

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, July 27, 2004

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:09 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, and Commissioner Wessels. Town Manager Baldwin, Town Attorney Cherof, and Town Clerk Medina were also in attendance. Commissioner Yanni was absent.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan delivered the invocation.

Mayor Parker asked that the agenda be amended to provide Commissioner John Yanni an excused absence for the next meeting. There were no objections from the Commissioners. Mayor Pro Tem Clark motioned to excuse Commissioner Yanni for the next meeting, and Vice Mayor Kennedy seconded. Upon roll call, the motion was passed unanimously 4-0.

4. PRESENTATIONS

- A. Employee(s) of the Month, Volunteer Fire Department (Chief Ian MacLean)

Chief MacLean announced that the Volunteer Firefighter of the Month was Doug Smyth. He noted Mr. Smyth's past service with the Plantation Fire Department and, since moving to Bel-Air and retirement from his engineering profession, Mr. Smyth has been an active member of the Town's Volunteer Fire Department and was, in fact, enrolled in the training program to learn new methodologies of firefighting. The Chief welcomed his participation and commended his enthusiasm.

Mr. Smyth thanked Chief MacLean for the recognition and pledged his continued involvement. The Commission congratulated him.

- B. Fourth of July Committee and Volunteers

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Commissioner Wessels, who served as Chairman of the Committee, thanked Co-Chair Cindy Geesey and Fundraising Officer Jerry Sehl for their assistance.

Mayor Parker read three proclamations into the record honoring: the Clarion Lauderdale Beach Resort and William Davis; Dr. Richard Blanchar as "Town Doctor"; and Jerry Sehl.

Mayor Parker also presented Certificates of Appreciation to the following businesses and individuals in recognition of their assistance with the Fourth of July celebrations:

Clarion Lauderdale Beach Resort	Minto Communities, Inc.
White Cap Motel	Janelle and Rob Duritsa
Village of Sea Ranch Lakes	Shirley Russotti
Aruba Beach Café	High Noon Resort
The Village Grille	Oriana-By-The-Sea
Frank Myatt and Everett Sorensen	Ocean Mist Pub
Craven, Thompson & Associates	Walter H. Keller, Inc.
Rainbow by the Sea	Paul Schlotzhauer
Shore Haven Resort	Jan's Homemade Candies
Louie's Diner	Lauderdale-By-The-Sea Rent-A-Car
Athena By The Sea	Seascape Resort Motel
Ocean Reverie	Dee Jay Apartments
Worden Brothers	Regal Apartments
Scot's Drugs	Pat Maher
Bill and Ruth Weyhmueller	Pump by the Sea Marathon
Kwik Pic	Dr. Carlos Sierra
Mulligan's Neighborhood Grill	Villa du Soleil
Lord's Realty	Beach Apartments
Half Venture of Florida	Scooters Plus
Costa del Sol	Allan and Mae Gibson

Mayor Parker extended the Town's appreciation and presented certificates to Organizational Committee Members: Bill Davis, Vincent Ragusa, Ron Piersante, Cindy Geesey, Marie White, Bob Terrien, Lorene Parker, Ian MacLean, Jim Pollack, Jerry Sehl, the Lauderdale-By-The-Sea Volunteer Fire Department, and to former Commissioner Marc Furth and his wife, Christie, for the Town History Slide Show. The Mayor extended special thanks were extended to: volunteers Ruth Peach, Marcella Sock, Kim Hayes, Brenda and Dawn Palughi, Joyce Murray, Ellen Kirby, Carol Leitner, and Bob and Ruby Schuyler; and to Sal's Towing, Sunny Eckhardt, Laundry By The Sea, and to the Chamber of Commerce.

Honoring the 2004 "Hometown Hero," Cindy Geesey, President of the Property Owners' Association, announced that the nominees included Miguel San Miguel, Margaret Reichenstein, Shirley Roussotti, Jerry Sehl, and Kit Cashman. This year's winners were Mae and, posthumously, Allan Gibson. Mrs. Gibson thanked the Town, but was particularly appreciative that her late husband had been recognized.

5. REPORTS

- A. Budget Report for Period Ending June 30, 2004

Vice Mayor Kennedy moved to accept the report, which was seconded by Mayor Pro Tem Clark. Upon roll call, the motion was unanimously approved on a 4-0 vote.

6. APPROVAL OF MINUTES

- A. July 6, 2004, Special Meeting
- B. July 13, 2004, Agenda Conference
- C. July 13, 2004, Regular Meeting

Vice Mayor Kennedy moved to approve the Minutes, seconded by Commissioner Wessels. Upon roll call, the motion was unanimously approved on a 4-0 vote.

7. ORDINANCES (2nd Reading) "Public Hearing"

- A. MAINTENANCE OF CONSTRUCTION SITES: Ordinance No. 2004-10, amending the Code of Ordinance at Chapter 6, Article I, to add a new Section 6-8, regarding construction site maintenance and appearance; providing for the maintenance of construction sites; providing for enforcement and penalties; providing for codification, conflict, severability, and an effective *(tabled from July 13, 2004)*

Attorney Cherof read the ordinance by title only.

Mayor Parker opened the public hearing. There were no comments or questions from the public, and the Mayor closed the public hearing.

Vice Mayor Kennedy motioned to adopt Ordinance No. 2004-10, seconded by Commissioner Wessels. Upon a roll call vote, the motion was unanimously approved on a 4-0 vote.

- B. FIRE PROTECTION ASSESSMENT: Ordinance No. 2004-11, amending Chapter 8, Entitled "Fire Prevention and Protection," Article VI Entitled "Fire Protection Special Assessment," Section 8-101 Entitled "Fire Protection Special Assessment Boundaries" to add a new subsection 8-101(3) entitled "Fire Protection Special Assessment – Townwide" to define a single fire protection special assessment area comprised of the geographical boundaries of the entire Town for fire protection services provided within the Town; providing for conflict, severability, codification, and an effective date *(tabled from July 13, 2004)*

Attorney Cherof read the ordinance by title only.

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Mayor Parker opened the public hearing. He briefly explained that the ordinance consolidated the north and south fire districts into one district.

Diane Bouton, 4244 El Mar Drive and speaking on behalf of the Windjammer Resort and Beach Club, respectfully requested that, due to the complexity of this issue, the varying degrees of assessment methods, the controversy, and the overall concerns of the community, the Commission consider a workshop to discuss the future assessment fee.

Doug Bosley, representing the Tropic Ranch Resort at 4560 El Mar Drive, stated that he was also authorized to speak on behalf of other hotel and motel owners regarding the fire assessment increases. Reading from a prepared statement that contained numerous points, Mr. Bosley asked that the item be tabled to enable further study by both the community and the Commission.

Mayor Parker clarified that the purpose of this ordinance was to merge the existing two fire districts into one – a Town-wide Volunteer Fire Department, with back-up support from Broward County. He described it as a preliminary step to the creation of the unified fire assessment, which was a later agenda item.

John Thompson, residing at 4900 North Ocean Boulevard believed that “whereas” clauses of the Resolution were prejudicial to the issue of funding. Mr. Thompson referred to a statement that he had hoped to have published, copies of which he made available. He believed the assessment to be neither fair nor reasonable and suggested other sources of revenue to pay for the fire assessment. Mr. Thompson offered that the fairest and more appropriate method would be under ad valorem taxes.

Bob Waller, 268 Neptune Avenue, complained that there had already been a significant increase in the assessment during the past year. He anticipated that fire assessments would continue to increase and that costs to the south side of Town would triple. He believed that assessed value would be the fairest method.

Larry Soleil, of Mockingbird Apartments, 4626 Bougainvillea Drive, believed that, with the controversy, the issue should be clarified, and he hoped that the Commission would take whatever time was necessary so that it may be understood by everyone. He did not believe enough information had been furnished to make an equitable decision.

Arthur Franczak, Manager of the Shore Haven Resort at 4433 N. Ocean Drive, questioned data furnished in the Government Services Group report about the north and south fire districts.

Mayor Parker explained the difference in the current two fire districts and the protection provided by Broward County in the north and the Volunteer Fire Department in the south. He offered that the Town must meet national fire response protocols, which require specific equipment and manpower dependent upon the fire site; these protocols cannot be met by the Volunteers for the entire Town without purchased back-up. The

Mayor also provided additional information concerning protection background and assessed property values.

As there were no further questions, Mayor Parker closed the public hearing.

Vice Mayor Kennedy motioned to adopt Ordinance No. 2004-11, seconded by Mayor Pro Tem Clark.

After inviting Commission comments, Mayor Parker commented that, while he understood the necessity to merge the districts, he believed that business owners and residents deserved ample notice regarding the assessments and that the action should not be taken until next year. He urged the Commission to agree with him and to vote against the ordinance.

Upon roll call, the motion was passed on a 3-1 vote, with Mayor Parker dissenting.

8. PUBLIC COMMENTS

Arthur Franczyk, Manager of the Shore Haven Resort at 4433 N. Ocean Drive, questioned Item 345 of the Government Services Group report, and Mayor Parker responded that this concerned the contract with the Broward Sheriff's Office. Mr. Franczyk commented that he had attempted to get answers earlier, through both the Broward County Library and Town Hall, without success. He noted that, of the \$2.2 million budgeted for Fire Protection, 90 percent was unexplained. The Mayor indicated that approximately \$2 million would be spent in the contract with the Broward Sheriff's Office, and Town Attorney Cherof offered that the Town Clerk would provide to him a copy of the agreement.

Doug Bosley, representing the Tropic Ranch Resort at 4560 El Mar Drive, was recognized. When Mr. Bosley indicated that he would again read his statement, Mayor Parker confirmed that it was already reflected in the Town's records. Town Attorney Cherof asked that Mr. Bosley provide a copy of his statement to the Town Clerk for inclusion in the record. Mr. Bosley believed that the Town had already been furnished the statement through their attorney, James Brady, but would furnish a copy.

John Thompson, of 4900 N. Ocean Boulevard, reiterated his belief that fire protection services could be funded through ad valorem taxes or through special assessment at today's level, with the remainder through internal revenue sources.

Dr. Kenneth Most, of 2160 S.E. 19th Street and Chairman of the Lauderdale-By-The-Sea Sister Cities Association, thanked the Mayor and Commissioners for their support. Additionally, he complimented the efforts of staff, particularly Town Manager Baldwin and Town Clerk Medina. Dr. Most noted that the Mayor of San Isidro would visit on August 2nd and, at 6:00 p.m., the agreement between the two cities would be signed. He described the planned program and invited the public, particularly Spanish-speakers, to the workshop that would follow to develop ideas of interest to the two cities. Dr. Most

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also invited further participation in the program by contacting him at 954-946-1730. He apologized that admission to the August 3rd reception was by invitation only.

Larry Soleil, 4636 Bougainvillea Drive, commented that since the entire Town must pay the cost for fire, the future installation of sewers in the north part of Town would be paid by the entire Town as well.

The Mayor recessed the meeting at 8:57 p.m.
The meeting was reconvened at 9:08 p.m.

9. ORDINANCES (1st Reading) Public Hearing

- A. SCOOTER SALES: Ordinance No. 2004-12, amending the Land Development Code to designate motorized scooter/moped sales as permitted uses in the B-1 and B-1A Zoning Districts, specifically amended Sections 24-5.96(b)(1) and 24-5.111(a); providing for severability, codification, conflicts, and an effective date (*tabled from July 13, 2004*)

Mayor Parker noted that a scooter would usually be returned to its place of purchase for repair. He asked if it were reasonable, if the repairs were not done on site and if the scooters were not stored outside, to allow the return of the scooter to the store. Mayor Parker polled the Commission, and there were no objections.

Attorney Cherof read the ordinance by title only.

Mayor Pro Tem Clark moved to adopt Ordinance No. 2004-12 on first reading, seconded by Vice Mayor Kennedy. Upon roll call, the motion was adopted unanimously on a 4-0 vote.

Mayor Parker noted that the second reading of the ordinance would be August 10th.

10. CONSENT AGENDA

- A. INTERLOCAL AGREEMENT: Agreement between the Town of Lauderdale-By-The-Sea and Broward County Building Code Services Division for Inspection, Plan Review, Building Official and Related Services
- B. CONTRACT: Proposal from Hartman & Associates to Perform a Water System Analysis, Phase III
- C. CONTRACT: Proposal from Craven Thompson to Study Round-a-bout Locations within the Town
- D. CONTRACT: Proposal from Craven Thompson for Portals to the Sea

Vice Mayor Kennedy moved to adopt Consent Agenda Items A, B, C, and D, seconded by Commissioner Wessels. Upon roll call, the motion was passed unanimously on a

4-0 vote.

- E. CONTRACT: Proposal from Michael Fay for Landscaping Improvements for Portals to the Sea

With regard to Item E, pursuant to the Agenda Conference earlier, Mayor Parker asked for a motion authorizing the Town Manager to negotiate a contract with Michael Fay for landscaping improvements for Portals by the Sea, provided that said contract does not exceed \$16,800, and also allowing him to contract for up to five renderings, one for each portal, with each rendering not to exceed \$1,000. Mayor Pro Tem Clark moved, seconded by Commissioner Wessels. Upon a roll call vote, the motion was passed unanimously on a 4-0 vote.

11, RESOLUTIONS

- A. Resolution 2004-15, relating to the provision of fire protection services, facilities and programs in the Town of Lauderdale-By-The-Sea, Florida; describing the method of assessing fire protection assessed costs against assessed property located within the Town's geographical boundaries, known as fire protection assessment area – townwide; establishing the estimated rates for fire protection services for the fiscal year beginning October 1, 2004; directing the preparation of an assessment roll for fire protection assessment area – townwide; authorizing a public hearing and directing the provision of notice thereof; providing for conflict; severability; and an effective date

Town Manager Baldwin stated that he wished to read a memo into the record, which would be followed by a presentation given by Camille Tharpe of Government Services Group.

Mayor Parker asked, since there would be a public hearing, if the presentation would be acceptable before the motion and public comments. Town Attorney Cherof replied this was acceptable and asked permission to also make a comment.

At the Mayor's query, the Commissioners had no objection to proceeding in this manner.

Town Attorney Cherof handed out copies of a memorandum sent to the Town Clerk and Town Manager on July 13th, which answered some of the issues raised during the agenda conference regarding the timing. Reading from the memorandum, Mr. Cherof explained that the entire process was dependent upon deadlines imposed by statutes and the Property Appraiser's Office. He summarized that September 13th is the only date on which the Town may hold its public hearing to adopt the Final Assessment Resolution. Mr. Cherof stated that it was important to note that the Commission was establishing a preliminary number; the real action occurred in September with consideration of the Final Assessment Resolution. He noted that the public had time to study the information, prepare questions, and oppose or support the Commission at the

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Monday, September 13th hearing. Mr. Cherof emphasized that this meeting did not firmly establish the rate of the fire assessment.

Manager Baldwin read a memo into the record regarding the millage for Fiscal Year 2004-2005. He noted that the millage could be reduced at the September public hearings but could not be increased without special mailings to residents; the final millage would be set at the second public hearing. Tentative millage was typically set higher to protect against unanticipated budget changes or emergencies prior to the September public hearings. As in past years, Mr. Baldwin recommended that the Commission set the millage at 4.999 mils.

Regarding the proposed fire assessment rate, Mr. Baldwin stated that the final fire assessment rate would not be set until the required public hearing on September 13th. As with the proposed millage rate, the proposed fire assessment may easily be reduced and was typically also set higher to protect against unanticipated budget changes. Mr. Baldwin recommended that the proposed fire assessment be set at \$300 per dwelling unit and attendant commercial rates related to the residential rate. If the Commission anticipates a combination of ad valorem and fire assessment rate, it is important that the millage be set high enough to capture the necessary revenue to offset any reduction in the fire assessment rate.

Camille Tharpe, Senior Vice President of Government Services Group in Tallahassee, reviewed that her firm had been hired to help the Town update its methodology and develop rates based upon a consolidation of the fire districts. Data had been collected with the help of staff and the Property Appraiser's Office, and she apologized for the lateness of the report, emphasizing that their work had used the most updated information available. Following a brief history, Ms. Tharpe explained the apportionment methodology, the data components, their consideration of the Fiscal Year 2004-2005 Budget, and the cost apportionment. She noted that 87 percent of fire calls were in response to residential properties and about 13 percent were non-residential.

Ms. Tharpe offered that the Commission's decision was one of policy regarding the preliminary rate scenarios: to fund 100 percent of the assessable costs for the Fiscal Year 2004-2005 budget of \$2,132,157; to fund a maximum for the two years – funding 100 percent of the \$2,238,765 budget; or to fund the average cost of \$2,185,461. She noted that a blended rate was also an option, as many Broward County cities chose to do, whereby some percentage of assessable costs were funded by ad valorem taxes. She briefly reviewed the deadline dates and offered to answer any questions.

At Mayor Parker's poll, the Commission agreed that, following reading of the resolution, they would first entertain the comments of residents.

Town Attorney Cherof read the resolution by title only, and Mayor Parker then opened the public discussion.

Rosa Michailiuk, of 4621 Bougainvillea Drive, indicated that she also managed the Sea Cliff Apartments and was trying to understand the reasoning for the assessment. Costs

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had continued to climb, and she hoped the Commission would consider residential rates based upon square footage.

Diane Bouton, General Manager of the Windjammer Resort and Beach Club, at 4244 El Mar Drive, acknowledged that it was a complicated issue. She questioned whether the cost of fire services must be funded by special assessment, and Mayor Parker responded that they might also be paid through ad valorem taxes. She questioned protocol and the distinctions in building style, and Mayor Parker gave considerable explanation that requirements were based upon building height and the square footage could not be taken into account. The Mayor noted that courts have accepted the distinction between commercial and residential properties, and Town Attorney Cherof read from page 12 of the consultant's report that addressed the apportionment method for residential parcels. Mayor Parker used Building "C" of the Sea Ranch Club as an example. Ms. Bouton noted that the call statistics had not differentiated between single-family residence or the multi-family, multi-story residence.

Ms. Bouton noted that the Town was a mixed use community. At the Mayor's comment that timeshares were condominiums, she offered that timeshares were sometimes assessed as residential and sometimes as commercial; with no year-round residents, an occupational license as transient, a total of 160 units in Town, she hoped that a fair and equitable decision concerning their status would soon be made. She questioned the number of buildings over 40,000 square feet in the Town.

Ms. Bouton also commented that many communities had blended rates, based on ad valorem and user fees. She believed this would be an acceptable solution. She also called to the Commission's attention what she perceived as skewed numbers within the Broward County Property Appraiser's Office rolls.

Town Attorney Cherof noted that the explanation for the 40,000-square-foot cap was explained on page 13 of the consultant's report.

Arthur Franczak, Manager of the Shore Haven Resort at 4433 Ocean Drive, asked regarding Fort Lauderdale's fire assessment and residential versus commercial classification. Camille Tharpe of GSG replied that Fort Lauderdale was proposing to charge \$125, or 100 percent of their assessable fire costs of approximately \$19 million with over 75,000 dwelling units to share that cost. Ms. Tharpe indicated that, for the Town's study, calls had been correlated to hotels and motels, which had been placed in the commercial category. She noted that they had also worked with the Property Appraiser's Office, which assigns the highest and best use, to ensure that hotel and motel square footage was included in the non-residential category, and that they were treated as non-residential in their methodology on a per-square-foot basis.

Offering his opinion, Mr. Franczak did not believe the ordinance was just or equitable and that the fire assessment fee had been shifted to the non-residential properties. He found the assessment too high and estimated their cost at four percent of their revenue, or \$21,000 per year. With 25,000 square feet, he compared their current \$7,000 assessment to those on Galt Ocean Mile at \$2,800; he believed that advantage would

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be given to their competition and that hotel owners would be chased from this Town, with residential properties ultimately picking up the tab.

Commissioner Wessels questioned Mr. Franczak's calculations, and Ms. Tharpe believed that \$9,532 would be correct. Mayor Parker noted that it would be dependent upon the Property Appraiser's classification. Ms. Tharpe suggested that the property owner's recourse could be reclassification to hotel/motel.

At the Mayor's suggestion that hotels and motels could be classified residential, Ms. Tharpe indicated there would then be a mismatch of call data, which would require recalculation of their findings. Mayor Parker asked, hypothetically, if residential would fund 100 percent of fire protection if there were no commercial fire calls. Ms. Tharpe offered that their fundamental methodology used call data as a proxy for service availability; she had never seen a situation without commercial calls. Typically, calls ran with the property composition. There was further discussion. Ms. Tharpe noted there were 700 units of hotel/motel in the community, which was only 10 percent of the total. The classification of timeshares followed the Property Appraiser's Office classification; she imagined that they were treated as residential.

Vice Mayor Kennedy asked regarding Mr. Franczak's Fort Lauderdale comparison, and Mr. Franczak responded the hotel was one-and-one-half times larger and paying one-third of his cost. At Ms. Tharpe's confirmation that a blended rate was used, the Vice Mayor suggested that Fort Lauderdale hoteliers may also be given a "break" to assist their businesses. She indicated that she was not aware of any special policy. Ms. Tharpe noted that, though fire services were funded through both the assessment and taxes, there were more hotels and units upon which to distribute the cost.

There was further discussion regarding the classification of hotel and motels as transient rentals. Mayor Parker suggested that the Town may need to adopt an ordinance that prohibits hotels and motels from accepting non-transient rentals of more than one month, for example. He noted that yearly apartment rentals must also be prohibited from reclassifying to hotel/motel, enabling taxation on square footage and thereby lowering their rates, which would increase rates for single family homes.

Uly Braun, residing at 4537 W. Tradewinds and 4546 El Mar Drive for business, objected to a suggestion that room rates be increased to cover the fee and that, historically, the burden had been placed upon commercial businesses. Mayor Parker pointed out that the proposal would assess residential properties approximately \$1,855,000, while commercial properties would be assessed \$276,000. Mr. Braun also commented that the residential fire assessment had increased fivefold within two years.

Larry Soleil, 4636 Bougainvillea Drive, asked that the presentation slide regarding the total of \$2.2 million be again shown and specifically the wages and benefits of \$84,000 for the Fire Chief, which he believed excessive. Mayor Parker and Town Manager Baldwin provided further explanation concerning the contractual services with the Broward County Sheriff's Office.

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Tom Carr, 254 Miramar Avenue, questioned the required minimum apparatus for single family and multi-family responses, and the Mayor offered further examples. Mr. Carr commented about what he perceived as a lack of services on his residential street, believing that the Town gave attention to El Mar Drive locations.

With no further comments or questions, Mayor Parker closed the public comments.

Vice Mayor Kennedy offered that he felt educated, having learned so much about fire suppression. With one fire district, he understood there was a finite dollar amount that must be reached. The Vice Mayor asked confirmation that the Commission must not now determine how that figure would be reached. Mayor Parker responded that the Commission must set the maximum to be charged. Administration's recommendation was that a maximum of \$300 per household be set and that the charge per square foot for commercial be doubled.

The Mayor noted that there had been problems with the numbers received from the Property Appraiser's Office, and staff planned to do a manual count of the units for commercial square footage.

Town Manager Baldwin added that, in working with the Town Attorney, the residential rate of \$300 and high commercial rates had been calculated. Mr. Cherof reiterated that the Town could not set rates higher than those set at this meeting.

Vice Mayor Kennedy noted that Mr. Thompson had suggested a myriad of funding possibilities. He asked, if the Commission decided to do a blended method, the 4.99 mils would be sufficient. At the Mayor's indication that it would not, the Vice Mayor suggested that more "room" should be left in the millage set. The Mayor and Town Manager Baldwin indicated that, should the entire amount be covered in the ad valorem, it must be raised by 1.55 mils, and half of the amount would result in an increase of 0.7525 mils.

Mayor Parker noted that a minimum home sales price was approximately \$300,000. Due to the Save Our Homes Act, there were current values of approximately \$200,000, which he believed was a minority of residences. With the proposed rate of \$260 per residential unit, 1.5 mils on \$200,000 was \$300. If it was added to millage, the cost of fire protection would be transferred from the commercial user to the residential user. The Mayor believed that increases in millage impacted the homeowner more than the commercial user, and he asked that it be kept in mind that it cost more to extinguish commercial fires than in residential fires. Residences were already subsidizing the commercial units; he did not wish to make it worse. The Mayor offered that, by setting millage at 4.99 mils, the Town would be excluding a blended rate. To consider a blended rate, he believed that a maximum millage rate of 6.25 should be set. Mayor Parker believed that in doing so, 500 people would appear at the next hearing.

Commissioner Wessels suggested that to open the door to a blended rate, the total millage must be taken into account.

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With further discussion, Mayor Parker believed that the millage rate could be left at 4.7 mills if residential rates were kept between \$260 and \$300. He asked that it be kept in mind that the hoteliers believed they would be charged at the residential rate; the consultant proposed that they be charged a commercial rate, which was approximately half of the residential rate. The Mayor explained that the hotels and motels charged at a residential rate were those unwilling to seek reclassification to commercial at the Property Appraiser's Office, with which Town Attorney Cherof agreed.

Commissioner Wessels commented that commercial property amounted to approximately 13 percent of the fire calls, and the Mayor responded that it cost more money to provide them with protection.

Vice Mayor Kennedy offered that he was leaning toward \$300 and believed there would be considerably more discussion before the final hearing in September. Commissioner Wessels noted a leeway of only \$30. He suggested there should also be discussion concerning a blended rate, giving examples of the increase in millage plus the fee.

Offering that the consultant proposed a rate of \$260, Mayor Parker suggested other options of \$270, \$280, and \$300 and the results on commercial fees. He noted, however, that if commercial properties were charged less than what has been justified by the report, homeowners could sue for the difference and the Town could end up with a significant deficit.

Town Attorney Cherof urged the Commission to examine the Appendix B of the resolution. Section B-1 contained the first issue -- that the Commission was making the determination to collect \$2,238,765 through a fire assessment, and Section B-2 established the rates. He believed this could be accomplished in one motion preliminary to the motion to adopt the resolution.

In conjunction with the study, Town Manager Baldwin offered that the rate had been calculated at \$300 based upon the rate of \$273, as shown on Table 13, with an increase of 10 percent.

If these numbers were satisfactory to the Commission, Town Attorney Cherof suggested a motion to adopt Appendix B, completed to reflect the numbers contained on Table 13, and he read the numbers: residential at \$300, and down the column as \$551, \$1101, \$1927, \$2753, \$5506, \$11,010, \$16,514, and \$22,019. He noted these numbers appeared on page 2 of Appendix D.

Explaining his rationale, Vice Mayor Kennedy motioned to accept what had been stated by Town Attorney Cherof, and seconded for discussion by Commissioner Wessels.

Commissioner Wessels asked the Town Attorney's clarification that this would set the assessment rate and would not preclude the possibility of a blended rate, and Town Attorney Cherof agreed.

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Mayor Pro Tem Clark offered that his questions had been posed by Commissioner Wessels and stated that he was satisfied as long as the millage rate remained an open question. However, the Commissioner expressed concern with the figures furnished by the Property Appraiser's Office.

Mayor Parker questioned the MGT report for July 31, 2003, and the fire call percentages for the previous year, which estimated that 80 percent of the calls were residential and 20 percent were commercial, and he was suspicious that the numbers had changed so dramatically. Ms. Tharpe offered the experience of her firm, and the fact that their universe of calls had been 193, as both duplicates and EMS calls were removed. She could not speak to MGT's methodology.

Mayor Parker indicated that he understood the maximum \$300 per residential unit; however, an increase of 10 percent in commercial rates would lock the Town into the position of giving commercial users a 50 percent discount on the cost of fire suppression. He believed that the playing field should be equalized, perhaps doubling commercial rates and lowering residential.

Ms. Tharpe noted that in order to maintain a legally defensible methodology and be fair and equitable, the proportionality of contributions between residential and non-residential must be maintained. She believed that the Town would place itself at risk by doing otherwise. Discussion about various options ensued.

Mayor Parker agreed with the \$300 residential figure, but suggested there should be a larger increase in the commercial rates in the event of errors in the numbers provided by the Property Appraiser's Office.

Commissioner Wessels asked if the errors in the unit numbers had been identified, and Mayor Parker related that 3,000 units had been counted twice. Ms. Tharpe offered further explanation of how the duplication occurred. She believed, however, that it would be prudent to again examine the figures.

Commissioner Wessels also commented that the Town must follow the regulatory requirements on the methodology, which has been supported by the courts. Questioning any manipulation of the numbers, Town Attorney Cherof indicated that he would be uncomfortable adopting a resolution without fixed numbers, and he hoped that the numbers would preserve the ratio outlined by the consultant.

Ms. Tharpe suggested that the Commission could adopt the rates and her firm would work with staff and the Property Appraiser's Office to become confident with the numbers and classifications furnished. She outlined the Town's options should the numbers vary. Considerable discussion followed.

At Commissioner Wessels' suggestion that the numbers be set high, and referring to Table 13, Mayor Parker suggested that the Town use \$300 for residential and that the remainder of the numbers be doubled.

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Town Attorney Cherof noted that a motion was required to extend the meeting beyond 11:00 p.m.

Vice Mayor Kennedy motioned, seconded by Mayor Pro Tem Clark to extend the meeting past 11:00 p.m. Upon roll call, the motion was passed on a 4-0 vote.

A recess was taken at 11:10 p.m.
The meeting was resumed at 11:19 p.m.

Mayor Parker offered that the Town Attorney has recommended that the pending motion be amended to \$300 for residential and non-residential at \$1,002; \$2,002; \$3,504; \$5,006; \$10,010; \$20,018; \$30,026; and \$40,034. A further motion would then be adopted directing the consultant to contact the Property Appraiser's Office, verify the numbers, and amend the report to show the most accurate numbers.

Vice Mayor Kennedy and Commissioner Wessels withdrew their motion and second.

Following the Mayor's reiteration of the numbers, Mayor Pro Tem Clark motioned to adopt the resolution with the numbers previously stated, and Vice Mayor Kennedy seconded. The Vice Mayor summarized that they were concerned with the ratio of commercial to residential units, but that the \$300 residential rate was more than sufficient and could be lowered. Mayor Parker stated for the record that the Commission was taking this action because the Town was not secure enough with the furnished numbers.

Upon roll call, the motion was passed on a unanimous 4-0 vote.

Vice Mayor Kennedy motioned to direct the consultant to return to the Property Appraiser's Office to verify the accuracy of the numbers and update the report, seconded by Mayor Pro Tem Clark. Town Attorney Cherof hoped that the report would be in the Town's hands at least a week before the public hearing so that it might be studied by those who chose to do so. The Mayor offered that, if needed, a workshop could be scheduled. Upon roll call, the motion was passed on a 4-0 vote.

At the Mayor's request, Item 12 A was taken out of order.

12. NEW BUSINESS

A. Discussion and/or Action Concerning Fire Services

Former Commissioner Robert Waller indicated that Chief MacLean had received the contract on this date. The membership must meet to take a vote on the contract, but he did not anticipate a problem. Mr. Waller commented that Broward County had not needed to negotiate with the Volunteer Fire Department since Broward County had the contract with the Town. He believed that they will have signed the contract by Monday.

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Vice Mayor Kennedy motioned to extend the deadline to close of business Tuesday, August 2nd, which was seconded by Commissioner Wessels. Upon roll call, the motion was passed on a 4-0 vote.

11. RESOLUTIONS (continued)

- B. Resolution 2004-16, adopting a proposed millage rate of 4.999 for fiscal year 2004/2005; announcing the current year rolled-back rate; providing for the establishment of and setting forth the date, time and place of a public hearing to consider the proposed millage rate and the tentative budget; providing for severability, conflicts; and an effective date.

Mayor Parker polled the Commission concerning the millage of 4.999, which was opposed by Commissioners Wessels and Clark. A millage rate of 5.22 was proposed.

Commissioner Wessels motioned, seconded by Mayor Pro Tem Clark, to set the millage at 5.22. Mayor Parker voiced his opposition and rationale. Upon roll call, the motion failed on a 2-2 vote, with Mayor Parker and Vice Mayor Kennedy dissenting.

Vice Mayor Kennedy motioned adoption of a 4.99 millage rate. The motion failed for lack of a second.

The Vice Mayor indicated that he was adamant that the millage remain at 4.7, and Mayor Parker agreed with his position.

Town Manager Baldwin stated that the Commission must approve something over 4.7 mils. Historically, it had always been set higher in order to prepare for some unforeseen circumstance, and Mr. Baldwin noted that the 4.99 would generate a surplus of approximately \$392,000 that could be used toward the fire assessment.

Following discussion, Town Attorney Cherof believed the record was clear based upon the Commission's individual comments, and he suggested that they follow the recommendation of the Town Manager and set the rate at 4.99.

Vice Mayor Kennedy asked the possibility of contacting Commissioner Yanni for a telephone vote. Town Attorney Cherof indicated that it would have been appropriate to announce his participation via telephone prior to the meeting. Town Manager Baldwin stated that he had spoken with Commissioner Yanni; he had not wished to participate via telephone.

Vice Mayor Kennedy asked the Commissioners if they would entertain an increase in the ad valorem taxes at the expense of lowering the fire assessment. Mayor Pro Tem Clark suggested that he and Commissioner Wessels had advocated leaving the door open in order to discuss options. Mayor Parker noted that, at 4.99, the door was open to discuss a blended rate. While Mayor Pro Tem Clark agreed, he explained that he felt very uncomfortable with the numbers furnished by the Property Appraiser's Office and he wanted more "wiggle room" than 4.99. At the Mayor's request for a compromise,

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Mayor Pro Tem Clark suggested 5.1. Commissioner Wessels offered that it did not cost the Town anything to reduce the numbers.

Vice Mayor Kennedy motioned to adopt a millage of 4.7. The motion died for lack of a second.

There was considerable discussion concerning compromises.

Town Attorney Cherof read the resolution by title only. He noted that the first public hearing would be held Monday, September 13th, at 7:00 p.m.

Mayor Parker noted that it was the recommendation of the Town's administration that a rate of 4.99 mils be adopted. Vice Mayor Kennedy offered his perspective and commented that the rate would stir up the public unnecessarily.

Mayor Pro Tem Clark motioned to adopt a millage rate of 5.1. He explained that he wanted the "wiggle room" in case the numbers did not hold; he wanted the options open.

At the Town Manager's request, Town Attorney Cherof stated that the rollback rate was 22.545.

Commissioner Wessels seconded Mayor Pro Tem Clark's motion.

Vice Mayor Kennedy indicated that he would vote in favor to break the deadlock, and he trusted in Commissioner Yanni's future involvement. It was voting against the Town Administration's recommendation and his personal convictions.

Commissioner Wessels stated that he respected the difference in opinions.

Mayor Parker believed that the Commission was setting a dangerous precedent – to raise taxes for a non-emergency measure.

Upon roll call, the motion to adopt the millage of 5.1 was passed on a 3-1 vote, with Mayor Parker dissenting.

12. OLD BUSINESS

A. Discussion and/or Action Concerning Fire Services

This issue was discussed earlier in the meeting.

B. Discussion and/or Action Concerning the Economic Development Feasibility Study (Mayor Pro Tem Clark)

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Mayor Parker indicated that this matter would be tabled to the August 10th meeting, when a report would be given.

13. NEW BUSINESS

A. Request to Schedule Budget Workshop

The Mayor asked for a motion to schedule the Budget Workshop for Thursday, August 5th, at 6:00 p.m.

Mayor Pro Tem Clark motioned, and Vice Mayor Kennedy seconded. Upon roll call, the motion was passed on a 4-0 vote.

B. Request to Schedule First Public Hearing to Adopt Millage Rate and Fiscal Budget for 2004-2005

Mayor Parker asked for a motion to schedule the First Public Hearing for Monday, September 13th, at 7:00 p.m. with an Agenda Conference at 6:00 p.m.

Mayor Pro Tem Clark motioned, seconded by Commissioner Wessels. Upon roll call, the motion was passed on a 4-0 vote.

C. Request to Schedule Second Public Hearing to Adopt Millage Rate and Fiscal Budget for 2004-2005

As to the Second Public Hearing, Mayor Parker polled the Commissioners as to their availability. September 21st was agreeable. Mayor Parker asked for a motion to schedule the Second Public Hearing on Tuesday, September 21st, with an Agenda Conference at 6:00 p.m.

Mayor Pro Tem Clark motioned, seconded by Commissioner Wessels. Upon roll call, the motion was passed on a 4-0 vote.

Mayor Parker requested a motion to move the Commission's first regular meeting in September to September 13th and to hold the second regular meeting on September 21st.

Mayor Pro Tem Clark motioned, seconded by Commissioner Wessels. Upon roll call, the motion was passed on a 4-0 vote.

D. Marketing Town Events (Mayor Parker)

Mayor Parker recalled there had been little marketing of the Town's Fourth of July Event in the Sun-Sentinel. He believed that any Town event was an opportunity to publicize.

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Town Manager Baldwin commented there were conflicting feelings; many residents preferred not to have the traffic and draw people to these events. He asked for the Commission's direction.

Commissioner Wessels offered his belief, and others had agreed, that the Public Information Officer would be issuing press releases to publicize the events. He noted discussions to utilize the government channel next year. He believed that the Town needed a better program, and funding, to promote its events.

Town Manager Baldwin asked about drawing area-wide attendance.

Vice Mayor Kennedy agreed that the "freebies" should be utilized and that there should be maximum coverage.

There was agreement that everything should be publicized.

Mayor Parker asked that under the Town's name on the Town Topics and the website the phrase, "the prettiest little small town in America" be added.

13. TOWN MANAGER REPORT

None.

14. TOWN ATTORNEY REPORT

None.

15. COMMISSIONER COMMENTS

Commissioner Wessels asked that discussion and an ordinance regarding loading and unloading times in B-1 and B-2 areas in proximity to residential areas be agendized for October 12th.

Commissioner Wessels asked that the speaker sign-in sheet for Commission meetings provide an area for names to first be printed.

Both Vice Mayor Kennedy and Mayor Parker wished Commissioner Yanni a speedy recovery.

16. ADJOURNMENT

The meeting was adjourned at 12:17 a.m.

Oliver Parker

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Mayor

ATTEST:

Alina Medina
Town Clerk

Date Accepted: _____