

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, April 28, 2009

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor 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, and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks-McGuinness gave the Invocation.

Mayor Minnet added Consent Agenda item 12j, Concert by Lynn University at the Community Church as requested by Manager Colon.

4. PRESENTATIONS

a. Burton and Associates Fire Presentation

Mike Burton and Kevin Krueger explained their evaluation regarding fire assessment rates. He stated that the annual fire department budget was \$1,035,077 and increased by 4% in previous years. Mr. Burton reviewed alternate scenarios of annual assessment rate adjustments to provide sufficient revenue over a 5 year period: 1) a 3% annual increase would be required beginning FY2011 if the assessment rate was reduced from \$130 to \$126.38 ; 2) at \$130 the need to increase 3% annually would be delayed until FY2012. Mr. Burton stated that either scenario would provide sufficient revenues. and recommended scenario # 2 as it delayed an increase for 2 years and created a small working capital reserve for contingencies.

Vice Mayor McIntee asked for the dollar amount of the "cushion" the Town would have if they stayed at the present fire assessment. Mr. Burton stated that was about \$29,000. He asked Mr. Burton for the name of a City equal to Lauderdale-By-The-Sea that he had worked with. Mr. Burton said he worked with the City of Lindhaven. Vice Mayor McIntee asked whether Mr. Burton thought that the citizens were getting a good deal at

\$130 did he think it was high. Mr. Burton believed it was a reasonable full cost recovery fee.

Commissioner Silverstone questioned whether the Town should look into charging per square foot. Mr. Burton said a number of communities were looking at it and either way was supportable.

Mayor Minnet thanked Burton and Associates for their presentation. There was no further discussion.

b. Presentation regarding turtle lighting - Green Light Go (Commissioner Dodd)

Geri Ann Capotosto Green Light Go gave a presentation on LED lighting solutions for roadways, pedestrian walkways, and commercial interior space. She stated that normal lighting produced glare and LED was directional lighting that gave more light without the glare, and used less wattage. Ms. Capotosto said that LED lighting would safely light areas for people and not disturb the turtles. She added that LED lighting was scientifically recommended as the best sea turtle lighting to date and it adapted to many types of fixtures. Ms. Capotosto said the LED lighting was pending Florida Fish Wildlife approval on April 30, 2009.

Commissioner Clotey asked whether the lights on Pompano Beach were sodium based. Vince Capotosto said the amber lights were high pressure and low pressure sodium. He said the high pressure sodium contained mercury that produced a high level of Ultra Violet lighting that attracted turtles.

Commissioner Clotey asked whether new light fixtures would be put up. Mr. Capotosto said the whole hat would be changed out at approximately \$800 to \$1,000 each. He added that the energy savings would show in 2 to 3 years. Mr. Capotosto stated there was an elongated light that could be used in the pavilion at approximately \$400 to \$500 each. Commissioner Clotey inquired of the production stage. Mr. Capotosto said they were ready to go into production sometime in late summer. He said Green Light Go had 3 prototypes that could be hung in the pavilion should the Commission like to try them. Mr. Capotosto offered an alternate light that could be switched out between the turtle season.

Commissioner Clotey asked for clarification that the Town could not be fined if the lights were not turned off. Attorney Trevarthen said that the language in the Florida Statute that referred to sea turtle lighting said "should" and not "shall" and there was no fine attached. Commissioner Clotey asked again whether the Town could be fined and Ms. Capotosto said they could. Mr. Capotosto said fines had been issued and were being paid.

Commissioner Dodd asked the expected life of bulb in a marine environment. Ms. Capotosto said they should last 50,000 to 70,000 hours and/or 16 years. Commissioner Dodd asked whether Ms. Capotosto thought there would be any

regarding the installation. Ms. Capotosto said it would be between the Town and FPL. Commissioner Dodd inquired as to how long it would take to get all necessary approvals. Mr. Capotosto said they are working hard to get all necessary approvals. Commissioner Silverstone asked for the current price on standard lighting. Mr. Capotosto believed a standard cobra head was about \$175 to \$200. Commissioner Silverstone believed the Town should determine which lights did not affect the sea turtles and turn those lights on for minimal lighting and shield over the remaining lights until more information was available on LED lighting. Commissioner Silverstone thought the town should currently focus on the safety factor.

Vice Mayor McIntee said until he got word from FPL that they would cooperate with putting LED lights in their posts he could not support it. He did not want to install Town owned light posts.

Commissioner Silverstone suggested putting lights on the buoys since the turtles were attracted to direct light.

Mayor Minnet asked whether the LED bulbs were UL listed and would fit the current light poles. Ms. Capotosto said they were. She asked about the warranty. Ms. Capotosto believed it was 1 to 3 years. Mayor Minnet inquired of light degeneration. Ms. Capotosto said LED lights, after 50,000 hours had a 30% degenerate rate.

Mayor Minnet asked whether there was a turtle Ordinance in place. Attorney Trevarthen said there was. She added that the County nor the State required the Town to have the Ordinance, and therefore, the Commission could repeal it.

Mayor Minnet recommended a workshop for everyone to attend. Ms. Capotosto hoped that Jean Higgins and Karen Shudes from the Florida Fish and Wildlife Association would be contacted to attend.

5. PUBLIC COMMENTS

Joyce Murray wondered how the business of a private organization could be brought out at a public Commission meeting.

Bob Fleishman believed there was selective hearing and self serving agendas from a Commissioner.

Daniel Hapert stated that if FPL got away with not cooperating on the LED lighting it could effect the privatization of public service.

Larry McGuinness addressed kite surfing by stating that "if it ain't broke don't fix it".

Edmund Malkoon appreciated the rental ordinance and thought it was important to enforce the ordinance. He suggested putting together something to help enable enforcement.

Joe Couriel was opposed to rentals but if necessary they should be restricted to at least one month. He believed the length of a request to hold a special event should be limited to 3 months at a time. Mr. Couriel suggested the use of biodegradable materials over plastic when events are going on.

Marie Chiarillo requested the Commission refrain from bringing up business that had nothing to do with Town business.

Roger Sage questioned reading of a decibel reading. He thought there should be some thought given to whether the Town should be a fun Town or a dead Town.

David Morin said he heard no complaints regarding the sound from the events. He questioned why the complainers did not come to the meetings.

Rosa Michailiuk suggested the Commission write something constructive in the newspaper. Ms. Michailiuk liked the Town the way it was.

Louis Marchelos said the Commission were individuals and should do the right thing when they vote. For the record, Mr. Marchelos requested that the ban which prohibited him and his brother from speaking to staff be dropped.

Spiro Marchelos had not yet received his retraction from a Commissioner for accusing him of forgery.

Frank Herrmann preferred rentals on a monthly basis.

Tracey Plunkett lived closest to the noise. She believed this Town was a live and the Commission should be doing everything they can to keep it that way.

Ben Feeny bought a decimeter and measured the noise in Jarvis Hall during the meeting at 65 to 75 decibels.

Frank Maness supported vacation rentals. He believed the Ordinance was important for short term, 2 to 3 day rentals as people did not respect the property.

Janet Deni said many people come to LBTS because they enjoyed the events and believed the Town was alive. She said they loved the area.

Diane Boutin preferred scenario # 2 of Mike Burton's Fire Assessment.

Mayor Minnet recessed the meeting at 8:50 p.m. and reconvened the meeting at 9:00 p.m.

6. REPORTS

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

Commissioner Silverstone made a motion to accept the report Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

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

Commissioner Dodd asked to receive a copy of the report on the swales and requested an update on the pavilion regarding drainage and the bike rack. Assistant Town Manager Olinzock said he would forward copies of the report and final inspections to the Commission.

Commissioner Clotley asked for the status on the light in Bel Air. Assistant Town Manager Olinzock advised that a lighting fixture was installed on the pole. He added he had daily contact with FPL regarding getting the light hooked up.

Commissioner Silverstone made a motion to accept the report Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

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

Commissioner Dodd made a motion to accept the report Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

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

Commissioner Dodd asked whether Chief Gooding knew when the extra cameras would be available. Chief Gooding did not have a date. Mayor Minnet inquired as to whether there were any registered noise complaints in the last 6 months. Chief Gooding said there were a few regarding multiple rentals and spring breakers.

Vice Mayor McIntee made a motion to accept the report Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

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

Commissioner Dodd asked Chief Perkins how long he drove a car and whether it made him a driving instructor. He asked if anyone in the fire department had any training in operating Seadoos. Chief Perkins said they had taken an on line boating course. He added that the Lifeguard Service ran a full 5 day course and brought Seadoos with them. Chief Perkins added that proper instruction was necessary to operate a seadoo. Commissioner Dodd asked whether Chief Perkins purchased a rescue sled.

Chief Perkins said they purchased one on their own. Commissioner Dodd read the minimum requirements to operate a Seadoo as per the U.S. Lifeguard Association and offered leaflets to Chief Perkins. He hoped that Chief Perkins would get together with him and sort out what was needed to get the volunteers up to speed. Chief Perkins said he had contacted licensed Seadoo drivers and Rescue that offered instruction. He added that the volunteers do have life jackets and helmets and believed that within the next month or so the VFD should be in the water and training.

Commissioner Clotley said there was a difference between a Certified Lifeguard and a Red Cross Certified Instructor. She wanted the Lifeguard to be Red Cross Certified.

Commissioner Silverstone clarified that the VFD bought another vehicle for rescue services and was in the process of making sure that the water rescue vehicles were properly maintained and that the VFD would be performing a rescue service and not a lifeguard service. Chief Perkins agreed. Commissioner Silverstone advised Chief Perkins that the VFD could contact the Commission when they encountered certain needs.

Vice Mayor McIntee asked whether the Town received 994 hours of station watch. Chief Perkins said that was 24/7 stand by for fire watch. Vice Mayor McIntee noted that that equated to \$80,000 of service that the Town received for nothing. He also noted that there were 73 hours of unpaid time on the ATV's. Vice Mayor McIntee clarified that the Town put the ad in the paper for a Swimming Instructor and not the VFD.

Mayor Minnet asked where the fire fighters stayed while on 24/7 standby. Chief Perkins said the VFD required one 24 hour stay and they stayed at the fire station where the fire trucks were. Mayor Minnet asked whether the VFD was looking at other condominiums to perform their drills. Chief Perkins said the VFD needed to obtain permission from the Condominium Boards and was currently waiting for the paper work to go through. Mayor Minnet inquired of a list of the VFD Board of Directors and whether it was available on the VFD web site. Chief Perkins said there were 5 people on the Board and the VFD was currently updating their web site.

Commissioner Dodd made a motion to accept the report Commissioner Silverstone seconded the motion.

Commissioner Silverstone asked whether one individual volunteer was paid to ride the ATV or if the \$200 went to the entire fire department. Chief Perkins said each person received \$10 each no matter how many hours that person was on the ATV.

In a roll call vote, the motion carried 5 - 0.

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

Commissioner Dodd asked for a brief outline regarding the Swine Flu epidemic and asked whether AMR was taking steps to take care of the Town should an outbreak

occur. Operations Manager Brooke Liddle said they had been in touch with Broward County Health Department and received updated bulletins. Mayor Minnet said current information was in the Commission mailboxes.

Vice Mayor McIntee inquired of the average response time. Operations Manager Liddle said it was 3 minutes and 9 seconds.

Commissioner Silverstone made a motion to accept the report Commissioner Dodd seconded the motion. In a roll call vote, the motion carried 5 - 0.

7. PUBLIC SAFETY DISCUSSION

8. TOWN MANAGER REPORT

a. Clarification of relocating bronze plaques to pavilion

Manager Colon wanted to know where in the pavilion the Commission wanted to place the plaques.

Commissioner Dodd said the original intention was just the 4 plaques at the portals that were in place to honor the Commission that served during the time the portals were erected. He said his idea was to have a Roll of Honor Board to honor past Mayors and Commissioners. Commissioner Dodd clarified that his intention was not to move the existing plaques from the portals into the pavilion.

Commissioner Dodd made a motion to direct staff to investigate a Roll of Honor Board and the costs. Vice Mayor McIntee seconded the motion.

Commissioner Clotney liked the idea of an honor board but believed the plaques should stay where they were. She did not like rewriting history.

Commissioner Silverstone did not think it was a good idea to put the plaques in the pavilion. He wanted to keep the pavilion open. Commissioner Silverstone suggested El Prado Park as a better location.

Commissioner Clotney believed a tradesman could make a circular plaque to put on the flag poles at the entryways.

Vice Mayor McIntee stated that plaques were placed all over town. He suggested chiseling the names of the Commissioners on the base of the flag poles at Town entryways.

Commissioner Dodd liked the idea but thought the names should be chiseled into the posts in the pavilion.

Commissioner Dodd withdrew his motion but asked town staff to come back with the

number of names, the scale of the lettering, the costs to put around the posts and/or around the base of the flag poles.

Manager Colon requested clarification as to whether he wanted to move the bronze plaques at the portals as per the minutes of April 8, 2008, or all the plaques. Commissioner Dodd said it was just the 4 bronze plaques at the portals.

Commissioner Dodd made a motion to relocate the 4 bronze plaques at the portals to the pavilion once the Roll of Honor Board was established. Commissioner Silverstone seconded the motion.

Vice Mayor McIntee clarified that the plaques would not be removed until there was a place to put them. Manager Colon wanted to know whether only the names would be inserted or install the complete bronze plaque. Commissioner Dodd said he wanted the plaques removed.

In a roll call vote, the motion carried 3 - 2. Mayor Minnet voted no. Commissioner Clotey voted no.

Manager Colon stated that she requested to have Lynn University added to the consent agenda. She stated that Lynn University agreed to do a concert on May 18, 2009 at the Community Church at 6:00 p.m. She said the Reverend agreed to the Spring Concert and requested \$250 donation. Manager Colon added that \$1,500 would be for the instrumentalists. She wanted the Commission to be aware that the previous stargazing concert cost \$12,000.

Manager Colon wanted to clarify that in conjunction with the Boat Ordinance, all boat registrations had been done on current boat owners and the applications.

Mayor Minnet questioned the status of the Public Safety Building. Manager Colon said BSO submitted a plan that was currently being reviewed by Broward County and she had received a partial list. She said once all the information is received she will sit with staff and proceed.

Mayor Minnet inquired of the trailer that housed Code Enforcement and Development Services. Manager Colon said once BSO and Code Enforcement was relocated the trailer would go up for sale. Mayor Minnet inquired of any prospects on the sale of the building. Manager Colon said there were 6 inquiries. She added that 3 of the 6 felt the building was too large and the Town was looking into leasing part of the building to one of the interested parties.

9. APPROVAL OF MINUTES

a. April 14, 2009 Regular Meeting Minutes

Clerk White pointed out a correction was made to the spelling of a resident's name in the Public Comments section. There were no other corrections, additions or deletions to the minutes.

Commissioner Dodd made a motion to approve the minutes of April 14, 2009 Regular Meeting Minutes. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5 - 0.

10. ORDINANCES

1. Ordinances 1st Reading - "Public Comments"

- a. 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 to public comments.

Diane Boutin hoped the ordinance would carry a provision for public safety such as the issuing of occupational licenses, fire safety inspections, sales tax and insurance.

Joe Couriel thought the Ordinance opened a can of worms. He did not want transients in his neighborhood as it brought a lot of problems.

Barbara Cole thought the Ordinance was going in the right direction.

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

Mayor Minnet asked whether there were 2 ordinances; 1 for resident rentals and 1 for vacation rentals. Attorney Trevarthen said that on page 4 changes were made to Section 12-2 that required business tax receipts, inspections, and a registered agent. She stated that the vacation rental was referenced in the Land Use section of the Code and is so indicated on page 7 of the Ordinance.

Vice Mayor McIntee did not believe the Ordinance went far enough. He felt it should be at a minimum of 3 months to ensure the quality of the people were sustainable to the neighborhood.

Commissioner Dodd believed the Ordinance was realistic and if there was a problem the police could be called.

Commissioner Silverstone questioned Chief Gooding regarding recent problems with spring breakers. Chief Gooding said it was multiple complaints against one landlord and BSO had spoken to that landlord and the problem was solved. Chief Gooding said BSO had not had previous occasion to cite residents for noise.

Vice Mayor McIntee questioned the procedure. Chief Gooding said that a notice to appear would be issued and the landlord was contacted.

Commissioner Clottey thought they should be going after the owner and not the renter.

Commissioner Silverstone questioned whether there was a problem issuing a penalty to the owner of the property. Attorney Trevarthen stated that if the owner was found to be in violation they could lose their right to rent.

Commissioner Dodd made a motion to adopt Ordinance 2009-19 on first reading with the recommendations from the Planning and Zoning Board. Commissioner Clottey seconded the motion.

Attorney Trevarthen clarified that the Ordinance presented contained the recommendations from the Planning and Zoning Board.

In a roll call vote, the motion carried 5 - 0.

- b. 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; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

Attorney Trevarthen read Ordinance 2009-20 by title.

Mayor Minnet opened the meeting to public comments.

Barbara Cole wanted to know how the rental agent would be notified. She believed notification should be by certified mail.

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

Vice Mayor McIntee made a motion to adopt Ordinance 2009-20 on first reading as amended to include certified mail and regular mail notification. Commissioner Silverstone seconded the motion.

Commissioner Dodd agreed that a matter of this importance should be sent certified mail.

Attorney Trevarthen stated the Commission amended the Ordinance to insert the word "certified". Commissioner Dodd accepted that as an amendment to the motion. Vice Mayor McIntee believed it should say "certified mail and regular mail". Commissioner Dodd accepted.

In a roll call vote, the motion carried 5 - 0.

- 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

Attorney Trevarthen read Ordinance 2009-21 by title.

Mayor Minnet clarified that the period to submit a Notice to Disconnect Solid Waste pickup was changed to 30 days from 90 days.

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

Commissioner Dodd made a motion to adopt Ordinance 2009-21 on first reading. Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 4 - 1. Mayor Minnet recused.

2. Ordinances 2nd Reading - "PUBLIC HEARING"

- a. Ordinance 2009-18: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 19-26 OF THE CODE OF ORDINANCES TO CREATE A BEACH PARKING PERMIT AND REVISE PARKING PERMIT REGULATIONS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE (Approve 1st reading March 24,

PARKING PERMIT REGULATIONS; PROVIDING FOR SEVERABILITY;
CODIFICATION; AND AN EFFECTIVE DATE (Approve 1st reading March 24,
2009)

Attorney Trevarthen read Ordinance 2009-18 by title.

Mayor Minnet opened the meeting for public comments.

Barbara Cole thought the Ordinance was a mistake and should be kept as residential. She believed the Ordinance was done for a few people that could use it occasionally.

Joe Couriel did not believe 12 to 15 spaces for beach parking were enough.

Diane Boutin stated that LBTS was a walking Town and by having annual permits at \$20 it would take revenues away from the Town.

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

Commissioner Silverstone made a motion to adopt Ordinance 2009-18 on second reading. Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

11. COMMISSIONER COMMENTS

Vice Mayor McIntee believed the 4th of July was a Town event for the kids and should not have any other event on the same night. He believed that a public street belonged to everyone and there should be a charge for the use of that public street. Vice Mayor McIntee believed the money obtained for those events would help pay for Town sponsored events such as the 4th of July. He also believed it should be a 3 month event and should be re-evaluated at the end of those 3 months.

Mayor Minnet thanked the Garden Club for a wonderful Earth Day event and for planting the tree in front of Town Hall. She reminded everyone there was a workshop on May 13, 2009 to discuss the fire department, the height limit and capital assets charter referendums. Mayor Minnet reminded everyone that June 9, 2009 began the budget process.

Commissioner Clotey said that Broward County Metropolitan Planning Organization (MPO) was planning a turning lane for sun pass only at the Homestead Extension. She added that the MPO also planned on placing paved lanes through Broward County and Palm Beach County so that the Counties could be part of the Metropolitan Transportation system. She added that Dade County added a lane but made the other lanes narrower. Commissioner Clotey advised people to contact Broward County Vice Mayor Ken Keechl with their opinions. Commissioner Clotey stated that the issue with the Noise Ordinance was not with the music, but with loud music late at night. She

Town should spend \$1 million to beautify the median; the whole area should be looked at.

Commissioner Silverstone asked whether Lauderdale-By-The-Sea could pay off debt with the cash on hand. Manager Colon said yes. Commissioner Silverstone stated that it was important to maintain a healthy balance in Town between residential and commercial. He believed the Town was being maintained in a healthy state.

Commissioner Dodd passed on making comments in the essence of time.

At this time Old Business item 15b - kite surfing, New Business item 16b - award of bid for 4th of July, and Consent item 12j - Lynn University Spring Concert was brought forward for consideration prior to the Consent Agenda.

Old Business item 15b: Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee)

There were 15 people present regarding the kite surfing item. Vice Mayor McIntee informed them that the Commission would hear from one person as the representative for the group rather than from each individual.

Attorney Trevarthen said she was asked whether activity could be regulated differently for residents and non residents. In her opinion there was no basis on which they could regulate. She said there would have to be a specific reason to discriminate. Vice Mayor McIntee pointed out that not a single kite surfer at the meeting was a resident. He asked why the kite surfers did not go to Ft. Lauderdale or Pompano Beach. Mr. Mike O'Keefe said that Ft. Lauderdale was too crowded and Pompano Beach banned kite surfing. Vice Mayor McIntee said the residents of the Town were not happy with the kite surfing and he had to consider the residents.

Mayor Minnet clarified that there were residents at the last meeting that this item was on the agenda. She said she received only 2 complaints against kite surfing.

Commissioner Silverstone felt some people were abusing the sport. He believed a license to teach should be required. Commissioner Silverstone questioned how anyone would be able to regulate the numbers and keep it at a reasonable level.

Commissioner Dodd believed the beach should be enjoyed by everyone. He was in favor of designating a certain area for kite surfing provided there would be no teaching and/or instruction. Commissioner Dodd favored a \$50 permit and to allow Mr. O'Keefe to do the policing.

Attorney Tevarthen advised that the Town Code of Ordinances, Section 14.3.5a created a procedure but Town Manager approval was required.

Commissioner Dodd made a motion to require a \$15 permit fee and to sign an affidavit that the kite surfer was competent. Vice Mayor McIntee questioned whether an Ordinance would be needed to require a permit. Attorney Trevarthen said that the Code of Ordinances already had park regulations that encompassed it, but more specific things could be written into the code.

Rick Iossi, Director of the Florida Kite Surfing Association agreed with a license and insurance requirement for instruction on the beach. Commissioner Silverstone asked whether regulations that only permitted kite surfing past the buoy system would work for the kite surfers. Mr. Iossi believed it could work in congested areas. He added that when the winds were good for the kite surfers it was bad for everyone else.

Vice Mayor McIntee inquired of the average speed in kite surfing and whether it could be fatal if a surfer hit someone. Mr. Iossi said the average speed was in the low 20 miles per hour. He added that there have been no fatalities in Broward County. Commissioner Dodd asked whether 95% of the accidents involved kite surfers and not the bystanders on the beach. Mr. Iossi said that was generally the case.

Commissioner Silverstone thought it would be beneficial to get together and discuss ideas on how to do it. He made a motion to defer for one month, to May 26, 2009. Rick Iossi agreed to come back with a recommendation. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

New Business 16b: Commission approval of Vendor for July 4th Beach Blast Celebration 2009 Fireworks Display - \$15,000.00 (Assistant Town Manager Olinzock)

Manager Colon explained there were 2 vendors that submitted a bid.

Barbara Cole had a problem with the way the bid was done. She also wanted to know who met with the turtle people and how they met with them. Ms. Cole believed there should be more discussion as to where the fireworks should be as she was concerned with strong winds.

Mark Furth said his recommendation was to go with Melrose Pyrotechnics at \$15,000. He felt that Zambelli did not do a good job last year.

Mayor Minnet was concerned with the Marine Turtle guidelines that prohibit lighting after 9:00 p.m. Mr. Furth said it did not matter where the fireworks were shot off as he had spoken with Lou Fisher and Mr. Fisher concurred that whether the fireworks were on the beach or off the beach the time was still 9:00 p.m. Mr. Furth also stated that Mr. Fisher said that a Platform would not need to be built.

Mayor Minnet received a letter from the National Save the Turtle Foundation that objected to any activity on the beach during the turtle nesting season. Mayor Minnet asked whether the Turtle Ordinance prohibited fireworks. Attorney Trevarthen said she saw nothing but would continue to look.

asked whether the Turtle Ordinance prohibited fireworks. Attorney Trevarthen said she saw nothing but would continue to look.

Mr. Furth said the fireworks could be shot from a barge for another \$30,000 to \$40,000. He said he would do everything not to harm the sea turtles.

Commissioner Clottey wanted to know if everything would be done by 9:00 p.m. Mr. Furth said the fireworks could be shot off at 8:30 p.m. He added that most did not start until about 8:30 p.m.

Commissioner Dodd asked whether there were any assurances or promises made to Melrose Pyrotechnics. Mr. Furth said he made no promises. Commissioner Dodd believed Zambelli had more bang for the buck. He asked whether Melrose Pyrotechnics would give back money for shots that did not go off. Mr. Furth said it would be whatever was written in the contract.

Commissioner Silverstone did not feel that everyone was working as a team. He believed the Commission should be helping Mr. Furth. Commissioner Silverstone advised Mr. Furth that he could count on him.

Vice Mayor McIntee pointed out that other municipalities including the City of Hallendale were shooting fireworks off the beach. Vice Mayor McIntee stated that Mr. Furth had established community trust that he would do the right thing for the Town and for the people.

Commissioner Silverstone made a motion to approve Vice Mayor McIntee seconded the motion. In a roll call vote, the motion carried 5 - 0.

Consent Item 12J: Lynn University – Spring Concert May 18, 2009 – Community Church at 6:00 PM - \$1,750.00

This item was added earlier in the evening.

Commissioner Clottey advised that faculty was doing the concert and not the students and that they had played around the world. She said it would be at the Church Hall on either Monday, May 18, 2009 or Friday, May 22, 2009.

Mayor Minnet noted the costs at \$250 for the Community Church and \$1,500 for the Instrumentalists, for a total of \$1,750.

After brief discussion the Commission agreed to May 18, 2009.

Vice Mayor McIntee made a motion to approve for May 18, 2009. Commissioner Silverstone seconded the motion. The motion carried 5-0.

Mayor Minnet recessed the meeting at 11:35 p.m. to April 29, 2009 at 4:30 pm.

12. CONSENT AGENDA

- a. Award of annual Electrical Maintenance Agreement with Imperial Electrical, Inc. for Maintenance of Equipment in Town properties (Assistant Town Manager Olinzock)
- b. Award of annual Streetlight Maintenance Agreement with Imperial Electrical, Inc. for Maintenance of Streetlights throughout Town (Assistant Town Manager Olinzock)
- c. Commission approval of 3rd amendment for the community bus with Broward County (Manager Colon)
- d. Commission approval of Special Event Permit application for LBTS Chamber of Commerce Event "Lauderdale-By-The-Sea Craft Festival", Saturday, October 31, 2009, 5:00 AM thru Sunday, November 1, 2009, 9:00 PM (Assistant Town Manager Olinzock)
- e. Commission approval of Special Event Permit application for Village Grille's "Jazz in the Square" event, every Friday evening, 4:30 PM till 11:30 PM, May 16, 2009 thru May 15, 2010 (Assistant Town Manager Olinzock)
- f. Commission approval of Special Event Permit application for Athena by the Sea's "Music by the Sea" event, every Saturday evening, 4:00 PM till 11:00 PM, May 28, 2009 thru May 27, 2010 (Assistant Town Manager Olinzock)
- g. Commission approval of agreement for Stormwater System Design on Commercial Boulevard east of El Mar Drive with Holland Engineering Inc., in the amount of \$3,500.00 (Assistant Town Manager Olinzock)
- h. Commission approval to authorize the recording of the attached Code Enforcement lien - 1749 SE 19th Avenue (Assistant Town Manager Olinzock)
- i. Commission approval of amendment to existing agreement with Enforcement Technology, Inc. for Processing Parking Citations - \$2,100.00 (Assistant Town Manager Olinzock)
- j. Lynn University – Spring Concert May 18, 2009 – Community Church at 6:00 PM - \$1,750.00

This item was considered earlier in the evening

13. RESOLUTION - "Public Comments"

- a. Resolution 2009-13: A RESOLUTION OF THE TOWN COMMISSION OF THE

SALES SURTAXES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR EFFECTIVE DATE (Requested at the April 20, 2009 Commission meeting by Mayor Minnet)

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

- a. Selection by Town Commission of design for custom banners in the Hospitality and Business District of Town (Assistant Town Manager Olinzock)
- b. Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee)

This item was considered earlier in the evening.

- c. Discussion and/or action to change the passes at Bougainvillea Parking Lot to the portals for employees of the Broward County Sea Turtle Conservation Program (Mayor Minnet) This item was deferred to the April 28, 2009 Commission meeting by Commissioner Clotey
- d. Discussion and/or action concerning lack of lighting in the Pavilion with regard to public safety (Commissioner Dodd) This item was deferred to the April 28, 2009 Commission meeting by Commissioner Dodd

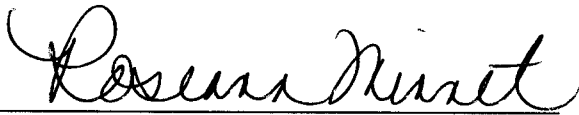
16. NEW BUSINESS

- a. Discussion and/or action regarding the setting of Budget Workshops and Special Commission meetings and Public Hearings for Fire Assessment, Millage, Budget and TRIM (Clerk White)
- b. Commission approval of Vendor for July 4th Beach Blast Celebration 2009 Fireworks Display - \$15,000.00 (Assistant Town Manager Olinzock)

This item was considered earlier in the evening.

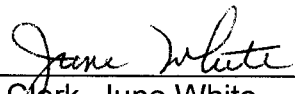
- c. Discussion and/or action for an Ordinance to ban "totters" from prowling the streets of Town stealing valuable recycling material from the refuse collector (Commissioner Dodd)
- d. Discussion and/or action regarding a directive to the Town Manager to inform all Commissioners whenever there is a fatality in Town from anything other than natural causes (Commissioner Dodd)
- e. Discussion and/or action regarding the continuation of Commission meetings. Proposal to approve automatically continuing on the next evening at 21:00. Users of Jarvis Hall (P&Z and P.O.A.) please take note not to book the Wednesday after

- a Commission meeting (Commissioner Dodd)
 - f. Request for Workshop to discuss sound Ordinance before second reading of proposed new Ordinance (Commissioner Dodd)
 - g. Discussion and/or action to hold a Workshop to discuss lighting on El Mar Drive, the pavilion & Minto parking lot (Commissioner Dodd)
 - h. Move monument at El Prado Park back to it original location. Its present location is somewhat problematic during special events. Since Minto is still doing construction in the area they could be asked to move it for a nominal sum (Commissioner Clottey)
 - i. Place shields on every third street light on El Mar Drive, the Minto Parking Lot, and A1A (Commissioner Clottey)
17. TOWN ATTORNEY REPORT
18. ADJOURNMENT
19. FUTURE AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

5/27/09

Date



04-30-2009 P 1

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

LAST NAME—FIRST NAME—MIDDLE NAME MINNET ROSEANN Alexis		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE MAYOR	
MAILING ADDRESS 2000 S Ocean Blvd Apt 11E		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY TOWN	
CITY LAUDERDALE BY THE SEA	COUNTY Broward	NAME OF POLITICAL SUBDIVISION: LAUDERDALE BY THE SEA	
DATE ON WHICH VOTE OCCURRED APRIL 14, 2009		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

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 April 28, 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 a 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 Landudale-By-the-Sea to provide Sanitation-Waste collection Services

April 30, 2009

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.