

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

***4505 Ocean Drive***

***Tuesday, December 7, 2010***

***7:00 P.M.***

#### **1. CALL TO ORDER, MAYOR ROSEANN MINNET**

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Chris Vincent, and Commissioner Scot Sasser were present. Also present were Town Manager Connie Hoffmann, Town Attorney Susan L. Trevarthen, Town Clerk June White, and Deputy Clerk Nekisha Smith.

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

#### **3. INVOCATION**

Mayor Minnet gave the Invocation.

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

Mayor Minnet brought forth New Business item 14b, Proposed ILA for Resource Recovery System in Broward County for consideration in combination with Presentation item 5a, Proposed ILA for Solid Waste Disposal. There were no objections.

#### **5. PRESENTATIONS**

##### **a. Presentation on Proposed Interlocal Agreement for Solid Waste Disposal - Broward County Resource Recovery Board**

Attorney Eugene Steinfeld, Broward County Solid Waste Disposal District gave an overview of the next district that would change the control of the district from Broward County to Municipality. He believed that would amount to an annual savings of \$268,000. Attorney Steinfeld said that the tipping fee would also be reduced from over \$100 per ton to \$60 per ton, if the new agreement was ratified by 80% of the current district tonnage and 51% of the population of the various communities.

Attorney Steinfeld stated that every municipality would decide how the district was run regarding programs and costs. He added that a full board would meet twice a year to vote on all expenditures over \$100,000, and there would be an 11 member Executive

Board to handle the day to day operations. Attorney Steinfeld stated that the agreement would be a 10 year commitment which allowed for the low tipping fee. He added that the State had a goal for 75% recycling by 2012, whereby municipalities would receive recycling credits. Attorney Steinfeld stated that under the current contract, the old district used the "put or pay" method, which meant that if enough solid waste was not received by Wheelabrator, the district had to make up the amount of waste. He said under the new agreement there would be a common flow control whereby all municipalities would be required to send all burnable waste to the waste energy plant.

Attorney Steinfeld said there was a signing bonus if the Town joined by December 31, 2010 that would consist of a payment to the Town \$72,857.92. He added that according to Florida Statue, the municipalities had to be within the same district to get the fee of \$47.75; if the Town did not join they would be outside the district and the price would be different. He stated that the cost to truck solid waste outside of the county would increase.

Tony Spadaccia, Waste Management and Wheelabrator, a division of Waste Management said the Town never had a problem with Wheelabrator over the last 20 years. He said waste to energy was the theme for the future. Mr. Spadaccia believed the system worked. He added that the tipping fee would be reduced next year and asked the Commission to think of what the Town currently had; it was not broken.

Mayor Minnet announced that discussion would continue regarding item 14b.

**14b. Proposed Interlocal Agreement for Resource Recovery System in Broward County (Assistant Town Manager Bud Bentley)**

Commissioner Sasser asked whether this was contingent upon a certain amount of members signing the agreement and whether the decision to lower the price was not determined by new members. Attorney Steinfeld said it was in relation to the tonnage already received. Commissioner Sasser inquired as to why the tipping fee went up this year if they already received the tonnage. Attorney Steinfeld explained that new technology was in put in place and the tipping fee was raised in accordance with the current Interlocal Agreement, which automatically increased annually. He added that the increase this year was done to pay off the revenue bonds used to build the two (2) energy plants. Attorney Steinfeld said that the new district would be in the hands of the municipalities, who would determine the cost of running the program and the cost of running the district.

Commissioner Vincent asked how Wheelabrator could guarantee that no one else could offer better pricing. Tony Spadaccia stated that no one else could offer the package Wheelabrator was offering which included safety that came with the environmental program, and a proven track record. Attorney Steinfeld reminded the Commission that if the waste was not dumped in Broward County it had to go to Central Florida.

Vice Mayor Dodd stated that the pricing made no sense. He said there was not a lot of confidence being offered. Vice Mayor Dodd questioned why the Town should enter into a similar agreement that could bring about major problems. Attorney Steinfeld stated that the present agreement was negotiated by the Mayor of the City of Weston to allow for the construction of two (2) new energy plants. He added that prior to 2008 the district was turning back revenues to various municipalities due to the "put or pay" program and since the economy got worse the district was unable to meet the "put or pay" obligations. He explained that the new agreement did away with that program. Attorney Steinfeld said they got a better rate for the Town of Lauderdale-By-The-Sea and any other community to truck out the waste.

Town Manager Hoffmann stated that the current ILA (Interlocal Agreement) had a terrible deal for the cities in the district for the past 25 years. She said other Broward County cities, that did not join the ILA 25 years ago, saved millions with the disposal of their garbage.

Mayor Minnet stated that a recommendation was made by staff to look at other options. She recommended that the Commission move forward with staff's recommendation.

Commissioner Sasser made a motion to accept staff's recommendation not to move forward at this time. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

Commissioner Clotey requested Mayor Minnet to review staff recommendations for public knowledge.

Mayor Minnet read the recommendation into record: "We continue to believe there are disposal options available that are less expensive and provide more predictability and control over future price increases than what is being offered by the Resource Recovery District. We do not recommend signing the ILA at this time with the knowledge that this will likely result in LBTS giving up the chance to receive the \$72,858 signing bonus".

## **6. PUBLIC COMMENTS**

There were no speakers for public comments.

## **7. PUBLIC SAFETY DISCUSSION**

### **a. National Flood Insurance Program (NFIP), Community Rating System (CRS) (Municipal Services Director Don Prince)**

Public Information Officer Steve d'Oliveira explained the National Flood Insurance Programs were backed by the government and for communities that went above and beyond the normal flood plain. He explained that flood control could reduce the cost of flood insurance to their residents. Public Information Officer d'Oliveira added that Lauderdale-By-The-Sea went through a 5 year audit in 2009 which resulted in a reduction in the rating from an 8 to a 7 which meant that the residents, who saved

\$13,000 last year would save approximately \$45,000 in insurance premiums in the coming year.

Mayor Minnet requested this information be included in the next Town Topics.

Chief Llerena reminded everyone of the availability of the Cyber Visor Program and encouraged residents to sign up either at [www.sheriff.org](http://www.sheriff.org) or they could call him at the office.

## **8. APPROVAL OF MINUTES**

Vice Mayor Dodd made a motion to approve the minutes of October 26, 2010, November 9, 2010, November 15, 2010 Special and November 15, 2010 Workshop. Commissioner Sasser seconded the motion. The motion carried 5 - 0.

- a. October 26, 2010 Roundtable Minutes
- b. November 9, 2010 Regular Commission Meeting Minutes
- c. November 15, 2010 Special Meeting Minutes
- d. November 15, 2010 Workshop Minutes

## **9. CONSENT AGENDA**

Mayor Minnet pulled items 9f and 9e for discussion.

Vice Mayor Dodd made a motion to approve items 9a, 9b, 9c, 9d, and 9g on consent. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

- a. Approval of the FY2010-11 Florida Department of Law Enforcement (FDLE) - Justice Assistance Grant (JAG) Application (Interim Finance Director Doug Haag)
- b. Approval of the FY2011-2012 Community Development Block Grant (CDBG) Application (Interim Finance Director Doug Haag)
- c. Approval of a Special Event Application from Aruba Beach Cafe to hold the Memorial Day Beach Bash on May 30, 2011 (Assistant Town Manager Bud Bentley)
- d. Approval of a Special Event Application from Exclusive Sports Marketing to hold the Fort Lauderdale A1A Marathon on Sunday, February 20, 2011 (Assistant Town Manager Bud Bentley)
- e. Approval of documents related to the A1A North Landscaping Project (Assistant Town Manager Bud Bentley)

- i. Extension of the FDOT LAP Design Contract Agreement for Landscaping Services
- ii. Approval of the Local Agency Certification Qualification Agreement
- iii. Title VI Nondiscrimination Policy Statement, Notice under the Americans with Disability Act (ADA) and the Minority Business Enterprise (MBE)/Disadvantaged Business Enterprise Program (DBE)

Mayor Minnet asked whether, instead of adopting this particular non-discrimination policy statement could the Town adopt their own policy statement. Assistant Town Manager Bentley said that the Town had the option to submit their statements and policies and FDOT would review them for compliance with Federal standards and notify the Town whether the Town's version could be used. He said the Town had several months to look into it prior to the contract documents being released. Town Manager Hoffmann said staff had a non-discrimination policy statement that needed to be expanded. She said that staff would bring the statement back before the Commission at a later date.

- iv. Extension of the FDOT LAP Design Contract Agreement with Post Buckley Schuh & Jernigan for Landscaping Services for the A1A Project

Commissioner Clotley suggested that if the Town did not have to approve this tonight, have staff bring their own policy statement before the Commission in January. Town Manager Hoffmann said staff needed to approve the other three items. Assistant Town Manager Bentley stated that they were running a little late on this project and he wanted to show FDOT that some movement was being made and the Town was ready to proceed. He suggested staff come back for adoption of the policy. He asked that the motion contain a clause that the contracts (items i, ii, and iv) be approved as to form by the Town Attorney prior to their execution.

Vice Mayor Dodd made a motion to approve item 9e, with the Town to adopt their own non-discrimination policy statement (item 9e.iii) and the Town Attorney to review items 9e.i, 9e.ii, and 9e.iv as to form prior to execution of their contracts; if the Town could not adopt their own policy then the FDOT policy would be adopted. Commissioner Clotley seconded the motion. The motion carried 5 - 0.

- f. Purchase of Digital Payment Technologies (Digital) Multi-Space Pay Station from Parker Systems of Orlando Florida (Assistant Town Manager Bud Bentley)

Commissioner Sasser believed there could be a better deal and agreed that the Commission needed to approve the purchase. He requested that the approval be contingent upon whether the price could be reduced.

Assistant Town Manager Bentley suggested two (2) Multi-Space Pay Stations for Commercial Boulevard from the first block at Ocean Drive, east so that the street

meters could be removed. He added that it cleaned up the look of the sidewalk and increased the width of the sidewalk. Assistant Town Manager Bentley stated that staff was using a 2008 bid from the Lee County Parks Department, renewed annually, and advised that it met the piggyback requirement. He added that the current price was based on the 2008 bid and the company offered an additional 5% discount, equal to approximately \$2,900 for orders before the end of the year. Assistant Town Manager Bentley stated that staff could do research within the next 10 days and look to see if there was a lower price available. He added that if a lower alternative for obtaining the equipment was not found then staff would go ahead and make the purchase and pursue the credit card processing separately. Assistant Town Manager Bentley added that some cities found that 40% to 50% of the transactions were by credit card.

Assistant Town Manager Bentley stated that the machines could increase revenues and decrease parking citations which would make the parking experience better for the customer. He added that all meters would be networked together so that if someone needed to put more money on their space, they could do it at any master meter. Assistant Town Manager Bentley stated that credit card usage was not available in the El Prado lot. He added that the equipment would be ordered sometime next week.

Vice Mayor Dodd believed the green parking machines was a great idea as it brought flexibility to Town.

Commissioner Sasser made a motion to approve, contingent upon research in an attempt to reduce the price. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

g. Commission Approval of two (2) Hardship Permit Applications (Town Clerk June White) \* Basin Drive LLC \* Sea Spray Inn

10. ORDINANCES - PUBLIC COMMENTS

1. Ordinances 1st Reading

i. Ordinance 2010-20: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 20, "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES BY AMENDING ARTICLE II, "SANITARY SEWER SYSTEM," SECTION 20-19 "RATES AND CHARGES" TO ADOPT REVISIONS TO THE SCHEDULE OF RATES AND CHARGES FOR SANITARY SEWAGE COLLECTION, TRANSMISSION AND DISPOSAL SERVICE; AMENDING SECTION 20-22 "PROHIBITED DISCHARGES, PENALTY" TO SPECIFY ADDITIONAL MATERIALS THAT MAY NOT BE DISPOSED INTO THE SANITARY SEWER SYSTEM; CREATING SECTION 20-23 "DEFINITIONS" TO PROVIDE DEFINITIONS FOR ARTICLE II; AND PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2010-20 by title.

Mayor Minnet asked whether staff wished to give a presentation prior to public comments. Town Manager Hoffmann stated that staff realized the simplest way to accomplish the objectives set forth by the Commission was to adopt the City of Pompano Beach's rate structure. PowerPoint slides that illustrated the proposed rates are attached hereto as part of these minutes.

Town Manager Hoffmann explained that the rate for single family and duplexes was \$7.60 as their base charge with an additional \$3.00 for every 1,000 gallons of water used. She added that under the current rate, single family and duplexes had the first 2,000 gallons of water included in the \$7.60 rate capped at 12,000 gallons. She added that under the Pompano Beach rate structure the rate for a single family went to \$14.89 and an additional \$3.46 per 1,000 gallons of water usage; Pompano Beach did not give a 2,000 gallon credit in their rate but was capped at 10,000 gallons.

Town Manager Hoffmann stated that multi-family unit rates were based on meter size and under the Pompano Beach rate structure every multi-family unit paid \$14.26 per unit and every Commercial entity paid \$16.33 per unit.

Town Manager Hoffmann said that if the rate structure was adopted it would allow enough revenue to put money back in the fund balance. Consultant Kathie Margolies said that the amount of the transfer to the Capital Reserve this year was approximately \$16,700 and for the next fiscal year it would be a little over \$100,000. Town Manager Hoffmann noted that the sewer infrastructure was over 40 years old and an engineering study was scheduled next year to see what condition it was in and the possible costs involved to restore, or to replace the system. She added that the sewer system was completely televised / analyzed over the past year and that data would be useful to the engineering firm doing the study.

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

Mayor Minnet said the sewer rates had not been increased in nine (9) years. She was concerned that there were residents that had not heard about the proposed increase. Mayor Minnet believed staff needed to reach as many residents as possible. She said that the residents needed to understand that the rate increase was necessary and not something the Commission wanted to do.

Commissioner Sasser noted that nothing was included to care of an eventual replacement of the sewer system. He asked whether there would be a surplus at the end of the year that would go toward replacement. Town Manager Hoffmann confirmed that the surplus would go into the sewer fund balance. She added that the funds collected this year and next year would be inadequate to replace the system, but would be available for use should an emergency arise.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-20 on first reading. Commissioner Vincent seconded the motion. The motion carried 5 - 0.

Town Manager Hoffmann stated that staff would be sending postcards to every sewer customer of the Town of Lauderdale-By-The-Sea and not to the City of Pompano Beach customers. She added that the postcard would state the date of the public hearing, in January 2011 at the 2nd reading of the Ordinance and an email address would be provided for customers to request the actual analysis for the proposed sewer rates.

Mayor Minnet recessed the meeting at 8:10 p.m. and reconvened at 8:20 p.m.

## 2. Ordinances 2nd Reading

- i. Ordinance 2010-18: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-313(31) "ACCESSORY BUILDINGS AND STRUCTURES," OF THE CODE OF ORDINANCES TO AMEND REQUIREMENTS FOR SHEDS, STORAGE BUILDINGS AND OTHER ACCESSORY BUILDINGS AND STRUCTURES; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE  
Approved 1st reading at the October 12, 2010 Commission meeting and forwarded to the November 22, 2010 Roundtable for further discussion by Vice Mayor Dodd

Attorney Trevarthen read Ordinance 2010-18 by title.

Mayor Minnet noted that Vice Mayor Dodd had submitted a proposed amendment to the Ordinance that would address the issuance of a fine should the shed not be removed in the event of a storm.

He recommended approval with the addition to impose a realistic fine.

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

Commissioner Sasser believed it was a great idea but was concerned as to when someone would need to comply. Development Services Director Bowman advised that once the hurricane warning was issued that would be when someone must comply. Commissioner Sasser preferred that the Ordinance clearly stated within 24 or 48 hours after a hurricane warning was issued the resident must comply.

Commissioner Vincent said he had reservations with passing the Ordinance as he believed it was government breathing down resident's necks. He said the elderly and out-of-towners needed to be considered along with guidelines regarding the height and placement of sheds. Commissioner Vincent believed the Ordinance was too lax and that Commission needed to take a good look at the Ordinance as they may be moving too fast.

Mayor Minnet said she was never in favor of sheds.

Vice Mayor Dodd made a motion to adopt Ordinance 2010-18 on second reading with the following changes: 1) under item 2(a)iii, add: Failure to remove the shed as required by this subsection shall be deemed an irreparable or irreversible violation, which shall be subject to the enhanced fines provided for such violations by state law; 2) remove the word "forthwith" and 3) add "shall remove and place sheds/storage buildings indoors within 12 hours following the declaration of a hurricane warning". Commissioner Sasser seconded the motion. The motion failed 2 - 3. Commissioner Vincent, Commissioner Clotey, and Mayor Minnet voted no.

- ii. Ordinance 2010-19: AN ORDINANCE OF THE TOWN OF LAUDERDALE BY-THE-SEA, FLORIDA, ADOPTING THE SECOND AMENDMENT TO THE SOLID WASTE, BULK WASTE, AND RECYCLING COLLECTION SERVICES AGREEMENT BETWEEN THE TOWN AND CHOICE ENVIRONMENTAL SERVICES OF BROWARD, INC.; PROVIDING FOR FUTURE AMENDMENTS TO BE ADOPTED BY RESOLUTION; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE *Approved 1st reading at the November 15, 2010 Special Commission meeting.*

Attorney Trevarthen read Ordinance 2010-19 by title.

Commissioner Sasser explained that the idea was to provide for mutli-family units and properties to help out with the charges for garbage pickup. He added that under this Ordinance the properties would be charged only for the cans they needed as long as it did not fall below 50%.

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

Vice Mayor Dodd asked whether the billing change would happen automatically or would the resident have to formally request the change. Attorney Grant Smith, on behalf of Choice Environmental explained that Choice Environmental had no way of knowing the numbers until the person called Choice Environmental.

Assistant Town Manager Bentley clarified that Choice Environmental would change the billing to reflect the number of carts that were on the property. He explained further that a property with only 10 units and 5 carts would not have to call; their bill would be adjusted by Choice Environmental. Assistant Town Manager Bentley added that a 10 unit property with 8 carts, who wanted to reduce their number of carts to 7, would have to call Choice Environmental and make arrangements for the extra cart to be picked up.

Mayor Minnet requested this procedure be advertised on Channel 78. Town Manager Hoffmann said it would be and also would be noted in the Town Topics.

Commissioner Sasser made a motion to adopt Ordinance 2010-19 on second reading. Vice Mayor Dodd seconded the motion. The motion carried 5 - 0.

**11. RESOLUTION - "Public Comments"**

- a. PUBLIC HEARING on Resolution 2010-39 Notice of Intent for the review of sign code and review of parking requirements (Development Services Director Jeff Bowman)

Attorney Trevarthen explained that this was the public hearing for the Notice of Intent and read Resolution 2010-39 by title. She reminded the Commission that the Notice of Intent process was regulated by the Town code when changes were proposed to the Land Development Regulation.

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

Commissioner Sasser requested clarification as to whether this already existed in the code and that in order to change it, the Code would have to be changed. Attorney Trevarthen confirmed that this was an existing provision of Town code that layered an extra procedure on top of any change that the Commission wanted to make to the Land Development Regulations, and was not part of the Florida Statute. Commissioner Sasser asked whether the Town was bound by anything other the Town Code, which in his opinion was placed there to slow the process down. Attorney Trevarthen stated that it provided ample opportunity for the public to be made aware of the changes. She added that once the approval was given to have the public hearing, the public hearing would occur, followed by the process of hearing at the Planning and Zoning Board, and followed by the 1st and 2nd public hearings on the ordinance.

Vice Mayor Dodd advised that he had already requested that the Notice of Intent process be discussed at the December 14, 2010 Roundtable meeting.

Mayor Minnet believed that the Notice of Intent could be a burdening process, but was a way to give everyone a chance to see what the issues were and for the public to hear all sides.

Attorney Trevarthen advised that Commission approval was not needed as the Resolution was previously approved at the November 22, 2010 Commission meeting. She explained that this was the public hearing.

**12. QUASI JUDICIAL PUBLIC HEARINGS**

**13. COMMISSIONER COMMENTS**

Commissioner Clotney stated that boxes were available at Town Hall and at the fire station for donations to the toy drive. She thanked Town staff, especially Finance

Director Doug Haag for providing free Pelican Hopper service on New Year's Eve. Commissioner Clotley wished everyone a Happy Holiday and encouraged everyone to attend the events.

Commissioner Sasser thanked Choice Environmental for all their work on the negotiations. He invited everyone to the Christmas By The Sea celebration, Wednesday, December 8, 2010 from 5:00 p.m. to 9:00 p.m. Commissioner Sasser, along with the entire Commission, said "hello" to his family.

Commissioner Vincent understood that some people were not happy with the sewer rate hike. He explained that it was important to the Town to be prepared to protect the Town's assets. Commissioner Vincent stated that the Town was also working hard to ease the parking restrictions for new businesses coming to Town. He believed that the Town did not have a parking problem, but rather had a problem fixing the parking that already existed. Commissioner Vincent encouraged everyone to donate to the toy drives. He wished everyone a Happy Holiday.

Vice Mayor Dodd gave a Season Greetings to everyone and encouraged them to attend the tree lighting ceremony, Wednesday, December 9, 2010. He said there was nothing to report regarding the Hillsboro Inlet.

Mayor Minnet believed this was a whirl-winded year and thanked the Commission and staff for the positive changes. She said she would like staff to invite elected representatives for a Town Hall meeting to meet with the residents. She wished everyone a Happy Holiday and encouraged everyone to come to the Christmas By The Sea event.

#### **14. OLD BUSINESS**

**a. Parking Requirement Modifications (Town Manager Connie Hoffmann & Assistant Town Manager Bud Bentley) - Requested at the November 22, 2010 Roundtable meeting**

Assistant Town Manager Bentley explained that the backup consisted of the proposed language change to the Code and the ordinance would come before the Commission in January for first reading unless the Commission chose to hold a special meeting. Assistant Town Manager Bentley explained that staff did not receive direction regarding the time frame of the program, or how the program would end at the previous Roundtable meeting.

Assistant Town Manager Bentley pointed out that the proposed language also removed bars, beer gardens and nightclubs which were not permissible business uses within the Town for a number of years. Assistant Town Manager Bentley explained that there was an appropriate way to structure the program to limit the Town's liabilities if and when it came to an end.

Attorney Trevarthen explained that there were a number of legal reasons as to why it was beneficial for the Town to be clear regarding the scope and nature of the program. She said that if the program were adopted as if it were permanent, the Town could later face arguments from people that they have been harmed by the efforts of the Town to re-implement the current code. Assistant Town Manager pointed out that there was some language changes included regarding churches and assemblies, which were not requested by the Commission. He said that the changes would allow the Code to be consistent and legally defensible. Assistant Town Manager Bentley explained that staff would process another ordinance under the Notice of Intent that would address future changes to the parking code. He explained that the ordinance would address the process in which other business uses requested reductions in the parking requirements.

Vice Mayor Dodd did not agree with implementing a temporary suspension program and preferred to have the parking requirements eliminated. He said that he received only one complaint from a local business and that all the other comments he received were positive. Vice Mayor Dodd requested that staff redraft the changes to the ordinance to reflect the Commission direction that was given at the previous Roundtable meeting. He requested that the Commission receive a copy of the redraft as soon as it was available and to have it on the next regular meeting agenda.

Commissioner Vincent questioned whether the public would receive notice if the Commission decided not to continue the program after the deadline. He was concerned that business and property owners could face hardships if the Commission chose not to continue the program. Commissioner Vincent explained that an exemption would allow the program to come back before the Commission for a determination and allow for public input. He added that he agreed with staff's recommendation to allow the Town Manager the authority to waive the parking requirement up to three (3) spaces for other commercial uses. Commissioner Vincent requested that staff evaluate prior parking agreements with existing businesses to adjust their rate structure. He said that the Town needed to be fair to all businesses whether they were new or existing.

Commissioner Clotley explained that it was problematic to create a free for all and to leave the decision up to future Commissions. She preferred to implement staffs' recommendation and set a time limit on the program. She added that the Commission should make it mandatory to re-evaluate the program before the expiration date. Commissioner Clotley was concerned that the current businesses that paid the Town for parking were not receiving a fair deal.

Commissioner Sasser asked whether the Commission was going to put time limits on every decision made because it would be easier to change things in the future. He did not believe it would stop people from complaining and, instead, would slow government down. Commissioner Sasser did not believe the parking modifications came back the way the Commission requested it at the previous Roundtable. He said he did favor the exemption.

Mayor Minnet said she always favored economic and business improvement and favored parking modifications. She said there were many parking spaces not used; there was an overutilization of parking spaces east of A1A and an underutilization west of A1A. Mayor Minnet did not see the equality in making the parking modifications applicable only to restaurants. She believed that every business must be included as every allowable business deserved equal opportunity. Mayor Minnet was not convinced that the answer to getting new business in Town was to waive the parking requirements. She believed the multi-purpose parking meters would help the parking situation as people did not want to cross A1A to feed the meters in the Bougainvilla parking lot. Mayor Minnet suggested looking at better crossing details such as using crossing guards to monitor the intersection as people may be more inclined to use the parking lots. She asked the Commission to allow staff time to put together a reasonable plan; one that would be equitable for all businesses. Mayor Minnet believed it was important to include a sunset clause in the ordinance as it was not fair to tie the hands of future Commissions.

Commissioner Sasser questioned why bars, beer gardens and nightclubs were struck from the Ordinance if they were not allowed in Town. Attorney Trevarthen explained that prior to the recently adopted business use ordinance they were not permitted uses in the business district. She added that various discussions took place during the process and during that time there was no mention of adding bars and nightclubs to the business uses. Attorney Trevarthen suggested that at some point in the past it may have been a permitted use. Assistant Town Manager Bentley added that there were several instances in different sections of the code where amendments were made, but related sections were not removed.

Vice Mayor Dodd believed that this ordinance change was a start to promote new businesses. He said there were thirteen (13) empty store fronts and did not agree that the proposed ordinance would tie the hands of future Commissions. Vice Mayor Dodd believed it would only impact one business, 101 Ocean. He wanted to move the ordinance forward with a 3 year limit to include a re-evaluation at the end of the three years.

Town Manager Hoffmann requested clarification regarding grandfathering. Attorney Trevarthen explained that any business that decided to expand after the conclusion of the parking suspension program would not be grandfathered as they would fall under the parking guidelines that would be in effect at the time they requested the expansion.

Commissioner Vincent questioned whether the legal non-conforming businesses would be allowed to modify or rebuild and still be legal non-conforming without having to comply with existing code at that time. Assistant Town Manager Bentley stated that staff and the Town Attorney needed to look at legal non-conforming as it typically limited modifications.

Mayor Minnet stated that it was important to consider costs that may be incurred from the decisions, and passed to future Commissions as was done in the past. She believed

it was important that this ordinance contained a timeline and a sunset clause. Mayor Minnet also believed it needed to be evaluated every year and not at the end of the three (3) year term.

Vice Mayor Dodd made a motion to direct staff to move forward with preparation of ordinance for 1st reading as per staff recommendation to include a three (3) year limit with annual review by Commission, a grandfather clause and a sunset clause, and adequate public notice. Commissioner Clotney seconded the motion. The motion carried 5 - 0.

Assistant Town Manager Bentley asked whether the Commission wanted to give direction to review the 101 Ocean parking agreement for modification. Mayor Minnet believed the Commission would be bringing their ideas to staff.

b. Proposed Interlocal Agreement for Resource Recovery System in Broward County (Assistant Town Manager Bud Bentley)

This item was discussed earlier in the evening under Presentations 5a.

**15. NEW BUSINESS**

**a. Repeal Muni-Code Sec. 30-313 General Provision, (4), item b (Commissioner Chris Vincent)**

Commissioner Vincent said he placed this on the agenda to address a permitting issue that was rejected at the El Dorado Club regarding an existing concrete wall. He stated that back in 2007 staff requested that Section 20-313 line 4 paragraph (a) be stricken from the Code due to the fact that fencing that did not require the design to allow 25% open air circulation, and also met the South Florida Building Code, was allowed. Commissioner Vincent said that at that time the Commission objected. He suggested submitting this to the Planning and Zoning Board for their review and recommendation.

Development Services Director Bowman said it was a policy decision for the Commission to make. He added that staff could prepare it for the next Notice of Intent (NOI), which will be before the Commission for discussion at the next Roundtable meeting. Director Bowman stated that the code revision began in 2009 and this was discussed as part of the code changes.

Commissioner Vincent wanted "all concrete and cement walls to be stuccoed, finished and painted" removed also. He believed that the owners that erect the wall should have other finishing options.

Vice Mayor Dodd asked whether there was a requirement for decorative finishing's or openings under Florida Code. Director Bowman said he was not aware of any. Vice Mayor Dodd asked that should that section of code be removed would the Town be subject to eight (8) foot high solid concrete walls for businesses and six (6) feet high

solid block walls for residents. Director Bowman said it would. Vice Mayor Dodd thought there should be tighter regulations as to open air circulation in order to make the walls more decorative, and to avoid someone building a fortress around their property. He was against removing the code as it stood.

Mayor Minnet asked whether the Commission wanted to send this item to the Roundtable for discussion or to the Planning and Zoning Board.

There was Commission consensus to send this item to the Planning and Zoning Board.

**16. TOWN MANAGER REPORT**

**a. Fiscal Year End Budget-To-Actual Report**

There were no comments and/or questions regarding this item.

**b. Project List**

Commissioner Sasser asked for an update on the coral reef project. Attorney Trevarthen explained that there had been some contact but nothing concrete.

Commissioner Sasser requested an update regarding the investigation of the event inventory. Town Manager Hoffmann said she had not yet received a report from BSO.

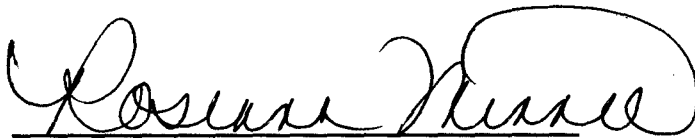
**17. TOWN ATTORNEY REPORT**

There was no report.

**18. ADJOURNMENT**

Vice Mayor Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 10:00 p.m.

**19. FUTURE REGULAR COMMISSION AGENDA ITEMS**



Mayor Roseann Minnet

ATTEST: 

Town Clerk, June White

Date

1/27/2011