

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, September 6, 2005

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:00 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, and Commissioner Wessels. Also present were Town Manager Baldwin, Attorney Julie F. Klahr, and Town Clerk Medina.

Commissioner Yanni was not present.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan had not been present to provide the invocation. Mayor Parker requested a moment of silence in memory of Chief Justice William Rehnquist.

There were no objections to Mayor Parker's request to lower the flag at half staff in at Town Hall, the Fire Department and the Police Department from September 7th to the 13th in memory of Chief Justice William Rehnquist.

4. PUBLIC HEARINGS

- A. **Resolution 2005-12:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting a proposed millage rate for the fiscal year beginning October 1, 2005, and ending September 30, 2006; stating the percentage amount the proposed rate exceeds the rolled back rate; announcing the second and final public hearing to adopt the final millage rate; providing for severability, conflicts, and an effective date.

Attorney Klahr read Resolution 2005-12 by title only.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to adopt Resolution No. 2005-12 on first reading.

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Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to amend the proposed millage rate from 4.99 to 4.7. In a roll call vote, all voted in favor. The motion carried 4-0.

Attorney Klahr disclosed the proposed millage rate of 4.7 and a rollback rate of 4.1588, exceeding the rollback rate by 13.09%. Attorney Klahr advised that the second public hearing will be held September 20, 2005, at 7:00 p.m.

Mayor Parker opened the public hearing and with no one wishing to speak, closed the public hearing.

In a roll call vote, all voted in favor. The motion carried 4-0.

- B. **Resolution 2005-13:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting a tentative budget for the fiscal year beginning October 1, 2005, and ending September 30, 2006; announcing the second and final public hearing to adopt the annual budget and final millage rate; providing for severability, conflicts, and an effective date.

Attorney Klahr read Resolution 2005-13 by title which amended the budget from \$25,237,325 to \$24,761,226. Attorney Klahr advised that the second public hearing will be held September 20, 2005, at 7 p.m.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve Resolution No. 2005-13 on first reading.

Mayor Parker opened the public hearing.

Debbie Capone, Family Central, thanked the Commission for their support and charitable donation.

With no one else wishing to speak, Mayor Parker closed the public hearing.

In a roll call vote, all voted in favor. The motion carried 4-0.

Mayor Parker called a recess at 7:15 p.m. and resumed the meeting at 7:21 p.m.

5. PRESENTATIONS

- A. Presentation and explanation concerning Town debt and Town Manager's recommendation to borrow additional funds (*Dane Sheldon, SunTrust*)

Items 5A, Presentations, and 14C, New Business, were discussed and voted on concurrently.

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Dane Sheldon, SunTrust Bank, provided a presentation regarding types of loans currently available with a 4.1% rate and advised against waiting to proceed with a loan since rates were anticipated to increase.

The Commission talked about the Town's current debt, upcoming projects, and the revenue projected from parking meters and stormwater utility funds.

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, to authorize a fifteen (15) year, \$5 million loan from SunTrust Bank at 4.1%. In a roll call vote, all voted in favor. The motion carried 4-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to authorize an additional \$2 million loan from SunTrust Bank at 4.1%, for a fifteen (15) year term. In a roll call vote, all voted in favor. The motion carried 4-0.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to clarify that repayment of the loan would be made from the Non-Ad Valorem revenues of the Town. In a roll call vote, all voted in favor. The motion carried 4-0.

6. REPORTS

A. Budget Report for Period Ending July 31, 2005

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to accept the Budget Report as presented. In a roll call vote, all voted in favor. The motion carried 4-0.

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

This item was tabled to October 11, 2005 during the Agenda Conference.

C. Report by Russ Klenet, Legislative Consultant

Russ Klenet, Legislative Consultant provided an update on State Legislative issues. He talked about the functions of a lobbyist, provided a description of his job duties, and how he had benefited the Town.

D. Update on traffic control at the intersection of State Road A1A and Commercial Boulevard (*continued from July 26, 2005*) (*Chief Scott Gooding*)

This item was tabled to October 11, 2005, to be considered with Old Business, Item B, "Review of Traffic Study within the Silver Shores area".

7. APPROVAL OF MINUTES

- A. July 19, 2005, Special Meeting
- B. July 25, 2005, Workshop Meeting
- C. July 26, 2005, Agenda Conference
- D. July 26, 2005, Regular Meeting

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve the minutes of the July 19, 2005 Special meeting; the July 25, 2005 Workshop, as corrected; the July 26, 2005 Agenda Conference; and the July 26, 2005 Regular Commission meeting. In a roll call vote, all voted in favor. The motion carried 4-0.

8. ORDINANCES (2nd Reading) "Public Hearings"

There were no ordinances for 2nd reading to be considered.

9. PUBLIC COMMENTS

Jerry Sehl, 250 Miramar Avenue, distributed a flyer and provided details regarding the "Santa's Coming to Town" event.

Phil Ciani, 107 & 107A Commercial Blvd., talked about Mulligan's sidewalk café and presented pictures to the Commission regarding the blocking of pedestrian traffic along the sidewalk.

Cindy Geesey, 256 Imperial Lane, offered to donate a flag case to the Town. She spoke about the Special Event application and referred to the section regarding liability insurance. Mayor Parker assured her that insurance was only required in the event that alcoholic beverages were being served and the form would be amended to reflect that.

June Lassel, 259 S. Tradewinds Avenue, commented on the Washingtonia portal and asked the Commission to consider making some changes to the wall. She talked about the power outage that had resulted from Hurricane Katrina and recommended the Town consider putting a truck on standby to provide ice to residents after a storm.

Margaret Reichenstein, 254 Algiers Avenue, referred to the lack of power resulting from the storm and asked the Town to look into underground wiring for the south part of Town.

10. ORDINANCES (1ST Reading)

- A. **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.

Attorney Klahr read Ordinance 2005-12 by title only.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy to amend Ordinance 2005-12 to read “a line dividing a street rather than “a line dividing the street”.

Commissioner Wessels expressed his disagreement with the uses allowable on the side yard, which now becomes the front yard. He thought it would be beneficial to adjust the Ordinance to reflect his concerns.

In a roll call vote, the motion carried 3-1, with Commissioner Wessels dissenting.

- B. **Ordinance No. 2005-13:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 20, Utilities, Article IV entitled “Stormwater Management Utility,” Section 20-40 entitled “Schedule of Rates,” increasing the Equivalent Stormwater Unit (ESU) rate for stormwater utility services to seven dollars (\$7.00) per month; providing for the initial consumer price index rate adjustment to occur on January 1, 2007; providing for codification, conflict, severability and an effective date.

Attorney Klahr read Ordinance 2005-13 by title only.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to adopt Ordinance 2005-13 on 1st reading.

Commissioner Wessels thought the Town should hold to the \$3.50 and absorb the other \$3.50 through Ad-Valorem taxes.

In a roll call vote, the motion carried 3-1 with Commissioner Wessels dissenting.

11. **CONSENT AGENDA**

- A. **SPECIAL EVENT PERMIT: Oktoberfest Celebration/Property Owner’s Association Lauderdale By The Sea, Inc. - Saturday, October 1, 2005; from 5:00 p.m. to 11:00 p.m.**
- B. **SPECIAL EVENT PERMIT: Art & Craft Show/Chamber of Commerce – Saturday, October 22, ad Sunday, October 23, 2005; from 9:00 a.m. to 5:00 p.m.**
- C. **AMENDMENT TO INTERLOCAL AGREEMENT: with the Metropolitan Planning Organization**

- D. Approval of parking lot design, 4420 Bougainvilla Drive

This item was removed from the Consent Agenda for further discussion.

- E. Donation of \$2,508 to the Volunteer Fire Department for serving food at the Fourth of July Celebration (*Town Manager Baldwin*)

This item was removed from New Business, Item 14I, and added to the Consent Agenda as Item 11E.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels to approve items 11A, 11B, 11C, and 11E of the Consent agenda. In roll a call vote, all voted in favor. The motion carried 4-0.

- 11D. Approval of parking lot design, 4420 Bougainvilla Drive

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels to approve option #2 as the design for the parking lot at 4420 Bougainvilla Drive. In roll a call vote, all voted in favor. The motion carried 4-0.

12. RESOLUTION

There were no resolutions for consideration.

13. OLD BUSINESS

- A. **“PUBLIC HEARING”** VACATION OF RIGHT-OF-WAY, request from EastCoast Communities as it pertains to the project being developed on the property located at 226 and 230 Garden Court (*continued from July 26, 2005*)

Mayor Parker opened the Public Hearing.

Attorney Klahr administered the Oath to those giving testimony.

Town Planner Walter Keller recommended approval with five (5) conditions as noted in his August 30, 2005 Memorandum to Manager Baldwin, hereto attached as part of these minutes.

Scott Bench, owner, applicant agreed to the conditions.

Cindy Geesey, 256 Imperial Lane, explained that one of the main conditions of the overlay district had been to ensure that no back-out parking was providing. She added that the Planning & Zoning Board approved the site-plan with no back-out parking in the cul-de-sac. Ms. Geesey said that prior to coming before the Commission, the applicant added back-up parking in the cul-de-sac and an additional saleable unit. She

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suggested the Town give them the property but ask them not to have visible back-out parking, providing for the use of tall hedges as a buffer.

Planner Keller explained his interpretation had been that if the right-of-way were to be vacated it would not be back-out parking because it would be the applicant's property. He added that adding hedges to that area would hamper access to the private easements.

Ron Piersante, 227 Lake Court, disagreed with Planner Keller and his interpretation regarding back-up parking.

Commissioner Wessels said this was a sound project. He added, however, that the principal of the overlay district was to improve the aesthetics of the area and to avoid back-out parking. The Commission discussed back-out parking further and expressed their individual interpretations. Cindy Geesey repeated earlier comments regarding the site plan approval.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve the vacation subject to staff's recommendations and the conditions set forth. In roll a call vote, the motion carried 3-1, with Commissioner Wessels dissenting.

- B. Review of Traffic Study within the Silver Shores area (*Town Planner Walter Keller*) (*staff requesting a tabling to October 11, 2005*)

This item was tabled to October 11, 2005.

- C. Report on Code Section 24-5.155, as it pertains to the leasing of parking areas (*Town Planner Keller*) (*staff requesting a tabling to September 20, 2005*)

This item was tabled to October 11, 2005.

- D. Reconsideration of Datura and Washingtonia portals (*Commissioner Yanni/Vice Mayor Kennedy*)

Mayor Parker explained that Robert's Rules did not allow a motion to reconsider a motion to reconsider and, subject to an appeal by the Commissioners, further motions with regard to this matter would not be accepted. There were no objections.

14. NEW BUSINESS

- A. **"PUBLIC HEARING"** SITE PLAN, Silver Capital Investments, LLC, 4649 Bougainvilla Drive

Attorney Klahr administered the Oath to those giving testimony.

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Mayor Parker opened the Public Hearing.

Town Planner Walter Keller gave a brief overview regarding the Planning and Zoning Board's recommendation for site plan approval.

Ron Piersante, 227 Lake Court, said a number of changes had been made, and agreed that there was a mixture of design.

The Commission talked about the concept, the design, and the color and thought that perhaps with minor modifications, the plan could be saved. Vice Mayor Kennedy suggested the Master Plan Steering Committee review the plan and offer suggestions.

Joe Pasquale, Architect, said art was subjective and agreed that minor modifications could be possible.

Michael Arker, 5100 N. Ocean Blvd., offered suggestions regarding the presentation, such as widening the roof top or adding colorful flowers.

Mayor Parker suggested the site plan be returned to the Planning and Zoning Board for further review.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to continue the site plan review to November 8, 2005, with directions that the Planning and Zoning Board reconsider the application. In a roll call vote, all voted in favor. The motion carried 4-0.

- B. **“PUBLIC HEARING” SITE PLANS**, Sandy By The Sea Townhomes, located at 4557 Poinciana Street, 4558, 4561, 4637, and 4641 Bougainvillea Drive (*applicant requesting continuance to October 11, 2005*)

Mayor Parker opened the Public Hearing and with no one wishing to speak closed the public hearing.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to continue the site plan review to November 8, 2005.

- C. Motion to approve borrowing \$5 million (*\$2 million for General/Capital Fund; \$2 million for Parking Revenue Improvement Fund; and, \$1 million for Stormwater Fund*) (*Town Manager Baldwin*)

This item was discussed earlier in the meeting.

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- D. Discussion and/or action regarding the process for the review of site plans as it pertains to dockage of boats (*Commissioner Wessels*)

Commissioner Wessels made a motion, second by Mayor Pro Tem Clark, to create a protocol to review site plans as it pertains to the dockage of boats to ensure that the builder/developer was in compliance with all regulatory agencies; and, to have that protocol presented for Commission consideration on November 8, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

- E. Discussion and/or action regarding the ordinance governing insurance requirements for the use of Jarvis Hall (*Commissioner Wessels*)

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to direct Administration to make the necessary changes to clarify the ordinance for application. In a roll call vote, all voted in favor. The motion carried 4-0.

- F. Appointment of two (2) members to the Board of Trustees of the Lauderdale-By-The-Sea Volunteer Fire Department Pension Plan (*new term runs October 1, 2005 to September 30, 2007*)

Mayor Parker nominated Robert Polyosko and Bill Wiesmueller for re-appointment to the Board of Trustee of the Lauderdale-By-The-Sea Volunteer Fire Department Pension Plan. Mayor Pro Tem Clark seconded the nomination. There were no other nominations. In a roll call vote, all voted in favor. The motion carried 4-0.

- G. Discussion and/or action regarding the transmittal of a letter to the United States Postal Services to obtain one zip code for the entire Town

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to amend the letter of request to the United States Postal Services to obtain a unique zip code for the entire Town and, if denied, request the Town use one zip code as 33308; to be presented on November 8, 2005; and to include a resolution that would authorize the sending of the letter. In a roll call vote, all voted in favor. The motion carried 4-0.

- H. Discussion and/or action concerning the cost of placing automatic gates on Washingtonia Avenue and Seagrape Drive (*Town Manager Baldwin*)

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to table this item to October 11, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

- I. Donation of \$2,508 to the Volunteer Fire Department for serving food at the Fourth of July Celebration (*Town Manager Baldwin*)

This item was moved to the Consent Agenda as item E.

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- J. Discussion and/or action to allow sales offices in buildings on properties scheduled to be developed (*Town Manager Baldwin*)

Commissioner Wessels felt further information was needed regarding the unit itself, and the expiration of permits. He thought an ordinance should be created to address sales offices in buildings.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to direct the Town Attorney to draft an ordinance for discussion and/or action for first reading on November 8, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

- K. Discussion and/or action regarding decision on displaying the U.S. Flag from U.S. Representative Clay Shaw (*Mayor Parker*)

Cindy Geesey offered to donate a frame to display the U.S. Flag.

The Commission talked about their preferences regarding how and where to display the flag. There were no objections to Mayor Parker's suggestion to appoint Cindy Geesey as a Committee of one to present available options. Ms. Geesey was directed to report back to the Commission on October 11, 2005 for discussion under Old Business.

- L. Discussion and/or action to allow the Town to act as a Conduit to accept donations to the Red Cross and/or the Salvation Army for hurricane relief for Hurricane Katrina

Manager Baldwin verified that donations would be accepted at Town Hall. He clarified that checks were to be made out to either the Red Cross or the Salvation Army, whereas cash donations were to be divided equally between the two charities.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to allow the Town to act as a conduit for the Red Cross and/or the Salvation Army for hurricane relief for Hurricane Katrina. In a roll call vote, all voted in favor. The motion carried 4-0.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to request the businesses in Town to help with the solicitation of funds to the Red Cross and/or the Salvation Army for hurricane relief for Hurricane Katrina to take place on September 30, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

15. TOWN MANAGER REPORT

There were no reports to be considered.

16. TOWN ATTORNEY REPORT

There were no reports to be considered.

17. COMMISSIONER COMMENTS

Vice Mayor Kennedy talked about the legislative consultant and questioned whether \$26,400 had been set aside in the budget for lobbying services, rather than contracting the lobbyist. Mayor Parker clarified that the monies had been set aside in the budget for as needed services.

Commissioner Wessels talked about the Town's evacuation plan and questioned the ability of Broward County's plan to house 200,000 to 300,000 people as well as the cooperation with bordering states to assist with relocation. He thought it would in the Town's best interest to address our evacuation plan and devise a solution that would ensure the safety of the Town's residents.

The Commission discussed ideas such as the preparation of a letter to Broward County regarding hurricane preparedness; an invitation to Broward County staff to speak with the Town Commission regarding the Town's concerns; access to Broward County's index of emergency plans; access to the State of Florida's index of emergency plans; and asked Chief Gooding to arrange a meeting with County Representatives. Mayor Pro Tem Clark agreed with the concept and thought it would benefit the Town to pursue coordination with the County on its hurricane preparedness. Manager Baldwin stated that Hurricane Katrina had provided a need to modify the Town's procedures for emergency management.

Mayor Parker announced that a Special Commission meeting regarding the Fire Protection Special Assessment Area and the Stormwater Utility fees would be held September 14, 2005, at 6:00 p.m.

18. ADJOURNMENT

There being no further business to discuss, Mayor Pro Tem Clark made a motion to adjourn the meeting. There being no objections, the meeting was adjourned at 10:27 p.m.

Ed Kennedy, Vice Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted:_____