

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

Continuation of January 13, 2009 Commission Meeting

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Thursday, January 22, 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. Present were Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, Commissioner Birute Ann Clotey. Also present were Town Attorney Richard Weiss, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Vice Mayor McIntee asked to amend the agenda to add a serious matter regarding Palm Club. Commissioner Clotey requested the addition of a 911 call incident and for it to follow Vice Mayor McIntee's Palm Club item. Mayor Minnet allowed the amendments by motion. Vice Mayor McIntee made a motion to amend the agenda to add the two items for discussion. Commissioner Silverstone seconded the motion. All voted in favor.

3a. PALM CLUB: Discussion and/or action (Vice Mayor McIntee)

Vice Mayor McIntee wanted Manager Colon to pursue the Shovels in the Ground Federal Grant to get the grant for the Palm Club Sewer project. Commissioner Silverstone seconded the motion. Commissioner Silverstone wanted to move forward as quickly as possible. Manager Colon said the sending of the documents were delayed due to public records requests and litigation questions.

Vice Mayor McIntee made a motion to direct Manager Colon to apply for the Federal Grant funds. Commissioner Silverstone seconded the motion. Commissioner Dodd questioned whether the Town would be required to match some part of the funding. He thought that it should be something to consider as it may have to come back before the Commission for reconsideration. All voted in favor.

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3b. 911 CALL: Discussion regarding the 911 call (Commissioner Clotley)
Commissioner Clotley recognized that across the country there were mix ups with the 911 dispatch. She said she always had questions on the 911 dispatch and had gone to the 911 center and listened carefully. Commissioner Clotley said the United States Post Office changed the names of the streets in Bel Air years ago from names to numbers. She added that the explanation for the change was for the preparation of annexation into Pompano Beach. She felt that the 911 calls were not being dispatched properly.

Edmond Malkoon heard someone scream for the police and saw a man walking down the street. Mr. Malkoon called 911. When he realized nothing was happening he called the local office and was told dispatch was re-routed. Commissioner Clotley pointed out that it had nothing to do with our local police or local fire; the problem was with dispatch and their training.

Chief Gooding had spoken with Mr. Malkoon twice about the call. Chief Gooding explained that when a cell phone is used to call 911 there were a lot of factors that went into it; the service, the number of calls that go through the towers and/or the strength of the signal. He explained further that 3 calls could be made from one cell phone in the same place and dispatch would be sent to 3 different places. Chief Gooding said they were constantly working on it. He suggested that the Director of Communications come to the next meeting to explain the process. Mayor Minnet thought it was a great idea and expected to see him at the next meeting.

Vito Chiarlillo was not aware of any such problem in Terra Mar Island.

Vice Mayor McIntee agreed that the call made for the incident at 1500 S. Ocean Drive was made from a cell phone. He emphasized the importance of making an emergency call on a land line.

Commissioner Silverstone stated that when Mr. Malkoon told dispatch what city he was in the dispatcher should have known where to dispatch the call and if there were any questions the dispatcher should have asked.

Mayor Minnet said the same thing happened with the use of land lines. She said Lauderdale-By-The-Sea had 2 zip codes and felt that dispatch needed to be aware of that. Commission Clotley wanted to know how Bel Air could get there street names back. Attorney Weiss believed the Federal Government would have to be involved and perhaps the County also. Commissioner Dodd thought that for some reason Lauderdale-By-The-Sea was not on the map for dispatch.

Commissioner Clotley remembered when Congressman Clay Shaw was in Town and talked about the difficulty in obtaining zip codes and changing names. She said one of the things Congressman Shaw cited was driver's licenses. Commissioner Clotley said when she renewed her driver's license she requested her address of Lauderdale-By-The-Sea to be on her driver's license and that particular agency's computer was

programmed with the zip code as Lauderdale-By-The-Sea. She believed that one system did one thing and another did something else.

11. COMMISSIONER COMMENTS

Commissioner Silverstone wrote an article for publication in the upcoming edition of BytheSea Times regarding "balance". He stated that the article had to do with the way the Town was plotted out; a residential Town with a small section for business to offset taxes. He believed it was important to maintain a healthy balance between residential and commercial. He thanked the Town staff on the great job they did on Code housekeeping.

Commissioner Dodd felt the roundtable was a great success and wanted to stick to the format used last evening rather than discuss future agenda items. He said the Commission were not Code vigilantes and if there was a problem it should be reported to staff. Commissioner Dodd was not aware as to when the Pavilion design went from walls to no walls and no bathrooms. He hoped that staff would come up with the answers so that he would not have to go directly to the architects / contractors. Commissioner Dodd felt the wording on the referendums should be worked out so that the people understood what they were voting for.

Vice Mayor McIntee found his main goal on the Commission was to protect the citizens of the Town and keep an eye on the Town. He added that the Town had a tremendous police department, fire department, Town staff, Town Attorney, and Town employees. He felt that when they were falsely accused, someone needed to come to their defense. He read the statements that were generated in print in the BytheSea Futures regarding the removal of the bathrooms from the Commercial Boulevard Pavilion. He stated that this person accused Manager Colon of doing things without Commission approval. Vice Mayor McIntee played a video of the July 8, 2008 meeting where the Commission voted on the approval of the Pavilion without bathrooms. He explained that Mayor Minnet pointed out that there were no bathrooms in the pavilion and the Commission voted in favor.

Barbara Cole requested time to respond. Attorney Weiss said there was nothing on the agenda in which she had the right to speak and it would be up to the Commission to allow it.

Vice Mayor McIntee asked where did the Commission draw the line on these types of attacks. He stated that he would not back down when it came to defending the employees and would always fight for staff when unjustly accused.

Mayor Minnet asked whether she had the right to call someone up to respond. Attorney Weiss explained that it would set precedence. Mayor Minnet decided to move on with Commissioner Comments.

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Mayor Minnet watched the inauguration and asked that the words "renewal" and "change" be brought into Lauderdale-By-The-Sea. Mayor Minnet called Vice Mayor Ken Keechl of Broward County to discuss bringing lifeguards to the Town. She talked about the Calypso Project and hoped to get Governor Crist to veto it. She said that although natural gas was a positive source it was not the way they want to use it. Mayor Minnet explained that Broward County gave the Town notification that the funds for the Pelican Hopper may be discontinued if rider ship was not increased. Mayor Minnet advised that Broward County called every Thursday "Green Thursday" and asked everyone to use that day to carpool or ride their bike to the store. She suggested that everyone start utilizing the Pelican Hopper. Mayor Minnet was appointed to the Climate Change Task Force for Broward County. She said global warming was a fact of life and she will keep everyone informed of the environment.

Commissioner Clotey thanked the businesses for having a nice New Year's event. She said many of the problems Lauderdale-By-The-Sea was facing were not on a local level but had to be handled by the State or on a Federal level. Commissioner Clotey said the Commission decided not to have lifeguards for financial and liability reasons. She added that the majority of the residents did not want to pay for lifeguards. She did not understand why the Broward Tourist Board did not get involved with solutions. Commissioner Clotey believed the Pelican Hopper was a good thing for those who could not drive and said that some people relied on the Pelican Hopper. She asked that people ride the bus, if only for a few blocks. She explained that Lauderdale-By-the-Sea needed to do something to keep the Pelican Hopper in Town to bring the ridership up. Commissioner Clotey explained that in reviewing the Code book changes had to be made in the form of an Ordinance. She pointed out that the fire assessment Ordinance would actually result in lowering the fees by 10%. Commissioner Clotey felt she had been the swing vote and did not like it. She explained that the newspapers and the bloggers had a right to write what they want and, as an elected official, she had to develop thick skin and take it. Commissioner Clotey said that just because something was written somewhere it did not mean she was brainwashed or someone else's puppet. She said her first duty was to the people who elected her and asked that she not be called a traitor or a puppet.

Commissioner Dodd said he was not informed of the July 8, 2008 video regarding the beach pavilion and was not informed of the drowning. He apologized that he did not pick up that information as he was a very busy man. Commissioner Dodd said he relied on the Town to keep him informed.

Manager Colon clarified there was not a drowning; it was a suicide. She said she communicated with every Commissioner and sent copies of the incident report to each of them. Manager Colon believed that Commissioner Dodd came to her office whereby she gave him a report regarding the portals that started in 2001. She said 4 staff members spent numerous hours on the research that was presented to him.

12. CONSENT AGENDA

- a. Commission approval for preparation of Fire Assessment Report for Fiscal Year 2009-2010 - \$29,987.00 (Manager Colon)**

Mayor Minnet pulled Consent items 12a, 12b, and 12d for discussion and 12h for clarification.

Vice Mayor McIntee made a motion to approve 12c, 12e and 12g on consent. Commissioner Silverstone seconded the motion. All voted in favor.

Commissioner Dodd wanted to advise the public that if their condominium was assessed as a multi-family unit and was residential their fire inspection fee would be based on multi-family residential. Commissioner Dodd did not feel the Town should go ahead with the fire assessment report this year due to the economy and suggested continuing with the \$130 fire assessment.

Manager Colon said the study was placed on the agenda because the rates were not re-evaluated for this year and since public safety service costs were down the fire assessment fee could be reduced.

Commissioner Clotney did not feel it was worth spending \$35,000 on calculating a formula. Commissioner Silverstone said it was necessary to get accurate numbers in order to base savings.

Attorney Weiss stated that a professional study was necessary in order to legally implement a fire assessment fee and if challenged, would be required in court.

Mayor Minnet stated that this would legally protect the Town.

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

- b. Commission approval to purchase canvas to cover fire engines and necessary apparatus/equipment - \$25,200 plus permit cost [Insurance Services Organization (ISO) Recommendations] (Manager Colon)**

Vice Mayor McIntee said the bid process was the same as the process BSO used for the surveillance cameras. Discussion continued regarding the way of bids were received. Commissioner Dodd wanted the bids to go out again.

Commissioner Silverstone made a motion to accept the bid. Vice Mayor McIntee seconded the motion. All voted in favor.

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Manager Colon made clarification that Chief Perkins' recommendation was to accept the Awning Factory at \$32,343 with a 10 year factory warranty on the frame and a 5 year warranty on the cover. She added that they also provided a document that stated they would meet the lowest bidder. Manager Colon pointed out that Jones Awning and Canvas, Inc. came in at \$25,200 as the lower bid. Commissioner Clotey thought it was an unusual way to accept a bid. Attorney Weiss stated that the process was a little unusual but not illegal. Commissioner Silverstone wanted to recall his motion to approve the recommendation.

Commissioner Clotey made a motion to reconsider. Commissioner Dodd seconded the motion. All voted in favor.

Commissioner Dodd made a motion to obtain new bids from the same companies with full specifications to obtain competitive bids. Manager Colon asked whether the request was for a formal bid with advertising. Commissioner Dodd said it was not.

Commissioner Clotey asked whether ISO was coming in two weeks. Vice Mayor McIntee said as long as the VFD showed the process was there ISO would accept it.

Manager Colon stated that she will get the quotes again as directed and bring them before the Commission on January 27, 2009.

Commissioner Dodd made a motion for Manager Colon to obtain the 3 bids with specifications. Vice Mayor McIntee seconded the motion. All voted in favor.

- c. Commission approval for use of Jarvis Hall by Congressman Klein's staff as satellite office for meetings with LBTS residents, second Thursdays of the Month, 9:00 a.m. to 11:00 a.m., February thru December 2009 (Assistant Town Manager Olinzock)

Approved on consent.

- d. Commission approval of Special Event Application for LBTS Chamber of Commerce Taste of the Beach 2009 - Tuesday, February 24, 2009, 9:00 a.m. until Wednesday, February 25, 2009 11:00 a.m. (Assistant Town Manager Olinzock)

Guy Contrada revised the application to include alcohol and to change the break down time to 11:00 p.m. rather than 11:00 a.m. Mayor Minnet pointed out another error in the application and clarified that food would be served. Vice Mayor McIntee made a motion to approve with changes. Commissioner Dodd seconded the motion. All voted in favor.

- e. Commission approval of the issuance of eighty (80) parking permits for use in the El

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Prado lot by Shareholders of Caribe Inc., of Broward County on Tuesday, March 3, 2009 from 8:00 AM till 12:00 PM, during their annual meeting in Jarvis Hall (Assistant Town Manager Olinzock)

Approved on consent.

- f. Commission approval to provide clarification from Town Commission in providing five (5) residential parking permit spaces in the Bougainvillea Drive Parking Lot; remove five (5) meters and install permit signage (Assistant Town Manager Olinzock)

Previously approved at the January 13, 2009 Commission meeting. All voted in favor.

- g. Any open position paying over \$50,000 per year cannot be filled on a permanent basis until it was first advertised in the Sun Sentinel. All qualified candidates must be interviewed before a hiring decision is made (Commissioner Clottey)

Approved on consent

- h. Approval of Town Planner, Chen & Associates to begin design plans for A1A Streetscape Beautification improvement project (Manager Colon)

Manager Colon stated that Chen & Associates was under contract with the Town and approved by the Florida Department of Transportation. She said if the grant requirement was to bid for a Planner, staff would go out for bid and if not, staff would move forward with Chen & Associates as their Planner. Commissioner Dodd made a motion to approve Chen & Associates to begin design plans. Commissioner Clottey seconded the motion. All voted in favor.

13. RESOLUTIONS - "Public Comments"

- a. Resolution 2009-01: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A GRANT APPLICATION FOR FUNDS AVAILABLE THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANTS PROGRAM THROUGH BROWARD COUNTY FOR THE FISCAL YEAR 2009/2010 PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE (Manager Colon)

Attorney Weiss read Resolution 2009-01 by title.

Mayor Minnet opened the meeting for public comments.

Barbara Cole asked if the Master Plan Steering Committee and the Planning and Zoning Board could get the back up information.

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

Commissioner Silverstone made a motion to approve Resolution 2009-01.
Commissioner Dodd seconded the motion. All voted in favor.

- b. Resolution 2009-02: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A INTERLOCAL AGREEMENT APPLICATION FOR FUNDS AVAILABLE FOR THE COMMUNITY BUS THROUGH BROWARD COUNTY OFFICE OF TRANSPORATION FOR THE FISCAL YEAR 2009/2010 PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE (Manager Colon)

Attorney Richard Weiss read Resolution 2009-02 by title.

Mayor Minnet opened the meeting for public comments.

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

Vice Mayor McIntee made a motion to approve Resolution 2009-02.
Commissioner Silverstone seconded the motion. All voted in favor.

- c. Resolution 2009-03: A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA RECOGNIZING THE "BUILDING CITIZENSHIP IN THE COMMUNITY: BACK TO BASICS" INITIATIVE OF THE FLORIDA LEAGUE OF CITIES, INC., AND PLEDGING SUPPORT FOR THIS STATEWIDE EFFORT (Manager Colon)

Attorney Richard Weiss read Resolution 2009-03 by title.

Mayor Minnet opened the meeting for public comments.

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

Commissioner Silverstone made a motion to approve Resolution 2009-03.
Commissioner Dodd seconded the motion. All voted in favor.

Mayor Minnet recessed the meeting at 9:00 p.m. and reconvened at 9:10 p.m.

14. QUASI JUDICIAL PUBLIC HEARINGS

Mayor Minnet announced that Quasi Judicial Hearing 14a was tabled to January 27, 2009 and 14b was tabled to February 24, 2009 at the January 13, 2009 Commission meeting.

- a. A Variance request to allow setback requirements from Section 30-242 of the Towns Zoning Code opposed to the applicable 30-241 to construct a single family home within the RM-25 Zoning District. Property is located at 4312 El Mar Dr. - Staff recommends tabling to January 13, 2009 - This item was tabled until December 17, 2008 at which time the Board will consider the application. The applicant agreed and is to provide revised plans increasing the setbacks for the board to review (Assistant Manager Olinzock) Tabled at the December 16, 2008 Commission meeting to allow BOA to review revised plans - BOA recommended approval with conditions - Applicant requesting Table to January 27, 2009
- b. An application submitted by Frank Trepepe, the property owners' representative of 232 Commercial Blvd. The applicant is requesting a variance to allow an encroachment of fire escape stairs and protection required by the Fire Marshal within the rear setback - Board of Adjustment recommended approval with conditions

15. OLD BUSINESS

- a. Discussion and/or action regarding complete accounting of Green Fest - copies of all material made. Why were bills sent to Coconut Creek, FL and why were supplies sent there? Requested at the November 25, 2008 and December 16, 2008 Commission meeting by Vice Mayor McIntee

Vice Mayor McIntee asked whether Mayor Minnet had the documents the Commission requested. Mayor Minnet said she did not.

Vice Mayor McIntee explained that Mayor Minnet turned a Town event over to a citizen who opened an account in his own name and deposited the donations. He said he did not think Mayor Minnet did anything criminal and thought the citizen was not treating her fairly. He said he had requested copies for over 3 months and had not received them.

Vice Mayor McIntee asked Attorney Weiss for his suggestion. Attorney Weiss referred to Code 17-117 which demanded accountability. Vice Mayor McIntee asked Mayor Minnet why the Town was not getting accountability.

Mayor Minnet said she gave a complete packet with copies of the donations and bills along with a bank statement that balanced the invoices she had submitted in the package, except for a miscellaneous charge of \$33.92. Mayor Minnet said the account was opened in Mr. Arthur's name and she had

requested his bank information numerous times. She said it was her intention to promote the event for the Town and not burden the taxpayers with expenditures. Mayor Minnet accepted that she was responsible for Mr. Arthur's action and had no objection to whatever form of action Commission decided to go forward with.

Vice Mayor McIntee requested Attorney Weiss's recommendation. Attorney Weiss suggested that the Commission could send a letter on behalf of the Town requesting the records and citing the Code provision.

Manager Colon said she had not received copies of the bank statements or copies of the deposit endorsements. She added that although Mayor Minnet had tried to get the information she was not successful.

Vice Mayor McIntee made a motion for the Town Attorney to send a letter to Mr. Arthur demanding any and all records pertaining to the Green Fest Event, and to include a \$500 per day fine should Mr. Arthur not comply. He wanted it placed on the agenda for the February 10, 2009 Commission Meeting. Attorney Weiss suggested sending the letter to Mr. Arthur with a 10 day time limit to comply. Vice Mayor McIntee included it in his motion. Commissioner Silverstone seconded the motion.

Commissioner Silverstone pointed out that if he or Vice Mayor McIntee did the same thing the States Attorney's office would have been contacted already and headlined in the newspaper. He added that whoever sits on the dais had to be accountable to the Town and believed the bank statements would tell whether anything was wrong. Commissioner Silverstone did not think it was the Mayor's fault but that someone else had hold of the situation. Commissioner Dodd asked if Mayor Minnet would ever make such a mistake again and thanked her for her efforts in Green Fest and for putting her own money up front. He believed Mr. Arthur was holding back information to agitate Vice Mayor McIntee. He did not want to spend money to have the Town Attorney write a letter. Vice Mayor McIntee felt the letter would establish Mayor Minnet's credibility.

Commissioner Silverstone implored the Commission to go ahead as it was their duty. Commissioner Clotey thought the whole situation was very unfortunate and wished she didn't have to vote on this issue. She said she had a judiciary responsibility to the Town and the records should be produced. She added that there were rules and procedures when it came to taxpayer's money.

The motion carried 4-1. Commissioner Dodd voted no.

- b. Town Commission approval of Conceptual Bel Air subdivision sign design (Assistant Manager Olinzock/Colon) Tabled at the November 25, 2008 Commission meeting by Commissioner Clotey - Tabled at the December 16, 2008 Commission meeting by Commissioner Clotey

Commissioner Clotey said that when the sewer project was in place the City of Pompano Beach put equipment right at the entryway of Bel Air and created the appearance of an entryway into an industrial park. She said several bids had come in for the Bel Air entryways. Assistant Town Manager Olinzock explained that 2 proposals were received; Danta Building at \$19,000 and Tenex at \$15,500. He added that both companies needed to submit plans done by an architect or an engineer. Assistant Town Manager Olinzock explained that the 2 proposals by Ocampo and Chen & Associates to do the engineer plans were in the \$16,000. He added that approval would be required by the City of Pompano Beach.

Discussion continued regarding the cost to do the engineering and whether it was in compliance with Town Code. Commissioner Silverstone requested that the Seal be on the sign somewhere. Commissioner Clotey believed it was. Mayor Minnet thought the numbers were low. Mayor Minnet felt the project was not offered to other communities. She felt that the Master Plan Steering Committee had not provided a suggestion for signage and thought the cost would be considerably higher. Mayor Minnet thought they were opening a pandoras box. She felt that since the citizens of Bel Air came forward with it they should pay for it.

Edmond Malkoon said that since the Bel Air community was built the walls were torn down and the entryway wall was a replacement that would help to conceal eyesores.

Commissioner Clotey understood that different areas may want signs but Bel Air was a result of improper planning and the entrance to their community became an eyesore. Commissioner Silverstone felt that it was bad planning and the Town was obligated to do something. Vice Mayor McIntee said it was a monument made to camouflage ugly obstacles caused by poor planning. He believed the citizens of Bel Air deserved the new entryway.

Commissioner Dodd asked for clarification on the bids from Ocampo and Chen & Associates. Manager Colon said that the City of Pompano Beach had to allow them to go forward with the sign first. Assistant Town Manager Olinzock confirmed that the 2 signs from Chen & Associates were at \$15,500 and Ocampo was at \$19,900 for 2 signs. He added that sealed plans were not included and the amount was for construction only. Assistant Town Manager Olinzock said \$35,000 to \$36,000 should be planned.

Maureen McIntee pointed out it was only offered to one community and believed there was \$150,000 available at that time. Mayor Minnet thought they were included for entryway features. Commissioner Silverstone pointed out that the packet which contained a letter from MBR Construction dated October 3, 2008, recommended materials for the sign at a cost with permits at \$13,000. Manager Colon said that the initial sign had changed. She said she would not know the real cost until the actual drawings and specs are in.

Commissioner Silverstone made a motion to approve up to \$35,000. Commissioner Clotley seconded the motion. The motion carried 3-2. Mayor Minnet and Commissioner Dodd voted no.

- c. Discussion and/or action concerning adjusting the cost of hardship and other parking permits to be more in line with what other municipalities charge. Tabled at the November 25, 2008 Commission meeting by Commissioner Clotley - Tabled at the December 20, 2008 Commission meeting by Vice Mayor McIntee

This item was considered at the January 13, 2009 Commission meeting

- d. Discussion and/or action regarding opening the pier access road (Mayor Minnet) Tabled at the December 20, 2008 Commission meeting by Vice Mayor McIntee

Vice Mayor McIntee said that was a major entranceway for families and kids and to open that up to traffic would create a life threatening situation. He felt a study should be done first and recommended that the other 5 alleys be left alone until after the pavilion is done.

Chief Gooding stated that it was opened previously and used for ATV access. His men did a study that provided a recommendation to open it one way from the east to the west and remove the present barriers and provide a painted crosswalk with proper signage.

Louis Marchelos said the alley was always opened for the past 50 years and the closure occurred this past May. He said the outdoor cafes created more traffic with their valet parking holding up traffic. Mr. Marchelos added that Commercial Boulevard was the number one beach access. He added that people crossed the pier parking lot to go over to the other side when that beach was too crowded.

Spiro Marchelos stated that the new pavilion would attract more civilians. He added that Anglin's pier had ingress / egress until it was closed off. He said proper circulation was needed for a small town so people could enjoy the sea side village. Mr. Marchelos asked that the pier access road be opened.

Commissioner Dodd wanted to know if the correct plans were submitted with correct fencing would the town object to restoring the exit within code.

Assistant Town Manager did not recommend it for 2 way traffic and referred to line of site issues. Commissioner Dodd felt that every step should be taken on the Commercial Boulevard section and if the police were in favor of it and it provided safety he was 100% in favor to establish exit only.

Commissioner Silverstone remembered it wasn't used as a beach access and the pier parking lot was not open. He said there was a chain that was manned to move cars back and forth as needed. Commissioner Silverstone said it was currently being used for beach access by the children and their families. He would have no objection if there was a way to make it safe.

Vice Mayor McIntee asked Marc Furth of his knowledge of the alley way. Mr. Furth was not in favor of opening it up. But if it can be made safe he felt the commission should look into it. Vice Mayor McIntee asked whether it was ever a road. Mr. Furth did not believe it was.

Chief Gooding said from a public safety position he supported opening the alley. Vice Mayor McIntee said that if marked properly and if opened at 5:00 p.m. it would take away the major problem of children running back and forth to the beach. Louis Marchelos said he was only asking for one way out.

Commissioner Clotney thought that access during construction should be allowed. She felt access was needed.

Commissioner Silverstone asked Manager Colon why the area was closed off. Manager Colon explained that the Development Order for Oriana talked about a pedestrian access easement. She said the Commission previously agreed to put a fence with a lock box and use only for safety reasons due to the recent accident that took place there. Commissioner Silverstone asked whether the Marchelos' brothers would have a problem if someone manned the pier parking lot with a chain. Commissioner Dodd believed the Commission should follow the recommendation of the chief of police.

Commissioner Clotney asked Mr. Marchelos if the attendant that collected the money could walk over and move the chain on an as needed basis. Mr. Marchelos had no problem doing that.

Commissioner Clotney made a motion to allow the Marchelos to have their chain across the opening and that opening would only be open during the day on an as need basis and an attendant would walk over there, move the chain, make sure there are no pedestrians in that area, let the cars out, and immediately close it. Commissioner Dodd seconded the motion. Attorney Weiss questioned whether BSO's recommendation would be included. Commissioner Clotney included the recommendation in the motion.

Attorney Weiss clarified the motion was to allow access to the alley with a chain across the entrance to be opened on an as needed basis; there would be no limit on the hours of operation; the area would be stripped and signage placed in accordance with the police recommendation; in addition, an attendant was required to man Athena's chain to let the cars out and Athena's fence must be removed where it was visible at the owner's expense.

Vice Mayor McIntee wanted to know who was to pay for the action recommended by the police. Manager Colon stated that Broward County Traffic Engineering took care of the signage and the Town would pay for the cost for stripping the roadway. Vice Mayor McIntee did not feel it could be opened until all the signage and markings were done. Chief Gooding agreed.

The motion carried 4-1. Vice Mayor McIntee voted no.

- e. Discussion and/or action regarding parking a boat trailer in the front driveway in Bel Air (Mayor Minnet) Tabled at the December 20, 2008 Commission meeting by Commissioner Clotney

This item was discussed at the January 13, 2009 Commission meeting

16. NEW BUSINESS

- a. Discussion and/or action regarding independent cell phones for the Town Commission (Requested at the December 1, 2008 continuation of the November 25, 2008 Commission meeting, by Vice Mayor McIntee)

Vice Mayor McIntee used his personal phone number on Town letterhead and wanted to know how to handle that. He added that the Town paid a monthly stipend. Attorney Weiss stated that if he received an itemized bill he was obligated to produce the bill.

- b. Discussion and/or action regarding the use of personal business cards containing an elected officials' title (Requested at the December 1, 2008 continuation of the November 25, 2008 Commission meeting, by Vice Mayor McIntee)

Vice Mayor McIntee withdrew this item.

- c. Pave North Tradewinds as requested by resident petition (Vice Mayor McIntee)

Liliana Pomareda from North Tradewinds Avenue said that the Beautification Project for Seagrape Drive resulted in an eyesore for North Tradewinds. She wanted the Commission to take that into consideration prior to the project completion.

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Vice Mayor McIntee looked at North Tradewinds Avenue and felt they needed to fix the road and should do the rest of Old Town as they were all overdue.

Vice Mayor McIntee made a motion to fund the project, get it done properly and plan for the future. Commissioner Silverstone seconded the motion.

Manager Colon said federal funds were for projects that were planned and ready to go.

Edmond Malkoon said his streets were not stripped.

Barbara Cole said she was waiting for her sidewalk to be done on Washingtonia Avenue.

Liliana Pomareda said North Tradewinds Avenue was the only street that had 2 tire marks up and down the street.

Commissioner Dodd suggested an option to get the contractor, Tenex to fix it.

Assistant Town Manager said it took approximately 6 to 12 months for the tire marks to fade.

Commissioner Clotey asked Ms. Pomareda if she was willing to wait 6 months. Ms. Pomareda said she was not. She did not believe it would return to the way it was before.

Vice Mayor McIntee said that on a busy street the tire tracks would wear off but would take much longer on that street. He believed the citizens of that street should have their road taken care of.

Mayor Minnet reminded everyone that petitions will come from other areas. She felt the Commission should look at the whole project. Mayor Minnet said that although she agreed she felt it should be part of a town wide project. Manager Colon believed this would be a good place to start thinking about town wide paving.

Vice Mayor McIntee made a motion to allocate funds for North Tradewinds Avenue and to take pictures and try to take action against the contractor. Commissioner Silverstone seconded the motion.

Commissioner Clotey asked whether there was any recourse against the contractor. Attorney Weiss said it depended on the standard in the industry and whether it was acceptable by FDOT. He saw no reason why they could not try.

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

d. Discussion regarding scale models of new projects in Town (Vice Mayor McIntee)

Vice Mayor McIntee wanted to know why scale models were not included. Attorney Weiss stated that that section of code dealt with Overlay Districts, which longer applied since the Overlay Districts were repealed.

e. Discussion and/or action regarding kite surfing - parasailing - on the beach (Vice Mayor McIntee)

This item was considered at the January 13, 2009 Commission meeting

f. Discussion and/or action to place on a referendum expenditures for any one project which exceeds "x" in value, and/or selling of a town valued asset valued over "y" (Commissioner Silverstone)

Commissioner Silverstone explained that he wanted to put this on a referendum to limit the authority of the Commission to spend or sell property without first going to the people. He felt that if the Commission spent anything over \$1 million it would be a good amount and selling anything collectively for over \$3 million would be a fair amount.

Commissioner Clotey asked if that would include the warehouse that is currently for sale. Commissioner Silverstone said it would apply to future purchases and sales.

Attorney Weiss explained that the referendum would put a requirement on the Commission.

Vice Mayor McIntee said it saved Deerfield Beach from being taken over by BSO as it required that anything over \$750,000 had to go to the people. He felt it protected the people by keeping the Commission from arbitrarily doing things that may not be the will of the majority.

Commissioner Clotey felt there needed to be more clarity as to whether it included giving away property.

Commissioner Silverstone made a motion to direct Manager Colon to work with the Town Attorney, using Deerfield Beach as their model, and bring it before the Commission for review. Commissioner Clotey wanted to know if this would interfere with the infrastructure set for the south. Commissioner Silverstone said it depended on the amount that was set.

Commissioner Silverstone preferred not to have expenditures included and wanted it taken out. He thought a cap of \$350,000 on selling something was a fair amount.

Commissioner Silverstone clarified his motion was to direct the Town Manager and the Town Attorney to work on creating an Ordinance or possibly a referendum to limit the selling of any assets over \$350,000.

Commissioner Clotley offered a friendly amendment to include wording to prevent the giving away of property as there was a difference between selling and giving away. Commissioner Silverstone accepted. Vice Mayor McIntee seconded the motion with the friendly amendment. Discussion followed regarding the cost involved of having a referendum every time something was to be sold for more than \$350,000.

Commissioner Dodd proposed a friendly amendment to increase it to \$500,000. Commissioner Silverstone thought that perhaps they should make it a percentage of the budget.

Mayor Minnet suggested that the Commission go forward with the direction given and do some research on their own.

Attorney Weiss wanted clarification as to whether the Commission was looking for a draft referendum or draft Ordinance. Commissioner Silverstone wanted to amend the Charter.

Commissioner Silverstone withdrew his motion. Commissioner Clotley withdrew her second.

Commissioner Silverstone made a motion to extend the meeting past 11:00 p.m.

g. Discussion and/or action regarding Town sign at Commercial Blvd and A1A (Vice Mayor McIntee)

Vice Mayor McIntee made a motion to table to the January 27, 2009 Commission meeting. Commissioner Clotley seconded the motion.

Manager Colon said only electrical work was done on the sign that was already there. Vice Mayor McIntee said the sign was down for a number of years. Louis Marchelos said the sign was put up in 1963 and the Commission said the sign was historical. Vice Mayor McIntee disagreed. Marc Furth confirmed that when the Sign Ordinance was done that sign was declared a historical sign.

Vice Mayor McIntee made a motion to accept. Commissioner Dodd seconded the motion. All voted in favor.

Vice Mayor McIntee stated that the sign was a national landmark and was on Town property. He thanked the Marchelos brothers for doing what they could

to preserve the sign.

Vice Mayor McIntee made a motion to table this item for one month in order to pull the National Registry to see if the sign was registered. Commissioner Clotey seconded the motion. Heated discussion followed and Vice Mayor McIntee requested the Marchelos brothers be removed. Mayor Minnet believed Vice Mayor McIntee was out of order and would not recognize his request. Vice Mayor McIntee overruled.

Commissioner Silverstone seconded the motion to remove the Marchelos brothers. The motion failed 3-2. Commissioner Dodd, Commissioner Clotey and Mayor Minnet voted no.

The vote to table carried 4-1. Mayor Minnet voted no.

- h. When a code violation is discovered it should be dealt with properly. However, a mass sweep of the town looking for similar violations cannot be done without prior approval of the Town Commission (Commissioner Clotey)

Commissioner Clotey felt that if there was a significant number of violations it should be brought before the Commission and the Commission should direct the Town Manager as to what action should be taken.

Attorney Weiss said that Ordinances were written the way they were written and became Town law. He added that staff was obligated to follow that law. He said if the Commission had a specific item that they felt was a problem, then the Commission could amend the Ordinance. Attorney Weiss said it was the job of the staff to enforce the law.

Commissioner Clotey explained that some things that people have done for 40 years were suddenly being cited. Attorney Weiss said if the problem was pervasive then the code needed to be amended. He suggested an amortization period. Attorney Weiss advised that should staff recognize there was a problem with the Land Development Code Regulations or other portions of the Code were causing undue burdens on people that they bring them to the Commission's attention so that the Commission could amend that particular Ordinance. Commissioner Dodd agreed with Attorney Weiss. He would rather staff come before the Commission than send out notices. He hoped the Town Manager got the message. Attorney Weiss did not feel it was appropriate for the Commission to tell the Town Manager how to enforce or not enforce.

Commissioner Clotey withdrew this item and publicly requested that the Town Manager notify the Commission when she saw this type of problem.

Vice Mayor McIntee did not support this as it took away the authority of the Town Manager.

Attorney Weiss stated that he was suggesting that there be no instruction on the negative side.

Commissioner Clotey explained that when the Town Manager noticed something was going on she should have the courtesy to inform the Commission.

Mayor Minnet explained that was the reason for the workshop and why everyone was there.

Manager Colon said there was not one person on this dais that can not say she initiated the code workshop. She said that she and staff put the codes on the workshop because staff was having problems with them. She said she personally presented 28 separate problems. Manager Colon took offense to the suggestion that she needed to learn a lesson. She said if any member of the Commission knew of any code problem that she was unaware of she would like them to let her know so that she could take care of it. Manager Colon said her primary obligation was to adhere to the code and did not feel she needed a lesson in communicating the code.

Commissioner Silverstone felt the Town Manager did a great job in presenting what needed to be done. He believed the real problem was that the Commission did not like receiving phone calls from people calling and yelling at them; but that was their job.

- i. Athena by the Sea - Tabled to January 27, 2009 at the January 13, 2009 Commission meeting.

Mayor Minnet said this item was scheduled for the next meeting and requested a motion to table.

Commissioner Silverstone made a motion to table this item to the January 27, 2009 Commission agenda. Commissioner Dodd seconded the motion. All voted in favor.

17. TOWN ATTORNEY REPORT

18. FUTURE AGENDA ITEMS

Town Commission Regular Minutes
January 22, 2009 – continued from January 13, 2009

19. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn the meeting. With no further business before the Commission, Mayor Minnet adjourned the meeting at 11:35

p.m.



Mayor Roseann Minnet

ATTEST:


Town Clerk, June White

3/5/09
Date

