

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

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, December 12, 2006
7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:08 p.m. Present were Mayor Parker, Vice Mayor Gianni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. Also present were Municipal Services Director William Mason, Attorney James Cherof, and Town Clerk Medina.

Town Manager Robert Baldwin was not present.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan delivered the invocation.

4. PRESENTATIONS

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

Chief Scott Gooding introduced Deputy Karey Bambino and provided a brief description of her experience. He explained that Deputy Bambino had been selected as Deputy of the Month for October for her diligent work on a cross-state case wherein a woman had been taken against her will. Chief Gooding stated that Deputy Bambino's quick actions helped in rescuing this woman in North Carolina and congratulated Deputy Bambino for her efforts. He presented Deputy Bambino with a plaque.

The Commission congratulated Deputy Bambino and thanked her for her good work.

Chief Gooding stated that the entire Alpha shift (working 10:00 p.m. to 6:00 a.m.) was being recognized for the month of November. He explained the efforts by the Alpha shift in capturing an individual who had burglarized a City of Fort Lauderdale resident. Chief Gooding congratulated the Alpha shift for working well together and closing the case.

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- B. Certificates for 2005 Holiday Decoration Contest (*Property Owners Association/Mayor Oliver Parker*)

Cindy Geesey, president of the Property Owners Association, provided certificates for the 2005 Holiday Decoration Contest. The certificates were issued as follows:

Single Family: Kathleen and Timothy Schottke
Multi-Family: La Florida Apartments
Condos: Sea Ranch Club A
Hotels/Motels: High Noon
Restaurants: The Village Grille
Business: Jo-An's Papers

Ms. Geesey thanked all the individuals who had participated. The Commission congratulated the winners.

5. REPORTS

There were no reports to be considered by the Commission.

6. APPROVAL OF MINUTES

- A. May 23, 2006, Regular Meeting
- B. June 27, 2006, Regular Meeting
- C. July 11, 2006, Regular Meeting
- D. July 25, 2006, Regular Meeting
- E. September 12, 2006, Workshop Meeting
- F. September 26, 2006, Workshop Meeting
- G. September 28, 2006, Regular Meeting
- H. October 24, 2006, Workshop Meeting
- I. October 24, 2006, Regular Meeting
- J. November 28, 2006, Agenda Conference
- K. November 28, 2006, Regular Meeting

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to approve Items 6A through 6E, and tabling the remaining minutes.

Commissioner McIntee asked why the minutes for June 13, 2006 and September 14, 2006 were not included. Ms. Medina explained that she had thought these two sets had been approved, but would check and ensure they were included on the next agenda if that was not the case. She advised that all previous minutes were now ready for the Commission's review.

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Some discussion followed concerning which minutes had been delivered with the agenda packet and which were delivered later under separate cover.

Commissioner Silverstone amended his motion to table Items 6F, 6G, 6I and 6K. Vice Mayor Yanni seconded the motion. In a roll call vote, all voted in favor. The motion carried 5-0.

There were no amendments or corrections offered for items 6A, 6B, 6C, 6D, 6E, 6H or 6J.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve items 6A, 6B, 6C, 6D, 6E, 6H or 6J. In a roll call vote, the motion carried 3-2, with Commissioner McIntee and Commissioner Silverstone dissenting.

7. PUBLIC COMMENTS

Barbara Cole, 5000 North Ocean Boulevard and 221 Washingtonia Avenue, spoke with regards to the recall. She also spoke in favor of the Volunteer Fire Department.

Ms. Cole questioned the Commission's holding of a shade session, expressing her belief that it had been held as a scare tactic.

Ms. Cole spoke in favor of term limits and opposed item 13A. She encouraged condominium associations to call the Citizens Initiative Committee to obtain information regarding their causes.

Ms. Cole referenced the "other side" asking that they maintain their dignity.

Lisa Mitchell, 4238 Seagrape Drive, spoke in favor of the Volunteer Fire Department and their efforts to assist residents during the holidays. She felt the department was safe and spoke in opposition to the Broward Sheriff's Office.

Joseph Salzillo, 1900 Ocean Walk Lane, spoke with regards to the recent elections and the change in parties now in progress. He felt that the Commission was heading in the same direction. Mr. Salzillo asked that the Commission vote with their hearts.

Cindy Geesey, 256 Imperial Lane, invited everyone to the Property Owners Association holiday party and provided details regarding the festivities being planned. She announced plans for holiday gifts for the men and women serving in the military over seas. Ms. Geesey asked everyone to participate.

Ken Young, 231 Codrington Drive, spoke with regards to his business experiences,

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stating that honesty and integrity were the most important aspects to success. He spoke in favor of term limits, stating that the proposed term limits should take effect immediately.

Louis Marchelos, 4400 Ocean Drive, representing Athena's Restaurant, requested to be included on the special event permit application as requested by Village Grille and Mulligan's. He stated that he had spoken with representatives of both the Village Grille and Mulligan's and that they had had no objections to the inclusion of his restaurant. Mr. Marchelos provided a site plan for the Commission's review.

Lawrence Wick, 4900 North Ocean Boulevard, provided information regarding several holiday events in progress, including collection of toys for children and Marie White's Santa By The Sea. He encouraged residents to attend and thanked those individuals who had assisted with making the events successful. Mr. Wick thanked the Broward Sheriff's Office for waiving the fees for the required permits for Santa By The Sea.

Mr. Wick questioned the process followed during motions, expressing his belief that Robert's Rule was not being followed.

Stuart Dodd, 232 Imperial Lane, spoke with regards to the recall he was pursuing, advising that the petition would be filed with the Town Clerk within the next few days. He spoke in favor of term limits and believed they should become effective immediately.

Penny Dodd, 232 Imperial Lane, spoke in opposition to the Broward Sheriff's Office. She stated that the entire climate of the Town was changing and this was reason for pursuing the recall.

Geoffrey Evans, 1941 Southeast 18 Street, spoke in opposition to Item 13A and felt there was no reason to move the Town's elections from March to November.

Patrick Pointu, 4622 Bougainvillea Drive, spoke in opposition to those Commissioners who had run for more than one term.

Mr. Pointu spoke in opposition to the Broward Sheriff's Office and in favor of the Volunteer Fire Department. He questioned the Commission's action regarding the termination of the Volunteers.

Adrienne Roberts, 220 Imperial Lane, spoke in opposition to the Commission's actions concerning the Volunteer Fire Department and questioned the actions to move the elections from March to November.

Ms. Roberts felt that the recall proceeding should not come as a surprise to anyone.

Frank Herrmann, 4244 Seagrape Drive, stated that he enjoyed participating in the last

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meeting. He felt that the residents had been promised a Volunteer Fire Department and yet they had only received the Broward Sheriff's Office.

Mr. Herrmann spoke in favor of the proposed term limits and questioned any action to remove the immediate effective date.

Peter Debs, 4110 El Mar Drive, referenced the scale models the Commission was considering and explained the process for creating scale models. He explained the costs involved if the Commission chose to require scale models during the entire process, expressing his belief that the costs could be exorbitant. Mr. Debs stated that despite this, scale models could be very useful and suggested that the scale models not be required until the site plans were approved by the Commission. He indicated that this would not only lower expenses, but would allow applicants to move forward with their projects in a timely manner as creating scale models could be a lengthy process.

Mr. Debs thanked the Commission for their consideration and wished everyone a happy holiday.

Mike Rolfs, 264 Allenwood Drive, stated that he was still waiting to receive a copy of the opinion provided to Vice Mayor Yanni concerning his employment with the Broward Sheriff's Office.

Dr. Kenneth Most, 2160 Southeast 19 Street, provided an update regarding the new Sister Cities relationship between the Town and Henley-on-Thames. He indicated that there were several activities being planned as representatives of Henley-on-Thames were scheduling a visit to the Town in February 2007.

John Thompson, 671 Lakeside Circle, Pompano Beach, provided a description of his experience in government work, speaking unfavorably of the Town's staff.

Mr. Thompson spoke in opposition to the Broward Sheriff's Office.

Mr. Thompson spoke in favor of term limits and suggested that the concept of changing the elections from March to November be provided to the residents for a vote.

George Hunsaker, 4629 Poinciana Drive, described his history in the Town and felt that the Town was changing to a "big city". He expressed his belief that the elections should remain in March as the residents were concerned with local issues.

Mr. Hunsaker spoke in opposition to the Broward Sheriff's Office, expressing his belief that the Town needed to provide its notice that their contract would be terminated. He

did not feel that doing this would mean that the Broward Sheriff's Office would not be providing fire suppression services, but that the existing contract would be changed.

Maureen McIntee, 1512 Southeast 21 Avenue, spoke in opposition to having the Broward Sheriff's Office terminate the contract with the Volunteer Fire Department. She felt that this termination had been in direct violation of their contract. She spoke in opposition to the Town's actions concerning this matter. Ms. McIntee spoke against the prior leadership of the Volunteer Fire Department, stating that it was not the present leadership that was causing a problem. She questioned the motives of those residents who had agreed with the termination of the Volunteer Fire Department.

David Beyer, 21200 Point Place, Aventura, came forward to speak.

Commissioner McIntee raised a point of order, stating that he would not stay to listen to a "convicted felon". Mayor Parker did not feel this was a point of order, stating it was improper to be disrespectful to a member of the public.

Mr. Beyer addressed several issues he had investigated concerning Commissioner McIntee's past. He distributed a list of issues he felt he could rebut successfully.

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

- A. **Ordinance No. 2006-14:** An ordinance granting to Florida Power and Light Company, its successors and assigns, an electric franchise, imposing provisions and conditions relating thereto, providing for monthly payments to the Town of Lauderdale-By-The-Sea, Florida, and providing for an effective date

Lynn Shatas, representing Florida Power and Light, was present.

Attorney Cherof read the ordinance by title only.

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

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to approve the ordinance.

Commissioner McIntee thanked Ms. Shatas for completing the repairs to the light located on Commercial Boulevard and El Mar Drive. He asked that perhaps consideration be given to providing fancier lighting in that area.

Mayor Parker stated that there had been an article in the *Sun-Sentinel* today that indicated that the City of Fort Lauderdale was thinking of providing its own electric utility.

He asked for details concerning this matter. Ms. Shatas stated that there was a buy-out clause in the City's contract and they were currently exploring that option.

Mayor Parker asked if the rates would be lowered if this were the case. Ms. Shatas stated that this would not necessarily be the case as there were many issues that needed to be considered, including the generation of power, facilities, transmission substations, as well as other matters.

Mayor Parker asked if the Town's contract also provided for this option. Mr. Jay Molyneaux stated that the proposed contract would allow the Town to move forward in that direction, explaining that it was a non-exclusive contract. He indicated that if another provider offered to sell electricity to the Town, Florida Power and Light would be given the opportunity to provide electricity for the same period of time, at the same price. Mr. Molyneaux stated that if Florida Power and Light chose not to meet the conditions of the offered contract, the Town could go with another provider.

Mayor Parker asked if there was any penalty for choosing to accept the option. Mr. Molyneaux replied negatively, but indicated that the franchise fee from Florida Power and Light would not be earned.

Vice Mayor Yanni asked what would be the advantages for the Town to provide its own electricity. Mr. Molyneaux felt that Florida Power and Light provided the best service possible, with the exception, perhaps, of the Orlando Utilities Commission. He indicated that rates could be expected to be raised and service would be impacted. Vice Mayor Yanni asked if the Town would then assume responsibility for maintenance of the poles and wires. Mr. Molyneaux replied affirmatively.

Commissioner Silverstone asked why the proposal was for a 30 year contract. Mr. Molyneaux stated that the length of the contract was tied to the length of time needed to issue bonds to purchase or construct an individual utility. He explained several issues incorporated into the bond issues.

Commissioner Silverstone asked if the contract could be cancelled at any time. Attorney Cherof replied negatively, stating that the agreement was for a 30 year term.

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

9. COMMISSIONER COMMENTS

Vice Mayor Yanni asked if staff had inspected the drainage on West Tradewinds

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Avenue. Mr. Mason replied affirmatively and indicated that the proper repairs had been made. He provided a brief history of the location in question and indicated that the repairs had corrected the problems being experienced.

Vice Mayor Yanni questioned if staff was reviewing the possibility of providing covered bus stops. Mr. Mason replied affirmatively, stating that a report would be forthcoming. Vice Mayor Yanni stated that Broward County had been working on an improved bus stop plan and felt that maybe the Town could request information from the County.

Vice Mayor Yanni stated that there had been some questions concerning his voting with regards to the Broward Sheriff's Office, assuring residents that his position in the department was not affected in any way regardless of how he voted.

Commissioner McIntee thanked Mike Walker, of the Public Works Department, for his hard work and diligence. He indicated that the crews of the Public Works Department were hard working and cooperative. Commissioner McIntee stated that Town employees responded rapidly to his requests and that he had not encountered any problems with having employees respond to his requests.

Commissioner McIntee spoke with regards to the recall and provided his opinions on malfeasants and misfeasants. He stated that the Commission had an obligation to review and approve all expenditures concerning tax dollars.

Commissioner McIntee indicated that he was really upset about the Broward Sheriff's Office Department of Fire Rescue and Emergency Services, as well as the Broward Sheriff's Office law enforcement section. He questioned why there were four firefighters sleeping at Town Hall, stating that there were too many vehicles in the parking lot at Town Hall.

Commissioner McIntee referenced the fire station, questioning what was happening with the equipment. He stated that the Broward Sheriff's Office should be aware that he was watching and that permits better have been obtained for any work being done. Commissioner McIntee questioned the location of the vehicle which had been assigned to the Volunteer Fire Chief, stating that there were several other issues he felt needed to be responded to by the Broward Sheriff's Office. He indicated that he had expected Battalion Chief John Frailey to be in attendance tonight, but since he was not here, expected Chief Gooding to respond. Chief Gooding explained that Chief Frailey did not report to him.

Commissioner McIntee expected that the equipment in the fire station had been "scooped up and dumped in the local canal", stating that if "we" came back and went to get the equipment, it would all be gone. He stated that the equipment had better be returned as they were purchased for use by the Volunteers.

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Commissioner McIntee stated that the Broward Sheriff's Office was "stealing our equipment" and felt that if the equipment were placed as part of the fleet, the equipment would go to serve other communities. He did not feel that because the contract with the Volunteers had been terminated, the Broward Sheriff's Office had a right to the equipment.

Commissioner McIntee expressed his belief that the Broward Sheriff's Office had not really begun a "reserve" volunteer department. He read a listing of the information he was requesting from the Broward Sheriff's Office, stating that the department should ensure that an unbiased fire inspector be hired to ascertain if the living quarters were safe. Commissioner McIntee stated that he was quite serious of ensuring that the Broward Sheriff's Office followed the Town's regulations. He reiterated that he had expected Chief Frailey to be in attendance at tonight's meeting, stating that he had the right to ask questions and demand immediate answers. Commissioner McIntee expressed his belief that this was a ploy to ensure that the Volunteers did not return. He admitted he was biased in this situation, but expressed his belief that the majority of the people were "mad" at the actions the Commission had taken to allow the termination of the Volunteers.

Commissioner McIntee asked that discussion and/or action be held at the next meeting regarding the forming of an individual police department. He felt it was time to remove the Broward Sheriff's Office entirely from the Town.

Commissioner McIntee regarded the subject of term limits, stating that if the proposed ordinance was adopted, the seated Commission would receive an additional eight months for their terms. He felt that if the proposal was to be honestly considered, then the change should be considered for the year 2010. Commissioner McIntee felt that the majority of the voters wanted to initiate term limits and felt that it should be immediately effective.

Commissioner McIntee referenced the recall once again, stating that the issue of the Volunteer Fire Department had been the "final straw". He provided information regarding other recalls in the Broward County throughout the years.

Commissioner Silverstone resigned his position on the Optimist Club, stating that he no longer wished to work with Mayor Parker.

Commissioner Silverstone referenced the Volunteer Fire Department and the promises made during the annexation of the northern portions of Town. He indicated that those promises were not binding on the Town as they were not part of the actual agreement. Commissioner Silverstone stated that the promises had been broken then, as well as the promises made by the resolution approved by the Commission. He indicated that the Volunteers had worked hard to meet the goals set by the resolution and that the membership of the Volunteers had not, despite objections noted from others, voiced any

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objections to the current leadership.

Commissioner Silverstone stated that the Volunteers were proceeding with the workshops when the Broward Sheriff's Office had opted to terminate their contract with the Volunteers. He felt this was totally unacceptable and unreasonable.

Commissioner Silverstone stated that this was the reason he had run for the Commission seat. He felt that the Volunteers had been completely run by the Broward Sheriff's Office as the Broward Sheriff's Office controlled their budget.

Commissioner Silverstone referenced the vote regarding the termination of the contract between the Broward Sheriff's Office and the Volunteers and asked if Mayor Parker had had the ability to bring that item up for reconsideration. He indicated that Mayor Parker had not been on the prevailing side as the motion to provide consent had originally failed. Attorney Cherof explained that Mayor Parker had not had the opportunity to vote on the issue as he had been absent. He further explained that if the Commission had not agreed with his reading of the rules, the individual Commissioner could have challenged the reading and asked the Commission to decide the issue. Attorney Cherof stood by his opinion that the Mayor had standing to make the motion for reconsideration.

Commissioner Silverstone felt that the Commission's actions had been unfair as the Volunteers' attorney had not been present at the previous meeting. He indicated, too, that there had been no real effort to negotiate with the Volunteers and reiterated his opinion that the actions taken had been improper.

Commissioner Silverstone referenced the last issue of the *Town Topics*, stating that the center page depicting the Halloween festivities had illustrated the Broward Sheriff's Office, but had no mention of the people who had put it all together, such as Marc and Cristie Furth and Tom and Marilyn Carr. He felt the reporting had been unbalanced.

Commissioner Silverstone addressed the issue of the claims against the Town under the Bert J. Harris Act. He indicated that people had been told that because the referendum was passed, individuals could not construct up to 15 stories; however, he felt that what was not being noted was that property owners did not want any more high rise building. Commissioner Silverstone stated that another issue that was not being explained was the reality that the Charter could be changed in the future, if property owners felt that their rights were being taken away.

Commissioner Silverstone stated that he would do anything possible to get the Volunteers back, expressing his belief that the Volunteers had earned the right to serve the Town.

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Mayor Pro Tem Clark wished everyone a great holiday season and a prosperous new year. He also wished his wife, Ms. Bonnie Clark, a happy anniversary.

Mayor Pro Tem Clark stated that Christmas Eve was on a Sunday this year and that it had come to his attention that this was a high retail sale day for businesses selling liquor. He indicated that retail businesses, such as Walgreens and 7-Eleven, would be unable to sell liquor to individuals preparing for their holiday festivities until after 12 noon. As such, he asked that the Commission consider the suspension of enforcement for retail sales on liquor on Christmas Eve.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to suspend the enforcement of no retail sells of liquor, wine and beer on Christmas Eve from 9:00 a.m. to 12 noon.

Mayor Parker asked if this waiver of enforcement was against State laws. Attorney Cherof explained that the State's prohibition for Sunday sales was over at 7:00 a.m.

Attorney Cherof indicated that the Commission had set precedence to not diligently enforce specific ordinances, such as for parking, during holidays. He did not feel this would create a problem.

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

Mayor Parker wished everyone a happy holiday season and a prosperous new year. He asked for confirmation that parking would be abated during Christmas Eve, Christmas Day, New Year's Eve, and New Year's Day. Mr. Mason stated that staff had been reminded of the abatement.

Mayor Parker expressed his belief that the actions taken by the Commission to provide consent to the termination of the contract between the Broward Sheriff's Office and the Volunteers had been a vote in opposition to the leadership and not the department in general. He felt that the department needed to be run in a professional and efficient manner.

Mayor Parker again wished everyone a wonderful holiday season.

10. ORDINANCES (1ST Reading)

- A. **ORDINANCE NO. 2006-15:** An ordinance of the Town of Lauderdale-By-

The-Sea, Florida, amending Article III "Maintenance of Property" of Chapter 6 of the Code of Ordinances to add a new Section 6-42 titled "Site Maintenance of Projects Under Development"; providing for minimum landscaping requirements for sites under development; providing for severability; codification; and an effective date

Attorney Cherof read the ordinance by title only.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to approve Ordinance 2006-15 on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **ORDINANCE NO. 2006-16:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Section 24-43(b) of Article IV "Application for Final Site Plan Approval" of Chapter 24 of the Code of Ordinances, to require the submission of a scale model of a proposed project in an overlay district as a condition of site plan submission; providing for severability; codification; and an effective date.

Attorney Cherof read the ordinance by title only.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to approve Ordinance 2006-16 on first reading.

Commissioner Silverstone stated that Mr. Peter Debs had referenced the difficulties and cost in creating scale models. He asked for confirmation that the scale model would be required after all board reviews, prior to submittal to the Commission. Attorney Cherof confirmed Commissioner Silverstone's recollection of the discussions held and read the section pertaining to this matter into the record.

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

- C. **ORDINANCE NO. 2006-17:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Section 24-43(g) effect period of final site plan approval; providing clarification of the effective period of an approved site plan; providing for conflicts, severability, codification and an effective date.

Attorney Cherof read the ordinance by title only.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve Ordinance 2006-17 on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. **ORDINANCE NO. 2006-18:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, providing interpretation of the November 2006 Charter amendment regarding qualifications for office and term limits; providing for severability; codification; and an effective date.

Commissioner McIntee stated that he had been provided a copy of this ordinance prior to this meeting and asked that this item be tabled to January 9, 2006, so that he could further review it.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to table ordinance 2006-18, to January 9, 2006 for first reading.

Mayor Parker asked if it was necessary to read the title into the record prior to tabling the item. Attorney Cherof replied affirmatively.

Attorney Cherof read the ordinance by title only.

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

Mayor Parker called a recess. The meeting was reconvened at 9:06 p.m.

11. **CONSENT AGENDA**

- A. **AGREEMENT RENEWAL:** with the City of Pompano Beach for the reinstatement and extension for sewer services
- B. **TERMINATION OF AGREEMENT:** between the Town and Pompano Beach for Water Billing Services
- C. **MEMORANDUM OF UNDERSTANDING:** between the Town and Waste Management (*tabled from November 28, 2006*)
- D. **LEASE AGREEMENT:** between the Town and AMISUB (North Ridge Hospital) for use of the Town's off-site building
- E. **EXTENSION AGREEMENT:** for the Broward County Challenge Grant as it pertains to the beach pavilion enhancement (*\$176,548*)
- F. **SPECIAL EVENT PERMIT:** New Year's Eve/Super Bowl Party/Village Grille and Mulligan's, December 31, 2006, from 5:00 p.m. to 1:00 a.m. and Super Bowl Sunday, from 5:00 p.m. to 10:00 p.m.

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- G. SPECIAL EVENT PERMIT: Taste of the Beach/Chamber of Commerce;
Wednesday, February 21, 2007; from 6:00 p.m. to 10:00 p.m.

Mayor Parker asked that Item F be removed from the Consent Agenda. There were no objections.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, approving Items A, B, C, D, E, and G of the Consent Agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

Dave Gadsby, representing The Village Grille; William Grady, representing Mulligan's; and Louis Marchelos, representing Athena's Restaurant; were present.

Mayor Parker made a motion, seconded by Commissioner McIntee, to amend item F to include Athena's Restaurant as part of the special event application.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to amend the approval of the special event permit to include Athena's Restaurant as part of the special event application, subject to having staff ensure that all requirements are met.

Attorney Cherof stated that the Town's Code had several provisions that an applicant had to fulfill prior to the issuance of a special event permit. He indicated that the applicant was aware of the provisions and were prepared to comply. Attorney Cherof explained that there was a legal basis for the amendment as it was required by the Code.

Mr. Gadsby and Mr. Grady stated they were aware of the request for inclusion and advised that they had no objections to the inclusion of Athena's Restaurant in the special event application.

Commissioner McIntee disclosed that he had spoken with Mr. Marchelos earlier in the day and indicated that he believed all the restaurants should be provided with the same advantages. He indicated that he only needed to be contacted and he would support them.

Mayor Pro Tem Clark stated that applicants for special events should ensure they submit the proper paperwork well in advance to avoid problems at the last minute.

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

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

12. RESOLUTION

- A. **Resolution No. 2006-28:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, directing the Town Clerk to deliver to the Florida Secretary of State a copy of the Town's revised Charter incorporating the amendments to Section 6.1 and 6.3 regarding terms of office, qualifications for office and term limits which were approved by a majority of the electors in the November 2006 election and providing an effective date.

Attorney Cherof read the resolution by title only.

Mayor Parker made a motion, seconded by Commissioner McIntee, to approve resolution 2006-28.

Commissioner McIntee asked if the Charter would be sent to the State as generated by the referendum. Attorney Cherof replied affirmatively, referencing Sections 6.1 and 6.3 of the Charter which tracked the language of the referendum.

Commissioner McIntee asked if this was an administrative process. Attorney Cherof replied affirmatively, stating that this was done to ensure that the Charter on the record with the State would be accurate.

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

13. OLD BUSINESS

- A. Discussion and/or action regarding the changing of municipal elections from March to November (*Mayor Pro Tem Chuck Clark*) (*This item was originally discussed at the November 14, 2006 meeting and was tabled to November 28, 2006 meeting. It was then tabled to January 23, 2007, with the following motion still on the floor:*

Mayor Parker made a motion, seconded by Vice Mayor Yanni, directing the Town Attorney to prepare an ordinance to change the municipal elections from March to November and to extend the terms until November 2008. Discussions on the motion were tabled to this meeting.

A motion to remove from table will be made by Mayor Pro Tem Clark.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to remove this item from the table.

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Mayor Pro Tem Clark explained that his rationale for pursuing this matter was that November elections provided a larger number of electorate participating in the elections. He explained that the cost savings to the Town directly would not be significant; however, he indicated that the savings to Broward County in general was approximately \$1 million. He stated that in light of the fact that most of the Town's tax dollars went to the County, it was a substantial amount that should be considered.

Commissioner Silverstone felt that if this was to be considered, it should not affect anyone's status and should be withheld until 2007. Additionally, he felt that the Commission should consider holding elections on Saturdays, making an effort to ensure a larger turnout.

Commissioner McIntee stated that March had been historically used for local elections. He stated that in order to gain his support, the Commission should consider moving the effective date to the year 2010. He indicated that changing the elections at this time would provide currently sitting Commissioners with an additional eight months that was not approved by the voters. Commissioner McIntee stated that if the effective date was not immediate, a new referendum would have to be initiated.

Mayor Parker explained that if the elections were moved at this time, all five Commissioners would obtain an additional eight months. He indicated that the purpose of moving the election was not to extend the existing terms, but to allow the largest number of electorate to participate in voting.

Mayor Parker explained that the Town's Charter was specific to when the elections were held, with only the exception allowed for Broward County to hold the elections on the second Tuesday in November. Attorney Cherof concurred.

Commissioner McIntee asked if a referendum could be generated to move the elections back to March. Attorney Cherof replied that this might be an issue that could be changed by referendum.

Commissioner McIntee stated that this was a small town that liked competition and the ability to pursue referendums. He indicated that if this was passed, a new referendum would be prepared and adopted. Commissioner McIntee changed his mind and indicated that the effective date should be moved to the year 2012.

In a roll call vote regarding the removal from the table, the motion carried 4-1, with Vice Mayor Yanni dissenting.

Mayor Parker read the motion which was currently on the floor for discussion as follows:

Mayor Parker made a motion, seconded by Vice Mayor Yanni, directing

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the Town Attorney to prepare an ordinance to change the municipal elections from March to November and to extend the terms until November 2008

Commissioner Silverstone made a motion to amend the year to 2012. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 4-1, with Vice Mayor Yanni dissenting.

Mayor Parker made a motion to amend the resolution to incorporate the year 2010. Mayor Pro Tem Clark seconded the motion.

Commissioner McIntee stated that he would vote in opposition as this motion would provide him an additional eight months of service.

In a roll call vote on the amendment changing the effective date to the year 2010, the motion carried 3-2, with Commissioner McIntee and Commissioner Silverstone dissenting.

In a roll call vote on the amended motion directing the Town Attorney to prepare the resolution with an effective date of 2010, the motion carried 4-1, with Commissioner Silverstone dissenting.

- B. Discussion and/or action regarding the review of qualification and the selection of an attorney and engineer professional to assist the Town with proceeding with the review of the amended site plan for Oriana (*continued from November 28, 2006*)

Attorney Cherof provided a listing of the attorneys and engineers he would recommend for the Commission's consideration. He stated that none of the Commissioners had contacted him with opposition to the listing.

Attorney Cherof recommended the use of Dick Coker as the attorney.

Mayor Parker made a motion, seconded by Commissioner McIntee, to use Dick Coker as the attorney in this matter. In a roll call vote, all voted in favor. The motion carried 5-0.

Attorney Cherof recommended the use of Leigh Kerr.

Mayor Parker made a motion, seconded by Commissioner McIntee, to use Leigh Kerr as the engineer in this matter.

Commissioner McIntee asked if Mr. Kerr worked directly for another city or, if he had ever worked for the Town. Attorney Cherof stated that he could obtain that information

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if the Commission desired. Town Planner Walter Keller stated that Mr. Kerr had not worked for the Town in the past.

Mayor Pro Tem Clark asked for confirmation that Messrs. Coker and Kerr had worked together in the past. Attorney Cherof replied affirmatively, stating that this was the reason for his recommendation. He felt that this would make a good combination with their working with staff in this matter.

Commissioner McIntee indicated that he had been under the impression that these individuals would be providing an independent review, not working with staff. Attorney Cherof stated that he had requested a consultant and an attorney to assist staff with its presentation during the quasi judicial proceedings. He explained that in doing so, there was a need for these two individuals to work with staff.

Commissioner McIntee believed these individuals would be preparing a report for Attorney Cherof's review. Attorney Cherof explained that it would be inappropriate for him to represent the Commission during its quasi judicial proceeding and assist staff with its presentation. He further explained that these two individuals would review the documentation and be able to testify as to the Town's position in this matter.

Commissioner McIntee asked if the Commission could hold a workshop to review the information provided by the two consultants. Attorney Cherof replied that this would not be an appropriate process to pursue in a quasi judicial matter. He explained the process that needed to be followed, emphasizing the importance of the Commission making its decision in a neutral manner, based on the facts presented in a quasi judicial manner.

Mr. Keller stated that a Planning and Zoning Board hearing was scheduled for the coming week and asked for direction on how he was to proceed. He indicated that he was preparing the staff's review to be presented to the Board in this matter and asked if the procedure being followed would impact the Board's hearing. Attorney Cherof stated that this process would only impact the hearing to be held before the Town Commission. He stated that the Planning and Zoning Board should review the documentation and provide a recommendation as it always had.

Commissioner McIntee referenced variance requests being processed for this site. Mr. Keller stated that there were no variances being requested as they were not needed. He indicated that the Town could simply amend the site plan, stating that the items at issue were items that were within the Commission's purview to approve as part of the appropriate overlay district. Mr. Keller briefly explained the variance process as opposed to the site plan amendment review process.

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

There was some discussion regarding the proposed hearing date for the site plan amendment to be considered by the Commission. Attorney Cherof believed that the consultants would be prepared to move forward in a timely manner.

- C. Discussion and/or action regarding speed humps on the west side of Terra Mar Island (*Chief Scott Gooding*) (*tabled from November 28, 2006*)

Chief Gooding stated that he had performed an informal study of the traffic patterns in the west side of Terra Mar Island. He provided the details of the survey taken and indicated that in using the smart cart, the highest speed recorded was below 29 miles per hours, while the recorded data with the laser gun had revealed no speeds higher than 25 miles per hour.

It was agreed that no action would be taken on this matter at this time.

14. NEW BUSINESS

- A. **PUBLIC HEARING - SITE PLAN** Mulligan's Grill & Raw Bar, located at 4403 El Mar Drive (*Planning and Zoning Board recommending approval subject to conditions outlined in the planning report; staff recommending approval subject to the conditions noted in the planning report*)

Mayor Parker opened the public hearing.

Attorney Cherof swore in all the witnesses and briefly described the process of the quasi judicial proceeding.

William Grady, representing the applicant, was present. Walter Keller, representing the Town, was present.

Mr. Keller stated that the applicant had complied with all the recommendations set by staff and the Planning and Zoning Board, with the exception of reducing the customer service area by 100 square feet. He explained that this reduction in the customer service area would bring the applicant into compliance with parking regulations. Mr. Keller recommended approval, subject to the reduction of the customer service area by 100 square feet.

Barbara Cole, 221 Washingtonia Avenue, spoke in favor of the site plan application. She expressed her belief that this project would be a wonderful asset to the downtown area.

Commissioner McIntee made a motion, seconded by Vice Mayor Yanni, to approve the application subject to the reduction of the customer service area by 100 square feet.

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Mayor Parker asked if the applicant would need to amend the site plan. Mr. Keller replied affirmatively, stating that the applicant would have 45 days to modify the drawings.

Mayor Parker asked Mr. Grady if he had any objections to the conditions on the site plan. Mr. Grady replied negatively.

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

B. Discussion and/or action on recall of Mayor Oliver Parker (*Commissioner Jerry McIntee*)

Commissioner McIntee asked that a report be provided at the next meeting regarding the recall procedures and how it would affect the Town. He expressed his belief that the recall was being pursued because of what had happened to the Volunteer Fire Department and the request for term limits.

Maryann Corley stated that she understood that the decisions made from the dais were difficult ones, including the decision to provide consent to the termination of the Volunteer Fire Department. She believed the Commission had made the hard, but right decision to ensure the safety of the residents and the Town in general.

Ms. Corley stated that recent events caused her to feel she needed to reveal several troubling issues that had occurred with the Volunteers, including a verbal sexual assault.

Ms. Corley spoke in favor of Mayor Parker, expressing her belief that he was devoted to the Town. She stated that Mayor Parker worked hard to ensure that the community remained a solvent, financially fit community.

Ms. Corley felt that the Citizens Initiative Committee had become a monstrous vigilante group. She questioned the motives of its membership.

Ms. Corley stated that she had believed the Volunteers should be the sole providers of fire suppression until she heard the concerns about refusals to comply with certain professional guidelines. She felt that the Commission had made a professional decision to go with the Broward Sheriff's Office for the Town's fire suppression. Ms. Corley stated that the Town should keep the Broward Sheriff's Office for its fire suppression and law enforcement.

Ms. Corely indicated that a hotelier, who happened to be an influential member of the Citizens Initiative Committee, had complained about the cost of the fire assessment, but never revealed that they had enjoyed paying the same as a residential unit for years.

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Ms. Corley asked that those individuals who signed the petition for recall request that their signatures be removed.

C. Discussion and/or action regarding water rescue and hurricane preparedness with Volunteer Fire Department (*Commissioner Jim Silverstone*)

At the request of Commissioner Silverstone, Joseph Padden of the Volunteer Fire Department came forward and provided information regarding the equipment purchased to performed water rescues. Mr. Padden stated that the Volunteers had several qualified life guards and felt that this was a service that the Volunteers could provide.

Mr. Padden provided information on upcoming events in which the Volunteer Fire Department would participate. He explained that the Volunteers would continue to meet and train as it had in the past.

Commissioner Silverstone made a motion to have the Town approve a resolution or contract to support the Volunteers in developing a water rescue program at no cost to the Town.

Attorney Cherof stated that if the Town wished to support the Volunteer organization or supplement or sponsor them in some manner, that relationship should be formalized. He explained that this issue went back to the issue of liability. Attorney Cherof stated that a proposal should be presented to the Commission so that a contract could be prepared based on the proposal.

Commissioner Silverstone made a motion to have an agreement on the next agenda for the Volunteers to provide water rescue and the planning of hurricane preparedness and post hurricane needs.

Attorney Cherof suggested that this needed to be preceded by a proposal from the Volunteer organization as to what would be in the agreement, detailing what their role would be and how liability issues would be dealt with.

Mayor Parker made a motion, seconded by Mayor Pro Tem Clark, to table this issue until the Volunteer Fire Department could provide a written proposal and it was reviewed by the Town Manager.

Mayor Pro Tem Clark emphasized the importance of ensuring the Commission obtained input from the Town Manager. He stated that this type of activity would have to be under the Manager's control and direction.

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

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Silverstone dissenting.

Commissioner McIntee asked what date this item had been tabled to. Brief discussion followed, with Attorney Cherof explaining that in the manner in which the item was tabled, it was tabled indefinitely until such time as a written proposal was provided for review.

Commissioner McIntee asked that an item of discussion be placed on the next agenda to schedule a workshop to discuss having the Volunteer Fire Department develop hurricane preparedness and water rescue. Mayor Parker stated that this was the item that had just been tabled and indicated that it would be placed on the agenda when a written proposal was submitted and reviewed by the Town Manager

- D. Discussion and/or action recovering all equipment bought by Lauderdale-By-The-Sea taxpayers for Volunteer Fire Department (*Commissioner Jerry McIntee*)

Commissioner McIntee stated that the Broward Sheriff's Office had not only terminated the contract with the Volunteers, but was moving the equipment that had been purchased by the Town's residents. He stated that "our" equipment should be secured in the fire station for use by the Volunteers. Commissioner McIntee stated that perhaps the equipment was theirs under the contract, but felt that the equipment should be returned to the Town.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, directing the Town Manager to send a letter to Sheriff Ken Jenne requesting that all Town equipment be brought back to the community, kept within the municipal boundaries, and to be removed from the Town only with his permission.

Mayor Pro Tem Clark stated that part of the contract indicated that the Sheriff was entitled to all the equipment and, that if or when the contract was severed, all the equipment would be returned in the same condition as when it was provided. Attorney Cherof confirmed that this was essentially correct, believing that a listing of equipment was part of the contract. He explained, however, that he did not have the contract in front of him to confirm that the listing of equipment was an actual part of the contract.

Commissioner Silverstone stated that if the Broward Sheriff's Office was not going to use the equipment it should be returned immediately. Attorney Cherof explained that he could not confirm if this request was consistent with the Town's contractual obligation with the Sheriff.

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Commissioner McIntee stated that the Sheriff was taking the equipment to make it more difficult for the Volunteers to return. He felt it was improper for the Sheriff to use the Town's equipment as part of its fleet. Mayor Pro Tem Clark stated that the contract detailed that the equipment would have to be returned in like-condition. He felt that the Town Manager could obtain a status of the equipment and provide a report at the next meeting.

Commissioner McIntee stated that the equipment should be returned by the Sheriff until the Commission could further discussed this matter. Mayor Pro Tem Clark stated that it was reasonable to request an accounting of the equipment, with the Town Manager providing a report at the next meeting.

Vice Mayor Yanni stated that as long there was sufficient equipment in the Town to properly take care of the residents, it really did not matter where the equipment came from. He indicated that the Broward Sheriff's Office had provided the Town with a brand new fire truck only to have it keyed so badly that it had to be repainted. Vice Mayor Yanni stated that the Sheriff was ensuring that the best equipment and sufficient staffing was provided to take care of the residents and visitors of the Town. He also indicated that if the Broward Sheriff's Office was developing a reserve unit, the equipment was needed for that personnel.

Vice Mayor Yanni stated that there were too many people who were closed minded concerning this matter. He felt that the only reason the Town was in this position was because the Volunteers had, on more than one occasion, indicated that they did not want to work with the Sheriff.

Commissioner Silverstone stated that "we" had only worked towards reaching the goals of the resolution approved by the Commission that would allow the Volunteers to take over fire suppression.

Mayor Parker made a motion, seconded by Mayor Pro Tem Clark, directing the Town Manager to report at the next meeting on the status of the equipment and how it was being used.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, directing that the equipment not be used until a report was provided.

Mayor Parker stated that it was his understanding that the Sheriff was developing a reserve volunteer fire department and felt that the equipment would be needed for use by the reserve volunteers.

In a roll call vote regarding the amendment to have the equipment not used until the

report was provided, failed 1-4, with Commissioner Silverstone voting in favor.

In a roll call vote regarding the amendment to have the Town Manager provide a report regarding the equipment and how it was being used, the motion carried 4-1, with Commissioner Silverstone dissenting.

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

It was requested that fire personnel be in attendance at the next meeting. Mayor Parker asked that this item be listed under Reports on the next agenda.

- E. Discussion and/or action regarding the use of brick pavers for all future driveway and other construction (*Commissioner Jim Silverstone*)

Attorney Cherof stated that an existing ordinance already prohibited the use of asphalt and gravel on driveways. He indicated that bricks, pavers, or concrete needed to be used. Mr. Keller stated that the regulations had been changed to ensure that a portion of the swale area was pervious. He indicated that staff ensured that sufficient pervious area was provided and briefly described the current regulations and how they affected individual properties.

Commissioner Silverstone removed this item from the agenda.

15. TOWN MANAGER REPORT

- A. Municipal Services Monthly Report

Commissioner McIntee made a motion, seconded by Mayor Parker, to accept the report as presented.

Mayor Parker asked for an update regarding the Seagrape Drive project. Mr. Mason stated that the bid had been advertised and several contractors had picked up the plans for the project. He explained that the date of the bid opening had been pushed back a couple of weeks due to the upcoming holidays.

16. TOWN ATTORNEY REPORT

Attorney Cherof wished everyone a happy holiday season.

Attorney Cherof reminded the Commission that Robert's Rules should be used as a tool

to effectively conduct Town business in an organized fashion and not as a weapon against each other.

17. ADJOURNMENT

Mayor Pro Tem Clark made a motion to adjourn the meeting. As there were no objections or any further business to discuss, Mayor Parker adjourned the meeting at 10:57 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted:_____