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TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive
Tuesday, May 25, 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 Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Attorney Susan L. Trevarthen, Interim Town Manager Connie Hoffmann, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Reverend George Hunsaker

Reverend George Hunsaker was not present. Mayor Minnet read a poem in light of Memorial Day.

4. ADDITIONS DELETIONS, DEFERRALS OF AGENDA ITEMS

Mayor Minnet pulled item 15c to allow additional time for staff review. The item was deferred to the June 9, 2010 Roundtable.

5. PRESENTATIONS

6. PUBLIC COMMISSIONISSIONENTS

Vito Chiarello said the new Commission was the next generation. He believed they brought the Town together.

Chuck Gress agreed with Mr. Chiarello. He congratulated the new Commissioners, Interim Town Manager Hoffmann and Interim Assistant Town Manager Bentley. He agreed with the firing of former Town Manager Esther Colon and Assistant Town Manager John Olinzock.

Dennis Ritchie believed that vacation days should be used at the end of the year. He thought the rules were abused.

Linda Ritchie advised that the POA (Property Owners Association) was seeking a Hometown Hero. She said people had to be a member of the POA to vote and advised that the annual membership fee was $10. Ms. Ritchie encouraged everyone to join. She said she could be reached at 954-784-9495 or linda.ritchie@comcast.net

Diane Boutin encouraged the Commission to start thinking about how to properly fund the budget. She said nothing would get achieved by waiting too long.

Marie Chiarello asked the Commission to move forward with a Master Plan and to bring the Town's infrastructure up to snuff.

7. PUBLIC SAFETY DISCUSSION

a. BSO Police Monthly Report - April 2010 (Chief Oscar Llerena)

Mayor Minnet and Commissioner Vincent thanked Chief Llerena for doing good job.

b. VFD Fire Monthly Report - April 2010 (Chief Robert Perkins)

Vice Mayor Dodd asked how VFD was progressing with cutting down on running medical calls. Chief Perkins said he gave AMR Chief Liddle the right to call VFD off. Vice Mayor Dodd said he wanted a serious decrease in the amount of medical calls VFD responded to.

Commissioner Clottey said the original contract allowed money to be put away to replace fire trucks. Chief Perkins said it was about $60,000 as an emergency fund. Commissioner Clottey wanted clarification on a problem producing payroll last week. Chief Perkins did not recall.

Commissioner Sasser thanked VFD for their help with a situation at Benihanas Restaurant. Mayor Minnet thanked Chief Perkins for the training session she attended last week.

c. AMR EMS Monthly Report - April 2010 (Chief Brooke Liddle)

Vice Mayor Dodd made a motion to approve the BSO, VFD and AMR reports. Commissioner Clottey seconded the motion. The motion carried 5 - 0.

8. APPROVAL OF MINUTES

a. April 20, 2010 Special Meeting Minutes

Commissioner Vincent noted that the minutes stated that he motioned and seconded to cancel the CIP workshop. Clerk White said she would check the minutes and make the appropriate correction.

Vice Mayor Dodd made a motion to approve both set of minutes Commissioner Vincent seconded the motion. The motion carried 5 - 0.

b. April 26, 2010 Special Meeting Minutes

9. CONSENT AGENDA

a. Application to use Jarvis Hall for a Fish Fry on Wednesday, October 6, 2010. The event organizer is the Lauderdale-By-The-Sea Chamber of Commerce (Interim Assistant Town Manager Interim Assistant Town Manager Bentley Bentley)

b. Closure of North Tradewinds Avenue for a neighborhood block party on Saturday, June 5, 2010 from noon to 6:00 p.m. (Interim Assistant Town Manager Interim Assistant Town Manager Bentley Bentley)

Liliana Pomareda said she submitted the request for the block party. She explained it was a private party; nothing too extravagant.

Assistant Town Manager Bentley said there was nothing in the code regarding a process of street closures. He requested direction from the Commission to create an ordinance that would address this and other small private events.

Vice Mayor Dodd did not want to spend a lot of money to create and advertise ordinances. He wanted to wait until more applications of this nature were received. Vice Mayor Dodd said he was in favor of the event.

Commissioner Vincent wanted to know if the town was liable. Attorney Trevarthen said the authority to close streets was with the Commission. Commissioner Vincent did not believe the Town should be put in this situation. He suggested the Commission deny the street closure.

Interim Town Manager Hoffmann asked whether it could be in the form of a Resolution rather than an Ordinance. Attorney Trevarthen said she would look into that. Interim Town Manager Hoffmann said it was not uncommon for other municipalities to approve block parties.

Interim Assistant Town Manager Bentley did not believe there would be many of these type of requests because people thought it fell under the special event category. He said that Ft. Lauderdale distinguished between large and small events. Interim Assistant Town Manager Bentley advised that events under 500 people did not require insurance.

Commissioner Vincent requested that this item be moved to a future Roundtable to work out the logistics. Mayor Minnet advised that if the Commission held off on a decision the event would not occur.

Commissioner Clottey understood that some people did not apply for these in the past due to the rules on the books. She said the applicant had already informed the neighbors and were expecting to have the event. Commissioner Clottey asked the Commission to approve this one and then work out the rules later.

Commissioner Sasser wanted to know whether the notification to surrounding residents was to obtain their approval. Interim Assistant Town Manager Bentley explained that staff was looking for input from the surrounding residents.

Attorney Trevarthen advised that Risk Management was flexible on liability. She added that she did not see a major liability with the event.

Mayor Minnet understood other Communities did this but Lauderdale-By-The-Sea never did and leaned more to the side of caution. She wanted the event to move forward but wanted to see conditions to include a level of insurance and traffic monitoring by BSO.

Commissioner Vincent said he was all for block parties bringing people together, although he was concerned with safety and asked whether the event could be rescheduled. Vice Mayor Dodd asked whether the whole road needed to be closed.

Ms. Pomareda said the original application was submitted exactly the way Code Enforcement told her. She said she did not originally request the whole street be closed. Interim Assistant Town Manager Bentley said the closure on the west end was the logical answer and recommended by staff. Mayor Minnet believed staff's recommendation made sense. Vice Mayor Dodd suggested the signs be placed further back to make it easier.

Commissioner Vincent agreed that if this event was to go forward then conditions needed to be given including BSO monitoring traffic flow with an off duty deputy.

Commissioner Clottey inquired of the cost to hire 2 deputies. Ms. Pomareda believed it was approximately $40 an hour per deputy. Interim Assistant Town Manager Bentley said he did not know how much the insurance would cost.

Commissioner Sasser stated that staff recommended moving forward and the Town Attorney indicated that the risk was low and therefore, was willing to move forward.

Commissioner Clottey made a motion to approve as recommended by the Interim Assistant Town Manager Bentley and to set policy at a future date. Commissioner Sasser seconded the motion. The motion carried 3 - 2. Commissioner Vincent voted no. Mayor Minnet voted no.

c. Special Event - Cooperative Feeding Program's Beach Party on Monday, July 26, 2010 (Interim Assistant Town Manager Interim Assistant Town Manager Bentley Bentley)

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

d. Special Event - Wedding on July 10. 2010 at the Sea Watch Restaurant, 6002 N. Ocean Drive (Interim Assistant Town Manager Bentley)

Vice Mayor Dodd made a motion to approve 9a & 9d. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

10. ORDINANCES - PUBLIC COMMISSIONISSIONENTS

There were no Ordinances for 1st or 2nd reading.

1. Ordinances 1st Reading

2. Ordinances 2nd Reading

11. RESOLUTION - "Public Comments"

There were no Resolutions.

12. QUASI JUDICIAL PUBLIC HEARINGS

13. COMMISSIONER COMMENTS

Commissioner Sasser thanked the residents for their input regarding Choice Environmental. He also thanked the Town Attorney and staff and hoped to have a meeting with Choice next week. Commissioner Sasser sent his condolences to the Roberts family.

Commissioner Clottey said Adrian Roberts passed away and offered her condolences to the family. She clarified that she did not condone former Interim Town Manager Olinzock's actions. Commissioner Clottey hoped everyone would have a good Memorial Day.

Commissioner Vincent thanked Chief Perkins for having Fire Administrator Daniel Chavez invite him to the VFD training as he found it educational. Commissioner Vincent said staff was looking into bathrooms on, or near the downtown area. He added that staff was also looking into a code of ethics.

Mayor Minnet gave her condolences to the Demco family as well as the Robert's family. She wished everyone a happy Memorial Day. Mayor Minnet thanked the residents for their support. She announced that she would ride the Pelican Hopper every 4th Thursday for a couple of hours. She said she would hate to see the Town lose the bus and encouraged everyone to ride it. Mayor Minnet also encouraged everyone to participate in the 4th of July celebrations.

Vice Mayor Dodd was sorry to hear the news that Adrian Roberts had passed away. He said there would not be a service. Vice Mayor Dodd believed the decisions regarding the former Town Manager Colon and former Interim Town Manager John Olinzock were positive decisions. Vice Mayor Dodd advised that at the recent Hillsboro Inlet meeting new work boats were discussed regarding minor modifications that would be needed to make to the vessels worthy of heavy storms. He added that they also discussed the oil leak as the water came in and out of the inlet.

14. OLD BUSINESS

a. Commission approval to set Calendar from May through September 2010 to schedule date and time for Fire Assessment, Budget and Trim workshops and public hearings (Town Clerk June White)

Interim Town Manager Hoffmann hoped that BSO's numbers would be received by the June 8, 2010 Commission meeting.

The Commission was in consensus with the calendar dates for the months May through September.

b. Commission review of RFP 10-03-01 for Audit Services and approval to proceed with issuing it (Interim Town Manager Hoffmann) Deferred at the April 13, 2010 Commission meeting by Vice Mayor Dodd - Deferred at the April 27, 2010 Commission meeting by Vice Mayor Dodd

Interim Town Manager Hoffmann advised that State Statute said that an Audit Committee was required. She said that many municipalities used staff and external auditors. Interim Town Manager Hoffmann felt it was important that staff was not part of Audit Committee and that time was of the essence at this point for selection of members. She advised that she could provide a draft RFP sometime in June.

Mayor Minnet wanted to know who was on the prior Audit Committee and for how long. Director King advised that it was herself, the Town Manager and an outside Finance Director. She added that was the practice of the Town in the past.

Attorney Trevarthen said she was supportive of Interim Town Manager Hoffmann's recommendations.

Commissioner Sasser wanted clarification that there were provisions in the code regarding an Audit Committee. Attorney Trevarthen stated that the Statute was silent on who needed to be on the Audit Committee. Commissioner Clottey said there were people in Town that met the qualifications.

Commissioner Sasser wanted to place the Audit Committee on a future Roundtable for discussion. He agreed that the Audit Committee would be 5 members or 3 members, pending the number of applications received. Commissioner Clottey inquired as to

whether there would be a conflict if a person served on another Committee. Attorney Trevarthen did not believe it would be, but would look into the possibility. Attorney

Trevarthen confirmed later in the evening that there was no problem with dual office holding.

Interim Town Manager Hoffmann said notice would be posted on the Town website and applications received would be forwarded to the Commission as they came in.

There was no further discussion.

c. Report on the history of renting and attempting to sell the Town-owned warehouse at 5421-23 NE 14th Avenue (Public Information Officer Steve d'Oliveira)

Public Information Officer d'Oliveira explained that an MLS listing could only come from a realtor that would make a profit off the sale. He said if the property were sold the Town would need to lease or rent property for the equipment already there.

Vice Mayor Dodd said the Town needed to move forward and requested staff recommendation in the near future. Interim Town Manager Hoffmann said it was her recommendation to lease the property after hurricane season.

Commissioner Vincent wanted to know the purpose of buying the warehouse. Public Information Officer d'Oliveira explained that it was purchased to store property. Commissioner Vincent wanted to know why this dragged for so long. Interim Town Manager Hoffmann explained that since the Commission did not want to pay commission on the sale of the property, it was not placed on MLS.

Commissioner Sasser questioned whether Attorney Trevarthen was familiar with the agreement and whether there was any recourse available. Attorney Trevarthen said she would look into it. Commissioner Vincent said he would like recoup the money but the Commission had directed staff not to put on MLS.

Commissioner Clottey did not believe the property had decreased by 60%. She asked if the $7 per square foot was a realistic number. Interim Town Manager Hoffmann said the appraiser gave the number last week. Commissioner Clottey was surprised that the amount was so high.

Mayor Minnet said she would accept Interim Town Manager Hoffmann's recommendation to wait until after hurricane season to lease the property.

Vice Mayor Dodd gave direction to attempt to lease in the fall and create a report for the second meeting in October 2010.

d. Video streaming and available enhancements to Granicus (Town Clerk June White)

Public Information Officer d'Oliveira clarified there were no additional costs to web streaming the Planning and Zoning Board and Master Plan Steering Committee meetings.

Commissioner Vincent did not believe that MinuteMaker in Granicus was being used at its full potential. He said training should have been included for MinuteMaker in the agreement. Commissioner Vincent suggested it be placed on a future Roundtable.

Interim Town Manager Hoffmann said the Town was looking in to brining in an IT person to upgrade all the systems including MinuteMaker. Clerk White explained what the MinuteMaker allowed. Commissioner Vincent said he would follow up with the Interim Town Manager. Interim Town Manager Hoffmann said a report would be submitted in the future.

Vice Mayor Dodd made a motion to approve as recommended by staff. Commissioner Clottey seconded the motion. The motion carried 5 - 0.

15. NEW BUSINESS

a. Year to date FY09/10 General Fund Interim Assistant Town Manager Bentley get Analysis (Director of Finance and Interim Assistant Town Manager Bentley get Kaola King)

Budget and Finance Director King said the General Fund was used to produce the report. She advised that the expenditure for the fiscal year to date was $11.8 million and the collections were $6.3 million of which $5.3 million was from the Ad-Valorem.

Director King said the Town collected more money than they expended which was good in these economic times. She explained that because the current millage rate was adopted it reduced revenue by about $800,000. Director King explained that a budget amendment needed to be made the following month to cover the former Town Manager's payout and the administrations salaries for the remainder of the fiscal year. She added that a budget amendment would be needed for Town Attorney expenditures as well.

Interim Town Manager Hoffmann said the report showed the Town was in good shape financially.

Commissioner Sasser was very happy with the report. He asked for clarification that the tax revenue would be down approximately 10% this year. Director King confirmed. Commissioner Sasser asked how much was projected for the utility fees. Interim Town Manager Hoffmann said the projections were not done yet and advised that an increase in utility collections might occur due to the economy getting better.

Commissioner Sasser inquired of the type of activities that Municipal Services was involved with regarding the cost justification. Director Prince said they were involved

during the public safety move and in moving Development Services. He said that staff did a lot of the work.

Commissioner Sasser asked whether the Town saved money if staff did the work. Interim Town Manager Hoffmann said she had no problem with staff doing the work if they could save money and do it properly.

Vice Mayor Dodd appreciated the financial report but believed the Commission still had no idea what the bank balances were. Director King explained that budgets and balances were like apples and oranges. She said that balances can be provided but they need to be protected. Director King added that there were approximately 11 different accounts and it was necessary to have different accounts as everything was justified.

Commissioner Clottey said she would also like to see a monthly balance sheet. Mayor Minnet thanked Budget and Finance Director Kaola King.

b. Status Report on the Town's preparation for dealing with the impact of the Deep Water Horizon Oil Spill (Municipal Services Director Don Prince and Interim Assistant Town Manager Interim Assistant Town Manager Bentley Bentley)

Municipal Services Director Prince said the situation changed daily and contractors were ready to mobilize within 24 hours. He said Beach Raker would rake any oil balls on the beach and any oil slicks would be handled by PBS&J and Grubbs.

Interim Town Manager Hoffmann hoped the Coast Guard, the State and the Federal Government would take responsibility.

Commissioner Vincent asked who the direct liaison was for this situation. Director Prince said the myflorida website and the EOC would take the lead if activated. He said there was no direct threat within the next 72 hours.

Interim Assistant Town Manager Bentley said that the coastal cities met with EOC and Coast Guard representatives. He added that they will work closely together to be informed on a timely basis. Mayor Minnet believed the Town may have to look to increasing beach raking and needed to prepare. She added that Town staff should keep track of costs to be reimbursed by the State or the Federal Government or BP.

Mayor Minnet suggested a Committee of residents to help with the situation. Director Prince said staff could handle it. He advised that if residents saw tar balls or slicks they should call Town Hall.

c. Discussion and/or action - opening of pier access alley (Mayor Roseann Minnet)

16. TOWN MANAGER REPORT

a. Report on payout to the former Town Manager

Interim Town Manager Hoffmann concluded that the former Town Manager Esther Colon had been paid about $69,000 more than she should have received. She said the breakdown included vacation and sick leave compensation. Interim Town Manager

Hoffmann reported that the severance was correct. She advised there were 5 separate deposits.

Interim Town Manager Hoffmann said it was determined that former Town Manager Colon was not entitled $18, 593 in vacation leave. She explained that Human Resource Manager Kathy O'Brien did not change the amount of vacation allowed to be accrued by the former Town Manager. Interim Town Manager Hoffmann added that Human Resource Manager O'Brien paid sick leave at 100% when former Town Manager Colon should have only received 25%.

Interim Town Manager Hoffmann explained that comp time was done in accordance with the contract. She added that the hours were booked only days before Ms. Colon became the Town Manager. Interim Town Manager Hoffmann advised that Ms. Colon's salary was increased twice and adjusted by COLA adjustments. She added that by adopting the budget the COLA adjustment was approved.

Mayor Minnet asked that should the Commission accept the Interim Town Manager's report would the Town Manager then have the authorization to get the money back.

Commissioner Vincent made a motion to instruct the Town Attorney and Interim Town Manager move forward with getting the money back. Commissioner Clottey seconded the motion.

Vice Mayor Dodd questioned how the Town Manager got to the month of June as her retirement date without using any sick leave or holiday because the dismissal was sometime in May. He asked whether she received a full year's entitlement to compensation even though she did not make it to June 15, 2010; it appeared that she did not use sick or vacation time to make it to a full year period. Vice Mayor Dodd believed she should not be granted the same privilege granted to those who leave in good standing as he believed she was terminated with cause.

Commissioner Vincent questioned whether inquiries were being made as to additional improprieties. Interim Town Manager Hoffmann said staff looked at the issue of payment for 2 years of future insurance payments to which Ms. Colon paid for out of her own pocket. She said there were no other improprieties regarding the payout to Ms. Colon. Interim Town Manager Hoffmann said there was an uneven application of personnel rules and they will be addressed as quickly as possible. Commissioner Vincent asked whether anyone was looking at other Town staff and how they were paid. Interim Town Manager Hoffmann asked Commissioner Vincent to let her know if he had someone in particular with which he had concerns.

Commissioner Clottey suggested that the two issues be separated. She suggested the Town get the money back then look into other issues. Commissioner Sasser agreed

with Commissioner Clottey to split the issues. He did not want to leave any money on the table.

Attorney Trevarthen stated that the current motion was to move ahead with the information received to date which did not hold the Town back from going after other monies later should additional information come forward.

Commissioner Sasser made a friendly amendment that should additional information regarding potential overpayment be received that overpayment should also be pursued.

Commissioner Vincent and Commissioner Clottey accepted the friendly amendment.

The motion carried 5 - 0.

b. Pending assignments/projects list

Interim Town Manager Hoffmann understood there were more items missing but would be more complete next moth. Mayor Minnet asked what the Commission looked for.

Mayor Minnet wanted the opinion of Interim Town Manager Hoffmann's on the LAP project. Interim Town Manager Hoffmann passed out information regarding the project. Interim Assistant Town Manager Bentley explained that the project predated 2002. He explained further that the Town submitted their application to Broward County in 2004 for $750,000. He said they were currently doing the design aspect to pay for it now and get reimbursed. Interim Assistant Town Manager Bentley said that PBS&J was ready to submit by June 1, 2010 and that they were 60% finished. Interim Assistant Town Manager Bentley advised there was no Town match on the $58,000 for design and was budgeted in the CIP plan. He explained that the budget was projected at $267,000 for next year and $280,000 for the following year. Interim Assistant Town Manager Bentley said the total was the $647,000 grant for the project. He added that only $200,000 was Town money of which should not be added on top of the $647,000.

Commissioner Vincent asked whether PBS&J had been paid for the 60% they completed. Mayor Minnet did not believe the Town had been billed.

Mayor Minnet asked whether there were any penalties if the Town withdrew. Interim Assistant Town Manager Bentley said the FDOT project manager was checking that for him. He said the agreement did not have language regarding withdrawal.

Interim Assistant Town Manager Bentley said the Town was under no contractual obligation to do project.

Commissioner Vincent asked whether the Town could be responsible for the $35,000 should the Town pull out. Interim Town Manager said the Town was not under any contractual responsibility. Vice Mayor Dodd asked whether FDOT could cancel after the Town broke ground. Interim Assistant Town Manager Bentley said FDOT would

enter into an agreement that would specify the dollars they would reimburse the Town due to non performance by the Town.

Interim Assistant Town Manager Bentley said the construction would be paid by the Town and then the Town would submit for reimbursement. Interim Town Manager Hoffmann asked whether they were waiting for the MPSC. Mayor Minnet said they were.

Commissioner Clottey believed that by the time the MPSC came back to the Commission the plans would have already been submitted to FDOT.

Interim Assistant Town Manager Bentley said that any of those elements could be changed after June 1, 2010. He added that it would be difficult to add decorative lighting to the bus shelters and that would take money. Interim Assistant Town Manager Bentley said he would work through the MPSC.

Commissioner Clottey stated that the bus shelters did not have to be lit but the Town still needed them. Interim Assistant Town Manager Bentley advised that the project called for 1 bus shelter.

17. TOWN ATTORNEY REPORT

a. Oil spill and the legal implications and recommendations on actions to take now

Attorney Trevarthen reviewed the legal implications. She said she was prepared to assist if the Town was affected.

18. ADJOURNMENT

Vice Mayor Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:23 p.m.

19. FUTURE REGULAR COMMISSIONISSIONISSION AGENDA ITEMS

_____
Mayor Roseann Minnet

ATTEST:

_____ _____
Town Clerk, June White Date