

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION REGULAR MEETING MINUTES Town Commission Meeting Room 4501 Ocean Drive Tuesday, November 8, 2005 7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:04 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Also present were Municipal Services Director William Mason, Attorney James Cherof, and Town Clerk Medina.

Manager Bob Baldwin was not present.

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. Proclamations of Appreciation

Mayor Parker read the following proclamations into the record and congratulated those individuals recognized.

1. November 9, 2005 as Mattie Pearl Level Day
2. November 10, 2005 as Dr. Richard Blanchar Day
3. November 12, 2005 as Salvatore Ballssai Day
4. November 13, 2005 as Shirely Russotti Day
5. November 14, 2005 as Thomas Kearney Day
6. The Ocean Mist as the Official Irish Pub of Lauderdale-By-The-Sea

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

Chief Scott Gooding requested authorization to write a letter to the Florida Department of Transportation requesting the removal of the No U-Turn signs on Commercial Boulevard.

Town Commission Regular Meeting Agenda
November 8, 2005

Commission Wessels made a motion, seconded by Commissioner Yanni, to authorize Chief Scot Gooding to write a letter to the Florida Department of Transportation requesting removal of the No-U-Turn signs on Commercial Boulevard. In a roll call, all voted in favor. The motion carried 5-0.

Chief Gooding commended staff for their hard work during the hurricane relief efforts. He introduced and recognized Deputy John Stabile as Deputy of the month for October. Chief Gooding said that on October 17, 2005, Deputy Stabile had been instrumental in the capture of human smugglers.

- C. Economic Development Task Force (*presentation by David Nixon/Michael Arker*)

This item was discussed following Item 5C

5. REPORTS

- A. Code Compliance Quarterly Report

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels to accept the Code compliance Quarterly Report. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Display of the U.S. Flag from U.S. Representative Clay Shaw (*Mayor Parker/Cindy Geesey (continued from October 11, 2005)*)

This item had been tabled to the November 22, 2005 meeting. There were no objections.

There were no objections to the addition of a report from the Chamber of Commerce as item 5C.

- C. Chamber of Commerce Report

Judy Swaggerty talked about the Christmas By The Sea event on Thursday, December 8, 2005. Ms. Swaggerty introduced Shelly Goren, Director of Development, Children's Home Society. Ms. Goren thanked the Town and the Chamber for the opportunity to inform the community what the Children's Home Society does for the kids, and thanked everyone for their support.

The Commission returned to item 4C, Presentations.

- 4. C. Economic Development Task Force (*presentation by David Nixon/Michael Arker*)

David Nixon announced Jack Cooney had joined the Committee. Mr. Nixon gave a final PowerPoint presentation. He explained their mission; reviewed discussions with various

Town Commission Regular Meeting Agenda
November 8, 2005

experts and stakeholders within the Town, including staff; reviewed an initial budget of \$65,000 and a timetable of approximately six (6) to nine (9) months. In closing, Mr. Nixon recommended a Community Redevelopment Agency (CRA) as the ideal structure to revitalize the Business Community.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni to apply through Broward County for a Community Redevelopment Agency (CRA). In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to adopt geographic boundaries of the Community Redevelopment Agency (CRA) jurisdiction. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve spending up to \$50,000 to conduct blight study with attendant legal and administrative costs, and a redevelopment plan study. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to authorize the Economic Task Force to issue an RFP/RFQ for the blight and redevelopment plan studies and bring their recommendation to the Commission. In a roll call vote, all voted in favor. The motion carried 5-0.

6. APPROVAL OF MINUTES

- A. October 11, 2005, Agenda Conference
- B. October 11, 2005, Regular Meeting

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark to approve the Agenda Conference and Regular Meeting minutes of October 11, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker amended the agenda to include item 6C, a Shade Session.

- C. Announcement of recess into a Shade Session

Attorney Cherof announced the Commission would recess into a closed door session as permitted in Florida Statutes 286.011 to discuss the litigation between the Town of Lauderdale-By-The-Sea and Sea Colony Inc. He added that Case No. 0514142(09) was pending in Broward County Circuit Court. Attorney Cherof said the Mayor and Commission and the Town Attorney, would attend the closed door session and, immediately following completion, would resume the regular Commission meeting.

Vice Mayor Kennedy made a motion to recess for the Shade Session. The Commission recessed at 7:55 p.m. and reconvened at 8:32 p.m.

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

There were no Ordinances for 2nd reading.

8. PUBLIC COMMENTS

Frederick Fout, 268 Allenwood Drive, commented about the tree problem with their growth intruding into power lines. He said as a result, his power had been out for 14 days. Mr. Fout said that FPL told him power would not be restored until the trees were taken care of. He suggested someone review the area before hurricane season to identify problem areas and have the trees taken care of that are intrusive of power lines.

Mayor Parker inquired as to who would be responsible for trees encroaching into power lines. Attorney Cherof explained that if the trees were in a right-of-way it would be the Town's obligation to assist with the maintenance; if a tree was in an FPL easement, or another Utility franchise easement, it becomes their responsibility; and if a tree on private property overhangs into an easement and into power lines, it would then become the property owner's responsibility to trim it back.

Mayor Parker asked if an ordinance can be created to address the height and maintenance of trees encroaching into power lines. Attorney Cherof said it could be done.

Tom Karr, 254 Miramar Avenue, reminded everyone that Friday, November 11, 2005 is Veteran's Day, and that Thursday, November 10, 2005 is the 230th Birthday of the United States Marine Corp. Mr. Karr gave thanks to all the men and women who served our Nations. He also thanked those who helped throughout the hurricane from the maintenance crews clearing the streets to those who help pass out water and ice, assisted with the tarps, and distributed food to those in need.

Jerry McIntee, 1612 SE 21st Avenue, Chief Gooding and the Volunteer Fire Department for their help after the hurricane. He said over 800 meals had been served and over 2,000 bags of ice had been distributed.

Diane Boutin, 4244 El Mar Drive, said Ms. Mattie, and the Pelican Hooper were a great addition to the quality of life to our residents. She talked about the height referendum and asked the Commission to reconsider Vice Mayor Kennedy's comments about not boxing the Town in for the next twenty years. Ms. Boutin suggested the Commission defer spending funds on the traffic study for of A1A and Commercial Boulevard and rather put the money into the Community Redevelopment Agency and Federal Emergency Response. Ms. Boutin said she was proud to be associated with a Town with so many hometown heroes.

John Thompson, 4900 N. Ocean Drive, reminded people that a chain of command is the people of this Town. He advised that the citizen's of this Town did not want additional high rise buildings and thought the height referendum should go out to the citizens to

Town Commission Regular Meeting Agenda
November 8, 2005

vote. Mr. Thompson talked against the Fire Assessment Consultant, the Shade Session, and the contract renewal with Russ Klenet.

Vincent Ragusa, 4430 Seagrape Drive, returned the grant, lost venue with the Church, and, due to time lapse, also lost their opportunity with Holy Cross Hospital. Mr. Ragusa asked the Town to fund expenses or a supply a place to warehouse their stuff.

Mayor Parker asked Mr. Ragusa to prepare an estimate of his expenses to submit for consideration at the November 22, 2005 meeting. Mayor Parker said at that time the Commission will decide on the funding.

Pat Peira, 4648 Bougainvilla Drive, talked about the flooding on Bougainvilla Drive, and the dangers regarding the debris that floated all over during the rain storm.

Mayor Parker thought that perhaps the drains need to be cleaned. Municipal Services Director Mason explained that the tides affect that particular drain.

Ron Piersante, 227 Lake Court, acknowledged the Town's Administration for the preparation, service and delivery of food to those in need. He also recognized and praised neighbors helping their neighbors. Mr. Piersante talked about one of the Town's residents who Champions himself as the voice of the people; one who criticizes the Commission; and spends his time writing long negative articles against the Town in the local newspaper. Mr. Piersante continued to inform the citizens and the Commission that this person interfered with hurricane relief efforts and the coordination of food service, to obtain various documents through the Town Clerk's office, rather than assist his neighbors. Mr. Piersante added that this same person, who resents anyone in this Town from making a profit off their property, currently listed his condo for sale at an exorbitant price. Mr. Piersante asked the citizens who believe this person to be their Champion, to ask themselves what he had done to help them in their time of crisis.

9. ORDINANCES (1ST Reading)

- A. **Ordinance No. 2005-16:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 24, Section 24-5.5 to require Commission approval as a condition allowing 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
- B. **Ordinance No. 2005-17:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Section 24-5.36 of the Land Development Code to require additional landscaping to buffer and screen properties which elect an alternate front yard; providing for severability; providing for codification; providing for conflicts; and providing for an effective date

Town Commission Regular Meeting Agenda
November 8, 2005

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to table Ordinance No. 2005-16 and Ordinance 2005-17 to the November 22, 2005 meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. **Ordinance No. 2005-18:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, submitting to referendum an amendment to Article XIV, Section 277 of the Town Charter, entitled "Maximum Height for Buildings Established", applying the three over one height limitation to all property in the jurisdictional limits of the Town; authorizing the Town Commission to grant height variances up to not more than fifteen stories and/or not more than one hundred fifty feet for buildings in the area north of Pine Avenue and east of Sate Road A1A; modifying restrictions on the square footage of non-conforming buildings that are rebuilt; providing for a notice of an advertisement of the referendum election to be published in accordance with the State of Florida Election Code; providing that this ordinance, when adopted, shall be submitted to the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, on the March 2006 municipal election ballot and shall become effective as provided by law; providing for conflicts; providing for severability; and providing for an effective date.

Attorney Cherof read Ordinance 2005-18 by title only.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to adopt Ordinance No. 2005-18 on first reading.

Vice Mayor Kennedy spoke against the continuation of 3 over 1 where not required by law currently. He proposed an amendment to allow residency on the ground floor of a four story building. Commissioner Yanni seconded the amendment.

Mayor Parker opened the amendment for discussion. He pointed out two problems with the amendment; residents of the Town were promised nothing higher than four (4) stories; to encourage parking under buildings and deter back out parking.

In a roll call vote, the amendment failed 3-2. Mayor Pro Tem Clark, Mayor Parker and Commissioner Wessels voted against the amendment.

In a roll call vote, all voted in favor of Ordinance No. 2005-18 as written. The motion carried 5-0.

Commissioner Yanni made a motion to remove 10D from consent agenda for discussion. In a roll call vote, all voted in favor. The motion carried 5-0.

10. CONSENT AGENDA

- A. **CHANGE ORDERS:** concerning the contract with Man-Con, Inc. for the North Beach Neighborhood Improvement – Phase 1; Bid No. 04-05-02

Town Commission Regular Meeting Agenda
November 8, 2005

(removal of Pompano Beach from the contract; reduction in cost by \$800,707.45)

- B. EXTENSION OF DEVELOPMENT ORDER: request for a six month extension for The Caprice, 4108 – 4110 El Mar Drive
- C. AGREEMENT: with Colonna Asphalt Restoration, Inc. for construction of 4420 Bougainvilla Drive parking lot
- D. CONTRACT RENEWAL: with Russ Klenet for providing professional legislative consulting services

This item had been removed from the consent agenda for discussion.

- E. GRANT EXTENSION: second and final extension of Challenge Grant Agreement for the project known as Beach Pavilion Enhancement Project
- F. GRANT EXTENSION: second and final extension of Challenge Grant Agreement for the project known as the 5 Portals to the Sea Enhancement Project
- G. AGREEMENT: authorization for Man-Con, Inc. to perform post-hurricane beach clean-up
- H. EXTENSION REQUEST: from the Department of Community Affairs for the Town's Evaluation and Appraisal Report

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark to adopt the consent agenda to include items 10A through 10H, minus 10D. In a roll call vote, all voted in favor. The motion carried 5-0.

10D, CONTRACT RENEWAL: with Russ Klenet for providing professional legislative consulting services

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to renew the contract with Russ Klenet.

Commissioner Wessels thought it was premature to name a specific lobbyist. He preferred defining priorities first and match that with the best qualified person to accomplish those tasks.

Vice Mayor Kennedy suggested \$25,000 be set aside, see what develops and hire a lobbyist for that particular need. He talked about his disfavor with the way Russ Klenet handled the sewer project with Pompano Beach and urged the Commission vote against the contract renewal.

In a roll call vote, all voted in favor. The motion carried 3-2. Vice Mayor Kennedy and Commissioner Wessels dissented. Mayor Parker thought Mr. Klenet had been helpful with the sewer project. He requested David Nixon prepare a list of priorities for discussion at the next meeting. There were no objections.

11. RESOLUTION

- A. **Resolution No. 2005-19:** A Resolution of the Town of Lauderdale-By-The-Sea, Florida, authorizing the Town Manager to implement purchasing policies for the acquisition of goods, commodities and services; providing that Town Commission approval is required for all expenditures over \$15,000 unless Commission approval is otherwise required by law; and providing an effective date

Attorney Cherof read Resolution No. 2005-19 by title only.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to approve Resolution No. 2005-19. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **Resolution No. 2005-20:** A Resolution of the Town Commission of the Town Commission authorizing the Town Manager to make expenditures for storm related recovery expenses or purchases exceeding \$15,000 for a period of sixty days; providing an effective date.

Attorney Cherof explained Resolution No. 2005-20 had been amended to allow the Town Manager a \$15,000 expenditure but not to exceed \$50,000 for hurricane recovery expenses.

Attorney Cherof read Resolution No. 2005-20 by title only as amended.

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve Resolution No. 2005-20 as amended. In a roll call vote, all voted in favor. The motion carried 5-0.

12. OLD BUSINESS

- A. **“PUBLIC HEARING” VARIANCE** – James Pollock/Thomas Keaney (Ocean Mist Pub), 210 Commercial Boulevard (*staff recommending denial; Board of Adjustment recommending approval*) (***staff requesting a tabling to December 13, 2005 in order to meet required advertising needs***)

This item had been tabled to the December 13, 2005 meeting without objection.

Town Commission Regular Meeting Agenda
November 8, 2005

- B. Report concerning the number of lots that would be impacted by a change to the side yard setback requirements in the RM-25 zoning district
(Continued from June 21, 2005) (Town Planner Walter Keller)

Planner Keller referred to his memorandum dated October 6, 2005 (attached hereto as part of these minutes).

There was no further discussion.

- C. Discussion and/or action considering the adoption of an ordinance creating a hospitality district *(Michael Arker/Town Planner Walter Keller) (tabled from October 11, 2005)*

Tammy Mullen, represented Michael Archer, reviewed the ordinance which provides a definition of a resort condominium hotel.

Mayor Parker asked about imposing use limits and deed restrictions that prohibits homestead. Attorney Cherof indicated the State determines homestead, and would research further regarding use limits.

Peter Debbs, 4110 El Mar Drive, recognized Michael Archer and his staff for the time and effort and cost into the proposed ordinance. He believes the Town it would be beneficial for the Town to schedule a workshop and emphasized the benefits the Town would gain.

Mr. Keller suggested changing the name of the Beach Village Overlay District to the Hospitality District. He added that the addition of definitions to transient units, such as suite hotel and time share units with lock-outs, would be beneficial to the tourism industry.

Mayor Parker scheduled a workshop to discuss condominium hotels, suite hotels, lock-outs, etc., at 5:00 p.m., January 10, 2005. There were no objections.

- D. Report on Code Section 24-5.155, as it pertains to the leasing of parking areas *(Town Planner Keller) (tabled from October 11, 2005)*

This item had been tabled to the November 22, 2005 meeting at 7:00 p.m, with direction to present a draft ordinance for discussion and/or action. There were no objections.

- E. Discussion and/or action regarding the Unified Land Development Code and the scheduling of a workshop to review proposed changes *(Town Attorney James Cherof) (workshop meeting date to be set)*

The Commission discussed and expressed their preference regarding their options to review the code.

Mayor Parker scheduled a workshop for March 28, 2005 with staff meetings scheduled in April 2006.

- F. Discussion and/or action regarding the proposed changes to the existing parking permits to establish resident meter parking permits

The Commission expressed their disfavor with the issuance of only one permit per resident and did not agree to add four hour time limits to resident parking permits.

Mayor Pro Tem Clark suggested staff review and present their recommendation to the Commission. There were no objections.

- G. Discussion and/or action regarding a special request by the Santa-By-The-Sea Committee to have the Town Commission participate as part of a Christmas choir with the children attending the event (*Mayor Oliver Parker*)

Mayor Parker tabled this item to the November 22, 2005 meeting. There were no objections.

13. NEW BUSINESS

- A. **“PUBLIC HEARING” SITE PLANS**, Sandy By The Sea Townhomes, located at 4557 Poinciana Street, 4558, 4561, 4637, and 4641 Bougainvilla Drive (*tabled from October 11, 2005*) (**staff requesting tabling to November 22, 2005**)

Mayor Parker tabled this item to the November 22, 2005 meeting. There were no objections.

- B. **“PUBLIC HEARING” SITE PLAN** – Silver Capital Investment, 4649 Bougainvilla Drive) (*tabled from September 6, 2005*) (**request for tabling to December 13, 2005**)

Mayor Parker tabled this item to the November 22, 2005 meeting. There were no objections.

- C. **“PUBLIC HEARING” SITE PLAN** – Real Investment, Inc., 4417/4421 Poinciana Street (*tabled from September 20, 2005*) (**request for tabling to December 13, 2005**)

Mayor Parker tabled this item to the November 22, 2005 meeting. There were no objections.

- D. **“PUBLIC HEARING” SITE PLAN** – Real Investment, Inc., 4432/4436 Bougainvilla Drive (*tabled from September 20, 2005*) (**request for tabling to December 13, 2005**)

Town Commission Regular Meeting Agenda
November 8, 2005

Mayor Parker tabled this item to the November 22, 2005 meeting. There were no objections.

- E. **“PUBLIC HEARING” SITE PLAN** – EastCoast Communities, 223 Garden Court and 4215 Seagrape Drive (*staff recommending approval subject to conditions as noted in the planning report; Planning and Zoning Board recommending approval subject to conditions noted in the planning report*)

Attorney Cherof swore in those wishing to testify.

Walter Keller requested a Commission interpretation that the architectural features submitted are allowable under the Marina Village Overlay District. Discussion followed regarding roof decks and elevations. Attorney Cherof agreed with Mayor Parker that the architectural features comply.

Planner Keller recommended approval subject to the conditions as stated in his letter to Manager Baldwin, dated November 1, 2005 (attached hereto as part of these minutes).

Bryan Gershkowitz, Developer, read the four (4) standard conditions and nine (9) additional conditions and agreed to all.

Vice Mayor Kennedy made a motion, seconded by Commission Wessels to extend the meeting past 11:00 p.m. for an additional fifteen (15) minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark to approve the site plans subject to four (4) standard conditions and nine (9) additional conditions. In a roll call, vote, all voted in favor. The motion carried 5-0.

- F. Discussion and/or action concerning removing the seawall between High Noon and Aruba (*Commissioner Yanni*)

Director Mason said there were drainage pipes that may be affected and preferred Kevin Hart take a look also. Mr. Hart and Director Mason agreed to report back to the Commission at the November 22, 2005 meeting.

- G. Discussion and/or action regarding the relocation of the Fire Station 36 to Town Hall (*Vice Mayor Kennedy*)

The Commission discussed the relocation of Fire Station 36 to Town Hall and to allow the newly purchased engine to utilize the church area. The Commission discussed this issue further with Chief Ian McClean of the Volunteer Fire Department and Battalion Chief Don King, Broward Sheriff's Office, Fire Rescue.

Town Commission Regular Meeting Agenda
November 8, 2005

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels to approve the relocation of Fire Station 36 to Town Hall provided sufficient room is available to house the trailer and two trucks. In a roll call vote, all voted in favor. The motion carried 5-0.

- H. Discussion and/or action regarding the proposed contract renewal between the Town and GSG, Inc. (*continued from October 11, 2005*)

This item had been tabled to the November 22, 2005 meeting with instructions that a representative from GSG, Inc. attend.

- I. General discussion concerning Hurricane Wilma

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni to continue parking ticket abatement on properties that back up to Harbor Drive. In a roll call vote, all voted in favor. The motion carried 5-0.

- J. Discussion and/or action concerning delays to sewer project (*Municipal Services Director William Mason/Town Engineer Kevin Hart*)

Director Mason advised the Commission that sewer project been extended three (3) weeks due to delays caused by Hurricane Wilma.

14. TOWN MANAGER REPORT

There were no reports for the Commission's consideration.

15. TOWN ATTORNEY REPORT

- A. Report regarding the methodology used for the calculation of Stormwater Utility Fund

This report had been tabled to the November 22, 2005 meeting at Attorney Cherof's request.

16. COMMISSIONER COMMENTS

Vice Mayor Kennedy recognized November 11, 2005 as Veteran's Day and November 10, 2005 as the 230th Birthday of the United States Marine Corp. He suggested recognition of the employees for their leadership, hard work during the hurricane relief efforts at the November 22, 2005 meeting. There were no objections.

Commissioner Wessels, Commissioner Yanni, Mayor Pro Tem Clark concurred with Vice Mayor Kennedy's comments.

Town Commission Regular Meeting Agenda
November 8, 2005

Mayor Parker scheduled a discussion and/or action regarding a bond issue for the November 22, 2005 meeting for the installation of the utilities and gas lines underground and to fix the drainage throughout Town.

Mayor Parker also concurred with the Commissioners and wished Kay Yanni and Margaret Wessels a Happy Birthday. He also thanked those who assisted with the Halloween Party.

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 11:40 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____