

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

MEETING MINUTES

Jarvis Hall

4501 Ocean Drive

Wednesday, May 27, 2009 continued from May 26, 2009
4:30 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 4:30 p.m. Also present Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clotey, Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, and Town Clerk June White.

11. COMMISSIONER COMMENTS

Commissioner Clotey remembered those who had given their lives for our country. She thanked the Garden Club for hosting the Spring Concert and everyone who attended.

Commissioner Silverstone said the previous meeting was disturbing to him. He said in the future, and if necessary, he will call a point of order to cease the interruptions. Commissioner Silverstone believed that the first Burt J. Harris Act was done due to a loop hole in the law that allowed government entities to obtain land through eminent domain. He added that developers and some property owners recently discovered a loophole in the law that stated that because of a government change in the law, there was a projected loss on the properties. Commissioner Silverstone explained that if anyone purchased property at a time when there was no height limit and intended to build a 15 story unit and then the law changed that would not allow it, then that would be a case for a Burt J. Harris claim. He said he wrote an article in the bythesea TIMES that explained it. Commissioner Silverstone thanked everyone for their help with the planning of the 4th of July event and encouraged people to volunteer their services.

Commissioner Dodd gave an update on the Hillsboro Inlet. He said the marine life had returned. He said they went out for RFP's on 2 new work boats and received 18 inquiries. Commissioner Dodd said he was always frustrated that the Commission disappeared into a shade session during a regularly scheduled meeting as the people had to wait until they returned. He hoped this Commission would do it differently. Commissioner Dodd explained that only items pertaining to the pier sign should be referred to the Town Attorney and nothing else. Commissioner Dodd asked the Town Attorney's opinion regarding the section of the Charter that referred to a non-conforming use. He asked whether it would be legal if the Commission adopted a "50%" clause. Commissioner Dodd was appalled at the new administrative policy to charge for

sidewalk cafes and for the use of streets for events. He felt it was a "Gestapo" tactic. Commissioner Dodd was saddened by the treatment of one of the business owners and wanted to know where the conflict was that would interfere with the 4th of July.

Vice Mayor McIntee stated that the previous meeting was disruptive inside Jarvis Hall and outside Jarvis Hall. He asked Chief Gooding to have a patrol outside the meeting hall to protect the residents of the Town. Vice Mayor McIntee stated the average meeting in Broward County ran 2 1/2 hours and Lauderdale-By-The-Sea ran 6 to 8 hours.

Mayor Minnet addressed comments made against her in the May 8th edition of the bythesea TIMES that stated she had no control over the meetings. Mayor Minnet stated that respect started at the dais; interruption occurred there also. Mayor Minnet said that Congressman Ron Klein will be holding a satellite office meeting in Jarvis Hall, Friday, May 29, 2009 from 2:00 to 3:00 p.m. and will meet with various community groups. She added that the meeting was advertised on channel 78. Mayor Minnet said it was crucial to attend the Broward County Transportation meeting on June 8, 2009 from 6:00 to 8:00 p.m. regarding the Pelican Hopper. Mayor Minnet attended a meeting on the 2010 Census. She explained that the Census would define Lauderdale-By-The-Sea as a community and aide in the direction of government funds. She suggested people visit www.census.gov for additional information. Mayor Minnet thanked Diane Boutin for her dedicated effort in making sure that LBTS was included on the Scenic Highway Corridor Designation Study tour. Mayor Minnet gave her thanks to those who had sacrificed through the years for our freedom.

13. RESOLUTION - "Public Comments"

- a. Resolution 2009-14: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADOPTING AND PROVIDING FOR AN AUTOMATIC ANNUAL INCREASE IN RATES ON PARKING FEE SCHEDULE**

Attorney Trevarthen read Resolution 2009-14 by title.

Mayor Minnet opened the meeting for public comments.

Lawrence Wick thought the Commission should delay this until next year to see what the costs were and decide the correct amount.

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

Vice Mayor McIntee made a motion to approve Resolution 2009-14. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

- a. Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee) This item was deferred at the April 28, 2009 Commission meeting THIS ITEM WAS DISCUSSED AT THE MAY 26, 2009 COMMISSION MEETING**
- b. Selection of winner of the El Mar Drive Design Project as per presentation at the 4/14/09 Commission meeting (Mayor Minnet) THIS ITEM WAS DISCUSSED AT THE MAY 26, 2009 COMMISSION MEETING**
- c. Discussion and/or action for an Ordinance to ban "totters" from prowling the streets of town stealing valuable recycling material from the refuse collector (Commissioner Dodd) Deferred at the May 12, 2009 Commission meeting by Commissioner Dodd**

Commissioner Dodd stated that this was deferred pending information from the Town Attorney. He believed it was petty theft when people helped themselves to recyclable material. He thought it was a good idea to have an Ordinance on the books to keep people from taking anything that would give revenue.

Commissioner Dodd made a motion to have the Town Attorney look into what other cities were doing to keep the totters away.

Commissioner Clotey asked whether there was a problem in the Town. Assistant Town Manager Olinzock said he was not aware of any problems. Commissioner Clotey believed that if there were no problems, money should not be spent to look into it. Commissioner Silverstone agreed with Commissioner Clotey. Vice Mayor McIntee said he had not received any complaints.

Commissioner Dodd stated that everyone was entitled to their own opinion. He added that he was aware of fruit trees that have been stripped in the neighborhoods. Commissioner Dodd withdrew his motion.

- d. Discussion and/or action concerning RFP's and annual renewable contracts over \$15,000. Progress update from March 10th request (Commissioner Dodd)**

Commissioner Dodd said he received a list of RFP's from the Town Manager and asked for the approximate value of the RFP's to get an idea as to how he wanted to proceed.

- e. Discussion and/or action by Town Commission regarding the selections of Town Banners (Assistant Town Manager Olinzock)**

Assistant Town Manager Olinzock asked for direction on which of the banners they wanted, the amount of banners they wanted, and where they wanted them placed.

Commissioner Clotey said visibility was one of the things they needed to look at. She questioned the height of the signs and asked whether they could be lowered or

switched to the sidewalk. Manager Colon said she will have Assistant Town Manager Olinzock call and ask the Department of Transportation.

Vice Mayor McIntee wanted to know whether the dais could do anything to help expedite it and whether a questionnaire could be done by the Commissioners with their decisions. Assistant Town Manager Olinzock said the Commission could decide what they want and whether they wanted to do a certain number of one type. Commissioner Clotey stated that the banners were directional signs and only so many directional signs could be used. She suggested a survey to determine where the banners should go.

Mayor Minnet thought there should be a comparison on cost for custom design. Assistant Town Manager Olinzock said that each design would have a set up fee. He added that the Commission would have to decide whether to print the designs on both sides of the banner. Her suggestion was to look at Commercial Boulevard and El Mar Drive and the corridor 3 or 4 blocks north and south of A1A and Commercial Boulevard. She recommended getting comparative costs between off the shelf banners and custom banners.

Commissioner Silverstone agreed that getting costs prior to making a decision was prudent. He suggested the Commission defer this item to June 9, 2009 so the Chamber of Commerce could get involved.

16. NEW BUSINESS

a. Discussion and/or action regarding donations (Commissioner Dodd)

Commissioner Dodd believed that donations received specifically for fireworks could only be used for that purpose. He asked whether there was an administrative procedure for accepting donations. Manager Colon said there was none. Commissioner Dodd asked about a donation from Barbara Cole toward the clock for the pavilion.

Barbara Cole said she received a letter in the mail and did not feel that her donation was handled as past donations were. She thought the Commission should look into accepting donations. Ms. Cole added that she had received a letter that informed her that her donation toward Sunshine education had in fact been used for that purpose.

b. Discussion and/or action regarding holding a single August Commission meeting (Commissioner Dodd)

Commissioner Dodd pointed out other municipalities had one less meeting in July and August. He made a motion to hold one meeting on the 3rd Tuesday in August.

Mayor Minnet agreed that it was a good idea but not for this year, as her plans were already set. She liked the idea of doing one meeting in July and one meeting in August. Mayor Minnet preferred to have the meeting early in August.

Commissioner Silverstone was only interested in what this Town needed and not what other municipalities did. He added that July and August was the time of year that staff worked on the budget. Commissioner Silverstone felt that additional meetings could be held prior to recess if it was necessary.

Vice Mayor McIntee did not believe it was fair to staff. He pointed out that every meeting ran over and there were 4 to 5 meetings every month. He thought this would be an additional burden on the employees.

Commissioner Clotey said a lot of people had already made their plans and did not think it would be a good idea for this year.

Mayor Minnet suggested this as an item of discussion at the next workshop.

- c. Discussion and/or action amending Town code regulations for owners of private property, not adjacent to public right of way, to allow for less restrictive outdoor seating provisions (Commissioner Silverstone)

Commissioner Silverstone said the owner of Pa DeGennaro's applied for a permit for an outdoor cafe and the permit was approved. He added that the issue was the rope between the parking lot and the sidewalk.

Victor Morrison represented Mr. White from Pa DeGennaro's. He said there was a walkway in front of the building that was separated from A1A by a parking lot and a public sidewalk. He added that the application was approved to place tables and ice cream chairs for patrons of the Noodle Box and the Gourmet Deli. He said a condition of the approval was to install a removable/temporary separation to provide a 3 foot area for the table and chairs and for a separator walkway 3 feet in width. Mr. Morrison explained that the walkway was within private property and not a sidewalk. He requested relief from the requirement that a rope be installed halfway down the walkway.

Assistant Town Manager Olinzock stated that it was a Town Code requirement and the only option would be to change the code. Mr. Morrison said the Code did not apply as it was not a sidewalk. Attorney Trevarthen stated that the Code was clear whether it covered private or public. She added that she could draft language to address this circumstance at the request of the Commission.

Commissioner Clotey asked whether the rope could be placed east of the sidewalk. Assistant Town Manager Olinzock said they have to indicate where the egress was to allow area for people to walk. Commissioner Clotey suggested making the parking spaces narrower. Assistant Town Manager Olinzock said someone would have to look at the width of the parking lot and make sure the parking spaces met the minimum requirements.

Commissioner Dodd referred to the memo in the backup which stated that this issue had been discussed at the April 10, 2007 Commission meeting during the public

hearing for both sidewalk cafe permits. He added that at that time the Town Attorney advised that there was no distinction between public and private property when applying the code criteria. Commissioner Dodd stated that as a result, the Commission granted both sidewalk permits with a road barrier.

Commissioner Silverstone believed that in order to correct this issue, direction would have to be given to the Town Attorney re-write the language in the ordinance that would apply to public areas.

Attorney Trevarthen suggested the Commission either make a motion or recommend that she work with staff to find a solution to the problem.

Commissioner Silverstone made a motion to direct the Town Attorney to bring something back to the Commission as soon as possible.

Attorney Trevarthen stated that since the deadline for the next meeting was in 3 days there may not be enough time to work with staff on the issue.

Commissioner Silverstone changed the motion to "as soon as possible". Mr. Morrison had no objection. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

d, Discussion and/or action between County Building Department and Town Building Department (Commissioner Silverstone)

Vice Mayor McIntee withdrew this item as the problem was solved.

e. Discussion regarding the Town's financial situation with future outlook (Vice Mayor McIntee)

Commissioner Silverstone withdrew this item. He assured everyone that the Town had plenty of money to meet Town debt and the Town's budget. Commissioner Silverstone suggested that if anyone did not understand the financial aspects of the money going in and out that they contact the Town Manager or seek other advice.

f. Discussion on presentation of life saving awards to those who assisted in rescue of drowning swimmers last weekend (Commissioner Clotney)

Commissioner Clotney said the Commission previously discussed a plaque or a board to recognize life saving heroes with Mr. Mitchell being the first name on the board. She asked the VFD to provide the names of the people who were involved, actually saved the people from a near drowning recently, so that they could be added to the board. Commissioner Clotney said there were many people out there that helped other people. She requested the Commission determine a procedure on how this should be done.

Vice Mayor McIntee believed that recognition was important and well deserved in many cases. He believed there should be an awards day and suggested one meeting in December to present 3 different types of awards for Town heroes; for anyone in the

Town and not just the VFD or BSO. Vice Mayor McIntee believed a 5 member Awards Committee should be created and that the Manager of the department would submit a formal letter to the Awards Committee. Vice Mayor McIntee explained the difference between the 3 Medals of Honor as: 1) Medal of Honor - for life threatening, 2) Medal of Valor - for risking your life, and 3) Medal of Merit - for unusual performance.

Mayor Minnet believed there was a Home Town Hero Award already in place and were honored on the 4th of July. She had no objections to hearing any other ideas that the dais would like to utilize.

Commissioner Dodd believed that the VFD should utilize the Fire Fighter of the Month as BSO did. He wanted to know if the Commission wanted to recognize everyone that pulled someone out of the ocean. He believed a mechanism was already in place and felt that only the outstanding forms of bravery needed to be recognized.

Commissioner Silverstone agreed that it could become redundant, but believed it was important to recognize locals that went above and beyond to save a life.

Commissioner Clottey believed the Home Town Hero Award was given by the Property Owner's Association and felt it should be given by the Town.

Vice Mayor McIntee stated that the Home Town Hero award was not geared towards heroic acts. He believed there should be 3 levels of recognition.

Vice Mayor McIntee placed this item on the agenda for the July 28, 2009 Commission meeting. Mayor Minnet recommended that the Commission provide back up information. Vice Mayor McIntee agreed as New Business with the Commission submitting their back up material.

17. TOWN ATTORNEY REPORT

- a. Notice of a shade session to obtain the Town Commission's advice on potential settlement negotiations and strategy related to litigation expenditures in the matters of Coastal Arms, Inc. v Town of Lauderdale-By-The-Sea; James Edmondson v. Town of Lauderdale-By-The-Sea; The Palm Yacht & Beach Club, Inc. v. Town of Lauderdale-By-The-Sea; and Delrado, Inc. d/b/a El Dorado Club v. Town of Lauderdale-By-The-Sea, pursuant to Section 286.011(8), Florida Statutes.**

Attorney Trevarthen stated that she was not asking to set a time and date for a Shade Session at this time; as per Florida Statute she announced the notice.

18. ADJOURNMENT

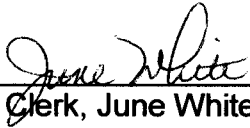
Vice Mayor McIntee made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 5:45 p.m.

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

6/24/09

Date

