

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, October 24, 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 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.

4. PRESENTATIONS

- A. Property Appraiser's Office (*Robert Wolfe*) (*as it pertains to tax exemptions and granny flats*)

Mr. Bob Wolfe made a presentation and distributed handouts for the Commission's review. Mayor Parker asked if the Town needed to take any action. Mr. Wolfe replied negatively.

Vice Mayor Yanni asked about Senior Exemptions, with Mr. Wolfe explaining how residents could apply and obtain the additional exemptions from the property taxes.

- B. Mr. Joel Gustafson – Clay Shaw representative

Mr. Joel Gustafson made a presentation regarding the Town's request to obtain or unify its zip codes. He explained the different ways a unified zip code would assist the Town and indicated that Senator Clay Shaw's staff was working to schedule a meeting with the United States Postal Service regarding this matter.

Commissioner McIntee stated that since it was doubtful the Town would be successful in this matter, the Commission should move forward with discussion on the agenda.

5. REPORTS

A. Economic Development Task Force (*David Nixon*)

David Nixon provided an update on the Economic Development Task Force and its progress with the development of a Community Redevelopment Agency.

6. APPROVAL OF MINUTES

A. October 10, 2006, Agenda Conference

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to adopt the agenda conference minutes as presented. In a roll call vote, all voted in favor. The motion carried 5-0

B. October 10, 2006, Regular Meeting

Commissioner McIntee made a motion to table the regular meeting minutes to November 14, 2006, seconded by Commissioner Silverstone. In a roll call vote, all voted in favor. The motion carried 5-0.

7. PUBLIC COMMENTS

Larry Wick, 4900 N. Ocean Boulevard, referenced several items on the agenda and provided his opinions on each.

Mr. Wick stated that the Town should red tag the Oriana project.

Mr. Wick referenced the Commission's reconsideration of allowing *By The Sea Times* to hold discussions on the referendum questions, stating that their rights were being discounted. He then provided his opinion on each of the ballot questions.

Thomas Carr, 264 Miramar Avenue, explained term limits referenced on the ballot and also thanked the Property Owners Association for its Oktoberfest festivities.

George Grossman, 238 Corsair Avenue, referenced El Mar Drive, stating that it was a jewel in the Town and should be protected.

Gail Schwartz, 4629 Poinciana Street, spoke with regards to El Mar Drive and also complained how awful Oriana looked within the community. She said her property had been red tagged three times and demanded that a red sticker be placed on the Oriana project.

Barbara Cole, 221 Washingtonia Avenue and 5000 North Ocean Boulevard, provided

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her opinions for the upcoming elections.

Diane Boutin, 4244 El Mar Drive, introduced Nancy Piszewski who presented the Town with copies of the Pier Palette Cookbook. She provided a brief history of the Pier Coffee House.

Jim Pollock, 4244 E. Tradewinds Avenue, spoke in favor of the Volunteer Fire Department.

Larry McGuinness, 5100 N. Ocean Boulevard, asked about the license fees for the replacement of windows, expressing his belief that the cost was exorbitant.

Stuart Dodd, 232 Imperial Lane, thanked Commissioner McIntee for his consideration to allow the *By The Sea Times* to use Jarvis Hall.

Mr. Dodd wanted the Town to red tag Oriana, stating that the Town should not be considering compensation, but ensuring that the property was constructed as approved.

Penny Dodd, 232 Imperial Lane, wants to red tag Oriana and provided her opinions on the upcoming proposed referendums.

Susan Delegal, 888 SE 3rd Avenue, Fort Lauderdale, representing Oriana, stated that the developer had made an internal investigation as to the improvements made and was cooperating with Attorney Cherof's office. She explained the safety regulations that had been followed and stated that the developer would continue to cooperate with the Town.

At 8:08 p.m., Vice Mayor Yanni, Commissioner McIntee, and Commissioner Silverstone left the dais. Mayor Parker announced that there was no quorum.

At 8:09 p.m., Vice Mayor Yanni returned to the dais.

David Beyer, 20215 Pointers Place, Aventura, stated that he had been the subject of accusations and bribery by a member of this Commission. He stated that he had evidence that these accusations were not true and challenged this person to step down as Commissioner. Mr. Beyer asked for the opportunity to exonerate himself.

At 8:14 p.m., Commissioner McIntee and Commissioner Silverstone rejoined the rest of the Commission at the dais.

Cristie Furth, 4525 El Mar Drive, asked that *By the Sea Times* be permitted to hold their forum to discuss the referendums.

Sam Patti, 4228 El Mar Drive, said that there was a bad decorum among the

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Commissioners and chastised them for their conduct.

Mary Ann Corley, 232 Algiers Avenue, gave her opinions on the referendum questions.

Maureen McIntee, 1612 SE 21st Avenue, asked that *By the Sea Times* be permitted to hold their forum to discuss the referendums.

Michael Dalton, 10738 Santa Rosa Drive, Boca Raton, stated that he was in attendance to clear some misconceptions regarding David Beyer. Mr. Dalton explained that Mr. Beyer had no official capacity with the development group and that he had no right to speak on their behalf.

George Hunsaker, 4929 Poinciana Avenue, stated that he did not want certain information on the Government Access Channel.

Adrienne Roberts, 220 Imperial Lane, asked that *By the Sea Times* be permitted to hold their forum to discuss the referendums.

R.W. Roberts, 220 Imperial Lane, asked that *By the Sea Times* be permitted to hold their forum to discuss the referendums. He addressed the Oriana project and felt that it should be tagged immediately.

Mr. Roberts spoke in favor of the Volunteer Fire Department.

Birute Clotney, 1770 SE 21 Avenue, complained about Mr. David Beyer's character.

Cindy Gesey, 256 Imperial Lane, was disappointed at the conduct by some residents and visitors at the last Property Owners Association meeting.

John Brandt, 1201 NE 60 Street, Fort Lauderdale, complained to the Commission about a Town resident that put up a fence around their pool and then was told to take it down. He felt the same should happen to Oriana.

John Thompson, 671 Lakeside Circle, Pompano Beach, complained about the Commission not being polite to him and also said that he had nothing bad to say about Mr. Beyer. He said that he had spoken to Mr. Beyer about the Oriana project and that Mr. Beyer had never offered any kind of bribe to him.

Mayor Parker called for a five minute recess at 9:00 p.m.

Mayor Parker reconvened the meeting at 9:05 p.m.

Commissioner McIntee brought to the Mayor's attention that he was verbally and

aggressively attacked by Mr. Beyer during the break. He stated that he did not wish to have Mr. Beyer removed from the meeting, but that he should be admonished to only sit and watch.

By full concensus, item 15C was moved to the top of the agenda.

15C Update regarding the Oriana/Pier Pointe development site.

Manager Baldwin advised that the report, to date, was unchanged and explained that the complication with the investigation and analysis was due to the turn over with the staff in the Development Services Department. He explained that another complication of the review was the lack of documentation.

Manager Baldwin stated that he had asked Mr. Keller to prepare a report, as well as Mr. Brad Townsend. He indicated that staff had met with the Broward County Building Department and had received information from them, as well as from the Fire Marshall. He explained that all this information needed to be reviewed. Manager Baldwin explained that there appeared that at some point there was a review made of the plans and the County had requested that the fire stairwell be enlarged. The construction drawings do not match the original set of plans submitted.

Manager Baldwin advised that all documentation would now be provided to Attorney Cherof for review.

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

- A. **ORDINANCE 2006-13:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, regarding interpretation and application of Section 7.1 of the Town Charter as amended March 2006; to provide for Town action in the event of court determination that provisions of the Bert J. Harris Property Rights Act applies to the March 2006 amendments to the Town Charter; providing for severability; providing for codification; providing for conflicts; and providing for an effective date.

Attorney Cherof read ordinance 2006-13 into the record by title only.

Mayor Parker opened the public hearing.

Barbara Cole, 221 Washingtonia Avenue and 5000 Ocean Boulevard, spoke in favor of the ordinance.

John Thompson, 671 Lake Side Circle, Pompano Beach, spoke in favor of the ordinance and provided a brief history of the Citizens Initiative Committee.

Diane Boutin, 4244 El Mar Drive, expressed the importance of ensuring that residents were aware of the issues to be considered during the elections.

Maureen McIntee, 1612 SE 21st Avenue, spoke in favor of the ordinance.

Bob Terrien, 5100 N. Ocean Boulevard, asked if this ordinance provided any real relief to the Town or if it was essentially a lot of "fluff".

Mayor Parker closed the public hearing.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to approve the ordinance.

Commissioner Silverstone followed up on the question that Mr. Terrien had asked, with Attorney Cherof indicating that he did not feel that this ordinance would provide the Town with any relief. Lengthy discussion followed.

In a roll call vote, the motion failed 2-3, with Mayor Parker, Vice Mayor Yanni, and Mayor Pro Tem Clark dissenting.

9. COMMISSIONER COMMENTS

Commissioner Silverstone spoke about the Oktoberfest and the debates held by the Property Owners Association.

Commissioner McIntee stated that he had two very serious concerns, with one being what he considered a violation of the freedom of speech if *By the Sea Times* were not allowed to hold its debate. He stated that this debate would be held even if it were canceled by the Commission, stating that he would invite all television stations and newspaper reporters to attend.

Commissioner McIntee referenced the Oriana project, expressing his belief that many people had been scammed out of their money because of this project.

Vice Mayor Yanni spoke about the Oriana Property and complained that it was unsightly.

Vice Mayor Yanni referenced the item on the agenda requiring vacant properties to be landscaped, stating that the Town should be providing an example.

Vice Mayor Yanni asked that discussion and/or action on covered bus stops be placed on the next agenda.

Vice Mayor Yanni stated that there had been some discussions concerning previous red

taggings within the Town and provided a history of certain cases referenced.

Mayor Parker announced the Halloween events and festivities and invited everyone to attend.

Mayor Parker spoke on the upcoming elections and provided his opinions regarding each proposed referendum question.

10. ORDINANCES (1ST Reading)

There were no ordinances for first reading to be considered.

11. CONSENT AGENDA

- A. SPECIAL EVENT PERMIT: Wedding/Chery; Sunday, December 10, 2006; from 9:30 a.m. to 12:00 p.m.

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

12. RESOLUTION

There were no resolutions to be considered.

13. OLD BUSINESS

- A. Discussion and/or action regarding the cost per foot to bury overhead utility lines for individual properties being constructed (*Town Engineer Kevin Hart*) (*tabled from September 14, 2006*)

Town Engineer Kevin Hart presented this item and provided a description of the proposed improvements. He indicated that this project would eliminate the poles while the lines were buried along the frontage. Mr. Hart stated that the cost would be finalized in the next four to six weeks and offered to report back to the Town Manager at that time.

After a brief discussion, it was agreed that this item would be further discussed in January 2007.

- B. Discussion and/or action regarding the possibility of the Town providing its

own trash collection services

Vice Mayor Yanni made a motion, seconded by Mayor Parker, to table this item to next meeting. In a roll call vote, all voted in favor. The motion carried 5-0

- C. Discussion and/or action regarding the possibility of providing for special fees to cover the cost of trash collection for residential areas within the Tax Bill (*Mayor Pro Tem Chuck Clark*)

Mayor Pro Tem Clark stated that according to the memo it was a preliminary preview about the cost, but he was looking for something more detailed. Lengthy discussion followed, wherein Attorney Cherof explained the Intent Resolution and the additional process this item would undergo if the Commission wished to have these costs included in the TRIM notices.

- D. Discussion and/or action regarding the formalization of adoption of the color palette approved by the Commission (*Mayor Oliver Parker*)

Mayor Parker stated that the Commission had approved a color palette and asked what needed to be done so the Commission could formally adopt the colors. Attorney Cherof said that an Ordinance needed to be adopted.

Commissioner Silverstone made a motion, seconded by Vice Mayor Yanni, directing the Town Attorney to prepare the appropriate ordinance. In a roll call vote, all voted in favor. The motion carried 5-0.

The Mayor asked if this item could be placed on the agenda for the first meeting in January 2007, with no objections.

- E. Discussion and/or action concerning the authorization for the use of Jarvis Hall and the government access channel according to the request by *By The Sea Times*
 - 1. Motion to reconsider (*Mayor Pro Tem Chuck Clark*)
 - 2. Motion to rescind (*Mayor Oliver Parker*)

Mayor Parker advised that Commissioner McIntee, Commissioner Silverstone or Mayor Pro Tem Clark were the only ones that could make a motion to reconsider this matter.

Mayor Pro Tem Clark made a motion to reconsider, seconded by Vice Mayor Yanni. The motion carried 3-2, with Commissioner McIntee and Commissioner Silverstone dissenting.

Mayor Parker advised that the Commission could now consider the question of whether

By The Sea Times should be permitted to hold a debate.

Mayor Pro Tem Clark stated that Mr. John MacMillan was already aware of the remarks he would be making. He stated that he had voted in favor of this item, but had some misgivings due to the manner in which Mr. MacMillan had conducted himself at the last debate. Mayor Pro Tem Clark indicated that this behavior had also been displayed at Commission meetings and expressed concern that the debate would not be fair and impartial.

Commissioner McIntee expressed his disappointment with Mayor Pro Tem Clark's change of heart in this matter. He felt that the Commission was "throwing the First Amendment Right right out of the window". Commissioner McIntee stated that it did not seem right that the Town was not allowing Mr. MacMillan the right to have his debate.

Commissioner McIntee also said that the Commission was forcing the citizens of this Town to rebel against them; and he asked that all citizens come to the debate regardless. He indicated that the debate would be videotaped and then shown to Mayor Pro Tem Clark so that he could see he was wrong.

Commissioner McIntee stated that if Mr. MacMillan "booed and hissed" and the citizens did not want to hear or see it, then they should not come. He felt that Mr. MacMillan had a right to "boo and hiss" and, if Mayor Parker thought he was wrong, then the Mayor had a right to make Mr. MacMillan leave a meeting.

Commissioner McIntee said that Mayor Parker had been offered an opportunity to speak on the issues in participation of the debate. Mayor Parker stated that he had not received any such invitation.

Commissioner Silverstone stated that he was also at that meeting and that by no means was Mr. MacMillan the loudest person there. Mayor Pro Tem Clark stated that he was not talking about volume, but discussing whether someone was worthy to hold a balanced and impartial meeting here. Commissioner Silverstone did not feel that Mr. MacMillan should be excluded for the purposes stated.

Vice Mayor Yanni questioned what was the rule on who was permitted to use Jarvis Hall and the Government Access Channel. Manager Baldwin explained that the Manager made the decision which could be appealed to the Commission. He indicated that he typically denied use to avoid any implications of politics and left the final decision to the Commission.

Vice Mayor Yanni believed the use of Jarvis Hall was for reserved for local and civic organizations only. He did not believe that the newspaper was being prohibited from using their freedom of speech as it could write anything it wished within its articles.

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Vice Mayor Yanni stated that he did not mind if someone else put on a debate on these issues, but did not believe it should be done by a newspaper.

Mayor Parker felt that nobody was violating the speech rights of *By The Sea Times* as they could hold a debate and discuss it in their newspaper by publishing it. However, he did not believe the Town had to provide them with the forum to do so.

Vice Mayor Yanni clarified that he had thought the meeting where this item was approved had been adjourned, yet that was when Commissioner McIntee sat back down and the Commission voted on this item.

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

- F. Discussion and/or action regarding the use of “granny flats” as allowed by the Broward County Property Appraiser’s Office (*Mayor Oliver Parker*) (*tabled from September 28, 2006*)

Mayor Parker stated that discussion on the action regarding the “granny flats” was moot at this point. He requested this item be removed from the agenda. There were no objections.

- G. Discussion and/or action regarding the order in which items are placed on the agenda for Commission consideration (*Commissioner Jerry McIntee*) (*tabled by Mayor Parker at the meeting of September 28, 2006*)

Mayor Parker stated that he had confirmed that no motion had been made to remove this item from table, which was necessary. The Mayor also pointed out that it was common courtesy that if a Commissioner could not make a meeting, the item be pushed back a week if it was not an emergency issue that needed immediate attention.

Lengthy discussion followed concerning how the issue came to be tabled, with Attorney Cherof reading portions of the verbatim minutes into the record.

Mayor Parker stated that when this issue was placed on the agenda as a tabled item with a date certain, Robert’s Rules required a motion to remove it from the table. Attorney Cherof agreed and apologized for the oversight.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to implement a procedure that when an agenda item comes in it was time stamped and showed how it was placed on the agenda for the following meeting.

Mayor Parker stated that under Robert’s Rules the Mayor sets the agenda, and then the

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Manager and lastly the Clerk, prioritizing which items are more important and ensuring that one Commissioner could not monopolize the agenda. He felt that in this manner, everyone gets an opportunity to have their items discussed. Mayor Parker suggested that the Town should have a system to place items on the agenda and if that was what Robert's Rules said, then it should be followed. Attorney Cherof suggested that each Commissioner take a turn on who put items on the agenda in alternating turns.

In a roll call vote, the motion failed 2-3, with Mayor Parker, Vice Mayor Yanni, and Mayor Pro Tem Clark dissenting.

Mayor Parker tabled the remainder of the meeting to November 28th to stay in the same order that it was currently in. Mayor Parker stated that everything from item "H" to the end would be on the next agenda.

- H. 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*) (*tabled by Mayor Parker at the meeting of September 28, 2006*)

This item was tabled to the next meeting.

- I. Discussion and/or action concerning beach safety issues (*Mayor Oliver Parker*) (*tabled from September 28, 2006*)
 - 1. Installation of call phones at all beach
 - 2. Installation of signs regarding rip currents; providing instructions on what to do if a person is caught in a rip current

This item was tabled to the next meeting.

- J. Discussion and/or action to establish a citizen's committee to establish protocol and procedures for naming public property after citizens (*Commissioner Jim Silverstone*) (*tabled from October 10, 2006*) (***Town Manager requesting tabling to November 14, 2006***)

This item was tabled to the next meeting.

- K. Discussion and/or action concerning the naming of Washingtonia Beach Park after Bill and Eva Karley (*Commissioner Jim Silverstone*) (*tabled from October 10, 2006*)

This item was tabled to the next meeting.

- L. Discussion and/or action regarding the designation of certain

neighborhoods for residential traffic only – Avalon Avenue at Seagrape Drive and West Tradewinds Avenue (*Mayor Oliver Parker upon the request of Eva Karley*) (*tabled from October 10, 2006*)

This item was tabled to the next meeting.

- M. Discussion and/or action reviewing the details and seeking Commission policy direction for the Request for Proposal for emergency medical services and automatic aid (*Town Manager Robert Baldwin*)

This item was tabled to the next meeting.

- N. Discussion and/or action regarding the Town obtaining Letters of Interest for engineering services from other providers (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- O. Request to extend the site plan development order for Luxury Dwelling Homes, Cabonell, agent/Vinci, Owner; for the properties located at 4644 and 4646 Poinciana Street (*continued from October 10, 2006*)

This item was tabled to the next meeting.

14. NEW BUSINESS

- A. Discussion and/or action regarding the possibility of requiring properties that remain vacant for more than one year to landscape and remove construction fencing (*properties to be included are 4444 and 4500 Ocean Drive; 4448, 4436, 4451, and 4512 El Mar Drive; 222, 226, 230, and 231 Shore Court; and 1740 East Terra Mar Drive*) (*Mayor Oliver Parker*) (*tabled from September 28, 2006*)

This item was tabled to the next meeting.

- B. Discussion and/or action regarding the possibility of establishing a Town Ethics Committee (*Commissioner Jerry McIntee*) (*tabled by Mayor Parker at the meeting of September 28, 2006*)

This item was tabled to the next meeting.

- C. Discussion and/or action regarding the removal of the overlay district

(Commissioner Jim Silverstone) (continued from October 10, 2006)

This item was tabled to the next meeting.

- D. Discussion and/or action regarding speed humps on west side of Terra Mar Island *(Mayor Pro Tem Chuck Clark)*

This item was tabled to the next meeting.

- E. **PUBLIC HEARING** - SITE PLAN Villa Caprice, located at 4108 and 4110 El Mar Drive *(request for temporary sales office to be located in the Villa Caprice development)*

This item was tabled to the next meeting.

- F. Discussion and/or action regarding an extension to the site plan development order for Whitecap Motel Site/Robert White, Owner; located at 4608 El Mar Drive

This item was tabled to the next meeting.

- G. Discussion and/or action regarding an extension to the site plan development order for B&B Garden Court/Rodriguez Design Group; located at 226 and 230 Garden Court and 4149 Seagrape Drive

This item was tabled to the next meeting.

- H. Discussion and/or action regarding an extension to the site plan development order for Ocean Park (Villa Caprice)/Rex Nichols, Architect; located at 4108 and 4110 El Mar Drive

This item was tabled to the next meeting.

- I. Discussion and/or action regarding an extension to the site plan development order for B&B Duval/Rodriguez Design Group; located at 4209 and 4215 Seagrape Drive

This item was tabled to the next meeting.

- J. Discussion and/or action on clarifying and correcting the Charter updates

previously submitted to the State to include Section 4 of the height limit petition as approved by the voters in March in order to implement the will of the people (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- K. Discussion and/or action on correcting the injustice of letting developers use beach area and call it green space, beating the 25 percent green space rule on new development (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

15. TOWN MANAGER REPORT

- A. Code Compliance Quarterly Report

This item was tabled to the next meeting.

- B. Municipal Services Monthly Report

This item was tabled to the next meeting.

16. TOWN ATTORNEY REPORT

Attorney Cherof had no reports for the Commission's consideration.

17. ADJOURNMENT

Mayor Pro Tem Clark made a motion to adjourn. As there was no further business to discuss, Mayor Parker adjourned the meeting at 11:12 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____