

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, September 20, 2005

7:00 P.M.

1. CALL TO ORDER, VICE MAYOR EDWIN KENNEDY

The meeting was called to order by Vice Mayor Kennedy at 6:02 p.m. Present were Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Yanni, and Commissioner Wessels. Also present were Town Manager Baldwin, Attorney Julie F. Klahr, and Town Clerk Medina.

Mayor Parker was not present.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan was not present. Vice Mayor Kennedy requested a moment of silence for the victims of Hurricane Katrina and to give thanks that Hurricane Rita had spared us.

4. PUBLIC HEARINGS

- A. **Resolution No. 2005-15:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting a final millage rate for the fiscal year beginning October 1, 2005, and ending September 30, 2006; stating the percentage amount the proposed rate exceeds the rolled back rate; providing for severability, conflicts, and an effective date.

Attorney Klahr read Resolution No. 2005-15 by title. She stated the proposed millage rate at 4.7, and exceeds the rolled back rate of 4.1588 by 13.09%.

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

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the resolution adopting a millage rate at 4.7. In a roll call vote, all voted in favor. The motion carried 4-0.

- B. **Resolution No. 2005-16**; A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting a final budget for the fiscal year beginning October 1, 2005, and ending September 30, 2006; providing for severability, conflicts, and an effective date.

Attorney Klahr read Resolution No. 2005-16 by title only.

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

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the resolution adopting the budget for the fiscal year beginning October 1, 2005, and ending September 30, 2006. In a roll call vote, all voted in favor. The motion carried 4-0.

5. PRESENTATIONS

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

Chief Gooding commended Officer Robert McDonald. Officer McDonald observed a man coming off the beach at approximately 4:00 a.m., stopped him, found a large amount of cash on him, and upon further investigation, and Officer McDonald's keen observation skills, this man had been federally indicted for human smuggling.

6. REPORTS

- A. Budget Report for Period Ending August 31, 2005

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to approve the budget report for the period ending August 31, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

7. APPROVAL OF MINUTES

- A. September 6, 2005, Agenda Conference
- B. September 6, 2005, Regular Meeting

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve the September 6, 2005 Agenda Conference, and the September 6, 2005 Regular meeting minutes. In a roll call vote, all voted in favor. The motion carried 4-0.

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

- 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 No. 2005-12 by title only.

Senior Project Manager Brad Townsend gave a PowerPoint presentation illustrating corner lot setback examples (attached hereto as part of these minutes).

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

Commissioner Wessels expressed preference for landscape screening rather than a fence and thought that some consideration should be given to the adjacent property owner who will no longer be looking at a front yard view. He added that perhaps either an amendment to this ordinance or the creation of a landscaping ordinance may be needed.

Attorney Klahr explained the options regarding an amendment to the ordinance. She advised that by changing the effective date of this proposed ordinance, the applicant would be required to come into compliance within a specified amount of time.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to amend Ordinance 2005-12 to include an effective date within sixty (60) days of adoption. In a roll call vote, all voted in favor. The motion carried 4-0.

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve Ordinance 2005-12 as amended. In a roll call vote, all voted in favor. The motion carried 4-0.

9. PUBLIC COMMENTS

Jim Silverstone, 205 Washingtonia Avenue, said the Volunteer Fire Department was proceeding with their program, "Suitcase for Survivors", benefitting the evacuees of Hurricane Katrina.

Mr. Silverstone talked about a petition regarding height restrictions and provided a draft letter to Attorney General Charlie Crist that asked for his opinion as a third party (attached hereto to these minutes) for the Commissioner's consideration.

Ron Piersante, 227 Lake Court, provided details regarding the Oktoberfest event, to be held on October 1st, 2005, from 5:00 p.m. to 10:00 p.m., at Jarvis Hall. He added that only 100 people could be accommodated and asked they RSVP quickly.

10. ORDINANCES (1ST Reading)

- A. **Ordinance 2005-14:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 19, Article II, Section 19-26, entitled "Permits in Posted Areas;" retitling and relettering Section 19-26; creating permit classifications and new permit for metered parking areas; providing penalty for violation of ordinance; providing for codification, conflict, severability and an effective date.

Attorney Klahr read Ordinance No. 2005-14 by title only.

The Commission discussed their concerns regarding different issues dealing with the length of time allotted for parking privileges, specifically the wording "unlimited parking", and other possible abuses that could occur, expressing no support of this ordinance.

Attorney Klahr clarified that the intent of the ordinance to provide the residents with additional permits, was to allow residents to drive to various areas such as the beach or business district, and park for a limited amount of time. Vice Mayor Kennedy confirmed.

Upon the Commissions request, Vice Mayor Kennedy directed this item be returned to staff for further review.

11. CONSENT AGENDA

- A. REVISED AGREEMENT: Interlocal Agreement with the Metropolitan Planning Organization
- B. SPECIAL EVENT PERMIT: **Santa's Coming to Town**/Santa's Committee and the Kiwanis Club – Saturday, December 17, 2005; from 12:00 p.m. to 3:00 p.m.
- C. EXTENSION OF SPECIAL EVENT PERMIT: **Jazz on the Square**/The Village Grille, 4400 El Mar Drive (*request to extend existing permit through April 2006*)
- D. AGREEMENT: with the Supervisor of Elections Office for the use of Jarvis Hall and the Senior Center for the purposes of providing polling places

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve the Consent Agenda. In a roll call vote, all voted in favor. The motion carried 4-0.

12. RESOLUTION

There were no resolutions to be considered.

13. OLD BUSINESS

- A. Update on the transmittal of a letter to the United States Postal Service to obtain one zip code for the entire Town

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

- B. Discussion and/or action regarding a proposed review of Town Code Section 24-5.155 as it pertains to the leasing of parking areas
(Commissioner Yanni) (staff requesting a tabling to October 11, 2005)

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

14. NEW BUSINESS

- A. **“PUBLIC HEARING”** SITE PLAN – Real Investment, Inc., 4417 and 4421 Poinciana Street *(staff requesting continuance to November 8, 2005)*

Vice Mayor Kennedy opened the public hearing and with no one wishing to speak closed the public hearing.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to continue this item to November 8, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

- B. **“PUBLIC HEARING”** SITE PLAN - Real Investment, Inc., 4432 and 4436 Bougainvilla Drive *(staff requesting continuance to November 8, 2005)*

Vice Mayor Kennedy 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 Yanni, to continue this item to the November 8, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

- C. **“PUBLIC HEARING”** SIDEWALK CAFÉ – Jim Pollock/Ocean Mist Pub, 210 Commercial Boulevard

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Vice Mayor Kennedy opened the public hearing.

Attorney Klahr administered the oath to those wishing to speak.

James Pollock, 4244 E. Tradewinds, represented the applicant, Tom Kearney. Mr. Pollock spoke about the improvements Mr. Kearney had made to the property. Attorney Klahr asked about the right-of-way and indicated approval may be required from Florida Department of Transportation. Senior Project Manager Townsend agreed the right-of-way belongs to Florida Department of Transportation, but that a stipulation had been added to this request requiring their approval. Attorney Klahr advised the Town obtain approval from Florida Department of Transportation first.

Bill Davis, Chamber of Commerce, concurred that Mr. Kearney had done a lot of improvements to his property and explained that Mr. Kearney was looking to draw attention to his property off Commercial Boulevard. Mr. Davis believed that the application would work favorably with the Florida Department of Transportation.

David Gadsby, 4400 El Mar Drive, talked about the exemplary job Mr. Kearney had pursued and wished all businesses on Commercial Boulevard would follow Mr. Kearney's lead.

David Nixon, 4317 El Mar Drive, speaker for the Economic Development Task Force, believed a sidewalk café proposal would benefit the Town as it would attract pedestrians and create vibrant businesses along west end of Commercial Boulevard.

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

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve, subject to the requirements of staff, not to become effective until such requirements have been made and reported back to the Town, the Administration, and the Commission.

Attorney Klahr expressed her concern in regards to the request because it states the right to lease from the Town.

Commissioner Wessels amended his motion to add a seventh addition that says the Town reserves the right to accept or reject any conditions imposed by Florida Department of Transportation at the discretion of the Town Manager and Town Attorney.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve the outdoor café subject to the seven conditions so stated.

Mr. Kearney agreed to the seven conditions.

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

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- D. **“PUBLIC HEARING” VARIANCE** – Susan F. Delegal/Glenn Grenier, 3200 Seaward Drive (*applicant is requesting to allow the side yard setback of 5.23’*) (*staff recommending approval; Board of Adjustment recommending approval*)

Vice Mayor Kennedy opened the public hearing.

Attorney Klahr administered the oath to those wishing to speak.

Sue Delegal represented the applicants, and talked about the request to allow the side yard setback of 5.23’. She provided photographs for the Commission’s consideration.

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

Attorney Klahr distributed copies of a memorandum dated September 19, 2005, and prepared by Town Attorney Jim Cherof regarding Zoning Variances for Agenda items 14D, 14E, and 14F (attached hereto as part of these minutes).

Commissioner Wessels asked about the original footprint and questioned its existence prior to the issuance of a permit. Senior Project Manager Brad Townsend said that the footprint used for the garage had been pre-existing.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the variance. In a roll call vote, all voted in favor. The motion carried 4-0.

- E. **“PUBLIC HEARING” VARIANCE** – Precious Dental Designs, 4001 Ocean Drive, Suite 310 (*applicant is requesting the use of a dental laboratory*) (*staff recommending approval; Board of Adjustment recommending approval*)

Vice Mayor Kennedy opened the public hearing.

Attorney Klahr administered the oath to those wishing to speak.

Dr. Carlos Sierra, 4001 N. Ocean Drive, requested approval to move his dental laboratory to Suite 301 in the same building.

Attorney Klahr referred to the Town Attorney’s memo previously submitted, and recommended an amendment to the permitted use section of the B-1 zoning regulations. Some discussion followed.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to direct staff to amend the uses for B-1 and continue this item October 11, 2005. In a roll call vote, all voted in favor. The motion carried 4-0.

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- F. **“PUBLIC HEARING” VARIANCE** – James Pollock/Thomas Kearney (Ocean Mist Pub), 210 Commercial Boulevard (*staff recommending denial; Board of Adjustment recommending approval*)

Vice Mayor Kennedy opened the public hearing.

Attorney Klahr administered the oath to those wishing to speak.

James Pollock, 4244 E. Tradewinds, represented the applicant, Tom Kearney. He spoke in favor of the sign and pointed out this could create a gateway to attracting pedestrians towards Commercial Boulevard.

Bill Davis, Chamber of Commerce, reiterated the positive influence of Ocean Mist Pub and stated he was in favor of the sign.

David Nixon, 4317 El Mar Drive, speaker for the Economic Development Task Force, believed the sign would pull traffic from the east side to the west side of A1A.

David Gadsby, 4400 El Mar Drive, echoed his previous comments concerning this site.

Tom Kearney, 2013 SE 16 Street, said he had been trying to make the Ocean Mist Pub a nice place for the Town.

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

Attorney Klahr referred to Town Attorney Cherof's memorandum once again, indicating that the sign does not meet existing code requirements, and recommended addressing this issue in the form of an ordinance.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to continue the variance with the stipulation that staff draft an ordinance for consideration and abate enforcement until such time as it was considered.

With the approval of the Commission and the administration of the oath, Michael Arker, 5100 N, Ocean Boulevard, explained the Board of Adjustment had agreed to the signage because its location was representative of a corner lot with a parking lot on one side.

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

Vice Mayor Kennedy requested this item be place on the agenda for October 11, 2005.

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- G. Discussion and/or action on request to waive parking meter fees within the Town's municipal boundaries for "A Weekend of Relief", from September 30 to October 2, 2005

Louis Marchelos, 4400 Ocean Drive, requested free parking for the weekend of September 30 through October 2, 2005; 6:00 a.m. Friday morning, all day Saturday and all day Sunday, townwide.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to approve the request to waive parking meter fees townwide for the specified period. In a roll call vote, all voted in favor. The motion carried 4-0

15. TOWN MANAGER REPORT

Manager Baldwin had no report for consideration.

16. TOWN ATTORNEY REPORT

Attorney Klahr said the Commission had expressed an interest to a creation of an ordinance dealing with sexual predators, which had been adopted by a number of municipalities throughout Florida. She added that the State Legislature was currently considering a Bill that could possibly create the restrictions needed in these ordinances, making it a statewide issue.

17. COMMISSIONER COMMENTS

Commissioner Wessels requested placement on the October 11, 2005 agenda for consideration of a joint Workshop with the Volunteer Fire Department to assess the progress / status of the committee appointed on the adoption of a Plantation model.

Commissioner Yanni referred to a letter he received regarding the removal of the pine trees on the south side of the Church's driveway. Director Mason said that the tree was not on Town property and, therefore, the property owner would be required to remove it. He suggested that Code Enforcement make a determination regarding liability.

Commissioner Yanni requested Manager Baldwin look into the use of laptops rather than books to hold the agenda backup. Attorney Klahr explained the difference ways other municipalities handle their agenda packets electronically. Manager Baldwin said he would look into this and provide an update a later date.

18. ADJOURNMENT

Mayor Pro Tem Clark made a motion to adjourn the meeting. There being no objections and no further business to discuss, the meeting was adjourned at 9:17 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____