

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

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, February 14, 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, Town Attorney James Cherof (arrived at 8:22 p.m.), Assistant Town Attorney Richard Dewitt, (departed at 8:22 p.m.), 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. Proclamation: A Day for Hearts: Congenital Heart Defect Awareness Day
(February 14, 2006)

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to proclaim February 14, 2006 as A Day for Hearts: Congenital Heart Defect Awareness Day. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Display of the U.S. Flag from U.S. Representative Clay Shaw *(Mayor Oliver Parker/Cindy Geesey) (continued from January 10, 2006)*

Cindy Geesey, Michael Arker, and Bob Terrien presented the United States Flag, presented to the Town by Senator Clay Shaw, encased in a boxed frame for display.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, accepting the donation. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Economic Development Task Force *(presentation by David Nixon/Michael Arker)*

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In addition to himself, David Nixon introduced the other members of the Economic Development Task Force: Dick Clark, Jack Cooney, and Michael Arker.

Mr. Nixon presented and talked about the proposals received for the bid proposal for RFP# 2006-01 from 1) Siemon & Larsen, P.A.; 2) Calvin, Giordano & Associates; and 3) RMPK Group, Inc. Mr. Nixon explained the process used to rank and evaluate each firm and advised that, based on that process, the Economic Development Task Force recommended Siemon & Larsen P.A.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to instruct the Economic Development Task Force to finalize negotiations with their selection and report to the Commission on March 28, 2006.

Commissioner Wessels preferred to see the data on the three proposals prior to casting his approval.

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

D. Master Plan Steering Committee (*Michael Arker*)

Michael Arker talked about installing bridges at the Washingtonia portal to protect the sand dunes.

Town Engineer Kevin Hart thought the plan had merit and would work well. Mr. Hart agreed to study it further and report to the Commission on March 28, 2006. There were no objections.

5. REPORTS

A. Development Services Department Quarterly Report

Community Services Director Harry Diehl explained the drop in the number of Code Enforcement violations due to a three weeks suspension after Hurricane Katrina as residents were encountering problems with their insurance companies, obtaining permits, and the availability of contractors.

Mayor Parker inquired about the unsightly conditions around the Villas by the Sea. Director Diehl advised the property owners were having problems obtaining contractors to make the necessary repairs and improvements. Director Diehl agreed to update the Commission by March 28, 2006.

The Commission requested that future reports include the percentage of violations that had come into compliance and to which code section they complied with. Mayor Parker inquired about the street lights, not working since Hurricane Katrina, and landscaping in need of attention throughout Town. Public Works Director William

Mason provided a brief description on the progress of the items questioned and stated that a full report would be available at the next meeting.

6. APPROVAL OF MINUTES

- A. January 10, 2006, Agenda Conference
- B. January 10, 2006, Regular Meeting
- C. January 24, 2006, Agenda Conference
- D. January 24, 2006, Regular Meeting

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve the minutes as presented. In a roll call vote, all voted in favor. The motion carried 5-0.

As per Agenda Conference, Item 13F had been taken out of order for discussion.

- 13F, Selection of an Alternate Member for the Planning and Zoning Board
(term to run through May 1, 2006)

Mayor Parker announced the names of the three applicants.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, nominating Brandon Barry as the Alternate Member for the Planning and Zoning Board.

Commissioner Wessels nominated David Gilman as the Alternate Member for the Planning and Zoning Board and spoke about his qualifications. The nomination died for lack of a second.

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

In a roll call vote, all voted in favor of Brandon Barry as the Alternate Member for the Planning and Zoning Board. The motion carried 5-0.

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

There were no ordinances for second reading.

8. PUBLIC COMMENTS

Vincent Ragusa, representing the Community Performing Arts Center, Inc., talked about the Stargazing Concert scheduled for March 11, 2006 and expressed the need for money to obtain the necessary permits. Mr. Ragusa indicated he needed a budget of

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\$10,000 for this year and that most funds would be needed before receipts would be available. There were no objections.

Mayor Parker advised that \$10,000 had been appropriated in the budget for the Stargazing Event. Mayor Parker indicated that once the Special Event Permit was approved under the Consent Agenda, Mr. Ragusa could go forward with his request.

Jim Silverstone, 205 Washingtonia Avenue, requested a copy of the Town Budget to be available on CD and/or on the internet. Mr. Silverstone offered to use the Volunteers' fire truck as a water truck when needed ~~requested the Town include a water truck in the budget.~~ Manager Baldwin said the need was practical and staff was looking into it.

Richard Rious, 1461 S. Ocean Boulevard, talked about free beach access at the north end of A1A, and suggested the Town purchase the easement or the property owners submit an invoice for the cost to use the beach access, so the City could pay the \$4,000.

The Commission talked about the history behind this issue and advised staff was presently investigating the options available.

Mayor Parker referred to the proposed Charter amendment that was on the November ballot and pointed out that, if enacted, the amendment would require general beach access to the public. He added that there were properties in the area that could be purchased to obtain access, but questioned whether the Town could legally use taxpayer dollars to purchase an easement for ocean access. Attorney Cherof confirmed that the Town could legally spend taxpayer dollars to acquire property that served a public purpose, but not if the public purpose only served a few.

Attorney Cherof agreed to contact Europa, Cristelle Cay, and Corniche to purchase, or acquire a lease, to obtain an easement for ocean access, and report the options on February 28, 2006.

Bonnie Meyer, 1410 S. Ocean Boulevard, thanked the Commission for their efforts in educating the voters regarding the Citizens Initiative Committee's referendum of March 14, 2006. Ms. Meyer believed the Citizens Initiative Committee referendum took away their property rights.

Hub Nelson, 1410 S. Ocean Boulevard, agreed with Ms. Meyer. Mr. Nelson talked about the lack of honesty and morality behind the March 14, 2006 height referendum. He said that initially he thought that the Citizens Initiative Committee was unaware of the promises made to the North Beach owners at the time of annexation, and once aware of that promise, they would enforce it, but instead, they deliberately chose to ignore it.

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Martin Weinstein, 2302 S. Cypress Bend Drive, Pompano Beach, addressed the issue of one vehicle per space regarding motorcycles. He pointed out that there are many occasions where additional motorcycles come along and share the space and did not believe each motorcycle should be issued a citation. Mr. Weinstein suggested injunctive relief until this issue could be resolved.

Director Diehl indicated he was working with staff to resolve the motorcycle parking issue and agreed to report to the Commission on February 28, 2006.

Beverly Kennedy, 3240 Seaward Drive, Pompano Beach, thanked the Commission for all they do, and hand delivered her Valentine card to her husband, Vice Mayor Kennedy.

John Thompson, 4900 N. Ocean Boulevard, talked about the political propaganda regarding the March 14, 2006 ballot.

Jerry McIntee, 1612 SE 21st Avenue, spoke against the use of his name in the Town's poll. Manager Baldwin confirmed that once he became aware that it was possible that Mr. McIntee's name was mentioned in the poll, it was stopped. Mr. McIntee also spoke about official documents that were given to The Pompano Pelican without requesting the information through the Town Clerk. Mr. McIntee talked about his property taxes, homesteading, and his ownership of property in both the States of Florida and New York.

Cindy Geesey, 256 Imperial Lane, talked about the referendum and the high risers that already exist near Sea Ranch Lakes and said she did not wish to look forward to lawsuits. She opposed the proposed referendum for March 2006.

Stuart Dodd, 232 Imperial Lane, spoke against the political poll.

Commissioner Wessels referred to the By-The-Sea Times indicating that allegations were made, but never verified. He believed that a publication, which weighs heavily on Town awareness and could possibly shape the outcome of an election, should print a retraction prior to the March 14th election. Commissioner Wessels believed that the publication should consider ethics, stating that readers demanded fair and balanced articles.

9. ORDINANCES (1ST Reading) "Public Hearings"

- A. **Ordinance No. 2006-02:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 24 of the Code of Ordinances to provide a comprehensive revision to the Town's Land Development Regulations; providing for the renumbering and recodification of the Land Development Regulations as Chapter 30 of the Code of Ordinances; amending or adding provisions regarding final site plans, architectural standards for the RD-10, RM-25, RM-25A, and RM-50

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zoning districts, procedures and requirements for rezoning including application process and requirements, vested rights determinations, quasi-judicial proceedings, general provisions including legislative intent, purpose, rules of interpretation effective staff decisions, enforcement, violations and penalties and computation of time, definitions, non-conforming uses and structures, including provisions for extensions, alteration, enlargement and reconstruction, zoning map, interpretation of district boundaries, purpose and intent of zoning districts, regulations for the RM-25A zoning district, planned unit development regulations, off-street parking requirements in the B-1A zoning district, off-street parking requirements in the B-1 zoning district, boats, boat lifts and boat houses, boat davits, height of fences, walls and hedges, swimming pool and deck setback requirements, accessory buildings and structures, off-street parking and loading requirements, telecommunication towers and antennas, window awnings and entrance canopies, signs and landscaping; providing for severability; providing for codification; providing for conflicts; and providing for an effective date.

Attorney Cherof read Ordinance 2006-02 by title only.

Mayor Parker explained the proposed ordinance and opened the public hearing.

Commissioner Wessels questioned the intentions of the Community Redevelopment Agency and their use of eminent domain. David Nixon explained the reasons for having Community Redevelopment Agency and advised that the Community Redevelopment Agency had no association with the use of eminent domain.

Michael Arker talked about the property obtained for the Portals and explained that the property involved was not taken through eminent domain, but purchased by the Town, and reimbursed through a grant from Broward County.

John Thompson questioned changes and talked about the Bert J. Harris Act.

Mayor Parker explained the essence of the proposed changes, stating that Ordinance 2006-02 did not diminish existing property rights. He explained further that the intent was to bring the Town's building requirements into compliance and to eliminate as many non-conforming uses as possible.

With no one else wishing to speak, Mayor Parker closed the public hearing.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to adopt Ordinance 2006-02 on first reading.

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Mayor Parker referred to the changes to the Ordinance as agreed to during the Agenda Conference, regarding subsections "a", "b" and "c" under Permitted accessory uses for hotels, motels and community residential facilities, page 24 of the Unified Land Development Regulation. He explained the changes were made to avoid the allowance of stand alone bars and nightclubs by changing the number of units from 50 to 100 and making the bar a part of the restaurant.

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, to amend Ordinance 2006-02 by merging sections "a" and "b" and changing section "c" to section "b".

There was no discussion regarding the amendment. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker pointed out that another change to the Ordinance, also agreed to at the Agenda Conference, was made to the Minimum floor area of dwelling units on page 24 of the Unified Land Development Regulation.

Commissioner Yanni motioned an additional amendment, seconded by Mayor Pro Tem Clark, to change the size of a hotel/motel room from 200 square feet to 300 square feet. There was no discussion on the amendment. In a roll call vote, all voted in favor. The motion carried 5-0.

The Commission questioned the minimum requirements for side yard setbacks in the RM-25A area. Assistant Town Planner Brad Townsend advised the side setbacks are set the same as Broward County Zoning.

In a roll call vote, all voted in favor. The motion carried 5-0. Ordinance 2006-02 was approved, as twice amended, for first reading.

The Commission agreed to have copies of amended Ordinance 2006-02 available to the public at no charge.

Pursuant to the Agenda Conference the Commission agreed to discuss Item 12E prior to the Consent Agenda.

12E, Discussion and/or action concerning parking acquisition (*Town Manager Robert Baldwin*)

Attorney Cherof prepared and read the proposed Resolution 2006-05 by title, a copy of which is attached hereto as part of these minutes.

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

10. CONSENT AGENDA

- A. SPECIAL EVENT PERMIT: **Arts & Crafts Show**/Chamber of Commerce, Saturday/Sunday, March 18 and 19 and October 21 and 22, 2006; from 5:00 a.m. to 5:0 p.m. (starting time includes set up time)
- B. SPECIAL EVENT PERMIT: **Stargazing**/Community Performing Arts Center, Inc., Saturday, March 11, 2006; from 6:00 p.m. to 12:00 a.m.
- C. AGREEMENT: with Craven Thompson and Associates for design for the parking lot located on Bougainvillea Drive
- D. AGREEMENT: with Southeast Contracting Services, Inc. for the demolition of Seascape Hotel at 4425 Ocean Drive
- E. APPROVAL: Approval of front yard corner lot designation for 1755 E. Terra Mar Drive.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to approve the Consent Agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

11. RESOLUTION

- A. **Resolution No. 2006-04:** A Resolution of the Town of Lauderdale-By-The-Sea, Florida, canceling the regularly scheduled Commission meeting scheduled for March 14, 2006; providing for an effective date.

Attorney Cherof read Resolution 2006-04 by title only.

Commissioner Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve Resolution 2006-04. In a roll call vote, all voted in favor. The motion carried 5-0.

There was discussion regarding when the swearing in ceremony should take place. Attorney Cherof advised that the election was not final until the Clerk certifies the results and without that document in hand, there would be no official conclusion to the election, and therefore, that until certification took place, the swearing in could not be done.

12. OLD BUSINESS

- A. 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 January 10, 2006*) (**staff requesting a continuance to February 28, 2006**)

There were no objections to table this item to February 28, 2006.

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- B. Report on changes to the Evaluation and Appraisal Report (*Town Planner Walter Keller*)

It was decided at the Agenda Conference to table this item to February 28, 2006. There were no objections.

- C. Report on beach easements as public beach access in the northern sections of Town

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

Mayor Parker advised that Development Services Director Harry Diehl was to report to the Commission regarding a beach access protocol on February 28, 2006.

- D. Discussion and/or action regarding firefighters assisting in the monitoring/confiscation of fireworks on the beach for the Fourth of July (*Chief Scott Gooding/Battalion Chief Don King*) (*continued from November 22, 2005*)

Chief Gooding advised that two deputies would cover the beach, both the north and south sides of the pier, to monitor and confiscate fireworks.

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

This item was discussed earlier in the meeting.

13. NEW BUSINESS

- A. **“PUBLIC HEARING”** SITE PLANS, Pelican Cove/Gustavo Carbonell, 227, 231, and 235 Hibiscus Avenue (*continued from January 10, 2006*) (*staff recommends approval subject to conditions listed in the planning report; Planning and Zoning Board recommends approval subject to conditions listed in the planning report and the commitment to run the wiring underground pending approval from Florida Power & Light*)

Attorney Cherof swore in all parties wishing to speak on the site plan.

Charles Bradford, owner, appeared and agreed to the two additional agreements, #10 – to put in underground wiring; and #11 - to continue the sidewalk on Hibiscus Avenue to the same standard as on Seagrape Drive.

Commissioner Wessels added a 12th condition - to coordinate sidewalks with the Town to continue up to Seagrape Drive.

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Commissioner Wessels made a motion, seconded by Commissioner Yanni, to approve the site plan subject to the planning report as amended. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **“PUBLIC HEARING” SITE PLANS**, Luxury Dwelling Homes/Gerard Vinci, 4644 Poinciana Street (*staff recommends approval subject to conditions listed in the planning report; Planning and Zoning Board recommends approval subject to conditions listed in the planning report*)

Attorney Cherof swore in all parties wishing to speak on the site plan.

Gustavo Carbonell, Architect, represented Gerard Vinci, owner. Mr. Carbonell agreed to the seven (7) conditions as set forth on behalf of Mr. Vinci.

Mayor Parker advised of an additional condition, condition number eight (8), to bury electrical wiring in the rear of the 50 foot yard. Mayor Parker questioned the cost and Town Engineer Kevin Hart estimated the cost at \$25,500 for a 50 foot lot.

Mr. Carbonell said he would have to consult with the owner regarding the availability of funds and requested the Commission defer this matter.

Commissioner Wessels made a motion to table to February 28, 2006. The motion died for lack of a second.

Attorney Cherof advised that this item could be approved subject to confirmation at the next meeting.

At the request of Mr. Carbonell, this item was recessed pending a telephone call to Mr. Vinci.

- C. Discussion and/or action concerning a streetlight at 15th Street in Bel Air (*Commissioner David Wessels*) (*tabled from January 24, 2006*)

Commissioner Wessels made a motion, seconded by Vice Mayor Kennedy, to investigate and pursue placement of a traffic signal in the vicinity of South East 15th Street. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action regarding an ethics policy for Commissioners (*Commissioner David Wessels*) (*tabled from January 24, 2006*)

Commissioner Wessels gave a brief history regarding Town ethics and suggested the formation of a committee/panel to establish a policy, explaining the different issues that should be addressed.

Commissioner Wessels made a motion to establish a committee/panel to prepare ethics and review other issues. The motion died for lack of a second.

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Mayor Parker returned to Item 13B.

Mr. Carbonell said Mr. Vinci was not happy with committing the funds without immediate benefit, but agreed to provide the funds required to bury electrical wiring as requested in the eighth (8th) condition.

Commissioner Wessels made a motion, seconded by Mayor Pro Tem Clark, to approve the site plan subject to the planning report, as amended with eight (8) conditions, not to exceed \$25,500, to cover the cost to bury electrical lines.

Vice Mayor Kennedy thought a pledge of funds would be better than tying up the owner's funds. Town Engineer Hart advised that, if for some reason, ownership changed hands, the new owner would then be responsible.

In a roll call vote, the motion failed 4-1, with Commissioner Wessels casting the favorable vote.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to approve the site plan subject to the planning report, as amended with eight (8) conditions, containing an escrow of \$10,000 toward the cost of burying electrical lines as stated in the eighth condition.

After further discussion it was decided to attach the condition to the building permit and note the condition on the site plan.

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

At Mayor Parker's request, Attorney Cherof agreed to draft an Ordinance for first reading on February 28, 2006.

- E. Discussion and/or action regarding post-hurricane assessment on the condition of the Town (*Commissioner David Wessels*) (*tabled from January 24, 2006*)

It was agreed that this item would be discussed during the hurricane workshop scheduled for March 1, 2006.

14. TOWN MANAGER REPORT

Manager Baldwin wished everyone a Happy Valentine's Day. He thanked the Commission for the purchase of the Sea Escape Hotel property and indicated that the purchase was a huge benefit to the Town by providing additional parking.

Manager Baldwin expressed his feelings towards the candidate election indicating that he would not, and was not involved in a "push poll". He said the purpose of the poll was to gauge public opinion on issues. Manager Baldwin said he made it clear to Mr.

Adkins that the poll should not reflect the candidates and Mr. Adkins assured him that the poll was not a “push poll”, but a random sample regarding community leadership and the height referendum.

Manager Baldwin believed the height referendum had the potential to destroy the Town.

15. TOWN ATTORNEY REPORT

- A. Report regarding parking at the south side of Commercial Boulevard and West Tradewinds and other Town owned properties

Attorney Cherof said the report was pending documentation from the Broward County Clerk’s Office. He indicated his office was in the process of arranging a viewing of the original Plat documents for accuracy.

This item was tabled to February 28, 2006.

Attorney Cherof advised the Commission that due to an adverse ruling by Judge Andrews regarding the Sea Colony case, a closed door session was required at the next meeting.

Mayor Parker scheduled a Shade Session for February 28, 2006.

Attorney Cherof addressed the proper time to swear in elected officials. He stated that the Code of Ordinances, Section 7-4, stipulated that individuals elected to office were to take office within 14 days of election. Attorney Cherof added that a Charter provision regarding the election of a Vice Mayor only, stipulated the second Tuesday following the election.

Vice Mayor Kennedy made a motion, seconded by Mayor Pro Tem Clark, to schedule a Swearing in Ceremony for March 28, 2006. In a roll call vote, all voted in favor. The motion carried 5-0.

16. COMMISSIONER COMMENTS

Vice Mayor Kennedy urged everyone to listen to the televised candidates debate scheduled for Tuesday, February 21, 2006, at 7:00 p.m.

Commissioner Wessels wished everyone a Happy Valentines Day. He asked for a fair and balanced, factual discussion regarding the height referendum.

Commissioner Yanni wished all the candidates luck.

Mayor Pro Tem Clark wished everyone a Happy Valentines Day. He urged everyone to be fair and balanced in their analysis come election day, and hoped for a clean campaign.

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Mayor Parker asked Attorney Cherof whether the Town could pass an Ordinance requiring a Code of Ethics for newspapers and journalists. Attorney Cherof indicated that the Town Commission did not have any jurisdiction over those individuals, and therefore, the Town could not.

Mayor Parker wished everyone a Happy Valentines Day. He extended his best wishes to Commissioner Wessels and Vice Mayor Kennedy with hopes they did well on the election.

17. ADJOURNMENT

Commissioner Yanni made a motion to adjourn the meeting. There being no objections and no further business to discuss, the meeting was adjourned at 10:43 p.m.

Oliver Parker, Mayor

ATTEST:

Alina Medina, Town Clerk

Date Accepted: _____