

TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
WORKSHOP MEETING
MINUTES
Jarvis Hall
4505 Ocean Drive
Monday, October 12, 2009
4:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 4:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clottey were present. Also present were Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, and Kathy O'Brien, Human Resource and Risk Manager.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ITEMS OF DISCUSSION REGARDING TOWN MANAGER REVIEW PROCESS:

a. Presenter - Florida League of Cities, Range Rider

Richard Simmons said he had 40 years of experience in Florida Government and was a City Manager for over 35 years for the City of West Palm Beach. He explained that the Range Riders were volunteers sponsored by the Florida City and County Management Association and the International City/County Management Association. Mr. Simmons did not feel it was wise to wait a year to express dissatisfaction with the way things were going. He believed that regular meetings, on a one-to-one basis to discuss certain issues were best.

Mr. Simmons suggested the interviewer write down their thoughts rather than check a number on the evaluation form. He believed there was flexibility within the Charter as to how to conduct a Town Manager review. Mr. Simmons believed a contract renewal was a form of review for the Town Manager. He explained it was difficult to conduct a review in public and expressed that he was impressed with the Town Manager and the Town.

b. Presenter and Town Commission

Commissioner Silverstone explained that the Commission / Elected Officials were politically motivated and the Town Manager was bound by the ICMA Code of Ethics

which stated that every member shall refrain from all political activities. He said it was the Commission's responsibility to keep the politics out of the Town Manager's position.

Vice Mayor McIntee asked Mr. Simmons if he evaluated the job that the Town Manager did. Mr. Simmons said he did not and would not openly evaluate the Town Manager. Vice Mayor McIntee inquired of a 5-0 vote of confidence previously done on the Town Manager. Mr. Simmons stated that the Charter did not require a vote of confidence. He believed a vote of confidence was the same as a review and stated that a 5-0 vote meant the Town Manager did something right.

Commissioner Dodd asked whether Mr. Simmons ever wrote that he resented interference from a Commissioner. Mr. Simmons said he never wrote it but brought it up at a public meeting. Commissioner Dodd asked whether Mr. Simmons would conduct a Town Wide survey without consulting the Commission first. Mr. Simmons said he would get feedback from the Commission and the proper feedback from the community. Commissioner Dodd asked if Mr. Simmons would dismiss the Chief of Police if he had the authority to do so without reference to the Commission. Mr. Simmons stated that he fired a Police Chief without reference to the Commission as it was his responsibility and right to do so. Commissioner Dodd asked whether Mr. Simmons proposed an RFP for an Auditor, and one of the Commissioners asked how soon the RFP would go out, would Mr. Simmons respond by saying "soon" or supply more information. Mr. Simmons stated that he would give a specific date as to when the Auditor would start. Commissioner Dodd stated he was waiting for an analysis on an RFP and had not yet received it. Mr. Simmons said he would go over the bids, make a recommendation, and explain why he chose to recommend that firm. He congratulated the Town for having a Town Manager that was open to allowing him to come in and give his presentation.

Commissioner Clotney clarified that she had not previously met with or discussed any issues with Mr. Simmons. Mr. Simmons admired Commissioner Clotney as she was unbiased and requested his guidance on the best way to do a performance evaluation that would comply with the Charter requirements.

c. Public Comments

Vice Mayor McIntee requested a Point of Order for informational purposes. Mayor Minnet granted the request. He referred the law that guaranteed free speech which states "as long as the oral or written statements were truthful, derived from fact, and not intended to be malicious."

Chris Vincent had several items of concern he believed should be noted in the Town Manager review; 1) even though Ms. Colon had the authority to dismiss Chief Scot Gooding, the manner in which it was done was unprofessional and an embarrassment to the Town as she used poor judgment in not informing the Commission of her plan; 2) any Commissioner or citizen of the Town had the right to question the action or actions of the Town Manager and the Town Manager should respond without being defensive or with a condescending tone; 3) as the Town Manager, Ms. Colon should have insisted

that the required annual review during budget time should take place to ensure she was meeting her obligations. Mr. Vincent believed that transparency in government was everything as once that was lost, all credibility and trust was also lost.

Cindy Geesey said Town Manager Colon was condescending. She asked whether Manager Colon watched herself after a meeting to review her attitude and tone of voice. Ms. Geesey believed Manager Colon was un-approachable and stated that Manager Colon gave women managers a bad name. She added that her behavior was temperamental, biased and rude to the general public. Ms. Geesey believed that the real review of the Town Manager will come after the elections.

Mark Brown did not see how a fair performance review could be done without first having a written job description. He added that the Town Charter set the responsibilities of the Town Manager but does not put forth an actual description of what she did. Mr. Brown stated that since the Town Manager took her position, she hired a full time Assistant Town Manager, a Town Clerk, a full time Assistant Town Clerk and 4 full time Finance Officers. He asked whether the Town really needed such a big bureaucracy and wondered what the Town Manager actually did to justify her \$160,000 annual salary. Mr. Brown stated that the Town Manager did many good things and there were things she did not do very well, such as: she did not return telephone calls, she delayed production of public records, did everything she could to keep things secret; never investigated anything involving the fire department or members of the fire department; she spent \$2 million on a public safety building that sits empty, \$3 million on a fire station that the Town did not need, a beach pavilion that floods and was sinking into the beach, and paid penalties on loans the Town did not use. Mr. Brown recommended the Town Manager's position go out to bid and let her compete; should she be the best candidate then rehire her and give her a raise.

John Oughton said that a loan of \$6,019,934 was paid off with a prepayment penalty of \$240,000. He said the residents lost \$481,000 just to have money on the books. Mr. Oughton believed that the bank balances, at 1% interest, was a good deal for SunTrust bank and a raw deal for Town residents.

Cristi Furth said she in the past 38 years she did not remember the Town Commission ever conducting a Town Manager review. She believed that special guidelines were needed to conduct a fair and dignified process and not a political witch hunt. Ms. Furth stated that during the 12 years that former Town Manager Bob Baldwin served the Town, he was never publically attacked, yet Manager Colon is subjected to a mountain of politically motivated attacks that had been proven at every turn to be false. Ms. Furth stated that Manager Colon continued to serve the Town in a professional manner and stood up for herself and her staff when a Commissioner or the public made a false statement to set the matter straight. Ms. Furth believed BSO Chief Llerena was doing a very professional job. She also believed that Lauderdale-By-The-Sea was blessed to receive an honest, ethical, fair and highly skilled person like Esther Colon taking care of Town business.

Gail Albohn said that as a Committee member she had asked for some things which Manager Colon had told her she could not give to her. Ms. Albohn said at first she did not understand why, but later came to respect her answer. Ms. Albohn also stated that she respected the way Manager Colon managed herself on the dais and gave her a lot of credit.

Barbara Cole said the whole review came about because she went on line and found out that another Town was asking about their Town Manager's annual review and she decided to see whether the current Town Manager had received one. Ms. Cole stated that upon reviewing Manager Colon's contract she discovered it was a lifetime contract and the only way to re-hire her was to fire her and if she were fired she would walk away with approximately \$250,000. Ms. Cole believed that rules were rules and if she felt something was not being done correctly she would speak up about it as she did with the annual review. Ms. Cole stated she had something she wanted added into the record and attached to the minutes (hereto attached as part of these minutes).

Vera Dendy said she supported Manager Colon and thanked her for all the hard work she did.

Marie Chiarello said one of the Commissioners gave legal advice to the dais. She said the Town Attorney could leave since a Commissioner chose to do her job.

Happy Vasil asked why there was so much disrespect towards the Town Manager. She said the Town Manager did a good job with lowering taxes and beautifying the Town. Ms. Vasil said there were two sides to each story and asked everyone to have class and respect.

Rosa Michailiuk explained this was the first time the Commission ever put a Town Manager through something like this. She said it was disgraceful for the Town. Ms. Michailiuk said if there was a problem, it needed to be addressed with the Town Manager.

Priscilla Rysavy thanked the Town Manager for her fiscal responsibility in a time of economic hardship. She said the residents did not wish to see a rise in taxes and suggested that individuals could donate money to the Town with instructions on how the funds could be used.

Frank Herrmann commended Richard Simmons for his professionalism. He said the Town Manager gave a good performance. Mr. Herrmann said the Commission previously gave a vote of confidence and at that time no member of the public made a negative comment. He felt some residents were attempting to create campaign issues for the 2010 election.

Lawrence Wick explained that the business of the Town was being run in an ethical and legal manner. He said that he never had a problem when he needed to address something with the Town Manager or any other department head. Mr. Wick said that

anyone who had a complaint needed to also suggest a solution to encourage positive attitudes.

Bob Fleishman said the majority of the Town felt the Town Manager abused her power. He felt she ignored Commission directions and did not make decisions that were best for the Town. Mr. Fleishman suggested the Commission create guidelines that would govern the Town Manager's actions.

Richard Bonnie explained that he was not happy with the decision made by the Town Manager to transfer Chief Scott Gooding.

Spiro Marchelos explained a review was used to give feedback and said the Town Manager was entitled to a review. He discussed the transfer of Chief Scott Gooding and the removal of Fire Marshal Alex Stephenson. Mr. Marchelos believed that the Town Manager was the cause of the flooding at the pavilion and the closing of the egress for the pier alley road. He said that it was time to replace the Town Manager.

Karla-Maria Meyer thanked Manager Colon for an outstanding job that she rendered to the Town. She said it took a lot of talent and integrity to take on the job of a Town Manager. Ms. Meyer asked Manager Colon to not be dismayed by ungrateful and disgruntled people who could not see the good such as the reduction in the deficit, replacing dishonest employees with honest ones, and the many other things Manager Colon had done for the Town.

Yann Brandt thanked the Range Riders for their assistance with the process. Mr. Brandt stated that he had placed a public record request for financial reports and was not sure whether he received everything and also requested copies of the Vice Mayor's emails. He publicly requested all the emails of J. McIntee @ aol.com from October 1, 2009 to October 11, 2009 regarding the Senior Center.

Ray Wolowicz said that during the times that he stood at the podium some Commissioners and the Town Manager looked down at their computers rather than look at him when he spoke. Mr. Wolowicz believed that if the Town Manager cared about the Town she would listen to the citizens, as should the Commissioners.

Joyce Murray was surprised at the way Manager Colon spoke to the Commissioners from the dais and believed that she treated the Commission unequally. She believed that some of the Commissioners were treated with disrespect. Ms. Murray asked how the people of the Town were to know what was going on when a Commissioner asked a question of the Town Manager and was told that the question was an attack against the Town Manager. She did not believe that was the proper way to run a Town.

Louis Marchelos said he did not agree with Manager Colon often. He said it appeared to him that she was interested in only one Commissioner's agenda rather than the need of the people of the Town. Mr. Marchelos believed that the Town Manager and the "bully" Commissioner planned the dismissal of Chief Scot Gooding. Mr. Marchelos

asked Manager Colon why the Pavilion was constructed 2 months after the prior permit failed. He also asked whether Manager Colon was aware of the future drainage problems at the Pavilion and did nothing about it. Mr. Marchelos questioned whether the Commission was made aware of those issues. He added that the proposed restrooms, 1 on the north side and 1 on the south side, were removed from the pier when the Commission voted 5-0 to remove the restrooms. Mr. Marchelos said that Manager Colon used no discretion in Code Enforcement when firing the Fire Marshall.

Maureen McIntee thanked Manager Colon for her outstanding financial ability as the residents were benefitting financially while other cities suffered financially. Ms. McIntee stated that previously approximately 30 residents came to Town Hall to personally thank and praise Manager Colon for her many accomplishments. She added that the Commission voted 5-0 for a vote of confidence in favor of Town Manager Colon. Ms. McIntee believed it was unfortunate that a faction in Town repeated propaganda, unfounded statements, false accusations, lies and malicious attacks with hopes to fulfill a dishonest agenda. She referred to a By-The-Sea Futures article that reported there was no record of vote from the Commission to eliminate the restrooms from the pavilion when they themselves wrote an article in July 2008, 6 months before the false report, that the Commission voted 5-0 to approve the pavilion without restrooms after Mayor Minnet pointed out that there would be no bathrooms in the pavilion.

George Hunsaker questioned why some people had Teflon and others did not. He said Bob Baldwin had Teflon; not to mean that he managed better but that he was never blamed for the mistakes of staff or the Commission. Reverend Hunsaker suggested that the Commission step back and take a moment to evaluate how they relate with one another as they had lost the trust of one another and as a result lost the trust of the citizens of the Town. He added that the Town Manager was not hired to please the 5,900 voters/residents of the Town, nor was she hired to please 5 Town Commissioners; she was hired to make decisions on a daily basis. Reverend Hunsaker stated that a quarterback could not make decisions on his or her own. He believed people were critical without adequate knowledge. Reverend Hunsaker advised the Commission that they represented all of the people of the Town as a whole and not just a few.

There were no more speakers.

d. Commissioner Comments

The Commission discussed the form of government and the chain of command; the financial stability of the Town; the shape the Town was in; public safety; and personal opinions. It was stated that performance reviews were based on expectations and responsibility during the time period of the review and new rules and expectations should be set towards the future. It was also stated that the Town Manager was not a public official; she was a public employee.

Commissioner Silverstone thanked the public for their comments and felt that it was unfair to be critical of someone without the proper knowledge. He said that the Town Manager was doing a great job at following the chain of command and that her finance background was imperative to the Town.

Commissioner Clotey said that reviews should be conducted fairly.

Commissioner Dodd said that individuals' shortcomings must be pointed out so that they may be corrected. He said he welcomed an honest review and thanked everyone for their insight.

Mayor Minnet said she wanted to see the Town united. She admitted to having biases but she set them aside on the dais. Mayor Minnet said this was an evaluation of everyone on the dais.

Manager Colon clarified that she was hired by the previous Commission and her contract was approved 5-0. She stated she always worked according to law.

Mr. Simmons suggested the Commission meet with the Town Manager and get to know her on a personal level. He stated that the Commission represented the people and the Town Manager should be tried by them and not by the general public.

e. Commission Discussion

There was discussion regarding rating certain areas in the evaluation form and whether the Town Manager could be voted out. Mr. Simmons suggested making notes rather than rate with numbers on the evaluation and agreed that a Town Manager could be voted out and as long as the Town Manager had 3 votes she had a contract. Mr. Simmons stated that the citizens should be talking to the Commission and not evaluate her publicly.

It was determined that the performance evaluation would be finalized at the October 13, 2009 Commission meeting.

4. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 6:27 p.m.

Mayor Roseann Minnet

ATTEST:

Town Clerk, June White

Date