

**TOWN OF LAUDERDALE-BY-THE-SEA**  
**TOWN COMMISSION**  
**REGULAR MEETING MINUTES**  
Town Commission Meeting Room  
**4501 Ocean Drive**  
**Tuesday, June 28, 2005**  
**7:00 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. 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.

**4. PRESENTATIONS**

- A. Deputy of the Month, Broward Sheriff's Office, District 13 (*Chief Scott Gooding*)

Chief Gooding recognized Deputy Richard Kreuter and Sergeant Pete LaGana for their work on a stolen credit card case which, as it turned out, was that of Commissioner Yanni and his wife who was hospitalized at the time. He explained that Deputy Kretuer and Sergeant LaGana both worked the morning shift and, therefore, were unable to attend tonight's meeting.

The Commission congratulated Deputy Kreuter and Sergeant LaGana and thanked them for their services.

- B. Firefighter(s) of the Month, Broward Sheriff's Office Fire-Rescue and Emergency Services (*Chief Don King*)

Chief King referenced an alarm call that took place on May 20<sup>th</sup>, regarding an injury due to a fall. He explained the scenario, stating that a construction site worker had fallen 20 to 25 feet, landing in a 12 foot deep dumpster. Chief King described the injuries involved and the method of recovery to airlift the patient to the hospital. He also described the assistance provided by the Volunteer Fire Department to aid Broward Sheriff's Office Fire-Rescue Department, showing that a great quality of service can be provided if the departments work together.

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Chief King recognized the crews of Engine 36, Rescue 12, Volunteer Fire Engine 12, Technical Rescue 32, and Air Rescue 285.

Chief MacLean explained that the crews for this call were unable to attend tonight's meeting as they were currently training together.

C. League for the Hard of Hearing (*continued from June 14, 2005*)

Arthur Schur, representing the League for the Hard of Hearing, was present and briefly provided a description of the services provided by his agency. He explained that the services provided were extended to Broward County residents at no cost. He requested that the Town provide information regarding its programs to its residents by including the information in newsletters, cable channel, and by displaying information within its public buildings.

Mr. Schur requested permission to make a flyer to advertise the locations and time when telephones are distributed. Additionally, Mr. Schur requested the honor of having the Town designate June 13<sup>th</sup> as the Florida Telecommunications Relay Inc., Day, in order to commemorate 14 years of service to Florida residents. He felt that such a proclamation would raise public awareness of the relay system that allows people who are deaf, hard of hearing, and speech impaired, to speak to hearing individuals. Mr. Schur stated that such a proclamation would also raise awareness so that people who need special telephone equipment would be able to obtain it at no cost.

Mayor Parker suggested that the League contact the Property Owners Association to assist in distributing information.

The Commission had no objections to the Mayor signing proclamations for July 13, 2005 and June 13, 2006 in honor of the work done by the Florida Telecommunications Relay, Inc.

D. Department of Transportation – Report on delay of installation of decorative street lights on State Road A1A

James Jeffers, representing the Florida Department of Transportation, provided a brief description of the project and the delays that had been encountered. He stated that the lights were anticipated by this time last year, but the contractor fell behind. Mr. Jeffers explained that unfortunately, there had been a manufacturer's defect and some re-bidding delays that had been unforeseen. He stated that a new bidding process was being started and, if the project was under \$120,000 progress was expected quickly; however, if the project resulted in a higher cost, some additional delays could be expected. Mr. Jeffers stated that if this bidding process ran smoothly, work on the installation should begin within 45 days. He emphasized, however, that if this project had to be pursued as a conventional project, it could take approximately six months to move forward.

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Manager Baldwin asked Mr. Jeffers to keep in touch with Municipal Services William Mason. Mayor Parker asked that the Commission be kept abreast of the progress of this project.

E. Economic Development Committee (*presentation by David Nixon*)

Michael Arker provided a brief history of this project to look into the development of the downtown area. David Nixon provided a PowerPoint presentation for the Commission's consideration. He explained the different types of grant programs that would be available for use to redevelop the downtown area.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, affirming the Task Force's recommendation to establish a CRA.

Attorney Cherof stated that the Commission's action of this nature was only an approval of the concept to establish a CRA as a lot of legalities were involved.

In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, instructing the Task Force to obtain bids for a finding of necessities study. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, instructing the Task Force to continue research on CRA details and report back to the Commission. In a roll call vote, all voted in favor. The motion carried 5-0.

Mr. Nixon offered to meet with Manager Baldwin in order to better understand the bidding process and report back to the Commission during the last meeting in July.

F. Municipalidad de San Isidro, Peru, South America – acceptance of gift from the Town's Sister City

Dr. Kenneth Most stated that the Town's Sister City, San Isidro, wished to provide the Town with a gift, created by one of its local artist, and asked for the Commission for its acceptance. He provided copies of a drawing of the proposed sculpture.

Dr. Most also provided a brief description of the activities being held by Sister Cities during the Fourth of July celebrations. He invited everyone to attend.

The Commission briefly discussed the placement of the sculpture, with Bob Terrien, representing the Chamber of Commerce, stating that the Chamber would be glad to assist in that matter.

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Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, accepting the gift from San Isidro, Peru. In a roll call vote, all voted in favor. The motion carried 5-0.

Manager Baldwin asked that the Commission consider who was to pay for the freight charges so that the necessary amendments, if necessary, could be made to the budget.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, requesting that a proclamation of thanks for the donation be prepared. In a roll call vote, all voted in favor. The motion carried 5-0.

**5. REPORTS**

A. Budget Report for Period Ending May 31, 2005

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, adopting the budget report for the period ending May 31, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

B. Fourth of July Celebrations

Mayor Parker advised that he had applied for and obtained the liquor license on behalf of the Town for use during the Fourth of July festivities.

Lawrence Wick, Vice Chairman of the Fourth of July Committee, provided updated information concerning the activities to be held during the festivities. Jerry Sehl described the gifts to be raffled. Mr. Wick explained the route to be used by the Pelican Hopper during the celebrations.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, waiving any ticketing at the resident permit parking areas. In a roll call vote, the motion carried 4-1, with Commissioner Yanni dissenting.

After a brief discussion, the Commission agreed that unless it was a flagrant violation, citations should not be issued during the Fourth of July festivities.

**6. APPROVAL OF MINUTES**

- A. June 14, 2005, Agenda Conference
- B. June 14, 2005, Regular Meeting

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, approving the minutes of the meetings held on June 14, 2005, as amended during the Agenda Conference Meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

**7. ORDINANCES (2nd Reading) "Public Hearings"**

There were no ordinances, second reading, for consideration.

**8. PUBLIC COMMENTS**

Marie White, 234 Hibiscus Avenue, stated that she would like to withdraw her resignation from the Board of Adjustment. The Commission thanked Ms. White for her continued service to the Town.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, accepting Ms. White's withdraw of her resignation. In a roll call vote, all voted in favor. The motion carried 5-0.

Thomas Eakins, 249 Tropic Drive, addressed the dockage area of the site plan being discussed later in the meeting, asking that the applicant maintain their dockage within the 27 feet as promised. Mayor Parker asked Mr. Eakins to stay until the site plan was discussed so that he could be properly sworn in and participate in the discussion at that time.

Christine Cavanah, 4620 Bougainvillea Drive, referenced the improvements to the Portals to the Sea and expressed concern that the residents who currently used the portals would not be able to thoroughly enjoy the area as sufficient shaded seating would not be provided. She was concerned that the residents who enjoyed congregating at the portals on a regular basis would not be able to have this pleasure due to the configuration of the new design.

Mayor Parker asked Ms. Cavanah to stay until that item was discussed so that she could properly participate in the discussions held by the Commission at that time.

John Thompson, 4900 North Ocean Boulevard, referenced the Volunteer Fire Department, pointing out that when discussing merits, a fair and level playing field had been promised. He indicated, however, that recent talks showed that if the Town received funds for the construction of the station, the funds could be repaid within 30 years. Mr. Thompson explained that if the Volunteers obtained a loan, the funds would have to be repaid within 10 years. Mayor Parker advised that a loan for construction of a station could be repaid in 30 years, wherein a loan for a fire truck would have to be repaid within 10 years. He explained that the type of loan being obtained had a lot to do with the repayment method and terms.

Mr. Thompson stated that several of his residents were meeting with the Federal Aviation Association regarding low flying planes. He felt that as public safety, the Commission should support the residents' concerns in this matter. Mr. Thompson felt that it was more likely that one of the Town's high rises would be hit by a low flying plane than being affected by a fire.

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Mr. Thompson invited residents to attend the Citizens Initiative Committee meeting to be held on June 30<sup>th</sup>. He indicated that the Commission had made a valiant effort to approach this problem and had suggested that citizens might want to drop the initiative to further consider some concerns that might be detrimental to the Town. Mr. Thompson indicated that the meeting would provide a manner in which to disseminate information so that residents could make an informed decision.

Gretel McCausland, 251 Oceanic Avenue, thanked the Commission for the proposed sidewalk work in her neighborhood.

Ms. McCausland referenced the Washingtonia Portal, stating that there were various residents that used the portal on a regular basis. She emphasized the need to ensure that the portals were user-friendly, providing seating and shading.

Ms. McCausland referenced the height restrictions and asked that the Commission listen to the residents who were in favor of this requirement.

Ms. McCausland asked the Commission to consider increasing setback requirements for townhomes while the moratorium for development was still in place.

Tom Carr, 254 Miramar Avenue, stated that he and his wife had just returned from vacation and provided information on how other cities honored the Sister Cities program.

Mayor Parker called a recess at 8:35 p.m. The meeting reconvened at 8:48 p.m.

**9. ORDINANCES (1<sup>ST</sup> Reading)**

- A. Ordinance No. 2005-11: an ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 21, Vegetation, to add a new Article III to require property owners to annually remove coconuts from palm trees on their property; providing for enforcement and penalty; providing for severability; codification; conflicts; and providing for an effective date.

Attorney Cherof read the ordinance by title only.

Mayor Parker stated that based on conversations held during the agenda conference, the language in Section 21-23(a) would be modified to end “. . . in the month of May.” Additionally, Section 21-23(b) would be modified to show a timeframe from “June 1<sup>st</sup> and November 1<sup>st</sup>”.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to adopt ordinance 2005-11 as amended. In a voice vote, the motion carried 4-1, with Commissioner Wessels dissenting.

- B. Ordinance No. 2005-12: an ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 24, Section 24-5.5 to allow for designation of the front lot line of a property to be designated by the property owner; amending the definition of "Lot, Corner"; providing for severability; codification; conflicts; and providing for an effective date.

Based on conversations at the agenda conference meeting, this ordinance was sent back to staff for further review.

## 10. CONSENT AGENDA

- A. **Fourth of July Celebrations** – Agreement with Fisher Media (*for \$13,793 from 4<sup>th</sup> of July donations*)
- B. Consideration of a contract with Craven Thompson and Associates for engineer and design work for the parking lot to be constructed at 4420 Bougainville Drive (*\$17,950*)
- C. Consideration of agreement for services with Beach Raker (*\$11,649.30*)

Mayor Parker removed Item 10C from the Consent Agenda for further discussion.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, approving Items 10A and 10B from the Consent Agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

- 10C, Consideration of agreement for services with Beach Raker

Commissioner Wessels made a motion, seconded by Commissioner Yanni, approving the contract for three years. In a roll call vote, the motion carried 4-1, with Mayor Parker dissenting.

## 11. RESOLUTION

- A. **PUBLIC HEARING - Resolution No. 2005-08:** a resolution of the Town of Lauderdale-By-The-Sea, Florida, declaring zoning in progress and authorizing issuance of a Notice of Intent to allow the Town's Administration and consultants to study, review and revise zoning and building standards and requirements for development of building in excess of forty-four feet in height in the area in the Town north of Pine Avenue and south of the Pompano Beach corporate limits (known commonly as the North Beach Annexation Area); providing for issuance of notice; for public hearing; and an effective date.

Attorney Cherof read the resolution by title only.

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

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, adopting Resolution 2005-08. In a roll call vote, the motion carried 4-1, with Mayor Pro Tem Clark dissenting.

## **12. OLD BUSINESS**

Mayor Parker asked if there were any objections to discussing item 12C at this time. There were no objections.

Diane Boutin, General Manager of the Windjammer Resort, provided copies of a presentation and pointed out some concerns with the Portals project, specifically the furniture scape, bench seating, waste cans, and showers. She also provided a copy of a proposed plan created by Bill Hollingsworth, Architect, Hollingsworth and Associate.

Commissioner Wessels suggested the Commission consider the changes, such as shading, additional seating, the durable products, and the materials for the chairs.

Town Engineer Hart said that he believed Ms. Boutin's suggestions for the wall at Datura Portal had valid points and referenced her suggestions regarding the divers, and the height and size of the Portal.

Mayor Parker questioned the purpose for the removal of the seawall and Engineer Hart responded that the seawall was to be lowered, not removed, to match the grade of the paver and enable a smooth entry onto the sand. He added that a dune would be added to prevent the sand from encroaching onto the roadway.

Commissioner Wessels asked Ms. Boutin if the diving activity occurred mostly on weekends. Ms. Boutin replied that most of the diving schools have been coming to the Portal at Datura for over twenty years. She added that families and quite a few local people also came to sit on the bench and visit the beach.

Commissioner Wessels suggested taking Ms. Boutin's plan and modify it to make it more user friendly, to include cluster seating, and provide more shade. He added that seating could be created out of the walls and perhaps curved so people could face each other rather than maintain a linear fashion.

Mayor Parker pointed out that the pictures submitted showed the view at Palm Portal had a prettier view without the seawall and the Datura Portal that contained the seawall, was not very attractive. Mayor Parker suggested cutting the seawall down to the level of the sand.

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Discussion followed regarding the abundant amount of sand that would be distributed on roadways if the seawalls were eliminated and Mayor Parker further explained that the seawall would remain six feet beneath the ground, and that only the part that protrudes above the ground would be gone.

There had been an expression of concern regarding the troughs of water that come through hurricanes and swells where the sea walls are scarce. Engineer Hart gave assurance that erosion problems would be handled at all the Portals.

Vice Mayor Kennedy questioned whether their concerns had been with the aesthetic beauty or the functionality of the Portals and added that the Palm Portal was not functional, lacking shade and seating, but admitted it to be quite picturesque. Vice Mayor Kennedy expressed his favor with Datura Portal and explained it provided shade and allowed a southeasterly breeze to flow through. He shared his belief that people preferred shade when they went to the beach and Mayor Parker thought that perhaps the Town could offer a franchise to someone to provide beach chairs and beach umbrellas on our beach.

Bess Lagercio, 4550 North Ocean Drive, expressed her concern in relation to available parking explaining that twelve people use the Portal every night and sit until dark. She indicated that only one handicapped space had been available and no permit parking provided. Mayor Parker gave assurance that that had been changed to include them.

At Vice Mayor Kennedy's request, Ms. Boutin suggested the Town keep the seawall, maintain a five foot opening, ramp it and do what is required to meet the American Disabilities Act. She also suggested a modification of the design to allow air flow on both sides.

The Commission agreed to, and expressed their preferences to the possible changes discussed for additional improvement to the design. Engineer Hart indicated he could work with the contractor to accommodate the changes.

The Commission voted 3-2 against lowering the seawall, with Commissioner Wessels and Mayor Parker voting in favor.

The Commission agreed to make the necessary changes that don't require change orders such as changing the configuration of benches, the location of the trash cans and providing additional bench space.

Franz Fercher, 4245 El Mar Drive, spoke in reference to the seawall, expressing his belief that it was a good idea to keep the seawall.

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Attorney Cherof indicated that perhaps the Commission should consider hearing the public hearing concerning the site plan at this time to ensure participation by the public. There were no objections.

- Item 13A, “**PUBLIC HEARING**” – SITE PLAN REVIEW, request for Marina Village Overlay District; B&B Garden Court LLC, 230 Garden Court (*tabled from May 10, 2005*)

Enrique Rodriguez, Scott Bench, Robert Hall, and Bryan Gershkowitz, on behalf of EastCoast Communities, were present. Town Planner Walter Keller, representing the Town, was present. Attorney Cherof explained that this was a quasi judicial procedure and swore in the parties interested in testifying during this public hearing.

Mr. Rodriguez provided an explanation of the proposed changes for the Commission’s consideration. Mayor Pro Tem Clark stated that he had no objections to the proposed changes, but believed that staff should have an opportunity to review the plans.

Vice Mayor Kennedy questioned the need to continue this matter or if the Commission could just review it at this time. Town Planner Keller stated that staff had not been provided with an opportunity to review the plans. He expressed concern that he was unsure if the proposed change increased the density for the project or somehow changed the requirements for the project. Town Planner Keller asked the Commission for a continuance to ensure that he could provide an informed recommendation. He reminded the Commission that this project was a part of another project and review was needed to ensure that there were no detrimental impacts. Town Planner Keller did not believe two weeks was a significant delay for a proper review.

The Commission briefly discussed the proposed abandonment, with Attorney Cherof explaining that the Commission could accept the abandonment at this time so that the necessary time limits could begin their countdown.

At Commissioner Wessels’ request, Town Planner Keller explained the parking requirements. He explained that since he had not yet reviewed the amended application he could not determine if the adjacent project would be affected. Town Planner Keller explained that if the applicant changed the site plan from that which was approved by the Commission, they would be in violation of the site plan.

In response to Commissioner Yanni’s request, Mr. Bench advised that the two properties located to the north of the project were currently under contract for purchase.

The Commission agreed 4-1, to consider the proposed site plan at the next meeting, with Commissioner Wessels dissenting.

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

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Thomas Eakins, 249 Tropic Drive, was sworn in and stated that the applicant had agreed to certain restrictions concerning the waterway and the docking setbacks and requested that the Commission ensure that these restrictions were made part of the record. He indicated that as a navigational safety issue, Mr. Bench had agreed not to encroach on the 27 ½ foot docking, with angled parking.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to continue the public hearing to July 12, 2005 to consider the amendment to the site plan. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Wessels stated for the record that he and Mr. Bench had had a business transaction in the past and that he had no conflict of interest in voting on this matter.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to accept tonight's presentation as an application for abandonment of the cul-de-sac. In a roll call vote, all voted in favor. The motion carried 5-0.

A. Update on Fire-Rescue Negotiations (*Commissioner Wessels*)

Fire Administrator Frank Buchert provided a history of this issue, indicating that the Commission had requested staff review the Volunteer Plantation model to see if it would accommodate the Town's needs. He explained that the review of the model emphasized on full participation by the LBTS Volunteer Fire Department and the Broward Sheriff's Office Fire-Rescue Department. Chief Buchert stated that meetings had been held weekly, basically dividing discussion into four sections: review of the Plantation model, with no disputes as to the model working although review of implementation was still being conducted; organization and reorganization of the LBTS Volunteer Fire Department, as it pertained to their Charter; fire operations; and the budget.

James Silverstone and Fire Chief Ian MacLean, representing the LBTS Volunteer Fire Department, were present. Mr. Silverstone thanked the Commission for its resolution directing the Volunteers to work towards a goal in its fire suppression. He indicated that the Volunteers worked in this profession as they wished to provide a service to the town's residents. Mr. Silverstone stated that the Town's residents wanted the Volunteers to provide their fire suppression services. He felt that the department had made huge strides in the last couple of years. Chief MacLean stated that the general membership of the department had shown tremendous acceptance of the proposal. He indicated that the membership felt that the Town and the Volunteers were heading in the right direction. Chief MacLean stated that Battalion Chief Don King had been assisting the Volunteers with the consolidation, and felt that the Town would be well served by the cooperation between the departments. He emphasized that public safety was the department's priority and that review of the budget was now underway.

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Battalion Chief Don King, representing Broward Sheriff's Office Fire-Rescue Department, was present. He stated that the departments had made a lot of progress in these meetings, identifying components in the Plantation model that would work well for the Town and addressing those components that would be difficult to incorporate such as membership requirements. Chief King stated that the relationship between the two departments was improving and a system for quality service was being developed. He indicated that it was the Broward Sheriff's Office was committed to providing quality service and working with the Volunteers to ensure compliance with required regulations.

Commissioner Wessels asked how the Board of Directors for the Volunteer Fire Department felt about the progress being made with the Broward Sheriff's Office. Mr. Silverstone stated that both departments were working well together and that no problems were being encountered. He indicated that there had never been any problems between personnel in providing fire suppression services. Commissioner Wessels asked if this was the case, why Mr. Thompson had made a statement that the Volunteers were not being provided with a fair playing field. He questioned that if this were the case, why the Volunteers were reporting to residents, but were not ensuring that the information was shared with the Commission. Commissioner Wessels stated that it was difficult to dispel rumors and misinformation if the Commission was not made aware of problems as they arose. Mr. Silverstone explained that the Volunteers did believe that perhaps the Volunteers were being issued budgetary requirements that were otherwise not being issued. He indicated that items such as the need for a new fire station and a new 100-foot ladder truck; however, the use of a 30 year amortization versus a 10 year amortization made a difference when costing those items out. Mayor Parker stated that fire trucks were typically purchased under a contract to be paid within 10 years. Manager Baldwin advised that a bond could be issued for the construction of a fire station, but not for the purchase of a fire truck. Mr. Silverstone stated that the Volunteers had not yet received concrete information regarding how the Town would pursue the cost of developing a new fire station. Commissioner Wessels stated that the life of a fire truck could not be expected to be 30 years in either event.

Manager Baldwin stated that the Commission had agreed to erect the new fire station where the current Public Works compound was located. He indicated that Broward County was committed to a minimum of \$1.5 million and that the Town was in the process of negotiating grant funds for a Barrier Island Disaster Recovery Center. Manager Baldwin explained, however, that the Town could not count on those extra funds as they had not yet been approved. Commissioner Wessels suggested that the Volunteers prepare their budget using both scenarios in order to move forward.

Chief MacLean stated that concrete costs had doubled in the last two years and, obviously, the longer it took to proceed, the higher the cost could be anticipated. He indicated that aside from this issue, there were no other problems, expressing his belief that the discussions were fair and equitable. Chief MacLean stated that he agreed with Chief King in that BSO was committed to providing good, quality service. He felt that BSO was living up to that commitment.

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- B. Discussion and/or action concerning the extension of a moratorium on development of the area bordered by the alleyway south of Commercial Boulevard on the north, Datura Avenue on the south, State Road A1A on the west, and El Mar Drive on the east (*Town Planner Walter Keller*)

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, extending the moratorium for 120 days. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action concerning the Portal to the Sea located at Datura Avenue (*Mayor Parker/Vice Mayor Kennedy/Commissioner Yanni*)

This item was discussed earlier in the meeting.

- D. Discussion and/or action concerning height referendum issues and amendments (*Mayor Pro Tem Clark*) (*tabled from June 14, 2005*)

Mayor Parker explained the two proposals that had already been discussed. He added a new proposal, stating that this third proposal would have a modified three-over-one east of State Road A1A. Mayor Parker stated that in this proposal, the Town Commission would have authority to allow a conditional use of up to 15 stories and 150 feet if certain conditions were met. He explained that this area could be designated as the North Beach Ocean Access District. Mayor Parker stated that some of the conditions to be considered could be assurance that fire apparatus could reach the building, beach accesses, provisions for reducing the shadowing affect created by taller buildings, and adequate width between the buildings. He indicated that the Town's current Code allowed developers to count that portion of lands donated to the Town as part of the development to be counted towards setbacks and density requirements. Some discussion followed concerning the Burt J. Harris Act and how this new proposal might alleviate the Town's exposure.

At the request of the Commission, Susan Delegal addressed the Commission regarding the new proposal for height restrictions. She indicated that she had spoken to her clients and, although she was not ready to support all the particulars of the proposal, further discussions would be greatly appreciated. Ms. Delegal stated that although her clients were in support of the proposal originally made by Mayor Pro Tem Clark, her clients were not opposed to reviewing the Mayor's revised proposal providing for conditional use. She offered to continue working with the Commission on this matter.

Attorney Cherof stated that drafting of the enabling ordinance would need to be determined so that it could be reviewed by the Commission and other interested parties to determine how this new proposal would be accepted. He explained that in making the proposed changes, there were other means to file a suit against the Town that did not fall under the Burt J. Harris Act.

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Commissioner Wessels invited residents to attend meetings and participate in discussions concerning this matter to ensure that the correct information was being reviewed in making a final decision.

Mayor Pro Tem Clark expressed his pleasure that the Commission had, in continuously reviewing this matter, come to a closer agreement to ensure that the Town and its residents' rights were protected.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to extend the meeting past 11:00 p.m. In a roll call vote, the motion carried 4-1, with Commissioner Yanni dissenting.

Vice Mayor Kennedy asked if the petitioners of the original initiative would consider adoption of the new proposal. Mayor Parker felt confident that this new proposal would be accepted. He indicated that he would be meeting with the Committee to further discuss this matter. Mayor Parker stated that the Committee was opposed to four-story residences on El Mar Drive.

Some discussion followed concerning the Citizens Initiative Committee meeting, with Attorney Cherof stating that if more than one Commissioner was to attend, the meeting needed to be posted as a public meeting. There was full consensus that the Town provide a court reporter to attend the meeting.

Manager Baldwin stated that although he had spoken with each of the Commissioners concerning this matter, he wanted it to be understood that there was an administrative hold on the spending of funds. He explained that unless the Commission directed him to do otherwise, or the Town Attorney stated that there was no exposure, he could not, in good conscience, spend funds until this issue was resolved.

Mayor Parker asked for an update at the second meeting in July.

### **13. NEW BUSINESS**

- A. **“PUBLIC HEARING”** – SITE PLAN REVIEW, request for Marina Village Overlay District; B&B Garden Court LLC, 230 Garden Court (*tabled from May 10, 2005*)

This item was discussed earlier in the meeting.

- B. Discussion and/or action concerning the Town holding a Christmas event for the Town's children (*Commissioner Wessels*)

Ms. Marie White stated that upon Commissioner Wessels' suggestion, she had obtained donations and recruited 15 volunteers to ensure “Santa-By-The-Sea” festivities could be held for the Town's children on Saturday, December 17, 2005. She provided additional

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information and asked that individuals who wished to donate funds or volunteer to help contact her. Ms. White stated that she had received an offer from Mr. Silverstone to ensure that Santa Claus participated in the festivities. Commissioner Wessels stated that the volunteers for these festivities were asking that the Town sponsor the liability insurance, the Volunteer Fire Department for the use of the fire truck, and funding to come from private funding. He stated that all merchants were invited to participate. Commissioner Wessels thanked Ms. White for her assistance with this matter.

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve the festivities of Santa-By-The-Sea. In a roll call vote, all voted in favor. The motion carried 5-0.

C. Consideration and review of budget calendar (*Town Manager*)

The Commission reviewed the budget calendar later in the meeting.

D. Consideration of Special meeting to present Town Manager's proposed budget for Fiscal Year 2005-06 for week of July 18-22, 2005 (*Town Manager*)

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, setting a special meeting for the Town Manager to present the proposed budget for Fiscal Year 2005-06 on Tuesday, July 19, 2005, at 6:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

E. Consideration of Workshop meeting to review the proposed budget for fiscal year 2005-06 for week of July 25 – 29, 2005 (*Town Manager*)

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy to hold a workshop meeting to review the proposed budget for fiscal year 2005-06 on Monday, July 25, 2005, at 6:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

- Review of the Budget Calendar

The Commission reviewed the dates in which it could hold its public hearing to adopt the millage and its budget. Consideration was given to changing the regular meeting dates to meet compliance of the budget calendar.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to change its regular meeting of September 13<sup>th</sup> and hold the first public hearing regarding the millage and the Town's budget on September 6, 2005, at 7:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker advised that an agenda conference meeting would also be held on September 6<sup>th</sup>.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to change its regular meeting of September 27<sup>th</sup> and hold the second public hearing regarding the millage and the Town's budget on September 20, 2005, at 7:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker advised that he would be out of Town on September 20 and, therefore, would be unable to attend this meeting.

F. Consideration of a Workshop meeting to review zoning district proposals

After a brief discussion, there was full consensus to hold a workshop meeting to review the zoning district proposals for Tuesday, September 13, 2005, at 6:00 p.m.

**14. TOWN MANAGER REPORT**

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

**15. TOWN ATTORNEY REPORT**

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

**16. COMMISSIONER COMMENTS**

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

Commissioner Yanni wished Clerk Medina a speedy recovery.

Commissioner Wessels thanked Mayor Pro Tem Clark and the Fourth of July Committee for all their hard work in the preparations of all the festivities. He also thanked Mr. Arker and Mr. Nixon for their diligence in obtaining information regarding the community redevelopment agency.

Mayor Parker wished everyone a happy Fourth of July and briefly described the festivities being planned.

**17. ADJOURNMENT**

Mayor Pro Tem Clark made a motion to adjourn the meeting. As there were no objections and no other business to discuss, the meeting was adjourned at 11:45 p.m.

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

ATTEST:

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

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