

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION REGULAR MEETING MINUTES Town Commission Meeting Room 4501 Ocean Drive Tuesday, November 23, 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 Handrahan delivered the invocation. A special prayer was offered for members of the Armed Forces.

- Item 7A, Ordinance, Second Reading, Public Hearing  
Franchise Agreement with Comcast Communications

Attorney Cherof read the ordinance by title only.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve the ordinance on first reading. Mayor Parker stated that he had voiced his objections concerning this contract in past meetings, specifically with the service provided, but would not voice them again at this time. In a roll call vote, the motion carried 4-1, with Mayor Parker dissenting.

Mayor Parker advised that the public hearing for this ordinance would be held on December 14, 2004.

### **4. PRESENTATIONS**

- A. Key to the City issued by The Municipality of San Isidro, Peru, South America (*Mayor Parker*)

This item was presented later in the meeting.

B. Citizen Life Saving Award: Mr. James Colmis (*Chief Scott Gooding*)

Chief Gooding introduced Mr. James Colmis, stating that Mr. Colmis had provided cardio-pulmonary resuscitation (CPR) to William Dawson in May of this year. He explained that Mr. Dawson had experienced heart difficulties while driving and Mr. Colmis had been able to resuscitate him. Chief Gooding provided Mr. Colmis with a Citizen Life Saving Award.

Mr. Colmis stated that he wanted to express his gratitude to an unknown lady who had stopped and assisted him during the emergency, but had promptly left without identifying herself. He felt that this unknown lady was a true guardian and wished her well. Mr. Colmis advised that Deputy Adam Gentry had also assisted during the emergency and thanked him for his quick response and attention.

The Commission thanked Mr. Colmis for his life-saving assistance.

C. Citizens on Patrol, Recognition for Community Service by the Broward Sheriff's Office (*Chief Scott Gooding*)

Sergeant Douglas Brown introduced Mary Butterfield and June Lassel who had donated 500 hours to the police department and the Town by serving on the Citizens on Patrol (COP) Program. He also introduced Miguel San Miguel and Margaret Reichenstein who had donated 1,000 hours to the police department and the Town by serving on COP. Sergeant Brown thanked them for their dedication and unselfishness for donating their personal time to assist the Sheriff's Office. He presented each of them with the appropriate service pins.

Sergeant Brown added that Mr. San Miguel and Ms. Reichenstein had been volunteering with the COP Program since its inception in 1997, and presented them each with a certificate.

The Commission congratulated each of the COP members for their accomplishments and thanked them for their dedicated service.

D. Firefighter(s) of the Month (*Battalion Chief Tim Keefe/Chief Ian MacLean*)

Volunteer Fire Chief Ian MacLean introduced Volunteer Deputy Chief Marc Conn, Volunteer Battalion Chief Joe Padden, and Volunteer Captain Kirk Escuage, stating that each of these members had recently obtained their State certification as Fire Instructors. He advised that this achievement enabled these firefighters to provide certifiable fire training as they were now accredited under the authority of the National Board on Fire Service Professional Qualifications. Chief MacLean stated that the Town was fortunate to have these firefighters on its roster of Volunteers in the community.

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Battalion Chief Keefe introduced Lieutenant Allan London, referring to how they had met during a fire event. He stated that Lieutenant London had served with a long and distinguished career and described his accomplishments through his years of service. Chief Keefe thanked Lieutenant London for his dependable service and congratulated him for his accomplishments.

- Key to the City issued by The Municipality of San Isidro, Peru, South America

Mayor Parker provided a hand made wooden artwork presented to the Town by the Mayor of San Isidro during their recent visit to South America.

Sandra Green described the events and formal ceremonies held, which included tours, bullfights, shows, and dinner with the mayor and other dignitaries. She stated that the entire experience had been wonderful and felt fortunate to have participated. Ms. Green stated that San Isidro needed help with medical assistance, such as walkers, canes, and wheelchairs, as well as education tools. She indicated that San Isidro was also quite interested in an exchange program. Ms. Green felt that the Sister Cities Program could be advantageous to both the Town and San Isidro.

## 5. REPORTS

- A. Budget Report for Period Ending October 31, 2004

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to accept the budget report for the period ending October 31, 2004. In a roll call vote, all voted in favor. The motion carried 5-0.

## 6. APPROVAL OF MINUTES

- A. November 9, 2004, Agenda Conference  
B. November 9, 2004, Regular Meeting

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the minutes for the Agenda Conference and the Regular Meeting of November 9, 2004. In a roll call vote, all voted in favor. The motion carried 5-0.

## 7. ORDINANCES (2<sup>nd</sup> Reading) "Public Hearing"

- A. **Ordinance No. 2004-17**; an ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida amending the 2003/2004 fiscal year budget; appropriating said amounts to specific designated accounts in accordance with the attached Exhibit "A" to the specific funds; authorizing expenditure of those amounts in accordance with the budget as amended; providing for conflicts; providing for severability; and an effective date.

Attorney Cherof read the ordinance by title only.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to approve the ordinance on second reading. In a roll call vote, all voted in favor. The motion carried 5-0.

## **8. PUBLIC COMMENTS**

Lawrence Wick stated that the Lauderdale-By-The-Sea Kiwanis Club was in the process of collecting toys for "Kids in Distress. He indicated that toys were being collected for children ranging in ages from zero to 12. Mr. Wick provided a listing of the local businesses that were participating in this program and were serving as "drop off" sites for unwrapped toys. He encouraged residents to participate in this project.

Bill Davis, representing the Chamber of Commerce, announced the festivities planned for Christmas by the Sea, indicating that almost 100 percent of the local merchants were assisting in the celebrations. He encouraged residents to attend and participate in the festivities.

Mr. Davis stated that the tree to be lit during the ceremonies was erected earlier today and thanked the Chamber of Commerce, the Volunteer Fire Department, and the Broward Sheriff's Office deputies and fire personnel who had assisted.

Mayor Parker stated that the Christmas tree would be officially lit on December 4<sup>th</sup> during the festivities and reminded residents that hayrides would be available for children. He invited everyone to attend.

Doug Bosley, 4560 El Mar Drive, stated that he had served the petition for an initiative on the Town Clerk and that the petition contained 702 valid signatures. He was angered that the Commission would question the validity of the petition and indicated that if the Commission wanted additional signatures, he would provide them. Mr. Bosley stated that if needed, he would obtain the necessary signatures to recall all the members of the Commission.

Mayor Parker disagreed with Mr. Bosley, stating that Mr. Bosley was misrepresenting the Commission's action. He advised that it was the Commission's responsibility to provide staff with direction in this matter and it was necessary to discuss the petition in order to ensure the Town's compliance. Mayor Parker stated that the Commission had directed the Town Clerk and Town Attorney to have the signatures properly reviewed and report to the Commission by its first meeting in January. He indicated that at that time the Commission would take whatever action it deemed appropriate. Mayor Parker stated that the Commission had not yet made any decisions on how to proceed in this matter.

**9. ORDINANCES (1st Reading)**

- A. **Ordinance No. 2004-18**; an ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending (second amendment) the 2003/2004 fiscal year budget; appropriating said amounts to specific designated accounts in accordance with the attached Exhibit "A" to the specific funds; authorizing expenditure of those amounts in accordance with the budget as amended; providing for conflicts; providing for severability; and an effective date.

Attorney Cherof read the ordinance by title only.

Mayor Parker explained the ordinance, stating that there had been some hurricane expenses that had not been included in the final budget.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the ordinance on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that the public hearing on this ordinance would be held on December 14, 2004.

- B. **Ordinance No. 2004-15**; an Ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida; approving the franchise agreement with Comcast to utilize the Town's public ways to provide cable service over the cable system; providing for conflicts; providing for severability; providing for inclusion in the Code; and providing an effective date (*tabled from October 26, 2004*)

This issue was approved earlier in the meeting.

- C. **Ordinance No. 2004-19**; an ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending the Code of Ordinances, Chapter 6, Article I, to add a new section 6-10, regarding demolition site maintenance; providing for codification, conflict, severability, and an effective date.

Attorney Cherof read the ordinance by title only.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to approve the ordinance on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that the public hearing on this ordinance would be held on December 14, 2004.

- D. **Ordinance No. 2004-20**; an ordinance of the Town of Lauderdale-By-The-Sea, Florida amending Chapter 20, Utilities to create a new Article IV titled "Stormwater Utilities"; establishing a stormwater management utility; providing for definitions; providing that the Town Commission shall serve as directors of the utility; establishing charges and rates; establishing a utility trust fund; providing procedures for appeal of assigned charges; providing for cost avoidance credits; providing for enforcement and collection of delinquent charges; adopting and accepting the findings contained in the Hartman & Associates Stormwater Utility Plan Study; and providing for conflict, severability and an effective date.

Attorney Cherof read the ordinance by title only.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to approve the ordinance on first reading.

Mike Rocca, of Hartman & Associates, Inc., made a PowerPoint presentation (attached hereto and made a part of these minutes), describing the study prepared in this matter and the recommendations therein.

Mayor Parker referred to page 4, section 20-37, indicating that Attorney Cherof was suggesting an amendment to ensure consistency with the title. He indicated that this section should be changed to read as follows . . . "Stormwater Utility Directors and Executive Directors. The Directors of the Stormwater Utility shall be the Town Commissioners and the Executive Director shall be the Town Manager."

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to adopt the amendment to the ordinance as proposed by Attorney Cherof. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Wessels questioned if the projected expenditures included capital improvements. Mr. Rocca replied that very little, if any at all, capital improvement costs had been included. Commissioner Wessels questioned if the costs basically amounted to what was currently being taken out of ad valorem taxes. Mr. Rocca replied affirmatively. Manager Baldwin reminded the Commission that this program had essentially been unfunded for several years.

Commissioner Yanni asked when the drainage problems would begin to get solved once the fees were charged. Manager Baldwin stated that the Commission had approved several projects to address drainage problems within the Town; however, he reiterated that those projects had not yet been funded. He provided the use of swales as an example. Manager Baldwin

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stated that although most of the drainage problems in the northern section of Town would be solved with the drainage placed in Bel Aire and the drainage system being implemented within Terra Mar Island, there were still problems being experienced in the southern sections of Town, such as on El Mar Drive. He explained that the revenues obtained through the stormwater fees would raise approximately \$200,000. Mayor Parker stated that the total cost to complete all the necessary improvements was approximately \$5 million.

Commissioner Yanni expressed concern as to the length of time it would take to complete the improvements on El Mar Drive. Mayor Parker stated that El Mar Drive should be close to completely developed in the next few years. He indicated that the Commission had already recommended that the developers provide drainage solutions upon development.

Mr. Rocca explained that there were three parts to how the immediate expenditures were formulated: 1) the identifying of existing problems and solutions to the drainage problems being experienced townwide; 2) resolving pollution issues within the stormwater drainage system to ensure proper maintenance and compliance with national and local environmental laws; and, 3) quantity of water in poor drainage areas.

Commissioner Wessels stated that there were currently no funds for the reclamation of swales. Manager Baldwin confirmed Commissioner Wessels' statement and explained that this was the first step in curing the problems being experienced. Commissioner Wessels did not agree with a \$7 charge.

Vice Mayor Kennedy stated that the drainage was an important issue for the Commission to address. He indicated that the proposed plan provided for a way to pay for the necessary infrastructure on a townwide basis, addressing a townwide problem.

Mayor Pro Tem Clark stated that the necessary infrastructure needed to be paid one way or another. He believed that the Commission needed to adopt the ordinance so that the funds could be dedicated for this purpose. Mayor Pro Tem Clark indicated, however, that the fee should be adjusted to \$3.50 a unit with the understanding that it may need to be raised in the future.

Mayor Parker stated that he believed this project needed to be completely funded in order to proceed with the implementation of the necessary infrastructure. He indicated that Manager Baldwin had been suggesting these improvements for over four years and the Commission had not yet funded the budget to proceed. Mayor Parker felt that if this project had been started at that time, the Town would almost be done with the necessary improvements. He believed that the full \$7 per unit was needed, but stated that he would not object to the adjusted amount of \$3.50 per unit.

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In a roll call vote, the motion to approve the ordinance failed 3-2, with Mayor Pro Tem Clark and Commissioners Wessels and Yanni dissenting to pass the ordinance at \$7 per unit.

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to reconsider the ordinance. In a voice vote, all voted in favor. The motion carried 5-0.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to amend the ordinance to \$3.50 for each unit.

Attorney Cherof stated that with the amendment to the fee, the fourth whereas clause needed to be revised to include the wording “. . . except as modified herein.”

Commissioner Wessels amended his motion, seconded by Mayor Pro Tem Clark, to include the wording “. . . except as modified herein” at the end of the fourth whereas clause [along with the approval of a \$3.50 per each unit]. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that the public hearing on this ordinance would be held on December 14, 2004.

## 10. CONSENT AGENDA

Mayor Parker stated that based on discussions held at the agenda conference, the Consent Agenda was to be amended to include Items G and E, two separate requests made by David Gadsby, of the Village Pump & Grille: Item G) for special consideration for Christmas Eve and, Item H) for special consideration for New Year's Eve.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to amend the Consent Agenda to include Item G and E. In a roll call vote, all voted in favor. The motion carried 5-0.

- A. SPECIAL EVENT: Request to extend **Jazz on the Square** until June 2005
- B. SPECIAL EVENT: **Wedding/Lehmann**, Monday, December, 13, 2004; from 4:00 p.m. to 6:00 p.m.
- C. INTERLOCAL AGREEMENT: 30<sup>th</sup> Year Community Block Grant Funding from Broward County Community Development Division for Senior Center Activities

- D. INTERLOCAL AGREEMENT: between Broward County and the Town for the installation of multi-way stop signs
- E. RESOLUTION: cancellation of regular meeting of December 28, 2004
- F. RESOLUTION: expressing support for boundary line changes established by the Broward County School Board as they effect Terra Mar Island so that all students who reside on Terra Mar Island are assigned to the same high school
- G. SPECIAL EVENT APPLICATION: David Gadsby/Village Pump & Grille, December 24, 2004
- H. SPECIAL EVENT APPLICATION: David Gadsby/Village Pump & Grille, December 31, 2004

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve the Consent Agenda as amended. In a roll call vote, all voted in favor. The motion carried 5-0.

#### **11. RESOLUTIONS**

There were no additional resolutions to be considered by the Commission.

#### **12. OLD BUSINESS**

There was no old business to be considered by the Commission.

#### **13. NEW BUSINESS**

There was no new business to be considered by the Commission.

#### **14. TOWN MANAGER REPORT**

Manager Baldwin wished everyone a happy Thanksgiving.

#### **15. TOWN ATTORNEY REPORT**

Attorney Cherof stated that the Volunteer Fire Pension Board had requested that the Commission consider an amendment to the pension plan. He explained the request and indicated that the Board was requesting the amendment to be retroactive to March 1, 2003. Attorney Cherof stated that the amendment would affect one retired member and would require the Town to make a one-time payment into the account in the amount of \$2,983.20, to make the pension plan financially sound. He indicated that in order to consider this change, the Commission would have to consider an ordinance. Attorney Cherof asked for authorization to present the ordinance for consideration at the next meeting.

There were no objections to bringing the proposed ordinance back before the Commission for first reading.

Attorney Cherof stated that the Commission had previously ordered the preparation of an ordinance to consider the streetscape plan for El Mar Drive. He indicated that in order to complete the ordinance he wanted to clarify the factors for triggering the compliance with the new ordinance. After a brief discussion, the Commission agreed that a 25 percent threshold should be used, with Commissioner Wessels dissenting, indicating that a higher percentage should be used.

Attorney Cherof wished everyone a happy Thanksgiving.

## **16. COMMISSIONER COMMENTS**

Mayor Pro Tem Clark wished everyone a happy Thanksgiving.

Commissioner Yanni reported that there were holes in the soccer field and asked that the field be inspected to prevent any injuries.

Commissioner Yanni wished everyone a happy Thanksgiving.

Commissioner Wessels congratulated and thanked the members of Citizens on Patrol for the time and effort they placed into the program. He wished everyone a happy Thanksgiving.

Vice Mayor Kennedy wished everyone a happy Thanksgiving.

Mayor Parker thanked the membership of the Lauderdale-By-The-Sea Sister Cities Program, stating that twelve residents had participated in the trip to San Isidro, Peru. He indicated that the Town's sister city had shown great spirit and welcomed the Town's representatives with open arms.

Mayor Parker thanked the members of the Chamber of Commerce, David Gadsby, and all the members of the Christmas by the Sea Committee for their time and effort in preparing the festivities to be held on December 4<sup>th</sup>. He then invited residents and visitors alike to participate in the celebrations.

Mayor Parker wished everyone a happy Thanksgiving.

**17. ADJOURNMENT**

There being no further business to discuss, Mayor Pro Tem Clark made a motion to adjourn the meeting.

There being no objections, the meeting was adjourned at 9:02 p.m.

\_\_\_\_\_  
Oliver Parker  
Mayor

ATTEST:

\_\_\_\_\_  
Alina Medina, Town Clerk

Date Accepted:\_\_\_\_\_