TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MINUTES
Jarvis Hall
4505 Ocean Drive
Thursday, July 29, 2009
Continued from July 28, 2009
6:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 6:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Clottey were present. Also present were 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. COMMISSIONER COMMENTS

Commissioner Clottey the Commission needed to lean heavily on the City of Pompano Beach to make sure that the lift station by Bel Air and other lift stations did not degrade the neighborhoods and need to be covered.

Commissioner Silverstone promised to be accountable. He said Chad Purcell had an issue with fishing off the beach and suggested a change in Charter.

Commissioner Dodd stated that the budget produced by the Town Manager was first class and professional. He said he was asked by the Town Manager whether the Chamber of Commerce should go out for an RFP. Commissioner Dodd suggested that if the Manager wanted to be extremely unpopular then she should and put the Welcome Center out for RFP. He wondered how the Town Manager would feel if the Commission put out an RFP for running the Town. Commissioner Dodd encourage recycling. He said that when a resident did not recycle they were throwing away money for the Town as the Town received dollars to recycle. Commissioner Dodd stated there were 3 organizational issues that needed to be changed; public comments, discussion at roundtable, and Quasi Judicial hearings. Commissioner Dodd looked forward to the break.

Vice Mayor McIntee stated that the budget process showed almost 11% decrease in taxes. He said there were major accomplishments over the past year; the Town received $1 million to beautify El Mar Drive but it cost $40 million to do the undergrounding throughout the Town, and $4 million to do El Mar Drive conservatively.

He added that special events had also doubled. Vice Mayor McIntee said the VFD purchased new fire equipment which would increase their ISO rating.

Mayor Minnet thanked everyone for all their work regarding the El Mar Drive Streetscape project. She believed the Commission should re-evaluate whether the residents and tourists wanted to walk through the medians. Mayor Minnet thought a proclamation for Chief Gooding was a good idea and will bring it up on the next agenda.

4. CONSENT AGENDA

a. Commission approval of contract agreement for construction of Bel-Air monument signs to Coastal Contracting, Inc. in the amount of $19,900 (Assistant Town Manager Olinzock) This item was considered at the July 28, 2009 Commission meeting

This item was considered at the July 28, 2009 Commission meeting.

b. Commission approval for annual storm drain cleaning by TeleVac South as required by (NPDES) National Pollutant Discharge Elimination System $39,000 (Assistant Town Manager Olinzock)

Commissioner Dodd asked for an explanation of this item. Assistant Town Manager Olinzock stated that this was for the annual cleaning of storm drain structures. Commissioner Dodd saw no indication that an RFP had gone out. Assistant Town Manager Olinzock explained that in the past Lauderdale By-The-Sea had piggybacked and utilized other contractors. He added that recently a document had been put together for RFP next year so that the Town would not have to work with 2 different contractors for storm and sewer. Commissioner Dodd inquired as to how much of the sewer system was the Town responsible for. Assistant Town Manager Olinzock said that the sewers in the north, Old Town, belonged to the City of Pompano Beach and the infrastructure in the south end of Town belonged to Lauderdale By-The-Sea.

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

c. Commission approval for purchase of a new 2010 F150 4x4 $17,556 (Assistant Town Manager Olinzock)

Commissioner Dodd asked whether it would be better for this years' budget to purchase the vehicle now. Manager Colon advised that during the budget review it was noticed that another truck was requested for next year and a utility bed. She said Municipal Services wanted to sell the 2000 truck, get a 2nd truck, release $25,000 from next years' budget and purchase a utility truck that would carry their equipment as in item 12d.

Discussion followed regarding purchasing a new truck verses repair of the transmission on a 10 year old truck.

Commissioner Silverstone made a motion to approve. Mayor Minnet voted no. Commissioner Dodd seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

d. Commission approval for purchase an F250 with a Utility Bed not to exceed $23,000 (Assistant Town Manager Olinzock)

Commissioner Dodd made a motion to approve. Mayor Minnet voted no. Vice Mayor McIntee seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

5. RESOLUTION - "Public Comments"

6. QUASI JUDICIAL PUBLIC HEARINGS

Attorney Trevarthen swore in those wishing to speak.

a. Commission approval of re-designation of lot line front per request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Drive, to change the designated front yard per Town Code Chapter 30 from Seward Drive to West Terra Mar Drive (Assistant Town Manager Olinzock)

Karen D'Uva stated that the survey showed W. Terra Mar Drive as her front yard but according to records Seaward Drive was considered her front yard. She said her mail came to W. Terra Mar Drive as did her taxes. Ms. D'Uva requested the Commission designate W. Terra Mar Drive as her front yard.

Assistant Town Manager Olinzock stated that in order grant the request the variance would have to be approve.d for the encroachments that would exist on the front yard. He explained that the new front yard would have part of the building within the 25 foot setback.

Attorney Trevarthen explained the criteria for a variance as per Town Code Section 30-8 (e) (3).

Commissioner Clottey made a motion to approve. address change. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

b. Town Commission to approve. variance request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Dr. (Assistant Town Manager Olinzock)

Attorney Trevarthen swore in those wishing to speak.

Petitioner requested the Commission go along with the recommendation of the Board of Adjustment and grant the variance.

Assistant Town Manager Olinzock read the results of the July 14, 2009 Board of Adjustment which was to grant the variance under the condition that the applicant go before the Town Commission to gain approval to allow the fence to remain in its present location and to allow the shed to encroach into the setback and allow a swimming pool into the 25 foot setback.

Mayor Minnet asked for the recommendation of the Town Engineer. Assistant Town Manager Olinzock stated that Chen & Associates recommended the variance not be granted.

Board of Adjustment Chairman Mr. Crossman stated that every pool had to have a fence and the fence had to be 10 feet from the public right-of-way line. He added that without the variance there would be 10 feet between the fence and the house to put the pool and the decking. Mr. Crossman said the variance was the only way to get the fence, the pool and decking in the space. He said the Board of Adjustment recommended leaving the shed where it was and grant the variance.

Mr. Couriel said there was no way to build the pool on the property or many properties in Lauderdale-By-The-Sea the way the Code currently read. He said the setback requirements were very strict and made it difficult for someone to put in a pool in their side or back yard. Mr. Couriel stated that the shed was installed without a permit but the Board of Adjustment decided to overlook it as to not cause any more hardship. He explained that the recommendation of Chen & Associates did not currently apply as their recommendation applied when the front yard was on Seaward Drive and should not be considered at this point.

Vice Mayor McIntee was concerned that if the Commission approved a pool with no restrictions and a 10 foot encroachment in a side yard then all future requests for a side yard pool would have to be granted. Vice Mayor McIntee believed that Chen & Associates would have the same recommendation, even though the front yard was currently on W. Terra Mar Drive, simply because there was no room for a pool in the side yard.

Mr. Crossman recommended placing the fence on the property line which would give the required room.

Commissioner Silverstone did not believe it met code requirements and thought the Commission should look at changing the Code.

Commissioner Clottey asked whether the pool could be closer to the house. Mr. Couriel said the original request for a larger pool and the size was reduced. He said that was the only space and size for the pool.

Commissioner Dodd believed every case should be considered on its merit. He agreed with Commissioner Silverstone to look at the current code and make necessary adjustments.

Ms. D'Uva said she had moved the pool closer to the house. She asked the Commission to approve. her request for a variance.

There were no further comments.

Commissioner Dodd made a motion to approve. the variance. Commissioner Clottey seconded the motion. The motion failed 3 - 2. Mayor Minnet voted no. Vice Mayor McIntee voted no. Commissioner Silverstone voted no.

c. Commission approval of a zoning variance regarding the dumpster enclosure for 101 Ocean Restaurant located at 101 Commercial Boulevard. The applicant is requesting exception to the Town's Zoning Code, Chapter 30 to allow the existing chain link enclosure to remain - BOA approval with condition (Assistant Town Manager Olinzock)

Attorney Trevarthen swore in those wishing to speak.

Mr. Brennan explained that they could not put wood fencing as required by Code on a concrete base and in its place placed a chain link fence. He said he was told to either tear out the fence or apply for a variance. Assistant Town Manager Olinzock stated that the Board of Adjustment recommended the approval. Manager Colon said there were other businesses using chain link fencing and showed them in her previous presentation on trash. After some discussion it was determined to be the mistake of the Town.

Commissioner Dodd believed either change the Code or change the staff. He suggested Mr. Brennan be allowed to keep his fence but when it came time to replace it he would have to comply with current code.

Vice Mayor McIntee supported the fence for 101 Ocean only. Vice Mayor McIntee asked if the Commission agreed would Mr. Brennan replace the fence with a wooden fence when that time came. Mr. Brennan agreed.

Attorney Trevarthen asked for final statements. There were none.

Vice Mayor McIntee made a motion to approve. the variance with the condition that when it came time to replace the fence it would be replaced with a conforming fence. Commissioner Dodd seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

7. OLD BUSINESS

a. Commission approval of reduction of right-of-way permit performance bond for

Villas By The Sea Development, as requested by Minto Communities, LOLC (Assistant Town Manager Olinzock) (Deferred at the June 23, 2009 Commission meeting by Vice Mayor McIntee) Request to defer to July 28, 2009 Deferred at the July 14, 2009 Commission meeting

Manager Colon stated that Minto provided a completion date of 2012 on a $100,000 bond.

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

b. Discussion and/or action regarding location and quantity of custom banners (Assistant Town Manager Olinzock) Deferred at the July 14, 2009 Commission meeting

Assistant Town Manager Olinzock stated there were 13 banners total to be placed at the south end of A1A with arrows and the others at the north end of Town and on Commercial Boulevard going east. He added the total cost was $731.50.

Vice Mayor McIntee made a motion to accept Commissioner Clottey believed the 3 signs at the south end should have arrows on them. Vice Mayor McIntee amended his motion to include the arrows as per Commissioner Clottey's request. Commissioner Silverstone seconded the amendment. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

c. Discussion and/or action of FWC application for parking permits at the beach (Commissioner Dodd) Requested at the July 14, 2009 Commission meeting

Commissioner Dodd stated that the Florida Fish and Wildlife Association asked him to put this item back on agenda to reconsider their parking permits and grant their original request.

Commissioner Dodd made a motion to grant original request for parking permits. Discussion followed. Commissioner Silverstone seconded the motion.

The Commission agreed to allow parking at the Beach Portals only to unload heavy equipment and then they had to park elsewhere. It was also agreed that if abused Parking Enforcement would be directed to issue citations.

The motion was amended to request the Town Manager alert Parking Enforcement. Commissioner Dodd and Commissioner Silverstone accepted the amendment. Vice Mayor McIntee asked whether industrious vehicles would be allowed to park at the beach portals.

Commissioner Dodd amended the motion to allow parking at the Beach Portals for service vehicles only. Commissioner Silverstone accepted. The motion carried 4 - 1. Commissioner Clottey voted no.

d. Discussion and/or action of Beach and Residential Parking Permit Fees (Mayor Minnet) Requested at the July 14, 2009 Commission meeting

Mayor Minnet pointed out that beach parking at $20 a year presented a potential loss of revenue of $65,000 for beach parking. She believed this was something to look at during budget time for next years' budget.

Commissioner Silverstone stated that non-resident beach parking should be increased. He added that the hourly cost at the El Prado beach parking lot was $1.25 an hour.

Commissioner Silverstone made a motion to approve. an increase to the parking meter rates at the El Prado Parking Lot to $1.50 an hour. 0 seconded the motion.

Commissioner Dodd believed both the resident and beach parking permits should be $50. He supported Commissioner Silverstone on the increased meter rate.

Vice Mayor McIntee pointed out that the Resolution would need to be updated. Commissioner Dodd suggested discussion at Roundtable first for a consensus. Mayor Minnet agreed. Commissioner Silverstone withdrew his motion to table to Roundtable. Mayor Minnet stated that a date for Roundtable would be determined during item 7h.

Mayor Minnet recessed the meeting at 4:10 p.m. and reconvened the meeting at 4:20 p.m.

e. Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee) This item was deferred at the April 28, 2009 Commission meeting to the July 28, 2009 Commission meeting by Vice Mayor McIntee

Vice Mayor McIntee withdrew this item.

f. Discussion and/or action to reschedule the Round Table that cancelled on June 30, 2009 (Mayor Minnet)

This item was pulled at the July 28, 2009 Commission meeting.

g. Discussion and/or action regarding pavilion drainage (Commissioner Dodd)

Commissioner Dodd put this back on the agenda to give everyone an idea of some of the problems he had. He wanted to know why the Town was up to their neck in water and what forethought went into the design to create the current problem and what designs or plans for drainage were removed from the original plans for the pavilion. What proposals were drawn up prior to the pavilion problem and what was the current cost of sand. Commissioner Dodd called Coastal Construction and as a result raised several more issues: 1) When was the Town first aware of the drainage problem.

Assistant Town Manager stated it was around January or February of this year. 2) If the problem was encountered during construction what method was followed? Commissioner Dodd believed there was a pavilion problem and there should have been a change order. He said his solution was to address the Aruba River and keep it separate from pavilion drainage. Assistant Town Manager said it was not a pavilion problem; it was another problem and had to go to Broward County.

Manager Colon stated that a memo was sent stating that the original scope did not include drainage and offered 2 options. She stated there were no stormwater funds and will continue to bring the drainage problems before the Commission until she receives direction. Manager Colon said the drainage issue went out for RFP.

Mayor Minnet believed the situation needed to be taken care of and will be in the near future.

Vice Mayor McIntee said the flood was gone about an hour after it stopped raining. He believed the drainage may not have been done properly and things happen during construction, but the Town was trying to get things done.

h. Discussion and/or action concerning review of the Town Manager as required by the Charter. New date to be set by the Commission for the Round Table review (Commissioner Dodd)

Commissioner Dodd said the review of the Town Manager must be carried out prior to the adoption of the budget and wanted that to be the first order of business at the Roundtable.

Commissioner Dodd made a motion to make the review of the Town Manager as the first order of business at the Roundtable. Commissioner Clottey believed that variables needed to be done first and asked that variables be done first at the roundtable and then come back and do the review at the next roundtable. Commissioner Dodd hoped that each Commissioner would have their own items they wish to review in a constructive fashion and proceed with their review in their own way. He did not believe there should be a format in which to do the review but there could be certain topics they want to review on. Commissioner Clottey agreed but believed those topics should be discussed at the next roundtable and the actual review at the next roundtable.

Commissioner Dodd said that would have to be before September the 15th as required by Charter.

The motion died for lack of a second.

Commissioner Dodd requested for a date for the next roundtable. Vice Mayor McIntee questioned where the Charter stated that a review of the Town Manager was required. He pointed out that Town Manager Baldwin was never reviewed. Commissioner Dodd excused himself and stated that it was in the contract not the Charter. Manager Colon pointed out that the contract stated a review of the Town Manager as well as the Mayor and the Commission.

The motion died for lack of a second.

Commissioner Dodd made a motion to schedule a Roundtable on September 10, 2009 from 5:00 p.m. to 7:00 p.m. to discuss the parameters for the review of the Town Manager, beach permitting and parking fees. Attorney Trevarthen pointed out that the final budget hearing was September 28, 2009. Mayor Minnet agreed there was ample time to set up another Roundtable.

Commissioner Clottey seconded the motion. The motion carried 5 - 0.

8. NEW BUSINESS

a. Discussion and/or action regarding Heroes awards (Requested at the May 27, 2009 Commission meeting by Vice Mayor McIntee)

Vice Mayor McIntee believed citizens should be recognized for going above and beyond. He explained the different levels of awards: 1) Medal of Honor the highest level, for saving a life or losing a life to save a life 2) Medal of Valor for a heroic event and 3) Medal of Merit for doing a great deal for the community.

After some discussion regarding other forms of recognition such as rings or a Key to the City, the Commission decided to discuss further at Roundtable.

Commissioner Dodd made a motion to defer to the September 10, 2009 Roundtable for further discussion. Vice Mayor McIntee seconded the motion. The motion carried 5 - 0.

b. Discussion and/or action regarding the installation of drainage on Bougainvilla Drive from Pine Ave to Commercial Blvd (Assistant Town Manager Olinzock)

Assistant Town Manager Olinzock stated that as drainage items came before the Town it would be brought before the Commission for direction. He stated that the fee to prepare the documentation for this project was $8,400 and the projected cost for the whole project was $341,187 from Commercial Boulevard to Pine Avenue.

Commissioner Dodd disagreed with $80,000 and thought that the Town photographer could be paid a nominal fee to take pictures of puddles and come up with a set of priorities.

Sean Bamforth stated that there were 2 big issues with drainage; aging infrastructure and due to a lack of stormwater utility fee, the sewers could not be fixed, and a lack of a drainage system such as that in front of the Vice Mayor's house. He said Chen & Associates could prioritize a list and suggest required improvements. Mr. Bamforth added that provided with that information the Commission could determine the overall cost and budget accordingly, starting at the top and work down.

Manager Colon said when she spoke with Commissioner Dodd the $80,000 was how they were able to establish the assessment fee. She added that to do a study now it would cost $98,000. Manager Colon asked that when Commissioner Dodd said he did not want to piece meal did he mean they were not to do the Commercial Boulevard Drainage because that was the first project they addressed, and would use those funds to put toward a storm water study he thought needed to be done for a priority list.

Vice Mayor McIntee made a motion to give an official warning to Barbara Cole to refrain from interrupting the meeting. Commissioner Silverstone seconded the motion. The motion failed 2 - 3. Mayor Minnet, Commissioner Dodd and Commissioner Clottey voted no.

Commissioner Dodd said he wanted priorities set so that there was no question of impropriety. Manager Colon said they would have to pay the Engineer to do the study and if there were no funds to do the drainage, and no funds to pay the Engineer what did he suggest. Commissioner Dodd thought it was better to spend the $8,400 to get Chen & Associates to give the top 10 priorities. Mr. Bamforth said he would crunch numbers and it would cost approximately $20,000 to $30,000 in design and approximately $90,000 to do the entire Town.

Vice Mayor McIntee said a professional job could not be done for $8,400. Mr. Bamforth said he would just get a list of 10 sites.

Commissioner Silverstone suggestion reinstating a storm water fee and will put on a future agenda or roundtable to discuss it.

Commissioner Clottey pointed out that people would not be able to deduct the storm water fee from their taxes. She favored Commissioner Dodd's idea and thought that in the interim they could determine where the water was and how deep it was. Mr. Bamforth thought that rainy season would be over before they could make those improvements.

Mayor Minnet believed the different opportunities were something to look at along with the tax rate. She believed the Ad Valorum could be kept low and perhaps ad funds to address the issues.

Peggy Mohler was allowed to speak. She said Aruba never had a drainage problem and other businesses drain into the pavilion such as the Village Grille, Scotts and the pier. Ms. Mohler said it was incorrect to say the problem was "Aruba's River". She believed lowering taxes would get nowhere and suggested assessing the businesses like Ft. Lauderdale did to beautify their beach.

There was no further discussion.

Mayor Minnet recessed the meeting at 5:45 p.m. and reconvened at 5:48 p.m.

c. <u>Discussion and/or action regarding Government Channel 78 Software Signage Update - $4,755 (Manager Colon)</u>

Steve d'Oliviera stated that Channel 78 would benefit from the software upgrade as it would allow the ability to improve safety during hurricane season and improve communication with the residents. He added the software had a one time cost that included training and he would recommend a memory upgrade at minimal cost later. Mr. d' Oliviera explained that last year the music contract with Comcast was terminated and noted that he found additional software, 2 CD's that allowed music at $79 dollars each; a savings of over $3,600.

Commissioner Dodd made a motion to approve. Commissioner Silverstone seconded the motion.

Commissioner Clottey questioned the status on a suggestion to extend wireless internet access. Manager Colon stated that the only place wireless service was available was in Jarvis Hall because it cost approximately $200,000 to extend it.

The motion carried 5 - 0.

d. <u>Discussion and/or action to have public speakers state their full address (Mayor Minnet)</u>

Mayor Minnet wanted to discuss whether the Commission wanted the public to state their full address. She asked that public speakers print their name and asked for clarification on the time frame for public speaking.

Commissioner Dodd believed that people would not want to broadcast that Mr. or Mrs. Blank were not at home and it should be left up to the individual. He felt the speakers could leave their name and address with the Clerk.

Commissioner Dodd made a motion for staff to follow up on any and all complaints received during public comments. Mayor Minnet said she had noticed that staff was did talk with the residents during the meetings. Vice Mayor McIntee said they already did that and felt that was an insult to the Town Manager. Commissioner Dodd felt that if someone came before the Commission with a complaint it should be followed up. Commissioner Clottey seconded the motion for discussion.

Commissioner Silverstone had not heard there was an issue that the Town had not followed up on. He believed it was part of the Commission's job to follow up on complaints they get. Commissioner Silverstone believed each speaker should be allowed to speak only once for 3 minutes as it was out of control.

Commissioner Clottey thought that people should only speak once, either during public comments or during an item; if they want to speak on both then they should speak during public comments. Commissioner Clottey did not feel that someone should give up their 3 minutes to allow someone else to speak in place of their time. She believed the meetings were taken too long.

Vice Mayor McIntee believed public comments were being abused. He noted one person came up 5 times and spoke a total of 18 minutes.

Commissioner Dodd believed the rule was set to speak for 3 minutes during public comments and again on any subject that was on the agenda. Vice Mayor McIntee agreed and felt it was one reason the meetings ran 6 and 7 hours. He added that people were coming in after the signature sheet was gone and people came up to Nekisha to add names. Mayor Minnet questioned that and Nekisha confirmed.

Vice Mayor McIntee stated that when people refer to dais members as "Gestapo" or "storm troopers" was over the line. He said the Mayor had an obligation to control decorum.

Attorney Trevarthen wanted to make sure the Commission did not set a rule regarding "Public Hearings". She said it was up to the Commission to deny public comments but could not deny the right to speak during true "Public Hearings".

Vice Mayor McIntee made a motion to for public speakers to give their address. Commissioner Silverstone seconded the motion. The motion carried 3 - 2. Mayor Minnet and Commissioner Dodd voted no.

e. <u>Discussion and/or action to hold a budget meeting to allow citizen input before the meeting on September 14, 2009 by which time it will be too late (Commissioner Dodd)</u>

Commissioner Dodd asked whether the budget could be changed on September 14, 2009 and before September 28, 2009. Manager Colon said yes but the millage rate could not be increased. She stated that it was preferable to reconcile the budget prior to the Commission meeting rather than do accounting on the dais.

There was no further discussion.

f. <u>Discussion and/or action on extending the three months special events permits for Village Grille and Athena Restaurant known as Jazz on the Square and Elvis (Commissioner Dodd)</u>

Commissioner Dodd stated that unless the Commission re-evaluation the 3 month decision taken on April 28, 2009, there would be no Jazz on the Square or Elvis until the Commission returned in September.

Commissioner Dodd made a motion to grant an extension for a further 3 months. Commissioner Clottey seconded the motion for discussion. Commissioner Clottey seconded the motion.

Commissioner Clottey believed that when a special event was approved it should be approved for the area in front of the building that the applicant owned only and they should not be allowed to set up in front of another restaurant and use their servers. She asked whether the Commission thought that was fair.

Commissioner Silverstone said that a special event affected other businesses in Town and wondered whether all the businesses should apply. As for the extension, Commissioner Silverstone pointed out that the business owner was supposed to re-apply prior to the expiration and he did not. He added that granting the extension would reverse the Commission's decision.

Commissioner Dodd argued that the decision was up to the Commission to grant another 3 months. He added that a special events application had to be submitted 60 days in advance for approval. Commissioner Dodd added that if the Commission granted the extension Village Grille and Athena's Restaurant could put their application in now for the next period.

Mayor Minnet asked whether there were any complaints and whether staff had a problem extending the event. Manager Colon said the only issue was that they did not follow the process.

Vice Mayor McIntee asked for confirmation that the Commission agreed to approve events quarterly. Assistant Town Manager Olinzock said it was for 3 months. Vice Mayor McIntee asked whether a special event application was submitted in May for an August event. Assistant Town Manager Olinzock said it was not. He added that the businesses indicated to Code Enforcement that the summer months were typically too hot and rainy.

Dave Gadsby, Village Grille was under the impression that the dais was to review in 3 months and therefore, he did not think the permit would expire. He agreed that it was too hot and rainy in the month of September and usually did not do anything then.

Vice Mayor McIntee suggested allowing a 1 month extension which would allow the business owners to submit their application for October, November and December. Commissioner Clottey suggested a 60 day extension. Vice Mayor McIntee agreed. Mr. Gadsby agreed. Mr. Marchelos said the tables in front of 101 Ocean were purchased by

101 Ocean and 101 Ocean serviced the tables.

Discussion continued as to whether 101 Ocean was listed on Athena's permit as part of the special event as there were possible sales tax problems and liquor laws.

Commissioner Dodd said he previously made a motion to grant a 3 month extension. Commissioner Silverstone seconded the motion with a friendly amendment to grant the extension for 60 days. Commissioner Dodd accepted the amendment.

Mayor Minnet noted the motion applied to Ville Grille and Athena Restaurant for Jazz on the Square and Elvis. Vice Mayor McIntee notified the business owners that they would need to re-apply every 3 months which was 60 days prior to the 3 month anniversary. The motion carried 5-0.

Commissioner Dodd asked for clarification as to when a fee would be assessed should Code Enforcement be called out to the business. Manager Colon said that should BSO determine there was a violation of the Code, and a Code Enforcement Officer had to go out there, there would be a fee. Commissioner Dodd wanted to know if they had to pay the fee if they were innocent. Commissioner Clottey stated that, as explained at the previous meeting, that if a complaint was put in, BSO would investigate and advise the business owner to stop. She added that should BSO return there and determine that there was a problem, only then would BSO call Code Enforcement. Commissioner Dodd did not feel that the business owner should be charged if they are innocent. Manager Colon did not believe that BSO would make a mistake after a second finding, but if they did then the Town would eat the expense of a call out pay. Vice Mayor McIntee did not believe BSO would call someone from home to investigate unless it was necessary.

g. Discussion and/or action regarding the audit company and the RFP's (Commissioner Dodd)

Commissioner Dodd did not realize the contract with Rachlin was a 3 year contract. He requested the Town Manager terminate the contract and go out for RFP. Commissioner Dodd believed they may get a better price.

Commissioner Dodd made a motion to cancel the current contract and go out for RFP. Commissioner Silverstone seconded the motion for discussion.

Manager Colon clarified it was an engagement letter. She said auditing companies were RFP'd by qualification and not by price. Manager Colon said it was on the agenda and the document stated it was renewable at the option of the Town. She added that auditors usually have a 3 year engagement. Manager Colon stated that at the time the document was on the agenda she clearly stated she was going to sign the engagement letter.

Commissioner Silverstone stated that the request to go out for RFP should have been done at the time the document was presented to the Commission.

Manager Colon asked Commissioner Dodd to please call the office when he had an issue or found a mistake as Mayor Minnet did, so that staff could handle it prior to the Commission meeting. She said it was getting too personal.

Vice Mayor McIntee believed that Commissioner Dodd had to stop treating staff like they were his enemy and start working with them. He referred to the Ordinance that was placed in the back up in error. Vice Mayor McIntee stated that a simple telephone call when he received the backup would have solved the problem, but instead Commissioner Dodd chose to announce it in public.

Commissioner Dodd stated that it was not a question of "gotcha". He read the backup that he was supplied with and will carry on with his research and if the information he received was wrong that was how he based his research. Commissioner Dodd said he was not accusing the Town Manager of doing anything wrong. He believed the Town should go out for RFP on everything.

Commissioner Clottey requested that the Town Manager go out for bid for next year.

Commissioner Dodd amended his motion to go out for RFP for the next fiscal year. Attorney Trevarthen amended the motion to read "follow the appropriate processes to obtain bids to do the work". She added it would not be an RFP. Commissioner Dodd accepted.

The motion carried 5-0.

h. Discussion and/or action on a storm water bond issue (Commissioner Dodd)

This item was withdrawn.

i. There seems to have been a dual billing system for garbage collection services. Most paid the correct amount, a few paid less. This has been causing problems since the Town switched to Choice and everyone now is expected to pay the amount set by their dwelling's category. Switching these dwellings to the commercial rate or letting them have smaller totters would provide some financial relief to these residents who do not need large totters (Commissioner Clottey)

This item was withdrawn.

j. Discussion and/or action for a proclamation for Marc Furth (Commissioner Silverstone) This item was removed at the July 28, 2009 Commission meeting

This item was removed at the July 28, 2009 Commission meeting.

9. TOWN ATTORNEY REPORT

There were no reports.

10. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 6:50 p.m.

11. FUTURE AGENDA ITEMS

Roseann Minnet

Mayor Roseann Minnet

ATTEST:

June White | 10/20/09

Town Clerk, June White | Date