

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

AGENDA CONFERENCE MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, June 14, 2005

6:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

Mayor Parker called the meeting to order at 6:13 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, and Commissioners Wessels and 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.

Mayor Parker wished everyone a happy Flag Day.

3. REVIEW AGENDA FOR REGULAR MEETING OF JUNE 14, 2005

Presentations

- Item 4A, League for the Hard of Hearing

Mayor Parker stated that the representative for the League for the Hard of Hearing was unable to attend tonight's meeting and a request had been made to make their presentation on June 28th. There were no objections. Mayor Parker asked that this item be tabled to June 28, 2005.

Reports

- Item 5C, Fourth of July Celebrations

Mayor Parker stated that a liquor license was needed for the festivities to be held during the Fourth of July Celebrations and indicated that he had been asked to obtain the license on behalf of the Town. He asked if there were any objections to this request. There were no objections and the Commission thanked Mayor Parker for his assistance in this matter.

Ordinance, Second Reading

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- Item 7A, Amendments to the Ordinance regarding Building and Building Regulations

Mayor Parker asked for confirmation that the ordinance would be corrected to add the wording . . . and all construction material, equipment and debris removed from the property after “completed” and before the word “within” in both sub paragraphs A and B. Attorney Cherof advised that this correction would be made.

Consent Agenda

- Item 10E, Extension to Development Order: Arker/Half Ventures of Florida LLC

Michael Arker stated that he was requesting an extension for the development order as not all the documentation needed from Broward County had been obtained. There were no objections to the extension.

Mr. Arker suggested that the Commission consider a one-year development order, stating that in most cases it was difficult to meet the six month time restraints.

- Item 10B, Special Event Application, Muckensturm Wedding

Mayor Parker asked if the music would be stopped at 10:00 p.m. Mr. Mason replied that staff was recommending that the amplified music be turned down at 8:30 p.m. as indicated by Code. There were no objections to the Special Event Application.

Old Business

- Item 12A, Consideration to Waive Occupational Licenses for Church Sponsored Activities on Church Grounds

Attorney Cherof explained that as this request had been presented to the Town, the Town could not waive the need for a license. He explained that waiving the occupational license in this case would be providing a special privilege to an individual business that could provide the identical services within a business structure and be required to obtain the occupational license.

Mayor Parker asked how this opinion would affect other events taking place on church grounds, such as receptions following a wedding. Attorney Cherof stated that this was a church function and, therefore, a permissible use. He explained that the business owner herself had explained that she ran a private business and charged for the services she provided.

- Item 12B, Update on Fire Rescue Negotiations

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Manager Baldwin advised that Fire Administrator Frank Buchert was on vacation, but indicated that Chief Buchert had held weekly meetings in an attempt to resolve the issues of concern. Volunteer Fire Chief Ian MacLean stated that the Volunteer Fire Department continued to work with the Broward County Sheriff's Office Fire-Rescue Division and asked if a report could be provided at the June 28th meeting as some other issues were currently being negotiated. Battalion Chief Don King agreed and also requested that this item be discussed at the next meeting. There were no objections.

- Item 12C, Height Referendum Issues and Amendments

Mayor Pro Tem Clark provided a brief history concerning the height restriction proposal. Vice Mayor Kennedy ~~and~~ indicated that the referendum could possibly include a fifth story to be used for parking purposes with an extraordinary vote of four Commissioners. He then explained his recommendation, expressing his belief that the Town needed to try to limit the problems that could be caused by the proposed referendum and the extensive litigation that could pursue its approval. Vice Mayor Kennedy agreed with the proposal and believed that a town wide four-story limit might solve some of the issues being faced, with a condition that with an extraordinary vote of the Commission, a five-story building might be considered for the purposes of allowing parking garages. He felt that this issue needed to be discussed to ensure that the proper steps were taken in a timely manner.

Commissioner Wessels stated that an escape clause was needed to ensure that the Town was protected from extensive damages. He hoped it was possible to exempt the Town from some of the liability by eliminating the east side of State Road A1A from the height restriction; however, he did not believe that the Town would be in the clear with the property owners on the west side of the road.

Manager Baldwin believed that additional analysis was necessary. He asked Mr. Keller if his review had included the west side of A1A. Mr. Keller replied affirmatively and indicated that there was only one building that was five-stories. He indicated that most properties, with very few exceptions, were only three stories or less. Mr. Keller explained, however, that there were some four-story buildings and that one five-story building. He advised that there had been 14 properties identified as being used for high rises. Mr. Keller explained that his report showed that if built to capacity at 25 units per acre, the maximum would be 255 units. He stated that based on the area itself, he did not believe that increase would be a significant factor.

Mr. Keller reminded the Commission that when the Comprehensive Plan had been amended two years ago, the Commission had lowered the density from 50 units per acre to 25 units per acre on the west side of A1A. He indicated that the properties on the east side of A1A were still at 50 units per acre on the Land Use Plan even though the zoning showed it as RM-25. Mr. Keller stated that the properties were currently 30 to 50 years old and it was difficult to determine what, if any, redevelopment would occur.

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He emphasized that it was impossible to estimate what would be the Town's exposure to litigation.

Mayor Parker did not believe that the proposal would meet the Town's needs as a citizens' initiative was already in progress and that that initiative limited buildings to four-stories town wide. He expressed concern that the initiative did not provide protections against the Burt J. Harris Act. Mayor Parker stated that the Town needed to provide protection by activating the one year Statute limitations and by authorizing the Town to negotiate in any matter that became a lawsuit within the time limits specified in that Statute. Lengthy discussion followed regarding the requirement for a six month notification of litigation under the Burt J. Harris Act.

Commissioner Wessels questioned if the negotiations addressed under the Burt J. Harris Act would allow the Town to disregard the provisions of the Charter. Mayor Parker replied negatively, but believed that it would provide the Town with an option to try to eliminate the exposure to litigation.

Commissioner Wessels asked if the Town Attorney was in agreement with the Mayor's proposal. Attorney Cherof stated that the suggestion was one option that could be considered, but did not feel comfortable indicating that it was the best option until all issues concerning this matter were reviewed. He indicated that depending on how the citizens felt about the changes, it could present an opportunity to work out the issues of concern. Lengthy discussion followed.

There was some question as to whether the actual referendum could be modified. Attorney Cherof explained that the existing referendum could not be modified; however, he indicated that a new referendum could be substituted if the individuals who signed the original petition acquiesced to the change. He further explained that a public hearing would be required and it was yet to be determined if litigation could arise from such an action.

Vice Mayor Kennedy did not believe that the Town should make its decisions based on the petition that had been circulated. He emphasized the importance of ensuring that the proper zoning for the properties was determined and applied as needed. Vice Mayor Kennedy felt that it was in the Town's best interest to negotiate beach accesses and other amenities to ensure that development benefited the entire Town. He was not opposed to a height limitation on the west side of A1A, but did not believe that the east side of A1A should be restricted in that manner. Vice Mayor Kennedy believed that the Commission needed to look forward 20 years to visualize the development of the Town. He expressed concern that the petition had not been fairly presented nor had it been explained to residents that were asked to sign the document. Vice Mayor Kennedy agreed with Mayor Pro Tem Clark and emphasized that his faith in the people of the Town did not allow him to believe that the proposed referendum would pass. He did, however, believe that it was the Town's responsibility to ensure that residents were well informed prior to the issue being brought up for a vote. Vice Mayor Kennedy stated that

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even the Goodkin Report indicated that 60 percent of properties within “old town” had changed hands in the last five years. He felt that the views of the residents were changing.

Commissioner Yanni stated that the Town could not forget that in its annexation agreement, the Town had agreed to allow the new area to keep Broward County’s building requirements. He indicated that the Town had been aware at that time that the limit was 15 stories. Commissioner Yanni stated that the Burt J. Harris Act had been passed to protect property owners and believed that if a height restriction was imposed, the Town would be sued. He referred to some research he had completed, indicating that the courts had supported property owners’ rights to develop their property to the highest possible extent. He feared that one lost case could bankrupt the Town and agreed with Mayor Pro Tem Clark’s proposal.

4. 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 7:05 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____