

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

## **TOWN COMMISSION REGULAR MEETING MINUTES Town Commission Meeting Room 4501 Ocean Drive Tuesday, September 21, 2004 7:00 P.M.**

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

The meeting was called to order by Mayor Parker at 7:11 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Town Manager Baldwin, Assistant Town Attorney Cirullo, 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**

Mayor Parker advised that Father Hanrahan was unable to attend tonight.

### **4. PRESENTATIONS**

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

Chief MacLean stated that as a participant of the Fire Chief's Association and its statewide Emergency Response Plan, the Volunteer Fire Department had been asked to assist with the rescue and recovery efforts in Punta Gorda and Charlotte County after Hurricane Charley. He indicated that within ten hours of the request, the Department had assembled a group of Volunteer Firefighters to aid in the post-Hurricane Charley rescue response.

Chief MacLean introduced Captain Kirk Escuage, Lieutenant Beau McIntee, Lieutenant Dan Dewart, Firefighter/EMT Judson Hopping, Firefighter/EMT David Bassion, Firefighter/EMT David Appel, Firefighter/EMT Jay Gunston, and Firefighter/EMT Brian Lacoursiere and thanked them for their dedication to community service.

Chief MacLean stated that the Volunteers had spent four days immediately after the devastation, joining with other fire departments to perform necessary search and rescues, as well as taking part in the rebuilding of local fire department stations which had been torn apart by Hurricane Charley's winds.

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Chief MacLean stated that the Volunteer Fire Department had also participated in a "boot drive", raising \$2,500 with the community's help. He advised that the funds had been donated to provide post-Hurricane Charley assistance.

Commissioner Yanni stated that he was under the impression that the Volunteer Fire Department was in the process of eradicating the siren and asked for confirmation. Chief MacLean stated that the Department had taken possession of the devices that would replace the siren; however, he was unable to provide a specific date as to when the siren would be silenced. He felt it might be possible to have the siren silenced by Halloween.

## 5. REPORTS

### A. Budget Report for Period Ending July 2004

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

### B. Update on Bulk Pick Up Schedules (*William Mason*) (*Continued from August 10, 2004*)

Municipal Service Director William Mason advised that bulk pick up was now scheduled as follows:

- south of Commercial Boulevard, 1<sup>st</sup> Thursday
- north of Commercial Boulevard, 1<sup>st</sup> Wednesday of the month
- north of Gatehouse Road, 3<sup>rd</sup> Wednesday of the month

Mayor Parker asked that this information be placed on the government access channel.

## 6. PUBLIC HEARINGS (*2<sup>nd</sup> and Final Hearings*)

- ### A. **RESOLUTION NO. 2004-19**, a Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting a final millage rate for the fiscal year beginning October 1, 2004, and ending September 30, 2005; stating the percentage amount of the proposed rate exceeds the rolled back rate; providing for severability, conflicts, and an effective date.

Attorney Cirullo read the resolution by title only.

Mayor Parker asked what the roll back rate would be if the Town adopted a 4.7 millage rate. Attorney Cirullo replied that the roll back rate would be 12.93 percent.

Mayor Parker opened the public hearing.

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Diane Boutin, 4244 El Mar Drive, stated that she understood the Commission's stand on this issue, but felt that the Town should adopt the millage rate at 5.1. She believed that the Town should plan for the future and ensure additional fund reserves.

John Thompson, 4900 Ocean Boulevard, felt that the fire assessment fees should be paid through ad valorem taxes as opposed to the flat fee provided for under the assessment. He stated that using the ad valorem method would be more fair and equitable to both residents and business owners. Mr. Thompson felt that this was the only manner to ensure equity.

Joe Sachs stated that he had recently purchased the Commercial Plaza Building and emphasized his agreement with Mr. Thompson's statements. He indicated that the taxes were placing a hardship on him and felt that his business was now in jeopardy. Mr. Sachs stated that he had anticipated making several renovations and improvements to the center, but felt that the cost in taxes would now place undue strain on him. He felt that the Town had to understand that the increase in taxes had to be passed on to the tenants of the property and, unfortunately, in most cases the tenants could not afford the increase.

Mayor Parker closed the public hearing.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to set the millage rate at 4.7. In a roll call vote, all voted in favor. The motion carried 5-0.

Attorney Cirullo advised that based on the Commission's setting of the millage rate at 4.7, the total rolled back rate of 12.93 percent.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve Resolution 2004-19, with a millage rate of 4.7, and a rolled back rate of 12.93 percent. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. RESOLUTION NO. 2004-20**, a Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting a final budget for the fiscal year beginning October 1, 2004, and ending September 30, 2005; providing for severability, conflicts, and an effective date.

Attorney Cherof read the resolution by title only and advised that the budget total was \$20,391,398.

Mayor Parker opened the public hearing.

Diane Boutin, 4244 El Mar Drive, urged the Commissioners and Town management to immediately start looking at the consequences of how the budget was spent. She indicated that with a \$20 million-plus budget, the user fees be maintained at their current rates. Ms. Boutin felt, too, that the Town could not abandon its research to properly classify commercial properties to ensure that this issue would not be a problem again next year.

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John Thompson, 4900 Ocean Boulevard, stated that he was concerned with the increase of the budget. He felt that there was a windfall of funds coming into the Town and that the Town needed to look into cutting costs, especially in personnel costs. Mr. Thompson stated that in an effort to show a good example, the Commission should be the first to participate in cutting costs by not accepting the cost of living increase.

Mayor Parker closed the public hearing.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to adopt Resolution 2004-20, with a budget amount of \$20, 391,398. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker advised that the Commission had carefully reviewed the budget and reduced costs by approximately \$550,000. He indicated, too, that approximately \$11 to \$12 million would be used for operating expenses, with the remaining being used towards capital improvements and reserves.

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

**8. PUBLIC COMMENTS**

John Thompson, 4900 Ocean Boulevard, stated that he would like to see the camera used for televising the Commission meetings used for other meetings as well. Ms. Medina explained that the camera could only be used for those meetings wherein members presided behind the dais. She indicated that Town meetings, such as those held by the Planning and Zoning Board and the Board of Adjustment, were aired. Ms. Medina stated that based on the Commission's direction, non-Town sponsored events were decided upon on a case-by-case.

Maureen Stanton, representing Cindy Geesey, from the Property Owners Association. She announced that the next meeting would be held at Jarvis Hall, September 22<sup>nd</sup>, at 7:00 p.m. She advised that the meeting would not provide for a debate for the upcoming elections, but rather, a representative from the Broward County Property Appraiser's Office to answer questions about taxes.

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

**10. CONSENT AGENDA**

- A. SPECIAL EVENT: Wedding, Schick, Saturday, October 9, 2004; 5:00 p.m. to 5:30 p.m.

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

Mayor Parker explained the consent agenda.

## **11. RESOLUTIONS**

There were no additional resolutions to be considered.

## **12. OLD BUSINESS**

### **A. Discussion and/or action concerning the existing Moratorium**

Commissioner Yanni made a motion, seconded by Vice Mayor Kennedy, to extend the moratorium to December 31<sup>st</sup>, with the possibility to terminate its length at an earlier date. In a roll call vote, the motion carried 4-0, with Commissioner Wessels dissenting.

Commissioner Wessels explained that he was voting against the extension as he felt that if the moratorium was not extended to December 31<sup>st</sup>, it would ensure that the review process would be completed quickly.

Mayor Parker explained that the Town was extending the moratorium in order to allow the Steering Committee the opportunity to meet with the Town's consultants who had prepared the Economic Feasibility Plan. He stated that property owners were still able to move forward with the planning process with staff.

Craig Unger, representing Minto Communities, stated that he was trying to move forward with their proposed plans by having the Planning and Zoning Board review the plans. Vice Mayor Kennedy expressed concern that this might not be advantageous as there could be no assurances that nothing would change with the Master Plan. He questioned if proceeding in this matter would even be legal. Attorney Cirullo replied that the Commission could allow petitioners to move forward as long as the petitioner was well aware that no finalization of the plans would be permitted until the moratorium was lifted.

Mr. Unger stated that he understood that the Planning and Zoning Board served as an advisory board only; however, he felt that moving through the process would provide the petitioner with additional time to make changes that could be recommended. Attorney Cirullo reiterated that he had no objections to this procedure as long as the petitioner understood that they were assuming the responsibility and risk for moving forward. Mayor Parker explained that it was possible, too, that the petitioner would be required to go before the Planning and Zoning Board for a second time. Mr. Unger had no objections.

After a brief discussion, there was full consensus to allow the petitioner to move forward with their project, with the caveat that it would be done at the petitioner's sole risk.

Mr. Unger asked for confirmation that the moratorium did not apply to demolition as long as all other permits were obtained. Mayor Parker stated that, once again, the petitioner could move forward with demolition at their own risk if all necessary permits were obtained.

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Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to clarify that demolition was not covered by the moratorium, as long as the petitioners were aware that demolition was being done at their own risk. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that although there was not a timeframe for demolition, the petitioner should consider that "season" would be beginning in the near future.

Vice Mayor Kennedy stated that he had received several complaints concerning vermin on the property in question. Mr. Unger explained that traps were being used and assured the Commission that every effort would be pursued to ensure the safety and welfare of the public. He advised, however, that the exterminator was not seeing much, if any, activity at all on the property, but rather activity on adjacent properties.

Commissioner Yanni stated that the hauling route needed to be planned in a manner that would provide for minimum interference with traffic. He also recommended that a proposal be made providing how the petitioner would repair roads damaged, etc. Mr. Unger had no objections and indicated that such a proposal would be prepared for the Commission's consideration.

### **13. NEW BUSINES**

- A. Rescheduling a Workshop between the Town Commission and the Master Plan Steering Committee to discuss the Economic Feasibility Study

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to schedule a Workshop between the Town Commission and the Master Plan Steering Committee for October 27, 2004, at 6:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Discussion and/or action regarding permits for work or construction within public rights-of-way and utility easements

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, approving the concept, authorizing the Town's administration and Town Attorney's office to move forward, with the condition that the ordinance contain an exception for emergency utility repairs. In a roll call vote, all voted in favor. The motion carried 5-0.

At the request of the Commission, the Town's Planner, Kevin Hart, explained the proposed ordinance and how it would affect the permitting process for work to be done on public rights-of-way and utility easements. He indicated that the ordinance would also provide a fee schedule, as well as reason for which work could be stopped. Mayor Parker asked if the Town would be exempted from the ordinance. Mr. Hart stated that the ordinance provided language that exempted Town projects.

- C. Discussion and/or action concerning the sale of the Water System, Phase III, to the City of Fort Lauderdale

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Mike Rocca, of Hartman and Associates, provided an explanation of the proposal, stating that the study had been prepared to address the 11 items mentioned in Florida State Statute 180.301. He indicated that the study was required in order to move forward with the probable sale of any public utility.

Mr. Rocca described the issues needing to be addressed as follows:

- 1) interest revenue, for which there was none as the Town did not have the utility set up as an enterprise and the revenue was handled by the City of Fort Lauderdale
- 2) not applicable to the Town
- 3) not applicable to the Town
- 4) physical condition was found to be average to below average. Mr. Rocca explained that this was not a certified condition
- 5) reasonableness of the sale price, which had been negotiated, together with an agreement of the terms being approved
- 6) differential of the depreciated value disclosed of \$904,640, with no engineering analysis being completed
- 7) no relative impact of the sale on the operation or customer service, as it would be handled through the same entity making the purchase. There was a note, however, that the contingent liability would be removed from the Town
- 8) additional investment, with special consideration being provided to the entity acquiring the system to accumulate a reserve of \$350,000 and \$500,000 to cover the cost of unanticipated repairs that may be needed for the system
- 9) three options; 1) no sale, 2) sale to investor owned utility company, or 3) sale to another local government entity
- 10) statement of quality, including the fact that the City of Fort Lauderdale had run the system for quite a few years and the current services should not change
- 11) not applicable
- 12) it was recommended that the proposed sale would be in the public's best interest

Mayor Parker asked when the system had been developed. Mr. Mason advised that the system had been installed in 1954.

Mayor Parker asked if the City of Fort Lauderdale charged the same to Town residents as it did for its own. Manager Baldwin replied negatively, stating that there was a 25 percent administrative surcharge was included as allowed by law. Some discussion followed.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to set this item for a public hearing and possible action for October 12, 2004, and authorizing the

Town Clerk to notice that hearing. In a roll call vote, all voted in favor. The motion carried 5-0.

**14. TOWN MANAGER REPORT**

Manager Baldwin had no report for the Commission's consideration.

**15. TOWN ATTORNEY REPORT**

Attorney Cirullo stated that it was possible that an initiative petition was being circulated within the Town which, if true, would compel the Commission to take action. He indicated that he was not aware of a final ordinance being prepared, but indicated that it was possible that a special meeting might be needed.

Vice Mayor Kennedy hoped that if there were an initiative petition being circulated, the parties involved would take extra care to ensure that it was specific and precise. He strongly recommended that the Town ensure that any proposed figures were correct.

**16. COMMISSIONER COMMENTS**

Mayor Pro Tem Clark had no issues to bring before the Commission.

Commissioner Yanni had no issues to bring before the Commission.

Commissioner Wessels had no issues to bring before the Commission.

Vice Mayor Kennedy had no issues to bring before the Commission.

Mayor Parker welcomed Commissioner Yanni back to the dais and was pleased that he was feeling much better.

Mayor Parker stated that there were several presidential debates being scheduled and urged everyone to watch them.

Mayor Parker advised that the Halloween Party was scheduled and briefly described the different events that would take place, including supervised trick-or-treating, costume contests, and parties for children and adults. He invited residents to attend.

**17. ADJOURNMENT**

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Commissioner Yanni made a motion to adjourn. With there being no further business to discuss, the meeting was adjourned at 8:24 p.m.

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

ATTEST:

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

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