

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **REGULAR MEETING**

### **MINUTES**

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, March 28, 2006**

**7:00 P.M.**

#### **1. CALL TO ORDER, MAYOR OLIVER PARKER**

The meeting was called to order by Mayor Parker at 7:00 p.m. Present were Mayor Parker, Vice Mayor Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, Commissioner Yanni and newly elected Commissioner James Silverstone and Commissioner Jerome McIntee. Also present were Town Manager Robert Baldwin, Town 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. American Institute of Architects – Award of Excellence for Portals to the Sea

Dierdre Hardy, Fort Lauderdale Chapter of the American Institute of Architects, presented an Award of Excellence for Portals to the Sea. Mr. Anthony Abbate received the award on behalf of the Town.

- B. Comprehensive Annual Financial Report – Rachlin, Cohen & Holtz

Jerry Chiocca represented Rachlin, Cohen, & Holtz. He announced that the Town received the Certificate of Excellence in Financial Reporting Award for the ninth consecutive year. Mr. Chiocca described the individual sections of the report. He reviewed the Town's assets, liabilities, revenues, and expenditures and said the Town was in good financial shape.

Mr. Chiocca talked about the Volunteer Firefighters' Pension Fund saying their investment policy called for no more than 70 percent of the asset funds to be invested in equities and recommended the Volunteer Firefighters make adjustments accordingly.

Mr. Chiocca thanked the staff, Manager Baldwin, and Finance Direct Esther Colon for their help with the report and congratulated them for a job well done.

Vice Mayor Kennedy made a motion, seconded by Commissioner Yanni, to accept the Comprehensive Annual Financial Report. In a roll call vote, all voted in favor. The motion carried 5-0.

## **5. ITEMS OF BUSINESS**

- A. Report of election results and request to accept certification for the March 14, 2006 Municipal Election from the Broward County Supervisor of Elections

Clerk Medina announced the March 14, 2006 electoral results, as certified by the Broward County Supervisor of Elections, with Jerome McIntee having the most number of votes for the Commission Seat in District 1 and James Silverstone having the most number of votes for the Commission Seat in District 2. She announced the Charter Amendment had passed.

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

- B. Comments by Outgoing Commission

Vice Mayor Kennedy congratulated James Silverstone and Jerome McIntee on their recent election. He said now that the elections were over, the Commission must move forward for the benefit of the Town. Vice Mayor Kennedy said politics was a rough profession requiring tough decisions for the betterment of the health and safety of the community.

Vice Mayor Kennedy said he was proud to have served the community and would leave his seat without reluctance. He said the American public was very demanding and wished only the best for the new Commission and the Town.

Vice Mayor Kennedy noted the accomplishments of the Commission in the past four years, mentioning the reconstruction of Seagrape Drive with landscaping and sidewalks, the addition of sidewalk dining along El Mar Drive, the encouragement of the private sector through the Chamber of Commerce, the increase for parking with the development of additional parking garage, the updated newspaper racks, the allocation of \$1.2 million for beach portals, and the installation of the sewers in Terra Mar.

Commissioner Wessels thanked those who voted for him in the past four elections, and said it was an honor and a privilege to have represented the Town's citizens. He thanked Manager Baldwin and the Administration for their service and support to him and to the Town. Commissioner Wessels wished the newly elected officials the best and thanked his wife, Peg, who had endured all the late night meetings since 1992.

C. Oath of Office for Newly Elected Commissioners

Jerome McIntee and James Silverstone took the Oath of Office.

D. Seating of New Commission

After proper seating of the newly elected Commissioners, Mayor Parker congratulated Commissioner Jerome McIntee and Commissioner James Silverstone.

E. Selection of Vice Mayor with Appropriate Seating Taking Place

Mayor Parker nominated Commissioner Yanni as Vice Mayor. The nomination was seconded by Mayor Pro Tem Clark.

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

F. Selection of Mayor Pro Tem

Mayor Parker nominated Commissioner Clark as Mayor Pro Tem. The nomination was seconded by Vice Mayor Yanni.

Commissioner Silverstone nominated Commissioner McIntee as Mayor Pro Tem. Commissioner McIntee declined the nomination.

Commissioner Silverstone made a motion, seconded by Vice Mayor Yanni, to close the nomination. In a roll call vote, all voted in favor. The motion carried 5-0.

G. Recognition of Outgoing Commission

Mayor Parker, on behalf of the Town Commission, and in recognition of their outstanding service to the community, awarded the Key to the Town of Lauderdale-By-The-Sea to Vice Mayor Kennedy and Commissioner Wessels, along with their nameplateS.

Vice Mayor Yanni, said it was a great honor to serve beside Vice Mayor Kennedy and Commissioner Wessels, and talked about how much their experience and dedication would be missed. He also congratulated the newly elected Commissioners.

Commissioner McIntee congratulated Vice Mayor Kennedy and Commissioner Wessels on their future, and recognized their years of experience.

Commissioner Silverstone recognized Vice Mayor Kennedy and Commissioner Wessels for all their efforts, and advised that he would be calling upon them for their input on upcoming issues. He said the future of the Town was backed up by where it started from and thanked them both for all they had accomplished.

Mayor Pro Tem Clark thanked both Vice Mayor Kennedy and Commissioner Wessels for their many years of service. He said they were both gentlemen of high principals, and looked forward to using their counsel in the future. Mayor Pro Tem Clark welcomed Commissioner Silverstone and Commissioner McIntee and looked forward to working alongside them.

Mayor Parker congratulated Vice Mayor Kennedy for four well spent years and Commissioner Wessels for twelve well spent years, and said this Town was a better place because of them. He congratulated Commissioner Silverstone and Commissioner McIntee and looked forward to working with them.

H. Remarks by Newly Seated Commission

Commissioner McIntee said the greatest part of the campaign was going door to door and listening to the people. He thanked everyone for their help and assured them he was here to serve the people.

Commissioner Silverstone said it was a team effort that got him elected and thanked everyone for their support. He said he listened to the people and would not only do his best to accomplish what the people wanted, but looked forward to it.

**6. REPORTS**

A. Economic Development Task Force Update by David Nixon

David Nixon advised that the Economic Development Task Force was in the process of finalizing the contract with Siemon and Larson.

Commissioner McIntee asked what the Economic Development Task Force wanted done in the Town. Mr. Nixon advised it was to schedule community meetings and the development of a parking facility. He indicated ground breaking for the parking facility would begin within the year to eighteen months.

Commissioner Silverstone inquired of the progress and Mr. Nixon explained the process in regard to the steps required, starting with the completion of the Blight Study, the placement of a Redevelopment Plan, and Broward County grant approval.

B. Discussion and/or action regarding the Australian pines located east of El Mar Drive (*Municipal Services Director William Mason*)

Municipal Services Director William Mason advised that according to the Department of Environmental Protection, final approval of the permitting for the Pine Avenue Portal required the removal of the Australian Pines from the east side of El Mar Drive to the ocean.

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Town Engineer Kevin Hart confirmed that there was discussion with the State that part of the permitting would require that the Australian Pines would have to be removed and it became a written condition of the permit upon the final inspection.

Attorney Cherof indicated he would review the documents, check State regulations, speak with the Department of Environmental Protection Agency, and advise the Commission if any changes could be made.

The Commission discussed tree options. Director Mason advised the choices were limited. He indicated that the current options were Seagrape and Silver Buttonwood and said the grant did not allow for the use of palm trees.

Discussion followed relating to the length of the permit, possible penalties, and a possible delay in finalizing the permit. Public comments followed without objection.

Deborah Gibson, 4900 North Ocean Boulevard, requested the Commission save the trees.

David Devens, 4900 North Ocean Boulevard, preferred to keep the Australian Pines and thanked the Commission for taking the time to inquire whether the permit could be extended and whether penalties would apply.

Paula Valad, 4900 North Ocean Boulevard, preferred the Australian Pines and had become accustomed to the shade they provided.

William Gardner, 4900 North Ocean Boulevard, agreed with the State mandated decision on Australian Pine trees, preferring their removal. He said they do not have a deep root system making them hurricane susceptible. Mr. Gardner added that they are a nuisance and very ugly.

John Fedders, 4900 North Ocean Boulevard, opposed the removal of the Australian Pines. He preferred the screening they provided.

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to continue this item to the April 11, 2006 meeting, with direction to Attorney Cherof to contact the State Department of Environmental Protection and directed the Department of Public Works not to remove the trees until noticed by the Commission. In a roll call vote, all voted in favor. The motion carried 5-0.

**7. APPROVAL OF MINUTES**

- A. February 14, 2006, Regular Meeting
- B. February 28, 2006, Agenda Conference

Commissioner Silverstone corrected the February 14, 2006 Regular meeting minutes on page 4. He said he asked to possibly use the Volunteer Fire Department's fire engine water supply if needed to water plants rather than requesting the Town include a water truck in the budget.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to approve the February 14, 2006 Regular meeting minutes as corrected and the February 28, 2006 Agenda Conference minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

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

There were no Ordinances for second reading to be considered

**9. PUBLIC COMMENTS**

Larry McGuiness, 5100 North Ocean Boulevard, inquired as to the status of five light posts along the front of the Sea Ranch complex. Mayor Parker suggested Mr. McGuiness speak with Municipal Services Director William Mason for an update and Mr. McGuiness said he would.

Geoffrey Evan, 1941 Southeast 18th Street, thanked the voters for their support of the Citizen's Initiative Committee referendum.

Beverly Kennedy, 3240 Seaward Drive, offered congratulations to Commissioner Silverstone and Commissioner McIntee. She asked that they continue the pursuit for a unified zip code.

George Hunsaker, 4629 Poinciana Drive, expected the Commission to respect one another and honor the opinions of the residents. Mr. Hunsaker said he expected the Commission to listen to the townspeople and share factual information with them.

John Thompson, 671 Lakeside Circle, Pompano Beach, recited a prayer for the new Commission.

Petra Ertl-Burnam, 1421 South Ocean Boulevard, talked about a piece of property she owned that was within the boundaries of the Marina Overlay District that allows the RM-25 zoning. She said the only criterion her property did not fulfill was the "continuous lot". She felt the development of the Overlay District gave opportunity only to developers and not residents. She explained that she could not build 2 two-story townhomes on her property because she did not meet the criteria, but if sold to a developer, the developer could build 4 three-story townhomes on the same lot.

Bob Karley, 242 Bombay Avenue, congratulated the new Commission and gave compliment to Vice Mayor Kennedy and Commissioner Wessels.

Stuart Dodd, 232 Imperial Lane, offered his congratulations on an outstanding victory regarding the passing of the height referendum.

Maureen McIntee, 1612 Southeast 21st Avenue, thanked all the supporters for the newly elected Commissioners. Ms. McIntee announced a special meeting at 1:00 p.m. on Friday, March 31, 2006, at the African American Research Library and Cultural Center, 2650 Sistrunk Boulevard, Ft. Lauderdale, regarding the Broward County Landscaping Beautification and Litter Control Grant. She said \$1,500 to \$10,000 was available to every home and/or condo association, civic group, government and non-profit organization. She added that the deadline to apply was May 24, 2006.

Cindy Geesey, 256 Imperial Lane, thanked the members of the Planning and Zoning Board for a job well done regarding the Benihana site plan.

#### **10. COMMISSIONER'S COMMENTS**

Commissioner Silverstone commented on the Landscaping Beautification Grant and thought the Town should apply. Manager Baldwin said that the Town had applied and Director Mason confirmed. Mr. Mason added that the Town had received two grants through this program. Manager Baldwin also advised that schools and other civic organizations could also apply.

Commissioner McIntee believed things were going well. He assured the people his approach towards issues would be handled differently.

Vice Mayor Yanni distributed the Corner's Club brochure on beach chairs that they wanted to place on the beach at El Prado Avenue. He requested consideration of this item at the April 11, 2006 Commission meeting, whereby Mayor Parker so ordered.

Mayor Parker asked the Volunteer Firefighters to participate in the Easter Egg Hunt on April 15, 2006, at 9:00 a.m. Commissioner Silverstone agreed.

Mayor Parker wished Bonnie Clark a Happy Birthday.

Mayor Parker said this was a dirty campaign, not by the candidates, but by the supporters of the candidates, and he referred to the accusations and name calling. He also said he was disappointed to find that, even after the elections, the accusations and name calling continued.

#### **11. ORDINANCES (1<sup>ST</sup> Reading)**

There were no Ordinances to be considered for first reading.

#### **12. CONSENT AGENDA**

- A. **AGREEMENT:** with the Broward County Property Appraiser's Office regarding the collection of non ad-valorem assessment fees for storm water.
- B. **REQUEST FOR EXTENSION:** of Franchise Agreement with Waste Management for a period of thirty days.

Manager Baldwin reviewed the history behind the agreement with the Broward County Property Appraiser and explained that under this agreement, the storm water fees would to become a non ad-valorem assessment on property tax bill, and no longer billed on a separate water bill.

Commissioner McIntee wanted confirmation that the Town was going from assessments to ad-valorem. Attorney Cherof said there was no change in the manner of which the funds were assessed. He said the only change was to whom would be collecting the funds. Attorney Cherof explained further that Pompano Beach did a poor job with collection and, therefore, the collection process was turned over to Broward County.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the consent agenda. The motion carried 3-2, with Commissioners Silverstone and McIntee dissenting.

### **13. RESOLUTION**

- A. **Resolution No. 2006-06:** A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing and Directing the Town Manager to enter into an Urban and Community Forestry Grant Memorandum of Agreement with the State of Florida, Department of Agriculture and Consumer Services Division of Forestry; and providing an effective date.

Attorney Cherof read Resolution 2006-06 by title only.

Manager Baldwin explained the grant was to pursue funds to improve the median at the entrance to the Town from the south side of A1A.

Director Mason said the amount of the grant was not specified, and although the maximum was \$250,000, he thought the grant would be approximately \$25,000 for the median improvement.

Vice Mayor Yanni made to a motion, seconded by Mayor Pro Tem Clark, to approve Resolution 2006-06.

Commissioner Silverstone questioned whether the Town has an input as to the type of plants used. Director Mason said the Town contracts with a Landscaping Architect,

and said that, if requested, he could supply a rendering to the Commission. Commissioner Silverstone thought the Garden Club could have some input. Manager Baldwin agreed they could get involved and Director Mason advised that State had limitations on the types of plants that could be used.

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

#### **14. OLD BUSINESS**

- A. Discussion and/or action on proposed amendments to the Evaluation and Appraisal Report (*Town Planner Walter Keller*) (*tabled from February 28, 2006*)

Planner Keller provided history regarding the adoption of the Evaluation and Appraisal Report of the Comprehensive Plan and explained that the proposed amendments addressed the changes required by the State and the Regional Planning Council. Mr. Keller also addressed affordable housing.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to approve the substitute pages as proposed by the Town Planner.

Discussion followed regarding possible policies that would address general issues by the State, such as when the Town would adopt the Comprehensive Plan and a strategy that would address affordable housing.

Mayor Parker opened the public hearing.

Pat Siera, 4648 Bougainvilla Drive, believed there would never be affordable housing at the beach, but thought that proportionate assessments might help keep rents lower.

John Thompson, 671 Lakeside Circle, Pompano Beach, believed special assessments on the lower income members of the community were illegal.

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

Attorney Cherof read the motion; to approve the recommendations of the Town Planner to substitute pages 27, 21, 22, and page 8 for the previous pages of the Evaluation and Appraisal Report.

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

- B. Schedule Workshops for discussion of Unified Land Development Code (*continued from February 28, 2006*)

Attorney Cherof indicated that the Unified Land Development Code would provide a uniform Code for the Town, and portions of that code may need to be approved by the

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voters. Discussion followed regarding postponing the workshops pending sections of the Unified Land Development Code that may be impacted by the Charter Amendment. Attorney Cherof thought it would be beneficial to review those sections and address them first.

Discussion followed regarding the time needed to review individual sections of concern. Commissioner McIntee suggested rescheduling for Manager Baldwin, Attorney Cherof, and Town staff to report in two weeks as to any additional amount of time that may be needed to complete their review and to determine which sections would be impacted or not. Manager Baldwin and Attorney Cherof thought two weeks would give them ample time to review the Code to aid in making that determination.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to table this item to April 11, 2006 with a report back from Manager Baldwin and Attorney Cherof. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Request from Vinnie Faust to have Town consider an ordinance requiring tree trimming prior to hurricane season to protect electrical wires (*Mayor Oliver Parker*)

There was discussion regarding tree trimming liability. Attorney Cherof advised that the ordinance would relieve the Town of any liability, and the costs would be that of the property owner. Vice Mayor Yanni asked why the Town did not front the expense and Attorney Cherof said the Town was not permitted to expend public funds to improve private property.

Commissioner McIntee expressed his opposition to the ordinance as it was a huge expense and a tremendous burden to property owners. He added that although the Ordinance would require a property owner to hire a tree trimmer, someone would attempt to do the job themselves to save money. Commissioner McIntee felt the responsibility should be that of Florida Power and Light.

Vice Mayor Yanni suggested drafting a Resolution that would encourage Florida Power and Light to take full responsibility. Attorney Cherof said other communities were trying to establish communication with Florida Power and Light, but did not know the status. Director Mason advised that once a problem was noted, the address was reported to Florida Power and Light, and when it was convenient to them they would send a crew. Director Mason agreed with Vice Mayor Yanni, and suggested it was their responsibility to keep the lines clear. Attorney Cherof agreed to draft a Resolution but warned that Florida Power and Light indicated a rate increase if they were required to keep the lines clear.

Manager Baldwin said this problem was not just the power lines, but also service connections. He said that when hurricane winds caused tree limbs to down service connections, the Town was without power for some time. Manager Baldwin believed

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Florida Power and Light was responsible for the high voltage wires, and the service connections were that of the property owner.

Commissioner McIntee thought it was against people's rights to police their property. He felt that by forcing them to care for their power lines might cause them to bring harm to themselves due to lack of funds to hire a professional. Mayor Pro Tem Clark disagreed and said the responsibility should be placed where it belongs.

Mayor Parker thought it was reasonable to ask people to take action to preserve the power grid for everybody. Mayor Pro Tem Clark requested a workshop to discuss the issue at hand.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, to invite Florida Power and Light to a hurricane preparedness meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

The Commission scheduled a workshop for Wednesday, April 26, 2006, at 6:00 p.m.

Commissioner Yanni made a motion, seconded by Commissioner McIntee, to draft a Resolution to encourage Florida Power and Light to expedite the trimming of the trees. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Report on beach easements as public beach access in the northern sections of Town (*tabled from February 28, 2006*) (***staff requesting tabling to April 11, 2006***)

This item was tabled to April 11, 2006.

## 15. NEW BUSINESS

- A. **PUBLIC HEARING** – SITE PLAN – Benihana/Lotz, located at 276 Commercial Boulevard (*staff recommending approval subject to the conditions noted in the planning report; Planning and Zoning Board recommending approval subject to the conditions noted in the planning report*)

Attorney Cherof swore in those wishing to speak on this issue.

Leon Lotz, WD Partners, gave a history on the founding of Benihana and referred to the business as a landmark for Lauderdale-By-The-Sea. He talked about the proposed improvements to the interior and exterior of the building.

The Commission discussed the length of time to complete the improvements, the access road to the property, coverage around the dumpsters, landscaping, lighting, signs, and whether there should be a fee for the use of two, twenty foot land strips and/or a lease agreement.

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Mayor Parker pointed out that Benihana leased a neighboring dirt lot for parking and Code prohibits that use. He suggested that either Benihana fence off that area to prevent parking, or have the owner pave the lot. Mayor Parker requested that the site plan be approved with conditions and to include a reasonable rent for the two, twenty foot strips of land. Commissioner McIntee felt the parking issue was a Code Enforcement issue. He agreed with a lease agreement and/or rental fee as previously suggested.

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to approve the site plan with the existing conditions, and with the two additional conditions that; 1) Benihana enter into a contract with the Town to lease two, twenty foot land strips, and 2) the addition of a bench.

Mayor Parker reviewed the additional conditions with Mr. Lotz, and Mr. Lotz confirmed he understood and agreed to them.

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

- B. Schedule Commission Organizational Workshop for April 4, 2006, at 6:00 p.m.

Mayor Parker inquired as to whether this was to be a Workshop or an organizational meeting and Attorney Cherof confirmed that it was to be a Special Organizational meeting.

Vice Mayor Yanni made a motion, seconded by Commissioner Silverstone, to schedule a Special Organizational Meeting for April 4, 2006, at 6:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action concerning dog friendly beach (*Commissioner Jerome McIntee*)

Commissioner McIntee said the people asked for a dog beach, and with the help of staff felt it could be established.

Commissioner McIntee made a motion, seconded by Vice Mayor Yanni, that Municipal Services Director Mason, at the direction of Town Manager Baldwin, develop a dog friendly beach at the foot of El Prado Avenue, with specifics, on a six month trial basis.

Mayor Parker questioned the motion in relation to the rules and regulations and, if the trial passed, would the rules of the motion stand. Commissioner McIntee assured that the structure would be that of Manager Baldwin and Director Mason.

Discussion followed as to the exact beach area off El Prado Avenue, the hours and days chosen. Director Mason agreed to supply all the specifics at the next meeting.

Attorney Cherof advised that either an Ordinance or an amendment to the existing Ordinance would be required. Manager Baldwin said he would provide the City of Fort Lauderdale regulations as a model to prepare a draft Ordinance.

Vice Mayor Yanni asked how the beach would be cleaned. Director Mason advised that the City of Fort Lauderdale cleaned their beaches the same way Lauderdale-By-The-Sea did. He added that signs are posted requiring that people clean up after their animals or fines would be imposed.

Commissioner McIntee modified his motion, seconded by Vice Mayor Yanni, to include that specifics be clarified and an amended ordinance be generated and brought before the Commission at the April 11, 2006 meeting for consideration.

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

## **16. TOWN MANAGER REPORT**

Manager Baldwin announced that the general budget would be up for discussion at the next meeting. He invited the Commission to his office to review any items of interest or concern.

## **17. TOWN ATTORNEY REPORT**

### **A. Report regarding Charter amendment and its affects on the Town**

Attorney Cherof distributed a memorandum with two documents attached, and attached hereto as part of these minutes. He referred to attachment one, the revised Charter, and talked about Section 7.1 as modified by the Charter Amendment on page 18. Attorney Cherof gave a brief explanation of the second document, the petition to amend the Charter. He said a Resolution by the Commission, authorizing the Town Clerk to forward the Charter Amendment to the Secretary of State, would be presented at the April 11, 2006 meeting.

### **B. Request for Shade Session - Sea Colony vs. Town of Lauderdale-By-The-Sea, Florida, Case Number 05-14142 (09).**

Attorney Cherof explained that this item was the lawsuit that the judge ruled in favor of the property owner and indicated that the moratorium that the Town announced took effect the day after they submitted their site plan application and the Commission was required to actually process their site plan application. He said the Town had taken an appeal of that action and requested a closed door session with the newly configured Commission to talk about the options. Attorney Cherof said the closed door session would last approximately forty five minutes and would be attended by the Commission, the Town Manager, and himself.

The Commission scheduled a closed session for April 11, 2006, to start at the beginning of the regular meeting scheduled for that same day.

C. Request for the Attorney General's opinion.

Attorney Cherof, in respect to a previous request from the Commission, added this item at the meeting. He explained that the request for the Attorney General's opinion required a majority vote from the Commission and, in conjunction with the election, some facts had changed and modifications to the request for opinion were made.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to direct the Town Attorney to seek the Attorney General's opinion. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker inquired as to whether it would be wise to amend the Ordinance on moratoriums in preparedness of a correct interpretation, and to prevent a recurrence.

Attorney Cherof agreed that an amendment of our provision to Town Code that dealt with the announcement of the Town's Notice of Intent, needed modification. He said the Ordinance was not intended to do away with zoning in progress, but the Judge read it that way. Attorney Cherof suggested that confirmation should be included in the body of the Ordinance that explained that the process itself was an additional Notice of Intent, and not meant to take the place of.

There were no objections to instructing the Town Attorney to amend the ordinance for consideration at the next meeting.

**18. ADJOURNMENT**

Mayor Pro Tem Clark made a motion to adjourn the meeting. There being no objections and no further business to discuss, the meeting was adjourned at 10:53 p.m.

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Oliver Parker, Mayor

ATTEST:

\_\_\_\_\_  
Alina Medina, Town Clerk

Date Accepted: \_\_\_\_\_