

TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING
MINUTES

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, May 10, 2005
7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:25 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Also present were Town Manager Baldwin, Town Attorney Cherof, and Town Clerk Medina.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan delivered the invocation.

Mayor Parker announced that the Alter Guild of Assumption Church had planned a parish picnic for Saturday, May 21, 2005, and advised that tickets were now available.

4. PRESENTATIONS

There were no presentations.

5. REPORTS

A. Lauderdale-By-The-Sea Chamber of Commerce

Judy Swaggerty, Executive Director of the Lauderdale-By-The-Sea Chamber of Commerce provided details concerning the Chamber's next scheduled luncheon, stating that it would be held at Damon's Grill. She advised the topics of interest that would be discussed and invited all to attend.

Director Swaggerty honored Dave Gadsby, of the Village Grille, with a plaque for Winterfest stating that his unselfish and untiring contributions to the festivities held during last year's Christmas-By-The-Sea were extremely appreciated.

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Sandra Booth, 4140 Ocean Drive and 4517 El Mar Drive, spoke about the Holiday Program, stating that it was scheduled for Tuesday, December 6, 2005.

The Commission discussed the name change from Christmas-By-The-Sea to Holiday-By-The-Sea and the added change to hold the festivities on a Tuesday instead of a Saturday. Mayor Parker emphasized his disappointment in the proposed changes.

B. Fourth of July Celebrations

Lawrence Wick, Vice Chairman of the Fourth of July Committee, provided an update on the Fourth of July weekend activities, and thanked the Village of Sea Ranch Lakes, Minto Communities Inc., Voo-Tech, Bay View General Medicine and the Clarion Hotel for their contributions in helping to make these celebrations a success.

6. APPROVAL OF MINUTES

- A. April 19, 2005, Workshop Meeting
- B. April 26, 2005, Agenda Conference
- C. April 26, 2005, Regular Meeting

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, approving the minutes for the meeting held on April 19, 2005, and both meetings of April 26, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

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

There were no ordinances for second reading to be considered.

8. PUBLIC COMMENTS

John Thompson, 4900 North Ocean Boulevard, spoke about the inclusion of Palm Club and Sunset Lane in the sewer project and questioned the responsibility of costs and maintenance. He added that a moratorium regarding these issues would give more time for alternative proposals.

Ernie Fontaine, 4312 East Tradewinds, thanked the Commission for their choice in appointing Laura Ward to the Master Plan Steering Committee.

Susan Delegal, 888 Southeast Third Avenue, Ft. Lauderdale talked about height limitations and asked the Commission not to lower the zone regulations without careful consideration. She expressed her belief that the Master Plan Steering Committee would assist the Commission in their review of these types of matters.

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Cindy Geesey, 256 Imperial Lane, as president of the Property Owners Association, thanked the Commission for televising their meeting of May 11, 2005. Ms. Geesey reviewed upcoming events and spoke against funding the advertisement promoting Sheriff Ken Jenne.

Gail Schwartz, 4629 Poinciana Street, discussed the pile of dirt that partially blocked the entrance to the Pine Island Portal. Ms. Schwartz spoke about the "bubbling black sink hole" near the Clarion property, unsure of its cause or affect. Mayor Parker requested that Code Enforcement investigate this matter.

Uli Brandt, 4537 West Tradewinds Avenue, referred to his comments made during the last meeting and apologized for his accent that may have caused him to have been misunderstood. He explained that he never mentioned a certain street and explained that his comment referred only to improvements in a particular area.

Diane Boutin, 4244 EL Mar Drive, manager of the Windjammer Resort, complimented Ms. Schwartz regarding her assessment of the Pine Avenue Portal and agreed that maintenance, as a whole, needed to be addressed. Ms. Boutin expressed her concern regarding the height moratorium.

9. ORDINANCES (1st Reading)

- A. **Ordinance 2005-08:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 20, Section 20-16, to require connection to the sanitary sewer system within a time certain following availability; providing for enforcement and penalty; deleting cost sharing by Town; providing for severability; codification; conflicts; and providing for an effective date.

Attorney Cherof read Ordinance 2005-08 by title only.

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

- B. **Ordinance 2005-09:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 6 of the Code of Ordinances, Building and Building Regulations, to add a new Section 6-8, requiring the completion of new building projects within eighteen (18) months of first issuance of a building permit and completion of building repair projects within six (6) months of first issuance of a building permit; providing for penalty and enforcement; providing for severability; codification; conflicts; and providing for an effective date.

Mayor Parker stated that the proposed ordinance required some changes as discussed during the Agenda Conference. He requested that the ordinance be tabled to the Commission meeting of May 24, 2005. There were no objections.

10. CONSENT AGENDA

Mayor Parker amended the Consent Agenda to include items 13J, 13K, and 13L of New Business to become items 10G, 10H and 10I of the Consent Agenda. There were no objections.

- A. SPECIAL EVENT PERMIT: **Jazz on the Square**/The Village Grille, extension of existing permit; held Fridays, from June through end of October 2005; 6:00 p.m. to 10:00 p.m.
- B. SPECIAL EVENT PERMIT: **Jet Blue Picnic**/Holiday Inn; Saturday, June 11, 2005; from 10:00 a.m. to 10:00 p.m.
- C. INTERLOCAL AGREEMENT: Agreement with Broward County providing for the division and distribution of the proceeds from the Broward County fifth cent additional local option gas tax on motor fuel for transit
- D. INTERLOCAL AGREEMENT: Agreement with Broward County providing for the division and distribution of the proceeds from the Broward County additional local option gas tax on motor fuel ordinance
- E. INTERLOCAL AGREEMENT: Agreement with Broward County providing for division and distribution of the proceeds of the local option gas tax imposed by the Broward County local option gas tax ordinance
- F. Request to exercise option and authorize purchase of property conditional upon environmental inspection (*option contract previously approved at meeting of March 22, 2005*)
- G. SPECIAL EVENT PERMIT: **Fourth of July Celebrations**/Doo Wop Concert; Saturday, July 2, 2005, from 6:00 p.m. to 11:00 p.m.
- H. SPECIAL EVENT PERMIT: **Fourth of July Celebrations**/Festival of the Americas; Sunday, July 3, 2005, from 6:00 p.m. to 11:00 p.m.
- I. SPECIAL EVENT PERMIT: **Fourth of July Celebrations**

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to adopt the Consent Agenda as amended, to include items A thru I. In a roll call vote, all voted in favor. The motion carried 5-0.

11. RESOLUTIONS

- A. **Resolution No. 2005-06**, A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing and directing the appropriate Town officials to include the Sunset Lane and Palm Club Drive in the Town's pending sewer improvement project; finding a public purpose; providing for conflict; providing for severability; and providing an effective date.

Attorney Cherof read Resolution No. 2005-06 by title only.

Commissioner Wessels questioned indemnification of liability and maintenance responsibilities regarding the sewer system once it was completed. Attorney Cherof explained that the indemnification of liability had been addressed in the resolution and further explained the maintenance responsibilities of both property owners as well as the City of Pompano Beach.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy, to adopt Resolution No. 2005-06. In a roll call vote, all voted in favor. The motion carried 5-0.

12. OLD BUSINESS

- A. Discussion and/or action concerning Mulligan's Restaurant's application for a license agreement for a sidewalk café in the public right-of-way
(continued from April 26, 2005)

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to approve the proposed project as presented.

Commissioner Yanni expressed his belief that approval of the application should be contingent upon the applicant taking financial responsibility for the relocation or removal of the tree in the corner, if needed. Mr. Hart had no objections and offered to include this as part of the application.

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

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- B. Discussion and/or action to authorize funding and accept or reject the bid for the Portals to the Sea (*Town Engineer Hart*)

Town Engineer Hart stated that based on the Commission's discussions at its workshop meeting of May 3, 2005, staff had recommended approval of the bid for the portals project, received from MBR Construction, Inc., at a price of \$706,610. He explained that since the bid originally included the Jarvis Hall Portico Enclosure, the Commission would have to first award the bid to MBR Construction, and then execute a deductive change order to remove the Jarvis Hall portion of the project.

Vice Mayor Kennedy questioned if the pile of dirt located at the Pine Portal would now be removed. Mr. Hart replied affirmatively, believing that the dirt would be used for making corrections to the elevation within 45 days of commencing the project. Vice Mayor Kennedy stated that this portion of the project needed to be expedited. Mr. Hart explained the process for awarding the bid and beginning construction. He stated that he would discuss this matter with the contractor in an effort to expedite the raising of the elevation of the project sites to redistribute the sand.

Mayor Parker asked if the contractor would be working on one portal at a time. Mr. Hart replied that the contractor would choose the schedule for work within the time limits specified. He explained, however, that some aspects of the project could be completed simultaneously. Mayor Parker suggested that perhaps work should begin at the Washingtonia Portal. There were no objections, but the Commission agreed that the final order should be determined by the contractor.

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

Commissioner Wessels made a motion, seconded by Commissioner Yanni, authorizing a change order taking out the Jarvis Hall Portico from the previously approved bid in the amount of \$233,400 for the enclosure. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action to authorize staff to pursue an architectural contract for construction drawings for the Town's entryway features

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to direct staff to pursue an architectural contract for construction drawings for the Town's entryway features. In a roll call vote, all voted in favor. The motion carried 5-0.

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- D. Discussion and/or action regarding a report on height restrictions (*Mayor Parker*)

Attorney Cherof referred to the provision set forth in Section 277 of the Town Charter which limited the height of buildings as adopted through referendum. He added that an amendment to that Section could be adopted, but only through the same process at either a November general election or during a March election held by the Town.

- E. Discussion and/or action regarding the consideration of a townwide moratorium allowing time for the study of height restrictions (*Mayor Parker*)

There was discussion regarding a six (6) month moratorium on the construction of buildings proposing more than 4 stories.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, declaring a zoning in progress and directing the Town Attorney to prepare an Ordinance imposing a moratorium on the construction of buildings more than four (4) stories or forty-four feet for a period not to exceed six (6) months. In a roll call vote, the motion carried 4-1, with Mayor Pro Tem Clark dissenting.

Mayor Parker advised that the first reading of the Ordinance enacting the moratorium would be held at the Commission meeting of May 24, 2005.

Vice Mayor Kennedy expressed his desire for an interpretation of the three-over-one concept in the Charter.

- F. Discussion and/or action to schedule a workshop to further consider height restrictions (*Mayor Parker*)

Mayor Parker requested that Attorney Cherof be prepared to provide a detailed report concerning time limits in this matter.

After a brief discussion, the Commission scheduled the workshop for Tuesday, June 7, 2005, at 6:00 p.m.

- G. Discussion and/or action concerning the merging of Town Development Codes with those from Broward County; recommendations for changes to the Business License Code; review of sideyard setbacks when pertaining to existing non-conforming properties; and review of front yard setbacks as it pertains to corner lots (*Town Planner Keller*) (**staff requesting a tabling to May 24, 2005**)

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- H. Discussion and/or action concerning a streaming video/community banner program (*PIO D'Oliveira*) (**staff requesting a tabling to May 24, 2005**)
- I. Discussion and/or action concerning a sidewalk plan for Seagrape Drive (*Town Engineer Hart*) (**staff requesting a tabling to May 24, 2005**)

Mayor Parker tabled items 12G, 12H and 12I to the Commission meeting of May 24, 2005. There were no objections.

- J. Discussion and/or action concerning a letter of agreement with Broward Sheriff's Office for the purposes of managing the pension for Lauderdale-By-The-Sea Volunteer Fire Department, Inc.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, authorizing Town Manager Baldwin to execute the Memorandum of Understanding between the Town of Lauderdale-By-The-Sea and Kenneth C. Jenne, II, Sheriff of Broward County, Florida.

Mayor Parker advised that the motion did not authorize the signing of anything but this agreement and any changes needed to be brought back before the Commission for further consideration.

Commissioner Wessels amended his motion to include authorization for Mayor Parker as additional executor to the Memorandum of Understanding. Mayor Pro Tem Clark amended his second. In a roll call vote, all voted in favor. The motion carried 5-0.

- K. Discussion and/or action concerning sanitary sewers (*Attorney Cherof and Manager Baldwin*)

Mayor Parker asked that the Town's Administration inform residents they had 60 days to hook up to the sewer system once it became available. He added that an amendment to the ordinance could be made during second reading to allow for an extension request if required.

13. NEW BUSINESS

- A. **"PUBLIC HEARING"** SITE PLAN REVIEW, request for Marina Village Overlay District; B&B Garden Court LLC, 230 Garden Court (**staff requesting tabling**)

Mayor Parker tabled this item to the Commission meeting of June 28, 2005, with no objections.

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- B. Discussion and/or action concerning the conceptual plans proposed by Minto Communities, Inc. for improvements to be provided at “El Prado Park” as part of the project known as Villas By The Sea, located on the north and south sides of El Prado, between State Road A1A and the Atlantic Ocean

Craig Unger, of Minto Communities, provided a presentation of the different proposals available. The Commission discussed the different types of shade trees available and the possible inclusion of a gazebo and / or a stage, keeping the horseshoe on the east side.

Town Planner Keller indicated his preferences toward the openness of the horseshoe affect with the inclusion of some shade trees rather than all palm trees. He also mentioned the plan involved redoing El Mar Parking to ninety (90) degree.

There was full consensus to keep the horseshoe shape with reference to the eastern half of the plan. The Commission also unanimously agreed to use the square shaped pavilion with the broader separation with reference to the eastern portion of the plan. Additionally, the Commission fully agreed to use the design inclusive of shade trees, excluding Sea Grapes, with reference to the western portion of the plan.

- C. Discussion and/or action concerning a request made by Mr. Richard Sujat for hardship parking permits for 4342 East Tradewinds Avenue (*Municipal Services Director Mason*)

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy, to adopt staff's recommendation of denial. In a roll call vote, the motion carried 3-2, with Commissioner Wessels and Commissioner Yanni dissenting.

- D. Discussion and/or action regarding the consideration of waiving occupational licenses for church sponsored activities on church grounds (*Mayor Parker*)

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, directing Attorney Cherof to prepare an Ordinance. In a roll call vote, all voted in favor. The motion carried 5-0.

- E. Discussion and/or action to develop a contest to obtain renderings for a proposed future Town Hall complex (*Vice Mayor Kennedy*)

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve, in principal, pending a review and proposal from the Town's administration. In roll call vote, all voted in favor. The motion carried 5-0.

- F. Discussion and/or action concerning a contract agreement with Walter H. Keller, Inc. for planning services

Mayor Parker tabled this item to the Commission meeting of May 24, 2005, without objection.

- G. Discussion and/or action concerning intent of ordinance regulating pool setbacks (*Mayor Parker*)

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, declaring the intent that "Right-of-Way" referred to "Road Right-of-Way" and not any other Right-of-Way. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to prepare an ordinance to insert the word "Road" in front of the words "Right-of-Way." In a roll call vote, all voted in favor. The motion carried 5-0.

- H. Discussion and/or action concerning appointing member to Master Plan Steering Committee (*Mayor Pro Tem Clark*)

Mayor Pro Tem Clark nominated Laura Ward as a member to the Master Plan Steering Committee. Mayor Parker seconded the nomination. There were no objections or other nominations. The nomination carried 5-0.

14. TOWN MANAGER REPORT

Mayor Parker stated that a suggestion had been offered that Commissioners should pay \$60 each to have the advertisement in the program for the Humanitarians of the Year in lieu of using Town funds for this purpose. Mayor Parker and Mayor Pro Tem Clark had no objections to paying the \$60 each. After a brief discussion, Mayor Parker offered to donate \$60 to the Town and asked for the Commission to formally accept his donation.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to accept Mayor Parker's donation of \$60 for the advertisement in the program honoring Sheriff Ken Jenne as Humanitarian of the Year. In a roll call vote, the motion carried 4-1, with Commissioner Yanni dissenting.

15. TOWN ATTORNEY REPORT

Attorney Cherof had no reports for the Commission's consideration.

16. COMMISSIONER COMMENTS

Vice Mayor Kennedy had no reports to share with the Commission.

Commissioner Wessels talked about obtaining a report for discussion regarding speed humps on Sea Grape North. He also requested discussion regarding the formation of an Economic Committee that would discuss business retention and recruitment in the downtown areas.

Commission Yanni had no reports to share with the Commission.

Mayor Pro Tem Clark had no reports to share with the Commission.

Mayor Parker thanked Mayor Pro Tem Clark and the Fourth of July Committee for the work being performed for the July 4th celebrations. He reminded everyone of the Parish Hall picnic at the Assumption Church scheduled for Saturday, May 21, 2005.

17. ADJOURNMENT

Commissioner Wessels made a motion to adjourn the meeting. There being no objections and no further business to discuss, the meeting was adjourned at 9:25 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____