

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Jarvis Hall

**4501 Ocean Drive**

**Tuesday, July 14, 2009**

**7:00 P.M.**

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

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

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

**3. INVOCATION - Reverend George Hunsaker**

Reverend George Hunsaker gave the Invocation.

Manager Colon informed the Commission that the interim Chief was Lt. Angelo Cendeno and the new Chief would be named at the next meeting.

**4. PRESENTATIONS**

**a. BSO Deputy of the Quarter - April, May and June 2009 (Lt. Angelo Cendeno)**

Lt. Cendeno presented Deputy Danny Christian as Deputy of the Month for April, Sgt. Thomas Palmer and Deputy John Melbourne for May, and Deputy Edward Eason for June.

**5. PUBLIC COMMENTS**

Douglas Baker, Cindy Geesey, Edmund Malkoon, Bob Fleishman, Daniel Hobet, Christopher Vincent and Chuck Russ expressed their concern with a rumor to replace BSO with the Town's own police department and requested the reinstatement of Chief Gooding.

Ron Piersante talked about drainage and named areas in Town that flood.

Beverly Kennedy did not believe she had to pay a fee for her business license.

Frank Herrmann was against carpet baggers.

Gail Albohn thanked everyone who helped with the 4th of July event.

Maureen McIntee thanked everyone for their help with the 4th of July event and thanked the Town Manager for her budget presentation.

George Crossman stated that the emergency phone number, 911 was always available.

Louis Marchelos said the City of Ft. Lauderdale budgeted \$78,000 for their events.

Ben Freeney made some suggestions as to where to save money and whether money had been set aside for infrastructure.

Ellen Kirby was concerned with a 41% increase in her garbage bill.

John Oschen believed the noise ordinance was counter productive to the Town of Lauderdale-By-The-Sea.

Adam Geesey called for each Commissioner and the Mayor to be sworn by the Town Attorney that they had nothing to do with the transfer of Chief Gooding and called for a petition to have them removed.

**6. REPORTS**

**7. PUBLIC SAFETY DISCUSSION**

There was no discussion.

**8. TOWN MANAGER REPORT**

There were no reports.

**9. APPROVAL OF MINUTES**

- a. May 26, 2009 Regular Meeting Minutes**
- b. June 9, 2009 Regular Meeting Minutes**
- c. June 30, 2009 Conference / Roundtable Minutes**

Vice Mayor McIntee made a motion to approve the minutes of May 26, June 9 and June 30, 2009. Commissioner Silverstone seconded the motion.

The motion carried 5 - 0.

**10. ORDINANCES**

**1. Ordinances 1st Reading - "Public Comments"**

- a. Ordinance 2009-12: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY THE SEA, FLORIDA, AMENDING CHAPTER 17 "STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES," ARTICLE VI "SIDEWALK CAFÉS," SECTION 17-89 "REQUIREMENTS OF A SIDEWALK CAFÉ PERMIT," PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Trevarthen read Ordinance 2009-12 by title.

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

Commissioner Dodd referred to line 59 and stated that it was necessary to go back to the drawing board and remove the word "removable".

Attorney Trevarthen said that if it was the desire of the commission to remove the word "removable" it could be approved on 1st reading subject to the removal of that word.

Commissioner Dodd made a motion to adopt Ordinance 2009-12 on first reading pending the removal of the word "removable". Commissioner Silverstone seconded the motion.

Mayor Minnet asked whether there was a hold harmless clause in the Ordinance. Attorney Trevarthen stated that there was no requirement for a hold harmless. Mayor Minnet believed the Commission should look at the width of the sidewalk as certain areas did not have the space for a sidewalk.

Attorney James White stated that other provisions in the Code dealt with those provisions such as a sidewalk cafe permit that provided for insurance in case of liability. Mayor Minnet asked Attorney White's opinion of the ramifications this Ordinance could potentially have on the community. Mr. White said that the question was whether the sidewalk was public or private and stated that it covered all sidewalks. If a private sidewalk abutted a parking lot, there would not be much concern regarding oncoming traffic, or someone walking out into a public right-of-way, the barrier would not be required.

The motion carried 5 - 0.

- b. Ordinance 2009-25: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA AMENDING CHAPTER 20, ARTICLE II, SECTION 20-19 PROVIDING FOR RATES AND CHARGES OF TOWN SANITARY SEWAGE DISPOSAL SERVICE; PROVIDING FOR CODIFICATION AS ARTICLE II OF CHAPTER 20 OF THE CODE OF ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-25 by title.

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

Commissioner Dodd made a motion to adopt Ordinance 2009-25 on first reading.

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

**2. Ordinances 2nd Reading - "PUBLIC HEARING"**

- a. Ordinance 2009-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, FLORIDA, AMENDING CHAPTER 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," ARTICLE I "IN GENERAL," SECTION 30-21 "NON-CONFORMING USES AND STRUCTURES" TO AMEND REQUIREMENTS FOR CONTINUATION OF NON-CONFORMING USES AND STRUCTURES; AMENDING ARTICLE IV "SITE PLAN PROCEDURES AND REQUIREMENTS," SECTION 30-123 "APPLICATION FOR FINAL SITE PLAN APPROVAL" TO CLARIFY THE REQUIREMENTS FOR AN APPROVED SITE PLAN TO REMAIN EFFECTIVE; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-211 "RS-5 DISTRICT—RESIDENCE" TO AMEND ROOF OVERHANG SETBACK REQUIREMENTS IN THE RS-5 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-261 "B-1-A DISTRICT-BUSINESS" IN ORDER TO PROVIDE THAT BEAUTY SCHOOLS AND HAIR SALONS ARE PERMITTED USES IN THE B-1-A DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-271 "B-1 DISTRICT- BUSINESS" IN ORDER TO PROVIDE THAT COOKING SCHOOLS, CATERING BUSINESSES, MOTORIZED SCOOTER OR MOPED SALES AND RENTALS ARE PERMITTED USES IN THE B-1 DISTRICT; AMENDING ARTICLE V "ZONING," DIVISION 2 "DISTRICTS," SECTION 30-313 "GENERAL PROVISIONS" IN ORDER TO AMEND THE REQUIREMENTS FOR FENCES, WALLS, AND HEDGES AND TO PROVIDE DEVELOPMENT STANDARDS FOR DRIVEWAYS, SWALES, AND GENERATORS; FURTHER AMENDING ARTICLE VIII "SIGN REGULATIONS," SECTION 30-507 "DEFINITIONS AND RESTRICTIONS BY SIGN TYPE," TO AMEND THE DEFINITIONS OF "SIGN," "INFORMATIONAL, DIRECTIONAL OR TRAFFIC CONTROL SIGN," AND "REAL ESTATE SIGN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE Approved on 1st reading May 12, 2009

Attorney Trevarthen read Ordinance 2009-10 by title. Mayor Minnet opened the meeting for public comment.

Barbara Cole believed the Commission previously agreed to allow non-conforming buildings to be built after a catastrophe to their current form in the same footprint.

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

Vice Mayor McIntee made a motion to adopt Ordinance 2009-10 on second reading. Commissioner Dodd seconded the motion.

Commissioner Dodd questioned Line 227.42 which prevented building on the original footprint. He stated that the clauses in the Ordinance prevented building back to the original height.

Attorney White stated that the language allowed building back but due to over density instances or setback issues it would be precluded from building back to the same footprint. He said he could add language to address it as there was no clear direction as to how to address that issue. Commissioner Dodd said the decision of the Commission was to give the option to build back to the same footprint and usable units within the Code.

Commissioner Dodd questioned whether the homeowner would have the right to cut the trees down if they were to be responsible to maintain the tree roots.

Attorney White stated that the language on line 501 explained that there were instances where the abutting property owners planted the trees or landscaping materials within the swale area were responsible for maintaining and dealing with roots and broken branches. Commissioner Dodd questioned whether the Town would be responsible for maintaining trees on Seagrape Drive. Attorney White said only in the right-of-way.

Commissioner Silverstone was concerned with the 50% loss on the value of the property and to be able to rebuild to the same footprint. He believed they need to have something in the ordinance that addressed that issue if it was changed over the years. Commissioner Silverstone asked to have the Town Attorney add that to the motion. Attorney White said he would draft language.

Commissioner Silverstone explained that if his building was wiped out by a hurricane he would like to build back to the way it was.

Manager Colon stated this was discussed previously with Planning and Zoning that should a building get damaged by a hurricane it could be rebuilt but would need to conform to current use. She questioned whether it should be allowed to be rebuilt to the way it was, if it did not conform.

Attorney White advised that if the door was opened, every non-conforming building within the zoning districts would be able to build back to the original footprint.

Commissioner Silverstone suggested that the solution could be that if less than 50% was demolished it would have to go before the Planning and Zoning Board for approval. Attorney White said there was language established in the Charter that already addressed the destruction of a non-conforming building. He said he could pull that language into the Code.

Commissioner Clotey thought the Commission had taken care of it previously by letting people rebuild due to a natural disaster. She believed the swale issue was tabled indefinitely.

Attorney White stated that there were provisions in the code that dealt with height and it would be guided by the Charter.

Vice Mayor McIntee asked if there would be a benefit in postponing the Ordinance. Attorney White believed staff would get more clarity.

Vice Mayor McIntee amended his motion to defer the item to the July 28, 2008 Commission meeting for second reading with changes. Commissioner Dodd accepted. The motion carried 5-0.

Mayor Minnet recessed the meeting at 8:35 p.m. and reconvened at 8:50 p.m.

Commissioner Dodd said citizens were concerned that they would be responsible for the swales. He felt a decision should be made as to whether zero scape would be in the swales and included in the changes that Attorney White was to make.

Commissioner Dodd made a motion to reconsider the Ordinance for the purpose of the homeowner not having any grass, that language be added that they be allowed zero scape in the swale and that they be responsible for maintaining it instead of, or in place of grass in the swale. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

#### **11. COMMISSIONER COMMENTS**

Mayor Minnet stated she was disappointed with the outcome at the June 30, 2009 Special meeting. She named everyone who spoke at that meeting: Diane Boutin, Patrick Pointu, Tom Carr, Frank Herrmann, Cristi Furth, Christopher Benson, Louis Marchelos, Spiro Marchelos, Laurie Sinotti, Sean Spelloy (non-resident), Mrs. Roberts, Rosa Michailiuk, Bonnie Chaplain, Mark Cohen, Barbara Cole, John Yanni (non-resident and past Commissioner), Cindy Geesey, Marie Chiarello, Edmund Malkoon, Sunny Eckhardt, Bonnie Meyers, John Alton, Vito Chiarello, Mark Brown, Bill Davis, Dennis Ritchie, Vincent Ragusa, Eric Short, Yann Brandt, Joan Englander, Bob Fleishman, Audrey Lees, Mrs. Malkoon, Ben Feeney, Chuck Clark, Beverly Kennedy, Richey Bonfey, Louis Alfano and Debbie Finato. She wanted to clarify that only 2 of the 39 people that spoke were non-residents.

Mayor Minnet thanked everyone that was present during the Budget Workshop and stated that she would be available for any questions. She stated that there would be zero millage reserves if the Town stayed with the current millage rate and asked everyone to get involved. Mayor Minnet thanked everyone who had a hand in the 4th of July event. She displayed an article in the Sun-Sentinel where Ft. Lauderdale paid \$78,000 to have someone come in to their City and liven up their beaches. Mayor Minnet believed that more should be done in support of the businesses.

Commissioner Clotley thanked everyone for coming out to the meeting and listening at home. She also thanked everyone involved with the 4th of July event. Commissioner Clotley stated that at a recent League of Cities meeting Commissioner Lieberman talked about the budget increases to the BSO and the elaborate offices including a 12% salary increase. Commissioner Clotley asked whether the Public Safety Building needed to have elaborate offices. She said the Town was in the process of preparing next year's budget and in order to balance the budget discretionary and capital improvement spending would be very limited. Commissioner Clotley said she voted in support of the Town Manager's decision to transfer Chief Gooding because after reviewing all the facts she discovered that the Town Manager was within her rights to do what she did. She requested that in the future the Town Manager consult with the Commission, even though she was not required to do so, before taking any action on an issue that would result in major controversy. Commissioner Clotley said the implementations that her vote was in an attempt to get rid of BSO was jumping to an incorrect conclusion. She did not feel the Town Manager should get slapped around for doing something she had the right to do.

Commissioner Silverstone clarified that the attempt to get rid of BSO was a manipulation to stir a disturbance for some purpose. He said there was a contract with BSO until 2012 and there were no plans to get rid of BSO in 2012. Commissioner Silverstone stated that the budget was not on the web site as it was just completed and the process had not changed. He also addressed the noise ordinance and suggested people read the Ordinance as the new Ordinance was more lenient. Commissioner Silverstone said people should pick up the phone and call with their questions. Commissioner Silverstone addressed the indication that he collaborated with the Town Manager in doing away with BSO. He said he had no issue with BSO and believed the Town was currently paying a good price for BSO. Commissioner Silverstone thanked those for giving back to the Community by doing a phenomenal job on the 4th of July.

Mayor Minnet clarified that the BSO contract ended in 2011.

Commissioner Dodd thanked everyone for their tireless efforts on the 4th of July event. He believed Manager Colon was incorrect in her grounds to dismiss Chief Gooding. He said it was the dais that approved any financial expenditure on the police department and Chief Gooding's responsibility was to notify the dais of his wish list. Commissioner Dodd noticed that in the July 5th Sun-Sentinel Fort Lauderdale rejuvenated live music on the beach by spending \$78,000. Commissioner Dodd questioned the size of the

RFP advertisement for the Commercial Boulevard Drainage. He stated that the advertisement produced no dates and very little information. Commissioner Dodd asked for a meeting to carry out the annual review of the Town Manager as per Charter. He preferred an evening so that residents could attend.

Vice Mayor McIntee stated that the 4th of July was a success. He said the event was done for \$20,000 with the fireworks. Vice Mayor McIntee thanked everyone for their efforts. Vice Mayor McIntee stated that Seagrape Drive and the Pavilion was done and looked good despite all the bad talk against it. He added that the safety cameras were a good thing for BSO and would contribute to a reduction in crime. Vice Mayor McIntee said the fire assessment was cut down to \$130, parking meters were installed and \$ came in, the Beach Safety program was very positive, and \$1 million was in the bank that could be used to renovate El Mar Drive. He said the highlight was that the Town was going to get an 8% reduction in their taxes and Manager Colon was responsible for that. Vice Mayor McIntee stated that after sewers were put in his neighborhood, the roadways were done and all the water funneled toward his property. Vice Mayor McIntee stated that spreading rumors regarding the Commission ousting BSO was false. He said if it came down to it, he would put it in a referendum for the people to decide.

## **12. CONSENT AGENDA**

Mayor Minnet pulled items 12a and 12b for discussion.

- a. Commission approval of Special Event Permit application for Athena by the Sea's "Wine and Food Festival" event, Saturday, October 31, 2009, at 8:00 AM till Sunday, November 1, 2009 11:00 PM (Assistant Town Manager Olinzock)

Commissioner Clotey made a motion to allow the applicant 1 day, whichever day they choose to have the event. The motion failed for lack of a second.

Commissioner Dodd made a motion to waive the code fee for this event. Vice Mayor McIntee seconded the motion for discussion only. He asked if Manager Colon charged for code enforcement. Manager Colon said the charge applied only when BSO had twice requested the violator to comply and they did not and, therefore determined it was necessary for Code Enforcement to respond. She added that she must comply with the Code which states that if a Code violation occurred and code officer needed to go in, that code officer would have to be paid and the fee would apply.

Vice Mayor McIntee wanted clarification that unless there is an official complaint about the noise there was no charge. Manager Colon stated there was no charge unless the Code Enforcement Officer was called in. Vice Mayor McIntee withdrew his second. Commissioner Dodd asked for clarification that they would only be billed if there was an offense. Manager Colon stated that if a Code Officer was called in from their home because the business was in violation of the noise ordinance, the business would have

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to pay the fee. Mayor Minnet asked if a call was made at 10:01 how many hours would the Code Officer be paid. Manager Colon stated that the Code Officer would be paid at a 3 hour call out pay at that time of night.

Commissioner Dodd did not believe they should be charged for these events or at a minimum of 3 hours. Commissioner Clotney asked what the 3 hour minimum was. Manager Colon said the options were either to have BSO determine whether there was a code violation or have a Code Officer on duty. She said either way, someone had to be paid to do the job.

Commissioner Dodd made a motion to waive the fees for a special event. Mayor Minnet passed the gavel and seconded the motion.

Vice Mayor McIntee explained that no one could call the Town and complain after 5:00 p.m. He asked Lt. Angelo Cedeno to confirm the process when they received a call after hours. Lt. Cedeno stated that they would ask them to turn it down and if they did not they would call Code Enforcement to shut them down. Mayor Minnet believed that Commissioner Dodd was seeking assurance that the business owner would not be charged.

Commissioner Clotney asked whether Commissioner Dodd would accept a friendly amendment that if the business gets one free pass then they could call out a Code Officer and only then a charge would be incurred for a code officer. Commissioner Dodd had no problem the way the police handle it. He stated that his motion was to waive the fee.

The motion failed 3-2. Vice Mayor McIntee, Commissioner Clotney, and Commissioner Silverstone voted no.

Vice Mayor McIntee returned the gavel to Mayor Minnet.

Louis Marchelos said if there was a complaint he would stop it and if not he would not have an event for the entire year.

Vice Mayor McIntee said there was no charge and that Mr. Marchelos had not been charged for having any Town personnel at his place of business. He added that the only time Mr. Marchelos would be charged would be if BSO was called and they did not comply and BSO had to call in Code Enforcement. Vice Mayor McIntee pointed out that Mr. Marchelos had confirmed that would never happen, and therefore Mr. Marchelos would not be charged. Mr. Marchelos thought it was unfair that he would be billed.

Commissioner Clotney stated that sometimes when people get excited they don't hear properly. She explained that the Town Manager had stated that there would only be a charge for code officer personnel if they did not comply with BSO.

Commissioner Silverstone asked whether Dave Gadsby, Village Grille had any issues with a 2 day event. Mr. Gadsby said he did not as it would not affect his business. Commissioner Silverstone noted that historically, the Halloween event was planned and whoever was to do the event needed to be aware of this event. Commissioner Silverstone noted that the Commission discussed not having a 2 day event at the same time a Town wide event occurred and advised that even though the Halloween event may be planned at that time he did not have an issue with it.

Commissioner Dodd made a motion to approve. Commissioner Silverstone seconded the motion for discussion only. He believed the Commission made a rule not to allow 2 day events. Vice Mayor McIntee stated that the Commission decided not to allow 2 day events or any event that would compete with a Town wide event.

Mayor Minnet said the Halloween event was held at Jarvis Hall and not downtown.

Commissioner Dodd made a motion to approve. Mayor Minnet passed the gavel to second the motion. Mayor Minnet seconded the motion. The motion carried 3 - 2. Commissioner Clotley voted no. Vice Mayor McIntee voted no.

- b. Commission approval of Agreement for Stormwater System Design on SE 21st Avenue at SE 16th Street with Chen & Associates, in the amount of \$4,850.00 (Assistant Town Manager Olinzock)

Vice Mayor McIntee recused himself.

Assistant Town Manager Olinzock stated that the proposal would provide for a stormwater retention system similar to the ones that have recently been placed in other areas in Town, such as in front of the old news stand.

Commissioner Clotley said there was an accusation that she was to benefit from this particular project. Assistant Town Manager Olinzock stated the project was for that intersection which was a low point in that area. Commissioner Clotley stated that the mood in the audience was that this project was being done for Vice Mayor McIntee personally and asked if Vice Mayor McIntee would withdraw his request. Vice Mayor McIntee said he had no problem withdrawing his request and asked everyone to drive up there and see for themselves.

Attorney Trevarthen advised that since the Vice Mayor recused he could not withdraw but Assistant Town Manager Olinzock could withdraw it as it was his name on the agenda item.

Mayor Minnet stated that the form only stated "resident" and not the resident's name. She requested that the form show a name in the future and add any previous complaints. Vice Mayor McIntee asked whether there were multiple calls. Assistant Town Manager Olinzock said there were.

Commissioner Dodd asked why a previous proposal had not been included in the backup. Assistant Town Manager Olinzock stated that that proposal was a more costly approach by connecting to an outfall. Commissioner Dodd stated that there was a possibility that the cheaper solution would not work. He wanted to know why it wasn't done when the sewers were done and prior to resurfacing the road. Assistant Town Manager Olinzock said only sewers were being done at that time and he was not part of the plan at that time and administration was attempting to set things right.

Barbara Cole believed the item was suspect as it started with a citizen request that was written by Vice Mayor McIntee even though it said "resident".

Christopher Vincent said he was the only one on his street that had a swale and the only one that floods on his street when it rained.

Commissioner Silverstone stated that arguing did not address the problem. He said there was a serious issue with flooding in Town. Commissioner Silverstone pointed out that it was noted that the proposed stormwater system would be a significant improvement. He added that it did not say it would not work. Commissioner Silverstone directed the Town Manager to get a list of all the properties that need to be fixed.

Manager Colon stated that this was the 4th project this fiscal year. She said that the next one was Commercial Boulevard with the same remedy that was proposed for this project and approved by the Commission. Manager Colon added that there would be another for an area on Bougainville Drive. She said they were trying to remedy the problems the best way possible with the available funds and could not do the whole Town at once.

Vice Mayor McIntee stated that the problem occurred after the sewers were put in and after the roadways were done.

### **13. RESOLUTION - "Public Comments"**

- a. Resolution 2009-17: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING THE WAIVER OF CERTAIN PARKING FEES FOR SHORT-TERM GOVERNMENTAL USE; AND PROVIDING AN EFFECTIVE DATE**

Attorney Trevarthen read Resolution 2009-17 by title. Mayor Minnet opened the meeting for public comment. With no one wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Silverstone made a motion to adopt Resolution 2009-17. Commissioner Clotey seconded the motion. The motion carried 5 - 0.

### **14. QUASI JUDICIAL PUBLIC HEARINGS**

**15. OLD BUSINESS**

- a. Commission approval of amendment to existing agreement with Enforcement Technology, Inc. for Processing Parking Citations - \$2,100.00 (Assistant Town Manager Olinzock) (This item was deferred at the April 29, 2009 Commission meeting by Commissioner Dodd) Deferred at the June 23, 2009 Commission meeting as requested by staff**

Mr. Hood did not believe the RFP was published properly and would like the opportunity to bid on it.

Vice Mayor McIntee asked whether Mr. Hood received a call regarding the RFP.

Commissioner Silverstone asked whether this RFP was put out any differently than any other RFP. Manager Colon said it was not.

Commissioner Dodd showed a comparison of the different ads for bids in the SunSentinel.

Commissioner Dodd made a motion to go out for bid again on this contract. Commissioner Clotney seconded the motion.

Manager Colon stated that construction RFP's were advertised differently than a Professional Services RFP. She added had if Mr. Hood's company came into Town Hall to pick up an entire RFP packet he would have had all the information. Manager Colon added that all vendors have the same right to abide by the RFP deadline. She asked whether exceptions would be given to everyone that did not make the deadline. Commissioner Dodd stated that the deadline date was not advertised. Manager Colon stated that the only requirement was to let the bidder know when he can pick up the bid package. She added that the bid package gave the specifications and referred to the agenda package. Manager Colon stated that her office advertised the RFP's appropriately as always.

Vice Mayor McIntee asked Mr. Hood whether there were dates that were not specific. Mr. Hood said he did not see any.

Commissioner Clotney asked what company Mr. Hood was with. Mr. Hood stated he was with iye Tek from Kalamazoo, Michigan. Commissioner Clotney did not feel the Town Manager should be judged for doing things the way they were done in the past. She requested the Town Manager to consider putting the RFP out again and make use of technology and suggested placing the ads on the Town's web site.

Barbara Cole said her web site had an area where she could tag certain issues. She added that she was not attacking staff; only the process that staff used.

Commissioner Dodd pointed out that the current company did not place a bid.

Manager Colon said no one disagreed, she said it was the constant derogatory way things were said regarding things she or her staff did. She pointed out that the RFP's tripled. She said she had no objection to re-advertising the bid but she did have a problem with a company that did not submit a bid on time and was now allowed to submit. She added that the current company did not need to submit a bid because they had a current, existing contract. Manager Colon stated that there was no impropriety in the Town Clerk and Town staff. She added that it was the constant tone that insinuated that things were not being done properly that upset her.

Commissioner Clotney did not feel that on this particular bid, there should not be a re-advertisement in the SunSentinel but should be placed on Demand Star. She asked whether Commissioner Dodd would accept a friendly amendment to only advertise online and not in the newspaper. Commissioner Dodd wanted it in print and with a date.

Vice Mayor McIntee asked whether there were mandated laws as to what bids would be published. Attorney Trevarthen stated that there were different Statutory procedures for different bid types. Manager Colon stated that RFPs were placed in a local newspaper per the current requirement. She added she will post RFP's anywhere the Commission wanted them posted without objection and according to statute requirements. Manager Colon stated that she did not want to pick and choose as to which RFP's were posted where. She wanted them all to be done in the same fashion.

Commissioner Dodd stated that the purchasing manual allowed advertisement in the local newspaper (general circulation required), and an online bidding source such as Demand Star.

Commissioner Clotney made a motion to defer to July 28 meeting. Vice Mayor McIntee seconded the motion.

Commissioner Dodd pointed out that a motion to re-advertise was already on the table. Commissioner Clotney asked whether local legislation required that a re-advertisement for RFP be placed in a local newspaper or if the Town could skip SunSentinel due to no response and advertise directly on line. Manager Colon advised that the SunSentinel should not be skipped. Attorney Trevarthen agreed.

Mayor Minnet seconded Commissioner Dodd's motion to re-advertise the RFP with the friendly amendment by Commissioner Clotney to also advertise on line.

The motion carried 5-0.

- b.** Discussion and/or action to change the September 8, 2009 Commission meeting to another day (Mayor Minnet) Deferred at the June 23, 2009 Commission meeting by Vice Mayor McIntee

Mayor Minnet requested to change the Commission meeting from Sept 8th to Sept 9th. Vice Mayor McIntee made a motion to change the Commission meeting from September 8, 2009 to September 9, 2009. Commissioner Silverstone seconded the motion. The motion carried 5-0.

- c. 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

Vice Mayor McIntee made a motion to defer to July 28, 2009. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- d. Selection of a Pioneer for the 37th Annual Broward County Pioneer Day recognition ceremony (Mayor Minnet)

Mayor Minnet pulled this item.

- e. Discussion and/or action regarding location and quantity of custom banners (Assistant Town Manager Olinzock)

Barbara Cole was concerned of the costs.

Assistant Town Manager Olinzock stated the costs were between \$106 and \$130 per banner depending on colors and design. Mayor Minnet asked whether it was budgeted. Assistant Town Manager Olinzock stated it was an item the Commission asked staff to look into.

Mayor Minnet said she would work with Assistant Town Manager Olinzock and make recommendations in time for the next meeting.

- f. Discussion and/or action regarding installation of monument in honor of past Mayors and Commissioners (Assistant Town Manager Olinzock)

Assistant Town Manager Olinzock stated that a list of all the names was provided. He asked whether the Commission wanted all the names and whether they wanted to include the dates. Assistant Town Manager Olinzock advised that it was not budgeted.

Barbara Cole did not see the pricing of the granite included. Mayor Minnet stated the cost of the granite was included at \$1,100 plus \$450 for installation.

Mayor Minnet thought it was a positive thing for the community to get involved in and contribute to. Commissioner Dodd thought it was a terrific idea. He suggested engraving on a wooden mahogany board as an alternate.

Commissioner Silverstone believed the idea was to take the signs away from the portals. Commissioner Dodd said it was to take away the 4 bronze plaques at the portals. Commissioner Silverstone preferred granite over wood.

Commissioner Clotley liked Mayor Minnet's idea of anyone wishing to donate toward the plaque. She said people were asking if they could put their name on the plaque also if they donate money. Commissioner Clotley suggested accepting private donations for the plaque. Vice Mayor McIntee believed a great deal of money was saved on the 4th of July and therefore, \$4,500 of those funds could be used and if people wanted to donate, the funds could be given back to the Town and credit could be given.

Vice Mayor McIntee made a motion to approve if \$4,500 was available from 4th of July to go ahead with the monument and take the Mayor's suggestion to request donations. Commissioner Silverstone seconded the motion.

Commissioner Silverstone thought it was funny that people would donate money for a plaque to put their name on it.

Commissioner Clotley did not like the idea of voting to have a plaque with her name on it and have the Town pay for it. She preferred to go out and try to get donations first. Vice Mayor McIntee suggested setting up a date certain. Vice Mayor McIntee withdrew his motion. Commissioner Silverstone withdrew his second.

Vice Mayor McIntee made a motion to publish in the Town Topics or on the web and channel 78 to accept donations for the monument and place on the agenda for the first meeting in October. He added that if the funds did not come in then the Town would use the funds saved from the 4th of July event. Commissioner Silverstone seconded the motion.

Commissioner Clotley suggested putting the date off until the end of the year. Commissioner Dodd made a friendly amendment to move to the first meeting in December. Vice Mayor McIntee accepted. Commissioner Silverstone removed his second and seconded the friendly amendment. Mayor Minnet added that there may be people who want to give and if there was not enough the remaining would have to be funded by the Town. She did not know how that would balance.

Commissioner Clotley made a friendly amendment to ask for donations first and if that did not work out then return to request the funds.

Vice Mayor McIntee withdrew all of his motions. Commissioner Silverstone withdrew all of his seconds.

Commissioner Silverstone made a motion to put an ad in Town Topics for donations for the monument in Town. Commissioner Clotley seconded the motion.

Vice Mayor McIntee placed the item on the agenda for the first meeting in September to discuss the results of the request for donations in the Town Topics.

The motion carried 5-0.

Vice Mayor McIntee made a motion to continue the meeting to 11:30 p.m. Commissioner Silverstone seconded the motion. The motion carried 4-1. Commissioner Dodd voted no.

**16. NEW BUSINESS**

- a. Reconsideration of FWC application for parking permits at the beach (Commissioner Dodd)

Vice Mayor McIntee questioned whether a reconsideration of a motion had to be done at the same meeting on the same day. Attorney Trevarthen stated that a request for reconsideration had to be done no later than the next meeting. She added that it could come back as a fresh issue. Commissioner Dodd instructed Town staff to place the item on the July 28, 2009 Commission meeting for discussion and/or action regarding applications for parking permits at the beach.

- b. Reconsideration of Beach and Residential Parking Permit Fees (Mayor Minnet)

This item was to be considered in the same manner as the previous item for the July 28, 2009 meeting as discussion and/or action.

- c. Discussion and/or action to instruct Town staff to investigate: 1) Terms of contract termination agreements for surrounding municipalities, and 2) Ways to minimize termination costs for immediate firing, resignation and allowing a manager to finish the terms of the current contract (Commissioner Dodd)

Commissioner Dodd received a number of requests to get rid of the Town Manager and not Chief Gooding. Commissioner Dodd stated that he did not wish to terminate the Town Manager; however he did want a review.

Commissioner Clotey said the contract was not a contract that the majority of the current Commission had played any part in signing. She did not believe it was lawful for this Commission to come in, at this time, and say they do not like the contract and want it changed.

Attorney Trevarthen stated that as long as the contract was not breeched the terms would remain. Commissioner Clotey said there was a responsibility for the Commission to do research in relation to neighboring communities and not to ask Town staff to do it.

Commissioner Silverstone thought it was totally inappropriate to put it on the agenda and then state that there was no intent to terminate the Town Manager.

Commissioner Silverstone asked whether the contract was drawn up by the Town Manager and whether the contract was the same as the prior Town Manager's contract. Manager Colon said the former Town Attorney drew it up with the approval of the Commission and it was the same except she excluded the ten weeks off that was in Manager Baldwin's contract.

Vice Mayor McIntee thought this was outrageous and wrong. He believed, along with many residents that the Town Manager was honest, sincere and trusting. Vice Mayor McIntee believed that the person requesting the information should do the investigation.

Manager Colon pointed out that Commissioner Dodd knew her for 2 years and the other Commissioners knew her for 9 years. She said there were people who supported her and people who did not and she would not change her ways. She added that since June of 2000 she had multiple jobs and was assigned the task of Assistant Town Manager before and after Laura Ward, for which she was never compensated. Manager Colon stated that a City of Pompano Beach Manager received 1 year severance pay after 1 year of service. She added that she would not bend for any Commissioner or a resident that did not like her management style and she would support her staff tooth and nail.

Commissioner Silverstone added to the integrity of what Manager Colon said. He said Manager Colon made her decision to transfer Chief Gooding because it was the right thing for the Town. He added that people should look at the facts. Commissioner Silverstone said Manager Colon did what she thought was right for the Town and had nothing to do with politics.

Vice Mayor McIntee read an email to Manager Colon from Commissioner Dodd regarding a rumor to terminate the police department within 9 days.

Commissioner Dodd asked when Manager Colon was originally elevated to the position of Town Manager. Manager Colon said she did not remember as she did it for so long.

Manager Colon informed every member of the dais that she would not have any Commissioner tell her how or when to do her job, who to fire and not to fire, and what kind of deals or rumors are out there. She added that she will not be quizzed as to who she talked to and/or what she talked about.

- d. Discussion and/or action on postponing the reef project to use the funds for upgrading the Public Services Building and to provide police facilities commensurate with other municipalities (Commissioner Dodd)

Commissioner Dodd wanted to put off the reef project to allow BSO to do their job efficiently. He believed the people would rather have a proper police facility than the reef restoration.

Commissioner Dodd made a motion to postpone spending the money on the reef restoration and provide the basics for the police facility. Mayor Minnet passed the gavel and seconded the motion for discussion.

Commissioner Silverstone asked whether there was a need for and questioned the financing for a holding cell. Manager Colon said the plans were approved at the previous Commission meeting. She added that the first thing that would be put in the building was the holding cell and sufficient funds were there for the holding cell. Commissioner Silverstone asked what the delay was as far as BSO moving into the building. Manager Colon said there were no delays as the quarters in the new building were superior to the current BSO quarters which did not contain a holding cell. Manager Colon said that once the RFP came in for the holding cell she would probably discuss relocation with BSO. She added that the first priority was to put in the holding cell.

Commissioner Clotley asked about the holding cell, sally port, and interrogation rooms. Manager Colon said that the original plans that were submitted cost \$450,000 and those funds were not available. She added that she had submitted plans to get the drawings done with the first priority to get a holding cell. Mayor Minnet stated that the LETF funds were \$274,000. Manager Colon said they should not exceed \$250,000 and stated that the real costs were not yet available.

Commissioner Clotley called attention to the fact that the expensive furniture and the gym equipment were not required and BSO, as a Broward County employee, could go to the gym at Holy Cross free of charge. She questioned why Commissioner Dodd would want to hold up the reef project that would bring business and tourism to the Town, when the basic requirements for the police facility would be done.

Vice Mayor McIntee asked whether BSO would bring a violent prisoner to the police department in Lauderdale-By-The-Sea. Lt. Cedeno said they would bring them straight to the City of Pompano Beach. Vice Mayor McIntee pointed out there was no urgency in having a Sally Port and was against delaying the reef project.

Commissioner Dodd repeated the motion to postpone the \$75,000 expenditure for the reef project as long as possible in order to provide the correct police facility. Mayor Minnet seconded the motion. The motion failed 3-2. Vice Mayor McIntee, Commissioner Clotley and Commissioner Silverstone voted no.

Commissioner Silverstone made a motion to continue the meeting. Commissioner Clotley seconded the motion. The motion carried 5-0.

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

Mayor Minnet pointed out that a design was approved, the RFP was out and they were moving forward with pavilion drainage. Commissioner Dodd was aware of that

and questioned whether the 6 X 6 wooden barrier next to the shower was a temporary measure and whether an engineer was consulted regarding the barrier, whether permits were issued, and what the expectations of the barrier were.

Manager Colon said a permit was issued. Assistant Town Manager Olinzock said the permit was issued by the State Department of Environment Protection and said it was temporary.

Commissioner Silverstone did not believe this item should have been placed on the agenda as a simple phone call could have resolved this.

- f. Discussion regarding complimenting employees on the tremendous work they did on the 4th of July celebration (Vice Mayor McIntee)

Vice Mayor McIntee thanked the employees, the crews, municipal services, and those who struggled through the permits. He also thanked the police for a great job.

Commissioner Silverstone also thanked Commissioner Clotey and agreed with Vice Mayor McIntee that Town staff was out there in full force. Mayor Minnet said she believed she thanked everyone who participated and attended including staff, employees and volunteers.

- g. Schedule Workshop for discussion with Master Plan Steering Committee and the El Mar Drive design (Requested at the June 23, 2009 Commission meeting by Commissioner Silverstone and Mayor Minnet)

Mayor Minnet believed that the Town Engineer should also attend the workshop. Commissioner Silverstone clarified that the workshop was specifically for the Commission to bring forth ideas to the MPSC and for the Master Plan Steering Committee to use those ideas and come up with a plan of action. Mr. Novak wanted future direction also. Mayor Minnet noted that an update to the Master Plan was needed and with the consensus of the Commission, could be the next direction to the Master Plan Steering Committee.

The Commission scheduled the workshop for Monday, July 20, 2009 at 5:00 p.m. Town staff was not required to attend.

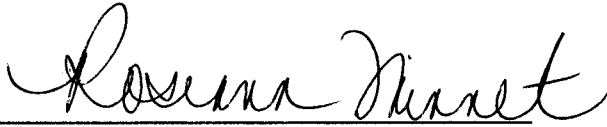
#### **17. TOWN ATTORNEY REPORT**

There were no reports.

#### **18. ADJOURNMENT**

Commissioner Silverstone made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 11:43 p.m.

**19. FUTURE AGENDA ITEMS**



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

9-10-09

Date