

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Jarvis Hall

4505 Ocean Drive

Tuesday, December 11, 2012

7:00 P.M.

1. CALL TO ORDER, MAYOR ROSEANN MINNET

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Also present were Vice Mayor Scot Sasser, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Chris Vincent, Town Attorney Susan L. Trevarthen, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Finance Director Tony Bryan and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION - Pastor James Corgue

Pastor James Corgue gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Two items added to the Consent Agenda:

- 11j - revised set up time for 2013 New Year's Eve special event
- 11k - a special event proposed on Monday, January 7, 2013, for the 2013 BCS National Championship Game between Notre Dame and Alabama.

5. PRESENTATIONS

- a) Proclamation declaring January as Broward Diversity Community Month (Mayor Roseann Minnet)

Mr. Webster, Chairperson of the Broward County Diversity Council, thanked the Mayor and Commissioners for the proclamation, stating they started reaching out more to various cities. Each city was unique, and they wished to strengthen both their collaborations and relationships with them. He looked forward to working with Public Relations Officer, Steve d'Oliveira, to whom he was introduced by Mayor Minnet.

6. PUBLIC COMMENTS

Mayor Minnet opened the meeting for public comment.

Edmund Malkoon mentioned being upset by two things in the last few weeks. First, he was shocked and dismayed by comments from a Commissioner trying to tie a local business with another tenant or business for an event approval. Later, from another Commissioner to an architect on a different, unrelated item, which seemed to be in reference to the same business. He questioned what happened to "we support local businesses", words he heard repeatedly used the last few years, wondering if it was only lip service. One of the biggest taxpayers in Town was making a very large investment and no one thanked them; instead, he claimed to hear only distasteful comments. He asked about businesses currently operating without a license, and no member of the Commission stopped by, with the exception of Vice Mayor Sasser, to say congratulations. Mr. Malkoon stated the second issue that upset him was hearing over and over that the Commission welcomed all comments from the residents, asking them to attend the Charter Review Board (CRB) meetings to voice their views, etc. Then he heard a comment from one of the Commissioners of sorry for the way it turned out, and in the most recent weekend, he read another comment by a Town Commissioner in an editorial. He stated the comment was, "If anyone there wants to express their opinion in a rude and derogatory fashion, please take it up with your Commissioner and not a voluntary board convened to do the work of the Commission." He was present at the CRB meeting and heard the residents that spoke, and acknowledged they were critical and passionate in the way they expressed themselves but, in his opinion, never rude. The Town Commissioner should be cautioned about putting things in print that might come up to a vote in the future. Mr. Malkoon recalled people once mentioned their fear of attending Commission meetings and expressing their opinions, stating they felt alienated, and he told them that was "nonsense" and encouraged them to attend the meetings. He now understood their viewpoint, but he was not afraid to speak at Commission meetings and hold members of the Town Commission accountable. It seemed mixed messages were being sent out to the public, wondering if all comments were really welcome. He went on to discuss, on a more positive note, that he emailed Town staff about streetlights out on A1A and Commercial, and most had been repaired and the rest would be fixed tomorrow. He thanked Mr. Prince and Town Manager Hoffmann for always being attentive and responsive to resident needs.

Marie Chiarello stated she was upset about the Town's zoning and code enforcement, noting she just asked the Town Attorney if the Town's codes were law, and she was told yes, they were. It seemed there was a feeling that the Town's codes do not have to be followed, and they just had another attempted break in in Terra Mar, and she asked when was the last time Town staff checked to see if the property owners in that area had licenses to rent their properties. She questioned how often the properties were inspected to ensure they were kept up to code; worrying about hurting people's feelings as a reason for citing violations and enforcing the Town's code was unacceptable, as those were the laws of the Town. If the code staff was insufficient, then more should be hired. She pointed out the Town seemed ready to give out money to paint, clean up

hotels, etc., which she supported, but the Town needed to enforce its codes and address those areas where garbage was being thrown out in the street.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO Monthly Report – November 2012 (Chief Oscar Llerena)

Vice Mayor Sasser questioned how the Town should coordinate with the City of Pompano on the north side of the island, as it seemed the incidents he heard of lately were in this area of the Town.

Chief Oscar Llerena replied it was unusual to have such instances in this area of the Town, as there was less transient traffic and short-term rental sites. In terms of how the Town coordinated with Pompano, and for the residents unaware, the northern most two streets of Terra Mar was incorporated in the City of Pompano. He noted there were a variety of formal and informal mechanisms, it was computerized, and the detectives had access to the records kept by Pompano in that area, as Pompano had to the Town's. They had a formal process of intelligence sharing, and there were a number of informal mechanisms. He expressed concern about the crime trends, as the Town's year-to-date crime statistics were about five percent higher than the same time in 2011, though he believed statistics told only a part of the truth. One particular concern he had with that area was, even though the Town's robberies were less than 2011, it was the types of crimes that were troubling. In 2011, many of the assault cases were acts that did not escalate beyond people shoving one another, but in 2012 there was a significant increase in chain snatchings along the beach both in Pompano and Deerfield. He said in the past three weeks, the Town had three such crimes, and in two cases the persons were arrested, but this was unheard of two years ago, and a year ago it was uncommon, and it was difficult to prevent, as it was unpredictable. He reiterated the key to successfully dealing with crime in the Town was to stay alert to trends and addressing them accordingly, and he believed the police were doing all they could in the community. Unfortunately, this was not a situation in which it was possible to do such things as a home survey or install an alarm system, as this was something going on in the streets.

Vice Mayor Sasser pointed out the latest capture was in coordination with Pompano and it worked out very well. Thus, if Pompano could provide some focus on their south end that was the Town's north end and vice versa, this might provide added patrolling. He commended the police for doing a wonderful job and wished the public to know their police force was well aware of the problems and were working to address them.

Commissioner Brown inquired if the subjects arrested for the chain snatching were tied to any of the earlier chain snatching incidents or did it seem random.

Chief Llerena thought they were not random but the illegal activity of organized groups and, in terms of the specifics, the investigation was still active. The police were having considerable success doing operations on the backend, targeting where the stolen gold went, and much of it involved undercover work and informants, and this was a regional cooperation. He said this was a shift in criminal trends and, as this trend increased, they noticed other trends were slowing down; it was difficult to prevent, and most subjects were mobile, so they were not walking through the streets or canvassing neighborhoods. They only came into Town for as long it took them to commit a crime and then leave the area.

Commissioner Vincent mentioned there was a rash of gold stores opening up that advertised that they bought gold, understanding there were stringent rules for those stores to get proper identification from sellers. He asked what law enforcement was doing to ensure stores were adhering to the rules for such transactions.

Chief Llerena replied the rules were similar to pawnshop regulations. Overtly, there were inspections of the second-hand dealers countywide. Covertly, there were various operations going on and, from what he witnessed, they were being worked at the same level as some of the high profile narcotics cases, and a lot of work was being put into the effort with task forces. Broward cities were not the only ones seeing an increase in such crime trends, and it appeared to be mostly in the urban areas, such as Orlando.

Commissioner Dodd congratulated the Chief and his staff for actually tracking down and apprehending the subjects involved in the recent chain-snatching incident, as it was difficult to capture them due to the nature of the crime.

Chief Llerena commented often times the police did not make such captures independently; in the subject situation, a concerned citizen called and said they saw a fight in the street, and those few extra seconds might have made the difference.

Mayor Minnet asked Chief Llerena to extend the Town's best to the men and women at BSO in Lauderdale-By-The-Sea for a happy holiday, wishing them a Happy New Year and thanking them for all their service.

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

b. VFD Monthly Report – November 2012 (Chief Judson Hopping)

Chief Judson Hopping reminded everyone the VFD would assist Santa's delivery of Christmas presents as they did every year on Christmas Eve; anyone wishing the service should contact them and they would set it up. The Christmas-By-The-Sea event was scheduled to take place on Wednesday, December 12, 2013, at 6:00 p.m., and the coming Saturday would be Marie White's Christmas. He stated, on another note, the Firefighter Pension audit came back and there were no issues with it.

Mayor Minnet asked Chief Hopping to wish everyone a happy holiday.

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

c. AMR Monthly Report – November 2012 (Chief Brooke Liddle)

Mayor Minnet extended the Town's wish for a happy holiday to everyone.

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

8. TOWN MANAGER REPORTS

a. Chamber of Commerce November 2012 Report

Chamber Executive Director Malcolm McClintock mentioned the December 12 Christmas-By-The-Sea event was ready to go, noting the Visitors Center received a large volume of calls from people inquiring about the event.

Vice Mayor Sasser wondered if the lights on the Christmas tree he noticed were out had been fixed.

Town Manager Hoffmann answered no; there had been problems every night with the lights going out, and Municipal Services Director Prince held a discussion with Mr. Verandano (Phonetic), the Town's contractor for the tree. Mr. Verandano promised to come every night to ensure the tree's lights were functioning. She said the problem was related to why the Town needed to get a new tree, as the electrical system on the old tree was worn out.

Vice Mayor Sasser asked about the process by which Visitors Guides were mailed.

Mr. McClintock responded the Chamber had an automated system on its website where people could sign up, give their email address and request the Visitors Guide; the Chamber collected the information and mailed out the Guides accordingly. Occasionally, someone called and requested a Guide to be mailed to them but, for the most part, the requests came from people signing up on the website.

Vice Mayor Sasser wondered if the room inquiries noted in the Chamber's report was also done mainly on the website.

Mr. McClintock replied the room inquiries were done oftentimes by phone or with the walk-ins, so it was a combination of all three.

Vice Mayor Sasser questioned if Mr. McClintock knew what the average cost per night per room was in the Town.

Mr. McClintock commented the cost varied, depending on the hotel, the season, etc. but he would have to get back to the Commission with an accurate figure.

Vice Mayor Sasser thanked Mr. McClintock, asking that the figure be provided to the Town Manager. His inquiry stemmed from the report where it stated there were 1,249 room inquiries year to date, so he was trying to figure out what that meant to the local economy.

Mr. McClintock mentioned forwarding to someone at the Town the figures the Chamber had that would be included in the Visitors Guide; it would have a listing of all the hotels and their prices.

Vice Mayor Sasser noted he was trying to ascertain a comparison between how much money the Town put into the Visitors Center versus any returns the Town gained as it pertained to the Town's hotel industry. In the last Chamber report, the Commission received a profit and loss (P&L) report, which he liked very much, wondering if that information would be given by the Chamber once a quarter.

Mr. McClintock answered yes.

The report was accepted with no further discussion.

Town Manager Hoffmann announced there would be many more children's activities at the Christmas-By-The-Sea event this year, so residents were encouraged to bring their children and grandchildren to the event. The activities included Christmas crafts, cookie decorating, face painting, visiting with Santa. She mentioned the Town Attorney volunteered, along with some of her choral members to be strolling carolers at the event. There would be light foods available from restaurants with booths on the street, and four of the Town's nonprofit organizations would be selling items, along with one of the local retailers.

b. October 2012 Finance Report (Finance Director Tony Bryan)

Town Manager Hoffmann stated she neglected to mention and acknowledge the previous month that the Town Attorney brought her expenses considerably under budget, and she wished to sincerely thank Town Attorney Trevarthen for all her efforts in this regard.

Town Attorney Trevarthen remarked she was able to do accomplish the reduction with the aid of the Town Manager.

Mayor Minnet knew there had been an ongoing discussion, and she believed it was just a matter of time to get over these bumps in the road, so she appreciated the cooperation of the Town Attorney and Town staff.

Vice Mayor Sasser wished to personally thank the Town Manager and Town Attorney, as he was one of the most outspoken on the Town's contract for legal services.

c. Town Manager Report

Town Manager Hoffmann discussed the report, as set forth in the backup, highlighting:

- The roll out of the new recycling and trash carts began on December 12 at 6:00 a.m. and would continue through the week
- Acknowledgement of significant donations the Town received in the past month: Steve and Barbara Cole donated the funds for the large Menorah in front of Town Hall this year; Richard Morin, a local resident, through the auspices of Ron Piersante, donated a number of beautiful pictures he took; Mayor Minnet donated a number of items - beautiful new lights for the men's and ladies' room in Jarvis Hall bathrooms, tropical outdoor fans for the community center, and a picture frame to frame the very large picture given to the Town by Mr. Rand; Municipal Services Director Prince, who sometimes worked down at the port, brought a portable stage to Town Hall that Carnival Cruise Lines was throwing away recently, and the stage could be used for smaller events throughout the Town
- Extended hours on New Year's Eve with the Pelican Hopper until 2:00 a.m.

Project Manager Bill Cole for the Bougainvilla Drive Improvement Project gave the Commission an update on the project, commenting:

- Work on the project was well underway
- Underground storm water drainage piping was completed on the southern block and about half complete on the northern block
- Progress on the project steady and slightly ahead of schedule
- Interactions with water main had lessened
- Rebuilding of Road approved at the last Commission meeting commenced
- Sidewalk removed and replaced on eastern side of the southern block almost all the way to Washingtonia
- Sidewalk on the west side of the southern block had been removed and preparations were being made for its replacement
- Next would be the roadwork
- Asphalt would not be put down until after January 1, 2013, as he learned all the local asphalt plants were closed from December 21 to January 1.

Commissioner Dodd remarked on the various email circulating on the dust issues with the Bougainvilla problem, knowing the vehicles were out on the road watering them down. He desired an update on the requests to increase the number of barricades and maybe signage to indicate "no exit, local traffic only", as the volume of traffic was what created the dust.

Mr. Cole replied considerable effort was being made to thwart and dissuade passersby and passers through, as it seemed this was a very popular route, even with it being

partially blocked, rough and dirty. Rather than them slowing down in light of the difficult conditions, they seemed to be speeding up. He indicated over the course of the project, Town staff requested more signs and the contractor obliged, bringing in more signs. Though Town staff would continue to try dissuading through traffic, there were some 100 people living on those two blocks, they deserved to get home.

Town Manager Hoffmann mentioned considerable dialog between Town staff and the police, and the latter warned a greater number of people and would be issued tickets, and Chief Llerena reported most of the people the police stopped to warn were residents of Bougainvillea. Town staff would step up the times the police were out there and when they had the most problems. She went on to give an update on the stamped asphalt and the alternatives.

Mr. Cole concurred, stating they had gone out to practically the whole state, noting there were only eight approved applicators for the recommended product, a street print in Boston painted asphalt. They were in the process of considering at least three, as three of the eight approved applicators for the subject produce agreed to submit quotes, and those would be provided to the Commission its next regular meeting. He noted, on the issue of the tinted asphalt, Town staff repeatedly tried to get quotes to do the work and no one appeared interested; when the landscape artist for the project was consulted, he thought the tinted asphalt might not look that great. Town staff looked at alternatives to the asphalt, such as imitation brick pavers, as was done in Pompano and Fort Lauderdale; it as a surface application rather than an imprint. He expected more figures for the various options to be available by the next Commission meeting.

Town Manager Hoffmann reiterated the Commission's direction was being sought on Town staff's moving forward with getting quotes on the Boston painted asphalt treatment.

Commissioner Vincent questioned what the Town would do to supervise the abovementioned downtime when the asphalt could not be laid, such as making sure the barricades remained in place, etc.

Mr. Cole replied the underground work was not expected to be completed before the end of the year, so the contractor and his workers would continuously traverse the entire two-block area. The MOT traffic signs would be up at all times, even in the absence of the paving crew, as they all worked for the same contracting company.

Commissioner Vincent restated request that the work crews keep the site clean throughout the holiday season, as the affected residents were already going through enough.

Town Manager Hoffmann concurred, stating Town staff put the contractor and the work crew on notice about the Town's feelings on keeping the sites clean and orderly.

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Mr. Cole indicated the paving crew began using a device with a roller broom and wetting action, and that was somewhat effective getting the dirt and mud off the street; he would encourage an increased use of that device.

Vice Mayor Sasser questioned, based on what Mr. Cole knew now, what was the projected date of completion for the project.

Mr. Cole remarked the project was somewhat ahead of schedule, as the original completion date was the end of March, and when the Town added to the contract the complete rebuilding of the road versus resurfacing, it added two weeks. This put the date of completion to mid April, but it appeared to him the contractor might finish the project as much as a month ahead of that time.

Vice Mayor Sasser asked if Town staff was satisfied with the work of the subject contractor, as there was another upcoming project on the agenda, for which it was being proposed that the same contractor be used.

Town Manager Hoffmann responded the Town would not be using the same contractor for the upcoming project, partly due to the some concerns Town staff had with them on the Bougainvillea/Washingtonia project. Another reason was their likely inability to manage multiple large jobs at the same time, so staff went to a different contractor.

Commissioner Dodd thanked the project team for their efforts on improving the appearance, and the renderings shown by staff was a vast improvement over a single color, as it made the street appear slightly narrower, so this would help slow traffic.

Mr. Cole explained as soon as the road was ready for asphalt and the supply was available, it would be put down in two layers. After the first layer was installed, the curbing that defined the islands and made them available for landscaping would be installed, and then the landscaping would be placed in the islands. When the northern block was ready, the same sequence of work would be followed, and in the end the only remaining portion would be the final top coat of asphalt.

Town Manager Hoffmann added the decorative treatment would go on after the asphalt cured for a few weeks.

Mayor Minnet requested a motion to approve the stamped asphalt border along Bougainvillea.

Vice Mayor Sasser asked if the motion was to go forward with that decorative feature, as he wished to get more information on how wide it could be, wondering if it could be a little wider.

Town Manager Hoffmann explained Town staff was actually in the process of bidding the work, so if the Commission desired it be wider, the dimensions in the bid could be adjusted by square footage.

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Mayor Minnet thought this aspect was something on which the contractor, architect or engineer would make recommendations.

Vice Mayor Sasser concurred, stating he was satisfied with the concept but he wished to know if it was possible to make it wider.

Mr. Cole suggested the Town wait until it got the most favorable pricing and then speak with the contractor about such possibilities.

Town Manager Hoffmann pointed out Town staff needed to speak with Hugh Johnson, the landscape architect, as he was comfortable with the width staff showed the Commission in its presentation of the subject item. Mr. Johnson needed to weigh in on whether a wider width would look good or not.

Commissioner Dodd made a motion to accept the report. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

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Commissioner Dodd stated he received an email thanking the Town Manager for following up on the donation of the Menorah, as it was in a long time coming, and the resident sending the email was very concerned. They were happy to see the Town now had a Menorah.

Vice Mayor Sasser thought the Town Manager was copied on an email from Ms. Geesey regarding the Christmas tree and some ideas she had on how the Town might fund that in the future. He asked for the Town Manager's thoughts on the matter, as he thought it was a great idea to explore some of those possibilities, inquiring if Pat Himelberger should be utilized for that task and an agenda item included on the next Commission agenda.

Town Manager Hoffmann recalled at the last Commission meeting at which Paul Novak spoke on behalf of the Chamber, and he indicated the Chamber would take the lead on the fundraising effort for the new tree. She believed it would be easier for a business group to be out asking for donations than the Town.

Mayor Minnet recommended placing the matter as an agenda item for the first Commission meeting in January 2013 and have the discussion at that time.

Commissioner Dodd wished to extend the effort and suggested the Commission have a roundtable meeting with the Chamber to discuss several items of benefit to both the Chamber and the Town, of which the issue of the Christmas tree was one.

Mayor Minnet asked the Town Clerk to include in the agenda for the Commission's first meeting in January, the scheduling of a roundtable discussion with the Chamber.

9. TOWN ATTORNEY REPORT

Mayor Minnet asked Town Attorney Trevarthen to send the Town's best to everyone at their firm for a happy holiday season.

10. APPROVAL OF MINUTES

- a. October 9, 2012, Regular Commission Meeting Minutes
- b. October 18, 2012, Special Roundtable Meeting Minutes

Commissioner Dodd made a motion to approve the minutes as listed. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

11. CONSENT AGENDA

Mayor Minnet reminded everyone two items were added to the Consent Agenda: 11j and 11k. Staff requested the Commission pull Items 11h and 11i, as there was new information.

Commissioner Dodd requested items 11a, 11d, 11e, 11f and 11k.

Commissioner Dodd made a motion to approve items 11b, 11c, 11g and 11j on the Consent Agenda. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

- a. Paint Only Program Amendment (Assistant to the Town Manager Pat Himelberger)

Commissioner Dodd inquired as to the issue of mixed use and whether this pertained to residential above commercial, as he wanted no part of the paint program to be beneficial to residential uses.

Assistant to the Town Manager Himelberger affirmed the program was meant for commercial uses with residential uses above, as Town staff came to realize such buildings were also in need of assistance and attention.

Commissioner Dodd preferred that the Town not subsidize the painting of the residential portion of a commercial building within the Town's paint program.

Town Manager Hoffmann pointed out some of the commercial/residential buildings were considerably prominent buildings along Commercial Boulevard, asking if Commissioner Dodd preferred the paint program pay only for the commercial portion.

Commissioner Dodd answered absolutely, as it was unfair to allow the program to subsidize the residential portion of a commercial building, when the paint program was

not available to the rest of the Town's residents. Thus, the commercial portions only of such buildings would be eligible for the paint program.

Commissioner Vincent questioned how the Town would establish the criteria for distinction between the two, possibly outlining the percentage of commercial versus the percentage of residential.

Town Manager Hoffmann replied it was usually the second and above floors of such buildings that comprised the residential portion.

Vice Mayor Sasser remarked when he read the item, he wondered if the Town should have a paint program for residential uses. His position against such programs for the betterment of commercial uses was based on the fact, such that the funds being used were taxpayer dollars, and the Town was in a position to enable its residential areas to look as good as its business district. The Town was already investing considerably in the improvements between Commercial Boulevard and the beaches that would directly benefit all the businesses along those that area. He felt the least the businesses could do was to pay to improve the aesthetic appearance of their own businesses; this was not the direction he wished the Town to go in, and preferred taxpayer dollars go to making Town properties the best they could be.

Commissioner Vincent wished to withdraw his second to Commissioner Dodd's motion to approve 11a, as he tended to agree with Vice Mayor Sasser's comments and thought further exploration was required by Town staff.

Commissioner Dodd made a motion to approve item 11a, with the proviso that the grant applied only to the commercial portion of buildings with a mixed commercial/residential use. Commissioner Brown seconded the motion. The motion carried 3-2. Vice Mayor Sasser and Commissioner Vincent voted no.

- b. Our Town Grant Application (Assistant to the Town Manager Pat Himelberger)

Approved on consent.

- c. Special Event Application – Super Bowl 2013 (Assistant Town Manager Bud Bentley)

Approved on consent.

- d. Inter Local Agreement with Broward County for Optional Solid Waste Services. (Assistant Town Manager Bud Bentley)

Commissioner Dodd felt the Town needed to publicize that it cost the Town \$12,475 a year for the Town to take its own hazardous waste to Pompano, asking what the penalties were for residents throwing old cans of paint in the regular trash.

Assistant Town Manager Bentley clarified the Town did not currently pay the above fees, they were paid through the tipping fees that translated into the monthly garbage bill. In the future, under the subject agreement, the disposal of hazardous waste would be billed to the Town and the matter would have to be address in 2013 when the fees were adjusted. A resident that illegally dumped hazardous material would have to be caught, and the County tried through education to keep such material out of the waste stream, as once it got in, it was very difficult, if not impossible to trace it to the illegal dumper. He indicated the proper disposal of hazardous waste would be part of an educational program the Town would be providing.

Town Manager Hoffmann added Town staff would include an article on the subject in the spring edition of the Town's newsletter *Town Topics* as well, including the location of the hazardous waste disposal facility in Pompano.

Mayor Minnet commented there had been a number of occasions where persons from Broward County Waste came to the Town and did a hazardous program in the local community. Town staff could look into how to facilitate having more of such events.

Commissioner Dodd made a motion to approve item 11d. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

e. Policy Issues on Rehiring an Employee Who Was Laid Off (Town Manager Connie Hoffmann)

Commissioner Dodd inquired if all the original employees, other than those who chose to retire, had been accommodated into the Town's employment workforce.

Town Manager Hoffmann answered no, two of the three had; there had been two vacancies to be filled.

Vice Mayor Sasser wanted to help employees as much as possible, but the backup indicated that a number of persons were "laid off" by the Town, and he wish to ensure a precedent was not being set that would come back to haunt the Town.

Town Attorney Trevarthen responded the Town's legal staff had not been asked to look at the subject matter, but the general principle was a precedent was being set to the extent that people were similarly situated. Thus, the similarly situated people were those that had been laid off and then rehired, and they needed to be truly comparable before the concern about equal treatment came into play. If there were differences in the factual circumstances, then it was not necessarily as much of an issue.

Commissioner Dodd made a motion to approve item 11e. Commissioner Vincent seconded the motion. The motion carried 5-0.

f. Law Enforcement Trust Fund (LETF) Request – Automated License Plate reader (ALPR) System (Chief Oscar Llerena)

Commissioner Dodd mentioned advocating for the subject item for some time and knew it had the support of the whole Commission, as they felt it was a priority. He asked if there was any estimation on the date of implementation.

Chief Llerena responded the system would be purchased by the Town, so certain purchasing protocols had to be followed. Implementation would begin as soon as the Commission made a final vote on the system.

Town Manager Hoffmann added she would be working on the bid specs, and Chief Llerena procured RFPs from other municipalities for Town staff to work off of, and she would get that document to the Commission before the end of the month for review. The hope was to put the matter out to bid in January 2013. She intimated the Town had already been approached by three separate firms that wanted to bid, so she guessed the bid would be put out for about 30 days, which meant the selected potential vendors would be presented to the Commission in February 2013 for an award of the bid. Town staff would request that the candidates outline in their bids a timetable for the implementation of the system.

Commissioner Dodd made a motion to approve item 11f. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

g. Special Event Application – Beach Clean-Up January 16, 2013 (Assistant Town Manager Bud Bentley)

Approved on consent.

h. A1A Parking Lot Construction Award (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley said Town staff was happy to bring the subject item before the Commission, as it had taken considerable work. As mentioned in the backup, staff was doing some value engineering to bring the cost down, and they were successful in doing so for around \$40,000. He apologized for the omission of one item; in the redesign at the location across from the Wings, they had to angle the parking to increase the aisle width and lost one parking space. Staff recommended approval, noting the work would be done by the same contractor the Commission awarded the Bougainvillea south median parking to at the last meeting, noting the contractor would do the projects simultaneously with both completed within 90 days.

Vice Mayor Sasser sought confirmation the over cost to remodel the subject parking lot, minus the sign, would be \$195,552.

Assistant Town Manager Bentley answered yes.

Vice Mayor Sasser urged the dais to reassess the sign issue, as at one point the cost for the sign was almost half of what the Town was now going to pay for the whole parking lot. He received numerous comments about that and, as he was on the losing end of that vote, he could not bring the matter back for further consideration.

Commissioner Brown noted he too had some concerns on the amount of money the Town was spending to add 13 new parking spaces, particularly since there was no way of knowing what the long-term use of that lot would be. After discussing the situation with Town Manager Hoffmann, he was told a considerable portion of those funds would be going to landscaping to aesthetically improve the area, and the traffic flow would be facilitated by the subject changes. There would also be improved entrance and exit access points from the lot, so, in looking at the big picture, spending the funds on the much-needed parking spaces seemed a good direction to go in. He said, on the matter of the sign, he was still waiting to see more proposed solutions to the signage on Commercial, directing cars into that lot.

Commissioner Vincent echoed Commissioner Brown's comments that the cost for the redesign of the subject parking lot was justified. He concurred with the need to reevaluate the sign, as he had some issues on that matter since the vote as far as the dollar amount, and the Town needed to look at some other designs, and get further input from both residents and the Commission.

Mayor Minnet inquired how much of the dollars were coming from the parking fund.

Assistant Town Manager Bentley answered all of it.

Commissioner Dodd made a motion to approve item 11h. Commissioner Vincent seconded the motion. The motion carried 5-0.

Mayor Minnet observed there appeared to be a Commission consensus to revisit the parking lot sign issue, directing the Town Manager to place the matter on the next Commission agenda.

Town Manager Hoffmann stated Town staff was already looking into toning down the proposed sign for the parking lot in terms of height and some of the design features. She was unsure if that redesign would be ready in time for presentation at the Commission's first meeting in January, but it would be brought back in the very near future.

i. Benihana Agreement (Assistant Town Manager Bud Bentley)

Assistant Town Manager Bentley referred to the backup in which it was stated the Town finally came to a conceptual agreement with Benihana, and the latter was sent a final draft by the Town, which their contract attorney, Howard Nelson, recommended for approval to the corporation. The corporate in-house attorney was out of the country, and Benihana was unable to return an executed license to the Town. Town staff was

recommending the Commission approve the subject agreement, authorizing the Town Manager and Town Attorney to make minor, non-substantial edits, should they be required. The Town had reached its limit on any further substantial changes.

Vice Mayor Sasser asked if Benihana was current on their payment.

Assistant Town Manager Bentley replied Benihana paid the \$40,000 plus for the last year, and the subject contract provided that Benihana would pay the Town \$40,000 plus in the present fiscal year within five days of execution of the agreement.

Vice Mayor Sasser noted though there was a five-year term on the agreement, either party could cancel its contract with six months prior notice, so it was effectively, at least a six-month contract. He saw no change of control language in the backup, wondering if he missed it; if not, he questioned the what type of change of control there was in the agreement if something were to happen if, for instance, Benihana sold the business.

Town Attorney Trevarthen recalled there was no such provision in the agreement, and any changes to the restaurant itself, the primary use, would have to come back to the Town and Commission for a site plan approval.

Vice Mayor Sasser pointed out the latest news on Benihana was that they were going through a restructuring, and he wanted to make sure Town staff thought through the effects of such a process on the agreement.

Assistant Town Manager Bentley replied the agreement contained the same clause in the existing contract, number nine assignment, which summarily stated Benihana had no authority to assign any portion of the premises during the term of the agreement. The issue Vice Mayor Sasser referred to was Benihana's corporate stock being bought and sold, and the Town's business license was issued to Benihana, Inc.

Vice Mayor Sasser commented there were a myriad of actions Benihana could take, such as going franchised, etc. and what the implications for change of control and the agreement with the Town were.

Town Attorney Trevarthen remarked this was about the use of a strip of land regardless of who controlled the restaurant or owned the corporation; thus, it was more about how the property was developed. It was important to know what the Town sought to accomplish.

Assistant Town Manager Bentley noted this was a subject of improved site plan, so it was not as though they could change the use and the site plan without coming to the Town for approval, and the use was specifically described in the agreement.

Vice Mayor Sasser emphasized the need to determine if the agreement was with the landowner or the business, as the use could change or the concept of the business, though still a restaurant, could change. He sought only to ensure Town staff had

thought such matters through and was satisfied with the subject agreement; he wished to ensure there was always the ability to come back to the table.

Commissioner Dodd made a motion to approve item 11i as amended by Town staff. Commissioner Vincent seconded the motion. The motion carried 5-0.

- j. Revised set up time for 2013 New Year's Eve special event (Assistant Town Manager Bud Bentley)

Approved on consent.

- k. A special event proposed on Monday, January 7, 2013, for the 2013 BCS National Championship Game between Notre Dame and Alabama (Assistant Town Manager Bud Bentley)

Commissioner Dodd thanked Town staff and the Commission, as well as the representatives of the event for bring the game to the Town, as it would cause quite a considerable influx of people. He realized not all the residents would be happy about its coming, but he felt sure the local businesses would be happy.

Mayor Minnet thanked the Village Grill, as they were always willing to step up to the plate when required. She looked forward to an exciting game.

Commissioner Dodd made a motion to approve item 11k. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

12. ORDINANCES – PUBLIC COMMENTS

1. Ordinances 1st Reading

None

2. Ordinances 2nd Reading

None

13. RESOLUTIONS – PUBLIC COMMENT

a. Resolution 2012-54: FDOT - REGARDING THE MODIFICATION TO THE PEDESTRIAN SIGNALIZATION AT THE INTERSECTION OF STATE A1A AND COMMERCIAL BOULEVARD (TOWN MANAGER CONNIE HOFFMANN)

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Vice Mayor Sasser made a motion to approve Resolution 2012-54. Commissioner Dodd seconded the motion. The motion carried 5-0.

b. Resolution 2012-55: BUDGET RESOLUTION (FINANCE DIRECTOR TONY BRYAN)

Mayor Minnet opened the discussion for public comment, which she closed upon receiving no input.

Commissioner Dodd made a motion to approve Resolution 2012-54. Commissioner Brown seconded the motion. The motion carried 5-0.

14. QUASI-JUDICIAL PUBLIC HEARINGS

None

15. COMMISSION COMMENTS

Commissioner Vincent wished everyone a happy holidays and Happy New Year; he hoped to see everyone out enjoying the Christmas-By-The-Sea event.

Mayor Minnet reminded everyone to go on the Broward League of Cities website for the "Together We Serve" initiative that was all about volunteer hours. The League's president challenged municipalities to come up with a million volunteer hours and, currently, over 500,000 hours had been logged in, so she urged people to go to the website to log in their volunteer hours. She echoed holiday wishes and urgings for everyone to attend the Christmas-By-The-Sea event, adding it appeared the Town would host a wonderful New Year's Even event, though she would be out of town and unable to participate. She mentioned Dr. Moretsky, a resident that passed away recently, asking everyone to keep his family and him in their thoughts and prayers.

Commissioner Dodd announced there was no Hillsboro Inlet meeting.

Commissioner Brown attended a meeting the previous night in Fort Lauderdale at which the erosion problem where Hurricane Sandy eroded a portion of the road was discussed, as they were trying to come up with a solution. The meeting was well attended and many people spoke, and the first conclusion was that simply fixing the road in a vacuum was only a part of the problem, as it was tied to the beach restoration project. He said the broader point people tried to make repeatedly, including representatives of environmental groups normally against beach restoration, was that beach restoration could not occur in the four-block area that was wiped out. There had to be a comprehensive area project that went all the way up to Lauderdale-By-The-Sea and all the way down to Port Everglades. He mentioned representatives were there from the state, the Army Corp and the County, and they all said, in view of how serious the erosion problem was in many areas, they were now looking to enhancing the project that was already approved to include the possible construction of dunes along the shore

areas. The dunes would be planted with sea oats and other vegetation to hold the sand in, but everything was in the conceptual stages at present, as the immediate goal was to fix and strengthen the road. He felt encouraged to hear that the various agencies were looking comprehensively at the need to protect the beaches as a part of the project, and that the Town was being included in their consideration.

Vice Mayor Sasser wished everyone a safe holiday season. He expressed appreciation for Commissioner Brown's comments that the agencies were collaborating to find solutions rather than just dumping sand and tapering on the Town's beaches to the north and south. He was more than happy to entertain solutions.

16. OLD BUSINESS

a. Bougainvilla Landscaping (Project Manager Bill Cole)

Project Manager Bill Cole reviewed the subject items as detailed in the backup.

Vice Mayor Sasser thanked Town staff and Mr. Cole for the backup information, as it clearly illustrated the differences. The major difference between Options One and Two appeared to be the palm trees. He selected Option One.

Commissioner Dodd made a motion to approve the selection the Option One design concept. Vice Mayor Sasser seconded the motion. The motion carried 5-0.

17. NEW BUSINESS

a. The Procurement Process to Select Contractors for the Commercial Boulevard Streetscape Project (Town Manager Connie Hoffmann)

Town Manager Hoffmann suggested the Town use a procurement process the Town did not use and that was not contemplated in the Town's purchasing policies; that is, the construction manager at risk method. In her discussions with other city managers and redevelopment managers, they universally recommended that the Town use this approach on projects of this scope, where businesses would be interrupted, as the aim was to get a high quality product. These managers pointed out to her that the firms able to submit proposals for construction managers at risk were generally the better construction companies to begin with, as the process required they agree to a guaranteed maximum price. Thus, there would be no change orders, etc. She stated this method gave the Town the ability to select a firm, negotiate a contract, and then have them value engineer the project for possible changes that had small design impacts but produced cost savings, making them a part of the design team. Normally this was done earlier, but she felt it was possible to get some of the benefits from that process by getting their input on how to save money in the construction of the two subject projects. Town Manager Hoffmann commented if the Commission was comfortable proceeding in this manner, she would bring back an amendment to the

purchasing guidelines that would enable the Town to move forward accordingly. She would work on the request for proposals (RFP) over the holidays to solicit construction managers at risk.

Commissioner Brown remarked being 100 percent in favor of the Town Manager's recommendation. Based on the experience with the Bougainvillea project, it was clear unexpected problems would arise, along with noise and disruptions, and these were not the kinds of projects that could be put out to an ordinary bid and awarded to the lowest bidder regardless of their expertise. The Town needed to get the best company managing the projects, using the most qualified contractors. He believed the greatest transparency should be aimed for, in order to keep those affected fully aware of timelines as the project moved forward.

Commissioner Dodd echoed full support for the Town Manager's recommendation, stating every effort should be made to minimize disruption to the area businesses.

Vice Mayor Sasser thought the process suggested by the Town Manager sounded much more efficient, but he did not want to get into a position whereby the Town was being less transparent throughout the selection process for a qualified firm.

Town Manager Hoffmann commented one of the downsides to the subject approach was there would be less competition, as many companies were not willing to put themselves at risk and agree to a set price for construction. In terms of transparency, she needed to gather more information from entities that used the subject bid process and speak with the Town Attorney about if there were two bidders, could the Town get them both to submit price proposals. When the Town Commission met in January and Town staff presented a draft RFP, she would be in a better position to answer the Commission's inquiries as to transparency, etc.

Mayor Minnet acknowledged a Commission consensus for the Town Manager to move forward with creating a draft RFP to procure bids for a construction manager at risk for the Commercial Boulevard projects.

* * *

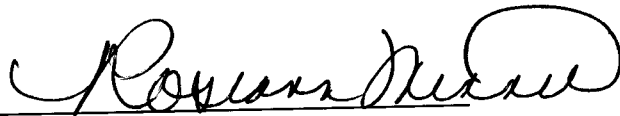
Town Manager Hoffmann mentioned Town Hall normally closed earlier on Christmas Eve, and she wished to confirm the Town Commission was still in agreement with that taking place in the upcoming season.

Mayor Minnet acknowledged a Commission consensus to close Town Hall early on Christmas Eve as was normally done.

18. ADJOURNMENT

Commissioner Dodd made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 8:44 p.m.

Town Commission Regular Meeting Minutes
December 11, 2012



Mayor Roseann Minnet

ATTEST:



Town Clerk,

3/19/13
Date