

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4501 Ocean Drive

Tuesday, November 10, 2009

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clottey, Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, and Deputy Clerk Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Reverend George Hunsaker

Mayor Minnet amended the agenda to combine Consent Agenda item 12c and New Business item 16c with Old Business item 15e as they were all related to the Hillsborough Inlet. There were no objections.

Vice Mayor McIntee asked to be excused from the December 1, 2009 Commission meeting as he will be out of Town.

Commissioner Silverstone made a motion to grant Vice Mayor McIntee an excused absence for the December 1, 2009 Commission meeting. Commissioner Dodd seconded the motion. The motion carried 5-0.

4. PRESENTATIONS

a. Presentation from State House Representative Ellen Bogdanoff on the state of the State (Mayor Minnet)

Representative Bogdanoff stated that the budget was not looking good. She said she was looking at ways to stimulate the economy in order to relieve the tax burden on Florida residents. Representative Bogdanoff believed that if they did something with all the budget fragments it may create a bullet to work with. She said that lack of jobs was the biggest shortfall for Florida and was looking at ways to increase the time it took to get businesses up and running, the overall corporate tax structure, and permitting.

Representative Bodganoff said that she sponsored the Bill to reduce the burden on condominiums regarding fire sprinkler systems and unfortunately, the Bill was vetoed. She said she was pursuing a new approach and hoped it would pass this year.

Commissioner Clotney inquired of homeowners insurance. Representative Bogdanoff said that the creation of the State of Florida Citizen's Insurance Company socialized insurance and became the largest insurance company in the world. She added that with no competition in Florida the rates continued to go up. Representative Bogdanoff said a regulatory environment needed to be created to encourage competition. Commissioner Clotney asked whether the State could ban the sale of insurance in Florida if the company was only going to sell one certain type of insurance. Representative Bogdanoff believed that would become problematic as some auto companies do not sell homeowners insurance and some homeowners insurance companies do not sell car insurance.

Commissioner Clotney inquired of a National Catastrophic Insurance Fund that other states were considering. Representative Bogdanoff said she had spoken to several Senators and the votes just are not there as many States believed that Florida is the number one catastrophic state and they did not want to pick up that burden.

Vice Mayor McIntee asked how much Florida was in debt. Representative Bogdanoff stated it was \$2.5 billion. Vice Mayor McIntee pointed out that was equal to two thousand, five hundred million dollars.

5. PUBLIC COMMENTS

Barbara Cole stated that the previous Town Attorney advised the previous Commission that it was unconstitutional to use the name of a resident.

Cristi Furth stated that the total cost to the Town for the Halloween event was \$1,737.

John Oughton hoped the Town Attorney would have something in the form of an Ethics Code for presentation at the next meeting.

Mark Brown believed the Town Manager's survey was a waste of taxpayer's money and was unauthorized. He believed the money should be refunded to the Town.

Scott Sasser was concerned that the MOU would cost more than anticipated or put the Town at risk.

Joan Scott suggested the Commission reconsider the holiday flags and donate the \$5,000 to the holiday troops or the homeless or to break up the concrete steps in front of Jarvis Hall for a ramp and rails for the handicapped. She asked the Commission to consider covered bus stops and reconsider the fishing ordinance.

Ken Johnson a member of the VFD was upset with the bashing of the VFD. He pointed out that the VFD was not his fire department, nor was it Vice Mayor McIntee's, Commissioner Silverstone's or Mayor Minnet's fire department. He said the VFD belonged to the citizens of this Town and he was a citizen.

Priscilla Rysavy was against extending the permits for Shore Court or Garden Court.

George Crossman believed the lanes on A1A were too narrow for 2 bicycle riders side by side and should be limited to single file.

Eric Scott reported the scoring in regards to the Town Manager's Review.

Edmund Malkoon believed the Halloween event turned out to be a political event.

Spiro Marchelos stated that in lieu of the disaster at Fort Hood the Town needed to protect their sea side village with professionals. He believed the Commission needed to support the businesses and the environment.

Bill Vitollo was upset that Commissioner Dodd was removed from the Hillsborough Inlet.

Danny Halpert, Pompano Beach believed there was a fiscal disaster within the Town.

Bob Fleishman believed that Vice Mayor McIntee and Commissioner Silverstone benefitted from the VFD Pension Fund even though they say they did not.

Renee O'Neal thanked Vice Mayor McIntee, Commissioner Silverstone, Manager Colon, Town staff, VFD and the residents who volunteered at the Halloween Event. She said these were the people that united the Town. She praised Commissioner Silverstone and Vice Mayor McIntee for their 24/7, 365 day commitment to the Town and its residents.

Louis Marchelos said that a Commissioner showed his feminine side. Vice Mayor McIntee stated the remark was insulting. Commissioner Silverstone made a motion to have Mr. Marchelos removed. Vice Mayor McIntee seconded the motion. The motion failed 3-2. Mayor Minnet, Commissioner Dodd and Commissioner Clotey voted no. Commissioner Clotey requested that Mr. Marchelos be more respectful. Mr. Marchelos continued that the same Commissioner's discourtesy toward the Mayor demonstrated disrespect.

Rosa Michailiuk was tired of the divided Town's behavior. She thought the parking permit fees were too high. Ms. Michailiuk pointed out to the residents that she wore many hats at the Sea Cliff.

Bob Carley agreed with Rosa. He said there was too much negativity coming from the north end of Town.

Yann Brandt believed there was a lot of distrust in the Town. Mr. Brandt stated that he had made requests for emails on a personal email account. He said that he took his complaint of a willfull and knowing violation of Chapter 119 to the State Attorney who said he would investigate.

Chris Vincent learned that the \$1 million Oriana funds were to be spent in the Hospitality District.

There were no more speakers.

Mayor Minnet recessed the meeting at 8:30 p.m. and reconvened at 8:40 p.m.

6. REPORTS

7. PUBLIC SAFETY DISCUSSION

Commissioner Clotey asked whether the Town could do anything regarding the bicycle riders riding side by side in the bicycle lanes on A1A. Chief Llerena said it was spelled out in Florida Statute and there was nothing that the Town could do.

8. TOWN MANAGER REPORT

a. Survey Results

Manager Colon said she created the survey in order for the Commission to have guidelines as to what the residents would like and/or improvements they would like to see. She added that she created the survey through information shared with other cities.

Commissioner Clotey stated that she did not get the survey until 3 weeks later due to a delay at the post office and was sure it was the same for others. Manager Colon said she could produce an updated report should the residents who received the survey late still wanted to respond.

Commissioner Silverstone stated that 4800 surveys were sent out based on the property appraiser's list and 182 responses were received. He said the number 1 question was "do you like living here" with 82.52% reporting "excellent and good", 17.47% reported "fair to poor" and 14.76% reported "poor". Commissioner Silverstone pointed out that these ratings showed the division within the Town.

Commissioner Dodd was curious as to why Manager Colon did not speak with all 5 of the Commissioners. Manager Colon stated that the 3 Commissioners contacted her when the draft agenda went out. He was disappointed with the number of returns and believed the survey should have been approved by the Commission.

Vice Mayor McIntee asked whether the survey was taken from Wilton Manors. Assistant Town Manager Olinzock said he received a copy from Wilton Manors and brought it to the attention of Manager Colon knowing that the Commission was interested in doing something similar.

Mayor Minnet said she went through the comments in the survey and stated that many of the issues had already been addressed or were being addressed such as the Tennis, Karate and Soccer programs; stop the bickering; vehicle speeding; listen to each other; better sidewalks and drainage; citizen's forum; A1A traffic; beach cleanup and recycling; recycling bins on the beach; controlled development; unite the Town; maintain 3 foot rule with bicycles; fishing from the beach; dogs on the beach; zip code; senior center activities; Pelican Hopper to Holy Cross Hospital. Mayor Minnet understood why Town staff felt they needed to move the survey forward and believed it was something that could be updated all the time.

b. Emergency Procurement

Manager Colon said Municipal Services had barricaded the area where a sinkhole occurred. She added that on October 22, 2009 Man-Con was called and on November 4, 2009 televised pictures were available. Manager Colon said there were 2 alternatives: 1) close the road; 2) follow procurement procedures. She advised it was scheduled to be placed on the November 10, 2009 Commission meeting.

Commissioner Dodd asked whether Tele-Vac had a full set of pictures for the whole system. Manager Colon stated that that area was not televised by Tele-Vac. Commissioner Dodd asked whether it would be. Manager Colon said that once the Stormwater Master Plan was complete those areas would be televised.

9. APPROVAL OF MINUTES

Commissioner Silverstone made a motion to approve the minutes of October 23, 2009 and October 26, 2009. Commissioner Dodd seconded the motion. The motion carried 5-0.

- a. October 23, 2009 Roundtable Minutes**
- b. October 26, 2009 Referendum Workshop Minutes**

10. ORDINANCES - PUBLIC COMMENTS

1. Ordinances 1st Reading

- a. Ordinance 2009-29: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-6 "PLANNING AND ZONING BOARD" OF THE CODE OF ORDINANCES;**

PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-29 by title.

Attorney Trevarthen explained that the Florida Statute required that a member of the school board participated in Planning and Zoning Board meetings when it involved an increase in density of residential development that could affect the school system.

Mayor Minnet opened the meeting for public comments.

Barbara Cole wanted to know why Lauderdale-By-The-Sea did not opt out like other cities did.

George Hunsaker believed that Ordinance 2009-29 was more of a housekeeping ordinance.

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

Lisa White, Growth Management Planner from the Broward County School Board explained that Lauderdale-By-The-Sea did not qualify to opt out due to the development that had occurred. She said the other cities qualified for exemption from public school concurrency.

Commissioner Dodd made a motion to adopt Ordinance 2009-29 on 1st reading. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

- b. Ordinance 2009-30: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING THE DEFINITION OF "TOWNHOUSE DWELLING" IN SECTION 30-20; AMENDING THE DEFINITION OF "VACATION RENTAL" IN SECTION 30-155, AMENDING REFERENCES TO VACATION RENTALS AS AN ACCESSORY USE IN THE RS-4, RS-5, RD-10, RM-25 AND RM-50 ZONING DISTRICTS, AND AMENDING SECTION 30-327 "VACATION RENTALS," ALL WITHIN CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS" OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-30 by title. 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 Silverstone made a motion to adopt Ordinance 2009-30 on 1st reading. Commissioner Dodd seconded the motion.

The motion carried 3 - 2. Vice Mayor McIntee voted no. Commissioner Clotley voted no.

- c. Ordinance 2009-31: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING CHAPTER 17, ARTICLE I SECTION 17-9 ENTITLED "OBSTRUCTING PARKS, STREETS, OR OTHER PUBLIC PROPERTY; PERMISSION REQUIRED, " BY ADDING CRITERIA, PROCEDURES AND OTHER REQUIREMENTS FOR APPROVAL OF ENCROACHMENTS ONTO PUBLIC PROPERTY; PROVIDING FOR CODIFICATION, SEVERABILITY, AND EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-31 by title. Mayor Minnet opened the meeting for public comments.

Barbara Cole asked whether this was already on the books and if so, what the difference was.

Attorney Trevarthen explained this ordinance created a procedure for approval of encroachments on to public property and allowed the approvals to be given by the Town Manager based on the criteria in the Ordinance and also allowed for appeal before the Commission.

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

Mayor Minnet was concerned as to whether this encroachment issue was properly addressed under the Americans with Disabilities Act (ADA). She asked whether the Florida League of Cities gave risk analysis of the Town.

Manager Colon explained that was where the criteria came from; they had to meet the safety regulations and ensure public right-of-way.

Commissioner Silverstone made a motion to adopt Ordinance 2009-31 on 1st reading. Vice Mayor McIntee and Commissioner Clotley voted no. Commissioner Clotley seconded the motion.

The motion carried 3 - 0. Vice Mayor McIntee abstained. Commissioner Clotley abstained.

2. Ordinances 2nd Reading

- a. Ordinance 2009-28: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 20, ARTICLE IV, ENTITLED "UTILITIES", REPEALING SECTIONS 20-40 AND 20-44 AND SECTIONS 20-50 THROUGH 20-65 THEREOF PROVIDING FOR THE LEVY, COLLECTION AND ENFORCEMENT OF THE TOWNS STORMWATER MANAGEMENT UTILITY FEES; PROVIDING FOR CODIFICATION OF THE REPEAL IN ARTICLE IV,

CHAPTER 20 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN
EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-29 by title. 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 Silverstone made a motion to adopt Ordinance 2009-28. Commissioner Dodd seconded the motion.

The motion carried 5 - 0.

11. COMMISSIONER COMMENTS

Commissioner Dodd wished everyone a Happy Thanksgiving and safe travel. Commissioner Dodd asked to have the partial payment from Vice Mayor McIntee for the emails he requested returned to the Vice Mayor. He explained that the State Attorney's Office told him that his emails in his personal account that were not set up by the Town were his own private property. Commissioner Dodd said that he would not turn over any emails unless he received a court order, a letter from the State Attorney, or a legal opinion that instructed him to comply.

Vice Mayor McIntee pointed out that if Commissioner Dodd's personal emails were his own private property, it also meant that if Vice Mayor McIntee had any emails they would be private also.

Citizens at the meeting responded with heated words and Commissioner Clotey asked the Mayor to take control of the meeting. Mayor Minnet issued a warning to the citizens as well as the dais. Commissioner Clotey was not satisfied.

Commissioner Silverstone made a motion to reprimand the Mayor. Vice Mayor McIntee seconded the motion. The motion carried 3 - 2. Mayor Minnet voted no. Commissioner Dodd voted no.

Vice Mayor McIntee continued with his comments. He explained that one would have to do an intentional and willful act to violate the law. Vice Mayor McIntee stated that Deerfield Beach intended to outlaw fishing from the beach and was told by their Town Attorney that it was unconstitutional as it was public property. Vice Mayor McIntee explained that the Halloween Event was not political. He stated that his name was announced once to introduce him and reminded everyone that he was the Chairman of the Committee. Vice Mayor McIntee explained that he used the PA system to reach all the people and to announce where and when certain events were going to occur. Vice Mayor McIntee said everything was going in the right direction for the Town except the unity. Vice Mayor McIntee said he loved the Town and worked 24/7 for the people of the Town. He added that he did not take the Town's medical insurance as he had his own.

Mayor Minnet asked Vice Mayor McIntee whether he voted in favor of the medical insurance. Vice Mayor McIntee said he did support it for the dais and that he stated at the time that he did not want the medical insurance. Mayor Minnet stated that she did not vote for it and she did not take it.

Mayor Minnet said she was not at the Halloween event as she was out of Town. She said she received telephone calls from families that said they enjoyed the event but were disappointed in the overall air of the event. Mayor Minnet suggested that everyone ask questions of the people that attended the event to make up their own mind as to who told the truth. She inquired of a sign that was used and said she will have an agenda item for the next meeting inquiring of decorum at future events and whether all political action groups would be allowed to be a party to every event. Mayor Minnet said she was not against the VFD she wanted to make sure the VFD could do the job for the residents and businesses and make sure they were accountable. Mayor Minnet said she will continue to maintain decorum on the dais as much as she could and asked for the same respect she gave to them. She encouraged everyone to attend the BSO event on Thursday, November 12, 2009 from 7:00 p.m. to 9:00 p.m. and thanked Chief Llerena for organizing the event for the Town. Mayor Minnet hoped that everyone would remember the men and women that served our country and sacrificed their lives for our freedom on Veteran's day. She wished everyone a Happy Thanksgiving.

Commissioner Clotley said the event at Fort Hood allowed everyone to pause and reflect on those who gave their lives to protect our country's freedom. She added that although there was much bickering there were people who died to protect our rights. Commissioner Clotley asked everyone to remember those who will not have their families with them when they sit down at their Thanksgiving dinner. Commissioner Clotley stated that the Halloween event was a nice event and thanked everyone who made it possible. She said she wore a sign with her name on it just so people knew who she was as she wore a wig and a costume. Commissioner Clotley said she asked Cristi and Mark Furth why they did the event every year when they kept getting kicked in the teeth. She said they told her that they did it for the kids but did not know whether they would do it next year. Commissioner Clotley believed that criticizing and complaining was probably the world's oldest profession.

Commissioner Clotley stated that this Commission did not borrow any money. She explained that this Commission approved the payoff of quite a few loans and explained that the previous Commission borrowed money after annexation as there were plans for the use of that money. Commissioner Clotley suggested that people call and ask why someone did something rather than just make accusations. She said the Hillsborough Inlet item was put on the agenda because Oliver Parker was interested in the job and she wanted to bring it before the Commission and not because she wanted to stick a knife in someone's back. She added that jobs were assigned to each Commissioner and were rotated every year and the only job not rotated was the representative to the Hillsborough Inlet which was held for many years by the people of the Town.

Commissioner Silverstone said he tried to respond to Public Comments during Commissioner Comments and was attacked for doing so. He believed it had become a sporting event that Town Officials could be attacked and they have to sit up there and take it. Commissioner Silverstone believed it was anti-American and anti-Town to do that. Commissioner Silverstone stated that he and John Thompson speak with each other and have a respectful relationship. He said he would appreciate it that if the person in charge of information, in whichever forum, would look up and read the standard of ethics on line for press ethics. Commissioner Silverstone said the budget for the Halloween event was \$4,000 and the entire event cost under \$1,800. Commissioner Silverstone said he played Dracula and lost his voice as usual, and was exhausted by the end of the day. He stated that if he ran for office again, he did not want anyone to vote for him that did not participate in any events in the Town. Commissioner Silverstone stated that Abraham Lincoln had faith in the people, that they would rise up and see the truth. He believed the same thing will happen for the upcoming election. Commissioner Silverstone stated that the loan pay offs were discussed multiple times and they saved \$600,000 because the interest would have exceeded the pre-payment fees. Commissioner Silverstone said he was responsible for the sign at the Halloween event. He said everyone had a right to put up a sign or a banner and apologized that it caused problems as that was not his intent. Commissioner Silverstone thanked Bob Carley for his speech. He stated that whether someone was a volunteer or paid firefighter, they were properly trained and properly managed professionals. Commissioner Silverstone noted that the first practice of the basketball season started Saturday November 14, 2009 from 9:00 a.m. to 2:00 p.m. He reminded everyone that Karate, Tennis and Soccer were also available. Commissioner Silverstone wished everyone a Happy Thanksgiving.

12. CONSENT AGENDA

Mayor Minnet pulled item 12a for discussion. Item 12c was pulled earlier in the evening.

a. Commission selection of contractor and award of ITB 09-09-02 - Lauderdale-By-The-Sea Recreational and Senior Center Services (Manager Colon)

Commissioner Dodd asked what the budget was to cover the approved recreational services. He wanted to know if Mr. Bien-Aime had the authority to hire and fire the Tennis and Karate instructors. Manager Colon explained that the budget for Tennis and Martial arts had nothing to do with the Senior Center. She added that the amount was budgeted as part of the senior center activities because the seniors would participate but Mr. Bien-Aime was not required to take on additional responsibilities to supervise those events.

Commissioner Clotey asked whether the swimming pool and tennis courts were restricted to Town residents. Manager Colon said it was. Commissioner Clotey was concerned with the grant and wanted the Town to oversee compliance and requested

the Commission to read the grant and to consider whether it was worth taking the federal money.

Manager Colon explained there were 2 revisions; Section 2.2.1 relating to hiring and training and 2) Section 5.8 requiring a blanket fidelity bond should there be employees. She added that most instructors were volunteers and would have to sign in and sign out per Section 2.2.1.

Mayor Minnet asked how long Bein-Amine was in the business. Mr. Bien-Aime said he was in the business 9 years and was very familiar with the grant and the auditing. He added that there were people attending the events that were not seniors and that was due to dual funding from both the Town and the County. Mr. Bien-Aime said he was informed at the last audit that as long as they were 62 years old, and they separated the data, it was ok.

Manager Colon clarified that Bien-Aime Corp. was not the Town's provider for 9 years. She said in 2000 it was Goodwill Industries and Mr. Bien-Aime was one of their employees. Manager Colon added that Bien-Aime Corp. took over the program after Goodwill Industries dissolved. Mr. Bien-Aime said he worked for Goodwill Industries for 13 years but the program and the 9 years was all his.

Mayor Minnet had concerns with pulling the recreational and senior center together. She wanted to make sure the senior activities would not diminish and the seniors got what they deserved. Mayor Minnet wanted to clarify whether the applicant had to pay for the advertisement in Town Topics. Manager Colon said that was customary. Manager Colon advised that she was trying to expand the outreach program and discussed the possibility of taking the seniors on outings, such as the museum and the library.

Manager Colon stated that she only asked Mr. Bien-Aime to assist with getting the seniors involved in other activities. She said she had no problem separating the activities if that was what the Commission wanted.

Commissioner Dodd congratulated Mr. Bien-Aime for the great things he did for the seniors. He believed Mr. Bien-Aime would be taking on a lot more.

Vice Mayor McIntee made a motion to approve the selection of the contractor. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- b. Commission to approve an extension to complete the construction of a single family home located at 4 Sunset Lane (Assistant Town Manager Olinzock)

Vice Mayor McIntee made a motion to approve extension. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- c. Place an announcement on the website and Channel 78 requesting residents who

are interested in serving on the Hillsboro Inlet Commission to submit their application by December 1, 2009 (Commissioner Clottey)

This item was moved earlier in the evening and considered with Old Business item 15e.

13. RESOLUTION - "Public Comments"

- a. Resolution 2009-27: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE TERMS OF THE MEMORANDUM OF UNDERSTANDING (MOU) AMONG BROWARD COUNTY, THE BROWARD SOLID WASTE DISPOSAL DISTRICT, WHEELABRATOR SOUTH BROWARD, INC. AND WHEELABRATOR NORTH BROWARD INC. FOR A TERM OF TEN YEARS FROM AUGUST 4, 2011, WITH A TEN (10) YEAR EXTENSION BY MUTUAL AGREEMENT**

Attorney Trevarthen read Resolution 2009-27 by title.

Attorney Trevarthen advised that a new version of the Resolution was received by the Resource Recovery Board and read Section 3 as the revision into record which stated that this Resolution shall be binding only upon the passage of an additional Resolution approving a new Interlocal Agreement for the Broward Solid Waste Disposal District. She added that Section 3 made it clear that the passing of Resolution 2009-27 would not be the Commission's final decision to enter into this arrangement; it was an endorsement pending a later vote to actually enter into the new Interlocal Agreement.

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

Vice Mayor McIntee made a motion to adopt Resolution 2009-27. Commissioner Clottey seconded the motion. The motion carried 5 - 0.

- b. Resolution 2009-29: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE RATES ON THE PARKING FEE SCHEDULE FOR HARDSHIP AND EMPLOYEE PERMITS**

Attorney Trevarthen read Resolution 2009-27 by title.

Mayor Minnet opened the meeting to public comments.

Barbara Cole hoped this was the last time the rates would be changed.

Diane Boutin believed hardship permits came about due to lack of parking and abuses were few.

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

Mayor Minnet was concerned that this had come before the Commission many times and stated that hasty decisions were not always the best. She felt the Commission needed to look at all the effects at every turn.

Vice Mayor McIntee believed the hard working waiters and waitresses were receiving less tips due to the economy and believed the permit fees could be lowered.

Commissioner Silverstone clarified that they were only changing the fees for employee and hardship permits and not all parking fees.

Commissioner Clotey previously thought that the parking fees were very low compared to other cities and should be brought up to be more appropriate. She said since then she had re-evaluated the situation.

Commissioner Dodd felt the \$50 fee was reasonable for both resident and beach parking and was glad the fees were placed by Resolution instead of advertising Ordinances every time a change came through.

Vice Mayor McIntee made a motion to adopt Resolution 2009-29. Commissioner Silverstone seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

- a. Discussion and/or action by Town Commission to provide resolution to approve encroachment existing on public property: (Assistant Town Manager Olinzock) Deferred at the October 20, 2009 Commission meeting by Commissioner Clotey**

1. 16 Commercial Blvd

This item was considered earlier with Ordinance 2009-31.

- b. Discussion and/or action by Town Commission to provide Resolution to approve Encroachments existing on public property: (assistant Town Manager Olinzock) Deferred at the September 22, 2009 Commission meeting**

1.) 4404 Bougainvilla Drive

2.) 263 Commercial Boulevard

This item was considered earlier with Ordinance 2009-31.

- c. Commission to approve a two (2) year time extension for the completion of the development at 231 Shore Court per the applicant's request and per Ordinance 6-12(c). Backup attached (Assistant Town Manager Olinzock) Deferred at the October 27, 2009 Commission meeting by Commissioner Clotey

Commissioner Silverstone made a motion to grant the extension for 1 year and if it did not get built within 1 year, put a condition in there that it must either be torn down or something had to be done to clean up the area. Commissioner Silverstone only wanted to extend for 1 year with those conditions.

Attorney Trevarthen stated that there were 2 issues before the Commission. Manager Colon stated that the Commission could revise the code.

David Hyatt said he was located between Garden Court and Shore Court and had complained numerous times. He said his property value went down and felt like he currently lived in the slums.

Alan Crimsman suggested the Commission take another look at the development order as there were specific agreements that were entered into in relation to what the party was supposed to give back with the granting of the land. Crimsman believed they were given 2 years to complete the project and not 2 years to begin building.

Attorney Trevarthen stated that they had until July 2010 to complete the project before the return of the property. She said the condition was completion within 3 years.

Attorney Grant Smith stated that the document was not recorded that way. Attorney Trevarthen indicated that the minutes, where all parties were in agreement, showed the intent. Attorney Smith was concerned with Commissioner Silverstone's motion for a 1 year extension. He wanted clarification that in the alternative, if the lawsuit succeeded then it would be 1 year. Commissioner Silverstone indicated he would go along with the original intent as pointed out by Attorney Trevarthen. He said if the building was not completed by the expiration date the he would follow the agreement and return the Cul de Sac back to the Town.

Attorney Trevarthen stated that her understanding of the motion was that it was based on the separate request that had been brought under Town Code and not whether the challenge failed. She explained that the Commission had an application that they needed to do something with and Commissioner Silverstone placed an option on the table.

Vice Mayor McIntee stated that the reason they were at this stage was because the applicant created a monster and was not being a good neighbor.

Commissioner Dodd asked when the applicant intended to start construction.

Mayor Minnet reviewed the motion to grant a 1 year extension for Shore Court and 226 Garden Court. Commissioner Silverstone added 2 conditions: 1) that if not completed within 1 year that it get torn down and 2) that in the interim whatever vacant land is out there be maintained - no mounds of dirt, grass to be planted and maintained for the duration of the project.

Attorney James White added to the condition "that if not completed would be torn down" that if in fact the property were deemed to be an unsafe structure under the Florida Building Code or that the permit had expired, the Building Official had the ability to require that the structure be demolished or removed from the site as could the Broward County Building official.

Commissioner Silverstone made a motion to extend the meeting to 11:30 p.m. All voted in favor.

Commissioner Dodd did not believe they could bring in a 1 year extension when the agreement allowed 3 years. Commissioner Silverstone stated this was an alternative. Commissioner Clotey was also concerned as she did want to give them 3 years.

Mayor Minnet clarified that the previous motion was strictly to move our Town forward to join the lawsuit with the City of Weston and be a member of the 14 cities already against the Senate Bill 360, and now Commissioner Silverstone wanted to give 231 Shore Court, and 226 Garden Court a 1 year extension. Attorney White asked for clarification that that would be pursuant to Town Code Section 6.12(c). Commissioner Silverstone agreed. Commissioner Clotey asked if she could add a friendly amendment that construction start within 60 days. Attorney Trevarthen stated that construction had already started.

Attorney Trevarthen summed up the motion as a 1 year extension for agenda items 15c, 231 Shore Court and 15d, 226 Garden Court with the requirements for proper maintenance and grassing the area and tearing down the structure if not complete.

Vice Mayor McIntee seconded the motion for discussion. He asked for clarification that the motion was to enact a 1 year extension with conditions if the Senate Bill 360 was overturned. Commissioner Silverstone said that was correct. Commissioner Clotey wanted an expiration date placed on the permit so they would not have to go through this again. Attorney Trevarthen suggested the expiration date be whatever the expiration date was for each permit.

Attorney White suggested the condition to tear down the structure could be modified to read that pursuant to the Florida Building Code and any other applicable Code provisions would direct the Building Official to investigate and pursue the pre-existing procedure.

The motion carried 3-1. Commissioner Clotley voted no. Mayor Minnet recused herself. She explained she was a sub-contractor for a sub-contractor of the general contractor who did work for the law firm that represented his client.

- d. Commission to approve a two (2) year time extension for the completion of the development at 226 Garden Court per the applicant's request and per Ordinance 6-12(c). Backup attached (Assistant Town Manager Olinzock) Deferred at the October 27, 2009 Commission meeting by Commissioner Clotley
- 16e. Discussion and/or action regarding a trial for employee parking south of Commercial at Hibiscus junction/ Bougainvillea junction just south of the Chamber (Commissioner Dodd)

This item was taken out of order for consideration.

Diane Boutin said she was seeking the use of 9 spaces in the Bougainvillea Parking lot, situated south of the Chamber of Commerce, for "employee permits/feed the meter" type of permit. She added the spaces would be available on a first come, first serve basis and asked for consideration on a 6 month trial basis.

Commissioner Dodd made a motion to approve the request. Vice Mayor McIntee requested approval for a 6 month trial period. Commissioners Dodd and Silverstone accepted. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- 16j. Town Commission Approval of Processing of Proposed Regulatory Changes (Assistant Town Manager Olinzock)

This item was taken out of order. Mayor Minnet announced the meeting date for New Business item 16j as December 7, 2009 at approximately 7:00 p.m. or following the scheduled Commission Roundtable meeting.

Mayor Minnet recessed the remaining items for the December 7, 2009 Commission meeting at approximately 7:00 p.m.

Vice Mayor McIntee made a motion to adjourn. With no further business before the Town, Mayor Minnet adjourned the meeting at 11:25 p.m.

- e. Discussion and/or action - Hillsboro Inlet Deferred at the October 27, 2009 Commission meeting by Commissioner Clotley

This item was recessed to December 7, 2009 at approximately 7:00 p.m.

16. NEW BUSINESS

- a. Commission approval to reschedule the September 28, 2010 Commission

meeting due to the Jewish Holiday of Sukkot (Clerk White)

b. Commission approval of three (3) Hardship Permit Applications: (Clerk White)

- 1.) Beachview Apartments
- 2.) Sea Cliff Apartments
- 3.) Santa Barbara Inn

c. Discussion and/or action on Hillsborough Inlet (Commissioner Dodd)

This item was moved earlier in the evening and considered with Old Business item 15e.

d. Discussion and/or action on the "Cone of Silence" rules (Commissioner Dodd)

e. Discussion and/or action regarding a trial for employee parking south of Commercial at Hibiscus junction/ Bougainvillea junction just south of the Chamber (Commissioner Dodd)

This item was taken out of order and considered earlier.

f. Discussion and/or action for a change in Town Code providing for restoration of building sites that remain uncompleted after building permits have expired (Commissioner Silverstone)

g. Discussion and/or action regarding homeless people in our beach access areas, especially in Washingtonia Beach Park. LBTS should have posted signs indicating how long and when people can linger at each of the portals and Pavilion. No sleeping should be allowed on the benches (commissioner Clotney)

h. Discussion and or action regarding: At the last Commission meeting when I was speaking on the last item, Mrs. Barbara Cole called me "inappropriate words". This goes way beyond a person's freedom of speech rights. People acting like that should be removed from the meeting immediately and asked not to return to the next meeting (Commissioner Clotney)

i. Discussion and/or action regarding a contest for a new slogan (Commissioner Clotney)

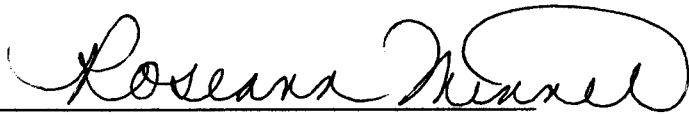
j. Town Commission Approval of Processing of Proposed Regulatory Changes (Assistant Town Manager Olinzock) This item was recessed to December 7, 2009.

This item was taken out of order and recessed to December 7, 2009.

17. TOWN ATTORNEY REPORT

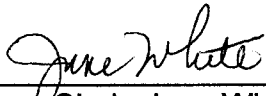
18. ADJOURNMENT

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

12/9/09

Date

