

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, January 10, 2006

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:04 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Also present were Town Manager Robert Baldwin (departed 7:08 p.m.), 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.

It was agreed at the Agenda Conference to discuss Item 13B as the first matter of business.

- 13B, Discussion and/or action concerning parking acquisition (*Town Manager Robert Baldwin*)

Manager Baldwin briefly explained the proposal for the parking acquisition. Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to authorize Town Manager Baldwin to spend \$5,000 and execute an option to purchase the property in question. In a roll call vote, all voted in favor. The motion carried 5-0.

SHADE SESSION

Attorney Cherof explained that in accordance with the procedures set forth in Florida Statutes Section 286.011, the Town Commission would meet privately with the Town Attorney to discuss the following pending litigation:

McIntee vs. Town of Lauderdale-By-The-Sea, Florida,
Case Number 05-18390 CACE (11).

Town Commission Regular Minutes
January 10, 2006

He advised that the meeting, which was closed to the public, would be will be attended by the Mayor and Commission, the Court Reporter, and himself and would last approximately 45 minutes.

The meeting was recessed to begin the Shade Session at 7:08 p.m. The regular meeting was reconvened at 8:24 p.m.

Attorney Cherof pointed out that the Shade Session was recessed.

Mayor Parker read an offering of settlement to the Citizens' Initiative Committee as follows: 1) that the Court's order of last week, and its writ of mandamus of this week be vacated and rescinded and declared of no presidential value; that in place of said order that the Court enter a stipulated and agreed order of settlement that provides, a) that the Town is ordered to allow the Citizens Initiative Committee to withdraw it's first proposed initiative; b) that their second proposed initiative be put on the March ballot with no competing height referendum initiatives; c) that the two ballot initiatives that the Town has passed, that we call proposition 1 and proposition 2, will be placed on the November ballot, with no competing height referendum issues; d) that the Citizens' Initiative Committee and its members, whether their ballot passes or fails in March, be enjoined from attempting to place further height restrictions referendum on the November ballot; e) that, if the Town's referendum passed it would supersede the Citizen's Initiative Committee's referendum; f) that in the event that the Town be ordered to place its 2 height referendums on the ballot in November, it can not be removed from the ballot in November; g) that if the Citizens Initiative Committee referendum in March fails to pass, the moratorium that is presently in place shall remain in place, except for the property known as the Sea Colony; h) that the Trial Court retain jurisdiction of this case and of the parties for the purpose of enforcing this order through the November 2006 election.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy, authorizing the Attorney to offer the settlement agreement to the Citizen's Initiative Committee.

Commissioner Wessels believed the Citizens Initiative Committee referendum should be on the March ballot and expressed his disfavor with the amendment to the Town's originally proposed referendum, with Ordinance 2005-20.

Mayor Parker noted that his approving of the settlement did not mean he was endorsing Ordinance 2005-20.

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

Jerome McIntee, 1612 SE 24th Avenue, was pleased with the settlement offer and completely accepted the proposal. He expressed concern, however, about the \$75,000 rumored to be used for advertising.

Attorney Cherof, as required by the Florida State Statutes, publicly requested a Shade Session, even though the Shade Session had recessed, pending the need for a Shade Session on Wednesday, Thursday or Friday of this week.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Kennedy, to authorize a Shade Session on Wednesday, Thursday or Friday, if needed. In a roll call vote, all voted in favor. The motion carried 5-0.

4. PRESENTATIONS

- A. National Flood Insurance Program Award for Outstanding Performance in the Community Rating System (*Municipal Services Director William Mason*)

This was presented at the Agenda Conference by Barbara Wiles, representing Federal Emergency Management Agency (FEMA).

- B. Display of the U.S. Flag from U.S. Representative Clay Shaw (*Mayor Oliver Parker/Cindy Geesey*) (*continued from November 22, 2005*)

This item had been continued to February 14, 2006 without objection.

5. REPORTS

- A. Budget Report for Period Ending November 30, 2005

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to approve the budget report for period ending November 30, 2005. In a roll call vote, all voted in favor. The motion carried 5-0.

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

Community Services Director Harry Diehl said the conditions on Harbor Drive had improved and recommended that parking enforcement be reinstated as of January 16, 2006. He indicated that this would give staff one week to advise businesses that parking would be enforced.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to reinstate parking restrictions effective January 16, 2006, and directing the Development Services Department to inform the public that the parking restrictions were re-imposed as of that day. In a roll call vote, all voted in favor. The motion carried 5-0.

Town Commission Regular Minutes
January 10, 2006

- C. Report on easement requirements of Oriana site plans (*Town Attorney James Cherof*)

Attorney Cherof gave an update indicating that the corrective document was recorded with the correct parcel number.

6. APPROVAL OF MINUTES

- A. November 8, 2005, Regular Meeting
- B. December 13, 2005, Agenda Conference
- C. December 13, 2005, Regular Meeting
- D. December 24, 2005, Special Meeting

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to approve the November 8, 2005, Regular meeting minutes; the December 13, 2005, Agenda Conference minutes; the December 13, 2005, Regular meeting minutes; and the December 24, 2005, Special meeting minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

There were no objections to taking the Consent Agenda out of order. Mayor Parker amended the Consent Agenda to add Property Owner's Association's request to televise their meeting with the Broward County Property Appraiser's Office on January 23, 2006, and the Meet the Candidates Nights scheduled for February 21, March 8, 2006, as item 10D.

• **CONSENT AGENDA**

- A. AGREEMENT: with Burger King for the leasing of parking areas
- B. AGREEMENT – amendment to agreement with Broward County regarding Building Services
- C. CHANGE ORDER: North Beach Neighborhood Sewer Improvements – Phase (*net Change Order amount \$140,739.86*)
- D. PROPERTY OWNERS ASSOCIATION: request to televise the Broward County Property Appraiser's meeting on January 23, 2006, and Meet the Candidates on February 21, March 8, 2006.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve items 10A through 10D of the Consent Agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

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

- A. **Ordinance No. 2005-16:** An ordinance of the Town Commission of the Town of Lauderdale-by-The-Sea, Florida, amending Chapter 24, Section 24-5.5 to require Commission approval as a condition allowing for designation of the front lot line of a property to be designated by the property owner and amending the definition of "Lot, Corner"; amending Section 24-5.36 of the Land Development Code to require additional landscaping to buffer and screen properties which elect an alternate front yard; providing for severability; providing for codification; providing for conflicts; and providing for an effective date

Attorney Cherof read Ordinance 2005-16 by title only.

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

Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve Ordinance 2005-16. In a roll call vote, all voted in favor. The motion carried 5-0.

8. PUBLIC COMMENTS

Pauline Brooks, 5100 N. Ocean Boulevard, asked why the Town was considering a change to the zip code 33308.

Jim Silverstone, 205 Washingtonia Avenue, inquired about the status of the letter to the Attorney General, whereby Mayor Parker replied that an opinion was unlikely to be issued prior to the March election.

John Thompson, 4900 N. Ocean Boulevard, said he was happy that the Commission offered a settlement that was accepted by the Citizens Initiative Committee.

It was the consensus of the Commission to direct Municipal Services Director William Mason to present a report on February 14, 2006, regarding the two permit parking spaces on Washingtonia Avenue. Mayor Parker indicated that there was to be one handicap space, three metered spaces, and two permit spaces at the Portal.

Director Mason said the signs for the permitted parking spaces would be complete by end of week.

Cindy Geesey, 256 Imperial Lane, distributed meeting notices from the Property Owners' Association. She announced the meeting with Lori Parish on January 23, 2006 in Jarvis Hall, and the first "Meet the Candidates Night", on February 21, 2006.

9. ORDINANCES (1ST Reading)

There were no Ordinances for first reading.

10. CONSENT AGENDA

- D. AGREEMENT: with Burger King for the leasing of parking areas
- E. AGREEMENT – amendment to agreement with Broward County regarding Building Services
- F. CHANGE ORDER: North Beach Neighborhood Sewer Improvements – Phase (*net Change Order amount \$140,739.86*)
- D. PROPERTY OWNERS ASSOCIATION: request to televise the Broward County Property Appraiser’s meeting on January 23, 2006, and Meet the Candidates on February 21, March 8, 2006.

These items were considered earlier in the meeting.

11. RESOLUTION

- A. **Resolution No. 2006-01:** A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, urging members of the Florida Legislature to support the following issues during the 2006 Legislative Session.

Attorney Cherof read Resolution 2006-01 by title only.

Commissioner Yanni made a motion, seconded by Commissioner Wessels, to approve Resolution 2006-01. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **Resolution No. 2006-02:** A Resolution of the Town Commission of Lauderdale-By-The-Sea, Florida, designating the National Incident Management System (NIMS) as the basis for all incident management in the Town of Lauderdale-By-The-Sea.

Attorney Cherof read Resolution 2006-02 by title only.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve Resolution 2006-02. In a roll call vote, all voted in favor. The motion carried 5-0.

12. OLD BUSINESS

- A. Discussion and/or action regarding the Town's request for the use of one uniform zip code townwide (*Vice Mayor Kennedy/Manager Robert Baldwin*) (*continued from December 13, 2005*)

Vice Mayor Kennedy advised that the intent of this request was to have a unified zip code throughout the Town, which made it eligible for the allocation of money.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, directing Town Administration, with the help of the Vice Mayor Kennedy, to complete the forms and forward them to the Postmaster General of Broward County to obtain a unified zip code for the Town of Lauderdale-By-The-Sea. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Update regarding possible use of newly purchased used fire truck by Lauderdale-By-The-Sea Volunteer Fire Department for training and responding to fire alarms (*Battalion Chief Don King*) (*continued from December 13, 2005*)

Battalion Chief Don King said the Broward Sheriff's Office gave their approval to use the newly purchased, fire truck for training purposes with the condition that the operating expenses were to be covered by the Volunteer Fire Department. Volunteer Fire Rescue Chief Jim Silverstone agreed to the condition.

There had been discussion as to whether approval was given for training purposes only, and not for use to respond to fire alarms, or whether the Volunteer Fire Department could use the vehicle as a transportation vehicle, even though they can not fight the fire with the vehicle. Battalion Chief King said he would look into it and provide an update.

- C. Discussion and/or action concerning the moratorium on development of the area bordered by the alleyway south of Commercial Boulevard on the north, Datura Avenue on the south, State Road A1A on the west, and El Mar Drive on the east (*to include a recommendation from the Master Plan Steering Committee*) (*Town Planner Keller*) (*moratorium expires January 10, 2006*)

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to extend the moratorium to March 28, 2006. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action concerning floating a bond issue to install natural gas lines, bury all utility lines, and the provision of a referendum to achieve this goal (*Mayor Oliver Parker*) (*continued from November 22, 2005*)

This item had been discussed at the Agenda Conference and continued to February 14, 2006.

13. NEW BUSINESS

- A. "PUBLIC HEARING" SITE PLAN – Pelican Cove of Lauderdale By The Sea, LLC, located at 227, 231, and 235 Hibiscus Avenue (***applicant requesting a tabling to February 14, 2006***)

This item had been tabled to February 14, 2006 without objection.

- B. Discussion and/or action concerning parking acquisition (*Town Manager Robert Baldwin*)

This item had been discussed earlier in the meeting.

14. TOWN MANAGER REPORT

There were no reports for the Commission's consideration.

15. TOWN ATTORNEY REPORT

- A. Update on letter to Attorney General regarding height restrictions and possible conflicts with Bert J. Harris Act

Attorney Cherof distributed, read and explained the proposed letter to the Attorney General. He said he would like to request the Citizens Initiative Committee to prepare a memorandum to submit along with this request. Discussion followed with suggested changes.

- B. Update on Citizen Initiative Committee's Petition

Attorney Cherof thanked the Citizen Initiative Committee for considering their proposal and accepting the settlement offer.

16. COMMISSIONER COMMENTS

The Commission discussed honoring Laura Ward with a proclamation, and agreed to dedicate the Washingtonia Avenue Portal and Park in her name.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, dedicating the Washingtonia Avenue Portal and Park to Laura Ward, and installed a plaque in her honor, mounted on the existing monument. It was decided that delivery of the proclamation would be made by the Commissioners by Friday. In a roll call vote, all voted in favor. The motion carried 5-0.

The Commission thanked the Citizen's Initiative Committee for agreeing to the Town's proposal and congratulated the newly appointed Volunteer Fire Chief, Jim Silverstone and Deputy Fire Chief, Jerome McIntee.

17. ADJOURNMENT

Commissioner Wessels made a motion to adjourn the meeting. As there were no objections and no other business to discuss, the meeting was adjourned at 9:40 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____