

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, May 26, 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 Clotey, Town Attorney Susan L. Trevarthen, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Reverend George Hunsaker gave the Invocation.

Mayor Minnet asked the Commission to submit their choices for the El Mar Drive Streetscape design so that a winner could be selected when the item came up. Mayor Minnet moved that item, Old Business Item 15b, to follow presentations.

4. PRESENTATIONS

a. Presentation recognizing the VFD for recent significant events

Chief Perkins gave a brief description regarding the response to recent events such as the accident at the Hyperbaric Center and a near drowning involving 2 visitors to the Town. He said all the events were a success due to team effort.

b. Proclamation recognizing National EMS week

Mayor Minnet recognized Operations Manager Brooke Liddle from American Medical Response and thanked him for their services.

c. Gift to Town from Mr. Jerry Sehl

Jerry Sehl presented historical pictures of the Town: Spanish River; the south end of Town; and an article regarding the Landmark Building owned by the Calder family. Mr.

Sehl presented Manager Colon with a 1931 tax bill for the Town office and presented Chief Perkins with pictures of the VFD's first fire truck, Fire Chiefs and Jr. Chief. Mr. Sehl stated he also had a picture of El Mar Drive that he wanted to donate to the students who presented their designs for the El Mar Drive streetscape design.

5. PUBLIC COMMENTS

Ira Weiner was opposed to short term and frequent vacation rentals due to the problems associated with them.

Edmund Malkoon announced that the Bel Air Association will be holding their annual meeting on June 4, 2009 at 7:00 p.m. at the Assumption Church to appoint Board members.

Bob Fleishman stated that 4 Bert J. Harris lawsuits were pending and 1 more was received.

Cristi Furth was impressed with the designs for the resort banners. She suggested using a mixture of them along with directional banners. Ms. Furth was against a 2 day event (Athena by the Sea) and was against a competing event on the same day as the 4th of July event. She hoped the Commission would continue to not have meetings in August.

Vito Chiarello stated that the agreement with North Beach was done on a handshake and should be honored.

Charles Leichman asked the Commission to vote unanimously in favor of the beach ordinance on June 9, 2009. Mr. Leichman did not believe that red light cameras would stop accidents. He felt it was strictly an avenue to collect revenue.

Gail Albohn Chairperson of the Volunteers for the 4th of July asked for volunteers to come forward and help with the event.

Beverly Kennedy believed the Town forgot about common sense law enforcement. Ms. Kennedy asked the Commission to rethink the sign Ordinance and come up with something that would appease the residents of Terra Mar Island.

Maureen McIntee said that people did not want to have Galt Ocean Mile up and down their coast.

Paul Novak concurred that the Town banners would be helpful but felt the cost was high. Mr. Novak hoped that the fire department would stop the public from bringing their own fireworks.

Ronald Rupp asked for property relief as he was still being fined \$100 per day. He said he never lived where mail was sent. He discovered the lien when he went to sell the property.

Frank Herrmann gave his vote of confidence to the Town Manager. He said he was never misled into doing anything he did not want to do.

Mayor Minnet moved Old Business item 15b up for consideration at this time.

Mayor Minnet announced the winners of the El Mar Drive Streetscape design as: 1st place - Maria Galindo & Alberto Roman; 2nd place - Isabel Serna; and 3rd place - Wendy Thulen.

Paul Novak introduced and recognized Professor Winn Minish from the Art Institute.

Sandra Booth introduced Michael Chad Evens and Oscar Berges who also participated in the streetscape design. She believed all the students were winners. Commissioner Dodd apologized to the students for not making a decision at the previous meeting and thanked all the students for their excellent designs.

6. REPORTS

a. Finance and Budget Monthly Report - April 2009 (Manager Colon)

Commissioner Dodd inquired of the projected \$1.58 million debt and where the revenue was located to pay off the debt.

Manager Colon said there were undesignated fund balances on the books at the end of September 30, 2008. She added that loan proceeds had been spent on projects in the north part of Town. Manager Colon said the Town could pay down the debt at this time but it would not be prudent as the present case value on interest rates were lower than the interest rate was when the loan was obtained.

Commissioner Dodd made a motion to reduce debt as soon as possible. The motion failed for lack of a second.

Commissioner Silverstone asked Manager Colon if the Town had enough funds to pay off all debt. Manager Colon said yes. Commissioner Silverstone said that he was going to suggest paying off the debt but once he found out what the interest rate was he changed his mind. Commissioner Silverstone pointed out that the revenue report compared to last year showed an increase.

Mayor Minnet said \$110,400 was budgeted for legal expenses and so far the Town had spent \$105,371. Manager Colon explained that the total legal budget was \$205,000. Mayor Minnet said she realized that and wanted everyone to know that \$125,000 remained in the budget for legal expenses.

Vice Mayor McIntee asked whether the Town was ahead of last years legal expenses. Manager Colon said the Town had done a lot of code and land development re-writes. She said once all the re-writes were complete the Town would be able to see the difference.

Mayor Minnet said her point was to let people know what was left in the budget for legal expenses.

Commissioner Dodd stated that the hourly salary was relatively different. Manager Colon said the retainage alone was \$9,999 per month for the prior Town Attorney. She added that Weiss, Serota Helfman did not charge a retainer; they charged hourly. Manager Colon explained that in a 12 month comparison the Town saved approximately \$200,000.

Commissioner Dodd made a motion to accept the report. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

b. Development Services Monthly Report - April 2009 (Assistant Town Manager Olinzock)

Commissioner Clottey asked whether the zoning for Commercial Boulevard was zoned commercial or residential. Assistant Town Manager Olinzock said B1 was zoned commercial. She asked whether an apartment that was located upstairs in that zone would not be under the jurisdiction of the vacation rental Ordinance. Assistant Town Manager Olinzock said it would not.

Vice Mayor McIntee asked for confirmation as to whether apartments over a business on Commercial Boulevard would be affected by the vacation rental ordinance. Assistant Town Manager Olinzock confirmed that it would not.

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

c. Municipal Services Monthly Report - April 2009 (Assistant Town Manager Olinzock)

Commissioner Silverstone made a motion to accept the report. Commissioner Clottey seconded the motion. The motion carried 5 - 0.

d. BSO Police Monthly Report - April 2009 (Chief Gooding)

Commissioner Clottey asked Chief Gooding to explain what people could do if they witness a drug deal. Chief Gooding advised that if someone saw a hand to hand drug deal to call the non-emergency number, not 911, and explain what they saw.

Commissioner Dodd asked whether Chief Gooding was in favor of a red light camera. Chief Gooding said he was from a professional standpoint. He agreed the cameras would aide in the prevention of accidents and slow down the traffic.

Vice Mayor McIntee asked whether BSO received revenue. Chief Gooding said they did not. He believed that the Town could determine whether a certain amount would be applied to a certain category, such as a training or equipment fund. Vice Mayor asked Chief Gooding to bring back the number of red light tickets issued at the next meeting.

Commissioner Silverstone asked whether there would be patrol along the beach on the 4th of July. Chief Gooding stated that due to fiscal constraints he did not have the manpower to do it the right way. He thought it was something that could be worked out with the VFD and the 4th of July Committee. Commissioner Silverstone suggest Chief Gooding present a special budget for that day.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

e. VFD Fire Monthly Report - April 2009 (Chief Perkins)

Commissioner Dodd asked whether the VFD could locate hydrants while on medical calls for maintenance. Chief Perkins said the VFD checked the hydrants once a year. Commissioner Dodd said he had questioned Mr. Baines as to whether ISO was to return in 3 months and was told by Mr. Baines that ISO would return in 1 year to check on the progress of the VFD since they had just begun service. Commissioner Dodd said he inquired of the area for improvement and Mr. Baines informed him that training was the area for improvement.

Commissioner Clottey asked what the total insurance covered. Chief Perkins said the coverage was complete at a maximum of \$20 million. He added he would bring back the amount at the next meeting. Commissioner Clottey said that Ft. Lauderdale did not allow people on the beach and that the warnings of VFD were ignored. She asked if VFD could close the beaches. Chief Perkins stated that the Ft. Lauderdale beaches were patrolled.

Attorney Trevarthen said Ft. Lauderdale had lifeguard services and that is why they could close it.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

f. AMR EMS Monthly Report - April 2009 (Operations Manager Liddle)

Operations Manager Brooke Liddle reported that 4 ambulances responded to the emergency at the Hyperbaric Chamber and another was on standby for other emergencies.

Vice Mayor McIntee asked whether AMR would assist in helping people to renew their CPR Certifications. Operations Manager Liddle said there was a possibility they could at a slight charge.

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

g. Alley Way Report (Town Engineer Shaun Bamforth)

Vice Mayor McIntee asked Mr. Bamforth whether he, or anyone in his office received direction or phone calls from anyone in Town on how to proceed. Mr. Bamforth said no.

Commissioner Dodd asked whether the pedestrian traffic on alley No. 6 was assessed by head count. Mr. Bamforth stated that a physical head count was not done. Commissioner Dodd inquired of the cost for the report. Mr. Bamforth stated it was approximately \$2,200. Commissioner Dodd questioned the number of spaces in the pier parking lot as traffic had to leave the parking lot to go through the alley. Mr. Bamforth stated that traffic did not leave the parking lot to go through the alley. Mr. Bamforth stated that he was directed to do a study for all 6 alleyways and the potential for making them one way from two ways, and to submit his recommendation.

Commissioner Dodd wanted to establish whether it was safe to open that alley to pedestrian traffic and looked for a recommendation. He said the recommendation was for emergency vehicles only. Mr. Bamforth said that he was not directed to consider traffic coming from the pier parking lot; he was charged with reviewing existing uses of the alleyways. He explained that the alleyway was currently used for emergency vehicles only for Oriana. Mr. Bamforth said that the report was made in response to a request made to Broward County for signage in the alleyways. He said that Broward County requested a recommendation from the Commission and/or Town Engineer.

Manager Colon said there had been alley issues prior to the alleyway he referred to, such as valets, deliveries using the alleys, including emergency vehicles using the current pedestrian access way (the laundry alleyway). She explained that when the Town Engineer did the report the Commission was not yet talking about opening the pier access road near Oriana. She said Broward County looked at the alleyways and determined that due to liability issues, the County would leave the designation to the Town Commission. She said the Town Engineer was not directed to look at any specific alley for any specific business or any specific entity in the Town; it was strictly for traffic. Manager Colon added that once Broward County received written instruction from the Town they would proceed with the required permit and provide and install required signage.

Town Commission Regular Meeting Minutes
May 26, 2009

Commissioner Silverstone said it was already approved to allow the pier to use the lot as an exit as long as the requirement for signage was met and it was manned. He did not believe this was an issue.

Vice Mayor McIntee said it was never discussed or brought to the Town Engineers attention. He read the engineers report and his recommendation that the exit should not be opened to the public. Vice Mayor McIntee agreed that the Commission already agreed to allow the exit for emergency situations.

Mayor Minnet allowed Louis Marchelos to speak. Mr. Marchelos said that Mr. Bamforth knew about it in February when he received a fax and indicated he could not talk to him due to pending litigation.

Mr. Bamforth said he did not consider additional trips being taken from the pier parking lot on a daily basis in his study as it was not an option. Mr. Bamforth stated that he was only to consider a way to grant an egress in an emergency situation, which the Town Commission had already granted.

Mr. Bamforth stated that he was asked whether he had written a letter or fax with stipulations, and Mr. Bamforth said he did not.

Manager Colon stated that the Town had yet to receive a right-of-way application from the pier owners. She added that when the application is put forth to the department, with the questions in writing, the process would continue. Manager Colon said if the Commission wanted staff to put a gate with a lock box they were ready to do that.

Mr. Marchelos stated that the access was opened for 54 years and was closed last May.

Commissioner Dodd said the Commission could accept the "agreed to" use of the alleyway or ask the Town Engineer to do a proper study to view vehicle traffic and pedestrian impact for opening the alley.

Commissioner Clotey said permission was given to open the alley for emergencies only and the pier owners were willing to stand and watch as the vehicle came down the alley. She added that only emergency vehicles were allowed access.

Manager Colon clarified that if the Town was to install a fence or lockbox, then the Town would proceed; if the business owner of the pier was to install the fence, they would pay for a gate attendant as required by the Commission, apply for the right of way permit and go through the site plan process.

Commissioner Dodd did not remember it as emergency vehicles only. He understood it to be a manned operated exit, locked and unlocked as required. Commissioner Clotey thought staff could look at the video to confirm and believed it was for emergency situations not emergency vehicles. Vice Mayor McIntee stated that the Town Engineer

indicated it would be unsafe to open it for ingress and egress to cars in the parking lot. Vice Mayor McIntee said an additional study would be needed to determine whether it would be safe for pedestrians.

Commissioner Dodd asked whether it was the opinion of the Town Engineer that the alley way should only be open to emergency vehicles. Vice Mayor McIntee asked whether the Town Engineer thought it was unsafe to let cars in and out of the parking lot. Mr. Bamforth said yes. Vice Mayor McIntee asked whether Mr. Bamforth would do a pedestrian study to get a firm opinion and what the cost would be. Mr. Bamforth said he would at approximately \$3,000.

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion.

Manager Colon had no problem with accepting the report as written but a decision would have to be made as to the type of alley way desired as there could be a liability issue.

Commissioner Dodd made a motion to amend by leaving out alleyway No. 6 and reconsider it when there was more information. Commissioner Silverstone denied the amendment. He stated that their decision on this report had no effect on their decision in the future.

Vice Mayor McIntee inquired as to whether the Town was obligated to follow the recommendation of the Town Engineer once put on notice by the Town Engineer of a potential hazard. Attorney Trevarthen stated it would be appropriate to take into account the Town Engineer's opinion and his need to study. Vice Mayor McIntee asked for clarification that if the Commission did not investigate further it could put the Town in jeopardy. Attorney Trevarthen did not believe it would.

The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no.

Commissioner Dodd made a motion to instruct the engineer to evaluate alley #6. Commissioner Clotey said the alley way was opened only for emergency use. Commissioner Clotey seconded the motion.

Mr. Bamforth stated that the alley was currently closed. He said if the Town felt it prudent to open it for emergencies they could do that. They did not need a report or a recommendation from the Town Engineer.

Commissioner Clotey withdrew her second. Commissioner Dodd withdrew his motion.

Mayor Minnet recessed the meeting at 9:10 p.m. and reconvened at 9:25 p.m.

7. PUBLIC SAFETY DISCUSSION

8. TOWN MANAGER REPORT

- a. Notice of approval for placement of AT&T cabinet within the utility easement located at 229 Hibiscus

Manager Colon stated that AT&T was changing their boxes to fiber optics. She said the boxes would be placed on the monthly Development Services report to advise where the boxes would be located on the right of way. Manager Colon said they would comply with the permitting code Section 6.71

- b. Notice of approval of a minor site plan revision submitted by Minto Developers for building regarding building colors

Manager Colon said this would also be in the monthly Development Services report. She added that a sample color palette was given to the Commission because Minto's wanted to change colors.

- c. Town Manager shall have authority to waive parking fees for local government agencies use of the Bougainvilla Drive Parking lot for public good for a period of time not to exceed 24 hours.

Manager Colon stated that Town Code Section 19.29 said Town Commission may waive parking restrictions to any area by Resolution for a period of 74 hours. She asked that rather than the citizen come before the Commission, that the Commission pass a Resolution authorizing the Town Manager to issue parking passes for governmental use of the Bougainvilla Parking lot only. She added that a monthly report would be submitted to the Commission.

Commissioner Clotley made a motion to approve placement of a Resolution to allow the Town Manager to issue parking passes to government agencies for use of the Bougainvilla Parking lot only, on the next Commission meeting agenda. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

9. APPROVAL OF MINUTES

- a. April 28, 2009 Regular Meeting Minutes

Mayor Minnet announced that the minutes relating to Public Comments had been added to the April 28, 2009 Minutes. There were no other changes, deletions or additions to the minutes.

Commissioner Silverstone made a motion to approve the April 28, 2009 Regular Meeting Minutes. Commissioner Clotley seconded the motion. The motion carried 5 - 0.

- b. April 29, 2009 Regular Meeting Minutes continued from April 28, 2009

There were no changes, deletions or additions.

Commissioner Silverstone made a motion to approve the April 29, 2009 Regular Meeting Minutes continued from April 28, 2009. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

c. May 13, 2009 Workshop Minutes

Commissioner Dodd made a motion to approve the May 13, 2009 Workshop Minutes. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

10. ORDINANCES

1. Ordinances 1st Reading - "Public Comments"

- a. Ordinance 2009-23: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 6, ARTICLE IV, SECTION 6-71 THRU 6-75 PROVIDING FOR THE ISSUANCE OF TOWN PERMITS FOR WORK WITHIN THE PUBLIC RIGHT-OF-WAY AND/OR UTILITY EASEMENTS AND ESTABLISHING A FEE SCHEDULE FOR ENGINEERING AND DEVELOPMENT SERVICES INSPECTION, PERMIT REVIEW AND ADMINISTRATIVE COSTS; PROVIDING FOR CODIFICATION AS ARTICLE IV OF CHAPTER 6 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-23 by title.

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

Mayor Minnet advised that Municipal Services was changed to Development Services.

Commissioner Clotey was concerned that people would go to zero landscaping that did not require water and whether people would have the right to plant in the right-of-way. Manager Colon stated that it was the Town's right-of-way.

Commissioner Silverstone made a motion to approve Ordinance 2009-23 on first reading. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

- a. Ordinance 2009-20: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE IX "NOTICE OF INTENT OF PENDING LAND DEVELOPMENT REGULATIONS" OF THE CODE OF ORDINANCES, TO EXEMPT FROM THE ADMINISTRATIVE PROCEDURES REQUIRING NOTICE OF PENDING LAND DEVELOPMENT REGULATIONS

THOSE ORDINANCES THAT ONLY REGULATE ACCESSORY USES OF
RESIDENTIALLY ZONED PROPERTY AND TO PROVIDE FOR METHOD OF
MAILING NOTICE TO APPLICANTS; PROVIDING FOR SEVERABILITY,
CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-20 by title. Mayor Minnet opened the ordinance for public comments.

Barbara Cole was in agreement with certified or registered mail.

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

Commissioner Silverstone made a motion to adopt Ordinance 2009-20 on second reading. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

- b. Ordinance 2009-19: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA AMENDING SECTIONS 12-2(c) AND 12-22 OF ARTICLE I,
"BUSINESS TAXES," CHAPTER 12, "LICENSES," OF THE CODE OF
ORDINANCES; AND CREATING A DEFINITION OF "VACATION RENTAL" IN
SECTION 30-155, ALLOWING VACATION RENTALS AS AN ACCESSORY USE
IN THE RS-4, RS-5, RD-10, RM-25 AND RM-50 ZONING DISTRICTS, AND
CREATING SECTION 30-327 "VACATION RENTALS," FOR RELATED
SUPPLEMENTAL ZONING REGULATIONS, ALL WITHIN ARTICLE V "ZONING,"
CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS" OF THE CODE
OF ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN
EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-19 by title.

Mayor Minnet opened the meeting for public comment.

Matthew Schwartz opposed the Ordinance. He felt the issues were already addressed in the current ordinance.

Kai Stadler was unable to sell his home and said that renting as a vacation rental allowed him to keep his home. He asked the Commission to consider the existing code.

Natalia Stadler believed there would be a loss of revenue to the businesses of the Town should vacation rentals be restricted.

Brendon Barry believed the Town currently had a sound code that prohibited many things such as loud music, parking on swales, loud vehicles, weeds, loitering, littering, and more.

Town Commission Regular Meeting Minutes
May 26, 2009

Enrico Linscheer rented his home and was concerned he would have to foreclose if he could not rent it.

Jason Clark was in favor of vacation rentals. He believed that many vacation renters became homeowners. Mr. Clark felt that should there be multiple infractions against one homeowner that rents then that homeowner should lose his right to rent.

Julieta Delrio believed it would be a shame to not allow foreigners the opportunity to rent a vacation home.

Heike Drewniole believed that if vacation rentals were prohibited then not only would the vacationers go elsewhere to spend their money, but the real estate agencies would also go.

Don Eckhart believed the Ordinance was a destructive prescription. He pointed out that Lauderdale-By-The-Sea was a tourist town.

Barbara Cole believed workshops should occur to avoid double readings of ordinances on second reading.

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

Commissioner Silverstone stated that the issue was not to allow, or disallow rentals. He said the issue was abuse and regulation. Commissioner Silverstone stated that there was a need to enforce.

Vice Mayor McIntee said there were complaints about people renting to unruly people.

Attorney Trevarthen said the Commission gave her direction to draft a vacation rental ordinance. She said the longer the time of a minimum rental period the more likelihood there could be an issue. Vice Mayor McIntee asked if it would be wise to delay the Ordinance to see what is happening in other cities. Attorney Trevarthen believed that was a valid strategy.

Commissioner Dodd said this was one reason why he thought roundtables and workshops were a good idea. He suggested a motion to table the item for 90 days, send it to Workshop or write the Ordinance for 1 week rental.

Commissioner Clotey stated that there were problems with hotels selling rooms at low rates and bringing in prostitutes and drugs. She asked the Town Attorney whether 28 days would not be a legal problem but 6 or 7 months would be. Attorney Trevarthen said that she believed 1 month was possible but challenged. She added that 6 or 7 months could be an issue.

Town Commission Regular Meeting Minutes
May 26, 2009

Commissioner Silverstone said he would favor the Ordinance if it was changed to 7 days. He believed there should be something on the books to protect the people until another avenue was established.

Commissioner Silverstone made a motion to change 28 days to 7 days. Commissioner Clotey asked to accept a friendly amendment of 14 days. Commissioner Silverstone preferred not to accept at this time. He wanted to know what the workshops would offer. Commissioner Dodd seconded the motion.

Vice Mayor McIntee wanted to table for 90 days and get some background material from the Town Attorney.

Vice Mayor McIntee made a motion to defer Ordinance 2009-19 to a date certain. Mayor Minnet stated that there was a motion and a second on the table already that needed to be addressed first.

Mayor Minnet was glad to hear that most people adhered to the rules. She added that the current Town Code addressed a lot of the issues. Mayor Minnet asked the Commission to take into account the revenue loss to the homeowners and businesses. She said many homeowners were holding on to their properties by renting them out. Mayor Minnet felt the ordinance should include stringent qualifications and permit requirements to include taxes and fines. She believed a well thought out plan could stimulate the economy on many levels and protect the neighborhood from vacation rental abuse. She was not in favor of this ordinance and favored workshops.

Mayor Minnet asked Chief Gooding how many complaints he had received. Chief Gooding said there was one address that had bad renters and another was one that had spring breakers and that one was solved after 7 days. He added that there were less than 10 and usually at the same address.

Commissioner Silverstone inquired of the process if there was a call against a rental property. Chief Gooding said they spoke to them and usually they complied or continued their party somewhere else. Commissioner Silverstone asked if BSO had the power to remove the renter. Chief Gooding said they did not have the authority as long as there was a valid lease.

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

Commissioner Dodd made a motion to add to the motion that the Commission hold a workshop on the vacation rentals in order to fine tune and bring in stiffer penalties to make sure there were no problems. Commissioner Silverstone seconded the motion.

Chief Gooding advised that rules could be written into the rental agreement that the renter must abide by that gave the police the ability to remove them, should the police be called. The Commission agreed.

The motion carried 5-0. Mayor Minnet stated that a date for the workshop would be forthcoming.

- c. Ordinance 2009-21: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 10-32 "TEMPORARY DISCONTINUATION OF SERVICE" OF ARTICLE II "CONTAINERS AND RECEPTACLES," CHAPTER 10 "GARBAGE AND REFUSE" OF THE CODE OF ORDINANCES IN ORDER TO REDUCE THE MINIMUM TIME PERIOD FOR FILING OF A REQUEST FOR TEMPORARY DISCONTINUATION OF SOLID WASTE SERVICES FOR SINGLE-FAMILY RESIDENCES; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE

Commissioner Silverstone made a motion to adopt Ordinance 2009-21 on second reading. Commissioner Dodd seconded the motion. The motion carried 4 - 0. Mayor Minnet recused.

Mayor Minnet suggested the Commission finish the evening with Old Business Item 15a, kite surfing, and Consent Agenda. There were no objections.

11. COMMISSIONER COMMENTS

12. CONSENT AGENDA

Mayor Minnet pulled items 12a, 12c, 12b, 12f and 12h for discussion.

Commissioner Silverstone made a motion to approve items 12d, 12e and 12g on consent. Commissioner Dodd seconded the motion. The motion carried 5-0.

- a. Commission approval of the renewal of hurricane disaster agreements with Tele-Vac, PBS&J, and Man Con beginning June 1, 2009 thru June 1, 2011 (Assistant Town Manager Olinzock)

Commissioner Dodd wanted to know if this item was an RFP or a contract. Manager Colon said they were existing renewable hurricane contracts that contained no changes in the terms or conditions.

Commissioner Dodd made a motion to approve item 12a. Commissioner Clottey seconded the motion. The motion carried 5 - 0.

- b. Bel Air entrance signs. Commission to approve location, site layout, and final design drawings (Assistant Town Manager Olinzock)

Mayor Minnet did not feel this was the right way to begin the project. She believed every member of the community should have had the opportunity to do signage.

Vice Mayor McIntee made a motion to approve. Commissioner Clotey seconded the motion.

Commissioner Clotey pointed out that the Bel Air Community was harmed because equipment that was placed there made the entrance look like a construction site. The motion carried 4 - 1. Mayor Minnet voted no.

- c. Draft policy on mitigation of code compliance fines and recorded liens as directed by the Town Commission. Mitigation of fines adjudicated by the Special Magistrate can be mitigated by the Magistrate if not recorded with Broward County (Exhibit A) and if recorded may be mitigated by the Town Commission (Exhibit B) (Assistant Town Manager Olinzock)

Commissioner Dodd asked whether Town staff spoke with the Magistrate and whether these were the recommendations of the Magistrate. Assistant Town Manager Olinzock said it was a combination of his recommendation along with recommendations of staff and the Town Manager. He added that staff did not recommend it; they believed it was a workable way of approaching it.

Vice Mayor McIntee made a motion to approve. Commissioner Dodd seconded the motion.

Assistant Town Manager Olinzock explained further that staff did not recommend this as rules were broken, the property owners were in violation and penalties were issued.

Commissioner Dodd felt that since the Magistrate recommended it, it should be supported.

Vice Mayor McIntee withdrew his motion.

- d. Commission approval of the proposed location of the median cut on El Mar Drive by Minto as approved on March 19, 2009 by the Commission and John Carter (Minto) (Assistant Town Manager Olinzock)
- e. Commission approval of issuance of fifty (50) parking permits for Broward County Coastal Cleanup, Saturday, September 19, 2009, 8:00 AM till 2:00 PM, Bougainvillea Parking Lot (Assistant Town Manager Olinzock)
- f. Commission approval of special event permit application for Athena By The Seas "Wine and Food Festival" event, Saturday, July 4, 2009, 8:00 AM till Sunday, July 5, 2009, 11:00 PM (Assistant Town Manager Olinzock)

Louis Marchelos said he had done everything necessary. He added he did not do the event on the 4th of July last year.

Spiro Marchelos believed government should be fair and equal. He said the Wine and Food Festival was on private property and was for everyone in the community.

Barbara Cole believed there should be something for the people to do before and after the fireworks.

Commissioner Clotney asked Louis Marchelos why it was called Wine and Food Festival. She also inquired of the lease on the pier as to whether it allowed food to be served in that location. Mr. Marchelos said the lease had nothing to do with the Wine and Food Festival; he was allowed to serve food.

Commissioner Dodd inquired of the additional administrative hours to count heads and do a decibel reading on the noise. Assistant Town Manager Olinzock said it was the direction of the Commission at the last meeting for two other special events. Commissioner Dodd did not agree that it was his direction to charge for staff time.

Commissioner Silverstone made a motion to continue the meeting to 11:15 p.m. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

Commissioner Clotney stated that since this event was at the same time of the July 4th event she asked for the input of the Commissioners that were members of the 4th of July Committee. Commissioner Silverstone stated that the Commission agreed it was a bad idea to have competing events. Commissioner Clotney asked whether the Commission would agree to allow the event on Sunday only.

Commissioner Silverstone said yes. Commissioner Clotney made a motion to approve for Sunday, July 5, 2009 only. Commissioner Dodd asked where the competition was as the event did not begin until 9:00 p.m.

Commissioner Silverstone did not feel it would be fair to agree to this event when other events were denied. Vice Mayor McIntee agreed and favored approval of Sunday only.

Mayor Minnet did not feel it was fair to ask them to drop one day. Commissioner Dodd did not see the competition. He made a motion to allow the event for Saturday and Sunday.

Mayor Minnet passed the gavel to second the motion. The motion failed 3 - 2. Commissioner McIntee, Commissioner Clotney and Commissioner Silverstone voted no.

- g. Commission approval of special event application for the Stamper Deluca wedding, Saturday, July 11, 2009, 6:00 PM to 8:00 PM (Assistant Town Manager Olinzock)
- h. Commission approval of special event application for the Lauren Katzenstein Celebration Ride 2009, Sunday, June 28, 2009, 7:30 AM till 2:00 PM (Assistant Town Manager Olinzock)

Commissioner Silverstone made a motion to approve. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

Vice Mayor McIntee questioned whether anyone could use Jarvis Hall for a wedding ceremony or wedding reception. Assistant Town Manager Olinzock said they could not.

Note: Old Business 15a and 15e was brought forward for discussion and/or action. The remaining items were recessed to May 27, 2009 later in the evening.

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

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

Vice Mayor McIntee stated that the beaches were for residents and guests. He favored a permit fee for outside kite surfing that would contain certain standards.

Commissioner Silverstone made a motion to end the meeting after this item. Commissioner Clotey seconded the motion. The Commission agreed. An official vote was not taken.

Mike Leverock as a resident kite surfer did not want to see kite surfing go away. He was in favor of rules and felt that permitting was the solution that prohibited kite surfing within 100 feet of bathers, flying on the beach and teaching on the beach. He suggested placing limits that could be changed in the future.

Rick Iossie believed kite surfing could be managed. He said the goal was to make kite surfing an asset in the community. Mr. Iossie said he was leaning towards a registered operation managed through the Town. He proposed a designated launch area approximately 200 feet north of Damon's.

Commissioner Clotey questioned the way in which the person given instruction would be identified. Mr. Leverock stated that if kite flying on the beach, or flying a trainer kite was prohibited there would be no teaching.

Vice Mayor McIntee liked the idea of streamers but did not favor the idea that a resident had to go to Damon's to kite surf instead of the beach where he lived.

Mike Iossie said it was all about access; there was no public parking. He suggested focusing on the area where there were issues. Mr. Iossie suggested a designated launch area north of Pines Road and suggested not imposing any restrictions north of Sea Ranch Lakes Condominiums except to require registrations and flying of a streamer. Vice Mayor McIntee stated that was dead center in the middle of the 3 condominiums; they may not want Kite Surfers there. He said permission would need to be obtained from the Condominiums before granting that area as the launch area.

Commissioner Clotey agreed with Vice Mayor McIntee to obtain permission from the 3 condominiums as to whether they wanted the Kite surfers there or not. She asked the Town Attorney whether preferential treatment could be given to residents in regards to advanced permitting if permitting was limited. Attorney Trevarthen stated that it would be a challenge to rationalize it. She added that she had not yet heard back from the State as to whether the Town was allowed to regulate this as it was a State beach. Commissioner Clotey felt that residents should be allowed to kite surf if they wanted to.

Commissioner Dodd said he would be 100% in favor of no concessions, self policing of the Kiter's Association and a \$75 permit fee and registration with the Town.

Mayor Minnet pointed out a statement by Attorney Trevarthen in her memo that the Town could not regulate the activity to the detriment of non-resident and must have a rational municipal purpose for its regulation. She said the Commission had a duty to the community and asked what the poundage of the lines were. Mr. Iossi said they were typically 500 to 600 pounds. Mayor Minnet believed that that could hurt someone on the receiving end should a line come loose. Mayor Minnet was against the streamers, against a concession and/or teaching on the beach. She said it was a State beach and the Commission would have to work through the parameters.

Commissioner Silverstone wanted to see a resident on the recommended Board/Committee/Organization that would approve and/or designate competent people for the kite surfing permit. He also wanted to see something on the kite that showed they were permitted properly. Commissioner Silverstone wanted to have the kite surfers form some kind of committee that had specific guidelines.

Vice Mayor McIntee thought that Committee made sense and that Mr. Iossi and Mr. Leverock be on the Committee. He pointed out that kite surfing had gotten out of hand.

Mr. Iossi stated that as long as the kite surfers stayed a minimum of 100 feet away from by-standers, there was no kite flying on the beach, and no instruction there should be no problem. He asked for clarification as to whether there would be a designated launch. Vice Mayor McIntee clarified that a designated launch was tentatively part of the requirement, as long as "residents" can launch from wherever they want.

Mayor Minnet clarified there would be no instruction and no concession.

Vice Mayor McIntee made a motion to defer to the July 28, 2009 Commission meeting for Mike Leverock and Rick Iossi to report back to the Commission with a proposal. The motion carried 5 - 0.

- b. Selection of winner of the El Mar Drive Design Project as per presentation at the 4/14/09 Commission meeting (Mayor Minnet)
- 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
- d. Discussion and/or action concerning RFP's and annual renewable contracts over \$15,000. Progress update from March 10th request (Commissioner Dodd)
- e. Discussion and/or action by Town Commission regarding the selections of Town Banners (Assistant Town Manager Olinzock)

16. NEW BUSINESS

- a. Discussion and/or action regarding donations (Commissioner Dodd)
- b. Discussion and/or action regarding holding a single August Commission meeting (Commissioner Dodd)
- 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)
- d. Discussion and/or action between County Building Department and Town Building Department (Vice Mayor McIntee)
- e. Discussion regarding the Town's financial situation with future outlook (Vice Mayor McIntee)
- f. Discussion on presentation of life saving awards to those who assisted in rescue of drowning swimmers last weekend (Commissioner Clotey)

Commissioner Clotey made a point of order. She said she had put a motion on the floor that the applicant, Athena By The Sea, be allowed to do their "Wine and Food Festival" event on Sunday, July 5, 2009 only, pending their acceptance. Mayor Minnet stated that they could be notified and asked staff to call them tomorrow. Commissioner Clotey asked to have a vote to accept or reject.

Town Commission Regular Meeting Minutes
May 26, 2009

Mayor Minnet passed the gavel to second the motion. Commissioner Dodd made a friendly amendment to also allow the event on Saturday at 5:00 p.m. Commissioner Clotey did not accept the friendly amendment as the Commission already voted it down.

Commissioner Clotey made a motion to approve event for Sunday, July 5, 2009 only if the applicant chose to. Mayor Minnet seconded the motion. The motion carried 5 - 0.

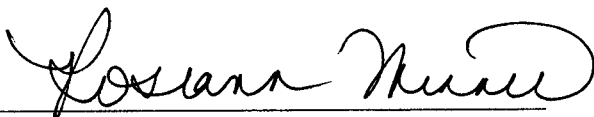
17. TOWN ATTORNEY REPORT

- 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.

18. ADJOURNMENT

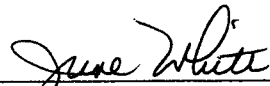
Vice Mayor McIntee made a motion to recess the meeting to May 27, 2009 at 4:30 p.m. Commissioner Silverstone seconded the motion. Commissioner Dodd did not feel that a Commission meeting should start before 6:00 p.m. Mayor Minnet recessed the meeting at 11:50 p.m.

19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

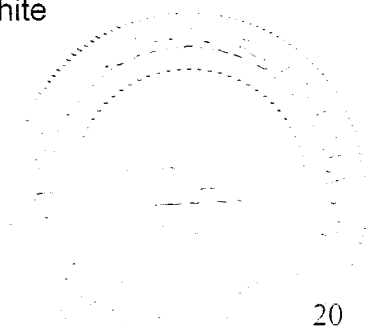
ATTEST:



Town Clerk, June White

7-15-09

Date



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <u>MINNET ROSEANN ALEXIS</u>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <u>MAYOR</u>
MAILING ADDRESS <u>2000 S Ocean Blvd 11E</u>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY <u>TOWN</u>
CITY <u>CBT3</u>	COUNTY <u>BROWARD</u>	NAME OF POLITICAL SUBDIVISION: <u>LAUDERDALE BY THE SEA</u>
DATE ON WHICH VOTE OCCURRED <u>5-26-09</u>		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Roseann Minnet, hereby disclose that on May 26, 20 09

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☒ inured to the special gain or loss of business associate, by _____, whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The company, of which I am the principle officer of, has been retained by a business associate of one of the companies that submitted a proposal to the Town of Lauderdale-by-the-Sea to provide Sanitation Waste Service

5-27-09

Date Filed

Roseann Minnet

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.