same group every Saturday, he knew they were there every Saturday, and it had been going on for years. Town Manager Hoffmann reiterated that it was against Town code to use the beach for economic enterprise without a permit / license and she would have staff look into what Commissioner Brown had observed.

Commissioner Brown noted concrete was manufactured in Broward and created local jobs, whereas asphalt was imported from Canada. Concrete was cheaper, of a lighter weight and more durable. In relation to the Bougainvillea Drive improvement project, he asked if it were possible for the Commission to get an assessment of whether concrete would be a viable alternative to asphalt. If it was, could Town staff include a cost estimate of using colored concrete on the swale in the Bougainvillea project?

Mayor Minnet asked for a quick answer as this was not an item for discussion and could involve lengthy discussion.

Mr. Flynn affirmed he could.

Commissioner Vincent recalled a previous discussion in which he was an advocate for only allowing businesses with a local address to do business on the Town's beach.

Vice Mayor Sasser believed, in relation to businesses utilizing the beach for economic gain, if a Town ordinance allowed only businesses with local addresses to do so, then that ordinance should be enforced. If the Commission wished to change the ordinance, the proper procedure would have to be followed.

Town Manager Hoffmann pointed out the ordinance did not specify such practices were limited to a locally situated business, only that the business had to have a license issued to them by the Town Manager.

Vice Mayor Sasser thought the issue warranted further discussion, but felt businesses using the Town's beaches for their own gain should have a local address. Regarding the expense for the streetlights on Silver Shore for which FP&L stated the Town should cover the cost of surveys, he wondered if Town staff already spoke with the affected residents and if their feedback qualified as survey results. If not, he questioned what data the survey required that was different, as Town staff could get the agreements from FP&L, get the residents to sign them and deliver them back to FP&L.

Town Manager Hoffmann responded the Town had to pay a survey company to conduct a physical survey, so Municipal Services Director Prince was already gathering prices for the Commission to consider.

Vice Mayor Sasser inquired if Town staff had an update on the coral reef, the change in location and the request for the permit.

Town Manager Hoffmann stated she sent the letters to the permitting agencies about two weeks ago and heard no response; the letters were sent registered mail, and Town staff received the return/receipts. She informed Dr. Goreau through his agent, that they needed to formally notify the Town of the date they put it in, but they had yet to do so. They were reminded the Town could not pay them until Town staff was assured by the permitting agencies that everything was satisfactorily installed per the permits. She told them they needed to do the first monitoring report that was due in July. Pictures would be included in the monitoring report as required in the contract.

Commissioner Dodd questioned when it came to legislative controlling, what was considered a public beach; could the Town legislate the use of the beach if the entity was a business for profit, and if this was where the dividing line came in. If the activity were a not-for-profit exercise, the Town might have no right to stop people using the

public beach for such activities, even if it were being sponsored by a particular business that was not charging patrons.

Attorney Trevarthen replied, as Town Manager Hoffmann stated, the Town's code was silent on this issue, and she had not been requested to look into the matter before. She thought there was some merit to what Commission Dodd was alluding to in terms rights of access of a public beach versus rights to making economic use of a public beach. This was the concept currently reflected in the code.

Mayor Minnet desired a brief update on the Imperial Lane traffic-calming project.

Municipal Services Director Prince stated he sent the plans to E&M Construction, and the contractor agreed and wished to participate, even though it was not a large-scale project. He was awaiting the cost estimate from E&M Construction.

Town Manager Hoffmann asked if the County approved the current version of the Imperial Lane project, as they had not approved the prior one. Municipal Services Director Prince indicated he received the plans from the County and there was no indication either way. Town Manager Hoffmann felt it was necessary to find out if the County approved the most current plans first.

Mayor Minnet asked if there was a contact person for Imperial Lane for Town staff to contact and update on the progress of the project.

Municipal Services Director Prince said he would take care of the matter.

Mayor Minnet inquired as to the Bougainvilla project, thanking the residents who signed the petition in reference to that project. On the matter of the roundabout, FDOT was not responsible for approving it, rather it was Broward County, and they rejected it as designed.

Mr. Flynn confirmed.

Mayor Minnet sought confirmation that the reason Mr. Flynn initially moved forward with including a roundabout in the scope of the project, was due to the County previously approving similar roundabouts.

Mr. Flynn agreed the County approved a similar roundabout in another Broward County city without requiring the crosswalks to be pushed back.

Mayor Minnet recommended staff ask such questions ahead of time before projects came before the Commission.

Mr. Flynn understood the Commission's concern but explained it was not normal to first go the approving agency to find out if something was permit approvable; the normal process was to include in the design phase what was standard in the industry, and then

submit the design for permits. Permits were not always granted on first presentations, and usually required some modifications; thus, the process for Bougainvilla Drive was very standard.

Mayor Minnet wished to confirm there were three plans presented initially to the Bougainvilla property owners.

Mr. Flynn responded the design team had actually done about five different design concept variations. He noted the design team presented two plans to the homeowners, parking in the median and angled parking on the sides and both were refused, after which they returned with the current plan.

Mayor Minnet believed the reasons those items did not move forward was due to the property owners' issues with parking.

Mr. Flynn answered that was correct.

## 9. TOWN ATTORNEY REPORT

### a. Redistricting

Attorney Trevarthen stated that the current Charter required that the Commission establish a boundary this year. It could be argued that the current boundaries are defensible under the Charter requirement. The Commission has a choice to either designate the current boundary or, if so desired, to change the boundary. If it is changed, the Commission would need to balance the various criteria set forth in that charter provision: one person one vote, non-discriminatory, compact, proportional and logically related to the natural internal boundaries of neighborhoods and of equal population. Attorney Trevarthen said her analysis of the current boundaries appeared to be non-discriminatory and balanced, and met the Charter provision criteria.

Commissioner Dodd made a motion to keep the present boundaries, in compliance with the Charter requirements, in following the legal opinion received from the Town Attorney. Commissioner Vincent seconded the motion.

Commissioner Brown asked whether this would preclude the Charter Review Board from making a recommendation. Attorney Trevarthen explained that should the Charter Review Board recommend a change to the current provisions, they could do so. Regardless of that, the Charter requires a boundary be established this year, whether it is carried out today or toward the end of the year.

The motion carried 5-0.

Vice Mayor Sasser requested a clear message be sent to the Charter Review Board that the Commission wants to keep the status quo.

**10. APPROVAL OF MINUTES**

**a. May 8, 2012, Regular Commission Meeting Minutes**

Commissioner Dodd made a motion to approve the May 8, 2012, Regular Meeting minutes as listed. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

**11. CONSENT AGENDA**

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

Commissioner Dodd made a motion to approve items 11c on the Consent Agenda. Commissioner Vincent seconded the motion. The motion carried 5-0.

**a. Special Event Application for Jazz on the Circle Event proposed for Friday nights from August 3, 2012 to August 2, 2013 (Assistant Town Manager Bud Bentley and Code Officer Tuchette Torres)**

Mayor Minnet questioned why only one of the owners signed the application, and asked whether this was usually required by the Town. She felt it important everyone realized 101 Ocean was part of the event and was sure Mr. Gadsby of the Village Grille was not the only entity handling the event. Thus, the owner of 101 Ocean should sign the application as well.

Assistant Town Manager Bentley said the Village Grille sponsored the event year round. 101 Ocean participated for only a few months of the year. The applications could be separated, with the Village Grille having one application and 101 Ocean / Village Grille having another. He could understand the 101 Ocean's reluctance to sign on the annual event due to the indemnification clause requiring 101 Ocean to participate in indemnifying the Town for something that happened in one of the Village Grille's exclusive events.

Mayor Minnet asked why, if 101 Ocean was a participant on the application for only a few months, was the whole street being closed, as she thought the reason 101 Ocean and the Village Grille cosponsored the event was to allow the whole street to be closed. Currently, the El Mar parking lot was not being used those nights.

Assistant Town Manager Bentley replied the El Mar parking lot was under the control of the applicant when both the north and southbound lanes were closed for the event. Town staff's focus was that both sides of the road needed to be closed due to the size of the crowds. The fact that 101 Ocean came in as an additional sponsor was not an overriding factor, as long as the Village Grille signed the application and provided the indemnification.

Commissioner Dodd thanked the Village Grille for past events, as well as the proposed events for the future. Mr. Gadsby's efforts to put the Town on the map helped the businesses enormously and swelled the Town's parking revenues, while attracting hundreds of people to the Town every Friday night.

Vice Mayor Sasser agreed with the above comments. He questioned how the liability was handled when it was a dual event. He was comfortable voting in favor of the item for a year. Town staff could get the requested information to the Commission forthwith. Once the improvements were made in the Town's business district, it might not be necessary to close any of the roads, as there would be a whole pavilion where the event could take place.

Mayor Minnet was thankful for the efforts of the Village Grille, 101 Ocean, and all the downtown businesses. The aim was to alert the community to what was happening in the Town on Friday nights, and the closing of parking was mentioned by some in the community. She said things seemed to work fine when the parking was closed on Friday nights including the 27 parking spaces in the El Mar parking lot; people always found a place to park. She asked staff to address the informational issue of the permitting process at a future time.

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

- b. Authorize Purchase Order for JC Consulting (Cecelia Ward) to Complete Planning Priority No. 5 – Code Clean Up. (Town Planner Linda Connors)**

Commissioner Dodd stated he had no desire to adjust the height limit. It was for the Charter Review Board to make a recommendation to establish the legal height in a geographical area on the Town map at 44 feet, or 3 over 1. He took care not to call the area an overlay district, as it should not be considered as such, and the proposed action would simplify the Charter and the code. The Town Commission could recommend the Charter Review Board look at the matter before trying to combine and simplify the code. He had no preference for either Town staff or JC Consulting to do the work if the Charter Review Board would consider the issue; to simplify the question within the Charter, bring the rest of the code in line with it, and simplify the language. In this way, anyone reading the code could understand precisely what they were entitled to do.

Mayor Minnet commented the matter was given to the Charter Review Board as one of their tasks.

Town Manager Hoffmann said Town Planner Connors, Attorney Trevarthen and she discussed the issues, and noted the work JC Consulting would be doing was to assure consistence. Town staff recognized that the Charter Review Board would be looking at the issues between the Charter and the Code. What Town staff would be addressing were only the things that could be done without a Charter amendment or referendum. The Charter Review Board made recommendations that went before the voters, which

could be a lengthy process. Town staff's aim was to clean up the code for the present, so it was internally consistent.

Vice Mayor Sasser concurred, the current language was in need of simplification.

Town Manager Hoffmann wished it made clear that height limits would not be looked at by Town staff or its consultant's.

Mayor Minnet asked whether Town staff would be looking into the sign code as requested by the Commission.

Town Manager Hoffmann affirmed one of the planning priorities Town staff intended was an improvement of the definitions in the sign code.

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

- c. Approval of Work Authorization for the Design Median Parking on Bougainville Drive (Assistant Town Manager Bud Bentley)

This item was approved on consent.

## 12. ORDINANCES – PUBLIC COMMENTS

- a. Ordinance 2012-11: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-313, GENERAL PROVISIONS, TO PROVIDE REQUIREMENTS FOR WINDOW SCREENING FOR VACANT COMMERCIAL USES, INCLUDING HOTELS AND MOTELS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2012-11 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 believed the focus of the ordinance was similar to what was done recently at Athena by the Sea, where they erected temporary walls for the construction and decorated them with colorful beach-related pictures. The Town was looking for some sort of consistency and a clean look. He thanked Mr. Marcellos for doing that, commending Town Planner Connors for the effort she put into the ordinance.

Commissioner Dodd made a motion to approve Ordinance 2012-11 on first reading. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

**b. Ordinance 2012-12: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-318, MINIMUM PARKING REQUIREMENTS, TO REVISE AND CLARIFY PARKING REQUIREMENTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.**

Attorney Trevarthen read Ordinance 2012-12 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.

Town Planner Connors reviewed the proposed ordinance. Staff recommended approval.

Commissioner Vincent wondered if the Town would treat gas stations that closed out their mechanic shops and leased the space to McDonalds or Subway, as a combined use. He also asked whether there would be a need for parking requirements if the use continued to be a gas station, as well as a combined use with a restaurant.

Town Planner Connors thought a perfect example was the combined use of the pier where there was a pier, a restaurant and a bait and tackle shop. Town staff calculated the square footage for each of those uses and allocated parking accordingly. She said a gas station converting part of their use to a small restaurant would be required to meet the Town's parking standards for the restaurant portion plus the standards for other uses.

Commissioner Vincent questioned whether parking had to be on, or off premise.

Town Planner Connors replied any use was required to meet specific onsite parking standards. The Town established some remedies for parking such as the restaurant exemption program or a parking reduction. There were provisions if adjacent parking was available, depending on its proximity to the site that might be utilized to satisfy parking requirement.

Vice Mayor Sasser sought confirmation the parking requirements for restaurants being proposed were how the Town handled them historically.

Town Planner Connors answered that was correct.

Vice Mayor Sasser asked if the changes made would apply to existing restaurants.

Town Planner Connors explained the required parking for various uses was as stated in the ordinance, but existing restaurants would not be revisited to either increase or decrease parking spaces to satisfy the requirements of the amended ordinance.

Vice Mayor Sasser observed there had never been a parking standard for the pier, and if things were being handled historically, then creating a parking standard for the pier strayed away from how things were handled historically.

Attorney Trevarthen believed the answer was in the memo in the backup, in which it stated when a use was not listed as one of the uses with a separate parking standard, a separate category called "uses not listed" applied. She noted the Town's code had not been 100 percent the same for the last 50 years, but under the current code that had been in place for a decade, this was how the pier was handled, as a use not listed. This was a standard staff looked into and determined the parking requirement was excessive for the pier and proposed a more reasonable standard based on data collected at the pier.

Vice Mayor Sasser thought an alternative would be to have an ordinance stating the pier required no parking, though the restaurant at the pier would have to abide by the parking standards for restaurants.

Attorney Trevarthen had no evidence the pier had always been treated as though no parking space standards were required. There were two reasons Town staff was looking at the issue: 1) the pier came forward looking for an exemption under the Town's restaurant exemption program, which required Town staff to know what parking standard applied in order to grant the exemption; and 2) the pier's conditional use request for paid private parking required an understanding of how much excess parking was available on the site. The historical information gathered showed that in 1995 the code said whatever parking spaces were there was sufficient, and at that time, the pier had the existing parking lot. Just looking at what was in the code, there was a requirement, and the 1995 code treated the pier as receiving a credit for their parking spaces, which was not zero parking. She concluded the proposed amendment was a legislative choice as recommended by Town staff and voted on by the Commission.

Vice Mayor Sasser reiterated, historically, the Town chose not to enforce any parking standards on the pier, and there was no reason to change.

Commissioner Brown felt approving the amendment would not put the pier in any bind, as they already had sufficient parking, according to the proposed standard. However, he questioned if the Town would require the pier to stripe the parking lot and designate some parking to the restaurant and some to the pier, and then possibly issue a violation if parking for the pier sometimes used the restaurant spaces. It was important to understand all the implications of the proposed amendment.

Town Planner Connors replied the regulation of the pier would not require the pier to stripe their parking lot. However, they did have a conditional use application coming forward, and that could be a condition included in approval of that application. She said if the Commission chose to either approve the one space per 1,000 square feet standard or the one space per 200 square feet, the pier would still fall under the 1995

legislation that basically stated the existing parking was sufficient. Thus, they were legally grandfathered in.

Town Manager Hoffmann clarified there would be no requirement for the pier owners to specify which spaces were for the restaurant, the tackle shop and the pier.

Commissioner Brown felt a reservation about looking at the situation from the standpoint of possible uses of the pier, as the Town should not make decisions with regard to pier parking based on what the owners might want to do with their property. The focus should be on how the amendment applied to the current situation, ensuring unnecessary bureaucratic burden was not being placed on the pier.

Town Manager Hoffmann felt the opposite was true, as Town staff was paving the way for the two abovementioned applications the pier would be coming forward with. The aim was to help them.

Vice Mayor Sasser remained unconvinced.

Town Manager Hoffmann understood once the pier provided 44 parking spaces, they were obligated to continue providing those.

Attorney Trevarthen remarked it was a question of interpreting nonconformities. In general, if there was nonconformity of any kind, an existing structure might be out of compliance with current code, having been previously built. If some action brought the use into compliance with current code, the use was considered to be in compliance and could not revert to its prior nonconforming conditions.

Commissioner Dodd commented the pier was established with a parking lot, some of which was changed to accommodate a restaurant, including the required parking spaces. The pier owners were now seeking to expand the restaurant and sell the remaining parking spaces for area parking. He thought Vice Mayor Sasser's comments indicated he thought the pier should not be required to provide any parking.

Vice Mayor Sasser affirmed this was his view as it applied to the pier structure only.

Commissioner Dodd felt the pier had not been a particularly good neighbor and had shown a particular disregard for the Town's codes. He saw no reason not to apply the punitive requirements of one space per 200 square feet, and for there to be specific spaces designated for the restaurant in the pier parking lot. If their application was approved and their parking lot became filled, the Town would have to provide parking for their overflow, as they would have sold the spaces for area parking beach use. He felt this was not right, and by enforcing parking standards for the pier, this would allow Town staff to determine how many spaces were required for their various uses, and how many spaces they were allowed to sell. An established business should provide parking for patrons, and the Town was being extremely fair to the pier choosing not to enforce the one space per every 200 square feet.

Commissioner Vincent thought the idea of creating a pier parking standard was brilliant for a future pier, which he doubted would ever materialize. The existing pier was an iconic structure, and there had never been a parking issue or the need to enforce a parking requirement. He believed pre-1995, the Town had few, if any parking requirements, and when the code was created, existing uses were grandfathered in. The Town created a parking exemption program to facilitate economic growth by making it easier for businesses to come to Lauderdale-By-The-Sea. Yet, it seemed Town staff was recommending the Commission approve taking away some of the parking spaces from the exemption program for the pier and for the bait shop, which he felt was ridiculous. Instead, the parking spots should be earmarked for future growth and the businesses and restaurants coming to the downtown area. He thought it was the wrong idea to approach the code amendment with the pier, and there was probably a valid reason why pier parking was never addressed in the Town's code. It was doubtful the pier owners were happy about the proposed amendment for pier parking, despite Town staff's insisting the change was to help the pier. As it was their business and their pier, if they were unhappy with the insertion of a specific code requirement for pier parking, then no one should be happy about it.

Town Manager Hoffmann explained the issue was a policy decision for the Commission, stating Town staff was giving its best advice and they stood by it as valid.

Commissioner Vincent said one anticipated the pier being included in the parking exemption program.

Commissioner Dodd disagreed. If the argument were taken as presented, then historically Aruba could apply for a parking exemption under the parking exemption program, as it was never established they had to provide parking for their restaurant. They could then sell all their spaces for beach parking, and this he felt was not what staff sought to accomplish. As the Town Attorney pointed out, historically, parking for the pier already existed in the code, as in 1995 the number of parking spaces at the pier was deemed sufficient, despite no specific number being assigned as "sufficient." He felt, due to the pier owners wishing to expand the restaurant and other conditional use applications, Town staff had to determine what would be considered adequate parking for the uses being applied for.

Mayor Minnet wished to confirm, according to current code, the parking requirement for the pier was 78 spaces.

Town Planner Connors affirmed that.

Mayor Minnet stated the goal of the amendment was to reduce the pier parking requirement to 16 spaces. She questioned whether the applications for the two pending projects the pier owners submitted could be approved if the change was not approved by the Commission.

Town Manager Hoffmann believed the parking exemption application could be approved, but it was unlikely that the conditional use application would be approved.

Mayor Minnet thought there was sufficient discussion and interpretations expressed by the Commission and staff on the historical and current findings pertaining to the pier parking.

Vice Mayor Sasser made a motion to approve Ordinance 2012-12 on first reading with the exception that only the pier structure, not the restaurant or bait shop, should have a parking requirement of zero spaces. Commissioner Vincent seconded the motion. The motion carried 3-2. Commissioner Dodd and Mayor Minnet voted no.

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

Edmund Malkoon mentioned BSO had been working to resolve a nuisance situation involving public displays of domestic violence at a property across from his. The violators had since been arrested and had not moved back into the home. He wondered if such behavior would be classified as a public nuisance that jeopardized the safety and welfare of the public. That particular case would be going before the Magistrate in July, and code enforcement indicated they would be looking for abatement as the lawn was overgrown by some three feet, and there could be a public health issue with rodents. Code enforcement staff could ask whether the Magistrate had the authority to order that the property be properly maintained and if not, whether the Town had the ability to maintain the property and bill the property owner.

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

Attorney Trevarthen noted Town staff and she looked thoroughly at the statutory public nuisances when drafting the proposed ordinance, but she was unaware of a statute that classified the site of domestic violence a nuisance. The other questions were related to property maintenance, and this was in line with traditional code enforcement activity.

Commissioner Dodd felt the public nuisance problem was prevalent on rental properties rather than owner occupied ones. He asked whether the Town Commission should

consider increasing the offense penalties if the violation occurred on a rental property, along with the possible loss of the rental license.

Attorney Trevarthen replied Commissioner Dodd's request could be evaluated under the process of a separate revision to the vacation rental ordinance. Generally, the Town's vacation rental ordinance discussed code violations in a way that might cover his suggestion, but she needed to look at it further.

Vice Mayor Sasser agreed the matter needed further review, asking if Attorney Trevarthen was suggesting she look into whether the matter was: a) already covered in the existing code; b) required a separate ordinance; or c) could be included in the proposed ordinance.

Attorney Trevarthen clarified she was suggesting "a" and "b" but not "c", as it was logically better as a condition of the regulatory scheme for such certificates and license.

Commissioner Dodd made a motion to adopt Ordinance 2012-08 on second reading as written. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

### 13. RESOLUTIONS – PUBLIC COMMENT

- a. **Resolution 2012-27: 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 INCLUDE CODE LANGUAGE THAT PROTECTS SINGLE FAMILY NEIGHBORHOODS AND ADDRESSES HISTORICAL AND ARCHEOLOGICAL RESOURCES.**

Attorney Trevarthen read Resolution 2012-27 by title.

Town Planner Connors briefly reviewed the proposed ordinance. Staff recommended approval.

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 wondered if the proposed resolution should include a definition of what the Town considered historic.

Town Planner Connors noted the language in the draft of the resolution stated if a property was listed on a Florida Master Site file, a type of Florida warehouse of historical properties that were considered an archeologically/historically significant structure. The property might be found in a similar County or Town list.

Attorney Trevarthen noted Resolution 2012-27 was the Notice of Intent, and the specific provisions had yet to be finalized.

Vice Mayor Sasser made a motion to adopt Resolution 2012-27. Commissioner Dodd seconded the motion. The motion carried 5-0.

- a. **b. Resolution 2012-28: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY AND OTHER BROWARD MUNICIPALITIES TO SHARE THE RESOURCE BURDEN OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT ISSUED BY THE ENVIRONMENTAL PROTECTION AGENCY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Attorney Trevarthen read Resolution 2012-28 by title.

Municipal Services Director Prince noted staff recommended approval.

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 2012-28. Commissioner Dodd seconded the motion. The motion carried 5-0.

#### **14. QUASI-JUDICIAL PUBLIC HEARINGS**

There were no quasi-judicial items for public hearings.

Mayor Minnet recessed the meeting at 9:00 p.m. and reconvened at 9:10 p.m.

#### **15. COMMISSION COMMENTS**

Commissioner Vincent reminded everyone of the upcoming Fourth of July celebration. He acknowledged Municipal Services Director Prince and his department's amazing efforts during the rain event the previous weekend, as he had a chance to head out to look at what was happening in the Town and observed Mr. Prince and his crew working and dealing with the neighbors. He was an unbelievable person who knew his job and what to do, along with the preventative measures he took to ensure things were done satisfactorily to prevent property loss and damage. Commissioner Vincent saw him having one-on-one conversations with residents while working and thought he had the patience of a saint. He sent an email to the Town Manager letting her know Mr. Prince was a wonderful part of the Town's administration, constantly looking out for the wellbeing of its citizens.

Vice Mayor Sasser echoed commendations for Municipal Services Director Prince and his staff.

Mayor Minnet wished everyone a happy Fourth of July. She encouraged everyone to come to the Town's celebration and fireworks display and thanked all the volunteers for their hard work in making the event a success.

Commissioner Dodd indicated the usual expenditures were approved at the recent Hillsboro Inlet meeting. The flow metering on the new dredges never worked well from the beginning, and the Inlet was now considering investing in new technology without components in the very abrasive gravel and sand mix. The density and the flow would be remotely monitored to establish the cubic yardage of sand transferred. He thanked Town Manager Hoffmann, Municipal Services Director Prince and their staff who gave their time on Sunday to help resolve the flooding due to heavy rains.

At this time, Mayor Minnet moved New Business item 17a.iii out of order to consider nonprofit donation requests due to a number of representatives present at the meeting. Although the item was discussed at this time, the minutes were recorded under that item to stay within the order of the agenda.

## 16. OLD BUSINESS

### a. Sandra Stella's Application for Relief of Code Enforcement Liens (Assistant Town Manager Bud Bentley and Code Officer Tuchette Torres)

Assistant Town Manager Bentley briefly reviewed the details.

Attorney Kara Cannizzaro represented the applicant. She thanked the Town Commission for the opportunity to be reheard. They believed the gravity of the violations were minimal, as they all involved payment of fees and not any public safety, nuisance issues or building code violations. There were significant equitable considerations, circumstances related to financial hardship, that were appropriate to be considered, as prior to the violations in May 2010, Ms. Stella learned her daughter had a rare eye disease that would ultimately lead to blindness. Ms. Stella's time and resources were spent travelling to over 25 physicians to get medical treatment for her daughter, resulting in her falling behind on her paperwork and failing to timely renew her business tax receipts and licenses. Ms. Stella spent in excess of \$100,000 out of pocket toward her daughter's care and medical treatment. Once she learned of the existence of the violations, she paid the \$1,920 for the renewal of business tax receipts, vacation rental licenses and the associated penalties. Ms. Cannizzaro noted Ms. Stella faced financial difficulties as her circumstances led her to fall behind on payments of the three properties at issue, and if the Commission granted the proposed settlement amount, it would allow Ms. Stella to keep ownership of the homes out of foreclosure. A number of municipalities, such as Plantation and Coral Springs implemented amnesty programs, allowing property owners to pay significantly lower amounts once compliance was achieved. This was in recognition of the hardships property owners were suffering in such challenging economic times. She understood the Town previously considered amnesty programs, and Town staff was currently drafting provisions for the Commission

to consider in this regard. She reiterated their previous position that \$100 per day per violation was excessive, particularly with regard to nonrenewal of a business tax receipt, citing and providing copies of the code pertaining to the limitation of the penalty for such violations. The language distinguished between not originally applying for a business tax receipt and failing to renew a business tax receipt already in place. She asked the Commission to determine whether a \$100 per diem fine was reasonable under those circumstances for a \$6 renewal business tax receipt payment. Ms. Stella's daughter resided in one of the properties on Poinciana, and so informed the code enforcement officer, making the difference of an \$88,000 lien versus a \$34,000 lien, a reduction of \$54,000 if code enforcement reflected no vacation rentals were occurring. They requested the per diem fine be reduced to \$25 per day, a figure more in line with a license or penalty and one they felt was more reasonable in light of the violations, bringing the total amount of the violations to \$66,262. Thus, Ms. Stella's settlement offer would be in excess of 25 percent of that amount. In the event that the business tax receipt fines were waived in their entirety, which they believed was appropriate, this would reduce the total fines owed to \$37,762, and her settlement offer would be 42 percent of that amount. In sum, they were offering a settlement of \$16,481, in addition to the payment of all the administrative costs; with the fees already paid by Ms. Stella, the total settlement amount was \$20,000; they hoped the Commission approved their request.

Attorney Trevarthen commented the issue for consideration was the proposal to settle a debt. While the applicant could offer information the Commission could choose to include in their decision-making process, she instructed the Commission to focus on the criteria set forth for the Town's lien mitigation procedure, as specified in the staff report. That procedure was not related to the underlying code violation, rather it pertained to the nature and gravity, actions taken to correct the violation, the length of time for compliance, actual costs expended, and other violations. She noted the applicant presented arguments pertaining to all those items, along with evidence for equitable considerations. It was up to the Commission to decide whether to approve the request.

Commissioner Dodd wondered if, in the process of falling behind on paperwork, Ms. Stella failed to pay her utility bills associated with her properties.

Ms. Stella answered no.

Commissioner Dodd inquired if Ms. Stella shut down her business during the violation period.

Ms. Stella replied she had no specific office space for four years and had lived on a boat when her daughter fell ill which played a part in mail delivery problems.

Commissioner Dodd repeated his question as to whether Ms. Stella's vacation rentals business, Sandy by the Sea, was shut down during the time the violation existed.

Ms. Stella indicated she had not shut down her business.

Commissioner Dodd stated it was only recently that the Town Commission had the ability to mitigate liens. He continued to feel a settlement of 20 percent was fair and equitable, as the Ms. Stella said she managed to pay all utility bills associated with her three rental properties. Commissioner Dodd was aware Ms. Stella had previous code issues concerning her properties on Washingtonia Avenue and Bougainvillea Drive regarding rooftop balconies and pool setbacks back in 2005. Despite his comments that Ms. Stella's settlement offer of one percent of the full amount owed was an insult, he tried to treat everyone fairly, so he was prepared to make the same motion again for a settlement offer of 20 percent of the full amount due. He wondered if future cases on which the Commission voted would see violators appealing to Commissioners to get their case reheard. The practice of mitigating fines/liens to settlements of 20 percent of the full amount was fair and equitable.

Commissioner Brown said the reason he asked for the matter to be reheard, was because later that evening he thought further about his vote and felt the fine imposed to be severe for a violation that involved no safety hazards, nuisance conditions or illegal activities. It was a failure to renew a \$6 business license, for which a \$62,000 fine was imposed. Most people could not handle such a fine, and he believed his earlier vote of approval could ruin Ms. Stella's life. He wondered what type of message this sent to the Town, that the Town Commission and staff were going to be hardnosed, money grubbing, tough administrators, and if anyone broke the Town's law for any reason, they would have to pay at least 20 percent of the amount owed regardless of the nature of the offense. Commissioner Brown preferred that the Town Commission send a message that it would consider the varying circumstances involving the liens and violations that came before them for mitigation and ensure the "punishment fit the crime" where necessary. He acknowledged the Town's practice of mitigating liens down to 20 percent of the total amount owed, but in those cases the lien holders were banks with greater financial resources than most individuals and involved much more serious violations. It was his proposal to mitigate Ms. Stella's settlement amount to \$10,000, stating it was still a large sum for the failure to renew a \$6 license, but the applicant offered \$20,000, and there should be no reason not to accept her settlement offer. The Town Commission was not compelled to impose a 20 percent settlement, as this had to do with real people and real money that had to be weighed against the nature of the violation.

Vice Mayor Sasser felt both Commissioners Brown and Dodd made valid points. He recalled when the Town Commission was recently given the authority to approve lien mitigations, his main concern was consistency, and he agreed the lien and possible mitigation should fit the violation. To move to a position where the percentage of the mitigation should be dictated by whether the violation was a resident or a banking institution due to the latter having larger financial resources seemed more money grubbing. He acknowledged Ms. Stella did reach out to him on the subject matter, but he was out of the country at the time, and her attorney reached out to him earlier in the day prior to the present meeting. The element of consistency had him undecided as to an acceptable settlement amount.

Commissioner Vincent supported consistency in the way the Commission ruled on matters, particularly with mitigation cases. He reminded the Commission it heard an individual resident plead their case that was just under a \$30,000 lien and, the final ruling by the Commission mitigated the fine down to five percent or \$1,500. Thus, this case would not be the first time the Commission went off its usual practice of mitigating to an amount below 20 percent. He could accept Ms. Stella's more than generous settlement offer of \$20,000, particularly in light of the minimal violations.

Mayor Minnet commented on going back and forth on the subject case, both as a business owner and a member of the Town Commission. There were certain actions an individual was aware of having to do when they opened for business, regardless of personal circumstances, stressful or otherwise, transpiring in their lives. She too experienced hardships in her life that caused her not to want to open her door or mail, but she did so anyway. As a member of the Commission, she was being asked to hear the case as a minimal violation, but in the community vacation rentals carried a lot of weight. Next to parking, vacation rental was the most significant issue in the Town. Thus, the case was a very important issue for the community. She still felt very torn, but preferred not to hear the matter referred to as a minimal violation. The Commission had a practice of mitigating to 20 percent of liens, but it had no wish to burden anyone excessively, and Ms. Stella had been a good partner to the Town and her community. However, there were residents who experienced problems with vacation rentals.

Ms. Cannizzaro appreciated the Commission's feedback, particularly as to consistency, as on May 22, 2012, the Commission considered a case at 1821 W. Terra Mar Drive, where the violation was no vacation license that ran for 292 days for just under \$30,000. For that case, the Commission considered the reasonableness of the fines and other issues she brought forward for her own case. She commended the Town for adopting vacation rental ordinances, as many beachside municipalities had not, which meant the Town recognized the value vacation rentals brought to the Town's economy.

Commissioner Brown made a motion to accept a \$20,000 settlement that included the mitigated fine plus the administrative costs. Commissioner Vincent seconded the motion. The motion carried 4-1. Commissioner Dodd voted no.

**b. Broadcasting Channel 78 on Direct TV and the Dish Network (Public Information Officer Steve d'Oliveira)**

Public Information Officer Steve d'Oliveira said he received no callback from any of the providers, but he anticipated the answer would be "no" in any event.

Commissioner Brown stated Comcast would always be the major cable service carrier in the Town, as they controlled the wiring and had much more leverage than any other carrier. However, the Commissioner had a responsibility to Town government to make the Town's public proceedings available to the viewing public, and it had been determined at least 300 residents switched to U-Verse. He expected the number of

residents switching from Comcast to other carriers to steadily increase over time though not surpassing Comcast. Thus, it was worth the investment for the Town to make local government access available on Channel 99 of U-Verse.

Commissioner Dodd said he previously voted against the item, and he would continue to do so, as he felt the expense was not justified considering the small number of residents using U-Verse. He agreed everyone should have access to the Town's public meetings. The majority of people using U-Verse probably had a computer by which to access Town meetings.

Commissioner Brown wished to make a motion to approve the Town making whatever investments were necessary to provide local public access broadcasting on Channel 99 for U-Verse customers.

Mayor Minnet elaborated this would entail an initial cost of \$7,000 and an annual recurring expense of \$2,400.

Commissioner Brown made a motion to approve the Town making whatever investments were necessary to provide local public access broadcasting on Channel 99 for U-Verse customers. Commissioner Vincent seconded the motion. The motion failed 3-2. Mayor Minnet, Vice Mayor Sasser and Commissioner Dodd voted no.

## 17. NEW BUSINESS

### a. FY2012 Budget Issues:

#### i. Volunteer Fire Department (VFD) Budget (Town Manager Connie Hoffmann)

Town Manager Hoffmann recommended the approval of the VFD Budget as presented.

Mayor Minnet stated the VFD would be reducing its medical call responses in the FY 2013 budget to \$10,000 from the 2011 amount of \$44,000, for which she thanked them, and noted the ocean rescue incentives were being increased as requested by the Commission.

Commissioner Dodd stated if VFD members obtained a nationally recognized lifesaving qualification, he would personally welcome them receiving some form of additional payment on patrol, though this would be at the Chief's discretion. He commended the VFD for not opting to take the annual salary increase.

Commissioner Vincent asked if the Worker's Compensation increase was an industry-wide trend.

Chief Paine indicated when firefighters went to rehab or if they were injured and had to go to a hospital, the insurance carrier came in. They noticed the rates steadily increased

by a tremendous amount. There was one claim they were still carrying, on which the VFD was still being graded, and once that claim disappeared the premium would decrease. But this did not mean they would not go up again. He added they tried to keep costs down by ensuring everyone was taken care of, rehab was successful, and they were hydrated sufficiently.

Commissioner Vincent asked if compared to the last few years, the current year was just a really bad year.

Chief Paine answered yes.

Commissioner Vincent inquired whether the VFD could put any programs in place in terms of recommendations of what could be done.

Chief Paine indicated they already had a safety program in place, such as having everyone do their annual physical and having a safety officer present when the firefighters were doing training.

Commissioner Vincent wished to know if the VFD's insurance carrier participated in certain programs in which they might receive a reduction for participating and sending in the paperwork that certain steps were completed.

Chief Paine affirmed they did.

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

Town Manager Hoffmann added the VFD had to take the budget resolution to their membership for a final vote.

#### ii. Fire Fund Revenue Requirements (Finance Director Tony Bryan)

Finance Director Bryan presented revisions to the multi-year projections/scenarios, copies of which he gave Town Clerk White for the record. Town staff sought direction from the Commission regarding what they wished to do with the Fire Fund Revenue.

Town Manager Hoffmann thought the VFD should elaborate on the two significant cost items in the Five-Year Plan, one being SCBA tanks (Self-Contained Breathing Apparatus), and the other was a Squirt, a combination of a ladder truck and a pumper. The Commission was not approving the actual purchases at present, but they would be factored into how high the fire assessment fees should be.

Chief Paine stated the air tanks currently in service had a service life of ten years, and their replacement was now due. Part of the expenditure was to replace the bottles with the harnesses for newer equipment. They were actively applying for a grant for this

purchase, but if they were turned down again, they needed to have the funds available to purchase the bottles and equipment.

Commissioner Brown stated it made more sense to him to focus on next year's needs only. He understood the VFD had a number of equipment purchase projects desired for the future, but he preferred to set the revenue amount at a sufficient level to meet the next fiscal year's needs.

Commissioner Dodd stated he fully favored designated funds to meet specific future requirements rather than lump it into a general operating pot that might be empty when the expenditure was needed. He recommended keeping the fire assessment fee the same, so funds were available to fund the proposed Five-Year Plan. The Commission would have a chance to review the situation again in 2013.

Vice Mayor Sasser agreed with Commissioner Dodd, as the Commission was aware of what the industry prices were.

Mayor Minnet supported keeping the fires assessment fee the same, as it was fair and reasonable and provided long-term benefits to the community to keep reserves in place.

Commissioner Dodd made a motion to keep the fire assessment fee at its current rate. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

### iii. Non Profit Donation Requests (Finance Director Tony Bryan)

This item was pulled out of order for consideration immediately following Commission Comments.

Edith Lederberg, Area & Disability Resource Center of Broward County Area Wide Council on Aging commented the number of seniors in the Town increased by 269 since 2011 to 3,526 as recorded by the Florida Consensus Estimating Conference and the Florida Legislature. They were mandated by state law to raise a local ten percent match for the grant funds they received and, since 1977, the funding flowed through their organization to about 30 different programs, such as Meals on Wheels and Alzheimer's programs. She explained to figure out the match requirement, they divided it by the number of seniors in the County, and came up with a dollar amount representing one senior, and each participating municipality was asked to come up with two thirds of that amount per senior, and the County was asked to provide the other third. Specifically, the mandate match was nine federal and state dollars for each \$1 raised locally. The Town provided that match every year, except one about 17 years ago, and received an award for 15 consecutive years in 2011. She stated they were asking the Town for the provision of the match for the next fiscal year, noting one reason the requested amount was less, was due to them not receiving the dollar figure for state funds when they did the exercise in 2012. They requested \$10,120, and their organization used no more than nine percent of those funds for administration.

Town Commission Regular Meeting Minutes  
June 26, 2012

Vice Mayor Sasser commented on having the privilege of seeing Ms. Lederberg make her formal request each year, and he thought the world of her, as she was very sharp with everything she provided the Town.

Vice Mayor Sasser made a motion to approve funding of \$10,120 to the Area & Disability Resource Center of Broward County Area Wide Council on Aging. Commissioner Dodd seconded the motion. The motion carried 5-0.

Commissioner Dodd remarked on the letter from Women In Distress requesting funds from the Town sent in by the organization, noting they asked for an increase from \$2,000 to \$3,000 based on a 50 percent increase in the number of residents they helped. As the letter stated they helped two residents, including counseling, this meant in the last fiscal year they helped 1.33 residents. He felt, in the first instance, they were absent from the meeting, and secondly, they were getting off well if they helped only four of the Town's residents with \$2,000; he had nothing against them, as they did a terrific job helping others.

Commissioner Dodd made a motion to approve funding of \$2,000 to Women In Distress. Commissioner Vincent seconded the motion. The motion carried 5-0.

Mary Cooney stated she was a board member for Kids Voting for Broward and their organization was very appreciative of the Town being a consistent contributor, particularly since the Town had no schools. For FY 2013, their request had increased by \$50 over the previous year to \$1,547, and she explained theirs was a curriculum program for school ages K through 12, and they provided curriculum in every school in the County. It was a civics lesson from which children learned to vote, the aim being that if they learned about the process early in their education, when they graduated from school, they would begin and continue to vote in real elections.

Commissioner Brown made a motion to approve funding of \$1,547 to Kids Voting for Broward. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

Kim Praitano of Family Central, Broward County, stated their agency provided childcare subsidies throughout the County, and they received federal dollars to provide those subsidies to low-income families that were working or in training programs. Most low-income families under the poverty guidelines could not afford childcare, so the federal dollars allowed families to work and participate in training programs and place their children in quality childcare. Those federal dollars required a local and state match, and the Town participated in the program in the past, and they were asking the Town for the same amount of \$551 that would yield federal dollars of \$31,802. For every dollar the Town provided, their organization received \$57.99 in federal dollars.

Commissioner Dodd made a motion to approve funding of \$551 to Family Central. Commissioner Vincent seconded the motion. The motion carried 5-0.

Keith Jones represented Boy Scouts of America. He indicated their needs increased, as they strove to get more kids into their summer camps.

Commissioner Brown remarked all the best experiences he had growing up involved being a Boy Scout, and he stayed active with them as an adult by delivering the keynote address in Pennsylvania a few years prior and chaperoning camping trips. However, he questioned whether the Boy Scouts had a written nondiscrimination policy in Broward County.

Mr. Jones stated he was not sure.

Commissioner Brown asked if information became known that a Boy Scout or a scout leader in the Boy Scouts was gay, would they be prevented from joining the Boy Scouts or would they be expelled from the organization.

Mr. Jones replied it was unlikely a child would be prevented from joining or be expelled. However, there was the possibility that the leader would be expelled.

Commissioner Brown believed this policy was due to the dictates of the Boy Scouts National Charter, and he took no issue with private organizations establishing membership requirements. However, he objected to the use of public funding for private organizations that allowed any kind of discrimination, which was how he viewed the Boy Scout policy on the abovementioned issue, and he felt unable to support the Boy Scouts request for Town funding.

Mr. Jones appreciated Commissioner Brown's position, stating he did not get into the politics of a situation, but when the funding stopped, the children he served were the ones that were barred from participating in scouting activities.

Vice Mayor Sasser understood Commissioner Brown's position; however, it was the children that would suffer immediately from the lack of funding if the Commission elected not to award any money based on a national policy decision. He wished to at least to help the children wanting to participate in the Boy Scout summer program at present.

Vice Mayor Sasser made a motion to approve funding of \$1,500 to Boy Scouts of America. The motion failed for lack of a second.

There was no further discussion.

#### iv. Fire Assessment Fee Methodology Report (Finance Director Tony Bryan)

Finance Director Bryan reviewed the details of his analysis and the report.

Commissioner Vincent thought the Town should not expend any money on any type of study for the issue, as Town staff and the Commission could figure it out themselves.

He wished the Town to be the tiebreaker with respect to the 13 municipalities that were on a fixed rate, and the 13 that were on a tiered rate, knowing the Town was currently on a tiered rate. In the Town, there were inequities with the separation. The square footage on the tier level was unfair to some of the businesses, though it might work in other larger cities. He felt the Town needed to be more fair and equitable, and should set the rate on a fixed rate basis on the square foot of the building, and there should be no argument. Commissioner Vincent stated he looked at 136 commercial properties in the Town, considered their total square footage, and he ran his own methodology with his own formulas. The results were similar to the current fees and helped remove the inequities with the tier.

Vice Mayor Sasser and Commissioner Dodd did not favor a study.

Mayor Minnet saw no reason for a study, and it appeared there was Commission consensus not to have a study.

Town Manager Hoffmann stated there would be no funds budgeted for a fire assessment methodology study for FY 2013. Town staff would bring the matter to the Commission next year for direction as to whether the fee structure should be tiered or fixed.

v. Chamber of Commerce Request for Funding (Town Manager Connie Hoffmann)

Mark Silver indicated the Chamber submitted its budget report to the Commission and were open to any questions.

Town Manager Hoffmann reviewed the backup on the item that summarized the issues with the Chamber budget. She supported the first part of the budget request for funding to allow the Visitor's Center to operate seven days a week. On the second part of the budget request for \$22,000 for marketing, she suggested not funding that but have the Chamber's board members work with Town staff, as the Town would be hiring a marketing firm to develop a Town marketing strategy and plan. She said if everyone worked together to define that strategy with the consultant, they would present the outcome to the Commission to decide on the strategy, who would implement it, and how much it would cost. Regarding the issue of Christmas by the Sea, Town staff was somewhat surprised that the Chamber indicated they could not afford to sponsor that event for FY 2013 and had developed no strategy to handle that situation.

Mayor Minnet supported approving the first part of the Chamber funding as outlined by Town Manager Hoffmann. She thought the Chamber's budget matters pertained to three issues and the Commission should vote on each issue separately.

Commissioner Dodd wondered who would ask Broward County for their donation towards running the Welcome Center in FY 2013. He believed the Town should give the County a full cost breakdown of the actual costs for running the center and providing

the building and ask Broward County for \$20,000 towards those costs. He thought the Chamber received a \$20,000 donation three years prior, but the last two years they received only \$10,000. He desired confirmation from the Chamber members present as to whether the estimated costs for the employees was exclusively devoted to Welcome Center activities or were they spent on any other Chamber business.

Paul Novak thought it was likely the other way around, as the Chamber supplied more help to the Welcome Center than vice versa. He said ninety-nine percent of the employee volunteers worked on Welcome Center business.

Town Manager Hoffmann commented on the County's contribution to the Welcome Center funding, noting the money the Chamber received from the Convention Visitors Bureau was not for the Welcome Center but for the publication of the Visitors Guide.

Vice Mayor Sasser made a motion to approve funding of \$40,664 for the Welcome Center. Commissioner Vincent seconded the motion. The motion carried 5-0.

Mr. Silver noted the numbers the Chamber proposed for the second part of their funding request were based on historical figures over the last two years of what they spent on advertising campaigns in Europe, Canada and the U.S., broken down by websites, dollars per site, per month. This included print advertising done in the Villages magazine, and a TV campaign that was done two months ago. That was how they came up with the figure of \$22,000.

Town Manager Hoffmann believed the Town gave the Chamber about \$7,000 for marketing the previous year, so the Chamber must have contributed some funding if it spent \$22,000.

Vice Mayor Sasser remarked it did not matter to him what the plan was or how successful it had been in the past, the Town and the Chamber should combine their marketing efforts as recommended by Town Manager Hoffmann.

Mayor Minnet concurred, hoping the Chamber had an open mind to do so.

Commissioner Dodd made a motion to approve the Town Manager's recommendation to include in the Town's budgeting funds for the development of a marketing plan and strategy, and set aside funds for marketing. The Chamber would appoint several board members to work with Town staff and the Town's marketing consultants to develop a marketing strategy and plan. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

The Commission agreed the Christmas by the Sea event would be brought forward for discussion at a future Commission meeting.

Mayor Minnet thought the Christmas by the Sea event was more informational and did not require a vote. The Commission needed some time, in light of the late hour, to think about the matter and discuss it at another meeting.

Commissioner Vincent mentioned having a conversation with Chamber representatives prior to the Commission meeting with respect to looking at the cost of running Christmas-By-The-Sea. In their conversation, he mentioned if they figured the amount of donations received, wishing to confirm if it would be \$12,000 out-of-pocket, then there should be a reduction of up to \$6,000 in donations.

Mr. Silver stated the estimated donations the Chamber received were about \$3,500, so that would be subtracted, but that was during economic times when people could afford to be more generous; the donations did not come as freely today.

Commissioner Dodd inquired how many years the Chamber managed to run the event in the past on the budget given to them by the Town.

Paul Novak replied the Christmas event went back to Dave Gadsby. The tree was purchased by donations from local businesses, and the Chamber eventually took on the event, but those were during good economic times. Back then, the Chamber could go to Minto and receive \$5,000 and the Chamber had \$10,000 to do the event. At present, the new Board consisted of a lot of younger people, and they did not feel Christmas-by-the-Sea should be a Chamber event; the Chamber should host events that helped its business members. They saw Christmas-by-the-Sea as a Town event. It was a great event that brought people in from the other side of the bridge and local residents. However, the event did not help many of the businesses that were west of A1A and therefore, it was the consensus of the Chamber Board of Directors that it did not make sense to spend \$12,000.

Commissioner Vincent thought the Town would be burdened with the refurbishing and replacement of the tree. Eventually, this was going to be handed off to the Town as the Chamber would be unable to fund that.

Chuck Maxwell stated it was the financial burden on the Chamber that forced them to make the tough decision not to move forward with the event. Regarding the tree, if the tree only had one more year's use, it was unrealistic to fund \$35,000 in the budget to purchase a new tree without assistance or an alternate form of event that did not include a tree.

Mr. Silver stated another idea was to form a committee that had the Town and more local businesses involved in the creation of another event. There could be a tree of some kind, possibly a lit tree with an event that would attract people during the Christmas season to walk through the Town and keep the stores open.

Commissioner Vincent thought with the Town's Restaurant Association and Lodging Association, the Town could pool all of its resources to create a Christmas event.

Mayor Minnet wondered if the Christmas tree assembly for \$5,400 was removed, would the Chamber be willing to evaluate handling the Christmas by the Sea event. She agreed there needed to be an expansion or a reevaluation of where that event had gone and where it should be. This might be the time to formulate a better partnership between the Chamber and the Town, as it was a great event for the community, one that was well known by people. She would be sad to see it fall by the wayside.

Mr. Silver agreed, stating at their last meeting, the Chamber was very saddened by the idea of missing out on such a great event, but they would keep the matter in discussion.

Vice Mayor Sasser stated he continued to be pro-Chamber, but he too was saddened by the news. He was glad the current Town Commission had not spoken about the financial burden of taxpayers when it did all it could for the businesses, as the reality was the Chamber was simply a collection of the businesses. He would be a staunch supporter of continuing the Christmas by the Sea event, realizing the parade traveled west to east, and many of the event activities took place in that area. This event was something traditional that many, like him, looked forward to. He was very disappointed.

Mayor Minnet believed there was a Commission consensus that the funding of the event would be considered in the Town's upcoming budget discussions.

**b. Proposed incentive Grants for Exterior Hotel Improvements (Assistant to the Town Manager Pat Himelberger)**

Assistant to the Town Manager Pat Himelberger gave a brief overview of the item.

Commissioner Vincent asked if since the vacation rentals fell under the guidelines and criteria of lodging in the Town's codes, did this mean it applied to someone with a vacation residence.

Town Manager Hoffmann did not believe this to be the case. Town staff would confirm this by looking at how they were licensed.

Commissioner Vincent expressed concern with the possibility that three applicants could consume the \$75,000 with a maximum of \$25,000 per applicant.

Town Manager Hoffmann explained \$75,000 was budgeted to run the program on a trial basis for a year to see how well it would be received and whether applicants could come up with the matching funds required to qualify. She thought the Town should move forward with that amount, as some applicants could come in for lesser amounts.

Commissioner Vincent hoped to see more than three applicants receive the grant funds, recognizing that the funds were distributed on a first-come-first-serve basis.

Town Manager Hoffmann thought if the program were successful, the Commission would consider funding it in the following year, as it was similar to the neighborhood grant program that had a limited amount of funds to expend.

Commissioner Vincent continued to express concern as a budget of \$75,000 could result in reducing the number of opportunities to help local lodging businesses.

Vice Mayor Sasser asked if the Town budgeted \$75,000 this year and the funds were not expended, would the Town budget an additional \$75,000 for the program bringing the amount of funds available in the program to \$150,000.

Town Manager Hoffmann replied this would be the Commission's call.

Commissioner Dodd agreed with Commissioner Vincent's comments, suggesting limiting the amount per applicant to \$7,500, as this would allow ten properties to benefit, or that figure could be increased to \$10,000. He had no wish to see only three properties benefit from the program, and a grant of \$10,000 was a great incentive for local lodging establishments to improve their properties.

Mayor Minnet observed Town staff received positive feedback from the Commission, as she too was in favor of the program and had no problem lowering the maximum amount to allow more applicants to benefit.

Town Manager Hoffmann recommended making the maximum grant amount at least \$15,000, as a \$20,000 total expenditure would not go very far in making a true impact on the appearance of a hotel.

Mayor Minnet felt \$20,000 for hotel renovations could go a long way.

Vice Mayor Sasser sought Mr. Boutin's opinion on the degree of improvements with a \$10,000 grant and an applicant's match.

John Boutin stated he repainted his hotel about two years prior and it cost him about \$30,000 after much negotiation. When he first saw the maximum grant amount of \$25,000 per applicant, he thought the amount too high but later realized the amount had to be matched by the applicant. The program was great, as many properties needed the help, but there was a concern that most of the smaller properties in need would not have an opportunity to benefit, as the larger, more sophisticated hotels would use up the grant funds first. He believed any amount was good but wished to see the monies dispersed to as many properties as possible.

Vice Mayor Sasser preferred to see a large impact on a few, rather than a little impact across a larger number. If the program was successful, the Town could increase the amount of funding in the next year.

Mayor Minnet commented the Town currently had \$75,000 that was unused for the program. Thus, it was possible for the Town to budget \$150,000 in the next year by adding the current year's unused budget.

Town Manager Hoffmann concurred, stating Town staff would appropriate the amount from Fund Balance, which was how the program was funded in the current fiscal year, as it was not envisioned as a permanent program. This was her recommendation for funding the program next fiscal year, regardless of the final amount the Commission decided on.

Vice Mayor Sasser made a motion to approve an extra \$75,000 to be appropriated from the current fiscal years' budget and rolled into the next fiscal year for a total of \$150,000 for FY 2012/2013 with a maximum match of \$25,000. Commissioner Brown seconded the motion. The motion carried 4-1. Commissioner Dodd voted no.

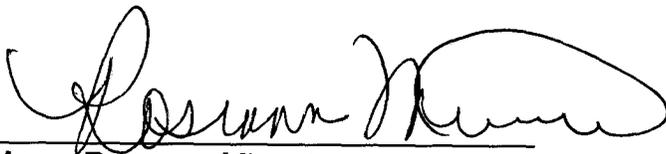
c. Commission Consideration to Re-Schedule the September 25, 2012 Regular Commission Meeting (Town Clerk June White)

Commissioner Brown made a motion to reschedule the Commission meeting of September 25, 2012, to September 24, 2012, following the special budget meeting. The motion carried 5-0.

18. ADJOURNMENT

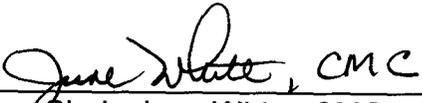
Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:50 p.m.

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:

  
Town Clerk, June White, CMC  
Date August 21, 2012