

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

## **TOWN COMMISSION**

### **AGENDA CONFERENCE MINUTES**

Town Commission Meeting Room

*4501 Ocean Drive*

*Tuesday, December 14, 2004*

*6:00 P.M.*

#### **1. CALL TO ORDER, MAYOR OLIVER PARKER**

The meeting was called to order by Mayor Parker at 6:10 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. REVIEW AGENDA FOR REGULAR MEETING OF DECEMBER 14, 2004**

The Commission began its review of the agenda, with no objections being noted with the Budget Report for the period ending in November 30, 2004, nor the minutes of November 23<sup>rd</sup>.

The Commission briefly reviewed the ordinances for second reading, including the amendment to the 2003/2004 fiscal year budget, the franchise agreement with Comcast, regulations concerning construction sites, and stormwater fees, with no objections being noted.

Manager Baldwin advised that Mike Rocca, of Hartman and Associates, was available for a presentation concerning the proposed stormwater fees.

- Ordinances, 1<sup>st</sup> Reading

Mayor Parker questioned why the ordinances for first reading were numbered with 2005 although the first hearing was being held in 2004. Attorney Cherof explained that the numbering had been based to reflect the date of its adoption which was scheduled for January 2005. There were no objections.

- Ordinance No. 2005-01, issuance of permits for work within the public rights-of-way and/or utility easements

Manager Baldwin asked Town Engineer Kevin Hart to provide a description of the proposed ordinance. Kevin Hart stated that this ordinance would give the Town the

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authority to provide permits for work being performed on public rights-of-way or easements, as well as the authority to inspect the work upon completion. Manager Baldwin provided as example of some work performed by the City of Pompano Beach on a roadway, leaving the Town waiting several months to have the roadway repaired and repaved.

Commissioner Wessels asked if a private owner would be required to pull this additional permit. Mr. Hart replied negatively, stating that private property was covered by the issuance of other required building permits. He indicated that the proposed ordinance was created to regulate work being performed within rights-of-way or easements. Commissioner Wessels expressed concern that the ordinance did not provide for the exception. Attorney Cherof advised that the additional wording could be added within first and second reading. He indicated that the Commission would need to consider whether a modification to the fee schedule would be needed to ensure that administrative costs associated with the additional inspections would be covered. Mr. Hart stated that the Commission could opt to add language that included the possibility to obtain a waiver of the permit fees. Commissioner Wessels stated that in cases where the work was incidental to another building permit on private property, the need for the additional permit should be waived. He felt that the Town should not be arbitrary, while still ensuring that the Town was aware of the work being performed within its limits. Commissioner Wessels provided a driveway as an example, stating that if the work was incidental and would not damage utility lines, the regular inspection should include an inspection of the right-of-way.

Some discussion followed concerning the proposed permit fees and how the revenues collected from permit issuance was to be used to offset the costs incurred by the Town to review the plans and inspect the work upon completion. It was agreed that a separate permit should be assigned for work done on rights-of-way and easements, with fees to cover the costs incurred for review of plans and inspections. Manager Baldwin emphasized that the fees were for cost recovery and not intended to generate additional revenue.

There was full consensus that additional review of the proposed ordinance was needed.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy, to remove Item 9A from the agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

- Ordinance No. 2005-02, adopting sidewalk design requirements for East Seagrape Drive from Commercial Boulevard to Hibiscus Avenue

Attorney Cherof stated that he would be correcting a typographical error in the title of the ordinance upon his reading of same. There were no objections.

The Commission briefly discussed the ordinance, specifically as it pertained to the inclusion of landscaping as part of the proposed improvements. Mr. Hart advised that the ordinance did not include landscaping improvements; however, he explained that plans for that area included review for proper drainage as part of the normal course of

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work being performed. He advised that additional review could be included in the ordinance or added as part of the site plan review process. The Commission questioned if additional improvements could be included in the proposed ordinance. Attorney Cherof stated that the ordinance had been created to address the issue of sidewalks and to recover the costs incurred to that end. He explained that the Commission had not discussed the inclusion of additional work and, therefore, it was not included in the exhibit. Attorney Cherof recommended that this particular ordinance be kept to deal with the sidewalks as a stand alone issue.

There was a majority consensus to move forward with the ordinance as proposed, 4-1, with Commissioner Yanni dissenting.

In response to Commissioner Wessels' inquiry regarding how funds were to be collected, Attorney Cherof explained that collection of funds would be at the discretion of the Commission.

- Ordinance No. 2005-03, regarding the pension plan for Volunteer Firefighters, providing a minimum of 2 percent per year benefit accrual

Manager Baldwin advised that the cost to implement this ordinance was \$2983.20, calculated for one individual who was currently withdrawing from the pension plan. Attorney Cherof stated that the effective date would be March 1, 2003, indicating that he would correct the title during its reading.

- Ordinance No. 2005-04, Municipal Park

The Commission briefly discussed the proposed ordinance and voiced no objections.

- Ordinance no. 2005-05, regarding the streetscape plan for El Mar Drive

The Commission briefly discussed the proposed ordinance and voiced no objections.

- Consent Agenda

In response to Vice Mayor Kennedy's inquiries concerning the proposed agreement with the Supervisor of Election, Ms. Medina provided an explanation of the proposal. She explained that since Broward County was not anticipating any issues during the March election, the agreement would allow the Supervisor of Election to hire and place pollworkers in the event that the Town was required to open its polls.

Commissioner Wessels referenced the special event permit for the birthday party to be held at the Municipal Park. He questioned if the park would be used exclusively by the individual. Municipal Services Director William Mason replied negatively, stating that his recommendation for approval was subject to the conditions noted, which included the park remaining open to the general public, no use of the proposed bounce house, nor the admittance of pony rides.

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- Old Business

The Commission briefly discussed the proposed Historical Preservation Board as originally addressed by Commissioner Yanni. Attorney Cherof explained the ordinance as presented by Broward County, stating that the ordinance did not eliminate the possibility that the Broward County Historical Board could initiate the process of designation. The Commission agreed to further discuss this matter during the regular meeting.

The Commission also agreed to discuss the moratorium during the regular meeting.

- New Business

Mayor Parker addressed Item 13A and requested that this item be removed from the agenda. Commissioner Wessels felt that this issue might be problematic as the individual did not work for the Town. He stated, however, that he respected the Commission's right to discuss all issues and felt that it should remain on the agenda. Commissioner Yanni felt that Item 13A should be removed from the agenda.

Mayor Pro Tem Clark asked what legalities could be faced if this issue was considered. Attorney Cherof explained that Mr. Jim Silverstone did not work for the Town nor was he a contractor for the Town and, therefore, his actions had no binding effect on the Town. He indicated that the Town had, in the past, always tried to distance itself from the operations of the Volunteer Fire Department; however, this did not preclude the Town from requesting that the Department consider the Commission's request. Vice Mayor Kennedy expressed his belief that the Town had, in good faith, adopted an ordinance which ensured the safety and welfare of its residents. He indicated that his only intent was to have the Department consider the possibility that Mr. Silverstone was not acting in good faith as incorrect and false information was being disseminated. Vice Mayor Kennedy stated that although the Department did not work directly for the Town, its members represented the Town and, in fact, the Commission when addressing a public group. He indicated that the Town had a valid contract and the Volunteers had to abide by that contract. Vice Mayor Kennedy expressed concern that recent events were causing dissention and disagreements within the Department's membership.

Mayor Pro Tem Clark stated that although he agreed with Vice Mayor Kennedy's comments, there was currently enough dissention within the ranks in the Department and felt that the Town should not add to the divisiveness. He felt that for this reason, he believed that Item 13A should be removed from the agenda.

Mayor Parker felt that Item 13A should be removed from the agenda. He indicated that he too agreed with many of the statements made and was unhappy with the existing dissention within the Department. However, he indicated that all citizens were allowed to participate in discussions dealing with Town issues, including those individuals that worked for the Town. Mayor Parker stated that the Town had diligently tried to "put at arm's length" the issues of liability as it pertained to the Department and felt that this issue was best left alone at this time.

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Commissioner Wessels expressed his belief that if the public's right to speak was to be protected, then individual Commissioners' rights to address those same issues needed to be protected.

Mayor Parker suggested that Vice Mayor Kennedy address his concerns under Commissioner's Comments.

- Item 13B, Jan's Homemade Candies Inc.

Mayor Parker asked that this item be tabled to January 11, 2005.

- Item 13C, Amendment to the Agenda Format

Mayor Parker explained the request, stating that amending the agenda format to include Commission correspondence would ensure that all Commissioners were made aware of complaints. Brief discussion followed, with there being a majority consensus that the Commission should address issues as they were received and brought to the Commission only if additional action was necessary. 4-1, with Mayor Parker dissenting.

#### **4. ADJOURNMENT**

There being no further business to discussed, Mayor Parker adjourned the meeting at 7:02 p.m.

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Oliver Parker  
Mayor

ATTEST:

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Alina Medina, Town Clerk

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