

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, July 25, 2006

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:10 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. 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.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan delivered the invocation.

Mayor Parker asked to amend the agenda to allow the Town Attorney to report on the Attorney General's opinion concerning Bert J. Harris Jr. Act and whether it applied to Charter amendments initiated by referendum.

Commissioner McIntee felt that this could be included under Attorney Reports. Mayor Parker stated that it could be included as part of the Attorney's reports, but felt that it should be brought to the attention of the public early in the meeting.

Mayor Parker questioned again if there were any objections. There were no objections noted and the Mayor so ordered the amendment of the agenda to include Item 5B.

4. PRESENTATIONS

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

Chief Gooding advised that Deputy Danny Krystyan had been chosen as deputy of the month. He apologized that he was not in attendance, explaining that Deputy Krystyan worked the midnight shift.

Chief Gooding explained Deputy Krystyan's initiative in trying to prevent car burglaries, stating that in checking vehicles to make sure they were securely locked, he found a suspicious vehicle that was later determined to be owned by a person of questionable background. He thanked Deputy Krystyan for his constant vigilance.

The Commission congratulated Deputy Krystyan.

5. REPORTS

A. Budget Report for Period Ending June 30, 2006

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to approve the report as presented. In a roll call vote, all voted in favor. The motion carried 5-0.

B. Report on the Attorney General's opinion concerning Bert J. Harris Jr. Act and whether it applied to Charter amendments initiated by referendum

Attorney Cherof stated that he had been directed by the Commission to obtain an opinion from the Attorney General with regards to Bert J. Harris claims and whether they could be applied to Charter amendments initiated by the electors. He stated that he had also requested an opinion as to whether subsequent action by the Commission compelled by language in the Charter as amended constituted action of the governmental entity as defined in the Protection Act. Attorney Cherof stated that the Attorney General had opined that an amendment to the Town Charter proposed and approved by referendum does constitute action of a governmental entity as the term is defined and used in the Protection Act. In addition, any new rules, regulations or ordinances adopted by the Town to effectuate the terms of the amendment to the Charter would also constitute action of a governmental entity as the term is defined and used in the Protection Act.

At Vice Mayor Yanni's request, Attorney Cherof provided a brief history concerning this matter and an explanation of the Attorney General's opinion. He stated that it had been represented that the Town would not be liable when the referendum was presented to the electors in March. Attorney Cherof explained that since there was no case law concerning this particular issue and there was a dispute as to whether a Charter amendment issued by referendum initiated by the citizens constituted an action of the governmental entity, this question had been posed to the Attorney General.

Attorney Cherof stated that the Town had already been the recipient of four claims under the Bert J. Harris Protection Act and, although this opinion certainly did not grant them the right to recovery, it facilitated their arguments that would be made at some point during a court proceeding.

Mayor Pro Tem Clark asked for a status concerning the letter directed to be sent to the local court. Attorney Cherof stated that he had also been directed to send a letter with the same two questions to a local court in response to the claims letters. He indicated that the Attorney General's opinion was binding upon the Town as it had requested the opinion, but is not despondent on the issue of whether there would be a liability to the Town under Bert J. Harris. Attorney Cherof stated that with regards to this matter, the Attorney General stated that the authority to determine whether such action gives rise to a claim under the Act is expressly vested in the judicial branch. As such, he indicated that a Declaratory Judgment Action was to be filed to test the validity of the claims letters.

Commissioner McIntee stated that we all had to do what the final judge said had to be done, whether or not that happened to be an appellate judge. He stated that if a judge stated that these property owners could build 15 stories, then that's what would happen.

Commissioner Silverstone stated that he had originally requested the opinion letter to help him vote in this matter. He said that in reviewing the claims there were still burdens the applicants would have to prove in a court of law. Commissioner Silverstone stated that the Town had to go through the court system to obtain a final decision, indicating that in that respect the Attorney General's opinion did not mean anything. He indicated that the cost to the Town to proceed in court was approximately \$15,000 to \$30,000.

6. APPROVAL OF MINUTES

- A. June 6, 2006, Workshop Meeting (*regarding dog friendly beaches*)
- B. June 6, 2006, Workshop Meeting (*regarding Unified Land Development Regulations*)
- C. June 13, 2006, Workshop Meeting (*regarding Unified Land Development Regulations*)
- D. June 17, 2006, Workshop Meeting (*regarding Town policies and operational issues*)
- E. July 11, 2006, Agenda Conference

Commissioner McIntee referenced the minutes of June 6th and questioned whether the beach was public to the water line. Attorney Cherof replied negatively, stating that the majority of the beaches along Lauderdale-By-The-Sea were privately owned; however, he indicated that it was tradition and custom the beaches were accessible and open to

the public. He explained that to reverse a public accessible beach status in the State of Florida was extremely difficult.

Mayor Parker asked that the June 6th minutes reflect 100 feet of public beach on Commercial Boulevard.

Commissioner Silverstone made a motion, seconded by Vice Mayor Yanni, to approve the minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

7. PUBLIC COMMENTS

Barbara Cole, 221 Washingtonia Avenue, spoke in favor of the Volunteer Fire Department. She expressed her hope that there would be a bit more civility on the dais.

Ms. Cole referenced the Chamber's new motto "Florida Beach Village" and thought it was great.

Ed Kennedy, 3240 Seaward Drive, referenced hedge heights and reminded the Commission that the Town was in the tropics where the weather was warm, with sudden wind storms and hurricanes. He stated that foliage, planted properly around the house, would reduce heating costs by approximately 15 percent, protected the property from wind damage, and provided a measure of privacy. Mr. Kennedy asked the Commission to consider the environmental benefits of hedges prior to enforcing the current regulations.

Kim Hayes, 4525 West Tradewinds Avenue, addressed the Commission concerning the fire assessment, stating that she did not mind paying \$260 for the safety of her family, but questioned why Sea Ranch Lakes only paid a total of \$45,000 for their public safety services.

Tom Carr, 254 Miramar Avenue, referenced the cost of using Waste Management with no decrease in taxes, the elimination of the Town's own police force, and whether grant funds were collected on. He stated that an outside, independent audit should be performed of the Town's funds.

Mr. Carr stated that perhaps the Town should consider allowing the northern section of Town to maintain and pay for the costs of outside public service assistance and allow the southern section of Town to keep its own.

Marilyn Carr, 254 Miramar Avenue, questioned the water consumption basis used to compute the sewer charges each month and the number of clerical staff used by the Town. She indicated that perhaps it was time for another petition to determine charges.

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John Thompson, 671 Lakeside Circle, Pompano Beach, spoke in favor of the Volunteer Fire Department, stating that although he did not mind paying money to be safe, he did not want to spend more than was necessary. He indicated that although the Town was twice as large as it was 10 years ago, the Volunteers were at least four times as well trained.

Mr. Thompson stated that Mayor Parker had suggested lowering the millage rate, but felt that the recommendation was not enough. He agreed with Mayor Pro Tem Clark's recommendation to include Waste Management expenses on the tax bill. Mr. Thompson referenced the stormwater management fee, stating that it was improper for the Town to charge what he felt was truly an assessment.

Geoffrey Evans, 1941 Southeast 18 Street, stated that the Bel Aire area was having a problem with iguanas and asked the Commission to consider paying for the elimination of these nuisance animals. He indicated his understanding that it would cost only \$35 a day and believed it was the Town's responsibility to look into this matter.

Carol Schumacher, 1985 Southeast 17 Court, asked that the promises made to the residents in the northern section of Town were kept, ensuring that the infrastructure was to be improved. She indicated, too, that there were only two beach access to the north and asked that the Commission research the possibility of paid access. Ms. Schumacher asked that trash receptacles be placed at the end of the access corridors and that the pathway next to the Sea Watch Restaurant be improved.

Ms. Schumacher asked that the Commission to research the possibility of obtaining a single zip code for the Town to ensure proper mail delivery.

Ms. Schumacher addressed the subject of hedge heights, expressing the importance of ensuring that trees were maintained and kept away from electrical lines.

Mayor Parker stated that improvements were planned for the access next to the Sea Watch Restaurant. He asked Municipal Services Director William Mason to ensure that a trash receptacle was provided at that location.

Ken Green, 3 Sunset Lane, asked that the Commission favorably consider the increased cost for the sewer project in his neighborhood. He emphasized that proper sewage treatment was a public health issue and not a private street issue.

Burite Clottey, 1770 Southeast 21 Avenue, referenced the iguana problem in her neighborhood and asked that the Commission consider hiring an individual to eliminate these nuisance animals.

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Ms. Clottey spoke in favor of the Volunteer Fire Department and expressed concern that the Town felt it needed to evaluate the department by an independent expert.

Ms. Clottey also spoke in favor of term limits indicating that a referendum would be voted on in November.

Pauline McGuinness, 5100 North Ocean Boulevard, referenced an incident in which water guns had been used to soak her during the Fourth of July festivities, stating that she had received a sincere apology from the family, including the children involved. She admired the strength of the character and felt that this was the making of good citizenship. Ms. McGuinness felt lucky to live in a town where people cared.

Stuart Dodd, 232 Imperial Lane, referenced the contract he believed was to evaluate the Volunteer Fire Department. He felt that the Town needed an unbiased, impartial and independent review, believing that Chief Chuck Lanza did not qualify. Mr. Dodd stated that a combined fire department was not as important as the \$1 million savings the residents would enjoy more. He asked the Commission to reconsider their decision.

Tony Spanno, 15 Sunset Lane, stated that he was speaking for the homeowners of Sunset Lane. He thanked the Commission for the pending sewer installation in the neighborhood and indicated that the residents were eagerly awaiting the commencement of the project. Mr. Spanno provided a brief history of the easement process pursued in the 1950s, stating that the residents believed it had been sufficient for the inclusion of the sewer improvements as it had been for all other public and private ventures. He hoped that the Commission did not view this unfortunate delay in the project as any attempt on the residents' part to delay the project intentionally. Mr. Spanno hoped that the project would begin shortly.

Larry McGuinness felt that sometimes it seemed that the Commission used "so called experts" to come up with solutions to problems so that they did not have to "harm their reelection chances", referencing constant studies, staff time, and legal expenses for the same exact issues. He spoke against the approved contract to evaluate the Volunteer Fire Department.

Ian MacLean, 259 Capri Avenue, spoke in favor of the Volunteer Fire Department. He indicated that he had been involved with the writing of the contract between the two parties and felt that an important part of the contract had been training. Mr. MacLean stated that part of the training was suppose to include incident command, which he felt had never been delivered. He indicated that the Volunteers had honored the contract, but felt that the Broward Sheriff's Office had not. Mr. MacLean stated that if the Broward Sheriff's Office did not comply, then "we" would have to sign a contract with someone else.

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Diane Boutin, 4244 El Mar Drive, referenced the capital improvement projects and the outlook for the Town for the next 5, 10, and 15 years. She felt that support for the revitalization of the business and hospitality districts would continue to provide quality of life for the residents. Ms. Boutin emphasized the need to ensure equitable user-based fees, the redesigning of non-conforming buildings, burying utility lines, chain on command in the event of hurricanes, and the possibility of additional revenues by allowing extended parking areas on El Mar Drive and Datura Avenue. She believed that the Town needed to work together with courtesy and civility, allowing for the agreement to disagree in order to move forward.

Joseph Padden, 159 Southeast 3 Avenue, Pompano Beach, stated that he was unsure whether the State operated some type of process for incident command as it was currently run by the Federal Emergency Management Agency. He indicated that the Volunteers were not thoroughly trained with this type of structure, but felt that they were "pretty far along". He referenced money that had been stolen from the Volunteer Fire Department, stating that although the Fire Department had been ultimately responsible for mismanagement, the Town had been, in his opinion, at fault. Mr. Padden stated that the incident needed to be put into perspective. He felt that the Volunteers worked at a reasonably lower price and did not understand the appeal to maintain the Broward Sheriff's Office. Mr. Padden stated that the Commission had requested information from the Volunteers for review and hoped that the Town would provide the clerical assistance and pay the cost for providing the information to the Town.

Marie Chiarella, 1755 East Terra Mar Drive, referenced a partial demolition had occurred on her street in 2004, with the final demolition not being completed until February 2006. She indicated that she had been under the impression that the property was being used while the sewer construction was underway; however, she had since learned that the property had been rented to a contractor for a Pompano Beach sewer project. Ms. Chiarella stated that no records of permits could be found. She asked the Town to ensure that no other residential property could be used in this manner.

Mayor Parker asked that the Town Administration look into this matter immediately.

Suzanne Gerlick, 16 Sunset Lane, asked that the residents on Sunset Lane be treated fairly and like any other resident in Town.

Mark Conn, 4326 Bougainvilla Drive, stated that he had been a firefighter with the Volunteers for 14 years and believed that the department was "400 times better" than it was 10 years ago. He indicated that the Volunteers had been reviewed by ISO last year and jumped the rating from a 6 to a 4. Mr. Conn stated that ISO should be the ones to rate the fire department and its level of performance to ensure an independent review.

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Mr. Conn stated that his vehicle had been stolen and thanked the Broward Sheriff's Office for recovering his vehicle within two hours of being reported.

Kenneth Most referenced the annexation in 2000, stating that the Town had "lusted" after South Beach knowing it would double the tax roll and require very little incidental expenditure. He stated that in order to obtain the residents' interest, the Town had entered into an agreement which indicated that the extra tax revenues would be used towards the improvement of the Intracoastal Beach Area including the installation of sanitary sewers. Mr. Most stated that these funds were suppose to have been placed in a separate account, but he did not believe this had been the case as no accounting had been provided. He felt that the Commission should request such an accounting to ensure that the agreement was being upheld correctly.

Alina Coleman, 2024 Southwest 16 Street, requested a gate at both entrances to Bel Aire to avoid cut-through traffic. She stated that when the sewer system was completed, the power lines should be buried. Ms. Coleman stated that the iguana and rate problem being encountered in the neighborhood was creating a health safety issue. She indicated, too, that the Volunteers should be reinstated at this time, stating that they were an indispensable resource.

Ms. Coleman stated that term limits had to be implemented and expressed her opposition to any building greater than the 3-over-1 permitted by the Town. She also spoke in opposition to the proposed bank site on Commercial Boulevard and State Road A1A.

Ms. Coleman asked that the Commission look upon favorably at a dog friendly beach.

Maria Prunskis, 2024 Southeast 16 Street, stated that the residents wanted a Volunteer Fire Department and felt that anyone who felt they were "beholding" to the Sheriff should abstain from voting based on a conflict of interest. She agreed that gates were necessary at the entrances to Bel Aire, stating that cut-through traffic was endangering the children in the area.

Ms. Prunskis referenced the iguana infestation and emphasized the dangers of allowing these animals to continue roaming the neighborhood.

Ms. Prunskis also referenced zip codes and asked why the Commission had not yet implemented its own zip code for the entire Town.

Ms. Prunskis spoke in favor of term limits and expressed her opposition to changing the height limits. She also spoke in favor of a dog friendly beach.

Rosa Mickaliub, 4621 Bougainvilla Drive, spoke with regards to the Waste Management

contract and expressed her opposition to the increase in fees. She asked that the Commission review the rates again, stating that the fees were unfair as currently cited.

Beverly Kennedy, 3240 Seaward Drive, spoke in favor of unifying the Town's Code. She spoke in opposition to hedge heights and asked for the Commission's favorable consideration to Mayor Pro Tem Clark's proposal.

Mayor Parker called a recess. The meeting was reconvened at 8:47 p.m.

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

- A. **Ordinance No. 2006-08:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Ordinance 2005-18 to reflect that a referendum election will be conducted November 7, 2006 pursuant to Court Order; providing for severability, conflicts, and an effective date

Attorney Cherof read the ordinance by title only. He explained that this ordinance was merely a housekeeping issue.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Vice Mayor Yanni made a motion, seconded by Commissioner Silverstone, adopting the ordinance on second reading. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **Ordinance No. 2006-09:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Ordinance 2005-20 to reflect that a referendum election will be conducted November 7, 2006 pursuant to Court Order; providing for severability, conflicts, and an effective date

Attorney Cherof read the ordinance by title only. He explained that this ordinance was merely a housekeeping issue.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, adopting the ordinance on second reading. In a roll call vote, all voted in favor. The motion carried 5-0.

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- C. **Ordinance No. 2006-10:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 12 of the Code of Ordinances "Licenses" by adding a new Section 12-23; providing for the control and regulation of business activity occurring in residential zoning districts; providing for regulation of home occupations; providing for inspections and fees; providing for penalty; providing for severability; codification; and an effective date.

Attorney Cherof read the ordinance by title only.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to adopt the ordinance on second reading.

Vice Mayor Yanni stated that this issue had been discussed on several occasions and did not believe it should continue to be considered.

Attorney Cherof advised that this ordinance needed two amendments prior to adoption. He indicated that the first was on page 3, paragraph 10, the Commission had to affix a home occupational license fee.

Acting Development Services Director Brad Townsend stated that home occupational licenses ranged throughout Broward County from \$50 to \$100. Mayor Parker asked if the regular home occupational license for the Town was \$100. Mr. Bradford replied affirmatively.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, to affix a fee of \$100 to this ordinance.

Commissioner McIntee opposed the \$100 fee, stating that everything seemed to cost residents money. He asked that the cost be reduced to \$50.

Mr. Bradford suggested that perhaps the fee be affixed if the ordinance was approved by referendum, allowing the price of the license to be changed by resolution. Attorney Cherof recommended that the fee be affixed at this time, rather than being deferred. Mayor Parker asked if a new referendum would be necessary if the Commission sought to change the fee at a later date. Attorney Cherof replied negatively.

Mayor Pro Tem Clark amended his motion to affix a fee of \$50. Commissioner Silverstone amended his second.

Vice Mayor Yanni made a motion to table this item indefinitely. The motion died to a

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lack of a second.

In a roll call vote regarding the amendment to affix a fee of \$50, the motion carried 4-0, with Vice Mayor Yanni dissenting.

Attorney Cherof stated that the second amendment concerned the effective date and suggested the following wording, "this ordinance shall become affective only when approved by the electors at the November 7, 2006 election. Individuals currently engaged in home occupations shall have until January 30, 2007 to obtain a home occupational license."

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone to adopt the language provided by Attorney Cherof for the effective date.

Vice Mayor Yanni reiterated his objections to providing for home occupational licenses. He did not feel that there were that many people who needed the licenses and felt that the revenues were not needed.

In a roll call vote with regards to the amendment to the language on the effective date of the ordinance, the motion carried 4-1, with Vice Mayor Yanni dissenting.

Commissioner Silverstone stated that there were residents who held occupations in their homes and were currently not in compliance with the Town's Code. Mayor Parker stated that several individuals had requested the ordinance as many could obtain group health insurance if they could provide for a home occupation. Mayor Pro Tem Clark stated that in the spirit of providing a unified Code, the Commission should remember that home occupational licenses were already permitted in the northern section of Town.

Mayor Parker asked if affixing the \$50 fee would also change the home occupational license fee for the residents living to the north. Attorney Cherof replied affirmatively.

In a roll call vote to adopt the ordinance as amended, the motion carried 4-1, with Vice Mayor Yanni dissenting.

- D. **Ordinance No. 2006-11:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, submitting to referendum an amendment to Chapter 12 of the Code of Ordinances to add home occupations as an allowed use in

residential zoning districts; 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 November 2006 General 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 the ordinance by title

Mayor Parker opened the public hearing.

Beverly Kennedy, 3240 Seward Drive, stated that occupational licenses from Broward County were effective as of October 1st each year and asked that the Commission consider the same effective date to avoid problems in the future. She stated that the County only provided for a \$50 fee for home occupational licenses. Attorney Cherof explained that new licenses would be required in October as the Town's occupational license also ran with the fiscal year based on State Statutes.

Diane Boutin, 4244 El Mar Drive, felt that the Town was working towards continuity between its residential and business districts, stating that having the home occupational licenses would allow the Town to keep track of what businesses were being run within the municipalities.

Stuart Dodd, 232 Imperial Lane, spoke in opposition of the home occupational licenses, stating that many already had their licenses through the County. He felt that the Town was making it more difficult for the "small, poor guys" that were trying to run a business.

Mayor Parker closed the public hearing.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, adopting the ordinance on second reading. In a roll call vote, the motion carried 3-2, with Vice Mayor Yanni and Commissioner McIntee dissenting.

9. COMMISSIONER COMMENTS

Mayor Pro Tem Clark asked that the workshop meeting for tomorrow night be rescheduled to Friday as he would need to be out of Town for his father-in-law's surgery.

There were no objections. Mayor Parker ordered the workshop meeting be rescheduled from July 26, 2006, to Friday, July 28, 2006, at 6:00 p.m.

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Mayor Pro Tem Clark stated that the City of Pompano Beach intended to assess Terra Mar residents in the amount of \$750 for a capital recovery fee when the hook up to the sewer system was accomplished. He stated that there would also be a \$120 hook-up charge. Mayor Pro Tem Clark stated that the recovery fee was a farce as there was no capital to recover as the Town had paid for the entire project. He indicated that he would be challenging the legality of this action.

Commissioner McIntee stated that the Town should appeal these costs as its residents were going to be affected by this action. Attorney Cherof stated that Mayor Pro Tem Clark was pursuing this in the correct manner as it was the individual's rate payers challenge. He indicated that the Commissioners were welcome to voice their concerns regarding the charges, but reiterated that Mayor Pro Tem Clark was pursuing this in the correct manner.

Mayor Parker asked if the Town could hire an attorney on behalf of the residents to reduce the fees. Attorney Cherof did not believe this would be possible.

Commissioner Silverstone thanked the public for participating under public comments tonight. He was pleased that the public was participating in Town business.

Commissioner Silverstone stated that the fire issue was "tearing his heart", stating that he had been involved with the Volunteer Fire Department for many years. He indicated that the department had grown tremendously and all its members had "stepped up a notch".

Commissioner McIntee referenced the donated vehicle from the City of Plantation, stating that he had been at a meeting when Chief Putney, of the City of Plantation, had offered to donate the vehicle. He stated that the vehicle had been accepted, believing that it would be a great benefit to the community. Commissioner McIntee stated that two days later, the Volunteers had received a call to have the vehicle returned. He referenced some articles that had appeared in the *Sun-Sentinel*.

Commissioner McIntee felt that "pressure" had been placed on the City of Plantation and apologized because he felt that now the Volunteers might not receive the emergency vehicle. He could not understand that anyone could resist the Volunteers obtaining the vehicle.

Commissioner McIntee felt that non-ad valorem assessments and fees were burdening the Town. He stated that he would support the Mayor with his request to lower the millage rate. Commissioner McIntee felt that many of the assessments and fees should be included as part of the ad valorem taxes so that residents could obtain a tax deduction.

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Vice Mayor Yanni stated that it was clear that many people wanted the Volunteer Fire Department and assumed that next people would request to have the Town run its own law enforcement department. He indicated that perhaps residents were not aware that the Town had the best police protection in the County. Vice Mayor Yanni stated that what concerned him about the Volunteers was that they were pursuing this issue in the wrong manner. He indicated that the department noted that they wanted to take over fire suppression for the entire Town, yet a true plan was never provided to the Commission for consideration. Vice Mayor Yanni stated that there was no plan to show how the station would be manned 24 hours a day, 7 days a week; nor was there a plan to show what the true costs would be. He indicated that he had no problems with the Volunteers, but felt that he had to be assured that they were prepared and ready to protect Town residents.

Vice Mayor Yanni stated that the Volunteers had requested the Town to obtain costs from the City of Fort Lauderdale and the City of Pompano Beach; however, he indicated that bringing in a separate department only meant that the Volunteers would still be working with professional firefighters. He emphasized that it was a shame that the Volunteers were not working with the Broward Sheriff's Office, stating that the Town enjoyed the best possible protection under the combined plan.

Vice Mayor Yanni referenced the Bert J. Harris Act claims and disagreed with Commissioner Silverstone's comments that the Town did not have to worry about the claims. He explained that there was over \$20 million in claims, a serious situation that could cost the residents a tremendous amount of money.

Vice Mayor Yanni expressed concern that the Town was heading towards a road of self-destruction. He indicated that there was talk about whether he had a conflict of interest because he worked for the Broward Sheriff's Office, but emphasized that unlike Commissioners McIntee and Silverstone, he did not get paid from funds for the fire department and, therefore, he did not have a conflict. Vice Mayor Yanni stated that he had no problems voting in favor of the Volunteers, but reiterated that he first needed to be convinced that the Volunteers could protect the Town by themselves.

Mayor Parker stated that he had spoken with Congressman Clay Shaw's office today with regards to obtaining a unified zip code for the Town. He explained that the Postmaster General was the one who assigned zip codes and, so far, had ignored requests from State Representatives Jeff Atwater and Ellyn Bogdanoff, Congressman Shaw, and one the Town's U.S. Senators. Mayor Parker stated that Congressman Shaw was trying to arrange a Town meeting wherein the Postmaster General would be invited to attend, but had not yet been able to do so.

Mayor Parker referenced the referendum questions on November's ballots and spoke in opposition to the term limits as they were being represented. He described the

proposed height restriction referendums and encouraged residents to vote in favor of proposition one. Mayor Parker expressed concern with the result of the Attorney General's opinion, feeling that Commissioner McIntee and the members of the Citizens Initiate Committee had misled the public when stating that there was no way that the Bert J. Harris Protection Act would apply. He stated that the comments now that if the Bert J. Harris Act is found to apply by a court, then the claimants would be permitted to build 15 story buildings would not close the action. Mayor Parker stated that if the Bert J. Harris Act applied, the Charter now only allowed the Town to pay for damages. He indicated that the Town was seeking a Declaratory Judgment from the local courts in an effort to determine if the Bert J. Harris Act applied to the claims filed against the Town.

Mayor Parker referenced stated that Commissioners McIntee and Silverstone apparently wanted the residents to subsidize the businesses, stating that if the fire assessment was placed into ad valorem taxes, 78 percent of the homeowners would have an increase in their taxes. He explained that the Town's fees were always designed to make the businesses, who could write these expenses off on their income taxes, to pay their fair share.

Mayor Parker stated that the millage rate needed to be reduced this year by at least three percent. He explained that reducing the millage rate by three percent at least ensured homesteaded properties from paying a higher increase due to the cap placed on assessment values. Mayor Parker encouraged residents to contact Commissioners to request that the millage rate be reduced, as well as ensuring that residents did not subsidize the costs for businesses in Town.

10. ORDINANCES (1ST Reading)

There were no ordinances for first reading to be considered.

11. CONSENT AGENDA

- A. CONTRACT: with US Grounds, Inc. for sweeping services throughout Town for the period between October 1, 2006 and September 30, 2007
- B. CONTRACT EXTENSION: on existing service agreement with Brinks Incorporated for a period of two months
- C. CONTRACT: for painting services for the Town Hall Complex and the Chamber of Commerce
- D. CONTRACT RENEWAL: of existing agreements for emergency services with Waste Management, Grubbs, PBS&J, Tele-Vac South, Inc., and Man-Con, Inc.

- E. PURCHASE: of three vehicles for use by the Municipal Services Department
- F. AMENDED AGREEMENT: with Broward Sheriff's Office regarding law enforcement services

Commissioner McIntee asked that Item F be removed from the consent agenda.

Commissioner Silverstone made a motion, seconded by Vice Mayor Yanni, to approve Items A through E of the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee asked how much was .3 percent of the total cost of the contract. Chief Gooding stated that it was approximately \$1,800 monthly, to cover the costs of pension, insurance, and contributions. Commissioner McIntee stated that the Town's contract with the Broward Sheriff's Office was for five percent and questioned if it had ever been raised. Manager Baldwin replied that the contract was raised by five percent each year. Commissioner McIntee expressed concern that the contract was being raised by an additional .3 percent. Chief Gooding explained that this was a new contract for a five year period and that the 5.3 only applied to pension, insurance and contributions.

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

12. RESOLUTION

- A. **RESOLUTION NO. 2006-16:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, relating to the provision of fire protection services, facilities and programs in the Town of Lauderdale-By-The-Sea, Florida; describing the method of assessing fire protection assessed costs against assessed property located within the town's geographical boundaries, known as fire protection assessment area – townwide; establishing the estimated rates for fire protection services for the fiscal year beginning October 1, 2006; directing the preparation of an assessment roll for fire protection assessment area – townwide; authorizing a public hearing and directing the provision of notice thereof; providing for conflict; providing for severability; providing for an effective date.

Attorney Cherof read the resolution by title only.

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Mayor Parker asked for confirmation that the hearing date did not conflict with the public hearings of Broward County. Ms. Medina confirmed that the dates did not conflict.

Mayor Parker asked if there had been any changes to the rates. Manager Baldwin replied negatively.

Mayor Parker opened the public hearing.

John Thompson, 671 Lakes Circle, Pompano Beach, stated that the Town had requested an independent analysis concerning the legalities of the special assessment and felt it would be prudent to wait until the Town received the opinion before adopting the assessment. He expressed his concern that this assessment was illegal.

Mayor Parker asked if the Town had asked the independent attorney if the Town should proceed with the assessment at this time. Attorney Cherof replied affirmatively, stating that the attorney had indicated that the town should proceed as he did not believe he could render an opinion in time for this round of the assessment process. He pointed out that the adoption of this resolution did not establish the fire assessment, but allowed the announcement of the public hearings to continue the process.

Diane Boutin, 4244 El Mar Drive, referenced the timeshare condominiums in Town and that these condominiums were run as businesses and should be assessed accordingly. She stated that timeshare units were not subsidized by the residents and paid all the occupational and license fees as any other business. Ms. Boutin requested that the reclassification be reconsidered so that those properties that met the criteria of a business were assessed as commercial.

Mark Conn, 4326 Bougainvilla Drive, stated that the Commission had to understand that although businesses might be able to write-off certain expenses, the increase in fees were typically passed on to the residents. He indicated that renters such as himself could not write-off the fee increases.

Mayor Parker closed the public hearing.

Commissioner Silverstone asked if the resolution changed the methodology by which the rates were determined. Attorney Cherof replied negatively.

Mayor Parker made a motion, seconded by Vice Mayor Yanni, to approve the resolution.

Commissioner McIntee asked if the Town could wait a month before reconsidering the resolution. Attorney Cherof replied negatively, stating that there was a very specific timetable that needed to be followed. He reminded the Commission that this was only

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the preliminary announcement of the continuation of the fire assessment program. Attorney Cherof stated that the public hearing would take effect on September 14, 2006, at which time the Commission could “pull the plug” on the program and directing the Town Manager to address the fees within the budget. Mayor Parker felt that this course of action may require the Town to increase the millage rate.

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

- B. **RESOLUTION NO. 2006-17:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, relating to the levy and collection of the Town’s stormwater management utility fees using the procedures set forth in section 197.3632, Florida Statutes; providing for the area in which the fee will be levied, a description of the stormwater management utility services funded by the fees and the methodology for determining the fees, and setting forth the initial stormwater management utility fees schedule for the fiscal year beginning October 1, 2006; directing the preparation of an assessment roll as defined in Ordinance 2006-07; authorizing a public hearing and directing the provision of notice thereof; providing for conflict, severability, and an effective date.

Attorney Cherof read the resolution by title only.

Mayor Parker asked for confirmation that the fee was not being changed, but rather the Town was changing the manner in which the fees were collected. Attorney Cherof confirmed that the only change was that the fees would be collected with the tax bills as opposed to being billed quarterly by the Town.

Mayor Parker opened the public hearing.

John Thompson, 671 Lakeside Circle, felt that this fee was illegal, despite the Town Attorney advising that it was not an assessment. He felt that the Commission should be careful with the language it was agreeing to, stating that he did not understand the wording provided in the resolution. Mr. Thompson felt that not only did the properties have to benefit from the services, but that the cost had to be distributed fairly based on the degree of benefit. He provided as an example the fire assessment fees which he felt were being used to pay for emergency medical services despite what was told to residents.

Diane Boutin, 4244 El Mar Drive, asked for confirmation if the charges were based on the square foot of the property, based on the number of stories for a structure, or the square footage of the footprint of the property. Attorney Cherof advised that the fees were calculated based on the square foot of the impervious areas of the footprint of the

structure.

Terry Klicklonick, 1770 Southeast 21 Avenue, stated that she lived in Bel Aire and, prior to the annexation, Broward County had installed drainage holes to gather water but not connected to a particular system. She asked if she would have to pay this fee as well. Attorney Cherof replied affirmatively, stating that those types of drainage systems were a part of the overall stormwater plan. Manager Baldwin explained that the Town had to maintain that part of the system as well. Attorney Cherof explained that stormwater management was not a site specific issue as it was just as important to handle stormwater away from a property as much as maintaining proper drainage on a property.

Mayor Parker closed the public hearing.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the resolution.

Commissioner Silverstone asked if the methodology used to calculate the fees was the same. Attorney Cherof replied affirmatively, reiterating that the only change was the manner in which the fee was collected. Commissioner Silverstone asked what would happen if a determination was made that the method in collection was illegal. Attorney Cherof explained that if the Town wanted to maintain the stormwater system, the Town would have to collect the funds from ad valorem taxation. He indicated that in that event, the Commission would have to consider an increase in the millage rate to collect sufficient revenues to pay for the maintenance.

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

Mayor Parker recessed the meeting. The meeting was reconvened at 10:23 p.m.

13. OLD BUSINESS

- A. Discussion and/or action regarding ordinance No. 2005-20, as it pertains to the referendum questions concerning the replacement of existing non-conforming buildings (*Mayor Pro Tem Chuck Clark*) (*tabled from July 11, 2006*)

Commissioner McIntee, as Chairman of the Citizens Initiate Committee, stated that he had spoken with the Committee's members and they had determined that they did not want to remove the second referendum concerning height restrictions from the ballot.

Mayor Pro Tem Clark asked for confirmation that the Town Attorney believed that if the Commission requested the removal from the court, the judge would probably not be

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inclined to approve the request unless both parties agreed to the removal. Town Attorney replied that the odds would be against the Town as it was based on a stipulated order settling the case.

Mayor Pro Tem Clark asked if, in view of Commissioner McIntee's allegations of bribery, which he believed tainted the referendum and the Commission until it was resolved, would the judge be inclined to consider the request. Attorney Cherof stated this was an additional factor that could be brought to the judge's attention.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, instructing the Town Attorney to go back before the trial judge to ask to set aside that portion of the order for those reasons.

Commissioner McIntee expressed his disappointment that Mayor Pro Tem Clark was taking this stand, feeling that if that were the case, any circumstance where there might be some impropriety or actions, one party might try to do something to have something like this happen to their benefit.

Commissioner McIntee asked what would be the percentage in which this request might be requested. Attorney Cherof stated that he could not venture to guess as the outcome was unpredictable. Commissioner McIntee asked what would be the cost to pursue this matter. Attorney Cherof estimated that the cost would be approximately \$1,000. Commissioner McIntee stated that the person involved in these allegations claimed not to be a developer. Mayor Pro Tem Clark stated that whether or not the individual was a developer did not, in his mind, change the fact that the allegations were made and it tainted the referendum and the Commission. He felt that it would be more appropriate to consider this issue at another time, if it was the desire of the Commission. Mayor Pro Tem Clark felt that the general belief was that this individual was a developer and that that in and of itself presented a problem.

Mayor Parker explained the proposed referendum and expressed his belief that the Committee wanted to keep the referendum on the ballot to try to ensure that residents voted against the first proposition because of this one.

Commissioner Silverstone asked if it was determined that the Attorney General's opinion was correct and the Bert J. Harris Act did apply to the Charter amendment, wasn't there an escape clause within the adopted amendment. Attorney Cherof replied negatively, stating that the manner in which the referendum was drafted was faulty and that clause was not part of the referendum. Commissioner Silverstone stated that he was led to believe that the intent of the language would be considered in the event of a court case. Attorney Cherof stated that he did not disagree that this might have been the intent; however, he reiterated that the manner in which the referendum was written it did not speak to safety clause. Commissioner Silverstone stated that he supposed this

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matter would be resolved in court. Attorney Cherof replied negatively, explaining that this issue would not be before the court as the clause was not in the Charter as it was amended.

In a roll call vote, the motion carried 3-2, with Commissioner McIntee and Commissioner Silverstone dissenting.

- B. Discussion and/or action regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for residential units (*Mayor Oliver Parker*) (*tabled from July 11, 2006*)

Manager Baldwin stated that Tony Spadacia, of Waste Management, had been unable to attend. Mayor Parker stated that Mr. Spadacia had agreed to amend the contract with regards to duplexes without raising the single family rate. He explained that it provided duplexes with the opportunity to elect the use of only one toter as opposed to two toters for a lower rate. Mr. Mason agreed that Mr. Spadacia had agreed to the change as noted, but felt that there was a condition that the Town would, next year, place the Waste Management fees as an assessment on the tax bills.

Commissioner McIntee made a motion, seconded by Mayor Parker, to table this item to September 14, 2006, providing a letter of intent in advance, and requesting that Tony Spadacia attend the meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for commercial units (*Commissioner Jim Silverstone*) (*tabled from July 11, 2006*)

Commissioner Silverstone stated that he had requested some estimated figures on how much residential rates needed to be increased to offset some of the cost for commercial units.

Commissioner Silverstone made a motion, seconded by Mayor Parker, to table this item to September 14, 2006, providing estimated figures prior to the meeting, and requesting that Tony Spadacia attend the meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action to direct Town Attorney to request Broward Sheriff's Office and the State Attorney's Office review allegations and cross-allegations made by Commissioner McIntee and David Beyer (*Mayor Oliver Parker*) (*continued from July 11, 2006*)

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Mayor Parker expressed his belief that this whole episode of allegations had created a cloud over this Commission. He stated that a former mayor had written a letter to the *By the Sea Times* claiming that if an offer had been made to Commissioner McIntee, it must be a routine operating procedure in the Town. Mayor Parker stated that this comment was "odd" in that he had never received an offer, Vice Mayor Yanni had indicated at the last meeting that he had never received one, and Commissioners Clark and Silverstone had also indicated that they had never received an offer. He indicated that he had intentionally reached out to other past commissioners to ascertain if they had ever received a bribe, with everyone replying in the negative.

Mayor Parker stated that Commissioner McIntee had discussed this issue with the Federal Bureau of Investigations (FBI) and that this matter was in their hands; however, Commissioner McIntee had discussed this issue during the last meeting while specifically stating that the FBI had instructed him not to do so. He felt that even if the FBI was investigating this issue, the Commission needed to police itself and an investigation was needed. Mayor Parker stated that the authorities the Commission could turn to were the Broward Sheriff's Office and the Broward State Attorney.

Mayor Parker made a motion, seconded by Vice Mayor Yanni, directing the Town Attorney to request the Broward Sheriff's Office and the Broward State Attorney to investigate these allegations and cross-allegations by Commissioner McIntee and Mr. David Beyer.

Vice Mayor Yanni felt that this issue needed to be cleared up so that the Commission could proceed with its business.

Commissioner Silverstone thanked Commissioner McIntee for his "guts" to bring this up. He stated that he knew Commissioner McIntee and felt that Commissioner McIntee would not have brought this up unless he had good cause. Commissioner Silverstone stated that he had since spoken to another resident who had indicated that the same thing had happened to him, with the same individual. Commissioner McIntee felt that the intent of Commissioner McIntee's actions were to ensure that this did not occur to anyone else on the Commission. He felt that this issue in no way tainted the Commission and felt it was Mayor Parker who was tainting the Commission by questioning Commissioner McIntee's intentions. Mayor Parker stated that he was not questioning Commissioner McIntee's intentions; however, he felt that if Commissioner McIntee had been offered a bribe, the person needed to be prosecuted. He felt that the Commission had to ensure that this issue did not "just go by the waist side". Commissioner Silverstone stated that this was the Mayor's opinion and he believed that it was already being handled correctly. He indicated that, in his opinion, the Mayor was questioning Commissioner McIntee's integrity. Mayor Parker stated that Commissioner

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McIntee's integrity was questioned by Mr. David Beyer who had stated that Commissioner McIntee had not told the truth. He emphasized that he wished to see Commissioner McIntee's integrity cleared, feeling that if Commissioner McIntee's integrity were tarnished, the entire Commission's integrity was tarnished.

Commissioner Silverstone stated that the Commission was self-incriminating itself by making accusations. He felt that if Commissioner McIntee had indicated that he had contacted the FBI - that was "good enough" for him.

Commissioner McIntee felt shocked at how this was issue was proceeding, stating that he would cooperate with either the Broward Sheriff's Office or the State Attorney's Office if they wished to investigate the allegations. He questioned Mayor Parker's comments concerning his career as a criminal attorney and his thoughts that the FBI might not investigate \$100 crimes and disagreed. Commissioner McIntee stated that he had never mentioned a developer by name and that he had started his speech with "people, you be the judge". He briefly recounted the incident in question, stating that he understood that it was an un-provable case. Commissioner McIntee reiterated that he would cooperate with any agency, emphasizing that he did not believe this was the "Lindbergh case", but rather a "piece of a puzzle". He stated that the one fact remained that the individual admitted that the \$100 bill was on the seat and it dropped out of his pocket. Commissioner McIntee questioned what the odds were that a \$100 bill would drop out of a pocket on a seat, with someone saying as they left the cars, "oh, I hope nothing fell out of my pocket".

Vice Mayor Yanni felt that Commissioner McIntee had nothing to hide, but stated that this needed to be investigated at "put to bed". He indicated that this had nothing to do with his feelings towards Commissioner McIntee or Mr. Beyer, stating that once the investigation was requested, the Commission could back to its regular business.

Mayor Parker stated that the Commission had already set a precedent that when a cloud was allegedly placed over the Commission or its actions, the Commission asked that the Town Attorney request the Broward Sheriff's Office and the State Attorney to investigate. He indicated that this had previously been done with an alleged "illegal push poll" that the Commission had allegedly engaged in.

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

Mayor Parker asked Attorney Cherof to draft a letter at his convenience.

Mayor Parker announced that it was 11:00 p.m. and asked if the Commission wished to extend the meeting time.

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to extend the

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meeting until the Commission reached New Business. In a roll call vote, all voted in favor.

E. Report by Commissioner McIntee regarding the status of the donation of an emergency vehicle from Plantation Fire Department (*Mayor Oliver Parker*) (*continued from July 11, 2006*)

1. Discussion and/or action regarding Commissioner McIntee's request to have the Town pay for diesel fuel for the donated emergency vehicle (*Mayor Oliver Parker*) (*continued from July 11, 2006*)

Commissioner McIntee stated that Chief Putney, from the City of Plantation, was currently on vacation, but that the Volunteers expected to find out by next week whether the vehicle would be donated.

Commissioner McIntee stated that he did not believe that the donation of a vehicle to the Volunteer Fire Department was anybody's business but "our" own. He indicated that with regards to the fuel, he was withdrawing the request as "we" had received a benefactor who was willing to pay for the fuel.

Mayor Parker requested an updated report from the Volunteer Fire Department concerning this matter on the next agenda.

F. Discussion and/or action regarding off-street parking and off-site parking places (*Vice Mayor John Yanni*) (*continued from June 27, 2006*)

Vice Mayor Yanni stated that the current off-site parking regulations were for 400 feet and he wished to extend the maximum to at least 1,000 feet.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to amend the ordinance regarding off-street parking.

Mayor Parker asked why this amendment was being considered. Vice Mayor Yanni explained that many businesses required additional parking and felt that there were too few places within 400 feet of another structure that could be used for this purpose.

Commissioner McIntee asked with regards to the ordinance to eliminate parking enforcement in certain areas between the hours of 9:00 a.m. and 5:00 p.m. Attorney Cherof replied affirmatively, stating that the ordinance should be prepared by the next meeting.

Mayor Parker asked if it would be improper for the Commission to make a motion to

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suspend parking enforcement in the noted area. Attorney Cherof replied affirmatively.

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

Commissioner Silverstone asked if a motion was necessary regarding the vehicle donation. Mayor Parker replied negatively, stating that only a report had been requested.

Commissioner Silverstone asked if anyone on the dais had called the City of Plantation with regards to the donation of the emergency vehicle. The Commission responded negatively. Commissioner Silverstone asked Manager Baldwin if he had called Plantation or if he had directed anyone to call representatives of Plantation. Manager Baldwin replied negatively and advised that he had not given anyone direction to contact Plantation.

Commissioner Silverstone asked Chief John Frailey if he had called the City of Plantation regarding the donation of the vehicle. Chief Frailey stated that he had called Battalion Chief Gordon to ask about the vehicle when he saw the item listed on the agenda. Commissioner McIntee asked why Chief Frailey had called when the Volunteers had nothing to do with the Broward Sheriff's Office. Chief Frailey indicated that he only wanted to find out the details on the vehicle listed on the agenda and indicated that this was when he had found out that the utility vehicle used as the third vehicle out in a fire had been taken out of service. Commissioner McIntee stated that "we" had sent two individuals in that vehicle to pick up the vehicle and questioned whether Plantation had been discouraged from donating the vehicle. Chief Frailey replied negatively, emphasizing that he only called to obtain information regarding the vehicle.

G. Discussion and/or action regarding a change order to the Sunset Lane Sewer Project

Mayor Parker stated that the change order was for a total of \$30,000.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to approve the change order.

Commissioner McIntee asked if this project was being piggybacked with another project. Mayor Pro Tem Clark replied affirmatively, stating that it was piggybacked to the Terra Mar project. Commissioner McIntee asked for confirmation that the project costs itself had not been increased. Mr. Mason replied affirmatively, stating that the contractor had had to demobilize because the Town had been unable to obtain the necessary easements.

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

Mayor Parker stated that the Town had not been able to mobilize on this matter as the last project in line had not provided the Town with an easement. He indicated that the residents of Bel Aire had provided the Town with a general easement so the Town could move forward with the project.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to accept the general easement in order to move forward with the project. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that by agreement, discussion under New Business would be tabled to the next meeting.

Manager Baldwin stated that letters had been sent to residents concerning the enforcement of the current hedge heights. He indicated that staff was request direction so that residents could be notified of the Commission's intent.

Discussion was held concerning a motion directing that enforcement be withheld until this item was discussed. Attorney Cherof recommended against the Commission ordering that the Code not be enforced, stating that ordinances were adopted through a formal procedure which included public hearing. He indicated that suspending enforcement of the Town's ordinances was to abrogate the entire process. Attorney Cherof stated that what the Town Manager chose to do from an administrative point of view was his choice.

Ms. Medina advised that staff was requesting the removal of Items F and G as the applicants had requested an additional tabling. She explained that since the items would need to be re-advertised, if they were removed, the Commission would not have to further consider these items at the next meeting. There were no objections and the Mayor ordered the items removed from the agenda.

Mayor Parker announced that the remaining items were tabled to the next meeting.

14. NEW BUSINESS

- A. Discussion and/or action regarding the addition of trash collection as an assessment on property tax roll (*Mayor Pro Tem Chuck Clark*) (*continued*)

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from July 11, 2006)

This item was tabled to the next meeting.

- B. Discussion and/or action requiring three bids to be obtained for any Town contract over \$15,000 (*Commissioner Jerry McIntee*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- C. Discussion and/or action adopting rules of procedures for making appointments to Town boards, limiting appointments to persons who have filed current applications (*Mayor Oliver Parker*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- D. Discussion and/or action regarding solicitors of signatures for referendum issues to be registered with the Town Clerk, with all solicitors being identified for security (*Commissioner Jerry McIntee*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- E. Discussion and/or action regarding regulations on insurance coverage for paid solicitors or their employees going door-to-door for signatures, ensuring proper identification cards are issued by the Town for protection of residents (*Commissioner Jerry McIntee*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- F. "PUBLIC HEARING" – SITE PLAN; Commerce Bank/4353 North Ocean Drive (*tabled from June 13, 2006*) (***applicant requesting additional tabling; new hearing date to be advertised upon Planning and Zoning Board's review of application***)

This item was removed from the agenda until further advertisement was made.

- G. "PUBLIC HEARING" – VARIANCE; Commerce Bank/4353 North Ocean Drive (*tabled from June 13, 2006*) (***applicant requesting additional tabling; new hearing date to be advertised upon Planning and Zoning Board's review of application***)

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This item was removed from the agenda until further advertisement was made.

- H. Discussion and/or action regarding a proposed ordinance to restrict dogs from public park areas (*Mayor Oliver Parker*) (*continued from June 6, 2006*)

This item was tabled to the next meeting.

- I. Discussion and/or action regarding beach swimmer protection (*Commissioner Jim Silverstone*)

This item was tabled to the next meeting.

- J. Discussion and/or action concerning existing regulations of hedge heights and hedge placement to ensure safety (*Mayor Pro Tem Chuck Clark*)

This item was discussed earlier in the meeting.

- K. Discussion and/or action regarding who picks Fourth of July parade marshal and the possibility of opening the selection to Town residents (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- L. Discussion and/or action regarding the hiring of a federal lobbyist to obtain federal grant funds (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- M. Discussion and/or action regarding the order in which items are placed on the agenda for Commission consideration (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

15. TOWN MANAGER REPORT

- A. Code Compliance Quarterly Report

Mayor Parker asked if there were any objections to accepting the Code Compliance quarterly report. As there were no objections, the Mayor so ordered.

16. TOWN ATTORNEY REPORT

The Town Attorney had no reports for the Commission's consideration.

17. ADJOURNMENT

As there were no objections or any further business to discuss, Mayor Parker adjourned the meeting at 11:23 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____