

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, June 8, 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. Also present were Vice Mayor Stuart Dodd, Commissioner Birute Ann Clotey, Commissioner Chris Vincent, Commissioner Scot Sasser, Town Attorney Susan L. Trevarthen, Interim Town Manager Connie Hoffmann, Town Clerk June White, and Deputy Clerk Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

The Invocation was given by Rabbi Mark.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Commissioner Clotey requested that she be allowed to introduce additional information related to research that she did for item 14A, Town Manager Selection Process. Mayor Minnet granted her request.

Attorney Trevarthen clarified that items 12a and 12b were under Quasi Judicial Consent agenda. She said she would explain the procedure when the items came up.

Mayor Minnet added a soccer program to New Business item 15B for Commission input as to whether it should go to a Roundtable for discussion.

5. PRESENTATIONS

- a. Presentation of a proclamation to David Crane, P.A. proclaiming June 21, 2010 through June 28, 2010 as Amateur Radio Week (Mayor Roseann Minnet)

Mayor Minnet presented the proclamation. Mr. Crane was not present.

b. Presentation of proclamation regarding the apprehension of the shooting suspect (Chief Oscar Llerena)

Chief Llerena presented Deputy Friedrich with an award for Deputy of the Month on behalf of BSO and the residents for the apprehension of a fleeing suspect involved in a homicide. He read the proclamation aloud and Deputy Friedrich accepted the award.

6. PUBLIC COMMENTS

Daniel Halpert, Pompano Beach said he heard that the Commission had the possibility of obtaining Federal money for infrastructure construction. He urged the Commission to seriously consider it and believed every crisis was an opportunity.

Beverly Kennedy said she was proud of the new Commission and thought that they were doing a great job. She welcomed Connie Hoffmann and advised that taxes were going to rise to fund the renovation of the Broward County Courthouse.

7. PUBLIC SAFETY DISCUSSION

8. APPROVAL OF MINUTES

a. May 10, 2010 Workshop Minutes

Commissioner Vincent made a motion to approve the minutes of May 10, 2010 Workshop. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

9. CONSENT AGENDA

Mayor Minnet pulled all of the Consent items for discussion at the request of Development Services Director Jeff Bowman.

a. John Livengood (4 Sunset Lane) - Commission approval of extension to June 30, 2010 (Director of Development Services Jeff Bowman)

Director Bowman recommended that the June 30, 2010 extension date be changed to August 30, 2010.

Vice Mayor Dodd wanted to know if the construction was almost complete. Director Bowman confirmed it was.

Vice Mayor Dodd made a motion to approve the extension to August 30, 2010. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

- b. Bob White (Renovations of 4608 El Mar Drive) - Commission approval of extension to June 15, 2010 (Director of Development Services Jeff Bowman)

Director Bowman requested the extension date be August 15, 2010 as June 15, 2010 was not realistic.

Commissioner Clotley made a motion to approve the extension to August 15, 2010. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

- c. Bougainvillea Town Homes (4432, 4434, 4436, 4428 Bougainvillea Drive) - Commission approval of extension to June 30, 2010 (Director of Development Services Jeff Bowman)

Director Bowman stated that the project was very close to completion and a request was made for a more realistic date.

Juan Bermudez said due to possible technical issues on the site plan Broward County might take longer to provide the Certificate of Occupancy. He requested an additional 2 weeks even though he expected to get the Certificate of Occupancy by June 30, 2010.

Commissioner Vincent suggested a 30 day extension rather than 15 days. Vice Mayor Dodd recommended extending to July 30, 2010.

Vice Mayor Dodd made a motion to approve the extension to July 30, 2010. Commissioner Sasser seconded the motion. The motion carried 5-0.

- d. Special Event Application for Jazz in the Square (Exhibit 1) for the period July 30, 2010 through July 29, 2011 (Interim Town Manager Bud Bentley)

Mayor Minnet wanted to make sure that both applicants were treated the same. Interim Assistant Town Manager Bentley confirmed they were.

Interim Assistant Town Manager Bentley said he reviewed the Minutes from April 27, 2010 item 12b, an approval for Athena By-The-Sea's annual event. He explained that the annual permit was approved by the Commission with a \$200 fee. Interim Assistant Town Manager Bentley said the question of the fee and the process for annual permits would come forward at a future Roundtable along with other proposed changes for special events. He assured the Commission that this application was the same as the Athena By-The-Sea application that was previously approved.

Mayor Minnet requested clarification regarding the provisions that the Commission had the right to withdraw permission and that the Town Manager

and/or Town representative may suspend the event for non-compliance of the permit or for public safety reasons. Interim Assistant Town Manager Bentley clarified that the Commission had discretionary power to approve the event and revisit the special event application should problems occur. Mayor Minnet was concerned that the two provisions were not in the application approved for Athena-by-the-Sea but was now in this one. Vice Mayor Dodd asked Dave Gadsby if he was ok with the conditions in the application. Mr. Gadsby agreed to the provisions in the application. Vice Mayor Dodd thanked Mr. Gadsby for his efforts in Town.

Vice Mayor Dodd made a motion to approve the Special Event Application for Jazz in the Square. Commissioner Clotney seconded the motion. The motion carried 5 - 0.

10. ORDINANCES - PUBLIC COMMENTS

1. Ordinances 1st Reading

2. Ordinances 2nd Reading

- a. Ordinance 2010-02: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, SECTION 2-18, SPECIAL MEETINGS, TO REVISE THE PROCEDURES APPLICABLE TO A SPECIAL MEETING OF THE TOWN COMMISSION; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE Approved 1st reading April 27, 2010

Attorney Trevarthen read Ordinance 2010-02 by title. She explained that the language for the amendment was also located in the procedures resolution previously adopted by the Commission.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, she closed the public comment portion of the meeting.

Commissioner Sasser made a motion to adopt Ordinance 2010-02 on second reading. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

11. RESOLUTION - "Public Comments"

- a. Resolution 2010:12: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, PROVIDING FOR THE APPOINTMENT OF AN AUDIT COMMITTEE; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE

Attorney Trevarthen read Resolution 2010-12 by title. She explained that the blank spaces on the resolution would be filled in once the Commission selected the members for the committee.

Mayor Minnet pointed out that 3 applications were included in the backup along with 3 additional applications provided as a handout to the commission.

Mayor Minnet asked Interim Town Manager Hoffmann whether she preferred to have all 6 applicants on the committee or 5 members with 1 alternate. Interim Town Manager Hoffmann suggested having 5 members and 1 alternate. Vice Mayor Dodd suggested 3 members and 1 alternate. Interim Town Manager Hoffmann said it was up to the Commission. Mayor Minnet was concerned with having only 3 members.

Commissioner Clotey suggested that each Commissioner select 1 person to allow for 5 members and 1 alternate. Vice Mayor Dodd suggested only selecting 3 or 4 members.

Vice Mayor Dodd made a motion to select only 3 applicants along with one alternate. The motion carried 4-1. Commissioner Clotey voted no.

Commissioner Sasser made a motion to appoint Ben Freeny, Raymond Wolowicz and John Oughton, to the Audit Committee. Mayor Minnet passed the gavel and made a friendly amendment to appoint Patrick Murphy as the first alternate.

The friendly amendment carried 4-1. Commissioner Clotey voted no.

The motion to appoint Ben Freeny, Raymond Wolowicz John Oughton, and Patrick Murphy as the first alternate to the Audit Committee passed 4-1. Commissioner Clotey voted no.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, she closed the public comment portion of the meeting.

Vice Mayor Dodd made a motion to adopt Resolution 2010-12. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

12. QUASI JUDICIAL PUBLIC HEARINGS

Attorney Trevarthen clarified the procedures for Quasi Judicial hearings on the consent agenda. She explained the applicant was aware of the rules.

Mayor Minnet asked if any member of the Commission or the audience wished to pull either item for discussion.

Commissioner Vincent made a motion to approve items 12A and 12B. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

- a. Ocean Terrace Condominium Association (4564 El Mar Dr.) Commission approval of extension of a site plan for an additional six (6) months (Director of Development Services Jeff Bowman)
- b. 101 Ocean (101 Commercial Blvd) Commission approval of an accessory building (Director of Development Services Jeff Bowman)

13. COMMISSIONER COMMENTS

Mayor Minnet stated that the Broward League of Cities meeting was next Thursday and she would update the Town of what was discussed at the meeting. Mayor Minnet said she would be in Town Hall to meet with residents on the second Tuesday of each month so that she may answer any questions from the public. She said the Pelican Hopper was scheduled to run on the 4th of the July and she would be riding the bus every fourth Tuesday.

Mayor Minnet thanked everyone for their support of the 4th of July event. She pointed out that there were scams coming in the mail and urged residents to be aware and contact BSO if they had any questions or concerns.

Mayor Minnet said the Burt J. Harris shade session was positive but it was important to venture through the situation carefully.

Commissioner Vincent thanked the applicants of the Audit Committee. He thanked the residents for their support since the passing of his mother-in-law.

Commissioner Clotey offered her sympathies to Commissioner Vincent. She thanked the Town Attorneys for their work on the dismissal of the Burt J. Harris lawsuits. Commissioner Clotey was concerned regarding the news from the Property Appraiser's Office. She assured the Town was doing everything possible to protect the beach in the oil crisis. Commissioner Clotey noted that hurricane season was coming up and hoped everyone was prepared. She looked forward to a nice summer.

Vice Mayor Dodd explained that he followed up on the block party and was convinced that personal viewpoints should not cloud a Commissioner's judgment. He said he was in favor of staff's recommendation and the use of public roads for the event. Vice Mayor Dodd said the Town was facing budget constraints and would later ask the Commission to forgo their annual salary increases. He said he was not in favor of cutting staff or outsourcing and would look into the Town's public safety contracts.

Commissioner Sasser gave an update regarding the Senior Center from the last roundtable meeting. He invited everyone to participate and support the Senior Center. Commissioner Sasser said there was no impact to the agreement or the grant if the Commission chose to change the name to the Community Center. He said the meetings with Choice Environmental went well. Commissioner Sasser thanked Attorney Trevarthen and Interim Assistant Town Manager Bentley for their professionalism during those meetings.

Commissioner Sasser said the Town was waiting for data from Choice Environmental that was due by the end of the week. He explained that he visited the block party and thanked the residents who attended for their hospitality. Commissioner Sasser said a policy change in street closure was not necessary. He wanted to encourage unity between neighbors.

14. OLD BUSINESS

a. Town Manager Selection Process (Public Information Officer Steve d'Oliveira)

Commissioner Clotey gave a handout to the Commission. She said she reviewed the applications previously submitted for the Town Manager position and compared them to the Charter requirements.

Commissioner Clotey said only a few of the applicants met the Town's Charter requirements and the current Interim Town Manager was not sure if she met the educational requirements. She explained that the language needed to be broadened without actually changing the Charter.

Mayor Minnet requested the Town Attorney address the topic for clarification. Attorney Trevarthen said the Commission deemed the current Interim Town Manager to be qualified. She added that she believed it to be a reasonable interpretation of the Town's Charter and explained that there were limits as to how far the Commission could go regarding the interpretation of the Charter. She understood that it could limit the number of qualified applicants.

Vice Mayor Dodd said he had no problem with interpreting a degree in political science with the qualification of public affairs. He said it was important to meet Charter requirements but he was willing to take a flexible approach. Vice Mayor Dodd explained there was room for interpretation. Commissioner Clotey said she agreed with Vice Mayor Dodd and suggested minor language changes to the Charter to ensure compliance.

Commissioner Vincent explained he was satisfied with the educational background of the Interim Town Manager. He said that in some situations experience overrode education.

Commissioner Sasser suggested moving this item to the June 9, 2010 roundtable meeting. Mayor Minnet suggested creating a Charter Review Board.

Mayor Minnet said she would place the item on a Roundtable agenda at the end of the month.

15. NEW BUSINESS

a. Commission approval of Special Event Permit for the Independence Day Extravaganza (Interim Assistant Town Manager Bud Bentley)

Interim Assistant Town Manager Bentley recommended approval of the event. Mayor Minnet reviewed the festivities taking place on 4th of July weekend.

Commissioner Clotey handed out a poster to the Commission and read a letter from Jerry Sehl explaining that he donated 3,000 of the posters to the 4th of July event. Mayor Minnet thanked Mr. Sehl for his donation.

Vice Mayor Dodd gave a vote of thanks to Mayor Minnet for chairing the event.

Mayor Minnet asked everyone to volunteer for the event. She suggested that before the fireworks show, the Town say the Pledge of the Allegiance over the VFD PA system and then sing the National Anthem at about 8:45 p.m. She requested Commission input and feedback. Vice Mayor Dodd said it was an excellent idea. Chief Perkins said he would work with the Mayor to get it done.

Vice Mayor Dodd made a motion to approve the Special Event Permit for the Independence Day Extravaganza. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

b. Soccer Program (Mayor Roseann Minnet) *This item was added earlier in the meeting*

Mayor Minnet explained she added this item to get feedback from the Commission on whether to discuss the topic at the next Roundtable meeting. She said she sent an email to the Interim Assistant Town Manager to look into the project.

Commissioner Vincent said it was a good idea for the growing number of families and children in Town. Commissioner Sasser wanted to see this item on the next roundtable agenda. Mayor Minnet confirmed it would be on the June 9, 2010 roundtable agenda.

16. TOWN MANAGER REPORT

a. April Finance Report

Interim Town Manager Hoffmann explained that the revised report only reflected one Commission request. She said it took a lot of work for staff to produce a comparison between the fiscal years 2008-2009 and 2009-2010 year-to-date revenues. She said that staff was asked to show a budget year-to-date and explained that it could not work that way. Interim Town Manager Hoffmann explained that the data could be shown; however it would not be very accurate or meaningful. She requested feedback from the Commission on whether this report was more helpful and if they wanted to see anything else on it changed.

Commissioner Sasser said he preferred this version of the report. However, if it was easier for staff to go back to the original report, he would have no problem with that. He emphasized that he would still like to see the Finance and Budget Director give a quarterly report as well. Interim Town Manager Hoffmann said that May's report would look like this as well and then she would assess the amount of time taken to complete the report.

b. Town Manager's Update

Interim Town Manager Hoffmann explained her memo gave an update regarding the request for reimbursement to former Town Manager Esther Colon. She also requested direction regarding former Interim Town Manager John Olinzock's final payout.

Attorney Trevarthen explained that the Interim Town Manager received a letter from Esther Colon's attorney stating that the Town's claims of overpayment were inaccurate. She stated that no repayment had yet been received by Ms. Colon. Attorney Trevarthen explained that Ms. Colon's attorney requested additional time to retrieve and review documents. She pointed out that there were several pending public records request from Ms. Colon's attorney.

Attorney Trevarthen requested direction from the Commission whether to grant Ms. Colon's attorney additional time as requested.

Commissioner Sasser questioned whether the Town Attorney felt enough time and data was already extended to Ms. Colon's attorney. Attorney Trevarthen said the attorney had all of the information that was presented to the Commission.

Commissioner Sasser explained he was not willing to grant any additional time to Ms. Colon's attorney. Commissioner Vincent questioned whether staff was satisfied with the amount of information given to Ms. Colon's attorney. Attorney Trevarthen confirmed in her opinion there was enough information given to Ms. Colon's attorney to properly analyze the situation.

Commissioner Vincent said he did not want to extend any additional time to Ms. Colon's attorney.

Commissioner Clotley asked the Town Attorney for her recommendation on whether to give additional time. Attorney Trevarthen explained that it was up to the Commission. She did not believe a short extension would change any of the circumstances.

Commissioner Sasser made a motion not to grant any additional time to Ms. Colon's attorney as requested. Vice Mayor Dodd seconded the motion.

Commissioner Vincent requested clarification on what the next step would be after not granting additional time. Attorney Trevarthen explained that the decision was up to the Commission on how to proceed. The motion carried 5-0.

Attorney Trevarthen requested direction from the Commission regarding how to obtain the overpayment of funds from Ms. Colon. Mayor Minnet asked for the Town Attorney's recommendation. Attorney Trevarthen explained that the Commission could direct the Town Attorney to take any means necessary, including litigation in an attempt to retrieve the funds.

Commissioner Sasser made a motion to direct the Town Attorney to pursue the repayment of the funds overpaid to former Town Manager Esther Colon by any means necessary, including litigation. Vice Mayor Dodd seconded the motion.

Commissioner Clotley requested clarification regarding what "any means necessary" meant. Attorney Trevarthen explained that the next step would be to continue the review of the letter received by Ms. Colon's attorney and then determine whether to file a complaint to seek reimbursement of the funds. She requested additional Commission direction.

Commissioner Vincent questioned whether a formal demand letter was sent to Ms. Colon. Attorney Trevarthen confirmed and said another letter could be sent if the Commission so desired.

Commissioner Sasser clarified that his motion included retrieving a deposition and subpoena of John Olinzock and Kathy O'Brien.

Attorney Trevarthen clarified the motion was to direct the Town Attorney to pursue the repayment of the amount overpaid to former Town Manager Esther Colon by any means necessary including possible litigation. The motion carried 5-0.

Vice Mayor Dodd questioned whether the Town Attorney needed a motion to change the terms of dismissal of John Olinzock from "without cause" to "with cause". Attorney Trevarthen said the Commission could do that at this time.

Vice Mayor Dodd made a motion to change the term of John Olinzock's dismissal from "without cause" to "with cause". Commissioner Sasser seconded the motion. The motion carried 5-0.

Commissioner Clotey questioned whether the Commission needed to list what the cause was. Vice Mayor Dodd explained that former Interim Town Manager Olinzock chose not to cooperate with the Town Attorney and/or Town Commission. Commissioner Clotey explained that she agreed with Vice Mayor Dodd but believed there needed to be more clarification of the cause for termination. Attorney Trevarthen suggested that the cause could be described by Human Resource terms, as incompetence and/or unresponsiveness. Commissioner Vincent suggested the cause as a lack of following direction given from the Town Commission regarding the payout to former Town Manager Esther Colon.

Attorney Trevarthen clarified that the 2 weeks severance would not be paid out nor would the 25% of sick leave. She requested direction regarding John Olinzock's accrued vacation leave. Vice Mayor Dodd said he was only entitled to basic salary based on the personnel manual. Attorney Trevarthen said the personnel manual could be interpreted either way so direction was needed from the Commission. Commissioner Vincent suggested allowing the payout of the accrued vacation leave. He wished to move the matter forward.

Commissioner Sasser made a motion to make John Olinzock's payout at base salary only. Mayor Minnet requested clarification of what "base salary" meant. Attorney Trevarthen clarified that Mr. Olinzock was already paid for his time worked.

Commissioner Sasser made a motion that Mr. Olinzock was previously paid in full by the Town. Vice Mayor Dodd seconded the motion. The motion carried 5-0.

Commissioner Sasser pointed out that Kathy O'Brien was terminated with cause so the same procedures would follow. Vice Mayor Dodd stated that that decision was to be made by the Interim Town Manager.

c. Updated List of Pending Projects

Interim Town Manager Hoffmann said the project list was self explanatory. She explained that the item regarding beach bathrooms needed to be reviewed further by staff and would be brought back for discussion in July.

Vice Mayor Dodd explained that updating the phone system and computer systems needed to be added to the list.

Commissioner Sasser made a motion to approve the Town Manager's Report. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

17. TOWN ATTORNEY REPORT

18. ADJOURNMENT

Commissioner Sasser made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 9:45 p.m.

19. FUTURE REGULAR COMMISSION AGENDA ITEMS

Mayor Roseann Minnet

ATTEST:

Town Clerk, June White

Date