TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Thursday, March 4, 2010

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Birute Clottey, and Commissioner Stuart Dodd were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, Town Clerk June White and Deputy Clerk Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Reverend Hunsaker gave the Invocation.

Commissioner Dodd wanted to discuss tents on Election Day. He wanted to add an item to change the time of the March 15, 2010 Organizational meeting from 5:00 p.m. to 7:00 p.m. as Old Business 15b. Vice Mayor McIntee requested the addition of the Town Easter Event, April 3, 2010 as New Business item 16a. Commissioner Clottey requested that Old Business item 15a regarding PBS&J (Post, Buckley, Schuh & Jemigan) be brought forward prior to public comments. Commissioner Dodd wanted to discuss the Town Manger's Report, item 8 to obtain a vote from the Commission, prior to presenting the report. Mayor Minnet granted the requests.

4. PRESENTATIONS

a. Proclamation – Proclaiming April as Florida's Water Conservation Month

b. Proclamation – Proclaiming May 10 through May 16, 2010 as Water Reuse Week

Mayor Minnet thanked Carol Morris of the South Florida Water Management District and stated that Lauderdale-By-The-Sea supported water conservation. She presented Ms. Morris with both Proclamations.

15. **a.** Commission approval of contract agreement with PBS&J, Fort Lauderdale, in the amount of $58,300.00 for the design of the Florida Department of Transportation (FDOT) Local Agency Program (LAP) SR-A1A Enhancement

Project FM-418022-1, Pine Avenue to Terra Mar Drive (Assistant Town Manager Olinzock) *Deferred at the February 23, 2010 Commission meeting by Commissioner Silverstone*

This item was brought forward for discussion by Commissioner Clottey.

Scott Sasser was concerned that PBS&J remained on the pre-qualified list as of February 25, 2010. He did not want the project to be delayed past the deadline and urged the Commission to consider 2 things: 1) consider the information provided by PBS&J that stated there may have been violations and 2) to consider the other 2 design proposals.

Vice Mayor McIntee asked Harry Belton, Senior Landscape Architect for PBS&J to explain the violations. Mr. Belton said there were 2 issues and one of them was something that had happened 15 years ago and the accusations were made by someone who was being sent to jail for embezzling money from PBS&J. He said the other one related to a project that PBS&J was a sub-consultant on and it appeared that the prime consultant had done something in an attempt to obtain work in the Middle East. Mr. Belton said that PBS&J did their own investigation and there was no evidence that anything was done wrong.

Mayor Minnet inquired as to why the 2 other proposals were not included. Manager Colon said there were over 15 responses to the RFQ and when the Town short listed to 3, the Commission approved. Assistant Town Manager Olinzock explained that when short listing occurred, by Statute negotiations began with the first choice and if not successful, negotiations would continue with the second choice and then the third.

Commissioner Dodd agreed that the Commission did agree to the short listing, but he did not like the way it was done. Commissioner Dodd questioned why Assistant Town Manager Olinzock referred to the gentleman on a first name basis as "Harry", in his email and did not divulge that to the Commission and the fact that the company had done prior work for the Town. He stated that any association with any company should be brought to the attention of the Commission. Commissioner Dodd believed that the Commission would get the results of the negotiations with all 3 companies and the Commission would decide who received the contract.

Manager Colon clarified that the Commission received every proposal and every name was on the list, along with the evaluation criteria which indicated that the Commission would approve the short list. She said the Town had worked with PBS&J during hurricane season. Manager Colon said the Town was not paying for the design; FDOT was paying for it and therefore, every proposer knew exactly what the amount was and would not negotiate amounts with her. Manager Colon stated that nothing that was done wrong; the Town did what they were directed to do and followed the law.

Vice Mayor McIntee asked whether Assistant Town Manager Olinzock ever talked with people on a first name basis in all the years of his tenure. Assistant Town Manager Olinzock said all his dialogue started with first names unless he did not know it or they were a dignitary.

Commissioner Clottey said the Commission did not state that negotiations were to go with all 3 proposers. She said the request was for a Request for Qualifications and not a Request for Proposals. Commissioner Clottey explained that the Commission operated this way for over 3 years and believed people should go back and look at the tapes prior to making accusations.

Commissioner Silverstone appreciated the concern that something improper may be going on with PBS&J, but when he learned the issue was something that happened 15 years ago, he thought it was outdated.

Commissioner Silverstone made a motion to approve. Vice Mayor McIntee seconded the motion. The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no.

5. PUBLIC COMMENTS

Liliana Pomareda believed it was disrespectful for people to photograph and/or tape children and place them on YouTube without parental permission.

Diane Kugler stated that Ms. Liliana strolled her children across the sidewalk where campaign signs were being held. She asked that the video be played. Mayor Minnet allowed it. Vice Mayor McIntee made a Point of Order and objected.

Vice Mayor McIntee made a motion to not allow the video to play. Commissioner Silverstone seconded the motion. The motion carried 3-2. Commissioner Dodd and Mayor Minnet voted no.

Chris Vincent believed a report on community involvement would have been more appropriate and recognized the accomplishments of the community.

Barbara Cole did not believe anyone in the audience should be able to video tape.

Marjorie Evans reported on the eco friendly businesses in Town.

Paul Novak requested direction from the Commission regarding the Master Plan Steering Committee (MPSC) members working on the El Mar Drive Streetscape Project that they were to get shovel ready. He was concerned should some members be replaced on May 1, 2010. Mr. Novak requested professional assistance.

Vito Chiarello believed the residents were very passionate when it came to politics, but did not believe there should be rudeness.

Monaliesa Pettersson gave her account of the incident on Monday, March 1, 2010. She said a big man stood in front of her and would not move.

Joe Couriel believed the direction of politics needed to be changed in Town so that everyone could enjoy a peaceful life with their neighbors.

Bob Fleishman believed it was not Town business for the Town Manager to report on the good or the bad of the Commission.

Mark Brown believed there was a double standard between the people on the dais and the audience.

Spiro Marchelos encouraged everyone to make the right decision as every vote counted.

Cindy Geesey stated that the taxpayers paid for the A1A project in one way or another.

Frank Herrmann stated that intimidation stopped inside the privacy of the voting booth.

Diane Boutin welcomed diversity and difference of opinion but good leadership was needed to take the Town into the next 15 years.

Rosa Michailiuk thanked everyone on the dais for what they did and wished everyone good luck.

Cristi Furth asked what happened to unity. She believed this election had taken a new low as pictures and stories promoted lies, character assassination.

Bill Vitollo looked forward to seeing designs for the A1A project.

Ron Piersonte met a Commissioner of another Town who thought Lauderdale-By-The-Sea had interesting meetings.

There were no more speakers.

6. REPORTS

7. PUBLIC SAFETY DISCUSSION

Mayor Minnet asked for an explanation of the incident that took place last Monday. Chief Llerena explained that BSO was called out to a disturbance and upon investigation determined that although it was an unfortunate incident, no crime or criminal act was committed.

Vice Mayor Minnet asked whether any police report was made. Chief Llerena stated that both sides gave their own view of the incident.

Commissioner Silverstone thanked BSO for being at the incident when called.

Vice Mayor McIntee asked why the word "Volunteer" was removed from "Volunteer Fire Department". Chief Perkins said they just took it off. Mayor Minnet asked Chief Perkins what type of fire department the Lauderdale-By-The-Sea Fire Department was. Chief Perkins said they were Volunteer. Commissioner Silverstone asked whether there was a reason for removing the word "Volunteer". Chief Perkins said they just took it off.

Commissioner Dodd stated that it was up to the Chief as to whether they want to put it back on.

8. TOWN MANAGER REPORT

a. Commission & Staff Past & Present Accomplishments

Commissioner Dodd believed this report would have been more appropriate at the March 15, 2010 Special Meeting, and felt that the presentation may have given current Commission members an advantage over their opponent.

Commissioner Dodd made a motion to defer this item to the March 15, 2010 Special Meeting.

Commissioner Silverstone said that historically, this was always done. He said it was a positive thing and should continue.

Commissioner Clottey said what Commissioner Dodd was doing was political.

The motion failed 3 – 2. Commissioner Silverstone, Commissioner Clottey, and Vice Mayor McIntee voted no.

Manager Colon thanked Diane Boutin and Assistant Town Manager Olinzock for their work on the A1A Scenic Highway Project. She also thanked the Commission for going ahead with the proposal for the FDOT LAP project. Manager Colon gave a brief overview of the presentation and explained that residents were invited to attend Capital Improvement workshops and Budget meetings. She presented a PowerPoint outlining several accomplishments including a decrease in millage rate from 4.700% in FY 2005-2006 to 3.9990% in FY2008-2009. Manager Colon pointed out a decrease in the Town Fire Assessment from $260 in FY 2005-2006 to $130 in FY 2008-2009. She explained that the Town was currently debt free in Governmental Funds, and that Town revenues have always exceeded expenditures since FY 2004-2005 with the exception of FY 07-08 due to the completion of certain projects. Manager Colon explained that since 2001 the Town spent over $33 million on Capital Improvement projects with $14.5 million coming from debt service. She emphasized that the Town received over $3.4 million in grant funds since 2001 and urged residents to contact their constituents regarding future grant funds. Manager Colon highlighted that the Town had an emergency reserve of approximately $2.3 million, and funding for several projects including the El Mar Drive Streetscape Project, the A1A Streetscape Project, beach re-nourishment, bus shelters, and drainage for the pavilion area. She projected that the Town would be able to offset the upcoming decrease in property assessed values, and for the first year the Town has funded recreational activities. Manager Colon said that everyone should be proud that the Towns' Governmental Funds were debt free.

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

Commissioner Dodd was concerned that this type of presentation was never given before an election and felt that it was a political demonstration. He expressed that he

would have preferred receiving the handouts in advance to have the opportunity to prepare questions and felt that the Town Manager's comments were disrespectful.

Vice Mayor McIntee felt that the Town Manager was doing a wonderful job and said the Town was in great shape.

Commissioner Silverstone said that the annexation problem was working itself out and the Town was going in the right direction. He said that the numbers do not lie.

Manager Colon explained that her presentation had nothing to do politics and that the Town had no financial problems. Mayor Minnet questioned an outstanding debt in the proprietary fund. Manager Colon explained that that fund was run like a business and was paid by meter revenues; not by ad valorem taxes. Commissioner Silverstone clarified the amount budgeted for staff salaries and budgeted insurance cost, and he thanked the Town Manager for keeping those numbers low.

Commissioner Silverstone made a motion to approve the Town Manager Report. Vice Mayor McIntee seconded the motion. The motion carried 4 -1. Mayor Minnet voted no.

9. APPROVAL OF MINUTES

a. February 17, 2010 Special Meeting Minutes

b. January 26, 2010 Regular Meeting Minutes
Deferred at the February 23, 2010 Commission meeting by Commissioner Silverstone

Commissioner Silverstone made a motion to approve the minutes February 17, 2010 and January 26, 2010. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

10. ORDINANCES – PUBLIC COMMENTS

1. Ordinances 1st Reading

2. Ordinances 2nd Reading

11. COMMISSIONER COMMENTS

Commissioner Clottey spoke with Dr. Brenda Snipes, Supervisor of Elections regarding absentee ballots. Commissioner Clottey stated that if someone requested an absentee ballot at one time they may have checked the box to receive future absentee ballots and that is why they were receiving them now. She added that they could still vote in person on March 9, 2010. Commissioner Clottey assured that the residents to be affected by the A1A Streetscape Project will have the opportunity to give input at a future meeting. She believed certain people in Town pushed other people around because they felt they could. Commissioner Clottey questioned why inappropriate

behavior and racial slurs were allowed by the Chair. She said the Town needed fairness and urged everyone to vote.

Commissioner Silverstone described his account of a situation that took place earlier in the week and explained that he called the Police to deal with the situation. He said that respect was lost in the Town.

There was a disturbance in the audience and Vice Mayor McIntee made a Point of Order to clarify that the rule was one warning and then the person must leave the room. Mayor Minnet asked for everyone to move forward with the meeting instead of removing the individual. Commissioner Clottey made a motion to overrule the chair. Vice Mayor McIntee seconded the motion. The motion passed 3-2. Mayor Minnet and Commissioner Dodd voted no. There was another disturbance in the audience and Mayor Minnet asked those individuals to leave. Commissioner Clottey made motion to overrule the chair. Vice Mayor McIntee seconded the motion. The motion passed 3-2. Mayor Minnet and Commissioner Dodd voted no.

Commissioner Silverstone continued his comments. He explained that local papers and reporters had a responsibility to get their facts straight. Commissioner Silverstone said he enjoyed talking to residents; however some people crossed the line of respect towards his friends and loved ones.

Commissioner Dodd gave a verbatim of Commissioner Silverstone's answers to his questions at the last Commission Meeting regarding the questions Commissioner Dodd asked the Town Manager. Commissioner Dodd felt placing items on the agenda was the proper way to do things. He clarified that he received a timeline from the Town Manager regarding the Choice negotiations; however did not receive a copy of the complaint or when it originated. Commissioner Dodd said the sale of the warehouse property was never properly listed on MLS, and questioned who gave authority to install the shields for turtle lighting. He also questioned who ordered the wrong lights that FPL put up for the Minto lighting, and asked for the Town to tell them to put up the correct lights. Commissioner Dodd said there was a serious problem with having the parking lots in darkness as it was a safety issue. He felt his way of conducting Town business was the right way to do it and stated that he was following up on a situation involving AMR. He asked for everyone to be respectful while campaigning and asked everyone to go out and vote.

Vice Mayor McIntee thanked the employees for sitting through 12 or more hours of meetings and suffering through the comments. He thanked the employees that kept the streets clean; gave praise to the VFD and BSO. He believed that intimidating people with signs and putting children on YouTube was outrageous. Vice Mayor McIntee believed the Town was in good shape. He predicted that the height restriction currently at 33 feet would go to 44 feet.

Mayor Minnet said that she has taken the high road and will continue to do so in the future. She said historically, she believed that the Town never had an accomplishments presentation until after the new dais was seated, and she had not condoned behavior from anyone. Mayor Minnet said she was not leaving Town and stated there were 3 sides to every story. She asked for everyone to come out and vote, and to attend the

A1A Scenic Highway Open House on March 26, 2010. Mayor Minnet reminded everyone of the Beach Clean-Up on March 6, 2010 and the Craft Festival on March 13, and 14, 2010. She asked for everyone to fill out the 2010 Census and thanked everyone who spoke.

12. CONSENT AGENDA

Mayor Minnet pulled 12b and 12d for discussion.

Commissioner Dodd made a motion to approve items 12a and 12c on consent. Commissioner Clottey seconded the motion. The motion carried 5-0.

a. Commission approval of Special Event Application for Easter Sunrise Service 2010, Sunday, April 4, 2010, 5:00 AM till 8:30 AM, a Town sponsored event (Assistant Town Manager Olinzock)

b. Commission approval of Special Event Application for Athena By The Sea Wine and Food Festival 2010, Saturday March 13, 2010, Sunday March 14, 2010, Wednesday March 17, 2010 1:00 PM till 11:00 PM, waiving the 60 day submission requirement of the Town Code (Assistant Town Manager Olinzock)

Ken Kugler asked that political differences be put aside and approve the application.

Vice Mayor McIntee questioned whether Mr. Marchelos was familiar with the 60 day rule. Louis Marchelos said he was busy. Commissioner Dodd advised Mr. Marchelos monitor the noise level very carefully. Commissioner Silverstone asked whether the event would affect any streets. Mr. Marchelos said it would not.

Commissioner Dodd made a motion to approve. Commissioner Clottey seconded the motion. The motion carried 4-1. Vice Mayor McIntee voted no.

c. Commission approval of Special Event Application for Angel's Pediatric Heart House Fundraiser 2010, Sunday March 21, 2010, 12:00 PM till 9:00 PM, refund of the $100.00 application fee, waiving the 60 day submission requirement of the Town Code (Assistant Town Manager Olinzock)

d. Commission approval of a Special Exception for the placement of rooftop antennas within the RM-25 zoning district per Town Ordinance 30-325 (d) (6) (Assistant Town Manager Olinzock)

Betty Tufford, Clearwater Broadband Internet stated there was a new wireless internet technology that was not on the telephone, but on a desktop.

Vice Mayor McIntee inquired as to whether they were paying the Town a Franchise fee. Ms. Tufford said it was on a privately owned building. Vice Mayor McIntee asked how many were needed to cover the Town. Ms. Tufford one building would hold the

antenna for the whole Town. Vice Mayor McIntee pointed out that the telephone and cable company paid a Franchise Fee.

Commissioner Silverstone believed the Town charged a franchise fees for utilities. Manager Colon said there was a telecommunication service tax that was not currently on a Broadband.

Commissioner Clottey inquired of the amount the people would be charged and when will they start. Ms. Tufford stated there would be a variety of services beginning at $25 and would be ready by end of year.

Mayor Minnet asked why this item was on the agenda at this time as it was not to come up before March 23, 2010. Assistant Town Manager Olinzock said that since it went through departmental review smoothly he changed it to the March 4, 2010 agenda. Mayor Minnet asked whether he saw any issues that may require and ordinance in the future. Assistant Town Manager Olinzock said he did not.

Commissioner Silverstone inquired of any danger of electromagnetic radiation from the antenna. Ms. Tufford stated they had to abide by the same FCC laws. She added they had lower emissions than the regular cell phone.

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

13. RESOLUTION – "Public Comments"

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

a. Commission approval of contract agreement with PBS&J, Fort Lauderdale, in the amount of $58,300.00 for the design of the Florida Department of Transportation (FDOT) Local Agency Program (LAP) SR-A1A Enhancement Project FM-418022-1, Pine Avenue to Terra Mar Drive (Assistant Town Manager Olinzock)
Deferred at the February 23, 2010 COMMISSION meeting by Commissioner Silverstone

This item was considered earlier in the evening.

b. Discussion and/or action regarding time change for Special Meeting on March 15, 2010 (Commissioner Dodd)

This item was added at the beginning of the meeting by Commissioner Dodd.

Commissioner Dodd made a motion to approve to change the time of the Organizational meeting on March 15, 2010 from 5 to 7 p.m. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

16. NEW BUSINESS

a. Discussion regarding tents on Election Day (Commissioner Dodd)
This item was added earlier in the evening.

Mayor Minnet stated that pop up tents were allowed on Election Day as long as they contained a fire rated emblem.

Commissioner Dodd removed the item.

b. Discussion and/or action regarding Town Easter Event (Vice Mayor McIntee)

This item was added earlier in the evening.

Vice Mayor McIntee made a motion to nominate Commissioner Dodd the Chairman for the Easter Event and to waive all restricted times. He set the date for the event as April 3, 2010. Commissioner Silverstone seconded the motion.

Mayor Minnet believed it should be deferred until the next Commission. Commissioner Dodd stated that it would not be feasible for him to Chair the event.

Vice Mayor McIntee withdrew his motion. Commissioner Silverstone withdrew his second.

Mayor Minnet stated that Town staff would put it on the next agenda, March 23, 2010 to choose someone to Chair the Easter Event on April 3, 2010.

Mayor Minnet explained the meeting for March 15, 2010 was a special meeting to announce the election results and the time was changed from 5:00 p.m. to 7:00 p.m. She further explained that the Organizational Meeting was March 23, 2010 at 5:00 p.m. followed by the Regular Commission meeting at 7:00 p.m.

17. TOWN ATTORNEY REPORT

There were no reports.

18. ADJOURNMENT

Vice Mayor McIntee made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:20 p.m.

19. FUTURE AGENDA ITEMS

_____
Mayor Roseann Minnet

ATTEST:

_____ _____
Town Clerk, June White Date

DRAFT