

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, September 24, 2012

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:20 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 – Pastor Jim Goldsmith

Pastor Jim Goldsmith gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

There were no additions, deletions or deferrals.

5. PRESENTATIONS

There were no presentations.

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Ellen Zavel said she convinced the Driftwood's board of directors to spend \$30,000 modernizing and beautifying their lobby to the Miami Modern (MiMo) design. As a result their walk-in rentals increased five times over. Because of the HIP, Driftwood recently applied and received the Superior Small Lodging Award, and they received the prestigious White Glove Award, which was very difficult to get on first inspection. They would place both signs on the A1A side and the El Mar Drive. She thanked the Town for beautifying the swale on El Mar Drive in front of Driftwood.

Charles Maxwell stated he would speak at the Chamber's Power Breakfast to local business owners and community leaders about practical ways to avoid legal pitfalls. He hoped the Commission would attend the Chamber event at the Blue Moon Fish Co.

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

7. PUBLIC SAFETY DISCUSSION

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

Commissioner Brown mentioned he was approached by a Town resident who asked him to tell Chief Llerena she recently lost her car keys while on a walk downtown. Deputies Caldwell and Melbourne went out of their way to help her find the keys.

Commissioner Vincent acknowledged BSO's employee of the month, Deputy Michael Hencken for his leading role and participation in the BugFest, and the positive image he gave the Town.

Lieutenant Angelo Cedeno indicated he would communicate both messages to Chief Llerena and the troops.

Town Manager Hoffmann noted a correction in the report related to an incident that took place in Bel-Air and was referenced under notable incidents the August 2012 Report. The report said the incident took place on August 20, but it took place on August 30.

Vice Mayor Sasser sought an update on the cameras; he would keep asking until something was done.

Town Manager Hoffmann indicated there had been no change in the status of the cameras since the last Commission meeting. It was in her hands for the present to meet with the County to try to get them to agree to let the Town install the cameras.

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

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

Fire Chief Judson Hopping announced he was the new fire chief of the Town's VFD.

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

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

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

8. TOWN MANAGER REPORTS

a. Chamber of Commerce Monthly Report

Mayor Minnet said the Commission was excited to hear what the Chamber would be bringing forward for the Christmas by the Sea event.

Chamber Executive Director Malcolm McClintock noted the Chamber strived to promote the Town as a must-see destination and a great place to do business, but in order to achieve critical mass to provide legitimacy to their efforts, the Chamber had to attract outside business members and give them the same treatment as in-town members. He explained the Chamber bylaws required 60 percent of the Chamber's board of directors own businesses in Lauderdale-By-The-Sea; as it currently stood, 11 of the 15 directors owned local businesses, representing close to 75 percent. The Chamber was very conscious of maintaining a strong in-town presence and respecting its bylaws.

Chamber Vice President Charles Maxwell agreed the particular edition of *Sea Breeze* had multiple references to nonlocal businesses but, at the same time, it mentioned him, and he was a local business owner, and the Chamber's Power Breakfast and other Chamber events were held in the Town. The Chamber strived to focus its events and expenditures in the Town and continued to provide its members and the business community with ways to enhance themselves and grow themselves. He felt the Chamber had become a large group and sought larger venues to hold their events, and the Town simply did not have sufficient venues for the Chamber to meet 12 months of the year, so there were a few times they held events outside the Town.

Vice Mayor Sasser thanked both Chamber representatives for addressing his concerns. He understood that in order for the Chamber to remain strong and successful, it had to attract nonlocal membership due to the small size of the Town. However, he felt concern when he heard such comments as, we can't be involved with Christmas By The Sea and some of the other activities the Chamber was traditionally a part of, while stating that the Chamber was getting stronger and growing.

There was no further discussion.

b. Finance Report – August 2012 (Finance Director Tony Bryan)

The report was accepted without discussion.

c. Code Compliance Status Report

Town Manager Hoffmann remarked, the Town transitioned to outside code enforcement services with Calvin, Giordano in January 2012. Calvin, Giordano code staff had been

more productive than the Town's in-house code staff, in part because they implemented systems that resulted in compliance occurring earlier, including scheduling cases before the code magistrate more quickly.

Commissioner Vincent inquired of minor cosmetic courtesy warnings on a number of properties with multiple properties with minor violations. They were being given 30-day warnings by which to comply, and he asked if the Town to extend those courtesy warnings to 60 days to give the property owners time to gather the finances necessary to make the improvements to come into compliance.

Assistant Town Manager Bentley answered yes. In most cases, property owners had only to speak with code staff to request an extension, if the property owner had a plan for resolving the issues.

Vice Mayor Sasser thought it was important not to lose that small town feel. He asked how that small town feel would be maintained, thinking it was really a balancing act.

Assistant Town Manager Bentley responded this was achieved through direct communication with the property owners.

Town Manager Hoffmann noted when code enforcement was handled in house, property owners with violations were granted numerous extensions, and cases sometimes went on for a year. So while trying to maintain the small town feel, the violations that were driving neighbors crazy, were not being resolved. If someone made commitments they failed to keep, they no longer got extensions; the case was sent to the code magistrate. She noted it seemed this got many of the violation resolved quicker,

Vice Mayor Sasser commented this was what he needed business owners and residents to understand, that it was not that such decisions were not being made in a small-town atmosphere. It was just that what was being cut out of the code enforcement process was the abuse of that process by some. He wished to confirm an item on the Consent Agenda was an RFP for code enforcement services.

Assistant Town Manager Bentley affirmed this to be the case.

Vice Mayor Sasser wondered if the Town had to go out to RFP for code enforcement services if Town staff was very satisfied with the work of the current contractor. He realized the Town wanted to first test the services of Calvin, Giordano for a year to see how well it worked, but if they were doing well, could Town staff recommend that the Commission approve an extension of their contract or did it have to go to RFP?

Assistant Town Manager Bentley recalled in 2011, the Town Commission waived its bidding process to award the contract to Calvin, Giordano, as the Town was only aware of one firm that provided local code enforcement service. Part of the commitment to the Town Commission was that after one year, the matter would be brought before the Commission; ultimately, it was the Commission's decision.

Mayor Minnet stated she attended the most recent code enforcement hearing in reference to quite a few properties brought before the magistrate. It was very important to attend those hearings, as the magistrate needed to hear from property owners what problems and challenges they were experiencing. She informed the magistrate about the history of many of the violations on the agenda, letting him know that many of them were not new occurrences and had been problems for years in the Town. Residents that had ongoing problems with unresolved code violations by their neighbors should attend the code hearings and speak on behalf of the community so the magistrate got a full picture. She noted Code Officer Torres did an incredible job presenting the cases to the magistrate, and she was pleased to see her professionalism in dealing with code problems around the Town. Many complied, and this said a lot for the success of Officer Torres' efforts.

Vice Mayor Sasser heard from one of his neighbors that the Mayor attended the recent code hearing and thanked her for doing that. He understood the magistrate said it was unprecedented in all his years as a code magistrate for a mayor to attend a code hearing; that was a remarkable occurrence and swayed his assessment of the violations under consideration. It was important for the magistrate to understand the history of the properties with numerous unresolved violations for lengthy periods of time and thanked Mayor Minnet speaking on the Town and community's behalf.

Mayor Minnet felt her attendance at the code hearing made a big difference. It was proof that one's voice could effectuate change, and she encouraged others to attend code hearing and let their voices be heard.

9. TOWN ATTORNEY REPORT

There was no report.

10. APPROVAL OF MINUTES

- a. July 24, 2012, Regular Commission Meeting Minutes
- b. September 12, 2012, Special Public Hearing Minutes

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

11. CONSENT AGENDA

Items 11f and 11g were pulled from the Consent Agenda for discussion.

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

Town Commission Regular Meeting Minutes
September 24, 2012

- a. Special Event Application for the Patriots Pre & Post Game Event proposed for Sunday, December 2, 2012 (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- b. Special Event Application for the Ellyn Bogdanoff's Bicycle Classic proposed for Saturday, October 13, 2012 (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- c. Application for (1) Hardship Permit from Basin Drive LLC, 4342 East Tradewinds Avenue, effective October 1, 2012 through September 30, 2013 (Assistant Town Manager Bud Bentley)

This item was approved on consent.

- d. Lauderdale-By-The-Sea Garden Club Parking Permits in FY2013 (Municipal Services Director Don Prince)

This item was approved on consent.

- e. Morning Star Condominium Parking Permits for Annual Meeting in Jarvis Hall Saturday, December 8, 2012 (Municipal Services Director Don Prince)

This item was approved on consent.

- f. Hibiscus, Allenwood and Tropic (HAT) Neighborhood Improvement Project/Drainage (Municipal Services Director Don Prince)

Commissioner Dodd questioned if the design would be impacted if the Town did not receive permission from the FDEP to enlarge the Hibiscus outfall. He wondered if the Town should attempt to get an outline approval before spending \$20,000 on the design of a drainage scheme that might not get the FDEP approval.

Municipal Services Director Prince answered even if the FDEP did not allow the Town to enlarge the outfall, it would still move forward with adding the additional structures and pipes. The pipe would provide storage capacity to get it to the outfall, though ideally it would be better to get the outfall enlarged, but it did not have to be done to get the drainage to work. He noted since the Town was doing the swale restoration in the neighborhood, a major amount of the water would be removed before it even reached the outfall. This would go a long way in the permitting process, justifying enlarging the pipe, as the pollutants and amount of water getting to it would be reduced.

Commissioner Dodd wished to confirm the design would be the final design anyway, and FDEP would be out of the picture.

Municipal Services Director Prince answered no, the plan to enlarge the outfall would be submitted to FDEP. If they declined, the Town would leave the outfall as is, and at that point it would be a basic rubberstamp deal, as the change would not affect the outfall.

Mayor Minnet stated residents in the neighborhood were very excited about the project, and she thanked Mr. Prince for bringing the matter forward and acting as the liaison between the Town's administration and the residents to get the swale improvement project going.

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

g. Code Compliance Request for Proposals (Assistant Town Manager Bud Bentley)

Vice Mayor Sasser asked whether it was worth going to RFP, if it was fiscally responsible, if the Town was satisfied with the code enforcement service supplied by Calvin, Giordano.

Town Attorney Trevarthen was not aware of any rule forcing the Town to go to RFP for the services. Based on Mr. Bentley's commentary, it sounded as though there had been no change in the low number of providers for such services; not going to RFP and staying with Calvin, Giordano was a decision for the Commission to make.

Vice Mayor Sasser wished to confirm if the Town sent out an RFP, based on Mr. Bentley's earlier comments, it was unlikely that there would be any other response than Calvin, Giordano.

Assistant Town Manager Bentley replied he learned not to speculate, as there very well might be a response from another contractor. To his knowledge, there were no other qualified firms in South Florida that met the experience criteria.

Vice Mayor Sasser asked if Town staff had the option, was the recommendation for the Town to go directly to negotiations or to go to RFP.

Town Manager Hoffmann recommended the Town go directly into negotiations with Calvin, Giordano.

Commissioner Dodd stated he was one of the biggest advocates of going out for RFP, due to the way the Town was run in the past. In this situation, he would approve going directly into negotiations.

Mayor Minnet supported going straight into negotiations with Calvin, Giordano.

Assistant Town Manager Bentley reminded the Commission there was the issue of the length of contract, as this was an important consideration to the contractor.

Town Manager Hoffmann suggested allowing Town staff to negotiate those terms. For the present, Town staff needed the Commission to authorize them to negotiate rather than go to an RFP.

Commissioner Dodd made a motion directing staff to open negotiations with Calvin Giordano & Associates for code compliance services. Commissioner Vincent seconded the motion. The motion carried 5-0.

12. ORDINANCES – PUBLIC COMMENTS

1. Ordinances 1st Reading

- i. Ordinance 2012-16: 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 CREATE A NEW SUBSECTION ENTITLED “ROOFTOP PHOTOVOLTAIC SOLAR SYSTEMS,” PROVIDING FOR ROOFTOP PHOTOVOLTAIC SOLAR SYSTEMS AS PERMITTED ACCESSORY EQUIPMENT; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.**

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

Commissioner Brown asked whether there was anything in the Town Charter prohibiting a condominium, a motel, a business or a single family home from installing a solar panel on their roof.

Town Attorney Trevarthen replied the Town’s Charter did not address solar panels, though it did address various rooftop equipment and the pertinences. As long as they did not exceed four feet in height, they were allowed. Town Planner Connors had been working with County staff involved in the program. If a building was at or above the height limit, it would be an issue of being able to sign off on equipment higher than four feet.

Town Planner Connors noted the Broward County Structural Inspector Dan O’Linn was assigned to the program and was aware of the height limitations of the Town. Town staff was working with him to determine whether or not five feet was required or if it could be moved to four feet. If four feet was acceptable, there would be no issues. If five feet was required, there would be additional requirements for Town-approved projects, or the Town would have to move to not participate in the program.

Commissioner Brown inquired if, other than height limits, there was anything else in the Town’s code or Charter that might prohibit or limit solar systems.

Town Planner Connors answered no.

Vice Mayor Sasser believed this to be a permitting issue that made the process a lot easier.

Town Planner Connors affirmed this to be the case.

Vice Mayor Sasser wondered if many installations of a photovoltaic system on rooftops would become unsightly, and asked whether the Town could steps to prevent such an occurrence. He questioned if any of the Town's boards explored the suitability of photovoltaic systems for the Town and, if so, what was their position.

Town Planner Connors responded the Planning & Zoning Board reviewed the County's information on the photovoltaic system at its last meeting. One recommendation was for Town staff to investigate if a screening requirement could be added. She said there was still the question of whether screening around a solar panel undermined its effectiveness; Town staff would relay their findings to the Commission at second reading.

Vice Mayor Sasser hoped Town staff would look into whether there was a way to camouflage the system to prevent unsightliness.

Mayor Minnet reiterated this was something the Town Commission needed to move forward with, and various recommendations had been brought forward with the first reading, so changes could be made prior to second reading.

Commissioner Brown made a motion to adopt Ordinance 2012-16 on first reading with direction to staff to research the aesthetic impact of the photovoltaic system. Commissioner Dodd seconded the motion. The motion carried 5-0.

b. Ordinances 2nd Reading

- i. **Ordinance 2012-17: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING ARTICLE V "ZONING" OF CHAPTER 18, "TAXATION AND FINANCE" OF THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE II "PUBLIC SERVICE TAX", SECTION 18-18 "AMOUNT OF TAX"; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE *Approved 1st reading September 11, 2012.***

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

Commissioner Vincent made a motion to adopt Ordinance 2012-17 on second reading. Commissioner Dodd seconded the motion. The motion carried 5-0.

13. RESOLUTIONS – PUBLIC COMMENT

- a. Resolution 2012-35: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ESTABLISHING FEES FOR THE USE OF JARVIS HALL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. *Deferred from the September 11, 2012 Commission meeting.***

Mayor Minnet opened the discussion for public comment and closed the public comment portion of the discussion after receiving no input. She noted at the last Commission meeting, staff was asked to review any past policies or look for documentation regarding the subject matter.

Town Manager Hoffmann replied Town staff found no deed restrictions or agreements regarding the use of Jarvis Hall. Commissioner Dodd contacted Mr. Thompson to see if he had any documents indicating there were restrictions on the use of Jarvis Hall.

Commissioner Dodd indicated the only information Mr. Thompson was able to find was a picture of the dedication of Jarvis Hall, at which he believed there was a statement to the effect that it was for the benefit of the Town and visitors. There was no reference to any charges or anything else. He noticed in the resolution's language Town staff had altered the rates, so there was no charge for residents and local businesses to use Jarvis Hall.

Town Manager Hoffmann clarified if a local business wished to use Jarvis Hall to sell products or services, there was a provision in the resolution that the Town Manager had the authority to set a rental fee. However, if a local business wished to hold a staff party at Jarvis Hall, they could do so without paying a rental fee.

Commissioner Brown expressed concern that doing away with the fee for residents to use Jarvis Hall could lead to potential abuse of the Town facility. Being able to use the building at no cost because of local residency meant any resident could reserve Jarvis Hall for any purpose, such as for a wedding or meeting. He thought there could be further abuse if an individual or a business from outside the Town was able to get a resident or local business to reserve Jarvis Hall on their behalf. It was a tough situation, and the Town was asking local Town's people to respect Jarvis Hall and not abuse the fact that it was one of the few meeting facilities available in the Town they could use for free. He had to assume the Town's residents would respect what the Town was trying to do and not abuse the privilege. At the last Commission meeting, he asked Town staff about adding a category dealing with political events, and there was nothing reflected in the revised memo about this. Commissioner Brown felt a political event was no different from other events in terms of using the hall for a meeting, and he asked whether there was any actual history that said the issue had been debated and decided in the past not to use Jarvis Hall for political events.

Assistant Town Manager Bentley responded the Town Clerk found a Town ordinance that said the use of Jarvis Hall was for the residents and businesses of the Town and did not exclude any particular activity.

Commissioner Brown sought clarification that Jarvis Hall could be used for political events. If Town staff felt there was a need to include language that spoke specifically to allowing the use of Jarvis Hall for political meetings, then this should be done. However, the current language was acceptable if Town staff believed it was already an allowable use.

Assistant Town Manager Bentley remarked at the last meeting there was Commission consensus for a charity event that benefitted Town residents. That language was expanded and included.

Commissioner Brown acknowledged the addition, stating he was glad to see the removal of the \$25 an hour fee for residents to use Jarvis Hall.

Vice Mayor Sasser was less concerned with residents abusing the ability to use Jarvis Hall at no cost. He was concerned about the absence in the language of the resolution of requirements for serving alcoholic beverages at events held in the Hall, as he thought it required some type of insurance and/or liability coverage. This would be on top of the deposit and fee charged for the use of the Hall. He wondered if such language was left out of the resolution to focus only on the issue of fees for using Jarvis Hall, and that those requirements were located somewhere else in the Town's code.

Assistant Town Manager Bentley answered yes. Town staff did not address the requirements for serving alcoholic beverages in the resolution, as it was set forth elsewhere in the Town code under the section for the use of Jarvis Hall.

Commissioner Vincent noticed fees would be determined by the Town Manager with regard to local or nonlocal businesses selling commercial products and services. He thought the Town needed to be careful, as it might be unwise to make it allowable for Jarvis Hall to be used as a commercial venue to sell products. This should be limited to one company or person and to certain times of year; this was an area that could be abused if it was put out there as a possible use of Jarvis Hall.

Assistant Town Manager Bentley pointed out this was an existing use of Jarvis Hall, as the Town code currently provided for local businesses to use Jarvis Hall for commercial purposes for \$100 deposit with no restriction as to use. The revised resolution was more restrictive, so if there was overuse by a business in the future, the matter could be addressed by the Town Manager. He noted the Town's history was that local businesses did not use Jarvis Hall very often for commercial purposes.

Mayor Minnet commented when anyone rented a venue, they paid a cleaning fee, and most times when people made such a deposit, it was returned. However, if it meant staff time setting up a facility, cleaning it before and after an event, then there needed to

be a cleaning fee for Town staff's time. This was her only concern. If Town staff had to do both, the setup and cleanup, then the \$100 deposit should not be returned. In fact, rather than calling it a deposit, it should be called a cleaning or setup fee, or a flat usage fee.

Commissioner Brown agreed with Mayor Minnet in principle, but thinking about some of the groups that used Jarvis Hall, such as the Garden Club, they tended to leave the Hall in better shape than when they came in. On the application form, the question was asked if the applicant required any special seating arrangements to be provided by Town staff. He thought if the Town was going to do anything in this regard, the fee should be tied to whether the use of the Hall would require any actual staff time.

Commissioner Dodd stated he had no problem with political associations using Jarvis Hall to meet. He was willing to add the words "civic and/or political association" could have the use of the Hall.

Town Attorney Trevarthen believed if it was the desire of the Town Commission to have clear language, as she understood the view that there was an implication of political use already within the current wording of the subject resolution. However, it would not hurt to incorporate the specific language.

Commissioner Brown expressed concern the Governor might wish to come to the Town and hold a political event, as no one living in the Town would qualify as being a member of his political organization. The language would work if the reference was to local political organizations or local candidates running for office. If it were a candidate for Congress or state senate then it could exclude them or create another gray area. He suggested leaving the resolution's language as is.

Town Attorney Trevarthen added there was a separate category for governmental entity or agency; it could be assumed the sitting governor would likely fall into that category.

Commissioner Brown clarified he was referring to a political event rather than an official visit to the Town by the Governor. The Governor might want to come to the Town and hold a political fundraiser to promote his reelection.

Vice Mayor Sasser made a motion to adopt Resolution 2012-35. Commissioner Vincent seconded the motion. The motion carried 5-0.

b. Resolution 2012-42: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE BUILDING PERMIT AND INSPECTION FEE SCHEDULE; PROVIDING FOR SEVERABILITY, CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.

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

Commissioner Vincent made a motion to approve Resolution 2012-32. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

- c. **Resolution 2012-43: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING THE TOWN MANAGER OR HER DESIGNEE TO APPLY FOR FLORIDA HIGHWAY BEAUTIFICATION COUNCIL GRANT; AUTHORIZING THE TOWN MANAGER TO EXECUTE A LANDSCAPE CONSTRUCTION AND MAINTENANCE AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR SEVERABILITY, CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.**

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

Town Manager Hoffmann commented Assistant to the Town Manager Pat Himmelberger found the grant, and that it could be used to help offset some of the costs of the West Commercial Streetscape Project. Hugh Johnson from Architectural Alliance worked with Ms. Himmelberger on the grant application. They realized it would improve the Town's chances to get the grant if they modified some of the tree species in the west Commercial plan. This had been done. Ms. Himmelberger already met with the Department of Transportation (DOT) staff who indicated they were very pleased with the project, so the Town was going to apply for the grant.

Commissioner Brown remarked while at the Florida League of Cities Conference, he met with an official from the Florida Forest Service, and they had a program called the Urban Forest Program, and he mentioned to him what the Town was doing on Commercial Boulevard. It was the Florida Forest Service official's opinion that the Town was eligible to apply for an Urban Forestry Grant through the state, not to pay for the trees but to pay for the watering, maintenance and cleanup. He gave all the paperwork to the Town Manager earlier in the day, so it was possible the Town might be able to acquire another grant to help with the upkeep off all the trees the Town desired to plant along West Commercial.

Town Manager Hoffmann informed the Commission the grant amount the Town was applying for was the maximum allowed, which was \$100,000.

Commissioner Dodd made a motion to adopt Resolution 2012-43. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

- d. **Resolution 2012-44: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AGREEMENT FOR SPECIAL MAGISTRATE SERVICES WITH JEFFREY P. SHEFFEL, ESQ.; AND PROVIDING AN EFFECTIVE DATE.**

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

Commissioner Dodd made a motion to adopt Resolution 2012-44. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

There were no hearings.

15. COMMISSION COMMENTS

Commissioner Dodd stated there was a Hillsboro Inlet meeting, and the millage rate they approved on first reading was .0860, the same as last year, and they approved the budget for the next fiscal year. They looked at some modifications to the dredge being made to accommodate a new flow meter. Halloween would soon arrive, and he requested interested volunteers to make themselves known to Ken and Wayne at Interior Digs, or to himself. Requests for donations would be sent out shortly, along with notices and, hopefully, on Channel 78 advertising the great Halloween event. He remarked all support and help would be gratefully received.

Mayor Minnet wished to read into the record a letter from Staff Sergeant Jason Smith and his wife, Antoinette. The staff sergeant and his wife were here for one of the weekend getaways organized by Cindy Geesey, and he asked the Mayor to read his letter at the Commission meeting. She read the letter and submitted it into the record, thanking everyone responsible for bringing the program to the Town. She went on to mention a number of happenings in the past week, the first being considerable conversation she had with Broward County School Board staff. The Town had quite a few residents that sent their children to public schools, and the bus system had been having a problem since the beginning of school. She wished to let those whose children were attending public schools that Mr. Moquin was doing his best to resolve the various problems as soon as possible, noting Vice Mayor Sasser had also been involved with the situation with the Town's residents. She reminded everyone the Town had a Charter Review Board (CRB) and urged them to attend CRB meetings and listen to what they discussed and recommended, as those recommendations would come to the Town Commission and residents later.

Town Manager Hoffmann indicated the next Charter Review Board meeting was scheduled for October 10, 2012, at 6:30 p.m.; those meetings were televised.

16. OLD BUSINESS

- a. Reestablish the 25-foot rear setback from the rear of the canal or ICW. It was changed in 2007 to reduce to only 15 feet (Commissioner Stuart Dodd)

Mayor Minnet thought the issue was an important one that Town staff looked into, so she would be in favor of the item coming forward, but it was important to find the reasoning behind the change. She recommended moving forward with the matter of discussion, take a look at the pictures, and then have Town staff do a history and chronological report of why the change took place and what steps to take next.

Commissioner Dodd wished consideration given by the Commission to pass the matter back to the Planning & Zoning Board, as well as Town staff, agreeing with the Mayor that he did not know how changing the setback to 15 feet got through regulations in 2007. He believed the Town was very lucky that the property was the only one that was built to the new setback, and the setback should be restored to the original requirement of 25 feet. This only applied to waterfront properties on a canal, so it was limited as to the number of properties it would affect; such properties in the Town was likely to be for demolition and a new building.

Mayor Minnet recalled there were major discussions about generators, and this was the case in point that was brought up, and it was a real problem.

Vice Mayor Sasser wanted to make sure that the Commission understood when the research was done, there was a clear understanding of what the impact would be to change the setback. He felt generators were a good thing to have, and the impact of any decision needed to be fully understood before any change was implemented, which meant possibly doing an impact study.

The Commission directed staff to research the rationale for why the setback was reduced in 2007, and examine the impact of changing it back to 25 feet.

**b. Alternate Designs for Town Entryway Feature on Commercial Boulevard
(Town Manager Connie Hoffmann)**

Town Manager Hoffmann mentioned the Commission asked for an alternative design for an entryway feature involving a pelican, which was done, and she requested the artist, Laura Fisher Huck, do one that related more to the Town's new logo. Mr. Hugh Johnson would present the three alternatives. She indicated Ms. Fisher Huck would be on the phone after the presentation to answer any questions the Town Commission and staff had or if she wished to add anything to the presentation.

Hugh Johnson of Architectural Alliance reviewed the three alternative designs for the Town entryway feature.

Mayor Minnet thought it was important to mention the cost breakdown for the three designs: both the coral reef arch design and the pelican landing design each cost about \$95,500, and the LBTS sign was \$57,500.

Town Manager Hoffmann pointed out the price covered the cost to construct the base for each design, as well as the artwork and its installation. She stated at the last

discussion there were some questions raised by the Commission and the public about the whether the coral arch design would stand up to heavy winds. The Town engaged the services of a structural engineer who worked with the artist to address those issues, not only for the entryway sign, but also for the four plaza sculptures.

Mr. Johnson affirmed Ms. Fisher Huck, Murray Bryntesen, a local structural engineer, and he worked on all three of the designs, and he believed all three could be constructed within the estimated budget and met the required wind loads. With regard to the four individual plaza sculptures, even though they would be constructed to be very strong and wind tolerant, they could be made to be movable in view of their size.

Town Manager Hoffmann noted in the last discussion, Municipal Services Director Don Prince pointed out his staff and he built a brace around the existing pelican statute at the intersection of El Mar and Commercial if there was a hurricane coming. This could be done for the new entryway sign. In relation to the cost, \$100,000 was set aside for the entryway design when Ms. Fisher Huck presented the ideas she had for the four plazas. Town staff realized it was something special that could help brand the Town as a shore diving destination and a seaside village, so at that time Ms. Fisher Huck was told to proceed. Town Manager Hoffmann indicated when the budget was set for Mr. Johnson and his team, they were told that if they came up with something spectacular for the entryway that the Town would be amenable to devoting more funds to the entryway sign. At this point, if all four plaza sculptures and the entryway sign were done, this would be over the original budget allocation. However, if the Town received the grant, that \$100,000 would go towards the landscaping and free up the funds to do all five sculptures. She recommended the Commission select an entryway sculpture design they thought would have the most impact. The entryway sculpture would be funded out of the project budget, and if there was insufficient funds to do the other four immediately, Town staff would find a way to raise those funds; perhaps through other grants.

Project artist Laura Fisher Huck thought the designs spoke for themselves. Lauderdale-By-The-Sea was an extraordinarily beautiful and exciting community, and she enjoyed her visit to the Town. She had done previous work for other communities and had a lot of success with the type of finishes she used, and whichever sculpture the Commission decided on, they could be assured she would do her best to make it a very long lasting, durable and beautiful piece.

Ms. Fisher Huck remarked though nothing was timeless one thing about the technique she used was the pieces were very renewable. She had some pieces in another seaside town for about ten years, and they only needed recoating with an automotive finish.

Commissioner Vincent loved the coral reef arch design.

Commissioner Brown preferred the design with the block letters, as it jumped out more noticeably when coming over the bridge. It was lighthearted, whimsical, had the pelican

logo the Town was now using, it had the “relax, you’re here”, and because it was not as serious a piece of art that one would stand in front of and study, this was the perfect design to put as the entry feature. This was where people were most likely to see it as they drove by. He would like to see the other two designs somewhere else in the Town. He recalled at a previous meeting, the Commission voted to approve the MiMo base before knowing what the top portion would look like. If it was the consensus of the Commission to go with the block letter design, then the Commission would have to either repeal its previous vote on the base or replace it with a vote on the sculpture design.

Vice Mayor Sasser mentioned having a resident expert who told him of her concern that the pelican would blend into the environment, but she loved the coral reef arch design. He inquired which design Ms. Fisher Huck felt gave the most visual impact and if it were her choice, which of the three designs was her favorite.

Ms. Fisher Huck replied the LBTS letters was more of a standard commercial styled piece, whereas the coral reef arch was more artistic. Her preference would be the coral reef arch design. She liked the visual impact of it.

Mayor Minnet felt the LBTS design would pop if it were used as an entryway feature on A1A coming northbound and southbound into the Town. When coming across the bridge on Commercial Boulevard, she liked the coral reef and the message it sent about what the Town had to offer, the reef and the beach.

Commissioner Dodd mentioned speaking to his higher authority who indicated a preference for the pelican, but his second favorite would be the coral reef arch design. It was an absolutely outstanding sculpture that would make the Town proud.

Vice Mayor Sasser made a motion to select the Coral Reef Arch Design. Commissioner Vincent seconded the motion. The motion carried 5-0.

c. Proposed Revisions to the Hotel Improvement Program (HIP) (Town Manager Connie Hoffmann)

Town Manager Hoffmann stated the proposed revisions had clearer rules about the guidelines for the HIP. The most significant change required hoteliers to match Town funds, but their match could be used for interior improvements to the hotel necessary for them to achieve Superior Small Lodging Certification. The Town’s grant monies could only be used for exterior improvements. She noted some of the discomfort expressed by residents over the HIP was due to not wanting tax dollars spent to improve commercial uses. Thus, she laid out an option for the Commission to allocate code enforcement fines to fund the HIP. In this way, no tax dollars would be used for the HIP.

Vice Mayor Sasser thought the Commission needed to decide what the HIP sought to accomplish; that is, was the Town seeking to improve its whole hotel industry or just

some of its hotels. He thought the HIP was a good idea from the beginning, but it was becoming clear it was hard to manage. When criteria established for funding said businesses had to be a certain level hotel prior to being awarded funds, was this helping hotels that already looked good and leaving out ones that needed financial help the most? He felt a lot more thought needed to go into the HIP, and the Commission had to decide who the target was and what criteria they had to satisfy. He found it difficult whenever government tried to fix business. He supported the little programs for painting, etc. wherever the Town could help out, as this was more manageable. The HIP seemed intrusive by its nature.

Commissioner Brown believed public funds should be used to benefit the public, such as paying for police and fire, to fix the sewer lines, and for the various beautification projects around the Town. HIP had a certain amount of public benefit that was derived when hotels improved their façade, but the bulk of the benefit went to the private property owner and not the public. This put him in a personal conflict as far as his beliefs. His second concern had to do with allocating \$150,000 for the HIP with a grant limit of \$25,000 per property. If the first six applicant properties requested \$25,000 and they were approved, then all the funds were gone and only six properties would have received assistance, and he was unsure there was a genuine across-the-board benefit from such a program. Commissioner Brown tried to think of ways to remedy the situation without the obvious solution of putting more money in it, and the first step would be to lower the maximum amount per grant. The second step would be to try to find a way to broaden the eligibility for the program beyond just the motels, though this was another slippery slope, as condominiums might decide they wanted to repaint. The question then became why it was not possible for a condominium or a restaurant not have the opportunity to apply for an improvement grant. As the HIP currently stood, this was not possible, and it might be something Town staff and the Commission should consider down the road. He liked the idea of the motels coming in and sitting with Town staff to go over their plan for improvements and finding out before making any expenditures whether the work qualified for a Town match under the HIP. This meant the Town would provide an architectural expert or technical consultant to sit with motel owners when they came in with their plans. This was a pure public benefit if the Town paid for the technical advice given to a motel owner that brought in plans. He believed, in this way, the Town would ensure planned façade renovations were consistent with the Town's Master Plan and architectural standards. He wondered if it were possible to add one more category of eligibility for the grants to include technical assistance via meeting with Town staff and, as part of the grant, the Town would provide the architectural expert to help design their plan. It would not exclude getting some actual money to do the work, but he was looking for ways to broaden the benefits so it fit his philosophical definition of spending public money where it benefited the public greatest and not just individual property owners. He doubted the Commission could resolve all the various issues at the present meeting.

Commissioner Dodd agreed with allocating the revenue from code fines to the HIP. At least the person committing the code violation could get some satisfaction knowing they were helping to improve the Town rather than dumping monies in the General Fund. He

preferred to see a lower grant maximum, mainly due to his desire to monitor the number of applications forthcoming. The applications and staff recommendations could be easily handled on the consent agenda. He thanked staff for the significant amount of work they did with the revisions, as there were more in line with what he believed the Commission had in mind. He agreed with Commissioner Brown that the limit should be lower in order for the dollars to go further, originally thinking \$15,000 was acceptable, but he would consider going up to \$20,000. This would allow a few more properties to have a chance at the grant funds. Commissioner Dodd stated he had less of a problem utilizing taxpayer dollars, as the improvements to the hotels and motels would have a large effect on all the businesses in Town and property values. He thought the HIP was an excellent move, as anything the Town could do to help the hotels and motels, would, in turn, help local businesses, restaurants and the Town in general. This was very important to vitality of the Town and the lifeblood of the Town, and the residential property values hung on the success of that lifeblood.

Commissioner Vincent recalled at prior meetings and discussions, a \$15,000 figure was debated and discussed by the Commission when there was a cap on the total allocation for the program of \$75,000. It was now doubled to \$150,000. He wished the Town Commission knew the direction it wanted to go. It appeared the Town was really not ready for the HIP, as this was the same discussion again. He wanted to move forward with the program, noting this was an incentive program as written. Though motels might not be able to compete with larger hotels, but they could compete among themselves and hoped motel owners that needed the HIP would take advantage of it. He was open to discussing the maximum amount grant applicants should receive, and he was very happy with Town staff's criteria changes. He thought the pre-application meeting was critical and should be held at the onset. The Town needed to move forward with the HIP program.

Mayor Minnet stated she was in favor of the HIP and thought it unfortunate it got off to a rocky start, but the reality was the first improvements brought forward did not really enhance the character of the applicant's hotel. She believed the pre-application process the Town Manager put forward in the new guidelines would eliminate this problem. After hearing discussion from the Commission at the present meeting, it appeared the Town Commission needed to go back to what priorities were established, that is, to get Town staff to put together a program that helped the Town's small hotels. Town staff was charged with this responsibility and presented the Commission with programs that were successful in other communities, that followed guidelines, that achieved positive results. Cities formed public/private partnerships to enhance the hotel community, such as in Hollywood, Delray Beach, Pompano Beach etc., though many of them were funded through a Community Redevelopment Agency (CRA). Mayor Minnet commented the Town did not have the luxury of having a CRA, but there were other opportunities for funding the HIP. She still thought it an excellent program the Town should continue to move forward with. There needed to be guidelines, and she was in favor of keeping the Small Superior Lodging Standards. She did not see the HIP as government trying to fix private business rather, it was lending a helping hand. The Town said it wished to support the small hotels, and the HIP was one way to do it. She

was open to lowering the maximum amount per application and to fund it with code fines. She liked Town staff's recommendations and hoped to move forward with the program.

Vice Mayor Sasser mentioned the wording in the calculation of the match needed to be looked at, as he did not think it equated to what the Commission thought it did. He requested the Town Attorney revisit that matter. If the Town went to businesses and told them the Town would be using a part of their taxes to help residents fix up their houses, he was sure it would upset them. This was some of the objections voiced by some of the residents, as there were many who did not like the HIP, as they felt it was taking their tax money to help improve business façades. This was where he was having difficulty.

Town Manager Hoffman remarked Town staff rewrote the section in the hope that it would be clearer, noting it basically said the grant was a matching grant, and eligible applicants could receive a maximum of \$25,000. The Town would pay \$1 to match \$1 spent by the applicant on improvements approved by the Town up to a maximum reimbursement from the Town of \$25,000 for eligible expenses on a \$50,000 improvement project. She noted if a hotel came in with improvements that would cost \$75,000, under the wording, they could still only get \$25,000. Another point made later in the document was that the Town's grant could only be used for exterior improvements. Thus, if a hotel came in with a \$50,000 improvement plan but only \$15,000 of that would be for exterior improvements, the Town would only provide \$15,000.

Commissioner Dodd realized there would be some applicants that would be determined as ineligible, but there would be others that were eligible for HIP funding. He supported lowering the amount to \$15,000, and the Town Manager should provide the Commission with regular reports on the progress of the HIP, and he thought the program should be funded with code enforcement fines

Commissioner Brown wondered if lowering the maximum amount to \$15,000 would "mess it up" for motels that already applied for the HIP funds.

Town Manager Hoffmann stated Town Planner Connors had been having the discussions with the applicants; she was unsure if the amounts were settled as yet.

Town Planner Connors answered no, the amounts were not all settled, but to date, she had seven applications out, including High Noon from the last Commission meeting. None of the applicants had come in with final applications, as Town staff had been working with them to improve their application. She knew of one that had figures that were above the \$15,000.

Commissioner Brown guessed going from \$25,000 to \$15,000 at this point after the Commission already asked people to submit applications up to \$25,000 could be counterproductive. He asked Commissioner Dodd if he would consider \$20,000.

Vice Mayor Sasser commented the difference between \$15,000 and \$25,000 meant little. If the Commission was going to proceed with the HIP, it should be done right. If HIP was to be funded by code enforcement liens, might this not create a situation where everyone tried to increase HIP revenue by reporting violations by their neighbors? Though it might be good that the community was self-policing more than in the past, he was unsure that it might not make the situation worse.

Commissioner Vincent thought it unlikely things would get that bad, but he agreed that the figure should be left at \$25,000 and go for the whole gamut. He was satisfied with the changes staff made to the HIP.

Commissioner Dodd made a motion to approve the following:

1. Move forward with the HIP
2. Limit the Town's match amount to \$20,000
3. Receive regular Town Manager Reports on the HIP status
4. Fund the HIP with code enforcement fines
5. Accept Town staff's recommended changes to the HIP.

Commissioner Brown seconded the motion. The motion carried 4-1. Vice Mayor Sasser voted no.

Town Manager Hoffmann stated a vote was needed to assign the code enforcement fines collected to fund the HIP in the current fiscal year in the amount of \$101,000, or whatever was collected by September 30, 2012.

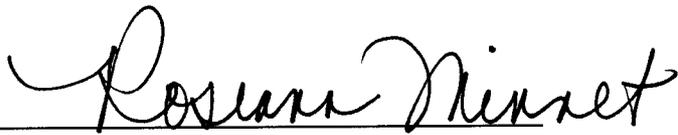
Commissioner Dodd made a motion to assign the code enforcement fines collected in Fiscal Year 2012 to fund the HIP. Commissioner Brown seconded the motion. The motion carried 4-1. Vice Mayor Sasser voted no.

17. NEW BUSINESS

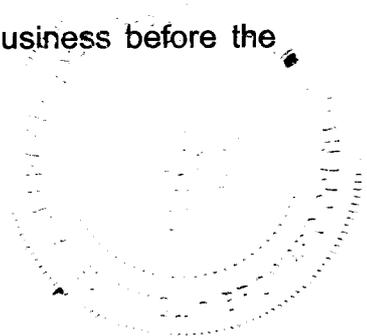
There was no new business for consideration.

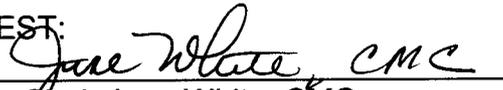
18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 9:35 p.m.



Mayor Roseann Minnet



ATTEST:


Town Clerk June White, CMC

Date November 13, 2012