

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

**4505 Ocean Drive**

**Tuesday, August 21, 2012**

**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 and Town Clerk June White.

#### **2. PLEDGE OF ALLEGIANCE TO THE FLAG**

#### **3. INVOCATION – Pauline Brooks McGuinness – Member of the Bahá’i Faith**

Pauline Brooks McGuinness gave the Invocation

#### **4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS**

There were no Additions, Deletions, Deferrals of Agenda Items.

#### **5. PRESENTATIONS**

- a. Presentation by Patricia Zeiler of the Transportation Management Association Regarding Sun Trolley Service (Commissioner Mark Brown)

There was Commission consensus for Town staff to explore the possibility of including Lauderdale-By-The-Sea in the Sun Trolley’s regular service route.

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

Sea Ranch Club Condominium Association President Stuart Klein quoted from a letter dated February 4, 1997 from the then Town Manager, Bob Baldwin. He said the letter stated that the Town agreed to take necessary actions to reduce the condominium residents’ sewer rate to that charged by Pompano Beach. He said that a Town newsletter mailed to residents that stated the Town Commission agreed to lower the condominium residents’ sewer fees. Mr. Klein said these documents were provided to

the Commission and subsequent sewer budgets supported the provision. He hoped the matter could be amicably resolved.

Eric Yankwitt said the Sister City representatives met with the Town's Chamber of Commerce to finalize some plans for a wine tasting of Peru at the Blue Moon, and later in the year there would be a Tasting of Peru with both beverages and fine food. If all went well, it was possible that a delegation may go to Peru. Mr. Yankwitt hoped the Town would sponsor a location in the Town at which he would provide the meal to feed the residents, and satisfy those also hungering for bonding with others. The event would take place on Thanksgiving Day from 11:00 a.m. to 2:00 p.m.

Edmund Malkoon said that while the trial of individual parking meters sounded good at first, he asked that the Commission compare the total cost with that of a multi-pay station. Mr. Malkoon requested the Town put covers and/or covered locations for pay stations in the future. In regard to designing the parking facilities, there was a company that provided modular parking, a cost effective solution to double the number of parking spaces along A1A and possibly the El Mar Drive lot by putting in a second level. The second level could be added in several weeks and could be moved to other locations as the need arose, such as the loss of spaces during a construction project. In regard to Mayor Minnet's reference to attacks from the podium, he quoted American jurist, Hugo Black: "Criticism of government finds sanctuary in several portions of the First Amendment. It is part of the right of free speech."

John Boutin wished to pursue special parking considerations for certified divers within certain time limits to allow them to enjoy the benefit of the greatest shore diving area in the County and in South Florida. He thought that doing so and publicizing the fact would bring in quite a few divers from other areas of the County.

Ken Johnson questioned taking out 22 parking spaces, saying restaurant patrons that used a few of those spaces, spent about \$100 in an hour. Based on that figure in a five to six-hour period for five days, this equated to \$264,000 of lost revenue for the restaurants in the Town. He had not considered other types of businesses in the area and how they were affected.

## 7. PUBLIC SAFETY DISCUSSION

### a. BSO Monthly Report – July 2012 (Chief Oscar Llerena)

Mayor Minnet requested an update from Chief Llerena on a number of incidents throughout the Town.

Chief Llerena said there had been some break ins into houses. Chief Llerena believed there were no real trends or patterns. Houses were targeted due to their being a little more appealing than others; some of those factors were geographic, and there was little one could do. He indicated the only recent trend they had in the areas was unlocked vehicles, and the police urged people to lock their vehicles. Protection was a

partnership, and some of the best leads came from residents that saw something suspicious and reported it. Chief Llerena stated they arrested three burglars over the previous weekend; two of them resided in the Town, though not long-term residents. Overall, crime in the Town had been relatively stable.

Vice Mayor Sasser questioned whether it would help if the Town installed security cameras in key locations to track the license plates accessing the areas. He wondered where Town staff was with the installation of security cameras.

Town Manager Hoffmann replied she had met with the Sheriff, who indicated if the Town could identify a number of cities interested in installing security cameras, he would consider housing so the backup computers for a license plate reader camera. She did not find many interested. Few of them had the same configuration as the Town. The Town has very limited entry points that would allow us to install security cameras very inexpensively. She noted the other cities stated it would be a significant cost and would only install cameras in high crime areas. The Town would go as an individual municipality to Broward County's Traffic Engineering Department and show them how the Town could install the cameras using their poles at a very limited cost. If the Town did not use their poles, the cost increased. If this did not work at the County staff level, Town staff would request a member of the Town Commission meet with County Commissioner LaMarca to see if he could carry the cause to the County Commission. Town staff planned to do this within the next several weeks.

Vice Mayor Sasser suggested a member of the Town Commission act as a liaison on the project. Since it was Commissioner Dodd's pet project, it would be good for him to "ride herd" over it.

Mayor Minnet agreed.

Commissioner Dodd accepted the role of liaison on the security camera project.

Commissioner Brown asked about beefing up the bike patrols in some of the Town's neighborhoods as an alternative method of having police presence.

Chief Llerena responded bike patrols were normally used in the business, and downtown areas, but they can be used in residential areas. During the summer months, bike patrols decreased, as there was an increase in foot patrol in July due to various community events, and it was not so much for crime prevention as it was to give accessibility to the public. He indicated this was something they could explore, as they had a sufficient number of bikes to go around.

Mayor Minnet thought it was important for police officers to get out to the residents and have a Night Out or Neighborhood Watch, similar to what took place a few weeks prior, though that was geared to the whole town. It might be time have some Night Out Against Crime within various neighborhoods.

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

**b. VFD Monthly Report – July 2012 (Chief Steve Paine)**

Chief Paine advised if there was a hurricane warning or a watch, and residents felt they needed help with their shutters, they could call the VFD at 954-640-4250.

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

**c. AMR Monthly Report – July 2012 (Chief Brooke Liddle)**

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

**8. TOWN MANAGER REPORTS**

**a. Chamber of Commerce Monthly Report**

Town Manager Hoffmann said Town staff and Chamber representatives met earlier in the day about Christmas By-The-Sea and developed a plan. The Chamber's executive director would speak with a number of the Chamber members about it. Town staff would then come before the Commission with that plan.

The report was accepted with no discussion.

**b. Finance Report – July 2012 (Finance Director Tony Bryan)**

The report was accepted with no discussion.

**c. October 1, 2012, Solid Waste Collection Rates**

To Mayor Minnet the most important factor was there would be a decrease in the collection rates. She asked if the reduction would be across the board: single-family carts, multifamily carts, etc.

Assistant Town Manager Bentley answered yes, as indicated by Exhibit 1, page 2, in the backup.

Commissioner Brown felt it was good news that the rates would go down. He expressed concern over the difficulty getting the condominiums engaged in recycling. Town staff should investigate if Choice could help in this matter and find examples of other communities where they had been successful in getting condominiums engaged. He said it might be possible to apply such methods in the Town, as it would not only

generate more revenue and lower the rates even further, but it would be part of the Town's effort to have a greener reputation.

Assistant Town Manager Bentley remarked the grant the Commission recently approved was focused on the single stream recycling, but the information the Town had would go to everybody with the message to recycle. Town staff would do follow up that would focus on multi-families and small businesses.

Vice Mayor Sasser thought in the contract with the Town, Choice agreed to do some educational programs with the condominiums and others.

Assistant Town Manager Bentley stated the agreement talked about Choice providing educational material and Town staff would speak with Choice about doing more educational things in the future. He mentioned the other matter on the agenda was the recycling interlocal agreement, and the new company the County selected for the service committed to reach out to every multifamily building to promote condominium recycling.

Mayor Minnet observed representatives from Choice were present at the meeting taking notes and nodding in acknowledgment, so she felt sure they would be coming back to the Town Commission and staff with further information.

Commissioner Dodd believed this was a massive undertaking, and the Town needed to walk before it could run, and it needed to get the single-family homes and the duplexes done first. He believed, down the line, there were plenty examples where condominiums reduced their dumpster fees dramatically if they participated in recycling. This was something Town staff could use to encourage condominiums to get with the program, as their tipping fee would decrease.

Town Manager Hoffmann commented Town staff implemented the garbage rate reduction administratively, so the item was simply a report.

d. Town Manager's August Project/Assignment Status Report

Town Manager Hoffmann wished to make one correction to her report. On 240 Imperial Lane she mentioned a new building permit had been pulled; that statement was in error, as they applied for the new permit but did not pay the permit fee; thus, the permit was not yet issued. The Town cited the property owners again this week, and they would be going back to the code magistrate on the additional violations in September. Town staff was examining other strategies to pursue, one of which would involve an Unsafe Structures Board hearing. She noted, as the Town no longer used the County for building services, it would have to enter into an agreement with the County to access their Unsafe Structures Board. The next step would be to get that process going, so the Town could take problems, such as this one, to the Unsafe Structures Board in the future.

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Vice Mayor Sasser knew many people contacted the Town over the issue, as it had been around some time. There seemed to be a huge desire for the Town to do more and was the Town doing everything possible. He wondered if the Town should communicate those expectations of what the Town could truly do versus the action the residents wished to see.

Town Manager Hoffmann commented when the Town took these new violations to the Code Magistrate in September, Town staff would be requesting the authority to go in and clean up the property; the property owner would then be assessed the cost. She remarked there were two strategies Town staff spoke to the Town Attorney about: one was pursuing the matter as an unsafe structure. As long as there was no permit, this option remained available to the Town. She said another issue was to look at the Town trying to foreclose on its liens, as the liens on the property were sizeable.

Town Attorney Trevarthen affirmed these discussions. The legal staff agreed to take the first steps to investigate the potential for the Town foreclosing on the code liens to understand what other parties that held liens on the property. She said this was something other cities did, though not routinely, usually in situations of great concern.

Vice Mayor Sasser felt sure the Town was not the only party with liens against the property, wondering if the Town would be in the first position on the liens.

Town Attorney Trevarthen confirmed there were multiple liens, and some of them would not be in first position, hence the need to evaluate what the situation was and the potential implications with the Town's proceeding with foreclosing on the liens.

Vice Mayor Sasser stated he was in favor of the more drastic measures, as he thought while cleaning up the property would be a good thing that was the least residents sought at the present juncture.

Commissioner Vincent agreed with moving forward with some drastic measures. He felt the project completion was the ultimate aim, as it did the Town no good remaining incomplete. It was necessary to balance the situation to ensure that if they were willing to move forward to complete the project, the Town would allow that. He said the Town would not lose its lien rights or the ability to foreclose.

Commissioner Dodd tried to take a backseat on the issue, as he lived some two doors away, and he believed the Commission should instruct Town staff to do all it could and, if necessary, shut it down and take legal action against them. If it was dangerous for the next-door property with the fences removed, and there were children playing nearby, then the conditions of the property should not be allowed to persist, as safety was paramount. He felt the Town needed to take some drastic steps in order to ensure the property was safe and adequately fenced; in its present state, anyone could walk onto the property. Though he understood Commissioner Vincent's comment about the Town not wanting to stop the eventual sale of the property, he did not want the dais to go soft when it came to mitigation of liens, as the property owners were appalling

neighbors. There was an identical building on the other side of the canal that started of in January 2012 at the same stage and it was completed and looked fantastic. Commissioner Dodd remarked all the residents on Imperial Lane were very angry about the present situation, and they were asking what they could do to rectify the situation.

Commissioner Dodd added if the Town lacked the power at present, it should acquire the power to do something about the situation in the future, in the event the situation repeated itself. Town staff should examine the code to see whether other municipalities had more teeth in their code to deal with the situation, as he disliked the idea of waiting to go to Broward County for their board to make a decision on an issue that might be a safety risk.

Town Manager Hoffmann mentioned the Commission's request that Town staff investigate alternate parking arrangements when construction projects for Commercial Boulevard began. Commissioner Brown had suggested Town staff approach Minto, and staff called them about possibly using their property across the street for parking, and they were willing to discuss a possible arrangement with the Town. She said Town staff was in the process of figuring out what cost would be to prepare the Minto property as a temporary parking lot, after which they would again meet with Minto and bring the results of those discussion to the dais.

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

Town Attorney Trevarthen mentioned there would be another meeting of the Charter Review Board (CRB) on July 22, 2012, in the evening. The Board wished this announced, as they hoped to see more involvement from the public at those meetings. At the next CRB meeting, they would discuss both Article 6 and Article 7 of the Town's Charter, the Elections article and the Planning & Zoning article respectively. She did not have an occasion to speak with the Commission on whether they were interested in having additional ethics discussions or presentations prior to the end of the year, and that could be discussed at a later date. It was close to nine months since the County Code of Ethics for municipalities was implemented and, if desired, legal staff could prepare a presentation regarding the developments that have occurred.

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

- a. June 19, 2012, Special Commission Meeting Minutes
- b. June 26, 2012, Regular Commission Meeting Minutes
- c. July 24, 2012, Special Budget Meeting Minutes

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

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

Items 11b and 11d were pulled from the Consent Agenda for discussion.

Commissioner Dodd made a motion to approve items 11a and 11c on the Consent Agenda. Commissioner Vincent seconded the motion. The motion carried 5-0.

- a. Approval of Seventy-Two (72) Parking Permits for Use by the Lauderdale-By-The-Sea Woman's Club (Town Clerk June White)

This item was approved on consent.

- b. A1A Parking Lot Renovation – Conceptual Design (Assistant Town Manager Bud Bentley)

Commissioner Dodd questioned whether, on the conceptual design where arrow number two was located on the diagram, there was a proposed exit, as anybody entering the northern part would either have to exit A1A or drive around the parking lot. He asked if it was intended to be one-way traffic, except in the northern part, as anyone in the southern part of the parking lot had to exit via Bougainvillea.

Assistant Town Manager Bentley answered correct, the southern part of the parking lot exited to Bougainvillea; if someone wished to exit to A1A, they had to come back into the lot and drive through the northern part of the parking lot to exit. This was the current limitation that was due to a single aisle on the southern part of the lot; there was no room for two-way traffic.

Commissioner Dodd congratulated Town staff, as he fought long and hard to get an exit onto A1A, and the Town was told by previous administrations this was not possible.

Vice Mayor Sasser inquired if there was a way to combine the lots so they were not separate. He had hopes of redoing the lots completely and making the flow better, and he did not see that with the proposed design.

Assistant Town Manager Bentley responded to accomplish that would require the elimination of parking spaces, and Town staff noted this when they first presented the design to the Commission. Except for the exit on A1A, and the exit to Bougainvillea on the north drive, everything else on the southern portion of the lot, the traffic pattern would remain the same. He said the single aisle diagonal parking along the apartment building was extremely limited.

Vice Mayor Sasser questioned if the Town was limited by the geography of the site or by the increase in the cost to make the change.

Assistant Town Manager Bentley replied it was mainly the limitations of the space.

Vice Mayor Sasser inquired if any parking spaces were lost by giving an exit out to A1A as the current entrance from A1A was very small.

Assistant Town Manager Bentley stated the exit eliminated one parking space.

Vice Mayor Sasser wished to know if the aim was easier access to the entrance.

Assistant Town Manager Bentley indicated it would be wider entrance, expanded from the present single entrance. If there was another car exiting, there would be an extra radius to make the turn.

Vice Mayor Sasser thought the new design would look much the same as it did today, though some parking spaces would be gained, so he commended staff on this. He had hoped the site would be completely redone.

Commissioner Vincent wondered if on the entrance from A1A, the first parking spot to the north was a disabled parking space, asking if this was feasible or conducive, as this was where most of the traffic would be coming in and out of the lot.

Assistant Town Manager Bentley believed Commissioner Vincent was looking at the underlay of the plan, as that was where some existing disabled parking spaces were located. He did not think this was the final proposed design, but he would confirm it with the designers, as he thought the disabled spaces were separated; some would go to the east, others would go to the west. The disabled spaces would be located closer to the pay stations to the south.

Commissioner Vincent asked if number four was included in the backup.

Town Manager Hoffmann replied number four was where one of the pay stations would be, where the sign and architectural feature would be placed; this was where pedestrians could gather or exit the lot.

Commissioner Vincent wished to know if the net gain of 13 spots would be mostly for compact car parking.

Assistant Town Manager Bentley affirmed this to be the case.

Mayor Minnet commented that B cycle would be asking for a meeting with the Town Manager to possibly relocate the B cycle station, so it was important to have a conversation with them before including the B cycle station.

Mayor Minnet thought they wished to move it to a location that might be used more often and requested staff to follow up on that.

Vice Mayor Sasser remarked on Mr. Malkoon's mention of a temporary second story parking ability, wondering if there was an easy way to do a functional analysis or take a commonsense cursory look at what Mr. Malkoon presented. He felt this might be something to look at during the construction phase for the heavy season months to test out the situation. He believed in one of Mr. Malkoon's emails he mentioned the

possibility of the Town renting such structures, though he was unsure if it would work. He urged staff to examine the site and report back to the Commission whether Mr. Malkoon's suggestion would work.

Town Manager Hoffmann noted she had not seen Mr. Malkoon's email but would review it and make a recommendation as to how it fit with the renovation.

Commissioner Dodd made a motion to approve item 11b. Commissioner Vincent seconded the motion. The motion carried 5-0.

- c. Resource Recovery Board Single-Stream Recycling Grant (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- d. South Silver Shores Road Paving (Municipal Services Director Don Prince)

Commissioner Brown remarked there were about five or six streets in south Silver Shores where residents had been waiting very patiently for the last few years to have them repaved. He indicated the Town was willing to do the work, but the problem was Fort Lauderdale was responsible for repaving several of the roads, and they repeatedly delayed in doing the work. The item before the Commission was asking for approval to use Town money to move ahead with the refurbishing of East Tradewinds, South Tradewinds and West Tradewinds and rather than continue to wait for Fort Lauderdale to commit funds to do Miramar, Capris, Lake Court and Shore Court. It made more sense to do all the roads at the same time. He was aware the Town Manager had several conversations with Fort Lauderdale, and they continued to tell the Town it would happen next month. Commissioner Brown preferred to wait one more month to see if Fort Lauderdale came through with its commitment, but he had no wish for the Town residents to think the Town was doing nothing. Thus, the Commission could conditionally approve fixing the streets in October with or without Fort Lauderdale's participation. If Fort Lauderdale did not participate, then the Town should consider withholding payment of the water bill in the south end of Town in an amount equal to what they owed the Town for fixing streets. He believed the priority had to be getting the streets repaved, and the Town should set a firm deadline for doing the project, so the people living in the area knew the Town intended to take action.

Town Manager Hoffmann said Fort Lauderdale stated in writing they would do the project in October. She emailed the Fort Lauderdale manager at the end of July and suggested they allow the Town to do their portion and they could reimburse the Town, but they refused the offer. Earlier in the day, she called and spoke to the Fort Lauderdale engineer overseeing the project. She was informed by the engineer their contract would go to their commission in September. After that it would take a month or longer to execute it. The Fort Lauderdale engineer stated the Town's projects were number one on their resurfacing list, so it appeared the end of October was the likely time for the project. Town Manager Hoffmann stated she told the residents in Silver

Shores the Town would hold off and do the project all at one time, but the question became should a single contractor be used for the whole project. She suggested pulling the item; wait to see which contractor Fort Lauderdale awarded the contract for the project to and at what rate. She feared if a single contractor was used, the Town would have to enter into an agreement with Fort Lauderdale, and that would likely cause further delay. The residents communicated to Town staff they did not want the project executed in two pieces, preferring it to be done all at once.

Commissioner Vincent wondered if there would be an issue with the Town budget, as the project was a part of current fiscal year's budget.

Town Manager Hoffmann answered yes. The proposed budget would have to be amended to put the funding for the project in next year's budget. The monies were in the current year's budget in the capital fund and it would lapse.

Vice Mayor Sasser stated he had no confidence in Fort Lauderdale getting the project done. He agreed it would be more cost efficient to have them do the project one time rather than in two separate pieces. If Fort Lauderdale did nothing, the Town should use its contractor to finish the other streets at the same time.

Town Manager Hoffmann expressed concern taking the suggested action by Vice Mayor Sasser, as it constituted a significant amount of money the Town would be paying out that Fort Lauderdale should be paying for. Fort Lauderdale already informed her they were against the Town using its own contractor.

Vice Mayor Sasser inquired what the Town's legal recourse was, as there had to be a time limit. The streets had been torn up for about two years.

Town Attorney Trevarthen indicated she would follow up on the matter and identify what the Town's options were. It sounded as though they conceded the obligation to pursue the project, so the Town had grounds to seek enforcement.

Town Manager Hoffmann added the agreement with Fort Lauderdale stated they would make repairs in the same manner, fashion and timeliness they would do in their own city. Town staff spoke with representatives for Fort Lauderdale, and they indicated it took them a few years to do their streets. She suggested if the situation continued, the Town could make a public records request to Fort Lauderdale to show the Town how quickly they resurfaced their own. She hoped things did not reach that point and the roads were fixed in October or November.

Vice Mayor Sasser said he would appreciate the Town Attorney doing the research, so he could understand the Town's recourse.

Commissioner Dodd expressed considerable concern if two different contractors were used to ensure the uniformity of the improvements. Therefore, even it meant a further

delay he was in favor of waiting and using one contractor, even though it likely meant more work for Town staff to organize the agreement with Fort Lauderdale.

Commissioner Vincent agreed having one contractor for the project was best. He asked if the Town already had a paving contractor identified.

Town Manager Hoffmann answered yes. She reiterated Fort Lauderdale had an agreement on their September 5 agenda to award a bid to a new paving contractor.

Commissioner Vincent questioned how confident Town staff felt about Fort Lauderdale following through on their promised schedule.

Town Manager Hoffmann reiterated the Fort Lauderdale City Manager assured her they would get the project done and the Town's project was number one on their list.

Commissioner Vincent inquired if Town staff could negotiate a standard price beforehand that was common by industry standards and have Fort Lauderdale agree to the price and the Town go ahead and complete the project.

Town Manager Hoffmann believed Fort Lauderdale would refuse, as they wished to use their own contractor.

Commissioner Vincent wondered what would take place if Fort Lauderdale's contractor had a higher price than the Town's.

Town Manager Hoffmann responded, if such an instance arose, Town staff would go back to Fort Lauderdale and ask why they would prefer to use a paving contractor pricing the job higher than the Town's paving contractor. Fort Lauderdale believed their contractor would come in with a lower bid, as they had much more paving work; she expected to know within a few weeks what the prices were.

Mayor Minnet mentioned the members of the Town Commission would be at the League of Cities meeting, and it would be a wonderful time to see the neighboring elected officials and make them aware of what was going on. It was important that the mayors and commissioners of both Fort Lauderdale and Pompano know they had not been the best of partners with the Town. She would share this information with other fellow elected officials at the League's meeting.

Mayor Minnet acknowledged Town Manager Hoffmann's request for item 11d to be withdrawn.

Mayor Minnet recessed the meeting at 8:25 p.m. and reconvened at 8:40 p.m.

## **12. ORIDINANCES – PUBLIC COMMENTS**

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

- i. **Ordinance 2012-14: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES TO ADDRESS PLANNING PRIORITY 4 BY ESTABLISHING NEIGHBORHOOD COMPATIBILITY STANDARDS AND ADDRESSING SAFETY AND HISTORICAL AND ARCHAEOLOGICAL RESOURCES, BY AMENDING SECTION 30-71 "DEVELOPMENT REVIEW REQUIREMENTS"; AND BY AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS"; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.**

Town Attorney Susan Trevarthen read Ordinance 2012-14 by title.

Mayor Minnet opened the item for public comment. She closed the public comment portion of the discussion after receiving no input from the public.

Commissioner Brown was concerned the Town might be creating historical and archeological standards in neighborhoods. He was familiar with such agencies as the National Register of Historic Places where they were very bureaucratic, very big government, and very restrictive in terms of what people were allowed to do with their property. The question was what the Town aimed to do by such action, would there be an actual setting of historical and archeological standards, and what would be the basis for those standards. For instance, if homeowners wished to make improvements, would they have to hire an archeologist to certify they were in compliance with the proposed standards? He was not opposed to the concept of what Town staff sought to accomplish, but he expressed concern about the possibility the Town creating some kind of big government bureaucracy.

Town Planner Linda Connors directed the Commission's attention to Exhibit 1, line 390, where it began with the consideration of lands containing historic or archeologically significant artifacts and relics. This implemented several of the City's Comprehensive Plan policies and objectives. Town staff will figure out how to recognize historic and archeologically significant resources in the site planning process. They did not want to be overbearing and put an onerous process on any landowner. If any significant resources were already recognized either by Broward County, the Town or were listed on the State of Florida Master Site file or the National Register, Town staff would require more investigation of the property. She said the significance would affect how the mitigation report was prepared. She noted the Town currently had one property recognized on the Florida Master Site file, and that was the Anglin's home. Town staff believed the proposed ordinance recognized the Town's historic and archeological significant resources without doing any of the things the Commission expressed concern about.

Commissioner Brown sought clarity if someone needed a permit for work on their property, how would the proposed element of historical and archeological resources get vetted by Town staff as part of the permitting process.

Town Planner Connors responded it would not come into play during the permitting process. Rather it would be vetted only if a site plan review was necessary. If a property was being redeveloped to the extent that it needed a site plan review, Town staff would investigate if that property were on the Florida Master Site file. If the site slated for major work was deemed to have archeological/historical value, the site plan approval should include provisions for the management of the site based on the level of historic or archeological significance. She noted if the site was eligible to meet the criteria for National Register listing, then the provisions in subsection one would be based on a report prepared by a professional in the field. The report would be submitted and the Development Review Committee (DRC) would review the mitigation plan submitted by the applicant and provide a recommendation to the Town Commission, as the Commission made the final determination of the measures necessary to protect the historic archeological resources.

Commissioner Vincent questioned if there was an application by the owner if it was a choice that they wish to deem their property as having some historical value.

Town Planner Connors replied the ordinance had nothing to do with designation.

Commissioner Vincent queried who would make such a determination if not the owner.

Town Planner Connors remarked the State list was recognition that there might be significant historic value, but it did not protect anything. Anyone could submit a site form to the State, including the property owner or historic organizations, but this served only to identify the site; they had to follow a formula, a set process to see whether the site met the criteria of the National Register. There were exacting standards to be met.

Commissioner Vincent observed someone could own such a property and this was taking place without them even knowing it. Would that delay any work that property owner wished to do if they discovered their property was under review?

Town Planner Connors reiterated it was just a form, and if it was on file, it was on file. If the State said a property had been reviewed and they agreed it had been done correctly and it was significant enough to meet the National Register for historic standards. Town staff could then take a closer look at the site plan review process to see if there was anything the Town wished to do to protect the site.

Commissioner Vincent stated there could be restrictions imposed by the Town on the development of a site so designated without the owner knowing it could happen.

Town Planner Connors answered no, the property owner would know, as the property owner would be applying to the site plan review process. If they had a property determined to have historic significance, they were likely to be aware of it beforehand. If a form had been filled out, the owner went through one extra review for the site plan. Town staff could identify the Florida site files and send it to the property owner, so they knew their property was on the list.

Commissioner Vincent asked if such a designation could hinder improvement of a property by an owner at any point in time if the property was on the Florida site file list.

Town Planner Connors responded the site file was just knowledge, so it would not hinder any work on the property. Once a site was designated historic according to the ordinance, it could hinder work on the property, as there were some stipulations depending on the level of designation.

Town Manager Hoffmann stated the site could get designated on the National Register, but that was something the property owner would do; that was a choice they made.

Town Planner Connors concurred.

Town Manager Hoffmann asked Ms. Connors to explain what was meant by mitigation.

Town Planner Connors gave an example of archeological mitigation as if they found a hidden or archeological resources, mitigation might be allowing time for professionals to document the findings before proceeding with work on the site.

Town Manager Hoffmann commented that when artifacts or other archeological finds were discovered while a site was being worked on, archeologists or historic preservationists were brought in to document the findings; make provisions for the donation of artifacts, etc.

Town Planner Connors added it was to ensure nothing was built on top of the find.

Commissioner Vincent asked if the proposed ordinance was consistent with the Tree Preservation Board of Broward County, where residents were prohibited from cutting down trees; if they did, there was mitigation and a value attached.

Town Planner Connors said the two situations were not similar.

Commissioner Vincent wondered if the process could ever reach that stage of stringency.

Town Planner Connors directed the Commission's attention to line 403, where the DRC reviewed the plans submitted by the applicant and provided a recommendation to the Commission. The Commission would consider the mitigation plan and the DRC recommendation in approving a final site plan, so the Commission would make the final decision.

Town Manager Hoffmann mentioned an example was the Anglin house, noting in other cities she saw similar situations, where part of the mitigation imposed by a city was to require the owners to allow the house to be moved to another site if someone was

willing to move it. If no one came forward to move the house in the set timeframe, the owner was at liberty to tear it down.

Commissioner Vincent had reservations, as he personally experienced the effects of such “mitigations” via the County’s code requirements for removing trees. He wanted to make sure the Town was not, now or in the future, hindering any property owner from developing their property as desired due to a bureaucratic decision designating their property as historic.

Town Attorney Trevarthen said what really mattered was what was proposed in the Town’s ordinance, what took place with other governing entities did not affect the proposed ordinance. Line 403, as read by Ms. Connors, detailed the process, and line 404 stated the Town Commission “will consider” rather than the Town Commission would implement the recommendation. The process was only activated if there was a site plan, and it would be part of the same site plan review process.

Commissioner Dodd inquired where the proposed code was lifted from.

Town Planner Connors used her experience and made significant adjustments.

Commissioner Dodd asked about protection of air navigation, reading the language pertaining to that section, questioning if this would affect any of the Town’s properties.

Town Planner Connors stated this was already in the Town’s code, the language was just relocated.

Commissioner Dodd preferred the proposed ordinance to be specific to Lauderdale-By-The-Sea, as this would make it easier to read. He was unaware of any Town properties that fell under the air navigation section.

Commissioner Dodd agreed if the language was relevant to the Town, it should be included in the code.

Town Manager Hoffmann suggested Town staff look at the matter further and determine if there were some requirements from the FAA.

Commissioner Brown made a motion to adopt Ordinance 2012-14 on first reading. Commissioner Dodd seconded the motion. The motion carried 4-1. Commissioner Vincent voted no.

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

- i. Ordinance 2012-11: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V “ZONING” OF CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-313, GENERAL**

PROVISIONS, TO PROVIDE REQUIREMENTS FOR WINDOW SCREENING FOR VACANT COMMERCIAL USES, INCLUDING HOTELS AND MOTELS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE *Tabled at the July 24, 2012 Commission Meeting.*

Town Attorney Trevarthen read Ordinance 2012-11 by title.

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

Commissioner Dodd felt the term “artwork of a professional nature” was a little vague, and he wished the wording “preapproved by the Development Services Director” to be added to give some element of control, as this could open the door for inappropriate displays.

Town Attorney Trevarthen stated her concern about adding such language to the proposed ordinance, as she did not think it possible for the Town to have preapproval authority over the content of the artwork.

Commissioner Dodd sought confirmation the Town would have no control over what someone chose to display in their store window.

Town Attorney Trevarthen replied the Town had the level of control reflected in the ordinance, including the alternative of the Town providing window screens. Town staff was attempting to make those screens attractive, easy and affordable.

Commissioner Dodd thought it best to remove the artwork issue entirely if the Town could have no control over the artwork that could be displayed in store windows.

Town Attorney Trevarthen felt this too would be problematic, as the Town was limited on dictating the content. This was why at line 85 it said, “... artwork and photography but not text...” to rule out that category of potential problems. She indicated there were state statutes that governed obscenities, so those protections were already in place for true obscenity. She could not recommend the Town becoming an arbiter of taste on such matters based on concerns regarding the First Amendment.

Vice Mayor Sasser wondered if artwork from school children could be used as a storefront display if it was on the right material.

Town Attorney Trevarthen said artwork was allowable if the artwork were of a professional nature. Line 93 left it completely open to the Town to do whatever it desired for the designs on the window screens. The Town retained discretion over what to put on its window screens.

Vice Mayor Sasser asked if coverings, such as those displayed at Athena where they were going through renovations currently were allowed under the ordinance.

Town Planner Connors replied Athena's coverings were not window coverings; they covered plywood.

Town Attorney Trevarthen pointed line 71 was just about paper and line 74 was just about fabric. She suggested inserting the words, "... if fabric or any other material is used, it shall be of comparable or greater opacity."

Mayor Minnet shared a similar hesitation as Commissioner Dodd regarding the artwork of a professional nature.

Town Attorney Trevarthen clarified her advice given to staff regarding the permissible scope of the Town's regulation in this area. She clarified the motion to approve would include the amendment to line 74 after "... if fabric..." the following language should be inserted, "... or any other material."

Vice Mayor Sasser made a motion to adopt Ordinance 2012-11 on second reading with the amended language as stated above. Commissioner Vincent seconded the motion. The motion carried 3-2; Mayor Minnet and Commissioner Dodd voted no.

- ii. **Ordinance 2012-13: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 20, "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE II, "SANITARY SEWER SYSTEM," SECTION 20-19 "RATES AND CHARGES", AND SECTION 20-23 "DEFINITIONS" IN ORDER TO ADOPT REVISIONS TO THE SCHEDULE OF RATES AND CHARGES FOR SANITARY SEWAGE COLLECTION, TRANSMISSION AND DISPOSAL; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

Town Attorney Trevarthen read Ordinance 2012-13 by title.

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

Mayor Minnet stated not being comfortable with moving forward with the ordinance based on new information given to the Commission, as well as the impact it would have on the single-family homes. The Town Commission and staff needed to analyze the ordinance further, as Lauderdale-By-The-Sea was a small community, and each commercial property could be reviewed individually to see how much water was being used. Her recommendation was for Town staff to further review water usage by commercial customers and return with the results to the Commission in about a month. She would ensure the single-family customers did not bear the brunt of rate increases.

Vice Mayor Sasser believed when the Commission first voted on the proposed ordinance he was the only no vote. He thought Mayor Minnet was right, there needed to be more work and analysis done by Town staff, despite all the hard work already invested; at the first reading he stated he felt the ordinance did not seem "fully baked."

Finance Director Bryan elaborated the staff's reservation had to do with the utilization of the AWWA tables to assign the number of equivalent residential units to commercial properties. The work Mayor Minnet was alluding to was for Town staff to go back and take a look at the individual commercial customers and develop tables based on their actual usage by each property or by class of properties. He said Town staff would then develop a more accurate allocation equivalent of residential usage and, therefore, base utility charges to the different commercial customers. The AWWA tables did not take into consideration the fact that two very different properties with the same-sized meter could have very different water usage and, under those tables, they could be charged the same number of equivalent residential units based on the size of the meter. He thought a month would not be sufficient to do the analysis well.

Mayor Minnet believed the Town should do it right this time.

Commissioner Dodd asked Mr. Burton to briefly state his opinion on as to the fairness of the AWWA tables, or was the Town trying to fine-tune the system too far.

Mike Burton of Burton & Associates responded the AWWA meter equivalency table was commonly used in ratemaking, but it was used as a default when a billing system did not have more accurate and granular data that reflected the real demands of customers. For larger utilities, like the County, the ability to go in and define those allocations based upon more granular data was very difficult; it would take a vast amount of fieldwork to determine customer usage. He remarked when it was possible to gather more granular data, generally speaking there was more demand going through the meter than the meter equivalency would indicate. He supported additional review and study of customer usage, as whatever it revealed would be a fair depiction of the usage by those commercial customers. It might bring some of the cost burden back onto the commercial class customers.

Commissioner Dodd questioned if authorizing the additional work and delaying the ordinance for a few months would impact the validity of the notices already sent out.

Town Manager Hoffmann was unsure. She thought the Commission could defer the public hearing to a time certain, such as two months from the present date.

Town Attorney Trevarthen thought this advisable. If the Town had the ability to save the notice, that would be the way to do it.

Commissioner Dodd agreed this was something the Town should get right, and favored delaying the ordinance for a few months.

Commissioner Brown recalled the last time the Town sent the matter out for a professional review, the Town ended up with a proposed methodology that increased the single-family rates considerably. There seemed to be no assurance that if the Town sent the matter out for further review, it would not come back with an even higher rate for the single-family homes. He felt the Town Commission was gambling to some extent by trying to make sure the most independent evaluation standards were used, yet the outcome was still unknown.

Mr. Burton replied he was unable to give the Commission an answer with certainty as to the outcome of something that had yet to be done. Typically, he expected, based on his experience, the Town would come out with more equivalent units under the precise method than would be yielded with the use of the meter equivalent method. Regardless, he said, as the more precise method was more accurate, the Town would know that established factors for its various customer categories were based on actual usage. He felt strongly the ERUs established for commercial based upon actual usage would turn out to be significantly greater.

Mayor Minnet requested a motion to defer Ordinance 2012-13 to a time certain of October 23, 2012.

Vice Mayor Sasser made a motion to defer Ordinance 2012-13 to a time certain on October 23, 2012. Commissioner Dodd seconded the motion. The motion carried 5-0.

Town Manager Hoffmann remarked she strongly felt the services of Burton & Associates should be used for the analysis rather than having Town staff trying to figure out the rates. She did not have an amount negotiated and requested the Commission give her some authorization to amend Mr. Burton's contract up to a certain dollar amount. If it ended up being more, she would bring it back to the dais.

Mr. Burton believed it should cost no more than \$5,000.

Commissioner Dodd made a motion to authorize the Town Manager to increase the Burton & Associates contract up to \$5,000. Commissioner Vincent seconded the motion. The motion carried 5-0.

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

- a. Resolution 2012-21: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ESTABLISHING NEW PARKING PERMITS AND PARKING FEES EFFECTIVE OCTOBER 2012; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Town Attorney Trevarthen read Resolution 2012-21 by title.

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

Assistant Town Manager Bentley reviewed the contents of the proposed resolution. Town staff recommended approval.

Vice Mayor Sasser made a motion to adopt Resolution 2012-21. Commissioner Dodd seconded the motion. The motion carried 5-0.

- b. **Resolution 2012-32: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR THE TOWN'S PARTICIPATION IN THE COUNTY'S RECYCLABLE MATERIALS RECOVERY PROGRAM FOR A TEN YEAR TERM, COMMENCING ON JULY 3, 2013; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

Town Attorney Trevarthen read Resolution 2012-32 by title.

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

Vice Mayor Sasser observed the Town seemed to always end up getting the short end of the stick in inter local agreements (ILA) it entered into. He inquired as to the Town's options if it did not sign the ILA.

Assistant Town Manager Bentley reminded the Commission there was some language in the restated agreement whereby Choice could meet other options, but this was in the field of disposal not recyclables. Town staff discussed the matter with Choice; they believed the agreement was an excellent one and recommended its approval. The Town could elect to bid the service itself or piggyback off another contract, should another municipality decide they would bid for recycling services. He did not recommend the Town do this, as Lauderdale-By-The-Sea represented less than two percent of the solid waste stream in the County, and he did not believe the Town would receive acceptable bids. Another option was for the Town to wait and see if another municipality decided to bid their own contract.

Vice Mayor Sasser inquired if the Town had the ability to sign the proposed ILA for less than ten years.

Assistant Town Manager Bentley answered not that he knew of. This was the first time the County bid the recycling; it was currently provided by Waste Management affiliated with Wheelabrator. He noted the proposed contract was with Recommunity, a dedicated recycling company that had facilities and contracts with many other local governments. The price that was bid was a formula based upon the market prices the recyclables

brought. He explained that Recommunity bid a price for a revenue sharing contract. 49 percent of the revenues would be distributed to the cities based upon the amount of recyclables contributed by the cities to the stream, less the County's ten percent in administrative fees.

Vice Mayor Sasser wished to know what vendor would do the actual picking up of the recyclables.

Assistant Town Manager Bentley replied Choice.

Vice Mayor Sasser questioned if any portion of the 49 percent that went to the cities would be shared with Choice.

Assistant Town Manager Bentley answered no.

Vice Mayor Sasser asked what kind of fees were they and who they went to.

Assistant Town Manager Bentley replied the ten percent in fees was retained by Broward County and that was capped at \$150,000 a quarter. He did not have the information as to what the County did with the revenue from the fees.

Town Manager Hoffmann added the County did the recycling education and operated facilities for paint and other recycling. The 10% fee was less than they were charging now under the tipping fee by a sizeable amount.

Vice Mayor Sasser asked if there were caps on any charges year over year to protect the Town on the fee portion, as this was money coming back to the Town, so any fees would decrease the money going out, not necessarily what the Town paid each year.

Assistant Town Manager Bentley stated the County did not charge the Town any other fees, and there was a guarantee that the price would not fall below \$25 a ton.

Commissioner Dodd made a motion to adopt Resolution 2012-32. Commissioner Vincent seconded the motion. The motion carried 5-0.

- c. **Resolution 2012-33: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING LAND DEVELOPMENT REGULATIONS TO ENCOURAGE THE USE OF PHOTOVOLTAIC SYSTEMS CONSISTENT WITH PARTICIPATION IN BROWARD COUNTY'S "SUNSHOT INITIATIVE: ROOFTOP SOLAR CHALLENGE PROGRAM"; PROVIDING FOR APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Trevarthen read Resolution 2012-33 by title.

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

Commissioner Brown guessed the point of the program was to encourage Town residents and buildings to install solar panels. He questioned if such actions were allowable under the current Town Charter or code; that is, could a condominium put a solar panel on its roof to heat their swimming pool?

Town Attorney Trevarthen explained the answer would depend on the property, as there were many properties in the Town that were below the maximum height. Thus, if a property owner had a building that was at the maximum height that would need to be analyzed. She believed the program would have applicability to a broad range of structures in the Town.

Commissioner Vincent asked if the main concern was the aesthetic value.

Town Planner Connors replied what Sunshot sought to accomplish was to create a fast permitting system that was purely electronic. The Town entered into an agreement to support their grant applications. The resolution was the outcome of the grant application, and Sunshot was trying to implement it. She noted Town staff needed to add language to the Town's code to allow its implementation.

Commissioner Dodd made a motion to adopt Resolution 2012-33. Commissioner Vincent seconded the motion. The motion carried 5-0.

**d. Resolution 2012-34: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA RECOGNIZING TOGETHER WE SERVE WEEK, OCTOBER 21-27, 2012 AND ENCOURAGING ALL CITIZENS TO SUPPORT AND TAKE PART IN INCREASING VOLUNTEER EFFORTS WITHIN OUR COMMUNITY.**

Town Attorney Trevarthen read Resolution 2012-34 by title.

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

Commissioner Dodd made a motion to adopt Resolution 2012-34, electing Mayor Minnet as the Town's liaison. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

Mayor Minnet felt Broward League of Cities president, Bobby DuBose, would be pleased, as Broward was aiming for its elected officials to complete one million volunteer hours. She felt sure the Town's Commission would contribute many hours.

#### **14. QUASI-JUDICIAL PUBLIC HEARINGS**

Town Attorney Trevarthen requested members of the Commission disclose any *ex parte* communications on the following quasi-judicial item. There were none. She proceeded to collectively swear in all persons wishing to speak on item 14a.

a. Mixed Use Approval/Flex Allocation for 239 Commercial Boulevard (Town Planner Linda Connors)

Town Planner Connors reviewed the contents of the item. Town staff recommended approval with staff conditions noted.

Commissioner Vincent observed the applicant had two years within which to complete the permitting process, wondering if this could be transferred to new ownership.

Town Planner Connors replied the Town had no stipulation that it would not be transferable.

Town Attorney Trevarthen clarified the approval did not tie the properties together, rather it was allowed to be an independent residential unit.

Commissioner Dodd expressed interest in tidying up the site, as the pictures of the rear of the site showed a row of dustbins, and it appeared two more would be added. If the site was going residential, there would be a trash cart and a recycling cart, questioning if there was any way this could be screened.

Town Planner Connors responded there did not necessarily need to be a residential cart, as the code allowed for mixed-use property. Thus, the occupants could continue to utilize their commercial receptacles.

Commissioner Dodd asked what happened if it was sold as a separate property.

Town Planner Connors acknowledged if the occupants needed another cart, there would be more carts added, and the Town could add a stipulation for screening.

Commissioner Dodd clarified if it were sold as a separate property, they would want their own room in order to have their own cart. Town staff should consider adding language for screening to make the back area more attractive.

Town Planner Connors believed condition number one was for landscaping along four feet on the east and south side of the property, so this might provide screening. Otherwise, screening could be included as a condition of approval.

Commissioner Dodd thought the trash bins were located to the north side of the property; he was unsure if there was sufficient room to allow screening.

The petitioner commented they were more than willing to improve the area to the rear of the property, as people would be living there; anything the Town Commission and staff recommended by way of improvements would be welcome. With regard to the addition of screens, there was not much space to the rear of the property, but they would try to accommodate something that made the bins less visible.

Town Attorney Trevarthen opened the discussion to the public and received no input.

Commissioner Dodd made a motion to approve item 14a with Town staff conditions and the addition of the screening requirement of the solid waste receptacles if feasible within the code laws to the north side of the property. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

#### **15. COMMISSION COMMENTS**

Commissioner Dodd indicated at the Hillsboro Inlet meeting. They reviewed steps the unit was taking to modify the dredging permits to allow the inlet to continue to do the same job it did for the last 30 years. He noted they periodically diverted sand onto the Coast Guard beach as part of their routine maintenance of the site. The existing permit only allowed them to pump sand to the south of the inlet, and they had a problem with that. He was pleased to report the entry feature construction on Imperial Lane had finally begun, but the construction at 240 Imperial Lane continued to be a problem for residents. He urged the dais not to be lenient when it came to lien mitigation.

Commissioner Brown informed everyone Broward County voted to televise its Commission meetings on U-verse channel 99. He suggested Town staff contact the County to learn if there was better data on the number of U-verse users in the Town, so he could present his previous request to the Commission again. This was in light of his being informed the Town was purchasing a P-1 line, so most of the anticipated cost of providing the service would be paid for by the Town, though for a different reason.

Mayor Minnet wished everyone a safe Labor Day.

#### **16. OLD BUSINESS**

##### **a. 2012 Recycling Plan (Draft) (Assistant Town Manager Bud Bentley)**

Assistant Town Manager Bentley reviewed the item stating Town staff recommended the Commission schedule public comment on the plan for September 11, 2012. The Commission could then consider its final decision with the inclusion of the public input.

Commissioner Brown understood, under the proposed plan, each home in the Town would receive either a 65 or a 96-gallon cart in which to place their recyclables. Condominiums were not engaged in this process, and recycling for condominium residents was not as convenient as it was single-family homes. He believed it might be an incentive for condominium residents to recycle if they had a small recycling

receptacle, such as one the size of a regular indoor trash container, in which they could put their daily recyclables and later place it in the building's larger recycle bin. He wondered if the Commission would consider buying about 50 small recycling containers and asking one of the Town's condominiums to participate a trial run by using them indoors to store recyclables. Town staff could determine if distributing the containers produced a positive result by getting condominium residents to recycle.

Assistant Town Manager Bentley referred the Commission to the timeline detailed in Appendix I, specifically item 19, that dealt with the outreach and education of multifamily properties and small businesses. Recommunity, if they became the County's recyclables company, was committed as part of their contract to providing information and reach out to all the multifamily buildings.

Commissioner Brown felt the Town should try to engage one condominium building in a trial as he detailed above rather than simply sending them written materials.

Town Manager Hoffmann affirmed such a trial would be a minor cost to the Town.

Commissioner Dodd thanked Assistant Town Manager Bentley and Town staff for their work on the proposal. The Town could finally start a sensible recycling initiative. He thought the Town Commission might need a roundtable to discuss incentives to decide how far the Town should go to achieve compliance, such as creating an ordinance to govern those citizens who flatly refused to recycle. Another option would be to find out if they would be allowed an exemption if they paid a higher regular trash fee, or the Commission could authorize Town staff to issue caution notices after inspecting people's regular trash bins and finding recyclable materials. He remarked the Town needed a determined effort to educate people on what materials were considered recyclable. Commissioner Dodd commented the Town staff needed guidance on whether to have Alternative One or Two; he preferred Alternative One.

Commissioner Brown concurred with Alternative One with the inclusion of his suggested condominium pilot program. He questioned if the Commission was voting on the alternative or would the Commission vote to schedule the meeting, after which a roundtable could be scheduled to further discuss the matter?

Town Manager Hoffmann clarified the Commission did not have to vote for Alternative One or Two at the present meeting, as the Town needed to get public input first.

Commissioner Brown made a motion to approve item 16a, scheduling the meeting for September 11, 2012. Commissioner Vincent seconded the motion. The motion carried 5-0.

**b. Bougainvillea Drainage & Streetscape Project – Approval of Construction Work Authorization (Project Manager Bill Cole)**

Town Commission Regular Meeting Minutes  
August 21, 2012

Mayor Minnet observed a few residents posed questions on the project earlier in the meeting and at previous meetings. She wished for Mr. Cole to state what steps he had taken as far as going out individually to ensure the people directly affected by the project they were truly listened to.

Project Manager Cole assured the Commission the team and Town staff listened to all public comment, though it might not always seem that way to the members of the public voicing their opinion. It was not possible to satisfy everyone's wishes; however, everyone was given a chance to voice their concerns, individual letters were sent out on two separate occasions requesting their input. He said they did receive some feedback, and staff paid attention to all public comments.

Town Manager Hoffmann wished to address the comment made at some prior meetings that the engineer had not spoken the truth, and asserting that the County had not denied the roundabout at Washingtonia/Bougainvilla. She stated the County had not denied the roundabout, rather they placed certain requirements on the roundabout the Town Commission and staff found unacceptable. One of the requirements would result in the loss of parking, and another would move the crosswalks far from the intersection. She clarified Town staff and the engineer never said the County denied the roundabout, they said the conditions placed by the County for the roundabout were unacceptable.

Mr. Cole noted the pricing from the contractor came in under budget. Though the landscaping was not included, there was more than enough room left in the budget to accommodate landscaping.

Town Manager Hoffmann explained the contractor would not install the landscaping; the Town would bid the landscaping separately.

Mr. Cole said he already located at least three reputable landscaping contractors, and the detailed landscaping plans were due out very soon. The construction would be in conjunction with the drainage projects, so it would not look like two separate projects. He commented the good news was there were sufficient funds in the budget to get the project done.

Mayor Minnet asked Mr. Cole to elaborate, including the stamped asphalt on the swales.

Mr. Cole said the designer had prepared illustrations that showed paving the swales with colored, stamped concrete. The engineering firm estimated the additional cost of stamped concrete at \$62,500, but they had not received an actual contractor's price to do the work.

Town Manager Hoffmann indicated Commission direction was being sought as to whether to price the stamped concrete specifically and bring it back to the Commission to consider as an amendment to this work authorization.

Commissioner Brown thought the stamped concrete was a good addition. However, cars would repeatedly drive over and park on the stamped concrete, and he wondered about its durability under such circumstances to justify the cost.

Mr. Cole felt unable to answer the question as to the durability as he had no personal experience with the particular application. He knew stamped asphalt was used in places where there was high traffic, so the Town would have to trust the claims of the manufacturers and the applicators that it was durable.

Town Manager Hoffmann added stamped asphalt was placed on major intersections throughout Broward County that carried a lot more traffic than Bougainvillea Drive. A legitimate concern was the durability and appearance if cars were parking on the area and had, for instance, oil leaks that might stain it.

Mayor Minnet believed the stamped asphalt would lead to more maintenance for the Town, but she felt it was an added aesthetic feature the Town Commission should consider for the area.

Town Manager Hoffmann stated the motion for approval would be to approve the Bougainvillea Drive work authorization, as well as to direct staff to come back with a cost for the stamped asphalt.

Commissioner Dodd made a motion to approve item 16b. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

## 17. NEW BUSINESS

### a. Application for Relief of Code Enforcement Lien at 2062 Ocean Mist Drive (Assistant Town Manager Bud Bentley and Code Officer Tuchette Torres)

Assistant Town Manager Bentley reviewed the details of the item. Town staff did not recommend approval of the request by the applicant to mitigate the lien 100 percent, and recommended the Town collect no less than 20 percent of the lien.

Tom Day, the applicant's representative, indicated the bank was unaware of the situation until well after they foreclosed the property and did an actual lien search when they found a buyer for the property. Once the bank learned of the lien, they brought the property into compliance in less than 120 days.

Commissioner Dodd said it seemed 237 days to obtain a permit and make a sewer connection did not convey any desire to move swiftly to bring the property into compliance. The Commission needed to send a message to any bank with property in the Town; the offer was insulting, that the bank seriously believed the Town should spend their time over an offer that did not even cover the Town's costs. He was sure Town staff discussed with the applicants what would be reasonable, and he proposed 20 percent under the circumstances as reasonable; he added a further penalty of ten

percent, bringing the mitigation amount to 30 percent of the total lien. The penalty should be considered as the cost for wasting the Town's time, and along with the 30 percent should be added the Town's administrative costs.

Commissioner Vincent considered the lien mitigation requests on a case-by-case basis. The illegally parked trailer had nothing to do with the bank, as the violation took place prior to the bank taking over the property, so there should be a full relief on that charge. He took issue that the bank foreclosed on the home in November 2011 and claimed only to discover the liens in March 2012. There were municipal lien searches done for banks by companies for a fee, and the day foreclosed properties were taken over, banks needed to pay to have those lien searches done and deal with them immediately. He could accept a month's delay, but four months was unacceptable. He felt a mitigated cost of 20 percent of the total lien as recommended by staff was acceptable.

Commissioner Brown agreed each mitigation application case should be considered on its own evidence rather than following a fixed formula. He preferred to examine the severity of the violation: did it cause a public safety hazard, was it a nuisance for the neighborhood, did it impact property values? In this case, the nature of the violation itself did not fit any of those serious categories; the house was vacant and generated no wastewater. The violation was more of a bureaucratic issue, a delay due to laziness. He preferred to support a mitigation of 20 percent of the total lien amount, though he could understand Commissioner Dodd's frustration and desire to penalize the applicant for putting forth such an insignificant offer.

Vice Mayor Sasser shared Commissioner Dodd's frustration but went with staff's recommendation of mitigating the amount to 20 percent; that is, \$7,100 plus the Town's administrative cost of \$500 for a total of \$7,600 with payment within 30 days.

Vice Mayor Sasser made a motion to mitigate the amount to 20 percent of the total lien amount, bringing the amount to be paid to \$7,100 plus the Town's administrative cost of \$500 for a total of \$7,600; payment should be made within 30 days. Commissioner Vincent seconded the motion. The motion carried 4-1. Commissioner Dodd voted no.

**b. Trial Period Agreement with IPS for Thirty Single-Space Meters with Credit Card Capability (Finance Director Tony Bryan)**

Finance Director Bryan discussed the details of the item. Town Staff recommended approval.

Commissioner Vincent asked if the proposed meter would be a universal fit for the existing poles.

Finance Director Bryan answered yes.

Commissioner Vincent calculated the total cost per meter per month, other than the \$125 setup, was about \$10.

Finance Director Bryan replied the cost was \$3.75 per meter per month, plus the number of transactions each meter incurred; it would be 13 cents per transaction, plus \$2.00 per meter per month for the web-based portion. With regard to the \$3.50 per sensor per month, there would not be one sensor for each meter during the trial, as he believed the vendor was offering to give the Town ten sensors with the 30 meters. He explained the sensor was a separate optional unit the Town could install along with the meters it would go in the ground and communicate with the meter to reset it if someone left the parking space earlier than the time paid for. This would prevent the next person parking from getting a "free ride" based on what the previous person paid for but did not use. If the Town wished to be more aggressive, the sensor could notify enforcement officers of vehicles parked without paying.

Commissioner Dodd made a motion to approve item 17b. Commissioner Vincent seconded the motion. The motion carried 5-0.

**c. Award of Banking Services Contract (Finance Director Tony Bryan)**

Finance Director Bryan reviewed the item. Town staff recommended approval. He reminded the dais the Bank's proposal would reduce banking fees to the Town, and increase earnings credit and interest paid to the Town.

Commissioner Dodd questioned how long would the Town be tied into the contract.

Finance Director Bryan replied it was a three-year agreement, but the Town had the option to get out of the agreement if it so chose with 30 days notice.

Commissioner Dodd made a motion to approve item 17c. Commissioner Brown seconded the motion. The motion carried 4-1. Vice Mayor Sasser voted no.

**d. Commission Consideration to Hold Agenda Pre-Conference Meetings at 6:00 p.m., Prior to the Regularly Scheduled 7:00 PM Commission Meeting (Mayor Roseann Minnet)**

Mayor Minnet stated she noticed the Commission meetings were getting quite lengthy. She thought if Commission held a meeting at 6:00 p.m. to allow for an agenda review that would be open to the public to listen but not comment, they could vent some of their questions. Town staff could then take a look at those matters and, hopefully, move the regular meeting along faster.

Commissioner Dodd opposed the idea, as the Commission would be regressing to what he was elected to replace; the current system promoted open and transparent government. He opined pre-agenda conferences were a slippery slope of carving up the agenda before the meeting; the Commission should keep an open mind and listen to public comments, as they had a right to be heard before the dais made decisions. He favored frank and open discussions through roundtables that allowed public input, as

done in the past, they were very productive. The suggestion to speed up the regular Commission meetings was appreciated, but it was doubtful a pre-agenda meeting held prior to the regular meeting would be viewed positively by the public.

Mayor Minnet commented though it might be possible to start the regular meeting at 6:00 p.m., she believed this would conflict with residents that worked and could not arrive in time for 6:00 p.m. It appeared there was no consensus on holding the agenda review at 6:00 p.m.

**e. Amendment to Section 30-507 (3) (a) to Allow Professionally Painted Letters on Awnings (Commissioner Vincent)**

Commissioner Vincent stated the subject matter came to his attention with respect to a local business trying to open a new business and having an issue with an awning permit, due to the sign company recommending painting the letters on the awning. The Town's code did not allow this, but it seemed they allowed a different type of application, and when he spoke to Town staff about the matter, they indicated they spoke to other awning companies that advised other municipalities allowed letters to be painted on awnings. Allowing such actions within municipal sign codes appeared to be a common industry standard, so he recommended the Commission direct staff to create the language for review. He said if it was later determined the nature of the outcome was positive, then the Town should make an amendment to Town code section 30-507. The Commission should direct the Town Manager not to cite businesses with awnings with letters painted on them for violations until the staff evaluations were complete.

Town Manager Hoffmann indicated Town staff already looked at the matter and were fine with adding language to allow letters to be painted on awnings. She thought a Notice of Intent (NOI) would again be required.

Mayor Minnet agreed. She had no objection to the inclusion of the language, as long as the key word as to the lettering on the awnings was "professional", though the Town Attorney already informed the Commission this could not always be regulated.

Town Attorney Trevarthen believed, in the present context, imposing guidelines would not be a problem, as it went to the fabrication rather than the content.

Mayor Minnet added staff would proceed with drafting the language, and the Town Manager needed a Commission consensus to move forward with the NOI.

There was a Commission consensus for the Town Manager to proceed with an NOI.

**18. ADJOURNMENT**

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

