

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, October 26, 2004

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:07 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Town Manager Baldwin, Town Attorney Cherof, and Town Clerk Medina were also in attendance.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Hanrahan delivered the invocation.

Vice Mayor Kennedy noted for the record that Comcast Communications was not present to record the meeting.

Mayor Parker announced the Halloween festivities planned for the upcoming weekend. He indicated that he would be unable to attend the children's party on Sunday as he would be out of town and asked Mayor Pro Tem Clark if he would represent the Town during the event. Mayor Pro Tem Clark had no objections.

4. PRESENTATIONS

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

Chief MacLean stated that the Town had not had a fire-related death in over 20 years; however, he stated that unfortunately this was not the case for drowning deaths. He explained that drowning deaths had actually increased this year, based, in part, by the severe rip currents experienced already throughout the summer. Chief MacLean stated that the Volunteers were already working to complete a program that would aid the department to better respond to that type of event in the future.

Chief MacLean stated that the Volunteers now had a certified lifeguard on staff who would be leading the new beach rescue program to benefit the Town and its residents and guests. He introduced Scott Fauller and provided his credentials, stating that he was the firefighter of the month.

The Commission congratulated Firefighter/EMT Scott Fauller.

5. REPORTS

A. Mayor Ilene Lieberman

Mayor Lieberman was not present at this time. Her report was provided later in the meeting.

B. Update on Gateways Project by Aron Temkin, Architect

Assistant Town Manager Ward provided a history on the project of designing the gateways, stating that Broward County had provided a non-matching grant to aid the Town with this project.

Mr. Aron Temkin provided a PowerPoint presentation to show the proposed gateways designs (attached hereto and made a part of these minutes).

Mayor Parker asked what the cost was to proceed with this project. Mr. Temkin explained that the structures had been in their preliminary stage and he was unsure as to the exact costs. He explained the difference in materials that could be used and how the cost could change depending on the construction of the structure.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, accepting the report. In a roll call vote, all voted in favor. The motion carried 5-0.

With regards to the materials that could be used for this project, Ms. Ward advised that the Florida Department of Transportation had requested that the structure be made in a manner that, in the event of an impact, the structure would collapse.

Mayor Lieberman thanked the Commission for the opportunity to address the Town, stating that since her election as Mayor for Broward County, she had attempted to meet with all municipalities to ensure a smooth relationship with each one. She referenced several projects with which the County had assisted the Town, including the gateways project, library improvements, the beach pavilions, and five beach portals. Mayor Lieberman stated that the County had also assisted the Town with its community bus; management and preservation of natural areas, as well as family services.

Mayor Lieberman thanked the Commission for working with the County and congratulated the Town in meeting its goals and the achievements it had accomplished.

C. Update on Streetlights located on Bougainvillea Drive and Poinciana Street

Municipal Services Director William Mason advised that he had been in contact with representatives of Florida Power & Light in order to determine the cost of erecting additional lights along Bougainvillea Drive and Poinciana Street. He indicated that a lighting agreement was being prepared in order to arrange for the installation of the lights. Mr. Mason advised that there would be no cost for the installation; however, he indicated that the power usage fee would be \$7.95 per light, per month.

6. APPROVAL OF MINUTES

- A. October 12, 2004, Agenda Conference
- B. October 12, 2004, Regular Meeting

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the minutes of October 12, 2004. In a roll call vote, all voted in favor. The motion carried 5-0.

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

- A. **Ordinance No. 2004-16**; an Ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida; amending Chapter 8, entitled "Fire Prevention and Protection," Article II, entitled "Fire Department;" providing for Town Manager operation of a Fire Department; providing for authority to hire or contract for the services of a Fire Chief; providing for suspension of members of the Fire Department; providing for equipment funding; providing for administration of Town's water system to support fire suppression services; providing for release of Town employees to serve as Volunteer Firefighters; eliminating certain provisions as set forth hereinafter; providing for re-numbering of Chapter 8, Article II; providing for conflicts; providing for severability; providing for inclusion in the Code; and providing an effective date.

Attorney Cherof read the ordinance by title only.

Mayor Parker asked for confirmation that this ordinance was only a housekeeping issue. Attorney Cherof concurred, stating that the ordinance only served to eliminate old, obscure language. Mayor Parker stated that he had received several telephone calls concerning the ordinance and if it gave the Town Manager the power to hire and fire the Fire Chief. Attorney Cherof replied that this was not the case, explaining that the general scope of the ordinance was to allow for a fire department within the Town to be created by either a contract with another governmental entity, a non-profit organization that provides for volunteers for fire suppression, the Town to have its own fire department, or any combination of the three. He further explained that depending on the avenue the Commission chose to use, the powers of the Manager were specific as to the type of department used.

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There was full consensus of the Commission that the above was their understanding. In a roll call vote, the vote was unanimous 5-0.

Mayor Parker opened the public hearing.

Gretel McCausland, 251 Oceanic, stated that although the ordinance now made more sense, it still made her nervous. Mayor Parker explained that the ordinance provided that if the Town had its own fire department then the Manager could hire and fire a fire chief.

Bob Terrien, 238 Lombardy Avenue, still unsure of the actual need for this ordinance. He felt that the ordinance allowed the Town to keep a volunteer fire department until such time as the Manager changed his mind. Mayor Parker again explained the ordinance and indicated that only the Commission could decide who it would receive its fire suppression services from. He stated that the ordinance only brought the Code of Ordinances current to how the Commission had chosen to do business.

Mr. Terrien feared that the change was only being made to ensure that an opportunity was present to rid the Town of the Volunteers.

Kim Hayes, 4525 West Tradewinds Avenue, stated that she too was very confused by the ordinance. She indicated that her fear was to have any one person have that much power. Mayor Parker reiterated that the Commission ultimately decided how the Town would receive its fire protection. He explained that the ordinance only gave the Manager the power to hire and fire if the department was run strictly by the Town and the staff was part of the Town's employees. Mayor Parker stated that pursuant to the Town's Charter, the Manager had overall control over all Town employees.

Diane Boutin, 4225 El Mar Drive, stated that the ordinance provided for the release of Town employees to serve as firefighters and questioned if that had not been done in the past. Attorney Cherof replied that this section had been slightly reworded to ensure it was made clear that the Manager would release those employees who wanted to be volunteers from the tasks they are assigned while responding.

Bob Carley, 242 Bombay Avenue, asked if there would be two fire chiefs, one for the volunteers and one regular fire chief. Mayor Parker stated that there were currently two fire chiefs because there were two departments, the Volunteer Fire Department and the Broward Sheriff's Office Fire Rescue Department. Mr. Carley questioned if the Manager could then dismiss the fire chief working under the Broward Sheriff's Office. Mayor Parker replied negatively. Mr. Carley expressed concern over the dissention within the department and felt that the Volunteer Fire Department would eventually change due to that dissention.

Lawrence Wick, 2000 South Ocean Boulevard, stated that the Town had made a commitment to the northern section of Town to allow them to keep the professionally paid fire department and questioned why the Town could not commit to the southern section of Town that the Volunteers were their main fire department. Mayor Parker

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stated that the Town now had a department that served the Town on a townwide basis. He added that the Volunteer Fire Department, as well as the Broward Sheriff's Office, served the Town as a whole under the current contracts.

There was full consensus that the Town keep the Volunteer Fire Department. In a roll call vote, the vote was 5-0.

John Thompson, 4900 Ocean Boulevard, felt that he was having considerable difficulty in understanding the need for this ordinance. He stated that although residents were being told that the ordinance was purely for housekeeping, the more he heard, the more confused he became. Mr. Thompson stated that the Commission needed to ensure that residents were aware of the provisions that were being removed and began to provide a dissected version of the sections that caused him concern. He felt that the ordinance no longer acknowledged the Volunteer Fire Department or the volunteers as the Town's agents, the fire chief, nor the fire chief's possession of the fire apparatus. Mr. Thompson stated that the fire department did not require back-up unless it was a serious fire, stating that personnel were being duplicated with the use of the Broward Sheriff's Office. He felt that the ordinance did, in deed, provide the Manager with the authority to manage the entire department. Mayor Parker explained that current fire suppression services were provided, under contract, by the Broward Sheriff's Office. He reiterated that only the Town Commission could approve such a contract and budget the funds for the services. Mayor Parker added that, under the Town's Charter, the Manager is the individual who was responsible for Town employees. He explained that the Town did not have the authority to appoint a fire chief for an independent agency providing fire suppression services. The Town would only hire and fire the fire chief if the Town opted to maintain its own fire department. Attorney Cherof explained that an ordinance provided for a flow of thoughts and that each section could not be separated and used independently. He then provided a brief explanation of the document and the need to provide for housekeeping within the existing ordinance. Mayor Parker stated that the Town could not mandate the personnel for a separate organization.

Mr. Thompson expressed concern that the ordinance eliminated the possibility for the Volunteer Fire Department to participate in the pension plan. Attorney Cherof stated that he had reviewed the wording in that section and emphasized that it had been the Town's intent to preserve the status of the volunteers as pension-eligible members of the department. He indicated that based on that fact, no changes had been made to that section of the Code. Attorney Cherof added that the State of Florida had already recognized the Volunteers as a properly functioning organization for the purposes of eligibility for pension benefits.

Mr. Thompson stated that the Commission had, in the past, indicated that it wished for the Volunteer Fire Department to be the sole provider for fire suppression. He felt that if this was truly the intent of the Commission, it should be placed in the ordinance some how. Mayor Parker stated although he did not feel that the ordinance was the appropriate place for this type of statement, perhaps it could be stated in the form of a resolution. Attorney Cherof stated that the ordinance did now provide for the Town to have the ability to contract with an organization to provide volunteer personnel for fire

suppression activities. He emphasized that the Commission was responsible for ensuring that the public was provided with appropriate, complete, law-complying fire suppression services. Attorney Cherof stated that the Commission could consider a resolution with its intent, but agreed that the ordinance was not the proper place for it.

Mayor Parker closed the public hearing.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy, to adopt the ordinance. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker, with full consensus of the Commission, asked that Attorney Cherof prepare a draft resolution for the Commission's review at the next meeting.

8. PUBLIC COMMENTS

Kim Hayes, 4525 West Tradewinds Avenue, asked that the agenda conference meetings be broadcast through the government access channel. She questioned, too, if the Town could include a brief definition of the just adopted ordinance in the Town Topics, stating that there had been several individuals who had expressed concern regarding this ordinance in particular.

Ms. Hayes felt that the Town should put more emphasis on being the "friendliest little town in America" instead of focusing so much on being the most beautiful town.

Bob Carley, 242 Bombay Avenue, stated that he fully supported the Volunteer Fire Department and, although he was feeling a little more positive about tonight's meeting, he hoped the Town would continue to work to ensure the Volunteer Fire Department was kept.

Veronica Pietronutro, 4564 El Mar Drive, stated that she had received a letter concerning the future elimination of the parking spaces and hardship permit spaces that would be eliminated at the Washingtonia Portal. She indicated that Ocean Beachside Condominium is an eight unit building; however, they only had six spaces. Ms. Pietronutro indicated that some of their residents were seniors and handicapped individuals. She felt it difficult to believe that the Town could impose such an extreme hardship on its residents by removing the available parking in that area. Ms. Pietronutro asked that the Commission reconsider, what she believed was a hasty decision.

Gretel McCausland, 251 Oceanic Avenue, stated that the Lauderdale-By-The-Sea Youth Soccer Optimist Club had begun its practices on Mondays and Thursday, from 5:15 p.m. to 7:00 p.m. She indicated that the soccer was available for children from age 6 to 12.

Ms. McCausland stated that she too wished the Commission would reconsider its decision concerning the parking at Washingtonia Portal. She indicated that this portal was used mainly by residents and that resident parking should be permitted.

Ms. McCausland stated that she was pleased with the Commission's support of the Volunteer Fire Department and reminded the Commission that "Old Town" should also see some of the benefits.

John Thompson, 4900 South Ocean Boulevard, stated that he agreed that the standards for the volunteers should not be set so high that they could not meet the Town's standards. He felt that the Volunteers had been the recipients of a "hatchet job" and believed that the Volunteers had done a tremendous job of moving towards meeting the legally mandated standards. He admitted, however, that the Volunteers might not yet meet all the standards.

Mike Simmenelli, 5555 North Ocean Boulevard, stated that the beach access by the Sea Watch Restaurant was in poor condition and asked for assistance in making some repairs, maintenance, and cleaning of the area.

9. ORDINANCES (1st Reading)

There was no ordinance for first reading to be considered.

10. CONSENT AGENDA

- A. PROCLAMATION: Smoke Alarm Test Day (2nd Tuesday of each month)
- B. PROCLAMATION: 100th Birthday, Anthony DePalma, M.D.
- C. SPECIAL EVENT: Christmas-By-The-Sea, Saturday, December 4, 2004; from 5:00 p.m. to 10:00 p.m.
- D. BUDGET AMENDMENT: Transfer of \$30,300 from Contingency to Volunteer Fire Department budget to cover overdraft of adopted 2003-04 total budget
- E. PROPOSAL: Walter H. Keller, Inc., to prepare and process the Evaluation and Appraisal Report, as part of the Comprehensive Plan, based on State requirements

Mayor Parker asked that Item D of the consent agenda be removed.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, adopting the consent agenda, Items A, B, C, and E. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to amend Item D to show the transfer of \$30,500. In a roll call vote, all voted in favor. 5-0.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to adopt Item D. In a roll call vote, all voted in favor. The motion carried 5-0.

11. RESOLUTIONS

There were no resolutions to be considered.

12. OLD BUSINESS

A. Discussion and/or action concerning round-a-bouts (*Town Engineer Hart*)

Town Engineer Kevin Hart stated that at the request of the Commission, he had been reviewing the feasibility of using round-a-bouts as a measure for traffic calming. He indicated that the determination had been made that round-a-bouts could be installed, with some restraints. Mr. Hart stated that the cost was projected at \$16,000 to \$18,000.

Commissioner Yanni stated that round-a-bouts were needed on East Tradewinds Avenue, preferably at the second intersection. Mr. Hart explained that access by fire apparatus could not be hampered and, therefore, he would have to review the locations decided upon to ensure that that access was not hampered.

Some discussion followed regarding the use of four-way stop signs in lieu of round-a-bouts. Mayor Parker felt that Broward County would allow the use of stop signs if the Town was willing to assume the responsibility of liability. He felt that negotiations on this issue needed to be pursued. Commissioner Wessels felt it was imperative to ensure that round-a-bouts would actually serve the Town's purpose as the swale area would definitely reduce in those areas. Mayor Pro Tem Clark stated that stop signs would serve better to calm the traffic in needed areas. He was concerned that enforcement of stop signs was much easier than that of a yield sign.

Commissioner Wessels expressed concern that the use of stop signs while assuming the liability for their use would create a problem if the Town would be responsible for repairing or replacing those stop signs in the event of an accident. He emphasized the importance of ensuring that the Town was capable of responding immediately if a stop sign was removed or damaged.

Town Planner Walter Keller stated that he had not yet received a response from the County concerning the installation of stop signs on Seagrape.

After a brief discussion, there was full consensus of the Commission to have the use of four-way stop signs along Tradewinds. 5-0.

Mayor Parker asked that the Commission be apprised as to the progress of this project by January 2005.

B. Discussion and/or action concerning requirements for redevelopment on Seagrape Drive to include sidewalks to the Town's specifications (*Town Engineer Hart*)

Mayor Parker provided a brief history of this project and the options that could be used to ensure that sidewalk improvements be provided upon redevelopment of Seagrape Drive. He indicated that an ordinance should be prepared to provide for this requirement, with a majority consensus to move ahead with this project. 4-1, with Commissioner Yanni dissenting.

13. NEW BUSINESS

- A. Discussion and/or action concerning the replacement of residential and disabled parking spaces on Washingtonia Avenue (*Mayor Parker*)

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to reconsider the issue of parking on Washingtonia Avenue. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to adopt a modified form of Plan B, with 7 parking spaces; moving the spaces 2 or 3 feet to the north, as possible; with the 7th parking space being assigned as a handicap parking space; with the adjacent two parking spaces being designated as resident permit parking; the last four parking spaces being designated as metered parking; and, with the brick pavers extending out to the street. In a roll call vote, all voted in favor. The motion carried 5-0.

Some discussion followed concerning the use of angled parking, noting that it may be necessary to lose an additional parking space. There was a majority consensus of the Commission to have another option with six parking spaces, set at an angle, located at the Washingtonia Portal. 3-2, with Commissioners Wessels and Yanni dissenting.

- B. Discussion and/or action concerning a request to consider amending the Town's Code of Ordinances to allow for the use of hot dog carts (*Mayor Parker*)

Mayor Parker stated that based on the discussions held during the agenda conference, the proposal was mute at this point. He indicated that no action would be taken at this time and, if it became necessary, the Commission would reconsider this issue at a later date.

14. TOWN MANAGER REPORT

Manager Baldwin stated that representatives of Comcast would not be able to attend the workshop on November 10th and, therefore, was requesting to discuss this issue further at the Commission's regular meeting of November 9th. There were no objections.

15. TOWN ATTORNEY REPORT

Attorney Cherof had no reports to be considered by the Commission.

16. COMMISSIONER COMMENTS

Mayor Pro Tem Clark had no reports for the Commission to consider.

Commissioner Yanni announced that the Volunteer Fire Department's siren had now been silenced.

Commissioner Wessels had no reports for the Commission to consider.

Vice Mayor Kennedy thanked the Halloween decorating committee for the time and effort they had spent on preparing for the upcoming festivities. He also reminded residents that November 2nd was Election Day and encouraged everyone to vote.

Mayor Parker announced the festivities planned for Halloween weekend and invited all residents to attend.

17. ADJOURNMENT

Commissioner Yanni made a motion to adjourn the meeting. There being no other business to discuss, the meeting adjourned at 9:30 p.m.

Oliver Parker
Mayor

ATTEST:

Alina Medina
Town Clerk

Date Accepted: _____