TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive
Tuesday, January 24, 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 Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Scot Sasser, Commissioner Chris Vincent, Town Manager Connie Hoffmann, Town Attorney Susan L. Trevarthen, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Commissioner Scot Sasser

Commissioner Sasser gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Minnet added A1A Landscaping Project as New Business item 17c.

5. PRESENTATIONS

a. Introduction of CAP Government Building Services Personnel Assigned to Lauderdale-By-The-Sea (Assistant Town Manager Bud Bentley)

Project Manager David Gringo introduced the CAP Government personnel: Building Official Mervin Lunsford and Permit Administrator Eleanor Norena. CAP provides building permitting services to the Town.

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Mark Brown stated the recent Commission meeting on the commercial redevelopment project was excellent. Mr. Brown inquired of the possibility of incorporating the existing walkway of engraved bricks into the proposed plaza and a monument for downtown.

Vito Chiarello felt people should be charged only for the amount of water they used. He believed the rate system was unfair, as the annexed area to the north paid more to the City of Pompano Beach for water service than the southern portion of the Town.

Edmund Malkoon welcomed CAP Government. Mr. Malkoon inquired as to whether Marine Court had any inspections within the last five years. He desired more information from the Town Attorney on the referendum issue and changing uses in a zoning district.

John Boutin supported more marketing and additional events to bring Lauderdale-By-The-Sea up to a level to compete with surrounding cities and vacation destinations. A vibrant business district was an essential part of the plan, though there were times when the interests of businesses and residents conflicted. He did not support the idea that the Chamber of Commerce or local businesses should foot some of the costs of the events.

Mike Devaro expressed disappointment with the lack of restrooms or other ADA amenities for easier access to the beach.

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 – December 2011 (Chief Oscar Llerena)

Commissioner Vincent commended the exemplary service BSO provided.

Chief Llerena introduced new staff member Sergeant Tammy Measel. He reported the "Keep our community safe" initiative to address house break-ins resulted in a significant reduction in the number of houses broken into in the Town for 2011 as compared to 2010.

Commissioner Sasser asked Chief Llerena about a particular crew that caused the reduction of break-ins.

Chief Llerena said a group called the "Snap Money Crew" was prevalent throughout Florida. The Town's police force pursued the "Crew" actively, and theirs was the first municipality in Broward County to file an arrest warrant on one of the "Crew" members, whose bond was currently over $1,000,000. He indicated one of the BSO community service aides made the case and did a great job processing the crime scene.

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

b. VFD Monthly Report – December 2011 (Battalion Chief Riley Paine)

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

c. AMR Monthly Report – December 2011 (Chief Brooke Liddle)

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

8. TOWN MANAGER REPORTS

a. Chamber of Commerce Monthly Report

Judy Swaggerty, Executive Director of the Chamber, reported that the Chambers numbers were up from 2011.

Vice Mayor Dodd asked for the names of the three businesses reported as closed.

Ms. Swaggerty was unaware of businesses that closed, but would obtain the names and relay them to Vice Mayor Dodd.

Commissioner Sasser said his previous questions requesting Chamber financial reports were to facilitate the Commission's discussion about the funds budgeted for the Welcome Center. The numbers showed the Town's contribution went to the Welcome Center and not to Chamber operations.

Town Manager Hoffmann noted the quarterly report on the expenditures associated with the Welcome Center contained a line item called "Wages-Chamber" which represented that portion of the Executive Director's time and salary that was spent on the Welcome Center.

Ms. Swaggerty noted tickets were currently on sale for "Taste of the Beach" event on February 22, 2012.

b. Finance Report – December 2011 (Finance Director Tony Bryan)

Town Manager Hoffmann noted the "Town Topic" printing costs had been charged to the administration budget instead of the general government budget. The posting of those expenses would be corrected.

Finance Director Bryan indicated the correction would be reflected in the January 2012 Finance Report. He stated the Town was on track financially, as detailed in the report.

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

c. Town Manager's Report

Town Manager Hoffmann stated the Plaza East Condominium Board of Directors formally approved the agreement with the Town, so the Flamingo Drive Drainage Project would proceed. Progress was being made with the North A1A Project, though the paving of the sidewalks was not progressing as expected. The Town authorized the contractor to work on Saturdays. With a larger work crew on Saturday, a significant portion of the sidewalk was finished. The project was slated for completion by March 1 or the contractor would face liquidated damages. She said Town staff was meeting regularly with the contractor and voicing their concerns about the slow pace of the paver installations.

Town Manager Hoffmann said the Florida Department of Transportation (FDOT) informed staff they still wanted to be included in the project upgraded the ADA ramps. She noted the project manager was currently waiting on a cost estimate to incorporate the ramps and other changes from the contractor, and Town staff would inform the Commission of those figures when they came in. However, the Commission would not meet for another three weeks, and FDOT felt the Town should pay for the requested changes from the monies saved with the removal of the upgrades to the Sea Ranch Lakes Center from the original scope. She indicated the cost to do the ADA ramps would cost less than the funds saved by taking the Sea Ranch Center improvements out of the budget. FDOT would not provide additional funds for the ramp upgrades. Their rationale was the Town had sufficient grant funds to pay for the changes they were requesting. The change order to eliminate the Sea Ranch Lakes improvements would be a savings of $70,000 to $80,000; out of that would come the funds to upgrade the ADA ramps. She asked whether the Commission would authorize her to administratively approve the expenditure or preferred to call a special meeting to vote on the matter. Town Manager Hoffmann believed that waiting until the regular February 14 meeting to make a decision would likely lead to further delays.

Commissioner Vincent requested a tabulation of the quotes to upgrade the ADA ramps; the Town Manager could discuss those costs with individual Commissioners, after which they could make the decision whether to call a special meeting or authorize the Town Manager to approve the expenditure.

Town Manager Hoffmann pointed out there would be only one quote from the existing contractor.

Commissioner Vincent asked if the contract enabled the Town Manager to approve a certain percentage of the project when changes occurred without having to come before the Commission for direction and/approval. If the estimated cost to upgrade the ADA ramps was less than the savings for removing the Sea Ranches Center improvements from the scope of the project, there was little reason for a special meeting or additional Commission approval.

Vice Mayor Dodd thought the matter should be dealt with immediately; the Town had no option but to agree to FDOT's request to upgrade the ADA ramps and the grant funds were available with the reduced scope of the project. If the figure that had to be approved for the ramps was outside the limit of the amount the Town Manager could authorize without Commission approval, the Commission should give Town Manager Hoffman the go ahead.

Commissioner Sasser asked how much it would cost the Town outside of the grant dollars and was the State covering any of the cost to upgrade the ADA ramps.

Assistant Town Manager Bentley said the A1A project was approved without the ADA upgrades FDOT requested, and the grant was structured, so that grant monies were utilized first and then the Town's match kicked in. If the total project did not require the Town to spend all its matching funds, the Town kept the unspent portion. Based on the amount of the change order, the cost for the ADA upgrades would be covered by grant funds, and it was unlikely the Town would have to contribute funds in excess of its matched portion.

Vice Mayor Dodd made a motion to give the Town Manager the authority to proceed with a change order to upgrade the ADA ramps on the A1A Project. Commissioner Sasser seconded it. The motion carried 5-0.

Town Manager Hoffmann said staff originally planned to have the first reading on the sign code revisions at the February 14, 2012, meeting; however, many members of the local business community indicated they would be too busy to attend on Valentine's Day. With Commission approval, the Town would schedule first reading for the Commission meeting of February 28.

Town Manager Hoffmann said Town staff would report on specific recommendations on the Town's involvement in the Family Fun Week in 2012 at the next Commission meeting. The Convention & Visitors Bureau was contacted for advice on the best way to market the five-day June event. Town Manager Hoffmann stated staff was working on another item in that would promote shore diving in the summer that was geared toward filling hotel rooms. A proposal for that project would also be presented to the Commission in February.

She sought guidance from the Commission on the issue of campaign signs on election day. The Town's code said no campaign signs should be posted on Town property; at the last election, though not a local election, she observed tents set up in the Town Hall parking lots by different political parties and signs posted everywhere.

Vice Mayor Dodd remarked the code's language stated no one could campaign within 100 feet of the doors of Town Hall where the election was being held. Historically, the Town allowed signs outside the 100 foot limit. The area was opened to all candidates, as long as all evidence of the activity was cleared up after the polls closed, and the signs were disposed of appropriately.

Commissioner Clottey thought the 100-foot limit should be maintained. She agreed the Town tradition that allowed candidates to put up tents and continue soliciting support outside of Town Hall on Election Day should continue.

Mayor Minnet echoed support for allowing candidates to set up their tents, though she was concerned with vehicular traffic going through the front parking lot of Town Hall.

Attorney Trevarthen suggested the scheduled amendments to the sign code should include language stating there was an exception on election day to the rule for political signage.

Commissioner Sasser was not happy with moving the first reading of the sign code amendments to the second meeting in February. A number of business owners had issues he hoped would be rectified by the sign code.

Town Manager Hoffmann noted the first reading could go forward on the February 14 meeting as originally planned, and the second reading could be moved to the first meeting in March rather than waiting the customary one-month period between readings.

Commissioner Sasser expressed satisfaction with the first reading being on February 14, and the second reading being at the first Commission meeting in March. Vice Mayor Dodd echoed support.

Mayor Minnet acknowledged a Commission consensus to have the first reading of the ordinance for the amendments to the sign code on February 14, and the second reading would take place at the March 13, 2012 Commission.

9. TOWN ATTORNEY REPORT

a. Inquiry re: Comparison between Continued Use of RM-25 Legal, Non-Conforming Parking Lots without Referendum and 2006 Referendum for Home Occupations

Town Attorney said the significant difference between the two issues was the home occupations decision involved taking a use that was illegal and making it legal for both preexisting and future uses. She added nothing had been done to change the ability of other properties in RM-25 to be used as standalone parking lots; it was still not an allowed use.

Vice Mayor Dodd commended Attorney Trevarthen for two excellent reports, questioning the amount dollars spent to research and produce them. He wished to bring public attention to the amount of hours employed in responding to this inquiry, as Commissioners should remain cognizant that procuring legal opinions cost the Town and taxpayers.

Attorney Trevarthen responded that the time was required to reduce the information to a memo and ensure no issue existed did not exceed four or five hours, including the responses to the home occupations question. She stated, on the matter of the residential electoral districts, this was originally answered in March 2011. A memo was sent out then and that research was more involved, as it required a review of Town records and doing other research as to the impact of misleading ballot questions. The total hours did not exceed 20 hours between the work done in 2011 and what was done in 2012 to place the matter on the present agenda.

Vice Mayor Dodd wished it brought to the public's attention the entire process took approximately 25 hours at $200 per hour, which meant $5,000 worth of legal work to produce the two legal reports.

Commissioner Sasser sought confirmation that Aruba could continue parking cars where they were already doing so and this was a legal activity. Attorney Trevarthen answered yes.

Commissioner Sasser thought the report indicated Aruba could continue using those lots as they had been, but if Aruba were no longer utilizing the space, was the property owner's ability limited as to type of use for the space?

Attorney Trevarthen replied, the nature of the legal nonconforming use could continue; thus, it did not apply only to the existing tenant.

Commissioner Sasser observed the use was conveyed to the property owner not the tenant. Attorney Trevarthen affirmed this to be the case.

Commissioner Vincent asked if any entity could assign or share a use with another entity in the Town; that is, could they legally transfer the use to another business.

Attorney Trevarthen responded that anyone having a legal, nonconforming use was allowed to continue that use, and this applied to other uses than parking lots.

Commissioner Clottey wondered if it was a factor that one use was a business use and the other was a business use within a residential area.

Attorney Trevarthen believed the difference was based on the home occupation not being a permitted use in the residential zoning district, and the effect of the change was to create a new, legal use.

Commissioner Clottey remarked her requests were usually on behalf of members of the community. Efforts should be made to cut back the amount of funds spent on legal issues, but when citizens make requests of a Commissioner as to matters requiring a legal opinion, Commissioners had the right to put forth a request to the Town's Attorney.

Vice Mayor Dodd wished only to draw the public's attention to the fact that when the Commission requested a legal opinion, it cost the Town and taxpayers.

Commissioner Sasser noted anyone on the dais could and should be able to ask the Town Attorney to conduct further research whenever they had concerns. He agreed the cost in time and effort should be considered.

Mayor Minnet inquired as to a time limit on the continuation of a nonconforming use.

Attorney Trevarthen said nonconforming uses that were legal remained in effect perpetually unless the Commission set a deadline by which they would expire. The only other way a legal nonconforming use would be lost if, under the Town's nonconforming regulations, there were set periods of abandonment. The time limits were already defined in the Town's code.

10. APPROVAL OF MINUTES

a. November 29, 2011, Regular Commission Meeting Minutes

b. December 13, 2011, Regular Commission Meeting Minutes

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

11. CONSENT AGENDA

There were no items on the Consent Agenda.

12. ORIDINANCES – PUBLIC COMMENTS

1. Ordinances 1st Reading

a. **Ordinance 2012-01:** 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 SECTION 30-155, "DEFINITIONS", TO PROVIDE CLARITY FOR BUSINESS DISTRICT USES; BY AMENDING SECTION 30-181, "ESTABLISHMENT OF ZONING DISTRICTS" TO IDENTIFY THE EXISTING B-1-A ZONING DISTRICT; BY AMENDING ARTICLE V, "ZONING", DIVISION 2, "DISTRICTS", TO PROVIDE BUSINESS DISTRICT REGULATION PURPOSES AND SUPPLEMENTAL REGULATIONS, MODIFY THE PERMITTED AND CONDITIONAL USES IN THE B-1-A AND B-1 DISTRICTS AND PROVIDE REGULATIONS FOR CONVENIENCE STORES AND FOR OUTSIDE SEATING AREAS FOR RESTAURANTS; PROVIDING FOR

SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

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 Linda Connors reviewed the details of the subject ordinance as illustrated in the backup. Staff recommended approval.

Town Manager Hoffman mentioned the clarification of the definition of a restaurant.

Town Planner Connors stated in Town staff's proposal to the Planning & Zoning (P&Z) Board, they included an accessory use for a restaurant/bar. After further review, the Town Attorney suggested the deletion of the restaurant/bar definition and instead to amend the restaurant definition. She added the intent was the same, and Town staff wished to clarify the existing definition.

Town Manager Hoffmann explained her reason for mentioning the matter was that the business community had questions about the issue, so the aim was to get the discussion on the record.

Attorney Trevarthen added the original draft referred to restaurants and restaurant/bars but they were not regulated differently. If there was no need for different regulations, a single term was preferable to cover that set of regulations.

Vice Mayor Dodd expressed concern with the inclusion a clause requiring 51 percent of revenue to come from food sales. He understood this was a part of the Bureau of Alcohol, Tobacco and Firearms (ATF) requirement when a liquor license was issued. He sought confirmation the Town had a legal right to pry into the returns of restaurants in order to establish the above percentage.

Attorney Trevarthen said the code did not allow freestanding bars, only restaurants. When they worked with Town staff on the definitions, there was a strong desire to have a definition that was easily understood by both staff and the members of the public. They arrived at using the alcohol license as evidence of meeting the definition and a clear determination of the scope of their business. The State of Florida had a program that monitored the types of license establishments held.

Vice Mayor Dodd noted, under the existing code, it was possible to legally include wine bars and regular bars, and there was no requirement to serve food; having an establishment with food facilities was sufficient. He believed the proposed amendment to be a major change rather than a clarification of existing language.

Attorney Trevarthen concurred it was an element of the subject definition. She mentioned they examined the issue previously for the Town and gave the legal opinion that bars, uses that were primarily alcohol and not restaurants, were not permitted in the

Town. She clarified, greater than 51 percent liquor sales was not allowed previously and would not be allowed under the proposed language.

Vice Mayor Dodd questioned the ATF guidelines for the amount of food served in a wine bar or a bar.

Attorney Trevarthen stated the state had a five-page list of different types of liquor licenses. In their legal opinion, a few of the Town's restaurants they researched met the requirements of the proposed definition. The changes were forwarded due to concerns expressed by staff and the public for the clarity of the definitions. She added, the proposed changes were in response to what they received as policy direction from Town staff, requesting adding greater detail to existing definitions to simplify enforcement.

Vice Mayor Dodd supported wine bars for the Town. Some of the Town's high-end restaurants began as bars and evolved into serving food as a major component of their trade. He hoped to bring back wine bars for a future Commission discussion, questioning whether wine bars needed to be regulated. Approving the subject ordinance meant removing the possibility of wine bars coming to the Town.

Attorney Trevarthen clarified she was not telling the Commission the Town could not have bars; it simply took adding it to the list in the code. There had been no indication from Town staff or the Commission this was a desire for the Town; it was a policy choice by the dais. If they wished a change, she would act accordingly.

Commissioner Sasser had no desire to see the Town become a destination where people came to drink. Allowing the consumption of alcohol from 7:30 a.m. in the Town was already part of the code, and the code should remain exactly as is; growth was welcome in the Town, but the right kind of growth. He felt Vice Mayor Dodd's analysis of the proposed language changes was correct.

Commissioner Sasser made a motion to adopt Ordinance 2012-01 on first reading. Commissioner Clottey seconded the motion. The motion carried 4-1. Vice Mayor Dodd voted no.

b. **Ordinance 2012-02:** AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 19, ARTICLE II, PARKING, STOPPING OR STANDING, OF THE CODE OF ORDINANCES, TO AMEND PARKING PERMIT AREAS AND TIME LIMITS AND PROVIDE AUTHORITY FOR DESIGNATION OF ADDITIONAL PARKING PERMITS BY RESOLUTION IN ORDER TO ADDRESS THE PARKING NEEDS OF THE TOWN; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

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 Dodd wanted wording in the ordinance that the Town Manager was allowed to recommend changes for ratification by the Commission, but for those changes to be made known to the Commission prior to approval.

Town Manager Hoffmann stated that additional information will be provided at second reading regarding the input received from the restaurants on Bougainvilla Drive. She wished to confirm Vice Mayor Dodd was requesting a modification to the language of the proposed ordinance.

Vice Mayor Dodd affirmed he wished the language to be modified in items 40b and 43, as he stated above.

Attorney Trevarthen sought confirmation that Vice Mayor Dodd wished the language change in section 19-25c line 43. Vice Mayor Dodd answered yes.

Commissioner Sasser questioned if the changes advocated by Vice Mayor Dodd would allow Town staff to present the item on the consent agenda to facilitate the process.

Assistant Town Manager Bentley commented section 19-25c was the authority Town staff used to establish 30-minute meters within certain parking areas. Specifically, the issue was to allow the Town Manager to establish a shorter time limit for particular parking spaces within areas designated by the Commission.

Attorney Trevarthen added the Commission could direct the Town Manager to report after the fact as an agenda item. There was a range that depended on the approval of the present motion, from which Town staff could draft an ordinance to include the desired level of supervision or prior approval the dais wished.

Mayor Minnet commented the Commission could direct the Town Manager to include such information in the monthly Town Manager's Report.

Commissioner Vincent concurred staff should be allowed to make such changes and the information could be presented to the Commission. He noted when the item was later placed on the Consent Agenda it should include the proper backup detailing the outcome of Town staff's conversations with local businesses.

Attorney Trevarthen asked Commissioner Vincent if he wished to add to the code provision language to the effect of, "... and shall thereafter report to the Town Commission the changes that have been made..."

Commissioner Vincent answered yes, as a Consent Agenda item.

Commissioner Vincent made a motion to adopt Ordinance 2012-02 on first reading, to allow staff the flexibility to establish time lime limits and report to the Commission as a Consent Agenda item for approval after the fact. Commissioner Clottey seconded the motion. The motion carried 5-0.

2. Ordinances 2nd Reading

There were no ordinances on second reading for consideration.

13. RESOLUTIONS – PUBLIC COMMENT

There were no resolutions for consideration

14. QUASI-JUDICIAL PUBLIC HEARINGS

There were no quasi-judicial items for public hearings.

15. COMMISSION COMMENTS

Mayor Minnet reminded members of the public to vote on January 31, 2012, noting there were two precinct locations in the Town: one in Jarvis Hall, and the other at Assumption Church. She wished it noted in the public record the Town's precincts were still voting in Assumption Catholic Church Hall and Jarvis Hall; the precinct for the Village of Sea Ranch Lakes moved to their location the Sea Ranch Lakes Beach Club.

In regards to the conceptual design of the project for Commercial Boulevard improvements, Mayor Minnet stated that Town staff was currently speaking with many of the businesses in an effort to address their concerns. She wanted everyone to understand the process and continue to give feedback whether from businesses or residents. Mayor Minnet said there would be another meeting to discuss the changes as the Town Commission wanted to ensure there was a strong consensus among those in the area affected by the project.

Mayor Minnet addressed the member of the public who commented on no bathrooms at the beach. She stated that she had not been a strong advocate of putting bathrooms high on the priority list. But, she walked around the downtown area before the first conceptual design was presented, and there were three businesses that said they did not care how many parking spaces were removed, they needed public bathrooms. She encouraged everyone to get involved with this process, to give their ideas and opinions.

Commissioner Sasser commented on the sewer issues noting the Town Manager indicated the revenue taken in was about equal to the expenses. He thought there appeared to be some inconsistencies on how much hotels were paying. A reduction in the rate of any group of users would likely lead to an increase in the rates for another group. He noted after hearing from residents and businesses, everyone complained of the rates being too high, but it was not possible to lower everyone's rates.

Commissioner Clottey said at the next Commission meeting she would make her farewells. She refuted the claim made under Public Comments that she suggested the northern residents of the Town should subsidize the sewer improvements in the southern area of the Town. The funds to cover sewer improvements in the north came out of the General Fund, and she advocated for the infrastructure improvements of the sewer system in the south to be paid for from the General Fund as well.

Vice Mayor Dodd looked forward to welcoming a new Commissioner to the team.

Commissioner Vincent expressed his appreciation for the chance to serve with Commissioner Clottey. He thanked her for her service to the Town. Commissioner Vincent congratulated and wished the two candidates, Edmund Malkoon and Mark Brown, luck in the upcoming Town election on January 31, 2012.

Mayor Minnet recessed the meeting at 8:45 p.m. and reconvened at 9:00 p.m.

16. OLD BUSINESS

a. Fire Truck Purchase (Finance Director Tony Bryan)

Finance Director Bryan stated the Fire Department had made a presentation last summer to demonstrate their need for a new fire truck. Based on that presentation, the Commission agreed to budget $325,000 in Fiscal Year (FY) 2012 for the purchase of a new truck. He indicated the Volunteer Fire Department (VFD) established a truck committee.

Battalion Chief Riley Paine gave a presentation that illustrated why the VFD believed that the E1 Cyclone II 1,500-gallon-a-minute pumper would meet the needs of the Town and its citizens. The truck ordered would be very basic, because but most of the added amenities were already owned by the VFD and could be transferred from the old truck to the new one.

Mayor Minnet sought clarification the proposed cost of the truck was $324,836. Battalion Chief Paine answered yes.

Town Manager Hoffmann inquired as to how long the delivery of the new truck would be from the time the order was placed. Battalion Chief Paine replied six months.

Vice Mayor Dodd commented the truck would be Town property.

Commissioner Clottey asked if the old truck would be salvaged.

Lieutenant Chavez responded the VFD would follow the Town Manager's direction. They were maintaining the old truck in order to try to get the best possible sale price.

Town Manager Hoffmann pointed out the Town's purchasing regulations required the Town to auction off the fire truck.

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

Mayor Minnet requested that the contract for the new truck should read "The Town of Lauderdale-By-The-Sea" rather than the "The City of Lauderdale-By-The-Sea." She noticed that the Town was piggybacking on the Hillsborough County contract, which provided for a half a percentage discount if payment for the truck was quick. As the Town was paying cash on delivery (COD) for its new truck, she wondered why the discount of half a percent was not accorded to the Town.

Lieutenant Chavez was unsure and would look into the matter and let the Town Commission and Manager know his findings.

Mayor Minnet asked if the truck to be auctioned off was purchased in 2008.

Lieutenant Chavez confirmed it was purchased in 2008/2009.

b. Harbor Drive Drainage Project (Municipal Services Director Don Prince)

Municipal Services Director Don Prince sought direction on whether the Town could proceed with the Harbor Drive Drainage as one project or as it was budgeted and put into the storm water master plan as two phases. Phase I, from Sea Grape to East Tradewinds Avenue, was budgeted at $169,000 in the current year's budget; Phase II, from East Tradewinds Avenue to West Tradewinds Avenue had yet to be included in the capital projects plan. When the Town contracted for the design in September 2011, he had the design done for the entire street to ensure there was a consistent drainage plan and save the Town some money on design fees. He felt if the drainage project could be done as one phase, it would save the Town money by reducing mobilization costs and avoid tearing the roads up twice.

Vice Mayor Dodd favored one phase.

Vice Mayor Dodd made a motion to allow Municipal Services to combine Phases I and II of the Project. Commissioner Sasser seconded the motion. The motion carried 5-0.

Municipal Services Director Prince stated he would prepare the invitation to bid and present it to the Commission for review prior to sending it out.

Town Manager Hoffmann commented, once the project was bid, Town staff would ask the Commission to appropriate additional funds needed in the Capital Improvement Plan (CIP) to cover the cost. It was hoped the contingency account in the Capital fund would cover the extra cost.

c. Renewal of the Solid Waste Collection Contract (Assistant Town Manager Bud Bentley)

Commissioner Vincent recommended, until the yard waste program was implemented, Town staff get a notice out to citizens telling them not to put their yard waste in the regular disposal bins, but to hold it until bulk pickup day. He wondered if the shift in the tonnage and the anticipated decrease in the tonnage of regular trash would cause rate fluctuations in either direction.

Assistant Town Manager Bentley affirmed this to be the case, holding that applied to the CPI and the tipping fee as equal.

Vice Mayor Dodd noted the majority of the contract appeared to refer to residential customers, and he preferred to see a mixed use where any property, residential or commercial, could opt into the system with the same collection charge. Secondly, he wished to see a contract renewal for two years only in order to give recycling the priority. He also felt a two year extension would cause the vendor to maintain a high level of service to the Town.

Assistant Town Manager Bentley commented the Town was unable to regulate commercial recycling by state law. On the matter of a two-year extension he said the contract was negotiated predicated on the understanding the Commission preferred a three-year extension. The contract specified that any renewal would be between three and five years. As the Commission communicated it did not want a five-year renewal, Town staff focused on the three-year renewal.

He mentioned there were a number of factors in the contract Town staff extracted and negotiated with Choice, such as the disposal of yard waste. If the Town wished to implement yard waste collection, Choice would purchase the necessary containers. He stated if the contract ended prematurely, the Town would have to reimburse Choice for the yard waste carts for the remaining period of the contract.

Commissioner Clottey inquired whether it was possible to have two bulk pickup days per month that included yard waste, and whether it would be cheaper than using separate bins.

Assistant Town Manager Bentley felt this was a Commission policy decision, as it had to do with the cleanliness of the community and the aesthetic standard desired. He was unsure which method was more cost effective in relation to yard waste disposal, noting the transportation expense for yard waste was much higher per can.

Commissioner Vincent favored a three-year renewal period over a two-year period, as stated in the terms of the existing contract. He asked why, if Choice ending their contract prematurely, the Town would wish to keep yard waste carts that had Choice's name on them.

Assistant Town Manager remarked the contractor's name would not be identified on the cart; thus, any vendor could assume service using the carts. At the end of the contract, ownership of the carts reverted to the Town, eliminating the need to purchase the carts if the decision was made to change waste disposal vendors.

Mayor Minnet recalled numerous discussions on the color of the containers, and when the Town switched the service to Choice, this was a significant issue, as residents disliked the color of Choice's containers.

Assistant Town Manager Bentley responded the contract would include language to the effect that the color of the new carts would be specified by the Town.

Commissioner Sasser stated under the new contract, the Town would realize lower rates next year due to the reduced tonnage on the garbage side. A three-year term was acceptable. Commissioner Sasser opined, from a business perspective, the favorable terms the Town had in what was now being presented, and if it were a private contract, the desire would be to lock Choice in for even more years.

Grant Smith, representative for Choice Environmental, said he was unable to grant Vice Mayor Dodd's request for the proposed contract to allow commercial customers the same sized recycling bins at the same rate as residential. He was not on the operation side of the business, but he could bring the answer back to Assistant Town Manager Bentley. In light of their company's acceding to all the Town's requests, he felt a three-year term was well justified.

Commissioner Sasser reiterated the Town could not regulate commercial recycling by state law, so a private business could opt to use another company for its recycling.

Mayor Minnet emphasized the vote was to move the process forward for Town staff to draft an ordinance for first reading on February 14, 2012; as there would be two readings, there was ample time for other changes to be made if necessary.

Commissioner Sasser made a motion to approve moving forward with the first reading of an ordinance on February 14, 2012, recommending approval of renewal of the solid waste contract. Commissioner Vincent seconded the motion. The motion carried 4-1. Mayor Minnet voted no.

d. Reconsideration of Holding Additional Town Events (Commissioner Birute Clottey)

Commissioner Clottey stated that some members of the community were against multiday events. She felt the Town's Chamber of Commerce, should foot some of the costs of the events or organize local businesses to do so. There had to be a balance in the Town between business rights and resident rights. Businesses had the responsibility to help publicize the Town and its amenities.

Commissioner Clottey made a motion to reconsider holding additional Town events. The motion failed for lack of a second.

17. NEW BUSINESS

a. 19th Street Drainage (Municipal Services Director Don Prince)

Municipal Services Director Prince advised that early in November a rain event led to widespread flooding throughout the Town. After the majority of the water receded throughout the Town, Town staff observed there was still significant water standing on 19th Street. He instructed Tele-Vac to televise the Town's drainage system in that area to determine the problem. It was discovered there were multiple collapses in mostly the HTPE, plastic drainage pipe there. Several engineers were contacted from the Town's continuing service list to get proposals to redo the drainage in the subject area. He recommended the Commission authorize Town staff to hire Chen Moore Engineering to design repairs to the 19th Street drainage at a price of $30,134. Although this was and unbudgeted item there were some funds in one of the accounts that were not being used. Funding options will be presented to the Commission at a later date.

Mayor Minnet clarified this was storm water, not sewage.

Municipal Services Director Prince said it was.

Mayor Minnet inquired as to when the storm water pipes were installed.

Municipal Services Director Prince said he was unsure, but they were installed when the area was part of unincorporated Broward County.

Commissioner Vincent wondered if the Town had done any drainage designs for Bel Air in the past.

Municipal Services Director Prince replied none that he was aware of; there had been only two point repairs to small sections of pipe there.

Commissioner Sasser questioned how the Town normally budgeted for such situations, asking if storm water drainage was paid for out of the sewer fund.

Town Manager Hoffmann said no. The sewer fund was completely separate from the storm water funding; the storm water repairs were covered by General Fund transfer to the Capital Fund. The project was unexpected and an emergency, it could be handled by reordering the Town's priorities in the Five-Year CIP. Town staff would come back to the Commission with the funding recommendation. The Town had no storm water fund.

Mayor Minnet clarified the storm water fund was eliminated some time ago, as there were questions as to the methodology and who benefited from it: was it the whole Town

or just a particular community. She queried if Town staff examined any of the Town's other storm water pipes to the north to determine if there might be problems.

Municipal Services Director Prince replied other problems were possible, and there had been some televising of the drainage system in that area. Staff could instruct Tele-Vac to televise the Town's drainage system in the subject area.

Mayor Minnet thought it important to do so. If the need for additional repairs was found, the Town Commission and staff would have to analyze where in the CIP budget this could be accommodated or the matter had to be taken further to a storm water fee.

Commissioner Clottey asked about the condition of the storm drainage on 16th and 21st Avenue. She believed the pipes were installed in the 1990s.

Municipal Services Director Prince responded one of the areas was three properties away, where a point repair was done.

Vice Mayor Dodd inquired if Mr. Prince's report was written before or after he saw the demonstration on fiberglass lining the pipes.

Municipal Director Prince answered the report was written before. He believed it was not possible to use fiberglass lining on this type of drainage pipes.

Vice Mayor Dodd thought a study and a complete mapping of the Town was done of the different levels.

Municipal Services Director Prince indicated that a topographical survey was done as part of the storm water master plan that showed everything in the right of way, such as hydrants, driveways, water pipes, etc.

Vice Mayor Dodd expressed concern over the seemingly rapid deterioration of the plastic storm water pipes. He wondered if the televised pictures revealed poor installation, the impact of tree roots, etc.

Municipal Services Director Prince explained HDPE was a black, corrugated plastic pipe that many contractors and some engineers liked, but the key was its proper installation. If properly installed, it lasted about 50 years; if not, the pipes could collapse with the ground shifting and pipes breaking and dirt getting in. The Town had done some point repairs on this system. The black pipes were not his choice, as he preferred reinforced concrete pipe that was simpler to repair on site. Once the black pipe collapsed, there was little choice but to dig it up. He was unsure if the fiberglass repair would work in the black pipe; but, in the subject instance, it would not work, as it was too big of an area.

Vice Mayor Dodd felt if the pipes were installed in recent years it was surprising that a new and expensive design for the area was needed.

Municipal Services Director Prince noted the Town was dealing with the South Florida Water Management District (SFWMD), as the Town had two outfalls in the area, and the rules changed drastically. Currently, if an outfall was involved, a municipality had to go through permitting with the SFWMD and show that the water was being treated or the amount of water going through the outfall was reduced. He indicated SFWMD would not allow the same amount or more to go through an outfall, and they would not allow the addition of a new outfall. David Chen from Chen Moore preferred to put the new pipes in the footprint of the old system, but there were challenges in the form of expensive driveways along the right of way.

Commissioner Vincent thought no engineer would sign off on any existing design without doing their own study, so they were able to take full responsibility for the design they produced; a new design was inevitable. He asked were there other areas of concern that might come up for consideration in the future.

Municipal Services Director Prince responded one area of concern was already being addressed in the area of Flamingo Avenue. There was a tentative start date for that project of February 6, 2012.

Commissioner Vincent felt the Commission needed to discuss the implementation of a storm water fund reserve.

Vice Mayor Dodd clarified the Town would need to bring everything up to the current regulations for the 19th Street area. If the original drainage scheme was implemented with pipes that worked, they would drain the road without causing any major problems. He believed the Town was allowed to repair damage to the existing drainage system, but with a new design, everything had to be brought in line with current code.

Mayor Minnet said the Commission needed to hold a workshop to discuss the establishment of a storm water fee to address such occurrences. However, the current situation was an emergency that had to be taken care of.

Commissioner Vincent made a motion to allow the Town Manager to move forward with a work authorization with Chen Moore in the amount of $30,134 for the 19th Street drainage repair. Commissioner Clottey seconded the motion. The motion carried 5-0

Town Manager Hoffmann noted the approval of this design work would cause the Town to exceed the previously authorized annual amount of the Chen contract, and a motion was required to enable an increase in that contract. The Town could choose to either raise the cap or award the job to another company; Town staff already contacted three or four companies, and multiple proposals were received, and Chen's design proposal was felt to be the best for the Town.

Commissioner Vincent made a motion to authorize an increase the threshold of Chen Moore & Associates' contract to accommodate the above design services. Vice Mayor Dodd seconded the motion. The motion carried 5-0.

b. February 14th Commission Meeting – Time and Agenda (Assistant Town Manager Bud Bentley)

Mayor Minnet referred to section 6.2 in the Town Charter. She said the language indicated that on the second Tuesday following each regular election, the Town Commission had to meet and appoint a vice mayor, which was February 14, 2012.

Attorney Trevarthen mentioned under section 2-17 of the Town Code, the swearing in of the newly elected members of the Commission should take place the Monday following the date of the election, which was February 6, 2012. Section 2-24 stated no member of the Commission could serve consecutive terms as the Vice Mayor.

Commissioner Sasser asked if the Commission would meet solely for the purpose of selecting a vice mayor or would there be a full agenda.

Attorney Trevarthen responded, other than the filling of the vice mayor position, the rest of the agenda was at the Commission's discretion. Town staff should be consulted as to whether there were any time sensitive issues on the February 14 agenda.

Mayor Minnet explained there were two items on the February 14, 2012 Commission agenda for consideration: Athena By The Sea St. Patrick's Day Special Event and the One-Year Contract renewal for Alley Oop Skim Florida.

Town Manager Hoffmann remarked there would also be the first reading of the Choice franchise ordinance.

Mayor Minnet received a consensus to have a regular meeting with a full agenda on February 14, 2012.

Town Manager Hoffmann desired some direction from the dais as to meeting dates to refine the East Commercial design concept, as she was hesitant to delay the process until February 28.

Mayor Minnet suggested at the Special Commission meeting on February 6, 2012, the night of the swearing in, as many members of the public would be in attendance.

Town Manager Hoffmann was unsure if they would have the documents ready in time for that date; she would let the Commission know.

c. A1A Landscaping Project (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley had a discussion with a representative of the Ocean Sounds Condominium, noting the building was located on the east side of the road, and they owned land on the west side. There was no landscaping planned under the A1A beautification project in either location, as the right of way line was at the back of the

curb. The representative inquired as to alternatives and, short of them dedicating property to the state for additional right of way, they had the option of granting a landscaping easement to the Town to allow landscaping on its property along A1A. This was acceptable to FDOT, and the Town could continue its existing landscaping design. He explained the Town staff had yet to calculate the cost of the additional trees, but he felt it would still be within budget, as some of the other properties requested the Town not to put in as many trees as specified in the plan. The matter was being brought to the Commission to discover if they wished Town staff to spend the money to draft an easement document that would be executed by Ocean Sounds and then brought back to the Commission for approval. The document was estimated to take the Town Attorney about three to four hours to prepare.

Commissioner Vincent asked if the dedicated landscape easement would go to the Town or the state.

Attorney Trevarthen replied, though there was no survey as yet, the dedication would be based on ownership.

Assistant Town Manager Bentley commented Town staff would speak with the state as well. At present, the area was being bypassed, as there was no right-of-way for its inclusion in the project's landscaping plans.

Vice Mayor Dodd wondered if the Town was expected to install and maintain the landscaping.

Assistant Town Manager Bentley answered yes, this was the same as all the landscaping being installed along the A1A corridor.

Commissioner Sasser thought it important for the agreement on the right-of-way easement to include language that gave the Town the ability to both install plants and maintain the landscaped easement.

Town Manager Hoffmann indicated staff would present the matter, along with additional details at future Commission meeting.

Assistant Town Manager Bentley mentioned a quick review of the authorization for the execution of the A1A construction contract showed no authorization to the Town Manager to approve change orders. It would, therefore, fall back on the purchasing code that had a limit of $15,000.

He also reported the Commission was sent an email about Town staff authorizing the subcontractor that was installing the crosswalk to work the previous night, and the rest of the crosswalks would be done in the daytime. However, the effort the previous night was so successful that the subcontractor requested that the Town allow them to work the next night to finish the project, which he authorized.

18. ADJOURNMENT

Vice Mayor Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:30 p.m.

19. FUTURE AGENDA ITEMS

Roseann Minnet

Mayor Roseann Minnet

ATTEST:

June White, CMC

Town Clerk, June White

2-29-2012

Date