

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, December 13, 2005

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:03 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Also present were Town Manager Robert Baldwin, Attorney James Cherof, and Town Clerk Medina.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

As agreed at the Agenda Conference Item 9B was the first item of business. Commissioner Wessels made a motion, seconded by Commissioner Yanni, to remove Item 9B, Ordinance 2005-20, from the Agenda. In a roll call vote, the motion carried 3-2 with Vice Mayor Kennedy and Mayor Pro Tem Clark dissenting.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan delivered the invocation.

As agreed at the Agenda Conference, Item 13H had been taken out of order for immediate consideration. There were no objections.

- 13H, Consideration of providing assistance with funding for the Community Performing Arts Center (*continued from November 22, 2005*)

Attorney Cherof advised the proper procedure to authorize temporary funding. Manager Baldwin suggested amending the original donation during the budget process from \$10,000 to \$12,000. Attorney Cherof agreed.

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve a donation to the Community Performing Arts Center in an amount not to exceed \$630.50 per month for the next twelve (12) months, with payment to the Community Performing Arts Center upon verification of expenses, and so directing the Town Manager and Administration to make such payments. In a roll call, vote all voted in favor. The motion carried 5-0.

4. PRESENTATIONS

There were no presentations

5. REPORTS

- A. Update regarding parking along buildings on Commercial Boulevard that back up to Harbor Drive (*Hurricane Wilma damage update for parking purposes*) (*Development Services Director Harry Diehl*)

This item was tabled to January 10, 2006 at the Agenda Conference.

6. APPROVAL OF MINUTES

- A. November 9, 2005, Workshop Meeting
- B. November 22, 2005, Agenda Conference
- C. November 22, 2005, Regular Meeting

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to approve the November 9, 2005, Workshop minutes, the November 22, 2005 Agenda Conference minutes, and the November 22, 2005 Regular Meeting minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

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

- A. **Ordinance No. 2005-19:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending section 24-5.66(a) of the Land Development Code to allow for temporary real estate sales offices in the RM-25 zoning district; providing for severability; providing for codification; providing for conflicts; and providing for an effective date

Attorney Cherof read Ordinance 2005-19 by title only.

Mayor Parker opened the Public Hearing.

John McMillan, 3208 SE 12th Street, Pompano Beach, expressed his concern with the word "temporary" and thought time limits should be set. Mayor Parker advised there was a six (6) month time limit set. Mr. McMillan asked whether that time limit was renewable and Attorney Cherof said there was a provision that allowed renewal pending Commission approval.

With no one else wishing to speak, Mayor Parker closed the Public Hearing.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to approve Ordinance 2005-19. In a roll call vote, all voted in favor. The motion carried 5-0.

8. PUBLIC COMMENTS

Marie White, 234 Hibiscus Avenue, thanked everyone for their donations, their assistance, and cooperation with the Santa's Coming to Town event on December 17, 2005. She added that photos were available, free of charge, courtesy of Walgreen's, and gifts, donated by herself, and cookies donated by Lenore Nolan-Ryan, would also be available.

Peanuts Wick, distributed T-Shirts and a song sheet to the Mayor, Commissioners and Town Manager depicting the Glee Club.

Jerry Sehl, 250 Miramar Avenue, distributed 2006 Calendars to the Mayor, Commissioners and Town Manager. He thanked everyone for their contribution of Town photographs and shared memories donated to create the calendar. Mr. Sehl gave special thanks to Marc Furth for his photographic skills. Mr. Sehl asked the Commission for permission to advertise the 2006 Calendars in Town Topics at approximately one hundred and ten dollars each and to broadcast their availability on Channel 78. He explained that the profits were for needed medical equipment for a friend.

There were no objections. Mayor Parker requested Manager Baldwin allow the advertisement of the 2006 Calendar in the Town Topics and on Channel 78.

Peanuts Wick, 4900 N. Ocean Drive, represented the Kiwanis Club. He indicated that boxes had been placed around Town for toy donations to the "For Children's Sake" drive. Mr. Wick said the donations were intended for children living in group homes and foster homes. He expressed his disappointment that one box, full of toys, had been stolen from Athena's Restaurant. Mr. Wick announced several places in Town where the boxes are located and thanked everyone for working with Kiwanis for making the holiday a better holiday for the children.

Peter Depps, 2110 NE 31 Place, Aventura, said that deleting Item 9B, Ordinance 2005-20, would disallow people from voting on an issue that would provide opportunities for employment.

Sue Delegal, 1741 W. Terra Mar Drive, agreed with Mr. Depps and thought Item 9B could have been improved and sent forward. Ms. Delegal thought it was a great opportunity for the Commission to welcome growth into the community. She asked the Commission to reconsider.

Thomas Boggess, 3900 N. Ocean Drive, requested Fountainhead's zoning variance be granted since a cooling tower was desperately needed and the only other conforming location would be in the middle of Fountainhead's front yard.

Bob Terrien, 5100 N. Ocean Boulevard, talked about snow machines expenses and distributed an invoice for the 2004 Christmas by the Sea.

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Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to authorize administration to make payment to the Chamber of Commerce for the purchase of snow machines in fiscal year 2004. In roll a call vote, all voted in favor. The motion carried 5-0.

Mr. Terrien added that there were over 5500 people in attendance at the Christmas by the Sea event.

Jerry McIntee, 1612 Se 21 Avenue, talked about the communication problems with senior citizens during Hurricane Wilma. He suggested the issuance of flags that read Broward Sheriff's Office Emergency Flag that could be affixed to a door should the need for assistance arise.

Mayor Parker requested Chief Gooding and Chief King review the idea with Chief McLean and update the Commission at the January 10, 2006 meeting.

John Thompson, 4900 N. Ocean Boulevard, gave his opinions of the Election Code.

Lawrence Campbell, 6000 Ocean Boulevard, asked the Commission to allow all points of view on the ballot in March 2006 relating to the height referendum.

Mayor Parker explained that an opinion may not be obtained by the Attorney General regarding the Burt J. Harris Act in time to place the referendum on the March 2006 ballot.

There was further discussion between Mr. Campbell and the Commission with Vice Mayor Kennedy noting that most people do not fully understand what 3 over 1 height limit means. Mr. Campbell admitted he did not fully understand and Vice Mayor Kennedy explained the 3 over 1 height limitation in detail.

Vice Mayor Kennedy and Commissioner Wessels had no objection to placing both options to height referendum on the ballot. Mayor Parker had no objection to extending the moratorium regarding height limitation.

James Silverstone, 205 Washington Avenue, thanked the Town for turning the lights on at the basketball court, and requested additional lights at the soccer field. Mayor Parker directed Municipal Services Director Mason to review the situation. Mr. Silverstone announced that the Volunteers were collecting funds to donate to the Town to help fund the new fire station. He added that Santa would make a special appearance and deliver toys to children on December 24, 2005 through special requests to the Volunteer Fire Department. Mr. Silverstone said seven thousand suitcases had been delivered to Katrina hurricane victims. He asked the Commission to uphold the moratorium.

Hub Nelson, 1410 S. Ocean Boulevard, spoke in opposition of the moratorium, and in favor of the Commission granting variances. Mr. Nelson explained that the rising

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property taxes trapped the condominium in an inflationary spiral and talked about the negative effects it had on their future.

Gretel McCausland, 251 S. Oceanic Avenue, understood both sides of the petition. She felt that sometimes the Commission made the people nervous by getting carried away with the public good, and believed that was the reason for so much confusion.

Dr. Ken Most, 2160 SE 19th Street, spoke on behalf of the Bel-Aire Homeowners Association. He thanked the Town Manager and the Commission for arranging additional pickups for hurricane debris. Dr. Most advised the Commission that 280 Wheelchairs were available for Shipment to San Isidro, Peru, but there was not enough money to pay for the shipping. He said a reception had been scheduled for January 17, 2006 at Mayor Parker's home and the cost to attend the reception was \$100 per person. Dr. Most added that Senator Jeff Atwater was the guest of honor and the Peruvian Consulate was also to attend.

Bob Roberts, 220 Imperial Lane, provided an explanation of 3-over-1 as being three stories, and not four stories.

Curtis Bernam, 1421 S. Ocean Boulevard, read a letter addressed to Senior Project Manager Brad Townsend into record (attached hereto as part of these minutes). He said the letter expressed his thought regarding his vacant lot at 239 Hibiscus Avenue.

Tom Karr, 254 Miramar Avenue, enlightened the Commission that the revised petition had been signed by 667 plus voters and submitted to Town Hall immediately following the Thanksgiving holiday weekend. He said, as of December 12, 2005, the Office of the Board of Elections had not yet received the petition.

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 and amending the definition of "Lot, Corner"; 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 (*continued from November 22, 2005*)

Attorney Cherof read Ordinance 2005-16 by title only.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to approve Ordinance 2005-16 on first reading.

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Mayor Parker requested an amendment be made on page 2, second line, the language “as provided for in Ordinance 2005-12” should read “as provided for in Section 24-55 of Chapter 24 of the Town Code of Ordinances”.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to amend Ordinance 2005-16 to read “as provided in Section 24-55 of Chapter 24 of the Town Code of Ordinances”.

There was no discussion on the amendment.

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

There was no discussion on the amended motion.

In a roll call vote, all voted in favor of amended Ordinance 2005-16 on first reading. The motion carried 5-0.

B. Ordinance No. 2005-20:

OPTION A. 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, deleting Section(5)(f), amending Section 5(e) and related sections to allow the replacement of existing non-conforming buildings with multiple non-conforming buildings and eliminating restrictions on the square footage of non-conforming buildings that are replaced or rebuilt, but otherwise maintaining height limits; providing for 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.

or

OPTION B. 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, amending Sections 5(d) through 5(f) and related sections to allow the replacement of existing non-conforming buildings with multiple non-conforming buildings and eliminating restrictions on the square footage of non-conforming buildings that are replaced or rebuilt, but otherwise maintaining height limits; 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.

This item was removed from the agenda earlier in the meeting.

10. CONSENT AGENDA

- A. MATCHING GRANT AGREEMENT: with Broward County for a grant in the amount of \$8,785 to fund an entryway beautification project located at 12 Southeast 15 Street
- B. AGREEMENT: authorization for Tele-Vac South to perform post hurricane outfall and stormwater drain clean-up (*piggybacking from contract with City of Sunrise, Bid No. 02 (15) 12-07-05-22-C, expiring September 30, 2006 (last sweep, Hurricane Wilma) (not to exceed \$12,000)*)
- C. AGREEMENT: authorization for Grubbs Emergency services, LLC. and Waste Management to perform post hurricane clean-up (*last sweep, Hurricane Wilma) (not to exceed \$10,000 each)*)
- D. AGREEMENT: with the Broward County Supervisor of Elections Office for necessary staff for election polls for the March 2006 Municipal Election
- E. RESOLUTION 2005-26: designating insurance carriers for various categories insurance coverage for the Town and Town officers, employees, and agents; directing the Town Administration to process applications for insurance coverage; and providing for an effective date
- F. RESOLUTION 2005-27: authorizing and directing the appropriate Town Officials to execute a grant application for funds available through the Community Development Block Grants Program through Broward County for the Fiscal Year 2006/2007; providing for conflict; providing for severability; and providing an effective date

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve items A thru F of the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

11. RESOLUTION

- A. **“PUBLIC HEARING” - Resolution No. 2005-24:** A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, setting forth the Town’s intent to use the uniform method for the collection of a non-ad valorem special assessment to be levied upon real properties lying within the municipal boundaries of the Town, as more particularly described in Exhibit “A”, attached hereto, to fund the Town’s stormwater

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utility system; stating a need for such levy; providing that a copy of this Resolution shall be forwarded to the Property Appraiser, Tax Collector and the Florida Department of Revenue; providing for conflicts; providing for severability; and providing for an effective date.

Attorney Cherof read Resolution 2005-24 by title only.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve Resolution 2005-24.

Mayor Parker opened the Public Hearing.

John Thompson, 4900 N. Ocean Boulevard, related to stormwater fees and gave his opinion of the laws governing ad valorem and non-ad valorem taxes.

Mayor Parker advised Mr. Thompson that special assessment was not being imposed through Resolution 2005-24 as Mr. Thompson suggested. He explained that Resolution 2005-24 changes the manner of collecting the utility fee.

Attorney Cherof thought that perhaps Mr. Thompson's confusion was from the Resolution itself, as Resolution 2005-24 referred to the procedure by which the Town is allowed to collect on the tax bill assessment. He said the same procedure could be used to collect fees of this nature.

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

In a roll call vote, all voted in favor with Commissioner Wessels dissenting. The motion carried 4-1.

- B. **Resolution No. 2005-25:** A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, urging Congress to reject proposed legislation that would eliminate local franchising authority, existing cable franchises and local government authority to provide communications services.

Attorney Cherof read Resolution 2005-25 by title only.

Commissioner Yanni made a motion, seconded by Vice Mayor Kennedy, to approve Resolution 2005-25. 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*) (*continued from November 8, 2005*)

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Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to grant the variance.

Commissioner Wessels thought the fair and appropriate way to grant a variance was to change the ordinance.

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 with Commissioner Wessels dissenting. The motion carried 4-1.

- B. Report on protocol for processing applications for Environmental Resource Licenses (*Development Services Director Harry Diehl*)
(*continued from November 22, 2005*)

This item had been tabled to January 10, 2006 at the Agenda Conference, with directions to Community Services Director Harry Diehl.

- C. Discussion and/or action regarding the Town's request for the use of one uniform zip code townwide (*Mayor Oliver Parker*)

This item had been tabled to January 10, 2006 at the Agenda Conference, to include a report by Vice Mayor Kennedy and Manager Baldwin.

- D. Update regarding possible use of newly purchased used fire truck by Lauderdale-By-The-Sea Volunteer Fire Department for training and responding to fire alarms (*Battalion Chief Don King*)

Battalion Chief Don King advised there was no operational need for the newly purchased used fire truck and was considering its use for training purposes. He said maintenance records were being reviewed and an update would be provided at the January 10, 2006 meeting.

There was no objection to table this item to the January 10, 2006 meeting.

- E. Discussion and/or action regarding proposed ordinance for Land Development revisions per Block 15 Study (*Town Planner Walter Keller*)

Planner Walter Keller explained proposed modifications to the overlay district and talked about a mixed use sub-district. Planner Keller believed the Ordinance required refinement and perhaps an amendment to the Comprehensive Plan, which would require Broward County recertification.

The Commission talked about revitalizing the area south of Commercial Boulevard. They noted the need to save the hotel/motel industry; questioned the effect on non-

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conforming buildings regarding code compliance; and discussed modifications to sub-overlays.

Mayor Parker requested Planner Keller and Attorney Cherof refine the ordinance and come back before the Commission for 1st reading January 24, 2006.

There were no objections.

- F. Discussion and/or action concerning Economic Task Force and community redevelopment (*Town Attorney James Cherof/David Nixon*)

Attorney Cherof said he had drafted a request for proposal with the assistance of Mr. David Nixon and Planner Keller.

David Nixon, 4317 El Mar Drive, Chairman of the Economic Development Task Force, suggested the addition of one member to the Task Force.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to designate the Economic Development Task Force to consist of David Nixon, Michael Archer, Jack Cooney and Dick Clark. In a roll call vote, all voted in favor. The motion carried 5-0.

Mr. Nixon suggested a procedure to expedite the selection of consultants for the blight study and the redevelopment plan. He specified a pre-meeting with interested parties, reference checks of the firms submitting the proposals from municipalities that previously worked with them, and referring the top three to the Commission for selection.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to authorize the issuance of the request for proposals and formalizing the Economic Development Task Force as the screening committee. In a roll call vote, all voted in favor. The motion carried 5-0.

- G. Discussion and/or action to reschedule hurricane preparedness workshop meeting to a different date to allow for a longer meeting (*Commissioner Charles Clark*)

This item was rescheduled from February 28, 2006 at 5:00 p.m. to March 1, 2006. There were no objections.

13. NEW BUSINESS

At Commissioner Wessels request Items 13D and 13E were moved out of order for immediate discussion.

- D. **“PUBLIC HEARING” VARIANCE** – Fountainhead Condo, 3900 Ocean Drive (*request to reduce setback from 20 feet to 10 feet; request to*

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*increase wall height from 6 feet to 20 feet) (staff recommending approval;
Board of Adjustment recommending approval)*

Commissioner Yanni made a motion, seconded by Vice Mayor Kennedy, granting a variance to the Fountainhead Condo, 3900 Ocean Drive, to reduce the setback from 20 feet to 10 feet on the south side and to increase the wall height from 6 feet to 20 feet.

Mayor Parker opened the public hearing.

Ismic Baker, 4300 N. Ocean Boulevard, Fort Lauderdale, opposed the variance as the cooling tower was right in their back yard. He expressed his concern regarding the noise level and suggested the tower be put in a garage.

Attorney Cherof swore in those wishing to give testimony, including Mr. Baker.

Steve Bass, Professional Engineer, advised the decibel, at maximum level, would be 68 whereby a person speaking at normal level would be 70.

Mr. Baker questioned the result if the decibel level rose above 68. Attorney Cherof advised that would constitute a violation of the Town's Noise Control Ordinance and would be enforced by Code Enforcement, to include daily fines.

Helen Baker, 4300 N. Ocean Boulevard, Fort Lauderdale, asked whether the motor runs constantly. Mr. Bass explained that the tower was controlled by water temperature, and the fans move the water as needed. He explained, as the temperature goes down, the tower would cycle on and off accordingly.

Florence Berliner, Plaza East, Fort Lauderdale preferred the tower closer to the Beach. Rick Rodriguez said that would be more detrimental and advised that the tower was to be blended in and the views would not be affected.

Terry Markham, 4300 N. Ocean Boulevard, Fort Lauderdale, asked for confirmation regarding the landscaping and re-location of the emergency generator. Mr. Bass confirmed the generator was to be eliminated and confirmed landscaping would be added.

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 5-0.

- E. **“PUBLIC HEARING” SITE PLAN** – Fountainhead Condo, 3900 Ocean Drive *(staff recommending approval subject to the planning report; Planning and Zoning Board recommending approval subject to the planning report)*

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Commissioner Wessels made a motion, seconded by Commissioner Yanni to approve the site plan subject to conditions noted in the planning report.

Mayor Parker opened the public hearing.

Planner Keller said that the site plan was advertised with a 20 foot wall, and therefore, would have to be limited to that height.

Mayor Parker asked for a description of the conditions set forth, and Planner Keller advised there were no conditions. He said Fountain Head had to submit a compliance package within forty-five (45) days.

Ron Ertley, 3900 Ocean Drive, President Fountainhead Association, understood and agreed to the requirement.

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

- A. **“PUBLIC HEARING” SITE PLAN – Silver Capital Investment, 4649 Bougainvilla Drive) (staff recommending approval subject to the planning report; Planning and Zoning Board recommending approval subject to the planning report) (tabled from November 8, 2005)**

Attorney Cherof swore in those wishing to give testimony.

Walter Keller explained two (2) conditions set forth; 1) to provide for two shade trees, specified by Town staff; 2) to submit a compliance package within forty-five (45) days.

John LaDouceur, 1724 NW 39 Street, Oakland Park, understood and agreed to the conditions.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve the site plan, subject to conditions set forth in the planning report.

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

Commissioner Wessels preferred the additional proposals over the site plan submitted.

In a roll call vote, all voted in favor with Commissioner Wessels dissenting. The motion carried 4-1.

- B. **“PUBLIC HEARING” SITE PLAN – Real Investment, Inc., 4417/4421 Poinciana Street (staff recommending approval subject to the planning report; Planning and Zoning Board recommending approval subject to the planning report) (tabled from November 22, 2005)**

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- C. **“PUBLIC HEARING”** SITE PLAN – Real Investment, Inc., 4432/4436 Bougainvilla Drive (*staff recommending approval subject to the planning report; Planning and Zoning Board recommending approval subject to the planning report) (tabled from November 22, 2005)*

Michael Duram represented Real Investment, Inc., and had no objection to consolidating Items 13B & 13C.

Attorney Cherof swore in those wishing to give testimony.

Mayor Parker clarified the two site plans being consolidated were 4417/4421 Poinciana Street and 4432/4436 Bougainvilla Drive.

Planner Keller referred to his memo dated December 6, 2005. He specified that there were seven (7) site specific comments and four (4) comments put with all locations. He said there were eleven (11) conditions all together. Mr. Duram understood and agreed to all conditions.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to approve site plan at 4417/4421 Poinciana Street, subject to conditions as stated in the planning report.

Commissioner Wessels asked for an update on the awning issues. Planner Keller said the color renderings did not include all the details as recommended at the Planning and Zoning Board. He said 4417 Poinciana Street had awnings on the side and the Planning and Zoning Board felt they were to be removed. Planner Keller believed they were removed on the architectural drawing but not on the rendering.

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, to amend the site plan to remove the awnings at 4417 Poinciana Street, making it the twelfth (12th) condition. In a roll call vote, the motion carried 4-1 with Mayor Parker dissenting.

Mr. Duram agreed to all twelve (12) conditions.

Mayor Parker clarified that the condition to remove the awnings applied to 4417 Poinciana Street only, and did not apply to 4421 Poinciana Street as there were overhangs, not awnings, on that building.

Mayor Parker suggested removal of the awnings from the site plan, and allow awnings at a later date. Planner Keller thought that the Planning and Zoning Board's intent was to keep a variation between the buildings, and the awnings helped to create the effect. Commissioner Wessels said he did not care for the round awning, but would not object to angular awnings. Commissioner Yanni suggested roll up awnings as another option and Commissioner Wessels specified round awnings were not to be on the front of the building.

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Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, to allow the architect/owners the option of using an angular awning on the third floor, above the doors/sliders, on the front elevation of the buildings at 4417/4421 Poinciana Street.

Mayor Parker clarified the motion was that the architect would not use round awnings but could have angular awnings at their option at 4417/4421 Poinciana Street. Commissioner Wessels confirmed.

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

For the record, Mayor Parker clarified the twelvth condition was that at 4417/4421 Poinciana Street on the third floor, above the French doors, the option of putting up rectangular awnings, if the owner chose to, but may not put up a circular awning. Mr. Duram agreed.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to approve the amended site plan for 4417/4421 Poinciana Street, subject to twelve (12) conditions. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to approve the site plan at 4432/4436 Bougainvilla Drive, subject to eleven (11) conditions as stated in the planning report.

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

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

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy to extend the regular meeting to 10:30 p.m. In a roll call vote, all voted in favor with Mayor Parker dissenting. The motion carried 4-1.

- F. Discussion and/or action regarding the proposed contract renewal between the Town and GSG, Inc. (*Attorney James Cherof/Camille Tharpe*)
(continue to January 24, 2006)

This item had been tabled to January 24, 2006. There were no objections.

- G. Discussion and/or action regarding status of weekly Fire Rescue meetings
(*Chief Frank Buchert*)

Frank Buckert corrected the rumor that the upcoming Fire Rescue meeting was cancelled, and clarified that Fire Rescue will meet as usual.

- H. Consideration of providing assistance with funding for the Community Performing Arts Center (*continued from November 22, 2005*)

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This item had been discussed earlier in the meeting.

- I. Discussion and/or action regarding protocol for neighborhood development to assess for special improvements (*Mayor Oliver Parker*)

Mayor Parker suggested Attorney Cherof prepare an ordinance that would set forth procedures if 75 percent of real estate owners, in a series of blocks or a sub-division, request permission to be specially assessed to make improvements, they would be able to do so.

Vice Mayor Kennedy thought that the 75 percent wishing to make the improvements, should be liable for costs and not force it upon the other 25 percent.

Commissioner Wessels thought the assessment would create financial hardship for some homeowners, specifically those who were on fixed incomes.

Commissioner Yanni and Mayor Pro Tem Clark were against it at this time.

- J. Discussion and/or action regarding a protocol for providing color palettes for site plan reviews (*Commissioner John Yanni*)

Commissioner Yanni said that a representative from Benjamin Moore agreed to give a presentation to assist with the color palettes.

This item was had been tabled to January 24, 2006.

- K. Discussion and/or action regarding the Citizen Initiative Committee's petition for referendum (*Commissioner David Wessels*)

Commissioner Wessels suggested the Commission consider placing the Citizen Initiative Committee's petition for referendum on the March election, although complications may arise. He felt the competing initiatives, placed side-by-side for comparison, allow voters the right to chose.

Mayor Parker pointed out that 1) more than one height limitation referendum placed on the ballot at the same time would be confusing to the voter; 2) the referendums contradict each other and, if both pass, the courts are likely to rule against both; 3) the Commission was pending a legal opinion from the Attorney General regarding the Bert J. Harris Act, which would not be available in time for the March election; and, 4) both referendums remove the power to zone in residential areas.

Commissioner Yanni requested a legal opinion regarding the placement of the referendums for the March election. Attorney Cherof felt there was a potential for conflict and reserved his opinion on how significant that conflict was. He preferred

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presenting a full and complete legal opinion, in written form, at the January 10, 2006 meeting.

Commissioner Yanni made a motion, to table this item until a legal opinion was received.

Commissioner Yanni withdrew his motion to allow for discussion.

Vice Mayor Kennedy wanted final conclusion of discussion on height limitations. He preferred a head-to-head vote, with both referendums, in March.

Commissioner Wessels made a motion to move the initiatives as soon as possible to the March election.

Mayor Parker pointed out that until the Supervisor of Elections certifies the petition, it could not be placed on the ballot; and, therefore, the motion could not be made until after certification.

Commissioner Wessels requested legal opinion as to whether a motion could be made predicated on the fact that once the initiative that was offered was certified, it would be placed on the March ballot. Attorney Cherof said a conditional motion of that nature could be made.

The motion died for lack of second.

Commissioner Yanni made a motion, to table this item to January 10, 2006 for a legal opinion from the Town Attorney.

In a roll call vote, the motion carried 4-1, with Commissioner Wessels dissenting.

L. Discussion and/or action regarding laws regulating the direction of parallel-parked vehicles (*Mayor Parker*)

Mayor Parker said that residents complained about being issued parking citations for parking against the flow of traffic. He explained that if required, people would have to drive down West Tradewinds, up Basin Drive, and north on East Tradewinds in order to park properly. Mayor Parker requested the Commission direct Town Administration to not ticket for parking against the flow of traffic.

Community Services Director Harry Deihl explained that the officer had advised the residents in that building that after two weeks citations would be issued for parking in the wrong direction. He added that after two weeks only one (1) resident was parked in the wrong direction. Mr. Deihl said the officer spoke with the resident, but the resident felt he had the right to park in that manner since he had been parking that way for years.

Director Deihl explained that in Section 19-1, of the Town Code of Ordinances, Lauderdale-By-The-Sea adopted the State Statutes. He said State Statute 316 specified that parallel parking required the right hand wheels to be against the curb, or face the direction of traffic. Director Deihl explained further that since the Town adopted State Statutes, our Code of Ordinances mirrored that language in Section 19-22, which required parallel parking face the flow of traffic.

Director Deihl advised that in order to change that part of Town law the whole Section where the Town adopts the State Statutes would have to be changed. He said that the State Statutes allow parking enforcement not only locally, but also county wide and state wide, and therefore, an officer could still enforce the State Statute even if the Town changed their Ordinance.

14. TOWN MANAGER REPORT

Manager Baldwin wished everyone a Merry Christmas.

15. TOWN ATTORNEY REPORT

Attorney Cherof said that at the direction of the Commission a draft inquiry to the Attorney General regarding the height issue had been prepared. He questioned whether the Commission wanted him to reach out to the Citizens Initiative Committee and ask them to supply a memorandum, or to participate in the drafting of the question. Attorney Cherof forewarned that doing so could delay response.

Commissioner Wessels suggested he reach out to the community with time restraints for them to reply. Mayor Pro Tem Clark agreed.
At Mayor Parker's request, Attorney Cherof agreed to present a draft letter for the January 10, 2006 meeting.

16. COMMISSIONER COMMENTS

Vice Mayor Kennedy talked about the positive feedback he had received regarding the sewer project in Terra Mar, and praised everyone for a job well done. He wished everyone a merry Christmas, and a happy, healthy and prosperous new year.

Commissioner Wessels said it was his pleasure serving on the Commission this year. He wished everyone a merry Christmas, happy holidays, and a happy new year.

Commissioner Yanni wished everyone a prosperous and healthy new year. He said he was glad to work alongside the members of the Commission.

Mayor Pro Tem Clark wished everyone a merry Christmas, a happy Hanukkah, and a prosperous and fruitful new year.

Town Commission Regular Meeting Agenda
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Mayor Parker talked about a deed and release for residual rights to El Prado and a deed to the north seventeen (17) feet of the Oriana and a release of any remainder rights to the alleyway, inclusive of the deed to the alleyway. He requested Attorney Cherof to report to the Commission January 10, 2005, with copies of those deeds or an explanation as to why the Town does not have them.

Mayor Parker wished everyone the happiest Christmas, the happiest Hanukkah, and the most prosperous and happiest coming year they ever had.

17. ADJOURNMENT

Commissioner Yanni made a motion to adjourn the meeting. As there was no further business to discuss, the meeting was adjourned at 10:50 p.m.

Oliver Parker
Mayor

ATTEST:

Alina Medina
Town Clerk

Date Accepted:_____