

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

**4505 Ocean Drive**

**Tuesday, April 2, 2013**

**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, Assistant Town Manager Bud Bentley, Finance Director Tony Bryan, Municipal Services Director Don Prince and Town Clerk Vanessa Castillo.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Pastor James Corgee

Pastor James Corgee gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Minnet, on behalf of the Town Commission and community, welcomed new Town Clerk Vanessa Castillo.

5. PRESENTATIONS

a) Proclamation for Captain Angelo Cedeño

Mayor Minnet read and presented a proclamation to Captain Angelo Cedeño, as set forth in the backup, honoring his outstanding service to the Town.

Captain Cedeño remarked serving Lauderdale-By-The-Sea was a special moment in his career, one he would always treasure, as he formed great relationships with the Town's administration and community during his years of service.

b) Presentation of the Comprehensive Annual Financial Report (CAFR) (Town Manager Connie Hoffmann)

Town Manager Hoffmann commended Finance Director Bryan for his participation in the audit process.

Antonio Grau, partner and auditor with Grau & Associates presented the CAFR along with Audit Manager, Jennifer Wasserman, as illustrated in the backup.

Mayor Minnet thanked the auditors for doing a great job and recognized the Town's audit committee, Ben Freeney, Patrick Murphy and John Oughton for their services.

Vice Mayor Sasser noticed overall government expenditures increased considerably, and the backup stated it was due to how the Town accounted for building permits and Broward Sheriff's Office (BSO). He wondered if a breakdown of those expenditures was readily available to provide clarity on how the change resulted in the figures shown.

Finance Director Bryan replied he did not have the exact numbers at the present moment, but in terms of building permits, effective January 2012, the Town switched from Broward County to CAP Government, Inc. (CAP) to process the Town's building permits. Under the County, all the revenue was collected by them, and every quarter they issued the Town a check, which Town staff booked as the net revenues. He said under CAP, Town staff switched the process and part of the motivation was better control, so now all revenues were collected by the Town and deposited to its accounts. At the end of each month, CAP sent the Town an invoice for the amount owed to them, which was about 75 percent of the monies collected. He noted if the Town booked the full amount of the building permit gross revenues versus the net revenues the Town used to receive from the County, this would be a significant difference. However, the net amount to the Town increased since the switch, but he could not say it was all due to the change in the fee structure. He acknowledged the contribution of Ed Saint-Jean in the audit process, stating the fixed asset cleanup was a significant undertaking.

Town Manager Hoffmann concurred, stating Mr. Saint-Jean's work was one of the main reasons the Town received a completely clean management letter in the audit.

#### **c) Presentation of "Certificates of Appreciation"**

Fire Chief Hopping presented Merit Awards to the firefighters who responded to the recent HazMat propane gas leak incident on February 21, 2013, the names of whom were listed in the agenda backup.

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

Mayor Minnet opened the meeting for public comment.

Cindy Geesey expressed concern over Spicola Park that was dedicated in honor of the public service of Town Commissioner Spicola, noting it would be a shame to pave over the park. She asked that the Town to restore Spicola Park and preserve that portion of the Town's history. She mentioned toxic mold was a health hazard and real danger to

property, so the Property Owners' Association of Lauderdale-By-The-Sea would hold an informational meeting on Thursday, April 4, 2013, at 7:00 p.m. at Jarvis Hall, with a meet and greet at 6:45 p.m. Both residents and visitors were welcome.

Kurt Thoss, president of the Oriana Condominium and Master Associations, wished to address the special event application item on the agenda. He represented the interests of the 34 residential property owners at the Oriana, stating their community appreciated the efforts of the Town and local businesses to provide the much-enjoyed "Music By The Sea" event. However, as one of the communities closest to the event, they hoped the event organizers would adhere to the Town's current noise ordinance, including the 10:00 p.m. shut down in lieu of the recent variance that extended the cutoff to 10:30 p.m. The extension created a disturbance to area residents, as the noise nuisance would increase by positioning the band closer to the Oriana as part of the Town's East Commercial Streetscape Project. Accordingly, they were submitting a signed petition to the Town to request: 1) a rescission of the variance that allowed performances beyond 10:00 p.m.; 2) as an alternative, implementing an overall 50 percent noise reduction after 7:00 p.m. in order to maintain the 10:30 p.m. variance noise cutoff time.

Mayor Minnet suggested Mr. Thoss give the Town Clerk the petition, which he did.

Bill Ciani mentioned a letter he sent to the Town Commission a few weeks prior concerning street closures. It was a different Town and there were numerous new businesses that spent a considerable sum to start up their business and had very steep rents. He pointed out, for instance, when half of Commercial Boulevard was closed off during the New Year's celebrations, the businesses in that area suffered. The same applied to the "Music By The Sea" event when, again, half of Commercial Boulevard would be closed, again they expected to do little or no business. Friday and Saturday nights were the times when these businesses made the bulk of their sales to thrive. He referred to the seven businesses he represented along that street, noting they submitted affidavits to the Commission on the negative effects the road closures were having on their businesses.

Rosa Michailiuk remarked that since the Bougainville Drive improvements began, her house had started cracking, and she wished this situation placed on the record. When the project workers were doing the pavers on her parking lot, she told them she had extra pavers and they could have a few if needed. However, she later returned home to find they took all 190 pavers from her backyard. She spoke with the project manager and they were to return the pavers to her, yet she was still waiting for them to be brought back. The wall on her property that had been in place for a over 35 years now had a crack and was now leaning due to the work on the project; the wall was standing straight prior to the project commencing. She asked Town staff to look into the matter.

Al Alvarez spoke on the issue of street closures, stating he already spoken to the Town Commission and staff about the closures placing a burden on businesses to the south side of Commercial Boulevard. They spoke with the owners of Athena's and devised a better plan that considered all business owners both south and north of Commercial

Boulevard, and that plan would be presented to the Commission at its next meeting. The plan would be a group effort by all the businesses requesting a full street closure versus a half-street closure.

Edmund Malkoon handed the Town Clerk a document supporting the Town's preservation of Spicola Park, which was dedicated to Commissioner Spicola, a great man who rendered excellent service to the Town while he lived that deserved to be acknowledged. He noted the park had been left to decay with only its podium and plaque remaining, and in the past year and a half, he spoke on three separate occasions about preserving the park and hoped for some acknowledgement by the Town. The Town's goal to provide parking to meet the needs of the Public Safety Complex had grown to include 18 extra spaces, six of which would be built on the parcel containing Spicola Park; BSO's use of Bougainvillea Drive for access was fine as is. He said that the members of the Town Commission promised that when they were elected they would protect the physical and natural assets of the Town, and urged them to hold to that promise and remove Spicola Park from the Public Safety Complex parking plans.

Linda Spicola-Keerkel, daughter of Michael Spicola, remarked that it saddened her to stand before the Commission fighting to keep the park dedicated to her father for his service to the Town. As the dedication was recorded in the Town's archives, she wondered if those pages would be removed when the park was paved over as part of the planned parking lot. She said that her father dedicated his life to helping and serving the Lauderdale-By-The-Sea community and VFD, and she wondered if 29 parking spaces were more valuable than protecting the acknowledgement of his contributions in the Town's history.

Eric Yankwitt announced that in April they would host two events: a movie night on the second Friday of the month, "Singing in the Rain" and encouraged everyone to attend and bring an umbrella, so they could compete in a dance contest. The second was their first ballroom dance night on the third Sunday of the April. He indicated both events started at 6:00 p.m. in Jarvis Hall and proceeds went to charity. A partner was not necessary to attend ballroom night, and men were encouraged to come due to the overwhelming response of females to the event. He commended the Mayor for her hard work attending events and representing the Town.

George Hunsaker stated he personally experienced how hard Assistant Town Manager Bentley worked to transition the Town in the purchase of Choice Environmental Services of Broward, Inc. (Choice) by Waste Services of Florida, Inc. (WSI). His condominium was informed by WSI that beginning April 1st their bill would be 25 percent higher. Through his research and the efficient help of Town staff, he discovered they had been billed incorrectly since October 1, 2012, to their benefit, so it was shock to deal with a 25 percent increase. He thanked Vicky Eckels for helping with the recycling service.

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

**7. PUBLIC SAFETY DISCUSSION**

**a. AMR EMS Monthly Report – February 2013 (Chief Brooke Liddle)**

Vice Mayor Sasser sought clarification on what Code One meant.

Chief Liddle replied Code One was a response with no lights and sirens.

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

**b. BSO Monthly Report – February 2013 (Chief Fred Wood)**

Commissioner Dodd requested a progress report on the Automated License Plate Recognition (ALPR) cameras.

Chief Wood sent notifications to all bidders after the last Commission meeting, informing them of the vote. He contacted Iron Sky, the selected vendor, requesting an additional onsite meeting with Town staff. In visiting the various sites at which cameras would be located, they realized some would require longer range, more expensive cameras. He indicated that they identified the property owners, and he drafted an endorsement email to go out to them or their representatives. Additionally, he met with Iron Sky and asked them for clarification on a number of issues, so as to move forward with the contract. Updates would be sent to him the coming Friday, and they would meet with property owners to have them sign the agreement drafted by the Town Attorney.

Vice Mayor Sasser mentioned being asked by a few neighborhoods if they to put up the money for additional cameras, could they be installed by the Town's ingress and egress.

Chief Wood spoke with the project manager about the above possibility and was told there would be no difficulty if a neighborhood paid for their own cameras and became a part of the Town's server system.

Vice Mayor Sasser thought the Town might need a policy that indicated this was allowable, so he would place the matter on the next agenda for discussion.

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

**c. VFD Monthly Report – February 2013 (Fire Chief Judson Hopping)**

Commissioner Vincent questioned how close to being finalized was the report on the recent HazMat incident.

Chief Hopping commented that two other gas tanks had been identified. The first tank from 1967 was out of use, and the fire marshal instructed the property owner to fill it

with water. The second tank was at 2001 and was currently in use, and the gas company maintained that tank. He mentioned that in years past, the County did the permitting and inspections, so it was now a monumental task to locate all the tanks that could be in the ground without going to each property. The fire inspector was instructed, when he was inspecting properties, to look for gas tanks but, other than such action, Town staff would have to do an exhaustive and expensive door-to-door survey. Chief Hopping said on the property where the HazMat emergency took place, there were two gas tanks owned by the HOA that were abandoned when they converted to electrical power to heat their pools. It seemed that the Town needed a procedure in place at the permitting level to address how gas tanks should be handled when they would no longer be used. Both gas tanks were removed, and the second tank was found to be empty. The Town needed a permitting process for gas tanks.

Town Manager Hoffmann recommended having the fire marshal meet with CAP to discuss the permitting issue.

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

## 8. TOWN MANAGER REPORTS

### a. February 2013 Finance Report (Finance Director Tony Bryan)

Vice Mayor Sasser wondered why the police fund was only .82 percent of the budgeted revenue, as the Town was already 42 percent into the fiscal year. He had thought the finance report was to start highlighting large variances.

Town Manager Hoffmann believed that Vice Mayor Sasser was to meet and discuss with Town staff the issue of highlighting of large variances in the finance report.

Finance Director Bryan responded that some of the items, such as payroll were relatively easy to forecast, while other line items such as code fines, were not easy to forecast. The Town expected to receive a certain amount of revenue in code fines each year and budgeted for an estimated amount, but there was no steady pattern as to when code revenues came in. He stated where there was no discernible pattern; he estimated a flat monthly amount. The revenue for the police fund all came from fund balance and was already there with no drawdown on that appropriation, and there would be no activity on the revenue side throughout the year.

Town Manager Hoffmann added these were the funds that came from the sale of confiscated goods, and this did not happen very frequently.

Finance Director Bryan concurred, stating there were no budgeted forfeitures.

Town Manager Hoffmann commented the monies from the police fund would be appropriated for the purchase of the ALPR cameras.

Finance Director Bryan discussed the sewer fund, stating they were seeing the results of the effort made to repair the sewer infrastructure; it manifested itself in a rate revision from the City of Pompano Beach. Based on the past few months, he estimated the sewer payments would come in between \$70,000 and \$90,000 less than the Town budgeted. On the revenue side, the revenues for the last few months were coming in higher, about 14 percent more than budgeted. He requested information from Fort Lauderdale and received it earlier today about the volume activity to determine if there was any discernible reason for the revenues being higher than expected. If the revenue increase held, then the rate increases anticipated by the Burton 10-year Plan might not need to occur as soon as anticipated or they might be less.

**b. Planning and Zoning Board Membership (Town Planner Linda Connors)**

Commissioner Brown appointed Patrick Potts to the Planning and Zoning Board, giving a brief review of his qualifications to serve on that board.

Commissioner Brown made a motion to approve the appointment of Patrick Potts to the Planning and Zoning Board. Commissioner Vincent seconded the motion. The motion carried 5-0.

Vice Mayor Sasser asked why the current alternate did not automatically replace a board member when they left rather than appoint a new board member.

Town Attorney Trevarthen replied the code provision regarding board membership did not address selecting members; this was something the Commission discussed and agreed on each time there was an election. At the beginning of the current two-year cycle, the agreement was for each member of the Commission to appoint a member. She affirmed the function of the alternate was outlined in the code, and their function was to fill in whenever a regular member was absent from a meeting.

Town Planner Connors informed the Commission the Planning and Zoning Board had another vacancy, as it provided for two alternates; currently, there was only one. The alternate Vice Mayor Sasser selected did not accept the position.

Mayor Minnet suggested posting a notice on Channels 78 and 99 to see if anyone was interested in serving as a second alternate on the Planning and Zoning Board.

**c. Town Manager Report (Town Manager Connie Hoffmann)**

Town Manager Hoffmann called on the Choice representative to address the collection issues the Town was experiencing.

Damian Ribar, Area Manager for the South Florida operations of Waste Services of Florida, noted the issues he heard from communications with Town staff indicated WSI's service was not measuring up as expected. During the three-month acquisition

process that ended November 16, 2012, when WSI acquired Choice, there was a defection of numerous Choice employees that led to a breakdown in service. After the acquisition, new personnel was hired using more stringent hiring practices than previously used, including background checks and ensuring licenses to operate vehicles were current. He recommended holding monthly meetings with Town staff to establish and maintain active communication. They would institute a process by which they were notified immediately of service problems to expeditiously address them.

Vice Mayor Sasser found it particularly offensive to hear that the breakdown in service was more due to Town staff not getting the information on service issues to WSI in a timely manner, as was the inference that Choice's hiring practices were questionable. Nothing said by Mr. Ribar indicated the current service issues would be adequately addressed, and WSI needed to give better assurances that this would take place.

Mayor Minnet noted this was the first time WSI was being invited to speak on the present service issues the Town was currently experiencing.

Mr. Ribar clarified he did not mean to imply Choice hired criminals, but meant WSI's hiring practices differed from theirs, and it led to challenges in hiring qualified personnel.

Commissioner Dodd agreed with Vice Mayor Sasser about not feeling reassured the problems would be addressed and not recur. Service issues had to be solved immediately and not discussed at monthly meetings, and this was the assurance being sought; that is, what number and who should Town staff or anyone with a service issue call at WSI to get problems resolved.

Commissioner Vincent believed neither Choice nor WSI put a plan in place to deal with issues that could arise during the acquisition.

Town Manager Hoffmann reviewed the report as indicated in the backup:

- The Town had been awarded a \$100,000 grant from the state of Florida to help with landscaping costs on the West Commercial Boulevard Project, thanking Pat Himelberger and Hugh Johnson for being instrumental in that grant application
- Ms. Himelberger was commended for the successful online auction of the Town's surplus goods, in which \$51,000 in revenue was raised
- East Commercial Boulevard and Streetscape Project's Request for Qualification (RFQ) for Construction Manager at Risk (CMAR) was sent out and Burkhart Construction was hired to do the Value Engineering Constructability Analysis Cost Estimate Review
- Permitting process for the East Commercial Boulevard Project through the state was burdensome and lengthy, so an expediter had been hired
- West Commercial Boulevard project did not have the above issues and was moving ahead with satisfying various requirements, including those of FDOT's, and the tentative start date was the last week of May with an anticipated date of completion in December

- Town staff would bring back the work authorization and maximum price to the Commission at the next meeting
- Bougainvillea Drive's improvement project was finally winding down
- Public safety parking lot and issue with Spicola Park.

Commissioner Brown remarked, in reference to Spicola Park, it was the memorial and not the location that counted, as the location of a memorial was chosen where it would get the most exposure. As stated by Town Manager Hoffmann, no plaque had been awarded, nor had there been a resolution to that end. However, it was clear the Town Commission and general community wished to honor the service and memory of Commissioner Spicola. He believed the present Commission had the responsibility to formalize the honoring of Commissioner Spicola, and this would be done by the Town providing either a monument, plaque or some form of dedication. The best location for that dedication was in the existing Town Municipal Park.

Commissioner Dodd wished to confirm that the land where Spicola Park was on was not donated to the Town by the Spicola family.

Town Manager Hoffmann confirmed that the land was not donated by the Spicola family nor had the park been formally dedicated by ordinance or resolution.

Commissioner Dodd agreed with the sentiments voiced by Commissioner Brown, and thought the appropriate location was by the bocce ball court. Similarly, the dedications of Sylvia Neely and Shirley Forest should be looked into by Town staff.

Town Manager Hoffmann believed the Town did install a dedication plaque for Sylvia Neely in 2012 at the tennis courts.

Mayor Minnet added the original Spicola plaque was still available and in safekeeping.

Vice Mayor Sasser supported having an appropriate plaque made and displayed in dedication to Commissioner Spicola in a visible location. On the issue of the East Commercial Boulevard improvements, he asked if the hiring of an expeditor and other actions taken kept the project within budget, and would those processes extend the time for the project's start and finish dates.

Town Manager Hoffmann replied that Town staff was working through various budget issues, looking for ways to reduce the cost. On the issue of timing, they were looking to start construction in the second block, but there would be a deadline by which they would need to get the state permit for the first block in order to stick to the planned schedule. She thought that the state permit date was in the middle of July, so the Town would have to keep the pressure on to get the state permits. The fees to the utilities were coming in quite high for the undergrounding. That cost was not part of the construction budget, being more of a permitting issue. They were working to bring the rest of the project within the budgeted \$2 million.

Vice Mayor Sasser sought assurance, with regard to the West Commercial Boulevard Project and the delays due to the FDOT authorization on the drainage, this would not interrupt the start time for the project.

Town Manager Hoffmann answered no, Town staff and the project team believed they could still get that project ready to start at the end of May.

Commissioner Vincent agreed with Commissioner Brown and Vice Mayor Sasser on the steps that should be taken for the dedication to Commissioner Spicola.

Mayor Minnet believed the bocce ball and shuffleboard court was the right place to display the plaque dedicated to Commissioner Spicola. When placed there, it would get a lot of recognition, as the area was well used.

Commissioner Dodd made a motion to relocate the plaque dedicated to Town Commissioner Spicola to the bocce ball court. Commissioner Vincent seconded the motion. The motion carried 5-0.

### **Recess/Reconvene**

#### **9. TOWN ATTORNEY REPORT**

Town Attorney Trevarthen reminded the Commission they were scheduled to have a two-hour Ethics Seminar on Tuesday, April 9, 2013 at 5:00 p.m. prior to the regular Commission meeting at 7:00 p.m.

#### **10. APPROVAL OF MINUTES**

- a. November 13, 2012 Regular Commission Meeting Minutes

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

#### **11. CONSENT AGENDA**

Items 11b, 11c and 11d were pulled for discussion

Commissioner Dodd made a motion to approve items 11a, 11e and 11f on the Consent Agenda. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

- a. Bel Air Entryways (Municipal Services Director Don Prince)

Approved on consent.

- b. Special Event Application for "Athena By-The-Sea" event proposed for Saturday evenings from May 18, 2013 to May 17, 2014 (Assistant Town Manager Bud Bentley)

Commissioner Dodd wished to table item 11b to the next meeting for further discussion when the Commission was required to consider the application for the inclusion of the businesses on the south side of Commercial Boulevard. He disliked the implications of granting a weekly permit for a full year with the pending construction and impact to businesses on the south side of Commercial Boulevard.

Town Attorney Trevarthen indicated the motion could be to defer if the dais wished to engage in additional discussion of the item at present.

Commissioner Dodd made a motion to defer item 11b.

Vice Mayor Sasser thought it wise to bifurcate the conversations and maintain consistency to ensure Athena By-The-Sea Restaurant had sufficient time to procure whatever was involved in hosting such an event. He believed the Commission had the ability to direct the Town Manager to address a change or negate any particular weekend, particularly with regard to the construction, so it was easier to get the subject matter out of the way.

Commissioner Brown agreed.

Commissioner Dodd remarked if the Town Commission presently approved the subject application, the Town might be limited to the possibility of later changing to a total road closure every two weeks. He reiterated his motion to defer the item.

Town Manager Hoffmann confirmed the special event permits always had written into them the authority of the Town Manager to change the conditions of the permit.

Assistant Town Manager Bentley suggested including a condition of approval that made it clear to the applicant the Commission reserved the right to make future changes.

Mayor Minnet asked at what time should the music stop.

Assistant Town Manager Bentley replied it was at the Town Commission's discretion. The application request was for 10:30 p.m., which was approved for the current year. The same time was applied for by the Village Grille.

Mayor Minnet questioned if Code Enforcement ensured the music stopped at 10:30 p.m.

Assistant Town Manager Bentley answered no, the Town does not have a Code Enforcement Officer working Friday and Saturday nights; that time enforcement was

monitored on a complaint basis. The Town had one complaint about the Village Grille three or four weeks ago, as the band exceeded the time by ten minutes.

Town Manager Hoffmann thought BSO had instructions to shut the sound down after 10:30 p.m.

Assistant Town Manager Bentley affirmed this to be the case, and that Town staff would coordinate with BSO to ensure the 10:30 p.m. deadline was enforced. In the existing code regarding noise, there was a standard cutoff of 10:00 p.m., after that time the standard was different. He said there was nothing in the code that required music to stop at 10:00 p.m., but in the special events section, there was language that authorized the Town Manager to allow music until 10:30 p.m.

Commissioner Vincent felt Town staff needed to make it very clear to business owners a cutoff of 10:30 p.m. means 10:30 p.m.

Vice Mayor Sasser indicated he received complaints about the decibel level, asking that BSO enforce whatever decibel limits the Town code set.

Assistant Town Manager Bentley commented BSO measured the noise level in the downtown area on Friday and Saturday nights, as well as on St. Patrick's Day and provided Town staff with a report, which they would forward to the Commission. The measurements showed everyone was in compliance with the allowed decibel level.

Town Attorney Trevarthen summarized the motion for approval included a modification to condition three, deleting the words beginning with, "... for other special events ..." amending them to, "Permission for this event may be suspended or modified by the Commission." Another condition would be for music to cease by 10:30 p.m.

Vice Mayor Sasser made a motion to approve item 11b with the conditions as stated above by the Town Attorney. Commissioner Vincent seconded the motion. The motion carried 5-0.

**c. Special Event Application for Florida Amputee Support Team's (FAST) Bocce Tournament proposed on Sunday, April 14, 2013**

Mayor Minnet indicated that Town staff requested she bring the subject item forward, as the applicant requested a waiver of the event fee and the parking fee. FAST was an incredible organization that did not have a lot of funding.

Vice Mayor Sasser stated he had no objection to waiving the event fee, but wished to know how the Town would handle the parking.

Assistant Town Manager Bentley replied staff would work out a system of either providing permits or bagging the meters against the tennis court, which meant anyone not attending the event could also park in those spaces.

Mayor Minnet felt permitting the parking at Town Hall and the waiving of the permit fee was sufficient.

Commissioner Brown was glad FAST found a home for their events in the Town. He concurred with waiving the event fee, pointing out the event was being cosponsored with the VFD, expanding the event to make it more festive. With regard to the parking, it was important to bear in mind many attendants and participants were amputees and might be in wheelchairs, and the Town should facilitate their being able to park close to the event site. He recommended they be allowed to use all the nearby parking spots adjacent to the bocce ball court and park area, as well as, the back parking lot at Town Hall, noting most of these spaces had no meters. Code staff could be instructed not to ticket around the park on the day of the event.

Commissioner Dodd expressed concern about allowing the use of the fourteen (14) metered parking spaces directly in front of the tennis courts, wondering if the Town would end up with complaints from tennis players. He preferred to allow the use of Town Hall parking.

Commissioner Vincent thought it would be easier for BSO to monitor Town Hall's rear parking area, as it would be difficult to guarantee parking in the spots for which residents had permanent parking stickers. If there was a concern with respect to wheelchairs, persons could be dropped off prior to drivers parking.

Mayor Minnet encouraged everyone to stop by the May 14 event. She clarified the motion would be to approve the application waiving the application fee, as well as, allow the use of the parking spaces behind Town Hall.

Commissioner Dodd made a motion to approve item 11c with Commission's direction to waive the application fees and allow the use of the rear Town Hall parking lot. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

**d. Special Event Application for Divers Direct Earth Day Cleanup proposed for Sunday April 21, 2013 (Assistant Town Manager Bud Bentley)**

Commissioner Dodd wished to confirm that divers would go nowhere near the pier to remove old fishing lines. He was unsure if this was to be a land-based clean up or one where divers went out to the reefs to pick up debris.

Assistant Town Manager Bentley directed the Commission's attention to staff condition number three in the backup, which indicated divers were to stay outside of the no-diving area around the pier. They would be going out to the reef to pick up debris.

Commissioner Dodd questioned if the parking permits were available as yet.

Assistant Town Manager Bentley answered no.

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

- e. **Special Application for Aruba's Memorial Day Beach Bash on May 27, 2013 (Assistant Town Manager Bud Bentley)**

Approved on consent.

- f. **Amendment to Ocean 101 Parking Agreement (Town Planner Linda Connors)**

Approved on consent.

## **12. ORDINANCES – PUBLIC COMMENTS**

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

- i. **Ordinance 2013-01: Amending Parking Area Standards to Allow Flexibility in Design (Town Planner Linda Connors)**

Mayor Minnet invited and received no public comment.

Town Planner Connors discussed the proposed ordinance as detailed in the backup. Town staff recommended approval.

Commissioner Dodd questioned if the proposed ordinance should go to the Planning and Zoning (P&Z) Board for their consideration in the interim of the first and second reading, as their input might be valuable.

Town Planner Connors indicated the ordinance would be sent to the P&Z Board for review and recommendations at their April 17 meeting.

Vice Mayor Sasser thought when the Town began discussing parking area standards, it was due to problems with duplexes and how close together their driveways were.

Town Planner Connors explained that Town staff made changes to Chapter 30 in the code cleanup, and in that instance the requirement to have a landscaped strip was removed for duplexes. The subject issue arose when the Town began the Bougainvillea project, as there was a need to clarify in the code that staff had the flexibility to allow people to come close to but not 100 percent compliance with the existing code.

Vice Mayor Sasser expressed concern that flexibility might be lessened, asking about the number of properties or parking areas the subject change might affect.

Town Planner Connors replied many, stating there was a section in the Code for non-conforming structures the Town could require residents to come up to. Town staff was

working closely with the community to preserve their existing parking, while trying to improve the aesthetics of the community.

Town Manager Hoffmann thought the subject ordinance improved the flexibility.

Commissioner Vincent sought clarification on what staff was suggesting. Did staff want the property owner to take out the extra spot and make remaining spots a little bigger and more legal.

Town Planner Connors responded if there were substandard sized parking spaces, they had to be fixed, as some spaces were too small to park a regular-sized car. If there was no landscaping, the owner should convert the leftover space into landscaping. Determining the deficiency on a lot would be done on a case-by-case basis.

Town Attorney Trevarthen pointed out the backup stated in such situations Town staff was given broad discretion to balance the code requirements, so the decision would vary lot to lot, even if the same variables were taken into consideration. The proposed change placed a limit on discretion. She remarked the only situation in which the balancing of all these factors would lead to the loss of a legally-required parking space was if there was a safety issue.

Commissioner Dodd made a motion to approve Ordinance 2013-01, directing Town staff to send proposed language to the P&Z Board for review. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

ii. Ordinance 2013-04: Amendments to Chapter 30 regarding Architectural Standards/Architectural Design Standards Manual (Town Planner Linda Connors)

Mayor Minnet invited and received no public comment.

Town Planner Connors reviewed the subject ordinance as set forth in the backup. Town staff recommended approval.

Commissioner Dodd asked if the P&Z Board continued to be involved in the process, as they were not mentioned.

Town Planner Connors explained the plans did not go to the P&Z Board during the architectural review unless they included parts of the application that normally went to the P&Z Board; instead they went to Town staff.

Vice Mayor Sasser made a motion to approve Ordinance 2013-04. Commissioner Dodd seconded the motion. The motion carried 5-0.

iii. Ordinance 2013-05: Oath of Office and Execution of Instruments (Town Clerk Vanessa Castillo)

Mayor Minnet invited and received no public comment.

Commissioner Dodd felt the Mayor should countersign bonds and contracts above the ceiling set for the Town Manager to authorize under his/her purchasing authority. This should not be considered anything more than a safeguard, as the aim was to legislate for anybody.

Vice Mayor Sasser disliked some changes in the ordinance, as they removed some steps and signatures in a number of processes the Town did, one being the Finance Director, as well as some of the signature responsibilities for the Mayor. He had no issue with trust in Town Manager Hoffmann, but he did not trust all the past Town Managers. There was no way of knowing what future situations were going to be, so the more signatures and eyes that looked at the process the better. Thus, he could not support the subject changes. Section 687.05 of the Florida Statutes, with regard to the oath of office, was referenced rather than having the oath of office language in the ordinance. It seemed easier to read if the language for the oath of office was included without having to go to the Florida Statutes to read it.

Town Attorney Trevarthen indicated the oath of office stated in the Florida Statutes could be copied into the ordinance for second reading, but the issue would then become having to change it if state statutes changed in the future. The origin of the changes to signatures was where she and Town staff noticed the Town's ordinance did not conform to daily practice, and this was one way to address that.

Commissioner Dodd made a motion to approve Ordinance 2013-05, subject to the requirement the Mayor countersign above the authority ceiling of the Town Manager.

Mayor Minnet commented that the motion died due to the lack of a second.

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

None

### **13. RESOLUTIONS – PUBLIC COMMENT**

#### **a. Resolution 2013-9: A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH LAURIE FISHER HUCK TO FABRICATE & DELIVER THE "CORAL ARCH" ENTRYWAY SCULPTURE. (TOWN MANAGER CONNIE HOFFMANN)**

Commissioner Brown recapped his suggestion at the previous meeting to utilize the funds to do the four plaza sculptures first. At present, the funding was insufficient to do all five sculptures, and he would only support going ahead with the coral arch sculpture if that was the consensus of the dais.

Commissioner Vincent concurred with moving forward with the four plaza sculptures, as he was unsure about spending such a sizeable amount on an entryway monument that would go unappreciated due to its location. It might be better to place the coral sculpture

at El Prado Park where hundreds of visitors constantly passed through. In terms of what should be at the Town's entryway, he believed the Town needed to make a statement as to what Lauderdale-By-The-Sea's architectural style was. He was unsure if the coral archway would convey that message.

Mayor Minnet disagreed, stating the entryway piece was something the Town Commission and the public discussed at length. When someone crossed the bridge at Commercial, they needed to know what town they were in. When visiting any city, people wanted to know when they had entered it, and the coral archway sculpture would convey that information clearly. At night, the sculpture would light up and be seen even before crossing the bridge. She felt the placement of the coral archway sculpture on Commercial Boulevard was the right spot, as El Prado Park already had its signature. She read and submitted into the record letters sent to her from the artist, who felt the placement of the coral archway at the Commercial Boulevard Bridge was important for the statement the Town needed to make. Mayor Minnet noted that the Town received a \$100,000 grant for the landscaping, and this was an important feature from a cost perspective to think about.

Commissioner Dodd called on everyone to recall the lengthy discussions on the entryway monument and found he was in total agreement with Mayor Minnet.

Vice Mayor Sasser concurred fully with the views of Mayor Minnet and Commissioner Dodd. He said he was puzzled at the Commission voting to approve a 33-foot Las Vegas type parking sign near the center of the Town's downtown, yet there was reluctance to approve an entryway sign that was a true piece of art.

Commissioner Vincent clarified that he never suggested the coral archway was not a beautiful piece of artwork, only that it should be placed where it could be properly appreciated, which he was unconvinced was at its proposed location.

Town Manager Hoffmann pointed out the dates in the draft agreement would change, as the Town was now a month behind getting the artwork agreement approved.

Commissioner Dodd made a motion to approve Resolution 2013-9. Vice Mayor Sasser seconded the motion. The motion carried 4-1. Commissioner Vincent voted no.

**b. Resolution 2013-18: A RESOLUTION TO NOTIFY THE TAX ASSESSOR OF THE TOWN COMMISSION'S INTENT TO CHANGE THE METHODOLOGY OF ASSESSING FIRE PROTECTION COSTS FOR COMMERCIAL PROPERTIES. (FINANCE DIRECTOR TONY BRYAN)**

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Finance Director Bryan reviewed the subject resolution as set forth in the backup. Town

staff recommended approval. He wished to communicate that once the Property Appraiser was notified of the Town's subject intention, the action would be binding.

Vice Mayor Sasser thanked Mr. Bryan and Commissioner Vincent for their work on the subject matter.

Commissioner Vincent made a motion to approve Resolution 2013-18. Commissioner Dodd seconded the motion. The motion carried 5-0.

\* \* \*

Town Manager Hoffmann requested that the Town Commission let staff bring Ordinance 2013-05 back for further discussion at a later time. Having the Finance Director sign every legal instrument made little sense and had not been the Town's practice in the last 15 years. Thus, she wished the opportunity for staff to review and modify the oath of office issue and bring it back for future Commission consideration.

Mayor Minnet commented that the Town Manager heard some Commission concerns on the matter, so the matter could be brought back for future discussion.

#### 14. QUASI-JUDICIAL PUBLIC HEARINGS

None

#### 15. COMMISSION COMMENTS

Commissioner Vincent thanked Vice Mayor Sasser and his wife for a great Easter event. He commended Finance Director Bryan and Mr. Saint-Jean on the Town's audit.

Vice Mayor Sasser echoed thanks to everyone involved in putting the Easter event together, particularly the egg-stuffing volunteers, as it went off fabulously. Mayor Minnet MC'd the event and no one did it better than she. He thanked his wife for all her help.

Commissioner Dodd stated they had a Hillsboro Inlet meeting, noting: they were working on getting permits to allow the dredge to operate as it had for the last decade; there were still issues with the timing of turtle inspections; the new flow meter was not fully operational; he received requests for residents to consider automatic gates at Silver Shores, as well as their participation in a neighborhood watch scheme; he received two complaints about the Walgreens exit, one from the manager and one from the resident, but believed the change slowed cut-through traffic, did wonders for a previously featureless road, and provided needed parking. He asked the Town Manager to invite Chip LaMarca to a Town meeting to give his the reasons for rejecting the funding for the E911 response centers, as he was elected to represent the Town. Countywide taxation the preferred funding mechanism to a convoluted mess where municipalities were required to contribute. He felt the evidence he read to date made perfect sense if the funding was from County taxes, since the proportion of each

municipality would be shared based on their number of residents. The Town's Easter Egg Hunt was a fantastic success; he thanked everyone involved for all their hard work.

16. OLD BUSINESS

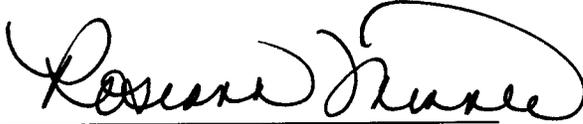
None

17. NEW BUSINESS

None

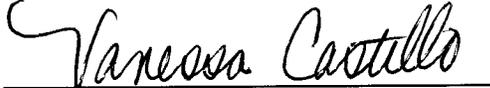
18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:44 p.m.



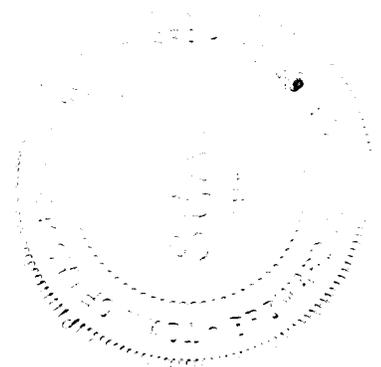
Mayor Roseann Minnet

ATTEST:



Town Clerk, Vanessa Castillo

6/11/13  
Date



7  
Rec'd 4/2/13  
at Commission Mtg  
by V. Castillo

PETITION FOR CONSIDERATION  
BEFORE THE CITY COMMISSION OF LAUDERDALE BY THE SEA

WHEREAS, the owners and residents ("Owners/Residents") with an interest in the Oriana at Lauderdale by the Sea Master Association, Inc. ("Association"), by and through its representatives, wish to be heard before the City Commission ("Commission") of the City of Lauderdale By The Sea ("City");

WHEREAS, Owners/Residents reside in or make their residences available to parties who occupy units ("Units") within the Association, a short distance from the commercial area at the east end of Commercial Boulevard ("Commercial Area");

WHEREAS, Owners/Residents appreciate the commercial and financial benefits the presence of the Commercial Area provides to the City;

WHEREAS; Owners/Residents have experienced significant disruption in the Owner/Residents' peaceful and quiet enjoyment of property at the Association as a consequence of the manner in which several businesses within the Commercial Area have been permitted to operate by the City and desire to address such manner of operation with the City;

WHEREAS, the City unilaterally, and without a proper hearing before the City Commission, issued a variance allowing the hours of operation for live entertainment in the Commercial Area to be extended to 10:30 p.m daily, the result of which is to create a nuisance and disturbance to the Owners/Residents;

WHEREAS, the Owners/Residents look to secure a compromise with the enterprises in the Commercial Area, so as to foster and maintain a vibrant Commercial Area, without unduly burdening the Owners/Residents;

WHEREAS, the sound emitted through the amplified performances is audible within the Units at the Association, behind impact resistant glass, with all doors and windows closed, at a noise level that is in violation of City Ordinance and has had an adverse affect of the Owners/Residents, including fostering adverse health, through sleep deprivation, resulting in inability to concentrate, irritability, etc.;

WHEREAS, the Owners/Residents implore the City to either (1) rescind the variance as to hours during which the existent Noise Ordinance may be disregarded, or (2) amend the existing Noise Ordinance under which the Commercial Area is regulated, to reduce by 50% the permissible noise emission after 7:00 p.m. and/or, additionally, to revise the hours of operation for businesses emitting noise so as to require the cessation of all noise emitted over \_\_\_ decibels through amplification by parties providing entertainment, to include musical performances after 10:30 p.m.

NOW THEREFORE, the Owners/Residents request the City address and approve the following:











