

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Saturday, December 20, 2008 – continued from December 16, 2008

9:00 A.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Minnet called the meeting to order at 9:00 a.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clotey were present. Also present were Town Attorney Daniel L. Abbott, Town Manager Esther Colon, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Minnet opened the meeting with the AMR Report.

AMR Fire Rescue Monthly Report - October 2008 (Operations Manager Liddle)

Commissioner Dodd asked for clarification to a rumor as to how many people were on Medical 12 on Friday, December 12, 2008. Operations Manager Liddle had assured Commissioner Dodd that 3 people were on Medical 12 as there were always 3 people on Medical 12. He said he would verify it anyway.

Commissioner Clotey asked how many times AMR had called for mutual aid. Operations Manager Liddle said they had not called for mutual aid. Commissioner Clotey asked whether anyone knew how many times BSO called for mutual aid. There was no response.

Commissioner Silverstone stated that bringing such a question to a Commission meeting, rather than simply making a phone call for verification, was an indication that the rumor was justified and disrespectful to any vendor. He added that when he had questions he collected his facts first, and then pointed out his findings at the Commissioner meeting. Commissioner Dodd preferred asking questions out in the open and not behind the scenes.

Vice Mayor McIntee explained that Commissioner Silverstone tried to explain that the proper way to investigate a rumor was to ask questions first then bring it before the Commission.

15. OLD BUSINESS

- c. Discussion and/or action regarding drafting an Ordinance to pull bags from the parking meters on Bougainvilla and Poinciana (Tabled at the March 25, 2008 Commission meeting by Vice Mayor McIntee) Staff requested table to December 16, 2008 - Tabled at the November 25, 2008 Commission meeting by Vice Mayor McIntee

This item was withdrawn by Vice Mayor McIntee.

- d. Discussion and/or action regarding shade trees on the beach at Washingtonia Avenue Portal (Tabled at the November 10, 2008 Commission meeting by Commissioner Silverstone) Staff requested table to December 16, 2008 - Garden Club report not received - Tabled at the November 25, 2008 Commission meeting by Commissioner Silverstone

Commissioner Silverstone thought it was a good idea to include the garden club for their ideas. He said the Garden Club felt that anything planted close to the ocean would not do well. Commissioner Silverstone decided not to pursue this issue.

- e. Town Commission approval of Conceptual Bel Air subdivision sign design (Assistant Manager Olinzock/Colon) Tabled at the November 25, 2008 Commission meeting by Commissioner Clotney

This item was tabled at the December 16, 2008 Commission meeting to January 13, 2009.

- f. Discussion and/or action to form an Oversight Committee for Public Safety (Mayor Minnet) Tabled at the November 25, 2008 Commission meeting by Commissioner Clotney

Commissioner Clotney withdrew this item.

- g. Discussion and/or action to find funds to complete the Seagrape Drive Project (Requested at the November 10, 2008 Commission meeting by Vice Mayor McIntee) Tabled at the November 25, 2008 Commission meeting by Vice Mayor McIntee (Assistant Manager Olinzock)

Vice Mayor McIntee asked Manager Colon whether funds were available. Manager Colon explained that with drainage the cost was \$56,000 with funds transferred from the bus stop fund.

Vice Mayor McIntee made a motion to spend the \$56,000 to complete the Seagrape Drive project and to do it properly. Commissioner Silverstone seconded the motion for discussion.

Commissioner Clotney was concerned with a drainage problem. Manager Colon stated that the engineer felt that when the re-slopping was done it would correct the drainage problems. Commissioner Silverstone seconded the motion.

All voted in favor.

- h. Discussion and/or action concerning adjusting the cost of hardship and other parking permits to be more in line with what other municipalities charge. Tabled at the November 25, 2008 Commission meeting by Commissioner Clotney

Commissioner Clotney wanted to charge residents less to be more compatible with neighboring cities. She asked Assistant Manager Olinzock to make a recommendation. Assistant Manager Olinzock referred to a report made by Parking Enforcement Supervisor Joan Garrett regarding rates charged in neighboring cities. He preferred the Commission decide the rates.

Manager Colon said that staff can supply a recommendation if staff knew what area the Commission wanted them to look at.

Commissioner Clotney said that since residents paid taxes they should be able to park at a nominal rate compared to a non-resident. She also felt that rentals and hardship permits should be a substantial amount compared to other cities. Manager Colon had no problem as long as the Commission gave direction.

Commissioner Clotney wanted to establish more residential parking for beach access and along A1A.

Assistant Manager Olinzock pointed out there were 5 or 6 spaces in the Bougainvilla parking lot. He suggested a look at a program that allowed the meter to be used by everyone so that parking would be available to everyone who needed it. Commissioner Clotney wanted residents to pay one amount and others pay another amount or a permitting/sticker system that notified Parking Enforcement that the vehicle belonged to a resident.

Commissioner Silverstone favored a system that allowed residents to park anywhere for an annual fee.

Commissioner Dodd was 100% behind a resident sticker with a set fee. Mayor Minnet asked whether there would be a 3 hour limit or allowed to use 24/7. Commissioner Dodd said it would be per car.

Manager Colon noted the amounts other cities charged for residents, seniors and out of state visitors.

Vice Mayor McIntee recommended direction to the Town Manager to come up with a fair figure for the different permits.

Vice Mayor McIntee made a motion to table to January 13, 2009 prior to voting on an Ordinance. Commissioner Clotey did not believe 2 hours on the beach was reasonable but would be reasonable in front of businesses. Manager Colon stated that with Commission direction staff could enforce 2 hours in the business area and 3 hours in the residential areas. She added that a change in signage would be needed. Vice Mayor McIntee agreed and recommended that Commissioner Dodd and Commissioner Clotey get together and determine a fair amount.

Commissioner Silverstone wanted all property owners to be given the right to apply for the permits at a charge \$60. Commissioner Dodd pointed out that it was not a good idea for beach goers to park all day in a commercial area. He felt they could use the parking lots and residents should have the privilege of 2 or 3 hour limits.

Mayor Minnet suggested each Commission schedule an appointment with staff to review individual ideas.

Commissioner Dodd seconded the motion to table. All voted in favor.

Vice Mayor McIntee made a motion to table to the January 13, 2009 Commission meeting. Commissioner Dodd seconded the motion.

In a roll call vote, the motion carried 5 - 0.

- i. Discussion and/or action regarding the formation of an Oversight Committee - explanation of ISO ratings and why the Town can not expect ISO to do the work of an Oversight Committee (Commissioner Dodd)

Commissioner Dodd stated that the City of Pompano Beach and the City of Fort Lauderdale had a review board. He believed the ISO would not take the place of a review board. He explained that their function was different from a review board and not a true judgment of the department's practical ability. Commissioner Dodd noted that BSO and AMR had their own method of reviewing situations. Commissioner Dodd believed there were areas in

the VFD that were not handled correctly and wanted to see some sort of review.

Commissioner Silverstone felt that when there was a problem with any entity involved with the Town, it was best to hire a firm that specialized in doing an analysis. He did not feel that a committee made up of various residents would be the best way to approach it. Commissioner Silverstone felt that Commissioner Dodd wanted to micro manage the VFD. He said the Commission could not interfere with the police department and tell them what to do regarding their issues. He added that should there be an issue it was brought forth and the Police handled it internally. Commissioner Silverstone believed the Town should not be allowed to interfere with the VFD. Commissioner Silverstone refused to accept whatever was written as the truth. He would support hiring a professional firm

Vice Mayor McIntee felt that Commissioner Dodd wanted to micro manage the fire department. He pointed out that BSO would not accept an Oversight Committee; they had their own review process. Vice Mayor McIntee stated that AMR accepted a medical review board. He said the VFD had an ISO that had been around for years. Vice Mayor McIntee said he would support an outside organization for all 3 public safety vendors.

Commissioner Clotey supported an Oversight Committee, but did not support a committee that was thrown together. She wanted all the details before she voted for an Oversight Committee.

Commissioner Dodd explained that the Oversight Committee would not get thrown together and he was not micro-managing the VFD. He said when he was concerned, he asked questions and when he was not happy with the answers he asked more questions. Commissioner Dodd said he had heard that 3 fire fighters from the City of Plantation were not allowed to the join Lauderdale-By-The-Sea Volunteer Fire Department for 1 year. He said he asked Chief Perkins publicly why they could not join for a year and Chief Perkins told him it was a Chief to Chief thing. He said he had called the Fire Chief in the City of Plantation and he had told him that they would be delighted to take the fire fighters from Lauderdale-By-The-Sea if they were trained and qualified. Commissioner Dodd said he was open to suggestions. He wanted the VFD to be the best that they can.

Mayor Minnet was in favor of an Oversight Committee only to make sure the VFD was the best fire department. She said it was all about safety.

Commissioner Silverstone stated that being involved in the fire department gave him knowledge of how it worked. He stated that the VFD had their own review committee known as the Board of Directors. Commissioner

Silverstone explained that anyone that was terminated had a choice to go before the Board of Directors. He further explained that the Board of Directors was created so that the Chief did not have the final word and to make sure there was always a safety cap. Commissioner Silverstone said that to make statements without knowing the details was wrong and that the right questions were not asked by the Commission. He added that the correct question should have been how the VFD kept control; and the answer would have been the Board of Directors.

Vice Mayor McIntee pointed out that Mayor Minnet stated publicly that she would not support an Oversight Committee for VFD only but would support an Oversight Committee for all 3 safety vendors. He stated that Commissioner Dodd said that the Oversight Committee should be issued radios and that he had provided 5 names of people to sit on Oversight Committee. Vice Mayor McIntee addressed the issue with the Plantation Fire Department and the VFD. He said Chief Putney was a paid employee and if he publicly stated that he did not want his people to go to another department he would look bad as a Chief. Vice Mayor McIntee explained that thousands of dollars were spent training people. He explained further that placing a one year hold prevented fire fighters from "jumping ship".

16. NEW BUSINESS

- a. Discussion and/or action to place on a future agenda an ordinance, as soon as possible after the Town Attorney has determined if it is permissible, to only allow contributions to any fund for election of a Town official, from only people who reside, own property or from entities licensed within Town limits who do not provide any goods or services under contract with the Town unless they contribute equally to all registered candidates (Commissioner Silverstone)

Commissioner Silverstone wanted to limit campaign contributions to \$6,000 with the intention to do something to prevent corruption. He wanted to see something similar to that of Miami Beach.

Attorney Abbott said there were a number of things to do to limit campaign contributions and also a number of things the Commission could not do: 1) they could not touch issue advocacy as opposed to election campaigns; 2) they could not limit spending on issues for election campaign; and 3) they can not limit personal contributions on what people spend on their own election campaign.

Attorney Abbott stated that limitations could be placed on campaign contributions and pointed out that in the State of Florida the amount was \$500. He added that a local government could propose a lesser amount. Attorney Abbott stated that local vendors could be prohibited from making campaign contributions and limitations could be placed on

corporations and/or unions for direct contributions. Attorney Abbott said he could draft Ordinance to impose campaign contribution restrictions.

Commissioner Silverstone made a motion to direct Attorney Abbott to draft an ordinance restricting campaign contributions. Vice Mayor McIntee seconded the motion.

Commissioner Dodd was in full agreement with Commissioner Silverstone.

All voted in favor.

- b. Discussion and/or action regarding setting requirements for Town sponsored events regarding bills, income and donations (Requested at the November 25, 2008 Commission meeting by Vice Mayor McIntee)

Vice Mayor McIntee explained that a citizen who did not live in town opened a donation account under his own social security number. He added that to date the information has not yet been submitted to the Town. Vice Mayor McIntee wanted to stop it from happening again.

Vice Mayor McIntee made a motion that any Town event run by a Commissioner as Chairman, the Chair must regulate that all funds go through the Town Manager's Office and that all bills and disbursements were paid through that office. Commissioner Silverstone seconded the motion. Commissioner Silverstone seconded the motion.

In a roll call vote, the motion carried 5 - 0.

- c. Discussion and/or action regarding legal advice during Quasi Judicial hearings, revisiting Coral Key development and why are we paying for an attorney if he can't advise us during a hearing (Commissioner Dodd)

Commissioner Dodd questioned why he could not ask for the Town Attorney's opinion during a Quasi Judicial hearing.

Attorney Abbott explained that during Quasi Judicial Hearings the Commission acted like a judge. Attorney Abbott said he was not a witness to the proceeding to explain exactly what a building permit was and therefore could only advise on procedure and criteria but not on opinions or testimony.

Vice Mayor McIntee reminded everyone that the Quasi Judicial Hearing could occur without the Town Attorney as he swore everyone in, and the Town Attorney could not make decisions.

Mayor Minnet reminded everyone that a workshop was coming up January 13, 2009 and if the Commission wanted to address the meaning of a building permit they should bring it to the Workshop.

Commissioner Silverstone looked up the term building permit and said it was very clear. He thought it was a good idea to bring it to the workshop.

Commissioner Dodd wanted it on record that he was not going after the Attorney. He only wanted the subject to be aired so everyone had the benefit of the Attorney's opinion.

d. Discussion and/or action regarding opening the pier access road (Mayor Minnet)

Mayor Minnet explained that the owners of the pier requested access during the construction of the Commercial Boulevard Pavilion.

Louis Marchellos said the access to the pier was shut down early last year from 3:00 a.m. to 8:00 a.m. as there was no access due to a truck that could not be moved for 4 hours. He requested an egress to make it safer.

Spiro Marchellos put public safety as their number one concern. He said Emergency Medical and BSO blocked the pier entrance in addition to Aruba's backed up valet services. He added that with the construction of the pavilion there was no access to the pier. Mr. Marchellos was concerned with the future. He wanted a public access road opened. Mr. Marchellos said that there was only one artery open.

Commissioner Dodd asked if the proper application for a fence was turned in would there be any reason why access could not be granted. Assistant Manager Olinzock said the Town could not grant access. He added that the Commission wanted that as a pedestrian access and therefore, the Commission would need to address that issue.

Vice Mayor McIntee clarified that ATV's did have access to the parking lot. He added that a wall was built by someone on the southeast corner so that the ATV's could not do it anymore. Vice Mayor McIntee said that Oriana granted the entrance way in the back for public access to the beach. He said many children ran around there and believed there may be a problem if the Town opened that up to ingress and egress.

Commissioner Silverstone wanted a traffic study conducted prior to making a decision to grant access. He pointed out the area was currently used for beach cleaning.

Manager Colon was currently working with Broward County Traffic engineering to get a study without cost. She said the beach access way was

given to the Town by Oriana as a pedestrian walkway. Manager Colon pointed out that the area behind the pier did not belong to the pier owners. She said ATV's should be able to go in and out and the concrete blocks and / or poles that were placed there to prevent entry would be addressed and removed. She added that a fence used to be there but someone removed it. Manager Colon said staff was looking into a fence with a lock box for emergency use only and will bring back the cost for a fence, a lock box and the results of the Broward County Traffic Study.

Commissioner Dodd did not believe the Commission was working with the problem. He felt there was nothing in place to prevent the pier owners from preventing or forbidding entry onto their land. Manager Colon pointed out that the Marchellos brothers stated that their concern was for safety and did not believe that they would do anything to prevent emergency vehicles from passing through for safety reasons.

Mayor Minnet allowed Mr. Marchellos to speak again. Vice Mayor McIntee asked whether the Marchellos were the owner of record or leasee to the owner. Mr. Marchellos said they were the owner of the lots to the pier and they lease the pier. Mr. Marchellos pointed out that not only was this issue a public safety issue but was a business issue also. Mr. Marchellos requested a stop sign to prevent cars from coming into the pier. He said there was a lot of blockage that created a jam that closed the artery.

Commissioner Clotey asked whether there was any way to grant temporary access during construction of the pavilion. Commissioner Clotey made a motion to open temporary access. Commissioner Dodd seconded the motion. Vice Mayor McIntee needed police opinion on safety.

Commissioner Clotey requested the police take a look as the meeting continued. Commissioner Silverstone was concerned with liability and asked Attorney Abbott if allowed an egress, would the Town be liable. Attorney Abbott did not know enough about the egress or the property to answer properly.

Vice Mayor McIntee made a motion to table to the January 13, 2009 Commission meeting. Commissioner Dodd stated that the alley way behind Aruba's Café was used by the valet in both directions and that cars dangerously turned around in front of High Noon against traffic. He felt that turning down this request for access, and using public safety as the reason, was the wrong way to go.

Manager Colon explained that Oriana did not have access; they had to exit from the other side of their building. She added that there was a gate with a lock box for emergency purposes only.

Attorney Abbott explained that governments could be held liable as any landowner would be held liable.

Commissioner Silverstone seconded the motion to table. The motion carried 4-1. Commissioner Dodd voted no.

e. Discussion and/or action regarding bags on the meters in front of Athena Restaurant (Mayor Minnet)

Mayor Minnet stated that at the December 16, 2009 meeting the Commission voted to remove bags from all the meters and requested clarification that the bags on the meters in front of Athena's Restaurant were included.

Attorney Abbott said he was directed to draft an Ordinance that would remove all bags from the Town.

Vice Mayor McIntee pointed out that Athena's Restaurant had a contract and believed that the Town would need to address that contract.

Mayor allowed Mr. Marchellos to speak. Mr. Marchellos explained that Athena's Restaurant had the meters for the past 7 years and paid \$8,000 annually. He added there never was a problem.

f. Discussion and/or action in reference to the letter received from Master Plan Steering Committee and Planning and Zoning (Mayor Minnet)

Paul Novak posed questions from the Master Plan Steering Committee that required direction from the Commission.

Vice Mayor McIntee made a motion to direct Manager Colon to answer all the questions. Commissioner Silverstone seconded the motion.

Manager Colon advised the Commission that Mr. Novak's letter referred to the direction and the future of the community. She asked for direction from the Commission as to how they wanted to move forward; did they want infrastructure; did they want the emphasis on parking or El Mar Drive?

Commissioner Silverstone believed that most of the questions were legal questions.

Mr. Novak wanted to concentrate on the lighting and the landscaping on El Mar Drive. He said he needed direction on the other questions. Vice Mayor McIntee believed El Mar Drive was priority at this time.

Commissioner Dodd did not feel that it was the Town Manager's job to make decisions. He proposed a workshop before the 2nd meeting in January or at the first recommended round table meeting so that the Commission could give direction to the Master Plan Steering Committee and the Planning and Zoning Board.

Commissioner Clotey believed that the Town Manager could not answer some of those questions and felt they should be addressed by the Town Attorney.

Attorney Abbott did not feel it was a good idea to give the Town Manager or himself the authority to write a letter that would be the Town's position on the issues.

Vice Mayor McIntee made a motion to direct the Town Attorney to answer all questions that seem reasonably prudent to their official capacity in conjunction with the Town Attorney, and if they did not feel they should make a decision on one of the questions they should so state in their report to the Master Plan Steering Committee, the Planning and Zoning Board and to the Town Commission. Commissioner Dodd seconded the motion. All voted in favor.

- g. Discussion and/or action regarding parking a boat trailer in the front driveway in Bel Air (Mayor Minnet)
- h. Discussion regarding boat on trailers in Bel Air (Vice Mayor McIntee)
- i. Discussion and/or action for a round table meeting - promoting open discussion between Commissioners in 2009 - 5:00 p.m. January 13, 2009 (Commissioner Dodd)

Commissioner Dodd wanted to schedule a round table meeting for the third week of each month. He added there would be no agenda but Commission could bring their notes for items of discussion. Commissioner Dodd noted that minutes would be taken and would comply with the public Sunshine Law. Commissioner Silverstone and Vice Mayor McIntee were willing to have a trial meeting. Vice Mayor McIntee made a friendly amendment to that effect. Commissioner Dodd accepted. Commissioner Clotey preferred the meeting to be described as "an exchange of ideas" rather than "positive interaction. It was agreed.

Commissioner Dodd made a motion to schedule an informal round table meeting for Tuesday, January 20, 2009 from 11:00 a.m. to noon for an exchange of ideas. Vice Mayor McIntee seconded the motion.

In a roll call vote, the motion carried 5 - 0.

j. Discussion and/or action regarding the beautification of section of El Mar (Commissioner Dodd)

Commissioner Dodd wanted resident input as to how the money should be spent along El Mar Drive. He mentioned the suggestions already received such as distant markers and a place to stretch. Commissioner Dodd asked whether the funds were intended for all of El Mar Drive. Manager Colon said the agreement was for the Southern end.

Mr. Novak explained that during the Master Plan Steering Committee meeting complications arose: 1) trees would grow and block the view; 2) the median was not pedestrian friendly. He suggested gazebos and inviting the public to the next Master Plan Steering Committee meeting.

Mayor Minnet recommended the public come to the meetings to provide input and to advertise the invitation on Channel 78.

17. TOWN ATTORNEY REPORT

The Town Attorney had no reports.

Vice Mayor McIntee asked Attorney Abbott whether there was an abuse of public records request and whether it was proper for the Town to send requests to the Attorney to determine whether the request was legally correct.

Attorney Abbott stated that a lawyer might look at the request to determine whether the request was valid or exempt from public records law.

Vice Mayor McIntee made a motion that any public records request with that criteria be forwarded to the Attorney for review with the cost generated back to the person making the request. Attorney Abbott stated that under public records law the Town could charge the requestor if the nature of, or the volume of the public records request called for extensive supervisory assistance. He added that the State of Florida defined "extensive" as any public records request that took more than 15 minutes to comply with, including locating the document, review the document, copy the document and re-file the document. Attorney Abbott explained that the requestor could be charged for the time, at the rate of the employee's salary.

Commissioner Dodd asked to have Barbara Cole to come forward and address allegations that she had made a large number of public records requests. Mayor Minnet allowed it. Ms. Cole explained she only submitted 7 public records requests even though she had asked for more than one item in her requests. She said she started in September with the VFD and most were follow ups to previous

requests and a thank you for quick responses. Ms. Cole did not feel she had harassed anyone. She appreciated all the responses she received from staff.

Commissioner Clottey asked Vice Mayor McIntee what he thought would be a reasonable time to reply to a public records request. Vice Mayor McIntee replied that any request that took no longer than 15 minutes to fill would be reasonable.

Commissioner Clottey believed if it was only 1 piece of information the requestor should pay a nominal amount, but beyond that staff should charge for their time. Commissioner Dodd felt it was the right of the people to get whatever information they wanted and he would fight any attempt to shut down access to information.

Vice Mayor McIntee withdrew his motion.

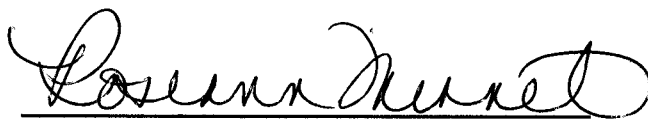
Commissioner Silverstone requested that Manager Colon apply for beautification grant money. Manager Colon responded that the Town was not part of that program as the Town did not fit the criteria and did not participate. She said if the Commission would like to be considered she would find out the process. Commissioner Silverstone said "ok".

18. FUTURE AGENDA ITEMS

19. ADJOURNMENT

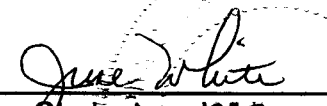
Vice Mayor McIntee made a motion to adjourn. The Town Commission, Town Manager, Town Attorney and Town Clerk wished everyone a Happy Holiday.

With no further business before the Commission, Mayor Minnet adjourned the meeting at 11:25 a.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

1/15/09

Date