

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

March 25, 2009 continued from March 24, 2009

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Wednesday, March 25, 2009

3:30 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 3:30 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clotey 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

11. COMMISSIONER COMMENTS

Commissioner Silverstone jested that he was upset with Vice Mayor McIntee as he was woken on his beeper for a structure fire at Sea Ranch Lakes. He said that when he arrived Vice Mayor McIntee told him that the fire was already out. Commissioner Silverstone said he will no longer pay attention to the negative comments. He was proud to be a member of the VFD.

Commissioner Dodd said he reviewed the bid for an electrical contract and believed the holiday rate for a skilled electrician was a bit much. He said the Waste RFP also turned up some issues. He wanted to know the 3 largest RFP's and put them on notice that if they want the Town's business they would need to earn it with competitive bids. He asked Manager Colon to prepare a list of RFP's above \$15,000 in value, including the financial audit, and their due dates, and approximate value. Commissioner Dodd thought it would afford the Commissioner's a chance to decide how much public input was needed.

Commissioner Dodd had not yet seen any information regarding the July 4th celebrations and inquired of the lack of discussion regarding the costs involved for the celebration. Commissioner Dodd looked forward to next roundtable and asked that the Commissioners stay after one hour as there were many items he wanted to discuss. Commissioner Dodd thanked Sandra Booth, the University staff and students and everyone that was involved in the El Mar Drive Beautification project and

looked forward to seeing the final drawings. He thanked the Garden Club for their excellent show.

Vice Mayor McIntee said he arrived quickly to the fire because he lived around the corner. He said he was surprised to see Officer Jacobson already banging on doors.

Vice Mayor McIntee explained that Marc Brown accused him and Commissioner Silverstone of 7 violations and the Commission on Ethics assigned 2 investigators to the complaints and they all came back negative. Vice Mayor McIntee stated that the Commission on Ethics dismissed the case.

Vice Mayor McIntee said he was told that no one would place a bid in this Town, yet 5 bidders came forward and placed their proposals for trash.

Mayor Minnet announced the non-emergency phone numbers once more 954-765-4321 and reminded everyone that 911 was always available. She said she looked forward to a positive review from ISO.

Mayor Minnet gave credit to the Garden Club for their Caribbean Carnival event and advised that their Earth Day event was on April 22, 2009. She reminded everyone of Earth Hour on March 28, 2009 from 8:30 p.m. to 9:30 p.m. Mayor Minnet explained that Earth Hour was an opportunity to turn off non-essential lighting for 1 hour. She reminded everyone of the Pavilion Ribbon Cutting ceremony on April 6, 2009.

Mayor Minnet stated that it was time to get involved with the budget. She suggested looking at other agencies that could service the building department at a lower cost. Mayor Minnet stated that the Town had gone out to bid for garbage pickup. She said the people will save money and the service will remain the same.

Commissioner Clotey gave credit to the Garden Club for the nice things they did. She announced Easter by the Sea event on April 11, 2009 at 10 a.m. and encouraged everyone to attend the Pavilion Ribbon Cutting ceremony on April 6, 2009 at 7:00 p.m.

Commissioner Clotey felt there was a problem that the residents were afraid to call police because of reprisal. She clarified that people were afraid that their call would be a public record. She specified that if people do not call the police with their complaints the police can not respond or handle the problem.

Commissioner Clotey thought that perhaps a code officer could go out with a decibel monitor and ask for the noise to be turned down and that would require an ordinance to enforce. She asked for the Ordinance to be written by the Town Attorney.

12. RESOLUTION - "Public Comments"

- a. Resolution 2009-12: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING RESOLUTION**

2009-05 ESTABLISHING FEES FOR PARKING IN METERED PARKING SPACES; TO ALLOW FOR BEACH PARKING; EFFECTIVE APRIL 1, 2009

Commissioner Dodd asked for clarification from the Town Manager to verify whether or not the Town was in the black. Vice Mayor McIntee said they could not discuss it since it was not on the agenda and should be placed on the next agenda.

Commissioner Clotey stated that Commissioner Dodd needed to understand that "in the black" meant that the town remained within their operating budget.

Attorney Trevarthen read Resolution 2009-12 by title. She pointed out that the Commission decreased the rate from \$50 to \$20 annually.

Mayor Minnet opened the meeting for public comments.

Lawrence Wick said there was two permits and wanted to make sure staff had the right amount for each parking permit. He asked the Commission to go up to \$20 for beach permits.

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

Commissioner Silverstone was willing to give it try. He was concerned that the Town might fall into "the red" by lowering the fee to \$25. Manager Colon said it would not.

Commissioner Clotey felt the fee should stay the same as beach parking. She did not believe it was worth more. Commissioner Clotey wanted to include "no overnight parking" for resident and beach parking.

Mayor Minnet clarified that beach parking permits were reduced to \$20 and there would be no parking between 2:00 a.m. and 6:00 a.m. She believed that passed under Ordinance for 1st reading. Attorney Trevarthen noted that the "no overnight parking" was limited to beach permit parking. She added that should the Commission desire, Exhibit A could be revised.

Commissioner Clotey made a motion to change the fee for resident parking permits to \$20 and to include no overnight parking. Attorney Trevarthen explained the motions would have to be done separately as the Ordinance would have to be amended to include "no overnight parking".

Vice Mayor McIntee clarified that if someone wanted to park at the beach they would need 2 permits.

Commissioner Dodd wanted to include in the motion a 3 hour limit as part of the Ordinance. Mayor Minnet advised it would be taken as a separate motion to Commissioner Clotey's motion.

Commissioner Clotey made the motion to change the rate for a resident parking permit from \$50 to \$20 and the rate for a beach parking permit from \$50 to \$20. Commissioner Dodd seconded the motion. The motion carried 5-0.

Attorney Trevarthen would bring back the Ordinance for 2nd reading with the change to include the 2:00 a.m. to 6:00 a.m. exclusion and a 3 hour parking limitation for resident parking.

13. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS

a. Commission direction to Town Attorney regarding Rental Ordinances revision (Manager Colon)

Manager Colon received many calls regarding rentals. She wanted direction given to the Town Attorney to give teeth to the current Ordinance so that police and Code Enforcement could enforce it.

Vice Mayor McIntee made a motion to direct Manager Colon to direct the Town Attorney draft an Ordinance that would be enforceable. Commissioner Silverstone seconded the motion. Commissioner Silverstone said it was disrespectful when neighbors caused the problem. He agreed something should be done to allow enforcement.

Commissioner Clotey said there were a couple of bad houses in Bel Air. She said most of the problems were caused by weekly renters. She felt a restriction on the time and the amount of properties would suffice.

Attorney Trevarthen said she would discuss the issues with Manager Colon. She had ideas but needed a consensus from the Commission as to what to include and asked for guidance on policy.

Commissioner Dodd thought that one rental every 7 months was not the correct route. He felt that short term rentals should be defined as once a month with the names of the renters registered with the Town. Commissioner Dodd believed that if the person rented more than once fines should increase to \$100 per day or send an invoice for whatever it cost to enforce.

Mayor Minnet believed enforcement was a major problem and needed stronger enforcement. She did not want to penalize those who did the right thing.

Lt. Cedeno stated he would recommend removing the person that caused the problem from the rental property. Vice Mayor McIntee thought people would be afraid to make the complaint. Lt. Cedeno said a fine would just keep getting paid and the problem

would not go away.

Attorney Trevarthen advised that it was not legal to draw a distinction between an owner that lives in his/her house and people that rent long term but it was legal to address short term rentals. She requested guidance on policy.

Commissioner Silverstone suggested treating the issue as a land use problem. Manager Colon suggested that the Commission address the issue now if they wanted to resolve the issue immediately, otherwise they could use the Land Use Code.

Attorney Trevarthen advised that the process involved in the Land Use Code would take time, but could look at an exception which would move it more quickly through to the Planning and Zoning Board for 1st and 2nd reading. Commissioner Silverstone believed the Town Manager and the Town Attorney understood the problem facing the Town. He was not in favor of renting for a month or less.

Commissioner Dodd believed that by including in the Ordinance, a heavy fine along with taking away the owners right to rent, the message would get across to the owner and the Town would be able to enforce.

Commissioner Clotey wanted to see it processed immediately.

Vice Mayor McIntee made a motion to move forward immediately with the action the Town Attorney felt was the most appropriate way to bring under control and make enforceable and bring back as soon as possible. Commissioner Silverstone seconded the motion. Attorney Trevarthen advised it would need to go to the Planning and Zoning board first. Mayor Minnet clarified that the Ordinance would go before the Planning and Zoning Board on April 15, 2009 and back before the Commission on April 28, 2009. The motion carried 5-0.

- b. Discussion and/or action regarding RFP 09-02-01, Waste Haulers (Manager Colon) This Item was Considered at the March 24, 2009 Commission Meeting

16. NEW BUSINESS

- a. Discussion and/or action concerning current placement of Public Comments in the agenda and the order of the speakers - requested by Liliana Pomareda (Commissioner Dodd)

Commissioner Dodd made a motion to move public comments to follow presentations. Commissioner Silverstone seconded the motion.

Ms. Pomareda thanked the Commission and believed a lot of residents would be happy to hear that their comments would be heard earlier.

The motion carried 5-0.

b. Discussion and/or action concerning permit fees charged to the Chamber of Commerce over the Taste of the Beach or other events (Commissioner Dodd)

Commissioner Dodd stated that the Chamber of Commerce had to pay \$1,000 to Broward County to put on the Taste of the Beach event and asked that the Town make a strong request to have Broward County waive those fees.

Commissioner Dodd made a motion for the Town Manager to write to Broward County on behalf of the Chamber of Commerce to litigate the fees as he felt the function was a community event. Commissioner Silverstone seconded the motion for discussion only. He said he would not object if the Chamber of Commerce wanted to offset their costs to the County if the Chamber of Commerce waived the fees charged to the businesses in order to participate in the Taste of the Beach event.

Commissioner Clotey questioned whether the Town had to pay Broward County for their events also. Manager Colon said they did. Commissioner Clotey felt that if the Town had to pay they would make the Chamber pay. Commissioner Dodd felt that the County was getting a free ride on their own permit fees for events that benefited the community. Commissioner Clotey agreed that it seemed that Broward County charged to have an event in their own community.

Commissioner Clotey offered a friendly amendment that fees are litigated not only the Chamber of Commerce but for all events of the Town and any non-profit organization.

Commissioner Dodd accepted the amendment. Commissioner Clotey seconded the motion. The motion carried 4-1. Commissioner Silverstone voted no.

c. Discussion and/or action to increase police beach patrols (Commissioner Silverstone)

Commissioner Silverstone received complaints that the beach was not being adequately patrolled. Lt. Cedenio said there was 23 1/2 hours of beach patrol that consisted of 124 miles. He said BSO was looking into a grant to obtain another ATV and was pushing staff to increase ATV training.

Lt. Cedenio continued discussion regarding the lack of placing calls to the police when residents believed there was a problem. He did not understand why the residents did not take advantage of the non-emergency number. Lt. Cedenio said he took it personally that the residents were afraid of retribution and wanted to dispute that concern as retribution did not come from BSO.

Vice Mayor McIntee clarified that the people were not afraid of the police; they were afraid of the people they were complaining about. Lt. Cedenio thanked the Vice Mayor for clarifying that. Vice Mayor McIntee suggested use of the police radio to increase the eyes and ears on beach patrol. Lt. Cedenio said the radio only required a designator.

Commissioner Clotey wondered whether beach patrol would spotlight the homeless on the beach. Lt. Cedenio said they would.

- d. Discussion and/or action to hold a Town meeting with an independent facilitator with the objective to work out Commissioner issues with Town staff and each other. The goal is to further increase the efficiency of Town government (Commissioner Silverstone)

Commissioner Silverstone said that the State had facilitators and suggested inviting them prior to a roundtable meeting to give ideas as a way to aid with Commission direction.

Mayor Minnet inquired of the costs. Manager Colon said a facilitator for the Florida League of Cities would cost \$5,000 for an all day event. She added that the Commission could participate in the consortium classes instead but would have to wait until it was available again.

Commissioner Clotey was concerned with Sunshine and did not think that the Commission would want to be on TV during those classes.

Attorney Trevarthen advised that it would be posted as a public meeting but did not have to be televised. She said this was commonly done across the state when changes occurred.

Commissioner Silverstone thought things were getting better and the classes may not be needed. Commissioner Dodd suggested the Commission discuss it during roundtable.

- e. Noise Ordinance: Music is very loud and neighbors are complaining. Should we be having weekend long event with music all afternoon and evening? (Commissioner Clotey)

Commissioner Clotey made a motion to have the Attorney look at the current Ordinance and draw it up so that Code Enforcement had the power to investigate and enforce. Vice Mayor McIntee seconded the motion with an amendment to expedite the process. Commissioner Clotey accepted the friendly amendment.

Louis Marchelos wanted to know how many people complained and how was someone to know if no one told him. He said that common sense was to call the police, or, as a neighbor, give the owner the option to solve the problem. Louis Marchelos asked Commissioner Clotey why she had not called him immediately so he could take care of the problem. He said taking punitive action supported a personal agenda by the Vice Mayor against Athena's Restaurant. Vice Mayor McIntee believed that Mr. Marchelos made a personal attack and asked to have him removed. Mayor Minnet refused.

Vice Mayor McIntee made a motion to overrule the Chair. Commissioner Silverstone seconded the motion. The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no. Mr. Marchelos was removed.

Spiro Marchelos wanted to know why the police was not informed. He wanted to know why the police wasn't informed of any disturbance. Mr. Marchelos wanted to know who complained, why they complained, when they called and at what time they called. He requested fair treatment.

Commissioner Clotley stated that she never said the complaint was against Louis or Spiro Marchelos. She said the complaint was against 101 Ocean. Commissioner Clotley believed she was attacked for no reason and Louis and Spiro Marchelos owed her an apology.

Vice Mayor McIntee clarified that everyone would be affected by the sound ordinance and no one would be singled out. He said when a complaint was made against one restaurant all the restaurants were looked at to keep it fair.

Commissioner Silverstone pointed out that one of the reasons why people were afraid to call the police with a complaint was in relation to the request for the names of the people who complained.

Mayor Minnet said she received calls regarding the noise from motorcycles along A1A. She understood that the Town of Lauderdale-By-The-Sea was a beach Town and sound carried along the water. She understood that the combination of events containing music and motorcycles was problematic. Mayor Minnet said she would make sure that back to back events would not occur in the future. Mayor Minnet suggested discussion regarding a stronger Ordinance that would address the issues.

Manager Colon said that calls were taken against the Village Grille and 101 Ocean on St. Patty's Day. She hoped the decibel-meter would have an effect.

Commissioner Dodd stated that he would support any method that would determine the noise level was acceptable and if not, to enforce it.

Commissioner Clotley believed the Ordinance would give Code Enforcement the right to go out there and enforce the code.

The motion carried 5-0.

- f. Commission approval of Hold Harmless and Indemnification agreement for 223 Bombay Avenue (Assistant Town Manager Olinzock) This Item was Considered at the March 24, 2009 Commission Meeting
- g. Commission approval for replacement trees at 4521 N. Seagrape Drive to be Canary Island Date Palms in the amount of \$11,763.60 in lieu of the Royal Palms previously approved by Town Commission in the amount of \$480.00 (Assistant Town Manager Olinzock)

Assistant Town Manager Olinzock said he received a request from the resident to replace the trees with canary palms.

Mayor Minnet verified that the Commission previously approved 2 trees at \$480. Vice Mayor McIntee stated for the record that Ms. Vassel did not want the trees if they cost \$11,763.60. Assistant Town Manager Olinzock confirmed that was the cost of the trees. Manager Colon said Ms. Vassel provided two nurseries that staff called and validated canary palms could not be purchased for less than \$10,000.

There was no further discussion.

Vice Mayor McIntee made a motion to have dress down when Commissions meeting were recessed to a 2nd day. The motion failed for lack of a second.

17. TOWN ATTORNEY REPORT

Attorney Trevarthen asked the Commission to work with her regarding wording a motion and distinguishing between a motion to table and a motion to continue to a date certain. She explained that under Robert's Rule a motion to table, accompanied by a date is converted to a motion to continue and then becomes debatable and amendable.

Manager Colon advised the Commission that there was a sinkhole located at the pavilion. She said the estimate to fix the sinkhole was \$5,755. Manager Colon explained that the properties north and south of the pavilion were impacting the drainage system of the pavilion. She said by law private properties were not aloud to discharge on to public properties. Manager Colon said she would go through the emergency repair for the sinkhole and that she was working with the Town Engineer and Department of Environmental Protection to provide the Commission with alternative solutions to resolve the drainage problems.

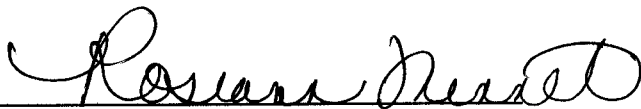
Vice Mayor McIntee wanted to know if the situation was serious enough to have a special meeting. Manager Colon explained that the back problem will be resolved however; there were existing conditions that would impact the drainage system as we have the heavy rains. She said the Commission will have a special meeting once the report is received from the Town Engineer explaining the severity of the situation.

Commissioner Dodd wanted to know what created the situation. Manager Colon said apparently water from the parking lots from properties north and south of the pavilion was discharging into Commercial Boulevard drains.

Vice Mayor McIntee made a motion to adjourn. With not further business before the Commission, Mayor Minnet adjourned the meeting at 5:20 p.m.

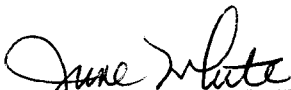
18. ADJOURNMENT

19. FUTURE
AGENDA ITEMS



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

4-16-09

Date

