

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

Town Commission Meeting Room  
*4501 Ocean Drive*  
*Thursday, September 14, 2006*  
*7:00 P.M.*

**1. CALL TO ORDER, MAYOR OLIVER PARKER**

The meeting was called to order by Mayor Parker at 7:00 p.m. Present were Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee, Commissioner Silverstone, Also present were Town Manager Robert Baldwin, Town Planner Walter Keller, and Town Clerk Medina.

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

The Pledge of Allegiance was recited.

**3. INVOCATION, TOWN CHAPLAIN**

Father Handrahan delivered the invocation.

**4. PUBLIC HEARINGS WITH RESPECT TO THE BUDGET**

Mayor Parker introduced the first order of business as the public hearings with respect to the budget and the millage rate special assessments that will be in the city tax bill this year.

The first item of discussion was Resolution 2006-18. Mayor Parker asked Town Attorney to read Resolution 2006-18. Resolution 2006-18 is a proposal for the town of Lauderdale By The Sea, Florida adopting a proposed millage rate for the fiscal year beginning October 1, 2006 and ending September 30, 2007 stating the percentage amount the proposed rate exceeds roll back rate. This is the second and final public hearing to adopt the final millage rate providing for severability, conflicts, and effective date.

Mayor Parker announced that this is a public hearing. Before motions can be accepted, the public will be heard regarding what they would like with regard to this matter. The public portion of this proceeding was opened to for public discussion. Mayor Parker asked the public on his left if anyone would like to address the commission. No one on the left elected to speak. Mayor Parker asked the public on his right if anyone would like to address the commission. Mr. Thompson wished to speak to the Commission. Mayor Parker stated that the rule for discussion is a limit of 5 minutes.

## **PUBLIC DISCUSSION**

Mr. John Thompson, 671 Lakeside Circle, #306 in Pompano Beach, Fl., wished to discuss the budget for next year.

A tax rate next year at 4.7 mil taxes will be 150% more or 250% of what the tax were in 2001. The people of the town do not feel they are getting 75% more services from government. He felt one way to reduce taxes was through elimination of special assessments.

On May 23, 2006 the commission agreed to a contract for an attorney who was to advise on the legality of the special fire assessment. A citizen called the attorney last Friday to ask about the assignment and the attorney indicated that he had not yet received a contract from the Commission.

Mr. Thompson wanted to remind the Commission that contracts had been awarded in other matters in a short period of time, on one occasion in only one week. Relative to the matter under discussion, it has been fifteen weeks since the decision to let the contract was made and the contract has not yet been awarded. The issue here is relative to a Supreme Court Decision: "May a Special Assessment be used to fund EMS Personnel or Equipment." The Supreme Court said, "No, no part of a special assessment can be used to fund EMS." Yet, 60 percent of the calls to Engine 36 are EMS calls. The Commission has signed a resolution stating that none of the assessment was to be used for EMS and that all the calls for EMS are going to be funded by other sources. That statement is patently untrue.

With regard to the budget, Mr. Thomson pointed out the budget is 75% greater than it was 5 years ago. He would like to suggest that whenever more money is being thrown at a problem, there is the possibility that it is not the best way to fix the problem. In cases like this, it is a prudent practice to have a forensic audit. The cost of this, compared to other contracts being let to consultants, is not really that expensive, possibly around \$15,000. This is different from the type of audits performed every year. A forensic audit looks for problems. It would seem prudent to spend money in this way to identify problems.

There being no other speakers from the public, Mayor Parker closed the public discussion portion of this proceeding.

## **PRESENTATION ON THE BUDGET BY THE CITY MANAGER**

Mayor Parker asked City Manager if he would like to give his budget presentation at this time. City Manager stated that the complete budget had been presented at the last meeting and the information presented today would be a short update. Upon consultation with the Finance Director and permission from the Commission, this presentation moved forward.

## **Budget Presentation**

The proposed annual budget for fiscal year 2006 – 2007, all funds, totals \$25,928,997. The budget consists of 3 fund types with 7 individual funds.

### **General Fund**

Town Clerk Medina was directed to present the budget findings. General and Capital Funds represent 89% of the total budget. The General Fund is the largest fund. Taxes and fees represent approximately 79% of the revenue source for General Fund. Contractual services and operating expenses represent 66% of the general funds. The largest use of general funds is public safety, projected to be approximately \$6.3 million. Changes of funds allocated to public safety are: elimination of a full time fire administrator, funded code compliance hearing officers and support activities, funded 5% increase in contracts and contractual obligations, funded mapping software and GIS database.

The second largest use of general funds is general government and is projected to be \$3.9 million. Funds in the general fund government budget have been allocated for web page update and code book online services, height restriction reserve and contingency funds, hurricane shutters, and reception counter for Chamber Building, BJ Harris Litigation Fund and conceptual plans for grant proposals and debt service.

The third largest use of general funds is inter-fund transfers, projected to be \$2.6 million which represents approximately 96% of the funds being transferred to the Capital Improvement Fund for Capital Improvement Projects.

The remaining use of general funds consists of municipal services, projected to be \$1.8 million. Funds have been allocated for year-around contractual services for street sweeping and landscape services, additional landscape funds for "Adopt a Tree" Program and "Broward Beautiful" grants. Funding has been provided for building repairs and improvements, funded year around satellite service, funded purchase of a new vehicle, equipment and debt service.

Recreation equals \$2.4 million, 3% of total budget, projected to be \$379 thousand. Funds in the recreation budget have been allocated for year around contractual services for senior center and performance arts center, special events, new Christmas decorations, increased beach raking and sanitation services and funds for purchase of a front end loader for beach maintenance.

The remaining use of general fund is parking enforcement, projected to be \$248 thousand.

### **Capital Improvement Fund**

The second largest fund is Capital Improvement Fund which provides over \$8.1 million in funding for capital projects. Funding is proposed for Palm Club sanitary sewer, construction funds for Bel Aire and Sunset Lane, design and permitting for the Beach Pavilion, each end of Commercial Boulevard, Jarvis Hall building remodeling, certification process for A1A Landscape and Streetscape, which is a joint venture with Florida Department of Transportation. Other projects consist of Seagrape Drive Beautification Project, the Four Beach Pedestrian Walkway at the Portals, and the Fish Habitat Restoration Project.

Proprietary fund consist of 8.43% of total budget. Income for sewer, storm water and parking funds are generated from fees. There is no increase in rates or fees being proposed for fiscal year 2006 – 2007.

Proprietary funds are projected to be approximately \$2.1 million.

### **Special Revenue Funds**

Special Revenue Funds equals .07% of the total budget. These monies fund Police Law Training and Police Law Enforcement. Funds are generated from confiscations and fines. Projects consist of mandatory training and specialized equipment.

### **Emergency Reserve**

The emergency reserve currently has a balance of \$2.1 million as of June, 2006. A proposed millage rate of 4.99 will generate an additional \$590 thousand in the event of a hurricane.

Changes made in the July 28 workshop consist of reduction of contingency of \$12,319. Benign profits which consist of Area Aging, Women in Distress, Kids Voting, Family Central, Boy Scouts, and Broward Coalition for the Homeless. This is the end of the Report.

A reminder was provided to Mayor Parker by Town Attorney that the proposed millage is what the commission is setting tonight. The final millage will not be confirmed until the September 28, 2006 meeting.

The steps are to adopt a preliminary millage rate. Calculate the percentage above the roll back rate. The proposed millage rate is 5.mils. One sets this rate high because it can be lowered. Every year it is lowered back to the millage from the previous year. There have been no tax increases in a long time. The current rate is 4.7 mils and that is what will be recommended at the second public meeting, 09/28/06

A motion was made by Vice Mayor Yanni that the rate be at 5 mils. The motion was seconded by Commissioner McIntee. Mayor Parker called for discussion.

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Commissioner McIntee took the floor for discussion. Five mils is not the final millage. The millage is set higher. The millage has never gone up in the last several years. It will probably go down. He felt certain that rate will be below 5 mils.

Commissioner Silverstone wanted to confirm it is true that we can always lower the rate. He was assured that this is why the millage is set high, primarily because of hurricane season. The millage would be set high so if a disaster occurred, there would be extra money to address the disaster. This is important because if one has to raise money after the rate is set, the Commission would have to send out special notices to raise the needed funds.

Mayor Parker discussed that the Commission is setting a ceiling, not a floor. The Mayor mentioned that he and Mr. Thompson do not agree on many issues. However, one issue they do agree on is that the millage rate is too high. Mayor Parker noted that he would be voting against the millage rate since this is setting a ceiling not a floor. Mayor Parker felt he would rather set the ceiling lower because if it is set lower, the Mayor Parker can spend the next two weeks knowing that it is not going to wind up being at 5 mils.

Town Clerk Medina was directed to call the roll on the motion by Mayor Parker, seconded by Vice Mayor Yanni, to set the rate at 5 mils then have a vote to adopt the resolution with that millage rate. In a roll call vote four voted in favor and one did not vote in favor. The motion carried 4-1. (Mayor Parker dissenting)

Town Attorney read the resolution with the appropriate blanks filled in.

A resolution of the Town Commission of the Town of Lauderdale By The Sea for adopting proposed millage rate for the fiscal year beginning October 1, 2006 and ending September 30, 2007 stating the percentage amount of the proposed rate exceeds roll back rate, announcing the final public hearing to adopt the final millage rate providing for conflict severability, codification and effective date. The resolution provides that the tentative millage rate shall be 5.0 and the tentative millage rate exceed roll back rate of 3.7974 by 31.67 percent. The second and final millage and budget public hearing is Thursday, September 28, 2006 at 7 pm per the resolution.

Mayor Parker called for a motion adopting resolution 2006-18 with a millage rate of 5.0 which exceeds the roll back rate by 31.67 percent. Vice Mayor Yanni made a motion, seconded by Commissioner Silverstone. In a roll call vote four voted in favor and one did not vote in favor. The motion carried 4-1. (Mayor Parker dissenting)

**4b. RESOLUTION 2006-19**

Mayor Parker introduced the second order of business as the public hearings with respect to the budget, Resolution 2006-19. Town Attorney read Resolution 2006-19.

A resolution of the Town Commission of the Town of Lauderdale By The Sea for adopting a tentative budget for the fiscal year beginning October 1, 2006 and Ending September 30, 2007 at the second and final public hearing to adopt the annual budget providing for severability conflicts and effective date.

The amount of the budget is \$26,540,357

### **PUBLIC DISCUSSION**

Mayor Parker announced that this is a public hearing. Before motions can be accepted, the public will be heard regarding what they would like with regard to this matter. The public portion of this matter was opened the public discussion portion of this proceeding. Mayor Parker asked the public on his left if anyone would like to address the commission. No one on the left elected to speak. Mayor Parker asked the public on his right if anyone would like to address the commission. No one on the right elected to speak.

Mayor Parker closed the public discussion portion of this proceeding.

Commissioner Silverstone made a motion to adopt the budget as presented. The motion was seconded by Commissioner McIntee. In a roll call vote four voted in favor and one did not vote in favor. The motion carried 4-1. (Mayor Parker dissenting)

For the record, it was announced that the final hearing on the budget will be Thursday, September 28, 2006 at 7 pm.

#### **4c. RESOLUTION 2006-20**

Mayor Parker introduced the public hearings with respect to the budget, Resolution 2006-20.

Town Attorney read Resolution 2006-20.

A resolution of Town Commission of the Town of Lauderdale By The Sea for the adoption of provision of fire protection services, equipment, and facilities within the Town of Lauderdale By The Sea, that being fire protection special assessment on specially benefited and assessed properties lying within the fire protection special assessment area town wide within the municipal boundaries of Lauderdale By The Sea for the fiscal year commencing October 1, 2006. Approving, confirming and adopting the non ad valorem assessment role providing for other matters relating to the fire protection special assessment, providing for conflict, severability and effective date.

### **PUBLIC DISCUSSION**

Mayor Parker opened the public hearing portion of this proceeding. Before motions can be accepted, the public will be heard regarding what they would like

with regard to this matter. The public discussion portion of this proceeding began. Mayor Parker asked the public on his left if anyone would like to address the commission. No one on the left elected to speak. Mayor Parker asked the public on his right if anyone would like to address the commission. No one on the right elected to speak.

Mayor Parker closed the public discussion portion of this proceeding.

### **COMMISSION DISCUSSION**

Commissioner McIntee asked to have Town Attorney put the resolution into layman terms for the citizens. Town Attorney informed the Commission that this is the annual Fire Protection Special Assessment. The Commission is required to adopt this resolution in order to levy the assessment. The assessment rates are set forth within Resolution 2006-20 which are the same rate adopted in July, 2006. The total assessed cost being collected from this Fire Protection Special Assessment is \$2,125,306. The residential rate is \$260 per resident. This is intended to fund a portion of the town's budget for fire services as provided in the resolution. The intent of this resolution and of the Town Commission is that no funding from this assessment shall pay for EMS.

Commissioner McIntee wondered, if the Tampa attorney, Mr. Davis, lets the Commission know that this assessment is illegal, will the Town be obligated to return those funds to our citizens. Town Attorney responded that the Town would not be obligated to return those funds, however, the citizens could challenge the special assessment but it would be up to the court to decide the final resolution. The Commission retains the right within these resolutions and within the Town ordinance that, if a portion of response is deemed to be problematic, the Town Commission will try to address the issue.

Town Attorney recapped once again that if the fire assessment is ruled illegal, it does not automatically mean the Town must pay back its citizens, but they make take action against the Town to recover those funds. Town Attorney responded that anyone can take action against the Town for anything.

Commissioner Silverstone asked why the contract to Mr. Davis was delayed. The only answer appeared to be that there was much discussion regarding the scope of the services, specifically a review of what the direction of the Commission was and how broad that scope of services should be. This evolved into a discussion with Mr. Davis over time between Town Attorney, Jim Cherof and the Town Manager's office. The fees were reasonable. The problem was more trying to understand exactly what the engagement was for on behalf of both the attorney and the Commission.

Commissioner Silverstone asked if the Town could use the numbers provided by BSO to determine the cost between EMS and Fire. Town Attorney responded that BSO provides the budget information and the review is performed by the Town Analysts.

Vice Mayor Yanni asked for some information regarding the position of Sea Ranch Lakes relative to this assessment. Town Manager Baldwin responded that Lauderdale By The Sea is not being charged for Sea Ranch Lakes' assessments. The question is whether Sea Ranch Lakes is being appropriately charged by the Sheriff's Office. Depending on what Sea Ranch Lakes is paying the Sheriff's Office, Lauderdale By The Sea could get a break in cost because Sea Ranch Lakes is paying more.

The Commission asked the Chief to come to the stand. The questions posed to the Chief was, if Sea Ranch Lakes calls, do they get exactly the equipment and services that Lauderdale By The Sea would get in the same circumstances. The Chief answered in the affirmative. The Commission asked how much Sea Ranch Lakes is paying for their service to get exactly the same service. The Chief stated that he did not have that information available.

Mayor Parker asked of the Town Manager if these were the same rates passed in the previous year. Town Manager responded that this is the third year in a row that Lauderdale By The Sea had the same rates, so the General Fund has been picking up a larger percentage of the fire assessment. The Town Finance Manager confirmed that the assessment had not been changed. Commissioner Silverstone asked if unoccupied new construction paid the same assessment. The Town Manager stated that unoccupied new construction is not assessed until the next fiscal year. Commissioner Silverstone felt that the Town should begin to assess new construction. Some discussion ensued, but the final determination was that the ability to collect depends on when properties get on the appraiser's rolls.

Vice Mayor Yanni made a motion to adopt the budget as presented. The motion was seconded by Commissioner Clark. In a roll call vote three voted in favor and two did not vote in favor. The motion carried 3-2. (Commissioner McIntee and Commissioner Silverstone dissenting)

**4d. RESOLUTION 2006-21**

Mayor Parker asked Town Attorney to read Resolution 2006-21.

A resolution of the Town Commission of the Town of Lauderdale By The Sea, Florida relating to levy and collection of the town's storm water management utility fees. Using the procedure set forth in Section 197.36324, the Florida statutes within the municipal boundaries of the Town of Lauderdale By The Sea, Florida for the fiscal year commencing October 1, 2006, approving, confirming and adopting the storm water management utility fees, providing further matters remaining relating to the levying, collection, and storm water management utility fee provided for conflict, severability, and effective date.

The fee is \$21 per quarter which works out to be \$84 per year for a single family residence property and for multifamily and nonresidential, the calculation of the equivalent storm water unit which is 4472 square feet. It is the same ratio as in

the ordinances right now, the same rate as the current year. The levy will be the same \$84, but it will show up as an annual basis on the tax bill versus \$7 per month or \$21 per quarter on the water bill of City of Pompano and City of Fort Lauderdale. As of October of 2006, the fee will be billed annually county wide in the amount of \$84.

The fire assessments and the sewer storm assessments are not tax deductible. Some discussion took place regarding whether any items showing up on the tax bill would be tax deductible. Informally, the information was imparted that special assessments are fees and are not tax deductible, regardless that they show up on the tax bill, and should not be deducted from taxable income.

### **PUBLIC DISCUSSION**

Mayor Parker opened the public hearing portion of this proceeding. Before motions can be accepted, the public must be heard regarding what they would like with regard to agenda matters. The public discussion portion of this proceeding began. Mayor Parker asked the public if anyone would like to address the commission.

John Thompson, 671 Lakeside Circle, Pompano, recalled that the ordinance setting up this particular type of funding refers to Statute 403.0893, which says that storm water funding may be done in a particular manner. All property owners within the area may be assessed a per acreage fee. Any benefit area containing different land uses which receive substantially different levels of the storm water benefits shall include storm water management system benefits sub areas which shall be assessed different per acreage fees from sub area to sub area based upon a reasonable relationship to benefits received. The discussion of the way the fee is collected requires a uniform form of collection. For fees assessed pursuant to this section, counties or municipalities may use the standard method. In four different places in this statute assessments are discussed relative to the fact that these are assessments and it should not be argued that they are not special assessments. The courts have decided that, regarding special assessments, that it is the property that is assessed, not the people and that you may not assess the property for a benefit it does not receive. When properties are assessed, they must be assessed in relation to the benefit that they derive. Very large properties, condos, for example, are assessed by so many square feet. If the square footage is more, then they pay more. For smaller properties, there is one basic fee for single family homes. Regardless of size, all pay the same amount. Mr. Thompson feels this is not equitable. Mr. Thompson understands that most condo complexes drain their storm water into their own French well systems or into the Atlantic Ocean or onto State Route A-1-A area. The argument has been made that condo occupants' assessments come from other areas. The Courts have determined that it is a benefit of the people, not to the properties, with the properties being specially assessed.

Based upon the facts, this is not in accordance with the court decisions, it is not equitable. Most condos do not side on streets which are under town

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maintenance, and the vast majority derive no benefit whatsoever from the town's storm water utility.

Ms. Clotting, 1770 Southeast Pinecrest Avenue, made some comments relative to special assessments not being tax deductible, regardless that they show up on the tax bill and should not be deducted from taxable income. She felt that a discussion of personal tax deductions was not appropriate for this forum.

Tom Carr, 254 Miramar Avenue, describes himself as "the average guy on the street". Mr. Carr indicated that storm water had been a problem for a number of years. He questioned whether the storm water assessment was a build up of funds for future repair or was there a plan in mind right now. Town Manger indicated they could not answer when the assessment would come off the tax bill. Town Manager did respond that there is a storm water utility fund and the purpose of generating this money is to provide money for maintenance of the storm utilities that the Town currently has and to provide new storm water utilities. There are programs and certain projects to be completed. There is annual maintenance and other special projects such as outfall lines, cleaning out dry wells and additional projects of this type. Mayor Parker informed Mr. Carr that this is not a new fee, but one which will be removed from the water bill and placed on the tax rolls.

Mayor Parker closed the public discussion portion of this proceeding.

Vice Mayor Yanni made a motion to approve Resolution 2006-21. The motion was seconded by Commissioner Clark.

Mayor Parker recognized Commissioner Silverstone to the floor to speak to Mr. Thompson's comments. Commissioner Silverstone asked for a legal opinion from Town Attorney relative to those comments. Town Attorney answered that this is not a new fee, just a new way of collecting the fee. The statute allows for this method of collection. This is the only change in the storm water assessment.

Commissioner McIntee questioned Town Attorney relative to storm water going into A1A sewers. They don't get any benefit from the storm water assessment. Do they have a case? Town Attorney declined to speak to this issue.

In a roll call vote three voted in favor and two did not vote in favor. The motion carried 3-2. (Commissioner McIntee and Commissioner Silverstone dissenting)

## **5. PRESENTATIONS**

### **5a. Lauderdale By The Sea Community Performing Arts Center – Vincent Ragusa**

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Mr. Ragusa introduced two of his colleagues, Lenore Nolan Ryan, a great actress will hopefully star in a play this year and Pat De Sabastiani, a teacher at Pine Crest in the Drama Department who is now the assistant director.

The group passed around a profit and loss statement of the Performing Arts Center's last play and an itemized account of what was spent. Mr. Ragusa indicated that he was here to report on the play that was staged on July 20, 21, 22, 2006. The Town Commission awarded Mr. Ragusa \$2000 for budget and he happily returned to the Town a check for \$823.92.

The taping of this play with three video cameras is currently being edited by a two-time Emmy award winning editor (formerly Mr. Ragusa's roommate in Hollywood) who came down to help with the placement of camera. The edited film should be ready by the end of the month. The finished product will be given to Lauderdale By The Sea, hoping to use it on its closed circuit for patients.

Mr. Ragusa would like the Commission to allow the Community Performing Arts Center the use of Jarvis Hall as its venue. Mr. Ragusa stated that he has the man-power and the knowledge to build a portable platform that could be assembled or disassembled by four to six men in about 1.5 hours. If the platform can be stored close-by, that would save a lot of time and money for transporting the platform to and from the warehouse.

Mayor Parker asked if there was any funding requests attached. Mr. Ragusa indicated that he would only need the normal annual budget.

Mayor Parker indicated that if there is not objection, this discussion would be changed into an action regarding the presentation. With no objections, the agenda was so amended.

Commissioner McIntee made a motion as follows:

1. The counsel grant that Jarvis Hall will be the official home for the Performing Arts for the fiscal year 2006-2007 (in order to make sure the people of the Town are in agreement);
2. Town Manager will set the dates for performances;
3. Mr. Ragusa will have the opportunity to build his stage as long as it meets all fire codes and passes all town rules and regulation under the guidance of Mr. Baldwin.

Directed by Vice Mayor Yanni, discussion ensued regarding how the stage will be built. Mr. Ragusa gave a description, pointing out nothing would be blocked, including exits, restrooms, kitchen. The stage will be taken up and put back down as needed. Yield to Commissioner Silverstone.

Mr. Silverstone complimented Mr. Ragusa on a job well done for many years.

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Motion was seconded by Commissioner Clark. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**5b.** Life Saving Procedures for Public Safety Officers by John Friedmeyer

Mr. Friedmeyer indicated that he is here out of a concern for water safety. Last month, a gentleman from Iowa drown on the beach. Florida has more drowning that any other state, approximately 300 to 500 people by year. Broward County has six cities who supply lifeguards on the beach. Two cities do not. In 1999, out of 20 years of research on drowning issues, Mr. Friedmeyer wrote a book which brought him a number of contracts with governments and the military to provide a water safety program. He worked with the US Border Patrol and the Mexican Border Patrol. He is currently under contract with the Marine Corp in San Diego doing a drowning study. Thirteen people recently drown in Panama City Beach and Mr. Friedmeyer was contracted for one year by Panama City to perform a study and to make some recommendations about water safety.

Mr. Friedmeyer felt the issue of water safety needed some attention. He felt that it is imperative that police officers working in water communities have the necessary training to respond to a drowning. No only will it save their life, but will probably save the life of the person drowning. Three weeks ago, Mr. Friedmeyer wrote a proposal which he feels is very cost effective.

Mayor Parker noted that the cost is \$8800 to train 80 students, \$1,200 to training 120 students. He felt that 120 would be sufficient to training not only the police, but also the fire fighters. Lauderdale By The Sea currently has a volunteer fire department. There are currently 25 certified deputies. There are 21 assigned fire fighters. Paramedics are included in this number.

A fire department member spoke to the type of training provided for drowning victim rescue workers. Scott is a Red Cross instructor for approximately 20 years and also knows CPR. Scott feels very confident in his abilities and the abilities of his trainees. He noted that the Fire Department has the same safety equipment that Fort Lauderdale has.

Discussion ensued regarding how to handle high and rip tides. Scott indicated that they are using a flag system. Mr. Friedmeyer interjected that flags are not effective.

After some further discussion, Mr. Friedmeyer concluded his presentation and left the meeting.

**6. REPORTS**

**6a.** Budget Report for the period ending July 31, 2006

Commissioner Silverstone made a motion to accept. Seconded by Vice Mayor Yanni. In a roll call vote five voted in favor. The motion carried 5-0

**6b.** Fourth of July Celebration Report by Commissioner Clark

Commissioner Clark reported that the volunteer fire department hosted a breakfast on the third Saturday of each month. In conjunction with that breakfast on August 19, 2006, presentations were made to the volunteers who helped with the Fourth of July celebration. The Commissioner mentioned that there were approximately 75 volunteers and that he was very grateful for their help. He thanked all who participated.

**6c.** Sidewalk Installation on north side of Seagrape Drive By Town Planner, Walter Keller

Mr. Keller desired to present a graphic presentation of the construction drawings for the North Seagrape Drive streetscape. This construction would make North Seagrape Drive 33 feet wide, the rest of the area would be widened to 22 feet over the entire length of the project to become a standard roadway width. This would include curb and gutter on both sides of the road, include a six foot colored sidewalk on the left side of the road, six feet wide. This would include brick pavers similar to the treatment on South Seagrape. Also, brick paver crosswalks are to be placed on each of the street intersections. In addition to that, there is a six foot landscaping strip starting from Basin up to North Tradewinds which would use similar landscaping to South Seagrape. This would also include upgraded street lighting with decorative street light poles similar to South Seagrape. In order to fix the sidewalk, all the existing power poles and streetlight on the West side of the road would have to be relocated as they are in the wrong location, particularly one large pole.

Some discussion ensued regarding a large pole, with the group deciding to revisit this issue at a later time.

Construction drawings are down and ready to go out for bid. The project also includes drainage similar to what was done on South Seagrape, a closed system of expropriation trenches. There was also discussion of widening the parallel parking places for safety.

Vice Mayor Yanni requested more information. Town Planner Keller indicated that the Commission was presented a series of options when this issue was first discussed; starting with a plan to just do a sidewalk like was completed on South Seagrape. Commission asked Town Planner to prepare plans like those done on South Seagrape. Budget is a bit over \$500,000 for this project. Town Planner Keller provided a guess that the cost would be somewhere around \$1.2 million. It is possible to phase the project or to scale it back somewhat to cut costs. Certain parts would have to be part of the original construction, but others could be done as the budget permits.

Vice Mayor Yanni stated that the original concern of the residents was that they wanted sidewalks so they could be safe. Town Planner Keller indicated this could be done.

Vice Mayor Yanni wanted to be certain that new construction would not be put down then torn up in phase construction.

Commissioner McIntee wanted to know the cost of the South Seagrape project. Town Planner Keller responded that the cost of the South Seagrape project was approximately \$400 thousand, 4 years ago. The North Seagrape project is approximately 40% longer.

Commissioner McIntee asked if the Town had the funds available. Town Manager Baldwin said that \$500 thousand was budgeted for this project and more money is available in the legal reserve from the Height Referendum. He noted that he thought the Mayor Parker was looking at that as a possible tax cut so there is money in the budget, but he does not think it will fully pay for the project.

Commissioner McIntee asked if there were any federal grants for town improvement. There are some enhancement grants to help beautify that the town could apply for. Normally it takes many years to get on the grant list. Some discussion ensued on this issue.

The decision directed Town Planner Keller to provide a final budget figure so the Commission can look to funding. He is to bid the project in phases and by knowing the cost of each phase, the Commission will be able to look at the phase costs and total costs. Town Planner Keller is to return with a bid in six weeks.

A motion was made by Commissioner Silverstone and seconded by Commissioner Clark to review the bid in six weeks. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**6d. Report by Commissioner McIntee Regarding the Status of the Donation of An Emergency Vehicle from Plantation Fire Department**

Commissioner McIntee reported that Lauderdale By The Sea would not receive the above vehicle. This is a result of political pressure. Plantation Fire Department indicated they would love to help out, but they did not want to become involved in "Mickey Mouse Politics".

**7. APPROVAL OF MINUTES**

None

## 8. PUBLIC COMMENTS

Barbara Cole, 221 Washingtonia and 5000 North Ocean Boulevard, wanted to address height limits. She noted that Mr. Cherof is not here tonight. She wanted to know why the safety clause is not going to be addressed. She understood that this issue arose in April. She felt it would cover the situation if the Courts found that it would be okay that the citizens could change an order by the Commission. She feels that the people on the North Side are going to vote. She will be happy with whatever is decided. She wants them to make the decision.

She also spoke to volunteer fire department. She would like to have a volunteer fire department first, then have the volunteer fire department on our own, then have our own police department, then have our own permanent police department. She has seen plans in the future of a town hall that could encompass all of this with plenty of parking for everyone. She would like to see this sooner rather than later.

The last item is that she would like to encourage others to get involved in their community. She attends all meetings. She goes to the master steering committee meetings. There is much going on. With the change in demographics, she would like to see more people participate in their future.

Sandra Booth, 4140 North Ocean Drive, #302 and 4517 Elmar Drive, is here to represent the chairman of the Master Planning Steering Committee. Commissioner McIntee in July put on the agenda an item request for a workshop and, at that time with a full agenda, he asked if she would be kind enough to wait until the September meeting. When she checked with Town Clerk Medina this week, Ms. Booth found that she was not on the agenda, but it was suggested Ms. Booth come to Public Comments. She feels it is imperative that the community begins to move forward.

She hopes that during Commissioner's Comments tonight Commissioner McIntee could discuss a date for the workshop and she wishes to remind the Commission that even though the group serves on behalf of the Commission, it is a pleasure for the volunteers to do that because the volunteers love the town.

The next volunteer meeting will be Monday Night in this building at 6:30 pm. The Dean of Architecture of the University of Miami will speak to the volunteers. The Dean and her firm, DPZ, were responsible for the building of Seaside, Florida. She brings a lot of things to the table. She is the guru on new urbanism and the volunteers are happy to have her and she hopes many will attend.

Mayor Parker asked that Clerk make a note for the agenda of the next meeting, discussion, and/or action regarding a joint workshop for the Town Commission and the Master Plan Joint Committee.

Mark Brown, 1440 South Ocean Drive, is here tonight to speak on behalf of the North Beach Civic Association. Earlier this summer, the Civic Association sent

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out a survey to all the high rises and the single family home owners associations in the north end of town. Mr. Brown promised at the time the survey was sent out, that he would make the results public. The entire survey has been posted on line at [www.bytheseafuture.org](http://www.bytheseafuture.org). Anyone can look at that site.

The group sent out 950 surveys to every high rise and every homeowner's associations in the north end of town. They received 94 surveys back, a 10 percent return, which the group felt was good, given it is the middle of the summer. Mr. Brown felt the survey does represent a genuine sampling of public opinion.

There were four categories, one of which was public safety.

1. Are you satisfied with the current level of police protection in the North end of town. 86% Yes.
2. Are you satisfied with the current level of fire protection in the North end of town. 97% Yes.
3. Are you satisfied with the current level of ambulance and emergency medical response unit which serves the North end of town. 98% Yes
4. Should the Town terminate its contract with the Broward Sheriff's Office and make the volunteer fire department the principal fire suppression agency in town. 11% Yes; 89% No.
5. Would you feel safe if the town was served principally by volunteer fire fighters instead of professional fire fighters. 16% Yes 84% No.
6. Would you support terminating the contract with the BSO if it meant the town would have to find a new provider for ambulance and ERM service. 10% Yes; 90% No.
7. Would you support changing the 33062 zip code in the north end of town to 33308 so that all residents of LBTS will have the same zip code. Yes 77%; No 23%.

This is an issue that the group has asked the commission to look into before and the group is aware that the Commission has started. The group encourages the Commission to pursue this however it is appropriate.

Beverly Kennedy, 3240 Seaward Drive, wanted to compliment the Commission. She felt the meeting has become much less contentious than she has seen in the past and everyone seems to be working well together. Ms. Kennedy wanted to speak on three different issues.

She is known as the "Hedge Lady" now because on [www.bytheseafuture.org](http://www.bytheseafuture.org), she does a little clip.

She also wants to talk regarding an important issue called "granny suites". This is an ordinance passed by the Broward County Commission and the town has to officially adopt the issue from a commissioner viewpoint. The Commission needs to tell Town Manager to bring the ordinance to the Commission so it can be voted on and officially accepted.

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Ms. Kennedy also wanted to ask the Commission to not limit the aesthetic bushes. She feels safer because she has high shrubbery.

Ms. Kennedy addressed the next item directly to Commissioner McIntee. She noted that he is going to suggest hiring a national lobbyist. She thinks the terminology needs to be changed to a national strategic planner who is going to bring money back to the town, who will coordinate getting the zip code changed to a united zip code so one can plan with a strategic planning committee what the town is going to look like and what it is going to be like. The town needs a person who has national contacts, but calling this individual a lobbyist will make them sound like all other towns. Lobbyist has a different connotation in the Washington area but if you have a representative of the town as a financial and strategic planner to bring forth this plan, it will be more effective.

Mayor Parker asked Town Clerk Medina to add to the agenda next meeting "discussion regarding instructing the Town Attorney to prepare a "granny flat" ordinance." Town Clerk Medina let Mayor Parker know that this issue has already been addressed and would be presented by Bob Wolf of the Property Appraiser's Office. Due to scheduling conflicts, he is scheduled to make a presentation during the October meeting. Mayor Parker preferred to have this issue addressed at the next meeting at the end of September.

Geoff Evans, 1941 S.E. 18<sup>th</sup> Street, is concerned about the misinformation regarding the CIC Referendum on Height Limits. Mr. Cherof said that this did not apply. Then the Town Topics officially published that it would apply, bringing on confusion to the community. Mr. Cheroff also stated that the "safety valve" clause in the CIC Referendum on Height Limits would be operative in case Burt J Harris is affirmed. He verbally affirmed to Commissioner McIntee that he would put that in writing before the election. So far he has not. Mr. Evans is wondering why. It appears to Mr. Evans that the scare tactics of Referendum 1 are persuading people unfairly. Also, speaking of Town Topics, there appears to be some sort of one-sided reporting. Mr. Evans recommends that people read "By The Sea Times". The Town has a web site there, [www.bytheseatimes.com](http://www.bytheseatimes.com) so you get a more balanced opinion. People should read both so they know what is going on. Mr. Evans still wonders why Mr. Cheroff has not yet produced that opinion in writing about the safety clause.

Mayor Parker asked Town Clerk Medina to put on the next agenda that Mr. Cherof produces the safety clause for discussion. Commissioner interjected that Town Attorney stated that the safety clause does not apply because it is not part of the charter. Mayor Parker stated that this does apply because it is written into the notes generated by Town Clerk, specifically stating that there wouldn't be a problem and if it was a problem, Commissioners would create an ordinance. Mr. Cherof said he would create the ordinance. Town Attorney indicated that he would be certain that Mr. Cherof has that ready for the Commission at the next meeting. Mayor Parker directed the Town Clerk to include on the next agenda a

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safety clause generated by Mr. Cherof in writing that can be presented to the public.

John Thompson, 671 Lakeside Circle, #306, Pompano Beach, FL, since the Commission has not passed the budget, Mr. Thompson wanted to present three possible areas of savings within that budget. Mr. Thompson stated that one of the biggest areas for savings would be in regard to personnel, particularly health benefits which have ballooned over recent years. Several times Mr. Thompson has asked for an explanation of exactly what the benefits are and how they are made available and what choices people have. Mr. Thompson stated he has never gotten an answer to that question. Mr. Thompson wanted to give people a choice and to let them pay a portion of the health costs.

Regarding the ballooning costs of sewers in the northern part of town, could that be charged in a different manner. Since it is included in the budget, the Town has to go ahead and pay for it out of the budget. Mr. Thompson suggested that there are additional costs that had not initially been budgeted and there could be a share cost, with the property owners paying a portion which would save the Town money.

Finally, the money budgeted for litigation is much more than needed. Only one case needs to be litigated. The Town should process a site plan, deny under the new charter, then go ahead with the litigation and get the answer. Mr. Cherof is correct when he says that regardless of the fact that the safety clause is not in the charter, it could be taken care of in another fashion.

A push-poll was conducted by the North Beach Civic Association and a number of us who recognized it as such, recommended that people not respond and that may account for the fact that over 90 percent did not respond.

Tom Carr, 254 Miramar Avenue, wanted to state that it would appear that issues of citizen concern have not been settled since the last commission meeting and have, in fact, kicked up a few notches. Mr. Carr commented on the computer generated newsletter. He noted that the Chamber of Commerce label appears on the bottom. If the Chamber is getting involved with the political issues of the Town, that is touching on a City Initiative Committee. Perhaps a tax payer would not want to support them. He also noted that only two names appeared in the Corporate Letter, citing two people he had never heard of before with Fort Lauderdale addresses, William Tinhaus and Dean Hughes.

Marilyn Carr, 254 Miramar Avenue, stated that she had trimmed her bushes, filled one dumpster with green and needed to put some overflow into another trash can, as well as have some small trees which had died picked up. Ms. Carr was very unhappy when the trash people came and only emptied the dumpster and the can of greens and the trees. The trash bill was paid for the month even though they were away. Ms. Carr felt this was very unfair. She wondered why the all trash was not pickup up since they mulch all their green before putting them in the dumpster and sometimes have a second trash can.

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She asked someone on the Town Commission to look into this and let her know why it was not picked up.

Ken Most, 2160 SE 19<sup>th</sup> Street, passed on his opportunity to speak.

Stuart Dodd, 232 Imperial Lane, passed on his opportunity to speak.

Maureen McIntee, 1612 SE 21<sup>st</sup> Ave, noted that the previous Town Commission refused to place the Citizen's Height Referendum on the March Ballot. Therefore the Citizen's Initiative Committee (CIC) was forced to take the Town Commission to court in January. The CIC won. The Court order of Judge Barry E. Goldstein obligated the previous Commission, by law, to place the Citizens Height Referendum on the ballot for the March, 2006 general election.

At the January Town Commission meeting, immediately follow the Judge's explicit court order, Commissioners Parker, Clark, Yanni, Wessels, and Kennedy blatantly disregarded Judge Goldstein's order, refusing to obey. Instead, the prior commission wrote the terms offered to the CIC, which included Proposition One and Proposition Two, to be placed on the November Ballot. The CIC accepted the prior Commission's offer, completely and in good faith. At two recent Town Commission meetings, Commissioner Parker and Clark formally asked the CIC to agree to remove Proposition Two from the agreed court order. These two Commissioners wanted the CIC to join them in asking Judge Goldstein to void the agreement court order and remove Proposition Two of the November Ballot. The CIC voted unanimously to honor the original agreed court order in order to let the people decide in November. Despite the CIC's refusal, Clark's motion, Parker second, Yanni voted yes, to direct Town Attorney to return to Judge Goldstein's court room, again at tax payer's expense, to try to change the agreed court order in order to remove Proposition 2 from the November ballot, allegedly claiming Proposition 2 might look to changes due to reported actions of the person known to many as the developer.

When trying to convince Judge Goldstein to change the order, Attorney Jeff Nevits mentioned the tainted theory. The Judge would not change the agreed order. Commissioner McIntee publicly expressed great disappointment by the fact that Commissioner Clark gave his word when offering CIC this agreement and was now breaking his word. Commissioner Clark responded, "I gave my word. This only benefited my side of the coin at that time." Mayor Parker said, "We are entitled to the same clear shot they had in March." Have Parker, Clark and Yanni forgotten they drew up the agreed court order, placing both propositions on the November ballot. Citizens of Lauderdale By The Sea expect elected officials to keep their word. Those three officials kept their word only when it was in their best interest.

Election Day is quickly approaching. Mayor Parker says vote for his Commission, vote for his proposition. If Proposition one fails, Proposition two fails. Look on Page 4 of the November 22, 2005 Town Meeting minutes. Mayor

Parker said if that proposition was voted in, then he would ask the Attorney General whether it was affected by Burt J Harris.

So you see, Mayor Parker does not even know whether his own ordinance is liable under Burt J Harris and subject to law suit.

Mayor Parker spoke to Ms. McIntee, stating that her time was up and she needed to sit down. Mayor Parker stated that Public Comments were concluded and moved on to Ordinances.

## **9. ORDINANCES**

Mayor Parker stated that there were no ordinance second readings.

## **10. COMMISSIONER'S COMMENTS**

Mayor Parker reconvened the meeting to begin Commissioner's Comments

### **Vice Mayor Yanni**

Vice Mayor Yanni wanted to comment on some issues John Thompson spoke about. He addressed the area of people paying taxes and not getting any benefit from it. Mr. Yanni stated that happens all over the country. Anyone who pays taxes doesn't get the benefit of every tax dollar being spent. No matter where money is being spent, whose tax dollars are being used, this is one town. Everyone gets the benefit because it is one town. If something is done in one part of town, it is for the good of the town, it benefits everyone who lives in the town. County taxes are the same. It is just fair to everyone, when you do improvements to the town, it improves property value, it improves everything in town and one should look at the issues this way.

Vice Mayor Yanni spoke to rusted newspaper boxes. He asked if this issue had been looked into. Town Manager indicated he had talked to Bill about the newspaper boxes that are rusted. Bill indicated he had spoken with the vendor who supplies the racks to the newspapers. He was able to get Sun Sentinel to replace their boxes and is working on the other newspapers to do the same.

Relative to Barbara Cole's comments regarding Town Police and Fire Departments, Vice Mayor Yanni indicated the reason the Town went to outsourced police and fire agencies was because it was better for the Town. Issues were wages, benefits and promotions for personnel, and union negotiations. Vice Mayor Yanni stated that he would never support the Town having its own police and fire departments.

### **Commissioner McIntee**

On Elmar Drive, just south of Commercial, one would see brand new construction. There are a massive amount of condo units, 34 units being put on 2 acres. They are entitled to 50, so 34 units does not break any rules.

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Commissioner McIntee indicated that his walk around the complex reminded him of being in a fort. He researched the original rules, some of which are not being adhered to. He indicated this is a beautiful piece of property like the piece that is across the street from the Commission. Standing at the west wall of this new construction, he pictured 44 foot walls and then stepped out 15 feet of set back to a 44 foot tall wall. The only view of the ocean and beach might possibly be if one looked down the drive-ways that divide these structures. Each person should look at this property and make their own determination, but what is most disturbing is that there is only 15 feet of set back and all the new construction on Elmar on the east could have a 44 foot wall with 15 feet going straight up. When people walk down that area, they are going to be in a canyon of 44 foot walls.

Research showed that originally projects were supposed to have 21 foot set backs, but it is only 15 feet, so the Commissioner began to wonder where they got permission to take the extra 5 feet, amounting to 1500 square feet of building space, that they shouldn't have had.

Commissioner McIntee is going to demand a thorough report from Mr. Keller and from Mr. Baldwin of how construction went from 21.25 feet to 15.5 feet. If necessary, the Commission may hire another engineer to check. If this is not rectified, people are going to be living in a concrete jungle with \$3 million dollar residences. Mr. McIntee also wanted to know why there wasn't 25 percent green space there. Mr. McIntee demanded a written report on these issues.

Commissioner McIntee mentioned that a fire workshop had been presented to a group and there will be other workshops in the future. Town Commission needs to send out proposals to other departments and other services so we can compare costs and benefits.

Another issue is the signing of contracts. Some get signed immediately and some languish for a long time. The Commissioner wished to let all present that he will not be pushed into signing any contracts until he feels they are in the best interest of the Town.

Sandra Booth was taken off the agenda but was to speak for the Planning and Zoning Committee relative to five story buildings on Commercial Boulevard and on the East and West side of A1A. Sandra indicated that the article should never have reached the newspaper. Sandra Booth should be the one who lets articles to the newspaper, not Mr. Keller.

**Commissioner Silverstone**

Commissioner Silverstone offered condolences to Vice Mayor Yanni and his family.

He spoke about being involved in the Town. The Town is only as good as the people who get involved here. That is one of the reasons Mr. Silverstone got involved here. There is also the Lion's Club, the Kiwanis Club, Garden Club and other ways of getting involved. People should get involved and give back to the

community. Commissioner Silverstone felt that the important matter was getting the word out as to what is available in the community. The workshop done on Tuesday provided participants with good information. With proper, correct, truthful information, the right decisions will be made.

There are rumors around town saying that the attorney general is siding with the developers. The letter only addressed the fact that there was action by a government entity. The last sentence indicated that the judicial system would need to provide a verdict. The attorney general's opinion only addressed one part, not the entire thing.

The Commission also wants to get the facts out about the fire workshop. People need to be educated regarding what is available to the public, such as Search and Rescue. The Commission failed to get the word out. The Commission will begin taking a very proactive stance on educating the public and all will be better for it.

#### **Commissioner Clark**

Last Tuesday was the first Fire Workshop. Things went well. He feels there will be many more workshops. Some homework has already been given to BSO and the volunteer fire department to be prepared for the next workshop which is scheduled for September 26, 2006. In order to move ahead, Commissioner Clark has prepared an additional documentation request which he will provide to the volunteer fire department and to BSO. In an effort to be fair to both sides, the same information will be asked of everyone. The issues will be dealing with personnel and costs and five year budgets and other items. The request list will be given to the fire chief at the end of the meeting. The completed information needs to be returned to the Commission by the close of business October 2, 2006. That should allow the Commission to perform a proper analysis of the data coming in. The data should be shared with all members of the group. With more data received, this will allow for a more informed decision. All commissioners will be provided with copies of the information provided.

#### **Mayor Parker**

Mayor Parker welcomed all present back from the summer break. He would like to remind all that Halloween is coming on October 31, 2006. There will be a safe Halloween party for kids in Jarvis Hall from 6 to 8 pm. There will be organized trick or treating right outside the town hall. There is costume judging in three age groups with three prizes in each age group. The prizes will be Geoffrey credit cards in denominations of \$25, \$15, \$10.

Mayor Parker presented dialog about Burt J Harris. One of the things the group was told was that Burt J Harris does not apply to a charter amendment that is enacted by means of voter initiative and referendum. Commissioner Silverstone (not a commissioner then) asked us to consult with the attorney general. The attorney general pointed out any final decision is up to the court, the chief legal officer of the state of Florida (personally signed) came to the conclusion that Burt

J Harris does apply to charter amendments enacted by initiative and referendum which is why we have another charter amendment in November.

We have received \$20 million, 900 thousand dollars in Burt J Harris Claims. No lawsuits, but under the Burt J Harris act, before anyone can sue, they have to give six months notice. They have to file a Burt J Harris claim. The claim has to be backed up by a bonafide appraisal showing that their property has been harmed by the governmental action. The charter amendment impacts eleven property owners on A1A, four of them have filed Burt J Harris claims with their appraisals and their claims total \$20 million, 9 hundred thousand. If the other seven also file claims at a bit over \$5 million per claim, there would be another \$36 million in claims, a total of \$57 million in claims.

The Town Attorney indicated that the Escape Clause never became part of the charter due to a drafting error. It is merely an expression of legislative intent and legislative intent can't contradict the plain language of a charter amendment or a law. The Escape Clause does not protect the Town. The only protection available is a referendum November 7, 2006. If the Town votes this down, it have to face the prospect of possibly having to pay up to \$57 million in order not to have a few more 15 story buildings. Mayor Parker does not like 15 story buildings. Mayor Parker was hoping Burt J Harris did not apply. Maybe the attorney general is wrong, but Mayor Parker does not want to take the chance with the Town's financial future.

Mayor Parker will conclude his public comments with the above statement. He wished all an enjoyable September.

## **11. ORDINANCES – FIRST READING**

- 11a.** Mayor Parker asked Town Attorney if he had been able to come up with corrective language relative to 19-25, Subsection A. Town Attorney indicated he had done so, based on the consensus of the Town Commission at the workshop earlier tonight.

A new section will be added into the body of the ordinance which amends subsection 19-25, Subsection A.

This is an order for The Town Commissioners of the Town of Lauderdale By The Sea forward amending Section 19-25, Parking, to amend subsection A to eliminate two hour parking descriptions for metered parking spaces on Commercial Boulevard, west of Seagrape on Saturday and Sunday and amend subsection F to provide two motorcycles be permitted to be parked in each metered permit parking space at the same time. It will create a new Subsection G to provide that there shall be no charge for parking spaces located along Commercial Boulevard, west of Seagrape Drive, Monday through Friday. Two hour parking restrictions shall be in effect Monday through Friday with no time limit on parking on Saturdays and Sundays. Provided for conflict severability codification and effective date.

Mayor Parker asked if Town Attorney had made corrections to the body of the ordinance. Town Attorney indicated it is capturing the essence of the Commission renumber and a new section into the body of the ordinance which amends Subsection 19-25, Subsection A, the first paragraph which describes the area along Commercial Boulevard, west of Seagrape Drive. The aforementioned paragraph will show as a strike-through in the revised ordinance for subsection A and the language in Subsection G will be revised to read "there shall be no charge for parking spaces located along Commercial Boulevard, west of Seagrape Drive, Monday through Friday. Two hour parking restrictions shall be in effect Monday through Friday with no time limit on parking on Saturdays and Sundays. Provided for conflict severability codification and effective date.

Mayor Parker requested a motion adopting Ordinance 2006-12 as revised by the first reading. A motion was made by Vice Mayor Yanni. Seconded by Commissioner McIntee. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

The Ordinance passed on first reading. Second reading will be on September 28, 2006.

## **12. CONSENT AGENDA**

Pursuant to agenda conference, Mayor Parker will remove items E and J from Consent Agenda if there is no objection. Hearing none, E and J are so removed.

At the request of Commissioner McIntee, discussion should take place on items F and G. Discussion will take place immediately following the Consent Agenda.

Mayor Parker asked if there were any other items to remove from the Consent Agenda. Hearing none, Mayor Parker asked for a motion adopting items A, B, C, D, H, I of the Consent Agenda.

A motion to accept was made by Commissioner Clark. Second by Vice Mayor Yanni. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

### **12f. Item F of the Consent Agenda – Extension: of a development order for Villa Solemar, located at 4240 Bougainvilla Drive for a period of one year.**

A developer had requested an extension which Commissioner McIntee was under the impression has been extended for the third time. Commissioner McIntee stated that any developer who requests an extension needs to provide a reason for the extension.

Mayor Parker discussed that the extension should be granted this time, but in the future, requests for extension must be explained with staff recommended approval of the extension.

Commissioner Silverstone took the floor recommending that, since the Commission voted to have this property redeveloped at one time, the developer be allowed to move forward with the project.

Commissioner Clark is also upset that there is no reason given, however, he does not feel it is necessary to go back to ground zero, stating that the project is good for the town. He supports the request for extension.

Mayor Parker feels that town needs to adopt a policy that says all extensions require a reason and that only the first extension can be on the consent agenda. After the first extension, it has to go on the regular agenda and the developer must be present to answer questions.

Much discussion brought out that this particular developer has not yet filed for a permit for the above mentioned project.

Mayor Parker made a motion that Item F be granted. Seconded by Commissioner Clark. With no further discussion requested, the roll was called. In a roll call vote three voted in favor. The motion carried 3-2 (Commissioner McIntee and Commissioner Silverstone dissenting)

**12g. Item G of the Consent Agenda - Extension:** of a development order for Pelican Cove, located at 235 Hibiscus Avenue, for a period of one year

Commissioner McIntee asked the developer to come forward. Gus Carbonell, Architect spoke on behalf of his client. The client has had some personal problems with some financing. This project consists of 9 units which are high end and are about 50% complete.

Assistant Town Attorney Cirullo suggested the Commission grant a 6 month extension and, if need be, come back to Commission.

Mayor Parker moved to grant 6 month extension. Seconded by Commission Silverstone. In a roll call vote all five voted in favor. The motion carried 5-0

**13. RESOLUTION**

**14. OLD BUSINESS**

**14a. Item A of Old Business - Discussion and/or action regarding the cost per foot to bury overhead utility lines for individual properties being constructed.**

Mayor Parker asked if there were any objections to table Item "A" to the October 24, 2006 meeting. Hearing none the order is so tabled.

- 14b. Item B of Old Business** - Discussion and/or action regarding the amendment of the Town's regulations concerning the extension of offsite parking from 400 feet to 1000 feet. Mayor Parker asked Vice Mayor to move that the Commission request Planning and Zoning to look at this change and make a recommendation to its legality, whether it complies with rules and regulations but also to its advisability. This should go to Planning and Zoning in October and return to the Commission at the first meeting in November. Town Clerk was asked to see that this goes to Planning and Zoning.

A motion was made by Vice Mayor Yanni. Seconded by Commissioner McIntee. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

- 14c. Discussion and/or action Regarding Consideration of Proposed Contract to Rid the Neighborhood of Iguanas**

If there is no objection, Mayor Parker proposes to table this item until the second meeting in October. This is tabled with directions to administration to find more alternatives which should be town-wide.

Hearing no objections, this matter was tabled with indicated instructions.

- 14d. 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**

Contract can be amended by means of a letter of agreement under which duplexes will have a choice. They can either be treated as two single family homes in which case each will pay \$21 for a 96 gallon tote and a bulk container. The alternative is to have one single tote for both duplexes for \$32 per month with one recyclable charge and one bulk charge.

Mayor Parker makes the motion that Town Administration be directed to enter into the Letter of Agreement so amending the contract. Seconded by Commissioner Clark. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

- 14e. Discussion and/or action Regarding the Current Contract with Waste Management and the Possibility of Seeking an Amendment to the Rates for Commercial Units**

Commissioner Silverstone discussed whether two adjoining commercial properties could share the container. It was determined that this would not be allowed by ordinance, since every business is required to have its own waste management.

**New Business (these two items taken out of order)**

**15t. Discussion and/or action Regarding the Possibility of Providing a Dumpster at a General Location for the Purpose of Allowing Residences to Remove Lawn Debris from Their Yards, not to Eliminate Garbage.**

Commissioner McIntee requested that Tony get hold of Mr. Mason Sidell and work through gentlemen negotiations. The Commission will go with whatever Mr. Sidell says. If this doesn't work, the Commission will negate this service. No motion made.

**15u. Discussion and/or action Regarding the Possibility to Amend the Contract between the Town and Waste Management, Inc to Ensure that Residents can Continue to Place Yard Debris Along Side their Garbage on Regular Pick Up Days.**

Mayor Parker made a motion that the Commission direct Administration (can be directed to Bill Mason) to negotiation with Waste Management an amendment to the contract to allow residents to purchase an extra service on a voluntary basis in order to take care of yard debris with either a monthly rate or the sticker system that Waste Management indicated. The results of the negotiation are to be reported back to be approved by Commission at the next meeting. Seconded by Commissioner Clark. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

In addition Mayor Parker told Town Manager to put his department on notice that when people call about the Waste Management contract, to tell them the Commission had no say about this. There have been some complaints regarding bulk pickup. The contract says that Waste Management will pick up anything that two men can pick up except refrigerators or air conditioners, which require a special pick-up request at a separate rate.

Mayor Parker directed Town Manager to have Town Topics and Channel 78 broadcast the fact that under the new contract with Waste Management, all residents are entitled to a 96 gallon tote free of charge.

**15. NEW BUSINESS**

**15a. Discussion and/or action Regarding the Addition of Trash Collection as an Assessment on the Property Tax Roll.**

Commissioner Clark addressed this issue, directing the Town Manager to conduct a feasibility study regarding the addition of trash collection (only applies to private residences, not commercial entities) to advise the Commission of the impact of putting this charge on the property tax roll and report back within a one month time frame.

**15b. Discussion and/or action Requiring Three Bids to be obtained for any Town Contract Over #15,000**

Commissioner McIntee made a motion that Mr. Baldwin is directed, for any contract over \$15,000, that three bids be obtained before the contract is issued. Mayor Parker wondered what would happen if three bids were not available. It was decided that Mr. Baldwin would show that he tried to get three bids in all cases. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**15c. Discussion and/or actions regarding Adopting Rules of Procedures for Making Appointments with Town Boards, Limiting Appointments to Persons Who Have Files Current Applications**

Mayor Parker made a motion that the Commission only consider people who have applied for Appointments. His contention is that it is unfair to pass over people who have applied for appointments and give appointments to someone who has not applied. Motion was seconded by Vice Mayor Yanni. Mayor Parker directed Town Clerk to put this item in writing.

With no further discussion requested, the roll was called. In a roll call vote four voted in favor and one voted against. The motion carried 4-1. (Commissioner Silverstone dissenting)

**15d. Discussion and/or actions regarding Solicitors of Signatures for Referendum Issues to be registered with the Town Clerk, with all Solicitors Being Identified for Security**

Commissioner McIntee asked the Lieutenant to step to the microphone. The Lieutenant informed the group that there has recently been a rash of people impersonating FPL workers and lawn workers and the gypsy routine. Flyers were sent out by the Department to inform all residents of this problem as strangers are going door to door without identification

A question arose relative to the need for an ordinance or law posted which says solicitors must obtain a walking permit.

The Lieutenant recommended that any resident who feels uncomfortable with a stranger who may be walking the neighborhood contact the Sheriff's Department.

An additional problem in the Town is people being sued. If a person comes on someone's property and falls, then the property owner is liable, even if the person who fell was not invited on the property. Lieutenant noted that there is a difference between commercial and non commercial types of solicitors.

**15l. Discussion and/or action regarding for Sidewalk Café Permit and License.**

This issue is a request for an Agreement to use Town Right of Way by Aruba Beach Café, located at 1 Commercial Boulevard. Brad Townsend stated that he has not entered into negotiations for fee with the owners of Aruba Beach Café but that the fee would be very similar to that which was granted to Mulligan's which was paid by the square footage.

Mayor Parker made a motion to approve. Seconded by Vice Mayor Gianni.

Don Zimmer, architect from Fort Lauderdale stated that Aruba had hired him to work on this issue. Mr. Zimmer has had several negotiations with Mr. Townsend. The business wants 700 feet for chairs and tables and service positions to sell food and drink to people. Commissioner McIntee wants to make certain the Town receives a reasonable rent for the property.

Commissioner Silverstone asked if they would be moving the sidewalk down to five feet. After some discussion, Mr. Zimmer indicated that his clients had matched their setup to that of another restaurant, the Village, and Aruba is right in line with Village.

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

Aruba Beach Café principals were directed to return to the Commission on October 24, 2006 with all information needed to approve or deny the application.

**15f. Discussion and/or action regarding the Proposed Ordinance to Restrict Dogs From Public Park Areas**

Mayor Parker indicated that this will be an ordinance to restrict dogs from Municipal Park and Washingtonia Park. Mayor Parker asked for a motion to direct Town Attorney to prepare such an ordinance. Commissioner McIntee asked for discussion. He mentioned that people have to be able to walk their dogs somewhere and that he hadn't noticed any abuse. Mayor Parker stated that people could walk the dogs along the islands on Elmar Drive and other places, but does not feel that dogs should be able to "poop" in places where people have picnics and play. Commissioner McIntee noted that he was still opposed to restricting dogs from grasslands of the town. Mayor Parker stated they could walk on the median strip and on the sidewalk. McIntee drew attention to the big no dog signs on the median strip.

Commissioner Silverstone took the floor and stated that when he is running, he sees people with dogs and the people clean up after their dogs. The dogs need a space to run also.

Mayor Parker made a motion that dogs would not be allowed on park grounds at Municipal Park and Washingtonia Park. In exchange, Mayor Parker will have the "no dog" signs removed from the median strip. With no further discussion requested, the roll was called. In a roll call vote three voted in favor and two

voted against. The motion carried 3-2. (Commissioner McIntee and Commissioner Silverstone dissenting)

Mayor Parker asked for the ordinance to be ready for signature at the September 24, 2006 meeting.

It was brought up relative to the dog issue, the fact that the group previously discussed putting doggie poop bags on Elmar Avenue, a picture of which will be provided to the Commission.

A motion was made by Mayor Parker and seconded by Vice Mayor Yanni that doggie poop bags be placed on Elmar Drive. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**15n. Discussion and/or action regarding the Proposed Contract for Sal's Towing Service for the Town**

This item was originally on the Consent Agenda, but it was moved because of concerns for bidding. For some contracts, it is not known exactly what the cost will be. The contract was scheduled for approval, but no other bids have been obtained. Mayor Parker stated that the Commission had just approved a motion stating any contract over \$15,000 would need three bids to be obtained before the contract is issued.

Commissioner McIntee stated, in that this is a new policy, the three bid policy will be waived and a motion made to accept Sal's Towing contract. Mayor Parker seconded the motion.

Discussion by Commissioner McIntee ensued. He stated that Sal's Towing is outstanding to everyone in the community and that their service is unbelievable. He did want to report, however, that Sal's Towing had been dispatched to an Officer's police car on Wellington Road in Palm Beach County to change a flat tire. He wanted to know if that was normal. Police official noted that this action might occur if the driver is on towing service for that area. It was pointed that Sal's Towing also has a contract with the Sheriff's Office and that this call was on the Sheriff's Office contract. Commissioner McIntee asked to have this issue checked to see which contract the bill went to. This will go on the Reports section at next meeting.

With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**15g. Discussion and/or action regarding Beach Swimmer Protection**

Commissioner Silverstone took the floor. He wished to thank Mr. Baldwin and Mr. Mason for putting the signs up. He felt that putting up signs with beach

names on them will allow 911 to more easily dispatch emergency vehicles if a swimmer gets in trouble.

More discussion took place, noting that flags used to identify beach conditions are free and that they should be ordered as soon as possible. Much discussion took place regarding the appropriateness of putting the flags on beaches without lifeguards. Commissioner Silverstone indicated that the flags would be put in storage for such a time as lifeguards may be available and the flag systems could be used, and why not get the flags while they are free.

Commissioner Silverstone made a motion to obtain the flags and keep them in storage until a way is found to use them. The flags will not be put out until the Commission approves that they be used. The amended motion was seconded by Mayor Parker.

With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**15o. Discussion and/or action regarding a Parking Area Officer**

A motion was made by Vice Mayor Yanni and seconded by Commissioner McIntee to approve the contract for a Parking Area Officer at a flat rate of \$100 per hour. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**15h. Discussion and/or action regarding Regulation of Hedge Heights and Hedge Placement to Ensure Safety**

Commissioner Clark took the floor, indicating that there are different standards for hedge heights in each part of town. He made a motion to direct administration to have an ordinance drafted to be adopted town-wide regarding hedge safety. The ordinance is to be brought back to the commission for review prior to further action at the October 24, 2006 meeting. Seconded by Mayor Parker. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

**Table remaining items until next meeting**

Mayor Parker made a motion that all remaining items are to be tabled and moved to the next meeting. They will be addressed in the same order in which they would have been addressed today. They will go into Old Business, following items which are already in this category.

Seconded by Vice Mayor Yanni. With no further discussion requested, the roll was called. In a roll call vote five voted in favor. The motion carried 5-0.

Nothing to report

**21. TOWN MANAGER REPORT**

**22. TOWN ATTORNEY REPORT**

**23. ADJOURNMENT**

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to adjourn the meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

The meeting was adjourned at 11:15 p.m.

\_\_\_\_\_  
Oliver Parker, Mayor

ATTEST:

\_\_\_\_\_  
Alina Medina, Town Clerk

Date Accepted:\_\_\_\_\_