

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, January 24, 2006

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order by Mayor Parker at 7:15 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, 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. Deputy of the Month, Broward Sheriff's Office, District 13 (*Chief Scott Gooding*)

Chief Gooding honored Deputy John Stabile as Deputy of the Month, for the apprehension of two young males, ages 11 and 12, listed as missing persons from Hallandale. Chief Gooding said that when Deputy Stabile stopped a truck listed as stolen from Aventura, the two boys ran and stole bicycles to escape. Deputy Stabile caught was congratulated for a job well done.

- B. Proposal from GSG, Inc. for Fire Rescue Assessment Program – Continuing Services (*Camille Thorpe*) (*continued from December 13, 2005*)

Camille Thorpe represented Government Services Group, Inc.

Commissioner Wessels questioned the proposal and the methodology being used. Ms. Thorpe assured it was the same, but was inclusive of updated information from the Property Appraiser's Office. There was lengthy discussion regarding a previous lawsuit and the findings of the State Supreme Court, with Ms. Thorpe explaining that within two days of the Supreme Court's decision in 2000, GSG, Inc., helped those cities develop a new methodology. Attorney Cherof pointed out that the Town of Lauderdale-By-The-Sea was not one of the cities impacted by the Supreme Court's decision. Attorney Cherof echoed Manager Baldwin's recommendation to award the contract.

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Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to accept the proposal from CSG, Inc. In a roll call vote, the motion carried 4-1 with Commissioner Wessels dissenting.

C. Proposal for protocol to provide color palettes for site plan reviews
(Commissioner John Yanni) (continued from December 13, 2005)

Michael Arker, 5100 N. Ocean Boulevard, provided a color board prepared by Benjamin Moore for the Commission's review.

Bob Terrien advised that the darker colors represented accent colors and the lighter colors were used as base colors. He indicated that all the colors could be mixed and matched.

The Commission discussed the color palette as presented and, except for Vice Mayor Kennedy, expressed a need for a color palette. Commissioner Yanni felt guidelines were necessary, while Vice Mayor Kennedy believed that compatibility could only be deemed acceptable after it was seen. Some discussion followed, with the Commission agreeing that the intention of the color palette was to give the builder an idea of the range of colors that would be acceptable. The Commission also agreed that a larger variety of colors needed to be represented. Additionally, the Commission believed that the Planning and Zoning Board should review the color palette and provide recommendations for the Commission's consideration. At the Commission's inquiry, Mr. Arker stated that he would be happy to assist the Planning and Zoning Board in this process.

Vice Mayor Kennedy made a motion, seconded by Commissioner Wessels, to refer the color palette to the Planning and Zoning Board with direction to report back to the Commission by April 11, 2006. In a roll call vote, all voted in favor. The motion carried 5-0.

D. United Way of Broward County (Dianne Maddalena)

Angie Seacrest talked about the history of United Way and gave information regarding upcoming events. Ms. Seacrest requested the Town display the United Ways pamphlets in Town Hall. The Commission had no objections.

E. Proposal from FlexiPave, a porous paving product made from recycled tires (Mayor Oliver Parker/Steve Holmes of K.B. Industries, Inc.)

Steve Holmes provided a PowerPoint presentation. Mr. Holmes provided a sample and described the product as non-toxic, fire proof, available in ten colors, without design limitations, and, said it poured like concrete. He indicated it could be used around portals and medians and offered training to Public Works personnel for installation.

Mayor Parker suggested Mr. Holmes meet with Town Engineer Kevin Hart and Municipal Services Director William Mason for further review. He requested that Mr. Hart and Director Mason report their findings to the Commission by February 28, 2006.

5. REPORTS

- A. Budget Report for Period Ending December 31, 2005

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

6. APPROVAL OF MINUTES

- A. January 3, 2006, Special Meeting
- B. January 9, 2006, Special Meeting
- C. January 10, 2006, Workshop Meeting

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to approve the January 3, 2006, Special meeting minutes; the January 9, 2006, Special meeting minutes; and the January 10, 2006, Workshop minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

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

There were no Ordinances for second reading.

8. PUBLIC COMMENTS

Marie White, 234 Hibiscus Avenue, expressed her sympathy to Laura Ward's family. Ms. White thanked the lovely surfer boy who saved the life of a swimmer near Angler's Pier, and, if he could be located, would like the Commission to give him commendation. Chief Gooding agreed to locate him.

David Nixon, 4317 El Mar Drive, spoke about the beat up condition of the Town along El Mar Drive due to the hurricanes. He added that the feedback he had received on the portals, however, were fabulous.

Lawrence Wick invited everyone to the Kiwanis Club for Bingo on Thursday night. Mr. Wick thanked the Commission for removing item 10E from the consent agenda. He believed the Town should pursue this matter as informational and not confrontational. Mr. Wick added that *By-The-Sea Times* was agreeable to presenting both sides of the issue.

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Jerome McIntee, 1612 SE 21 Avenue, discussed the settlement.

James Silverstone, 205 Washingtonia Avenue, wanted to make a presentation to the firefighters of the Volunteer Fire Department for a terrific job fighting a major fire last week. Mayor Parker agreed to add this matter to the next agenda.

Diane Boutin, 4244 El Mar Drive, addressed the Government Services Group contract regarding the reclassification of timeshare condominiums as commercial property. She thought that some of the high rise buildings should also be reclassified as multi-family. Ms. Boutin was supportive of the Community Redevelopment Agency.

Uli Brandt, 4537 W. Tradewinds Avenue, expressed his condolences to the Ward family. Mr. Brandt said Laura always worked to get the community together. He said the portals were great, but street lights were still out, signs were still twisted / missing, and piles of sand still stand along the roadways.

Tom Carr, 254 Miramar Avenue, thought naming the portals honoring individuals was a great idea. Mr. Carr talked about Ordinance 2006-01 and the Unified Land Development Code, and thought it best to put them aside until after the March elections.

John Thompson, 4900 N. Ocean Boulevard, was saddened by the loss of Laura Ward. Mr. Thompson acknowledged Ms. Ward as the finest civil servant he had known. Mr. Thompson referred to his letter to Commissioner Wessels regarding the methodology used by the Government Services Group, Inc. for the Fire Rescue Assessment Program and thanked him for questioning it.

Bob Terrien, 5100 N. Ocean Boulevard, announced the names of the newly elected Executive Committee members to the Chamber of Commerce Board of Directors. Mr. Terrien introduced the 2006 Lauderdale-By-The-Sea Visitors Guide and talked about upcoming events.

Lawrence Campbell, 6000 N. Ocean Boulevard, talked about the Charter amendment and suggested its postponement until after the March election. He felt the Town should work on the facts that the Commission wished to get out to the public.

John McMillan, 3208 SE 12 Street, Pompano Beach, owner of By-The-Sea Realty and publisher of *By-The-Sea Times*, expressed his appreciation for the beautification of the east side of 223 E. Commercial Boulevard. He felt that Laura Ward had been instrumental in the landscaping of that area. Mr. McMillan addressed what he believed to be an error in the *Town Topics* regarding height limits.

Ron Piersonte, 227 Lake Court, talked about the parking meters on the northeast corner of W. Tradewinds. Mr. Piersonte distributed a survey and suggested the Town claim that property back, as stated in the document, and charge revenue. He believed the Town needed the additional parking, in addition to the revenue.

Attorney Cherof agreed to investigate and report back to the Commission during its meeting of February 14, 2006.

9. ORDINANCES (1ST Reading) – PUBLIC HEARING

- A. **Ordinance No. 2006-01:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending the Code of Ordinances, Chapter 24, the Land Development Code, Article V, Zoning; amending subsection M to redesignate the District as “The Hospitality Zoning Overlay District”; providing a definition of a “Tourist Accommodation”; authorizing condominium hotels; providing boundaries, transition areas, eligibility criteria, requirements, overlay district modifications, increasing density for tourist accommodations; allowing for mixed use; and approval process; providing for codification, conflict, severability, and an effective date.

Attorney Cherof read Ordinance 2006-01 by title only.

Mayor Parker opened the public hearing.

Sue Delegal, 1541 W. Terra Mar Drive, urged approval of Ordinance 2006-01. Ms. Delegal commented on the density / unit issues and thought that the addition of minimum sized hotel / condominium units may address the concern. She also talked about expanding the mixed used provisions throughout the Hospitality district. Ms. Delegal suggested an establishment of sign flexibility for accessory use.

Michael Arker, 5100 N. Ocean Boulevard, was upset that he was not recognized as the developer who introduced the Hospitality district idea, and that another developer was making last minute changes. Mr. Arker said that once the Hospitality district passed for the Block 15, it would be decided what other areas could also benefit. He also had no objection to extending the hospitality area to the north and south of Town.

Diane Boutin, 5100 Bayview Drive, encouraged the approval of proposed Ordinance 2006-01 and indicated it would be beneficial to the Town.

Peter Debs, 1010 S. Ocean Boulevard, Pompano Beach, recognized Michael Arker for being instrumental in putting together the Hospitality district. Mr. Debs assured Mr. Arker that the changes did not apply only to Block 15. Mr. Debs said that Ordinance 2006-01 allowed for opportunities of creativity.

John Thompson, 4900 N. Ocean Boulevard, believed additional public awareness regarding Ordinance 2000-01 was needed.

Uli Brandt, 4537 W. Tradewinds Avenue, believed he had enough experience regarding the tourist industry, and with respect for Michael Arker, agreed the extension of the district from Palm to Pine was good, but not to the rest of Town. With no one else wishing to speak, Mayor Parker closed the public hearing.

Mayor Parker inquired as to whether the Town could increase the density from Pine to Palm and from El Mar to A1A, and what type of units would there be at 60 units an acre.

Town Planner Walter Keller explained that the density was 25 units per acre for a residential dwelling unit and, explained further, that 2 hotel rooms were equal to 1 residential dwelling unit. Planner Keller said this Ordinance was to help encourage tourism accommodations by providing extra dwelling units through flexibility. He said it could be expanded to the whole area with a Local Land Use Plan Amendment that would require Broward County certification. Planner Keller talked about other options that could be considered to increase density. There was lengthy discussion regarding density issues, development, and design of hotel rooms, as well as possible change of use.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve Ordinance 2006-01 on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

10. CONSENT AGENDA

- A. CHANGE ORDER: concerning the contract with MBR Construction, Inc. for the Portals to the Sea; Bid No. 04-05-01 (*non-compensatory increase in contract time due to impacts from Hurricane Wilma* ~~deduction in cost by \$233,400~~ Change Order 2)
- B. CONTRACT: with Advanced Asset Management, Inc., for real estate consulting services
- C. CONTRACT: with Adkins & Associates, Inc. for strategic and direct mail consulting services
- D. Contract: Brinks Services Agreement for the collection, counting, and deposit of meter funds
- E. Motion to authorize the Town Administration to engage in a campaign to defeat a charter amendment being promoted by the Citizen Initiative Committee which, if passed, would limit building height and which is scheduled for the Town's March 14, 2006 biennial Municipal Election; to educate the public as to the potential negative impact of the Citizen's Initiative Committee's proposed Charter amendment; and to promote passage of the Town's proposed Charter amendment as set forth in Ordinance 2005-18 which is scheduled for the November 2006 General Election
- F. SPECIAL EVENT PERMIT: Surfing Contest/Eastern Surfing Association; weather permitting during the months of February, March, May, August and September 2006; from 7:00 a.m. to 4:00 p.m.

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Item 10E was removed from the Consent Agenda for discussion.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve items 10A, B, C, D, and F of the Consent Agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

- **Item 10E**, Motion to authorize the Town Administration to engage in a campaign to defeat a charter amendment being promoted by the Citizen Initiative Committee which, if passed, would limit building height and which is scheduled for the Town's March 14, 2006 biennial Municipal Election; to educate the public as to the potential negative impact of the Citizen's Initiative Committee's proposed Charter amendment; and to promote passage of the Town's proposed Charter amendment as set forth in Ordinance 2005-18 which is scheduled for the November 2006 General Election.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve Ordinance 2005-18.

Discussion followed with Commissioner Wessels suggesting the pros and cons of the amendment be ascertained in order to educate the citizens so they have a complete understanding when casting their vote. He thought that a Land Use expert could be introduced as a third party, if necessary, to make an outside determination.

Attorney Cherof advised that the clause was intended to educate the public as to the negative impacts of the Citizen's Initiative Committee proposed to allow the flexibility to address those issues to campaign. He said it was generic in nature and not particular to the elements of what was negative regarding their initiative proposal.

Vice Mayor Kennedy disagreed that obtaining a fair and balanced education from the opposite side was unlikely. He explained the reasons for his dislike for the amendment and how it might affect the Town.

Mayor Parker explained the Burt J. Harris Act and emphasized, if the builder won on appeal, the Charter amendment would no longer apply to their property and therefore, they would not only be allowed to build their 15-story building, they would also be awarded Town money to build it. He talked about the millions of dollars that could cost, feeling it would lead the Town into bankruptcy.

The question arose as to the political rights of employees, such as the Fire Chief and Deputy Fire Chief, and whether or not they are considered agents of the Town. Attorney Cherof said, it was his opinion they were not agents of the Town, as they were officials of a private organization. However, he advised that in the public view, they might be considered as such.

After brief discussion regarding the language, Attorney Cherof agreed to strike the word “defeat” and replace it with “regarding”.

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, to amend the language from “engage in a campaign to defeat” the charter amendment, to “engage in a campaign regarding” a charter amendment.

Commissioner Wessels motioned an amendment to his motion to add “subject to final approval to text by the Commission”. With that addition, Vice Mayor Kennedy withdrew his second. The motion died for lack of a second.

Vice Mayor Kennedy made a motion to change the word “defeat” to “oppose”. The motion died for lack of second.

In a roll call vote the original motion to approve the authorization as submitted, carried 3-2 with Commissioner Wessels and Mayor Pro Tem Clark dissenting.

11. RESOLUTION

- A. **Resolution No. 2006-03:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing the Town Manager to make expenditures in excess of \$15,000 without Commission approval or ratification when the expenditure has previously been approved by budget appropriation; providing an effective date.

Attorney Cherof amended language at the end of Section 2 to add “providing that expenditures over \$15,000 which require the use of contingency funds, will still require Commission approval.

Attorney Cherof read Resolution 2006-03 by title only.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Wessels, to amend Resolution 2006-03. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve Resolution 2006-03 as amended. In a roll call vote, all voted in favor. The motion carried 5-0.

12. OLD BUSINESS

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- A. **“PUBLIC HEARING” SITE PLANS** – Sandy By The Sea Townhomes, located at 4557 Poinciana Street, 4558, 4561, 4637, and 4641 Bougainvillea Drive (*continued from November 22, 2005*) (*staff recommending approval subject to conditions noted in the planning report; Planning and Zoning Board recommending approval subject to conditions noted in the planning report*) (*Commission to review color scheme*)

Attorney Cherof swore in those individuals wishing to give testimony.

Sandra Stella, the applicant, was present. There was no testimony provided.

There were no objections to the color schemes presented.

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

- B. Report on protocol for processing applications for Environmental Resource Licenses (*Development Services Director Harry Diehl*) (*continued from December 13, 2005*)

This item was tabled to February 14, 2006 without objection.

- C. Discussion and/or action regarding the Unified Land Development Code (*Mayor Oliver Parker*)

Mayor Parker suggested the Commission hold workshops to discuss the proposed Unified Land Development Code in more detail. Lengthy discussion followed with the Commission agreeing that the proposed Ordinance should be considered at the next meeting with Mayor Parker and Mayor Pro Tem Clark wishing to hold workshops prior to adoption of the Ordinance.

13. NEW BUSINESS

- A. Discussion and/or action concerning the naming of the Commercial Boulevard Portal in honor of Alan and Mae Gibson (*Commissioner John Yanni*)
- B. Discussion and/or action concerning the naming of the Pine Avenue Portal in honor of Jack and Shirley Forrest (*Commissioner John Yanni*)

Pursuant to the Agenda Conference the Commission agreed to direct Manager Baldwin and Attorney Cherof to establish a protocol for items 13A and 13B.

Commissioner Yanni made a motion to name Commercial Boulevard after Mae and Alan Gibson. The motion died for lack of a second.

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Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to direct Manager Baldwin and Attorney Cherof to establish a protocol for naming the portals and report to the Commission April 11, 2006. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action regarding request to use private donations for the plaque to be used to honor Ms. Laura Ward at the Washingtonia Park and Portal (*Commissioner David Wessels*)

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to accept private donations for the plaque to be used to honor Ms. Laura Ward at the Washingtonia Park and Portal. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action concerning the Town hiring its own Fire Marshal (*Mayor Oliver Parker*)

Bob Terrien explained the problems experienced in obtaining applications for special events from the Fire Marshall. He said their requirements had become extremely difficult.

Fire Marshal Charles Raiken explained that due to changes in the Fire Code over the past two years safety issues need to be addressed and additional requirements are necessary prior to the issuance of a permit. Chief Raiken agreed to assist with the completion of special event forms.

- E. Discussion and/or action concerning a streetlight at 16th Street in Bel Air (*Commissioner David Wessels*)
- F. Discussion and/or action regarding an ethics policy for Commissioners (*Commissioner David Wessels*)
- G. Discussion and/or action regarding post-hurricane assessment on the condition of the Town (*Commissioner David Wessels*)

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to table Items 13E, 13F, and 13G to February 14, 2006. In a roll call vote, the motion carried 4-1 with Commissioner Wessels dissenting.

14. TOWN MANAGER REPORT

Town Engineer Kevin Hart gave an update on the water system in North Beach, advising that the City of Pompano Beach had properly completed the repairs.

Manager Baldwin talked about Jerome McIntee's letter regarding the article in Town Topics. Manager Baldwin said that Public Information Officer Steve d'Oliveira authenticated the article. Public Information Officer d'Oliveira admitted there was an oversight on his part. Manager Baldwin said that a correction had been made on the internet and in February's Town Topics.

15. TOWN ATTORNEY REPORT

Attorney Cherof advised there were three responders to the RF Proposal for Community Redevelopment Agency Study. He advised that two out of three had come sealed as required, and requested the Commission waive the formality on the third one. There were no objections.

16. COMMISSIONER COMMENTS

Commissioner Yanni inquired about the beach accesses located to the north sections of Town.

Attorney Cherof said that he had met with Mr. Rouih, and advised Community Services Director Harry Deihl was currently involved with it.

Commissioner Wessels offered his condolences to the Ward family and announced funeral service information. He also requested delivery of flowers on behalf of the Town, for Kay Latrell and Joe Patten who were currently hospitalized for illness.

Commissioner Wessels requested an appraisal of post hurricane matters to get the Town back in shape.

Vice Mayor Kennedy talked about the lengthy wait regarding roof permits, reported in the newspaper and asked that staff ensure this problem was not an issue in Town.

Mayor Parker offered his condolences to the Ward family and ordered the flag flown at half staff until Monday, January 30, 2006.

Mayor Parker scheduled a ground breaking ceremony for the sewers near the bridge at Terra Mar Drive, and a ribbon cutting ceremony for the Portals at Washingtonia Avenue on Saturday, January 28, 2006 at 1:00 p.m.

17. ADJOURNMENT

Commissioner Yanni made a motion to adjourn the meeting. As there were no objections and no other business to discuss, the meeting was adjourned at 11:35 p.m.

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Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____