

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, March 12, 2013

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:03 p.m. Also present were Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Finance Director Tony Bryan, Municipal Services Director Don Prince and Acting Deputy Town Clerk Tedra Smith. Vice Mayor Scot Sasser was absent. Absence excused.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Pauline Brooks McGuinness (Representing the Bahia Faith)

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Item 13d was deferred to April 2, 2013

5. PRESENTATIONS

- a) Ranking of Respondents to the RFQ for Construction Manager at Risk (CMAR) (Town Manager Connie Hoffmann)

Town Manager Hoffmann indicated Town staff had determined that the highest ranked firm failed to meet the requirements of the RFQ, as they were not FDOT pre-certified which would preclude them from managing the work on the West Commercial project. That company was formally disqualified at the evaluation committee of Monday, March 11, 2013, at which State Contracting Engineering Corp. was moved into first rank, and Man-Con, Inc., the second ranked firm. Town staff recommended the Town enter into negotiations for a continuing services contract for CMAR services with both firms, with State being recommended as the construction manager for the West Commercial Boulevard Project.

Paul Carty, Vice President of State Contracting & Engineering, gave a PowerPoint presentation on his company's credentials and suitability to meet the Town's CMAR needs, stating they hoped to form a long-term partnership with the Town.

The Commission commended Mr. Carty for a great presentation.

Mayor Minnet remarked both businesses and residents were present in the project areas, so it was important to remain interactive with both groups.

Commissioner Vincent asked if Mr. Carty's company was in the practice of covering debris with tarp if left standing overnight or days to protect it from washout.

Mr. Carty answered yes, such requirements would be included in their bid package.

Commissioner Vincent inquired if Mr. Carty took into consideration the limited access points to the project sites and the likelihood of traffic congestion.

Mr. Carty noted it was very likely there would be night operations included in the work schedule. Other options discussed included vacating the parking lane and median spaces to give more width, allowing a diversion and keeping two lanes of traffic open during work. They needed to do further studies to determine the feasibility of such actions.

Commissioner Brown questioned if Mr. Carty's team did a similar analysis for the East Commercial Project, and if the east and west projects could be done simultaneously.

Mr. Carty replied they studied the East Commercial Project. The east project was more challenging but there was sufficient space to do both projects concurrently.

Commissioner Dodd wished Mr. Carty to look at the plans for both projects and use his experience to ensure their design was feasible, giving constructive suggestions that might improve the project, as the Town was willing to listen.

Mr. Carty assured the Commission his team started their review of both project plans and already identified issues, some were a matter of simple coordination and easy to fix, and in other areas they saw where they might save money and time.

1. Approve the selection of both State Contracting and Man-Con as qualified to serve as CMAR on continuing contracts with the Town as recommended by the evaluation committee.

Commissioner Dodd made a motion to approve item 5a1. Commissioner Vincent seconded the motion. The motion carried 4-0.

2. Authorize the Town Manager to enter into continuing contracts for CMAR services with both firms

Commissioner Dodd made a motion to approve item 5a2. Commissioner Vincent seconded the motion. The motion carried 4-0.

3. Direct the Town Manager to issue a modified RFQ immediately for the East Commercial Boulevard Project.

Town Manager Hoffmann recapped the history of the subject item, as noted in the backup. It was important for Town staff to ensure the Town could choose from multiple firms to do the work. The modified RFQ would remove the FDOT certification requirement, which was possible with no state grant monies involved in the East Commercial Project. On the West Commercial project, there would be state dollars put towards the drainage portion and Town staff believed the Town would be awarded the landscaping grant, hence the need for the FDOT certification for the west project.

Commissioner Dodd made a motion to approve item 5a3. Commissioner Vincent seconded the motion. The motion carried 4-0.

4. Direct the Town Manager to prepare a Work Authorization with State Contracting & Engineering to proceed with value engineering, constructability review, and cost estimating within the limits of her purchasing authority for the West Commercial Boulevard Project, and call a special meeting of the Commission in the event that work cannot get done within her purchasing authority.

Commissioner Dodd made a motion to approve item 5a4. Commissioner Vincent seconded the motion. The motion carried 4-0.

5. Direct the Town Manager to negotiate with State Construction a Guaranteed Maximum Price for Construction and Construction Management Services for the West Commercial Blvd. streetscape and drainage project and bring it back to the Commission for review approval

Commissioner Dodd made a motion to approve item 5a5. Commissioner Vincent seconded the motion. The motion carried 4-0.

Commissioner Brown inquired if Mr. Carty had any idea when the Town might see the first shovel go in the ground and about how long the work might take.

Mr. Carty understood the Town Commissioner wished the project completed by the end of November, which they felt was doable, so they hoped to commence work by May.

Town Manager Hoffmann commented both projects would consume a lot of staff time and energy for the next six months, so she expected there would be a need for Town staff to step back from things that were not higher priorities.

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Cindy Geesey stated though doing a strategic marketing research was a great idea, the Chamber already paid an advertising agency to do similar research a few years prior as part of their program to decide upon their last marketing slogan. The data from that effort and research was probably available from the Chamber. This was a community of volunteers, with hundreds of citizens donating their time, education, experience and commonsense to various Town boards. She asked the Commission to consider first using such Town assets to gather data to work on a marketing plan, as this would not cost taxpayers any money. The Town should consider not paying AT&T any money until they could provide their U-Verse service throughout the Town, as there was dire need for an alternative to the horrible customer non-service provided by Comcast.

Malcolm McClintock, Lauderdale-By-The-Sea Chamber of Commerce said Chamber members expressed strong support for the Ambit Marketing Research Project, as they felt the Town would benefit from the insight such research would provide.

John Boutin avidly supported hiring Ambit to prepare a Strategic Marketing Plan. He agreed the Town used to rely heavily on volunteers, but many now found themselves unable to sustain the volunteer work they did for decades and, unfortunately, there were insufficient business people and residents in the Town who would take on such responsibilities now. He believed the Town's lodging industry was reaching a critical point, and if steps were not taken soon to protect, enhance and grow it, it would disappear. There needed to be efforts to attract tourists back to the Town, and professionals were needed to undertake that task.

Mark Silver supported the Town's moving forward with hiring Ambit Advertising.

Ellen Zavell, representing the newly formed Lodging Association of Lauderdale-By-The-Sea, encouraged the Commission to proceed with the Ambit Marketing study and plan. Thanks to the Town's Hotel Improvement Program that required hotels to become approved and members of the Superior Small Lodging Association, the Driftwood was marketed on the Superior Small Lodgings website and pamphlets, and they saw bookings increase as a result.

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

7. PUBLIC SAFETY DISCUSSION

None

8. TOWN MANAGER REPORTS

a. Town Manager Report

In response to Ms. Geesey's question during public comments, the Town Manager advised she had requested information from the Chamber regarding the branding research referred to before the Town developed its brand, but the Chamber's Executive Director at the time indicated that information was no longer available.

Town Manager Hoffmann gave her report, highlighting the following

- Schedule a Commission workshop either April 2 or 9 at 5:00 p.m. for waste disposal service vendors to make presentations to the Commission;
- Scuba Nation's filming was successful and would provide wonderful marketing for the Town's shore diving opportunities with limited expenditure of taxpayers' dollars;
- The South Bougainville Drive parking project was complete with the exception of the parking meters;
- Lauderdale-By-The-Sea's on-line auction of surplus goods was up and running on www.renebates.com;
- Update on the County Commission's decision regarding funding for consolidated 911 Emergency Communications.

9. TOWN ATTORNEY REPORT

Town Attorney Trevarthen discussed ethics training options for 2013.

Mayor Minnet stated she fulfilled her 2012 obligations through the League of Cities, as she attended their one-day seminar and fulfilled her requirements. She intended to do the same thing for 2013.

Commissioner Brown noted he did 11 hours training in 2012, including training from the state, the League and the Town. He asked if Town Attorney Trevarthen were to give the Commission a presentation, would it be the same as that given last year, or were there changes that made it worth attending her presentation.

Town Attorney Trevarthen commented one of the actions they were taking in their ethics seminars was to present an update on the safe harbor opinions given in all the cities over 2012, noting the IG continued to explore the release of various guidelines. Some aspects of the County's Ethics code were not yet applicable such as the requirement to report remuneration, so this was another area for discussion.

Commissioner Brown preferred to have Town Attorney Trevarthen conduct a one to two hour session, as he liked being able to ask questions.

Mayor Minnet suggested putting the discussion of scheduling an ethics seminar on the next meeting's agenda to accommodate Vice Mayor Sasser's absence.

Town Attorney Trevarthen remarked the deadline for reporting remuneration was April 15, so a training seminar could be scheduled for April 9.

10. APPROVAL OF MINUTES

- a. December 4, 2012 Special Roundtable Meeting Minutes**
- b. December 11, 2012 Regular Meeting Minutes**

Commissioner Dodd made a motion to approved the above minutes as presented. Commissioner Vincent seconded the motion. The motion carried 4-0.

11. CONSENT AGENDA

Item 11c, 11e and 11f were pulled.

Commissioner Vincent made a motion to approve items 11a, 11b and 11d on the Consent Agenda. Commissioner Brown seconded the motion. The motion carried 4-0.

- a. Special Event Application for Angel's Pediatric Heart House "Toes in the Sand" event proposed for Saturday, April 6, 2013 (Assistant Town Manager Bud Bentley)**

Approved on Consent.

- b. Amendment to Architectural Alliance Work Authorization for West Commercial Boulevard. Project to cover FDOT Drainage (Town Manager Connie Hoffmann)**

Approved on Consent.

- c. Ranking of Respondents to RFP 2013-01-01 Video Surveillance with Automatic License Plate Recognition (ALPR) System (Town Manager Connie Hoffmann)**

Commissioner Dodd reiterated his desire for the Town to move forward as soon as possible with the ALPR system.

Commissioner Dodd made a motion to approve item 11c. Commissioner Vincent seconded the motion. The motion carried 4-0.

- d. Amendment to the Volunteer Fire Department Agreement to provide for Fire Marshall Services (Assistant Town Manager Bud Bentley)

Approved on Consent.

- e. Award of Contract for Sewer Cleanouts (Municipal Services Director Don Prince)

Commissioner Dodd understood some of the properties never had a cleanout, and for some sites Televac was able to find the cleanout but it required heavy equipment to break through concrete in driveways. He asked if the proposal was to dig and restore them in their present location.

Municipal Services Director Prince answered yes, noting some were installed in the '70s and were so deep, they could not be hand dug efficiently.

Commissioner Dodd wondered if there were any sewers Televac was unable to find.

Municipal Services Director Prince replied there were some laterals Televac was unable to get to, due to heavy roots, which was one of the reasons they needed access to the sewer system to allow routine maintenance.

Commissioner Dodd questioned if there was any way for homeowners to be held financially responsible if they paved over the Town's cleanout, and where driveways were dug up, who was responsible for repair and/or replacement.

Town Attorney Trevarthen understood from speaking with Mr. Prince the situation probably predated the requirement to have a cleanout, so there was no violation.

Municipal Services Director Prince pointed out, in some instances, homeowners were unaware there was a cleanout, as it was buried so deep. If someone had decorative stamped concrete or a paver driveway, Town staff would approach them and discuss what needed to be done, and the Town would restore the area as much as possible. They might decide at that point not to do the cleanout, but any future plumbing problems they had would be at the homeowner's expense, and he would work with the Town Attorney to draft a waiver for those homeowners who refused to sign. He believed the cleanouts were of such benefit to homeowners that he did not anticipate any problems.

Commissioner Vincent questioned if the cleanouts would be visible or below the surface.

Municipal Services Director Prince responded the actual cleanout would be cut below the surface; if it was in the grass, they would install a plastic box just below the surface of the lawn. If in the driveway, they would install a street box.

Commissioner Vincent asked, for those below the surface, where the responsibility lay for defining that on a survey for future construction work on the property.

Municipal Services Director Prince replied it was the Town's responsibility, as it would be marked out on the Town's sewer map.

Commissioner Dodd made a motion to approve item 11e. Commissioner Vincent seconded the motion. The motion carried 4-0.

f. HAT Drainage Project (Municipal Services Director Don Prince)

Commissioner Dodd informed residents the project was being moved forward; the proposed contractor did an excellent job on another project and was likely to finish ahead of schedule. He inquired if the plans included sending notices to all affected properties to inform them of what would happen and when.

Municipal Services Director Prince commented noticing was not actually included in the contractor's contract but, with such projects, Town staff wrote up letters and distributed them. There were two projects scheduled to commence in the subject neighborhood, one for landscaping and the other for drainage. He would write a memo and have it delivered to all the residents of that area.

Commissioner Dodd suggested a roadside board as well, as this was an area where residents often complained of not receiving information of when work was being done.

Municipal Services Director Prince concurred, stating they had two roadside boards for the HAT project, one for the landscape and one for the drainage.

Mayor Minnet felt the neighborhood had a good organization, and she was pleased the project was getting off as quickly as it was. She noted the Town was doing numerous projects in residential areas, which was a priority of the present Commission.

Commissioner Dodd made a motion to approve item 11f. Commissioner Vincent seconded the motion. The motion carried 4-0.

Town Manager Hoffmann affirmed that between the Bel-Air drainage and entryway projects, the Bougainvillea Drive drainage and beautification project, and the HAT project, the Town was doing a million and a half dollars worth of residential area improvements in this fiscal year.

Mayor Minnet added the projects were balanced between both the north and south residential areas of the Town. She indicated item 17a would be considered at this point.

12. ORDINANCES – PUBLIC COMMENTS

a. Ordinances 1st Reading

i. **Ordinance 2013-02: AMENDING CHAPTERS 6, 17, AND 30 OF THE TOWN CODE TO SET FEES BY RESOLUTION (TOWN PLANNER LINDA CONNORS)**

Town Planner Connors gave a brief overview of the proposed ordinance as reflected in the backup. Town staff recommended approval.

Mayor Minnet invited and received no public comment.

Commissioner Dodd commented prior to 2008, most fees were codified via ordinances, and he supported the process of collecting fees being controlled by resolution, as it was easier to maintain a realistic cost in line with inflation. Changing a resolution was easier and less costly than going through the process of changing an ordinance.

Commissioner Dodd made a motion to approve Ordinance 2013-02. Commissioner Vincent seconded the motion. The motion carried 4-0.

ii. **Ordinance 2013-03: AMENDMENTS TO CHAPTER 30 REGARDING SATELLITE TELEVISION ANTENNAS AND DISHES AND WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS (TOWN PLANNER LINDA CONNORS)**

Mayor Minnet invited and received no public comment.

Commissioner Dodd made a motion to approve Ordinance 2013-03. Commissioner Vincent seconded the motion. The motion carried 4-0.

b. Ordinances 2nd Reading

None

13. RESOLUTIONS – PUBLIC COMMENT

a. **Resolution 2013-11: A RESOLUTION VOICING SUPPORT FOR LEGISLATION INTRODUCED IN THE FLORIDA LEGISLATURE TO AMEND THE CONSULTANTS' COMPETITIVE NEGOTIATIONS ACT (CCNA) TO ELIMINATE THE PROVISION THAT COST CANNOT BE TAKEN INTO ACCOUNT BY LOCAL GOVERNMENTS WHEN PROCURING PROFESSIONAL SERVICES AS DEFINED IN FLORIDA STATUTES AND TO ALLOW A SELECTION BASED ON BEST VALUE (TOWN MANAGER CONNIE HOFFMANN)**

Town Manager Hoffmann stated this resolution was supported by the Florida League of Cities, and they urged municipalities to support it, which she recommended.

Mayor Minnet invited and received no public comment.

Commissioner Dodd made a motion to approve Resolution 2013-11. Commissioner Vincent seconded the motion. The motion carried 4-0.

b. Resolution 2013-13: TRANSPORTATION ALTERNATIVES PROGRAM GRANT APPLICATION (ASSISTANT TO THE TOWN MANAGER PAT HIMELBERGER)

Assistant to the Town Manager Pat Himelberger reviewed the information on the grant application contained in the backup. Town staff recommended approval.

Mayor Minnet invited and received no public comment.

Commissioner Brown thanked Town staff for getting the application together in three weeks, noting the Town was going up against the County and larger municipalities.

Commissioner Brown made a motion to approve Resolution 2013-13. Commissioner Dodd seconded the motion. The motion carried 4-0.

c. Resolution 2013-12: EXERCISING HOME RULE AUTHORITY (TOWN MANAGER CONNIE HOFFMANN)

Mayor Minnet invited and received no public comment.

Commissioner Vincent made a motion to approve Resolution 2013-12. Commissioner Brown seconded the motion. The motion carried 4-0.

d. Resolution 2013-09: AUTHORIZING EXECUTION OF AN AGREEMENT WITH LAURIE HUCK TO FABRICATE AND DELIVER THE "CORAL ARCH" ENTRYWAY SCULPTURE. (TOWN MANAGER CONNIE HOFFMANN)

Deferred

e. Resolution 2013-14: A RESOLUTION PROVIDING FOR THE APPOINTMENT OF AN ACTING TOWN MANAGER IN THE ABSENCE OR DISABILITY OF THE TOWN MANAGER. (TOWN MANAGER CONNIE HOFFMANN)

Mayor Minnet invited and received no public comment.

Commissioner Vincent made a motion to approve Resolution 2013-14. Commissioner Dodd seconded the motion. The motion carried 4-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

None

15. COMMISSION COMMENTS

Commissioner Vincent wished everyone a happy Passover and Easter.

Commissioner Dodd thanked the Chamber for the craft show the previous weekend. He was very impressed with the quality and thought it surpassed previous years, but asked that a little more care be taken at the next event with the placement of booths to ensure they did not directly compete with the store in which they were in front of. He believed the landscaping and parking recently done by the Town on south Bougainville Drive looked terrific.

Mayor Minnet thanked residents for allowing her the opportunity to represent the Town in Washington, D.C. where she went with the Florida League of Cities to lobby for legislation benefitting cities. She met with many of the Florida congressmen and women, and one senator. Their visit was very interesting in that it happened to occur in the week of sequestration. She wished to impress upon everyone that these things affected everyone on a daily basis, and the public's voice made a difference. She urged people find out who their legislative representatives were and give them input.

16. OLD BUSINESS

a. Reconsideration of Marketing Survey, Analysis and Plan by Ambit (Commissioner Stuart Dodd)

Commissioner Dodd indicated he had been on the prevailing side in turning this item down when it first came before the Commission, but had been urged by local businesses, including members of the lodging industry, to reconsider his vote. He indicated he had felt disinclined to spend a significant amount of public dollars promoting the hotel industry when a quarter of the beds were shut down with what appeared to be no immediate plans to reopen at the southern end of the town.

Commissioner Brown stated he struggled with the subject item, and to facilitate his decision he met with the Mayor of Pompano Beach and reviewed Pompano's redevelopment plan. He was aware much of their redevelopment decisions were a result of hiring a marketing firm and receiving good guidance from them. He questioned the next step after the Town received the marketing report from Ambit, as he was unsure if the Town was prepared to implement any plans other than to hire Ambit, so the latter action seemed premature. His second concern was supported by Town Manager Hoffman's comment about Town staff being fully occupied with the east and west Commercial projects, so it seemed unwise to further burden them with the responsibility of implementing a marketing plan. Commissioner Brown believed this was a project that could be deferred for a year, as he was still unconvinced the results of the survey would be what the Town really needed to do or be the next marketing initiative. He preferred to wait until the Commercial Boulevard projects were complete, as they were likely to impact the survey results.

Commissioner Vincent continued to be in favor of having the marketing survey done and felt it worked hand-in-hand with the Town's beautification projects. Whether the recommended plans were implemented immediately or later should not affect having the marketing survey done, as the results would give the Town a general idea of the direction in which to proceed. He heard more support for the marketing survey and strategic plan from local businesses and hotels, and just because there were hotels with suspended room usage was not a reason for the Town to become dormant. If they saw the Town being revitalized, it might give them the impetus to get their hotels fully functioning again.

Mayor Minnet asked the Town Manager how the marketing survey might impact Town staff with the various upcoming beautification and drainage projects.

Town Manager Hoffmann said in 2012, the Town Commission kept asking what was the overall marketing strategy for the Town. The dais then requested a marketing study and plan proposal, after which Town staff brought a proposal to create a marketing plan to the Commission twice. Both times it was turned down. She commented there was a broad misconception in the community that the Town planned to spend \$64,000 on a survey. The plan was to spend in the low 20s for a survey and research, and the remaining funds would go towards the development of a strategy for how best to market the Town based on the results that would take into account the current problems in the LBTS hotel industry. The Town had to determine how to keep visitors coming and getting new visitors interested in Lauderdale-By-The-Sea. They needed to identify to whom the marketing program should be directed. She said, therefore, the marketing strategy was to help the Town to determine how best to market itself and its attributes. In terms of Town staff time, the project would be in the hands of the consultants to develop the marketing plan over the next several months. Ms. Himelberger and Mr. d'Oliveira currently worked on the Town's marketing issues and could devote the amount of time necessary to this end.

Mayor Minnet continued to support the development of a marketing strategy; she felt this was the right time to create a marketing plan for the Town as a whole.

Commissioner Brown questioned if Ambit could create a marketing plan for the Town without doing the survey.

Kathy Koch of Ambit believed in the importance of research. Their most successful campaigns were the ones based on research. It made sense to understand the habits of the populations to which the Town would be marketed.

Commissioner Brown asked if it made sense to do the survey before the completion of the east and west Commercial Boulevard improvements.

Ms. Koch noted, as to doing the marketing survey now rather than later, there were more people in the Town now than there would be in three to six months, as it was the height of the season. This was the best time to ask people marketing questions.

Commissioner Dodd made a motion to approve item 16a. Commissioner Vincent seconded the motion. The motion carried 4-0.

b. Public Safety Parking Lot Design (Assistant to the Town Manager Pat Himmelberger)

Assistant to the Town Manager Pat Himmelberger reviewed the information contained in the backup.

Commissioner Dodd inquired if there was room to remove some of the landscaping on the northern side and allow parallel parking between space 14 and 24.

Hugh Johnson, the project landscape architect, responded the 24-foot back out aisle required it go to the limits shown in the rendering, noting they did look into putting parallel parking but it did not quite fit.

Commissioner Dodd wondered about changing to angled parking on one side.

Mr. Johnson indicated he could explore the angled parking idea but when his team and he were given the subject task, they were told the Town public safety personnel wished it to be a two-lane driveway. If they used angled and parallel spaces, it was unlikely they would be able to do the two-way scenario.

Commissioner Dodd asked for the Commission to be given some figures on the estimated parking revenue for evenings and weekends to decide whether to authorize the inclusion of a pay station that would cost in excess of \$8,000.

Commissioner Vincent mentioned being approached by a resident with respect to existing utility generators within the driveway next to spaces 17 and 18, asking if the generators would remain in place.

Ms. Himmelberger answered yes.

Mayor Minnet questioned if the design team considered compact spaces.

Mr. Johnson stated they had not, but he would explore the possibility.

Mayor Minnet surmised there might be opportunities for the Town to maximize on parking spaces for compact cars.

Town Manager Hoffmann reminded the Commission the plan was to move the parking for some Municipal Services employees who currently parked in the A1A lot to this lot, so we needed to maximize the amount of parking in the new lot.

Commissioner Dodd made a motion to approve item 16b. Commissioner Vincent seconded the motion. The motion carried 4-0.

c. Proposed amendment to the HIP grant for MIMO buildings (Town Planner Linda Connors)

Town Planner Connors went over the details of the proposed item, indicating that the purpose was to be supportive of efforts to upgrade or restore MIMO architectural features.

Town Manager Hoffmann added the railings were where the cost differentials were significant. Town staff had recently been informed by a hotelier that the cost to upgrade his MIMO concrete railings was \$16,000, while he could replace them with new aluminum railings for only \$4,000. Town staff suggested decreasing the match requirement and increasing the amount of grant funding a hotelier could receive for MIMO improvements, renovations or restorations only.

Commissioner Vincent inquired if the proposed amendment altered how grant funds would be portioned out but not the amount of the grant amount.

Town Manager Hoffmann answered the Town staff was not proposing an increase to the overall grant funds available, but to increase the amount an individual hotel could receive.

Town Planner Connors commented the Town Commission had allocated a little over \$100,000 of code enforcement fine collections to the HIP program this year. These were not general tax revenues.

Commissioner Dodd preferred the Town to implement a well-thought out plan that covered all MIMO, asking how long it might take to draft a specific grant program for any MIMO building, not just hotels.

Town Planner Connors stated the Town had some significant residential, commercial and institutional buildings, in addition to hotels, that were built in the MIMO style. After they got the architectural design guidelines completed, they had two interns from Florida International University (FIU) and she wished to utilize them to document the MIMO buildings in the Town. From there, they could move forward with a more generalized MIMO grant program.

Town Manager Hoffmann believed if the Town wished to open up the grant to all MIMO buildings and to fund it from code enforcement revenues, the Town needed to accumulate a bank of money to do that.

Mayor Minnet supported the subject action and wished to move forward now.

Commissioner Dodd made a motion to approve item 16c with staff recommendations to amend the HIP grant application to allow it specifically and have Town staff develop the broader program for Commission review and direction. Commissioner Vincent seconded the motion. The motion carried 4-0.

d. Web Casting Channel 78 for AT&T Subscribers (Commissioner Stuart Dodd)

Commissioner Dodd understood the annual running cost had been approximately halved with the introduction of the new computer contract, so he thought it was worth reconsidering U-Verse in the Town, as he received several requests from residents.

Commissioner Brown urged residents to call AT&T to discover if U-Verse service was available on their street.

Mayor Minnet desired Commissioner Brown's support on the communication services tax, as AT&T was making a lot of money, and the Florida Legislature was lobbying hard to eliminate local municipalities collecting the communications services tax. This was be a loss of \$350,000 for the Town, and taxes would have to go up if the State Legislature revamped what the Town got on the communication services tax. She urged everyone to contact their state representatives.

Commissioner Brown made a motion to approve item 16d. Commissioner Dodd seconded the motion. The motion carried 4-0.

17. NEW BUSINESS

a. Application for Relief of Code Enforcement Lien at 259 Hibiscus Avenue (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley updated the Commission on the mitigation request and the code enforcement history on the property, noting along with the information provided in the agenda memo, additional evidence was entered by the seller's son, Anthony Black, including a copy of the closing settlement. In the letter, it was documented that the seller had funds reserved for the total amount of the Town's lien, and retained legal responsibility for the lien. He did not have the option of holding the purchaser responsible for some of the lien. The arrangement was unusual, as it was usually the purchaser making the request.

Anthony Black, the property owner's son, provided additional documentation for what he contended was evidence of his family's efforts to clean up the house, noting it was never his mother's intention to sell the house. They worked to gather the monies to satisfy the tax lien, but did not have the funds to satisfy the Town's two two liens of \$98,000 and \$78,000 against the property. Given the state of his mother's mind and body, she felt unable to fight the situation to salvage her home, and they determined it

was best to sell the home. They were able to get a purchaser but only with the understanding that they, as the seller, would be responsible for satisfying any liens and this would be reflected in the purchase documents. He indicated his efforts to come into compliance prior to the sale included numerous emails to Town Commissioners and staff asking for help in understanding the Town's protocols to correct the citations and mitigate the fines prior to the sale. Mr. Black stated the tax lien meant they had to sell the house before a tax certificate was issued, so their hand was forced in the sale. His mother was on a fixed income, and her medical disabilities were such that she needed the proceeds from the sale of the house to survive; at present she was in a nursing home on hospice care due to cancer and congestive heart failure. As a family, it had been exceptionally hard living away and dealing with the subject situation.

Commissioner Dodd questioned at what point did Mr. Black become aware there were liens on the property, as the code violations had persisted for a long time.

Mr. Black replied they discovered the liens when the Special Magistrate gave them 30 days to correct the violations, noting he observed there were numerous duplications in the citations issued. The code officer indicated he would sign off on some violations, but upon receiving the tax lien and doing research, they discovered the Town's two code liens and that the code officer had not signed off on any of the violations.

Commissioner Dodd felt puzzled that Mr. Black was aware that there were violations on his mother's property that, if not corrected in 30 days, would begin running fines of \$100 per day per violation and let them continue to run for 173 days. He questioned what steps were taken to correct the violations.

Mr. Black responded he hired a landscaping company to do repairs to the property to make it compliant, with the understanding that the code officer would revisit the site and sign off on the repairs as being resolved within 30 days. It was not until months later that Code Officer Torres contacted him to inform him nothing was done.

Commissioner Dodd wondered if Mr. Black received any written acknowledgement from the Town signing off that the compliance was met. The backup indicated the remaining violations were corrected by Reef Property in seven days. He questioned if Mr. Black visited the property at any point in time during the 173 days it was deemed to be out of compliance to observe whether the landscaping was complete and maintained.

Mr. Black answered no, he hired a company to do that. He believed they made a diligent effort to bring the property into compliance within the time ordered, and they never received notice from the Town that they were still out of compliance.

Commissioner Brown asked if the violations were due to the Town receiving complaints from neighbors or were they only statements made by code enforcement.

Assistant Town Manager Bentley responded staff received complaints from neighbors.

Mayor Minnet affirmed she received numerous phone calls from neighbors complaining about the condition of the property and worrying about Mr. Black's mother.

Commissioner Brown noted, in such situations, he tried to ensure the amount of the fine was consistent with the severity of the violation, and from what he heard, the violations on the property impacted the surrounding neighborhood. The backup indicated correcting the violations did not take a significant amount, \$3,750, for new sod, cleaning up the property, and the installation of temporary sprinklers.

Mr. Black commented the neighbors had his contact information and anyone that ever contacted him expressed more concern with his mother's health than the nuisance the condition of the house posed to them. In fact, neighbors assisted in any way possible. Therefore, if the Town received phone calls of complaints about the condition of the property, he was not aware of that.

Commissioner Vincent stated the Town was responsible to all the residents, and there was no way of knowing the financial impact the conditions of the subject property had on the value of surrounding properties. The Town could not allow such conditions to persist on properties and mitigate liens down simply based on supposed but failed efforts to bring a property into compliance. He knew the Town's code staff to be extremely efficient and found it difficult to believe they neglected to work with Mr. Black to bring the property into compliance or failed to sign off if the property had been brought into compliance.

Mayor Minnet commented community standards had to be upheld, reiterating she received numerous phone calls about the condition of the subject property and the health of the homeowner/resident. She requested a decision from the dais as to any mitigation of the lien, stating the total lien was \$82,800 with a settlement offer of \$4,000 or 4.8 percent of the total. Town staff recommended a mitigation of 50 percent.

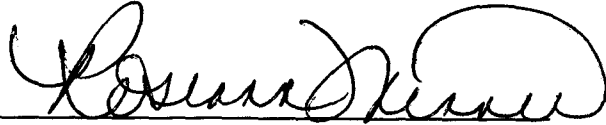
Commissioner Dodd made a motion to approve item 17a with Town staff's recommendation of a 50 percent reduction in the amount due, with payment due in 30 days. Commissioner Vincent seconded the motion. The motion carried 4-0.

Mr. Black remarked, as the Town Commission normally mitigated liens down to 20 percent, and in light of the circumstances evidenced by the documentation provided, he strongly objected to the ruling of a 50 percent mitigation and felt there was discrimination. His mother was a resident of the Town for 40 years, and his documentation showed numerous emails to individual members of the Commission asking for help in resolving the matter before it got this far.

18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 9:25 p.m.

Town Commission Regular Meeting Minutes
March 12, 2013



Mayor Roseann Minnet

ATTEST:



Town Clerk, Vanessa Castillo

Date 5/7/13