

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

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, October 11, 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, Commissioner Yanni and Commissioner Wessels. Also present were Town Manager Baldwin, Attorney James 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. Proclamation

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to proclaim October 15, 2005 as Broward County Public School Day. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker signed the proclamation in honor of the school district's 90th anniversary.

B. Budget Presentation Award

Manager Baldwin announced that for the eighth consecutive year the Town had received the Distinguished Budget Presentation Award from the Government Finance Officers Association. He added that the Town also received the Comprehensive Annual Financial Award for the ninth year in a row.

C. Broward County Emergency Operations – Hurricane/Catastrophic Plans

Carl Fowler, Public Information Officer and Training Officer for the Emergency Operations Center gave a general overview of the Broward County Comprehensive Emergency Plan. He explained an update was required from nineteen areas within Broward County on each of their particular areas of responsibility. Mr. Fowler assured the Commission that the Emergency Operations Center was well equipped to handle emergencies. He spoke highly about Broward County Mass Transit's emergency evacuation plan. Mr. Fowler added that Broward County Mass Transit had 170 buses available to transport people in need of transportation to safety. Mr. Fowler said the Emergency Operations Plan encouraged evacuation within the county. He said that the 12 shelters within the county have an overall capacity of 20,000, and indicated that beyond that, thirty schools have enhanced hurricane protective areas that could be used alternatively.

Mayor Parker questioned the safety of schools. Mr. Fowler assured him that they meet South Florida Building Code to 155 mph winds or Category 4 hurricanes. Mayor Parker inquired as to why the evacuation route does not exist to Interstate 95 or beyond. Mr. Fowler indicated that the different models did not prove the need. He advised that even with a Category 5 hurricane, the surge would not exceed eleven feet due to the Town's deep shell.

Commissioner Yanni inquired as to why Florida Power and Light could not shut down the power before a hurricane hits. Dave Sander, Emergency Coordinator for Broward County, said each grid supplies power to specific areas including the lift stations, hospitals and other necessary infrastructure. He added that if one grid was shut down, it could hamper the ability to prevent flooding by making the lift stations in that area inoperable.

Mr. Hodge Youngpier asked who decided when an evacuation order was to be issued. Mr. Fowler said Emergency Management and County Administration made the decision, pending information received from the National Hurricane Center.

5. REPORTS

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

Judy Swaggerty, Executive Director Chamber of Commerce, provided information on upcoming events. She announced and congratulated, Laoren Matthews as the first place winner of the photo contest, Maureen Stanton-Terrien came in second and Jennifer Nelson, third.

- B. Discussion and/or action regarding decision on displaying the U.S. Flag from U.S. Representative Clay Shaw

Cindy Geesey advised that the flag to the Commission was 3 x 5 feet and suggested it be folded per the Flag Code and displayed in the traditional wooden triangle display case with a glass front. She suggested, as an alternative, mounting the unfolded flag on the wall. Ms. Geesey suggested the Certificate of Authenticity be framed in a wooden frame that matched the flag case.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to display the flag in the traditional wooden case and to frame the Certificate of Authenticity below it. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Update on the Weekend of Relief for the victims of Hurricane Katrina

Louis Marchelos and Spiro Marchelos of Athena's Restaurant, reported that the Weekend of Relief fundraising event for the victims of Hurricane Katrina raised \$6,345 for the Salvation Army and the American Red Cross. Mr. Marchelos read the names of numerous businesses in Town that donated a percentage of their gross revenues and thanked everyone for their contributions. He added that even though a blood mobile had been available and many people attending the event donated blood, Holy Cross Hospital was asking for more blood donations.

6. APPROVAL OF MINUTES

- A. September 13, 2005, Workshop Meeting
- B. September 14, 2005, Special Meeting
- C. September 20, 2005, Agenda Conference
- D. September 20, 2005, Regular Meeting

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve the minutes of September 13, 2005, Workshop Meeting; September 14, 2005, Special Meeting; September 20, 2005, Agenda Conference; and September 20, 2005, Regular 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 for 2nd reading.

Item 13F, New Business – Discussion and/or action regarding funding for the Lauderdale-By-The-Sea Community Performing Arts Center

Vincent Ragusa, President, Community Performing Arts Center, said Holy Cross Hospital offered them the use of their theater. He said that for eight years the Community Performing Arts Center had contracted with Lauderdale-By-The-Sea and

would like to continue, even though they accepted an offer from Holy Cross Hospital to temporarily use their facilities.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to allow the Town to continue their contract with Performing Arts Center even if they temporarily leave to perform at Holy Cross Hospital.

The Commission inquired as to how the residents of the Town would benefit with performances held outside of Town. Mr. Ragusa offered bus service to Town residents and agreed to discuss discounted tickets for residents.

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

8. PUBLIC COMMENTS

James Silverstone, representing the Volunteer Fire Department, announced that the Volunteers had recently purchased a 1985 aerial ladder fire truck and asked for the Town's blessing to use it.

Commissioner Yanni questioned the age of the truck and Mr. Silverstone said it was to be used only for training purposes and, if needed, for fires.

Commissioner Wessels thought that procedural issues needed to be discussed between the Volunteer Fire Department and Broward Sheriff' Office. He also thought Mr. Silverstone needed to obtain their blessings, not the Town's, since the Town did not own the equipment. Some discussion followed, with the Commission expressing concern that the Volunteer Fire Department continuously disregarded normal protocol and procedures.

Mayor Parker indicated that volunteer fire departments are specifically empowered by State Statute to own fire trucks. He added that since the fire truck was not owned by the Town, liability did not fall to the Town, and therefore, there was no reason to withhold the Town's blessings.

The Commission talked about scheduling a workshop to discuss collateral issues and a place to park the fire truck within the Town.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to park the fire truck at the Public Works Facility off Dixie Highway until a workshop was scheduled. In a roll call vote, the motion carried 4-1 with Vice Mayor Kennedy dissenting. (Later in the meeting the Commission decided to schedule a workshop on October 25, 2005, at 5:00 p.m.)

Melina Smithe, 1940 SE 18th Street, represented the Citizen's Initiative Committee in regard to the height limitations. Ms. Smithe distributed copies of the decision from the 1st District Court of Appeals indicating that they upheld the citizen's height referendum.

John Thompson, 4900 N. Ocean Boulevard, talked about a study he presented recently regarding the budget, and his disappointment toward the Commission for not responding to his suggestions.

Cindy Geesey, 256 Imperial Lane, talked about her appreciation to those who helped with the Oktoberfest. Ms. Geesey suggested the use of one box to display the flag.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to amend the motion to allow for the display of the flag, together with its Certificate of Authenticity, in either one box or two boxes. In a roll call vote, all voted in favor. The motion carried 5-0.

9. **ORDINANCES (1ST Reading)**

- A. **Ordinance No. 2005-15:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending the Land Development Code to designate dental laboratory as permitted uses in the B-1 zoning district; specifically amending Section 24-5.111(a); providing for severability; providing for codification; providing for conflicts; and providing for an effective date.

Attorney Cherof read Ordinance No. 2005-15 by title only.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to adopt Ordinance No. 2005-15 on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

10. **CONSENT AGENDA**

- A. **SPECIAL EVENT PERMIT: Marathon Race/Exclusive Sports Marketing** – Saturday, November 12, 2005; from 5:30 a.m. to 11:30 a.m.
- B. **SPECIAL EVENT PERMIT: Christmas-By-The-Sea/Chamber of Commerce** – Tuesday, December 6, 2005; from 3:00 p.m. to 10:00 p.m. (also mentioned within the details of the application is December 31, 2005; from 3:00 p.m. to 10:30 p.m.)
- C. **EXTENSION TO DEVELOPMENT ORDER:** Consideration of an extension requested by John A. Allen for Development Orders affecting the properties located at 4433 and 4437 Poinciana Street

Town Commission Regular Meeting Agenda
October 11, 2005

- D. GRANT AGREEMENT: with Broward County for Broward Beautiful GreenSHADE Grant (*funding in the amount of \$9,800*)
- E. AGREEMENT: with Colonna Asphalt Restoration, Inc. for construction of 4420 Bougainvilla Drive parking lot
- F. AGREEMENT: Continuing Services with GSG for Fire Assessment Program
- G. LEASE AGREEMENT: with Burger King Corporation for parking area
- H. AGREEMENT: Ratification of Disaster Relief Funding Agreement with the Department of Community Affairs as it relates to Hurricane Katrina (FEMA#1602-DR-FL)
- I. AGREEMENT: Ratification of agreement with PBS&J for professional services related to Hurricane Katrina

Mayor Parker removed items 10A, 10E, 10F, and 10G from the Consent Agenda.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve items 10B, 10C, 10D, 10H, and 10I of the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

10A SPECIAL EVENT PERMIT: Marathon Race/Exclusive Sports Marketing – Saturday, November 12, 2005; from 5:30 a.m. to 11:30 a.m.

Commissioner Wessels expressed his concern with the use of A1A for the Marathon. Chief Gooding distributed a map depicting the route to be used, describing the precautions being taken to ensure safety.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the special event permit. In a roll call vote, all voted in favor. The motion carried 5-0.

10E AGREEMENT: with Colonna Asphalt Restoration, Inc. for construction of 4420 Bougainvilla Drive parking lot.

Mayor Parker removed this item from the agenda, stating the agreement would be received at a later date. There were no objections.

10F AGREEMENT: Continuing Services with GSG for Fire Assessment Program

Commissioner Wessels said the City of Tamarac and the City of North Lauderdale raised issues regarding GSG's methodology and reasoning. He added that prior to

entering into a contract with GSG, more information regarding the outcome of pending cases and whether the problems had been resolved, would be required.

Attorney Cherof agreed that in the Tamarac case there had been issues raised with GSG's ability to support their work through testimony. He asked for an opportunity to review the documentation.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to table this item to November 8, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

10G LEASE AGREEMENT: with Burger King Corporation for parking area

Attorney Cherof requested the Commission table this item to allow the representatives for Burger King Corporation an opportunity to review the documentation.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to table this item to October 25, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

11. RESOLUTION

A. Resolution No. 2005-17:

Attorney Cherof read Resolution No. 2005-17 by title.

Mayor Parker announced that he had not and did not anticipate participation in the negotiations.

The Commission discussed the allocation of monies and the methodology to determine the stormwater fund. Mayor Parker requested Attorney Cherof prepare a report regarding the stormwater fund for presentation at the October 25, 2005 meeting.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve Resolution No. 2005-17. In a roll call vote, all voted in favor. The motion carried 5-0.

B. Resolution No. 2005-18:

Attorney Cherof read Resolution No. 2005-18 by title.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve Resolution No. 2005-18. In a roll call vote. The motion carried 3-2, with Commissioners Wessels and Yanni dissenting.

12. OLD BUSINESS

A. Report on Traffic Control Issues

1. Update on Traffic Study in the North Silver Shores Area

Town Planner Walter Keller talked about the Silver Shores Traffic Study, attached hereto as part of these minutes. He said the study reflected local traffic rather than peak hour traffic, explaining that traffic builds throughout the day rather than in the typical morning and afternoon peak hours.

The Commission discussed the need for traffic calming within the North Silver Shores area and thought that traffic calming was most needed on East Tradewinds Avenue and Bougainville Drive. Vice Mayor Kennedy thought that although this was an excellent study he did not see the need for major changes. Mayor Parker disagreed.

Commissioner Wessels thought that erecting a gate on East Tradewinds Avenue and placing sidewalks on Seagrape Drive would control the traffic in the area. Planner Keller thought a speed study would serve the purpose better than gates.

Mayor Pro Tem Clark preferred a temporary roundabout on Seagrape Drive and Washington Avenue explaining it would act as a deterrent to using those areas as a cut through. Mayor Parker preferred a lower speed limit. Commissioner Yanni thought that privatizing the streets with a guard house and gates should be considered by the residents.

2. Update on traffic control at the intersection of State Road A1A and Commercial Boulevard

Chief Gooding gave a PowerPoint presentation, attached hereto as part of these minutes. He reviewed the different options presented as a means of providing traffic control. Chief Gooding spoke about the pros and cons of specific changes.

Planner Keller cautioned that sudden changes in traffic control could affect businesses.

The Commission discussed Chief Gooding's presentation in detail, as well as the effects some of the changes would have on businesses and emergency vehicles. Planner Keller suggested the curbing used to block off the street be made in such a way that the fire truck could go over it.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to extend the meeting to 11:30 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker scheduled a workshop for October 25, 2005 at 5:00 p.m. to discuss traffic control.

3. Update on the Installation of Speed Humps

Engineer Hart gave an update on Seagrape Drive south and talked about his meeting with Broward County Transit. He said that although Broward County Transit had considered an alternate design for speed humps, at the end of their review they had decided to stick with their policy and not allow speed humps, and therefore the Town is not allowed to install speed humps along Seagrape Drive as long as Seagrape South remains part of the mass transit route. Mr. Hart explained that the alternative would be to change the route or go to an alternate traffic calming element, such as a choker, a roundabout, or a lower speed table.

The Commission thought it would benefit the Town if Development Services contacted Broward County Transit and worked out an alternate route to follow that of the Town's Pelican Hopper.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to direct administration to address the Pelican Hopper route. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Discussion and/or action concerning the cost of placing automatic gates on Washingtonia Avenue and Seagrape Drive

Director Mason advised that the gates would cost \$5,000 per set. The Commission scheduled this item for discussion at the October 25, 2005 workshop.

- C. Discussion and/or action concerning the 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.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy to extend the moratorium to January 10, 2006. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Wessels made a motion, second by Mayor Pro Tem Clark, to direct Planner Keller to create an amendment to the beach overlay district, for this particular area, to encourage hotels/tourism type usage, higher density and other factors of, plus the mixed use concept regarding alternates 2 and 3 from his study. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action considering the adoption of an ordinance creating a hospitality district.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark to table 12D to October 25, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

Town Commission Regular Meeting Agenda
October 11, 2005

- E. Report on Code Section 24-5.155, as it pertains to the leasing of parking areas.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark to table 12E to October 25, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

- F. Discussion and/or action concerning a resolution and the transmittal of a letter to the United States Postal Service to obtain one zip code for the entire Town.

Attorney Cherof presented his proposed letter and revised resolution to the Commission. Mayor Parker read the proposed letter into record.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve the proposed letter and the resolution as amended. In a roll call vote, all voted in favor. The motion carried 5-0.

- G. Discussion and/or action regarding North Seagrape Drive Sidewalk Project.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to adopt the design package at \$35,000 and \$15,000 for Plan I and \$4,000 and \$2,000 for Plan II. In a roll call vote, all voted in favor. The motion carried 5-0.

13. NEW BUSINESS

- A. **“PUBLIC HEARING” SITE PLANS**, Sandy By The Sea Townhomes, located at 4557 Poinciana Street, 4558, 4561, 4637, and 4641 Bougainvillea Drive.

Vice Mayor Kennedy made a motion, seconded by second by Mayor Pro Tem Clark to table 13A to October 25, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Discussion and/or action to schedule a workshop meeting to further discuss the Plantation model of a volunteer fire department.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to schedule a workshop on October 26, 2005 at 6:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action regarding the Unified Land Development Code and the scheduling of a workshop to review proposed changes.

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve the scheduling of a workshop, with the date to be set at meeting of October 25, 2005.

Town Commission Regular Meeting Agenda
October 11, 2005

- D. Discussion and/or action concerning proposed changes to the ordinance governing landscaping on corner lots when a property owner selects an alternate front yard.

Commissioner Wessels described different landscaping ideas. Mayor Parker said the proposed ordinance calls for the Town Manager or designee to review and approve the design/landscaping. He suggested amending the proposed ordinance to have the Administration make a recommendation and the individual come before the Commission for approval. Mayor Parker added that part of their proposal should include their proposed landscape design. There were no objections.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to direct the Town Attorney to amend the ordinance. In roll call vote, all voted in favor. The motion carried 5-0.

Attorney Cherof agreed to have the amended ordinance for the October 25, 2005 meeting.

- E. Discussion and/or action regarding a proposed ordinance of the Town of Lauderdale-By-The-Sea, Florida, addressing changes for signs in the business district

Mayor Parker expressed his dislike for amending the sign ordinance, except for the purpose of eliminating inconsistencies that currently exist.

Commissioner Wessels thought that amending the sign ordinance would prevent other free standing buildings from requesting a variance and, at the same time, work out some of the noted inconsistencies.

Vice Mayor Kennedy suggested granting the variance. He pointed out that from a business standpoint, allowing the additional signage opens the potential for development of Commercial Boulevard, from the intracoastal to A1A, creating a sidewalk café scenario to the ocean. Vice Mayor Kennedy thought a temporary variance would help jump start the development and avoid changing the sign ordinance.

Attorney Cherof suggested the Commission review his legal analysis and expressed his preference that the Commission consider a Code amendment in lieu of granting a variance. He also pointed out a legal hardship had not been established.

Mayor Parker polled the Commission, who agreed, 5-0, that the sign ordinance should not be changed.

Mayor Parker polled the Commission, who agreed, 3-2, with Mayor Parker and Commissioner Wessels dissenting, to reconsider the requested variance to the sign Code.

Town Commission Regular Meeting Agenda
October 11, 2005

Mayor Parker rescheduled the variance hearing for the Ocean Mist Pub to October 25, 2005, and requested that the owners be notified. The Commission was advised that advertising requirements might need to be met as this item was not tabled to a time certain.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to reconsider item 13E. In a roll call vote, the motion carried 3-2, with Mayor Parker and Commissioner Wessels dissenting.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to table item 13E to October 25, 2005. In a roll call vote, the motion carried 4-1, with Commissioner Yanni dissenting.

- F. Discussion and/or action regarding funding for the Lauderdale-By-The-Sea Community Performing Arts Center (*Commissioner Yanni*)

This item was discussed earlier in the meeting.

14. TOWN MANAGER REPORT

Mr. Mason gave a brief overview of Mr. Ciani's request for inspection of site plan compliance as it pertained to Mulligan's sidewalk café. He advised that upon inspection, the Code Enforcement and Planning and Zoning Divisions found Mulligan's to be in compliance.

Manager Baldwin indicated, for the record, that the donations for the Weekend of Relief for victims of Hurricane Katrina had been reported as \$6,325, yet the envelope only contained \$5,345. He advised that staff would follow up with the Marchelo brothers.

15. TOWN ATTORNEY REPORT

Attorney Cherof distributed a copy of a petition from Sea Colony, Inc. requesting the Town to accept and process a site plan for a high rise building east of A1A at the north end of Town. He requested the Commission set a closed door session to discuss this pending litigation.

The Commission scheduled a closed session for October 25, 2005, to begin immediately following the conclusion of the regular meeting scheduled for that same day.

16. COMMISSIONER COMMENTS

There were no comments from Vice Mayor Kennedy, Commissioner Wessels, or Mayor Pro Tem Clark.

Commissioner Yanni talked about removing the seawall between High Noon and Aruba's Restaurant, and requested placement on the agenda for October 25, 2005 for further discussion. There were no objections.

Mayor Parker welcomed Harry Diehl back as Director of Development Services. Mayor Parker announced the Halloween party for kids from 6:00 to 8:00 p.m., on October 31, 2005. He described the event, stating that a costume contest, face painting and haunted house would be provided in a safe environment for the enjoyment of all children. He invited everyone to bring their children for a safe night of "trick or treating."

Mayor Parker announced the passing of Shirley Forrest, wife of former Mayor Jack Forrest. He asked that Town Hall's flag be flown at half staff in her memory for three days.

17. ADJOURNMENT

Commissioner Yanni made a motion to adjourn the meeting. As there was no further business to discuss, the meeting was adjourned at 11:05 p.m.

Oliver Parker
Mayor

ATTEST:

Alina Medina
Town Clerk

Date Accepted:_____