

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

### **MINUTES**

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, May 9, 2006**

**7:00 P.M.**

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

The meeting was called to order by Mayor Parker at 7:10 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner Silverstone and Commissioner McIntee. Also present were Municipal Services Director William Mason, Town Attorney James Cherof, and Town Clerk Medina.

Town Manager Robert Baldwin was not present.

#### **2. PLEDGE OF ALLEGIANCE TO THE FLAG**

The Pledge of Allegiance was recited.

#### **3. INVOCATION, TOWN CHAPLAIN**

Father Handrahan delivered the invocation.

#### **4. PRESENTATIONS**

- A. Proclamation – Armando DeLaRiva, Firefighter/Paramedic, Broward Sheriff's Office Department of Fire-Rescue and Emergency Services (*Chief John Frailey/Chief James Silverstone*)

Mayor Parker read the proclamation into the record proclaiming May 10, 2006, Armando DeLaRiva day. An award was also presented on behalf of the Broward Sheriff's Office Department of Fire-Rescue and Emergency Services. Mr. DeLaRiva thanked everyone and promised to continue working in the Town.

- B. Lauderdale-By-The-Sea's Online Community Portal (*Jerry Sehl/Vice Mayor John Yanni*)

Jerry Sehl distributed information and gave a PowerPoint presentation for the Commission's consideration. He explained that in times of emergency, an online community portal would serve as an informational service, allowing family and/or friends to obtain the status of Town residents via satellite. He suggested the Commission request the Emergency Management Team add a satellite connection in their plan. Mr. Sehl felt it would be beneficial to investigate the costs involved.

Vice Mayor Yanni made a motion, seconded by Commissioner Silverstone, directing staff to review costs. In a roll call vote, all voted in favor. The motion carried 5-0.

## 5. REPORTS

- A. Proposal for protocol to provide color palettes for site plan reviews (*Vice Mayor John Yanni/Michael Arker*) (*tabled from April 11, 2006*) (**Mr. Arker requesting a tabling to June 27, 2006 to complete presentation to Planning and Zoning Board**)

This item was tabled to June 27, 2006. There were no objections.

- B. Report on the approximate cost per foot to bury utility lines as part of site plan reviews/approvals (*Town Engineer Kevin Hart*) (*tabled from April 11, 2006*)

Engineer Hart referenced Jupiter Beach as being a pilot town to evaluate costs and needs with Florida Power and Light with regards to actual cost in burying overhead electric lines. He believed it would take time to complete, but good results would come from the evaluation. Discussion followed regarding the burying of utility lines as part of new development and the costs that could change pending the evaluation report at Jupiter Beach.

Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, to table this item for 4 months. In a roll call vote, the motion carried 4-1 with Mayor Parker dissenting.

Mayor Parker inquired as to what would be done in the meantime to ensure that projected costs for existing new development site plans were incorporated. Mayor Pro Tem Clark suggested \$10,000 with provisions that if the cost were higher the developer would make up the difference.

At the request of Commissioner McIntee, Attorney Cherof explained that without a realistic number it would be inappropriate to adopt an Ordinance that imposed a requirement to pay anything. He added that previously the Commission approved site plans on a case by case basis, with the developer agreeing to deposit the money.

Mayor Parker expressed concern with the costs associated with new development at hand. Attorney Cherof advised that adding a provision to the Land Development Regulation that provided the fees be deposited was a requirement to bury the lines, with additional language to allow for a waiver of that and, that in lieu of burying the lines, somebody could post a bond or deposit a fee with the Town.

- C. Master Plan Steering Committee – Report on beach dunes by Town Engineer Kevin Hart (*continued from April 25, 2006*)

Engineer Hart reported the costs involved for the installation of boardwalks at the Sea Ranch Club. He explained that he adjusted his previous estimate of \$40,000 to reflect the lower cost at \$12,500. Mr. Hart recommended the boardwalks be added to the Comprehensive Improvement Plan.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to accept the report and recommendation. In a roll call vote the motion carried 4-1, with Vice Mayor Yanni dissenting.

## **6. APPROVAL OF MINUTES**

- A. April 4, 2006, Special Meeting (*continued from April 25, 2006*)
- B. April 25, 2006, Agenda Conference

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to accept the April 4, 2006 Special Meeting minutes and the April 25, 2006 Agenda Conference minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

Attorney Cherof announced that the developers for the Sea Colony project had revised their site plan and requested permission from the Commission to allow them to make their presentation. He stated that a posting of the public hearing, along with an announcement on the Public Access Channel would suffice as there was no requirement for advertising.

There were no objections to considering this item as a public hearing under Old Business at the May 23, 2006 meeting.

Commissioner McIntee requested placing a reasonable time limit on the Sea Colony presentation. Brief discussion followed with Mayor Parker directing Clerk Medina to advise the representatives of Sea Colony that their presentation should be limited to thirty minutes.

## **7. PUBLIC COMMENTS**

Lawrence Wick, 4900 North Ocean Boulevard, announced the Wine and Cheese tasting party, sponsored by the Kiwanis of Lauderdale-By-the-Sea, Saturday, May 13, 2006, beginning at 6:00 p.m., at the Assumption Church.

Mr. Wick thanked Municipal Services Director Mason for his quick response to resolving the trash pickup problem at the Seacrest bus stop.

Cindy Geesey, 256 Imperial Lane, gave information on the Property Owner's Association meeting and thanked the Commission for their reconsideration towards the broadcasting

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of their meeting. She announced that the Chamber Breakfast would cover hurricane preparedness on Wednesday, May 17, 2006, beginning at 8:00 p.m., at Jarvis Hall.

Christi Furth, 4525 El Mar Drive, opposed the Waste Management Franchise Agreement, stating that there were enormous charges associated with it and believed it would eliminate precious parking spaces to house dumpsters.

Mark Furth, 4525 El Mar Drive, distributed Waste Management billing information for the Blue Seas. He pointed out the cost difference between his current dumpster at \$113, and the three, 96 gallon cans which would cost \$225. He felt that the monthly increase of \$154.01, without the franchise fees, was excessive.

Uli Brandt, 4537 West Tradewinds Avenue, stated that the Master Plan Steering Committee did not have the intention or the power to push something down the Commission's throat as had been previously suggested.

Fred Fauth, 268 Allenwood Drive, inquired as to whether the proposed tree ordinance addressed new plantings. Mayor Parker replied affirmatively.

John Thompson, 671 Lakeside Circle, Pompano Beach, suggested that a brief description accompany the Public Notice regarding Ordinance 2005-20, to give people an understanding of what it was about and allow them to decide whether they wish to attend the meeting.

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

There were no Ordinances for second reading.

**9. COMMISSIONER COMMENTS**

Vice Mayor Yanni requested additional benches at Palm Avenue. Municipal Services Director indicated he was looking into the possibility of adding up to two benches; however, he explained that the cost for this project had not yet been confirmed.

Commissioner McIntee praised Municipal Services Director Mason for maintaining the Town with a short staff. He thanked Development Services Director Harry Diehl for a job well done, and encouraged support for Planning and Zoning Administrator Bradford Townsend for his increased work load, due to Mr. Diehl's departure.

Commissioner McIntee asked the public to offer their assistance Saturday morning, May 13, 2006, at Commercial Boulevard, east of A1A, in an effort to beautify the Town. He added that in a team effort, the curbs would be painted, the streets washed, and new bark added to the medians. Commissioner McIntee encouraged the Commission to work on keeping their meetings to three hours or less and to stick to their rules of order. He urged Waste Management to come down on their fees.

Commissioner Silverstone commended Commissioner McIntee for encouraging residents to become more involved. He spoke briefly about using centralized technology.

Mayor Pro Tem Clark felt there were many opportunities to get the word out regarding hurricane preparedness, and encouraged everyone to start preparing now.

Mayor Parker wished everyone a Happy Mother's Day and encouraged everyone to participate in sprucing up the Town along Commercial Boulevard, east of A1A.

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

- A. **ORDINANCE NO. 2006-04:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, adopting Florida Power and Light's "Right Tree – Right Place" guidelines; providing for enforcement; providing for penalty; providing for severability; providing for codification; providing for conflicts; and providing for an effective date

Attorney Cherof read Ordinance 2006-04 by title only.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to approve Ordinance 2006-04 on first reading.

Mayor Parker reviewed five amendments to Ordinance 2006-04 that were proposed during the Agenda Conference:

- 1) to include language that if people performed work on their trees and the trees potentially interfered with the power lines, that they must use a Florida Power and Light certified contractor
- 2) to replace utility with Florida Power and Light
- 3) to require 48 hour notice to the homeowner unless an emergency
- 4) to set an example to define the planting of palm trees
- 5) to address the availability of Florida Power and Light, Right Tree – Right Place guidelines.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to amend Ordinance 2006-04 to include the use of a Florida Power and Light certified contractor. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to amend Ordinance 2006-04, Section 2(2)(b) to replace "utility" with "Florida Power and Light". In a roll call vote, all voted in favor. The motion carried 5-0.

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Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, to amend Ordinance 2006-04, Section 2(2)(b) to require 48 hour notice to the homeowner unless there was a power outage or a power outage was imminent. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, to amend Ordinance 2006-04, Section 2(1)(d), to set an example that stated that if at maturity, the palm frond was six (6) feet, then it would have to be planted nine (9) feet away from the lines. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to amend Ordinance 2006-04 to include a clause stating that guidelines would be available at Town Hall. In a roll call vote, all voted in favor. The motion carried 5-0.

Vice Mayor Yanni questioned the procedure for enforcing a violation of Ordinance 2006-04. Attorney Cherof stated that the same procedure should be followed as was the procedure for any other Code violation.

In a roll call vote, all voted in favor of Ordinance 2006-04 as amended. The motion carried 5-0.

- B. **ORDINANCE NO. 2006-05:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 20 of the Code of Ordinances to add a new Article IV, Underground Utilities; provide for severability; providing for codification; providing for conflicts; and providing for an effective date

Attorney Cherof read Ordinance 2006-05 by title only.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to approve Ordinance 2006-05. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker reviewed the proposed amendments to Ordinance 2006-05 made during the Agenda Conference:

- 1) Section 1(a)(2) - to change 50 percent of the "original cost" to 50 percent of the "assessed value of the structure"
- 2) Section 1(c), lines 25, 28 and 30 - to replace "Planning and Zoning Board" with "Town Commission"
- 3) Section 1 (b), line 5 – to replace overhead "facilities adjacent to and serving" the development to overhead "service lines serving" the development.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone to amend Section 19(a)(2) to read 50 percent of the “assessed value of the structure”. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to amend Section 1(c), lines 25, 28 and 30 replacing “Planning and Zoning Board” with “Town Commission”.

Discussion followed regarding final authority to grant or deny a waiver with Commissioner Silverstone believing that the Town Commission should have the final authority. Attorney Cherof suggested an addition of paragraph 3 stating the matter shall first be delegated to the Planning and Zoning Board for recommendation. There were no objections to amending the Ordinance as suggested.

In a roll call vote, all voted in favor to amend Section 1(c), lines 25, 28, and 30. The motion carried 5-0.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, to add to Section 1(c), paragraph (3) stating that all applications for waivers shall be first reviewed by the Planning and Zoning Board which shall make a recommendation to the Town Commission. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Silverstone, made a motion, seconded by Commissioner McIntee, to amend Section 1(b), lines 5 through 7 to read: “Existing overhead service lines serving the development shall be converted to underground facilities at the developer’s and/or owner’s cost”. In a roll call vote, all voted in favor. The motion carried 5-0.

In a roll call vote, all voted in favor of Ordinance 2006-05, as amended. The motion carried 5-0.

## **11. CONSENT AGENDA**

- A. SPECIAL EVENT PERMIT: **Fourth of July Celebrations**/Town of Lauderdale-By-The-Sea, Monday, July 3<sup>rd</sup>, and Tuesday, July 4, 2006; from 6:00 a.m. to 11:00 p.m.
- B. INTERLOCAL AGREEMENT: with Broward County providing for division and distribution of the Local Option Gas Tax imposed by the Broward County Local Option Gas Tax Ordinance
- C. INTERLOCAL AGREEMENT: with Broward County providing for division and distribution of the proceeds from the Broward County Additional Local Option Gas Tax on Motor Fuel Ordinance

- D. INTERLOCAL AGREEMENT: with Broward County providing for the division and distribution of the proceeds from the Broward County Five Cent Additional Local Option Gas Tax on Motor Fuel for Transit
- E. INTERLOCAL AGREEMENT: Tenth amendment to the agreement creating the Broward County Solid Waste Disposal District
- F. EXTENSION REQUEST: on the development order for the property located at 4433-4437 Poinciana Street (Silver Shores Company/John Allen), for a period of six months
- G. Motion to authorize the Town Administration to stock pile necessary provisions for use by emergency personnel after a natural disaster

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

## 12. RESOLUTION

- A. **RESOLUTION NO. 2006-10:** A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing the appropriate Town Officials to take all steps necessary to request the United States Postal Service to designate the Town of Lauderdale-By-The-Sea as the default city for zip code purposes for zip codes within the Town of Lauderdale-By-The-Sea; alternatively, requesting that the entire Town of Lauderdale-By-The-Sea be assigned to the same default zip code; directing Town Administration to transmit a certified copy of this resolution to members of the United States Senate and House of Representatives who represent the Town of Lauderdale-By-The-Sea, the Town's State Legislative Representatives, the Postmaster General for the United States Postal Service, and any other interested parties; providing for conflicts; providing for severability; and providing for an effective date.

Attorney Cherof read Resolution 2006-10 by title only.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to adopt Resolution 2006-10. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **RESOLUTION NO. 2006-11:** A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing and directing the appropriate Town Officials to execute a Franchise Agreement with Waste Management, Inc.; providing for conflict; providing for severability; and providing for an effective date.

Attorney Cherof read Resolution 2006-11 by title only.

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Tony Spadaccia and John Allen representing Waste Management, Inc. were present.

Mayor Parker pointed out that according to Article 2, Definitions, there were residential - commercial properties and non-residential commercial properties and gave an example of an apartment as a multifamily unit. He added that in this case, a multifamily rate did not exist. Mayor Parker stated that the contract needed to reflect that residential commercial properties were charged the multifamily rate and only non-residential properties were charged the non-residential rate. Mr. Spadaccia offered to make the correction as requested.

Detailed discussions followed regarding the increased monthly rate for toters and dumpster service. Mr. Spadaccia indicated that an option to go out to bid was always available, but believed that Waste Management's rates were comparable and fair. He suggested increasing the residential rate to compensate for the difference.

Commissioner McIntee explained that parking spaces were tight for motel owners and, because of that hardship, the motel owners would be forced to use toters at a higher cost in lieu of a dumpster. He asked Mr. Spadaccia for adjustments in those cases. Mr. Spadaccia explained that adjustments could not be made on an individual basis with an expectation of maintaining the fees at a reasonable amount. He emphasized, however, that Waste Management offered discounts to seniors.

Mr. Allen explained that the commercial industry had control and was able to manage their own waste, as well as the costs associated with it. He suggested they change out the use of carts that would assist in adjusting monthly rates, depending on the season. Mr. Allen explained that if a motel normally used three or four carts, and then recycled, they would have two garbage carts and a recycling cart, cutting their rate \$50. He explained further that in summer, when business was slower, hoteliers could use one cart and cut the rate by another \$75 a month.

Vice Mayor Yanni inquired if the rates for 96 gallon toters were the same for single family homes and duplexes as for non-residential. Mr. Spadaccia said the rate was \$21.51 across the board.

Commissioner McIntee stated that some residential houses were part of a hotel. He asked if they could receive a residential garbage can for their house and additional cans for the rest of the units. Mr. Spadacci was unsure if this could be done, but agreed to look into the matter.

Vice Mayor Yanni believed the only problem with the contract seemed to be with the commercial non-residential sections. He spoke about the difficulties hotels would have with recycling, but indicated that going out to bid was not the answer.

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Commissioner Silverstone spoke about the number of 96 gallon totes per household and whether same size containers on residential streets would be picked up at the same time commercial (non-residential) containers were picked up. Mr. Spadacci stated only one 96 gallon tote was available per household. He added that same size container pick up would be done on the same day.

Mayor Parker compared the rate structure between a tote and a dumpster. He stated that a two cubic yard dumpster was equivalent to eight 96 gallon totes. Mayor Parker pointed out that the rate for a 2 cubic yard dumpster, with pick up once a week, was \$113 and that rate was a little more than one third of the \$300 tote rate for the comparable number of totes at \$75 each. He believed the increased rate was unfair.

Mr. Spadaccia believed it was an equitable distribution and explained that the Commission could request Waste Management to change the structure to increase the residential rates in order to lower the commercial rates. He believed, however, that this would be an unfair distribution of costs.

Discussion followed regarding the issues the Commission had with the Franchise Agreement. Commissioner Silverstone requested a cost analysis and Mayor Parker requested adjustments concerning multifamily/commercial (residential) properties.

Commissioner McIntee made a motion to table Resolution 2006-11.

Vice Mayor Yanni believed, as Mr. Spadaccia indicated, that rates were not going to be reduced and that the Commission would not allow residents to pay more in order to reduce the commercial rate.

Commissioner McIntee withdrew his motion to table.

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to approve Resolution 2006-11. In a roll call vote, the motion carried 3-2 with Commissioner Silverstone and Mayor Parker dissenting.

### 13. OLD BUSINESS

- A. Discussion and/or action concerning staff's review of use of round-a-bouts on Seagrape Drive and/or the approval of the proposed contract with Florida Blacktop, Inc. to install five speed humps on Seagrape Drive, south of Commercial Boulevard (*piggybacking on contract with the City of Fort Lauderdale, Contract #10757, at a cost of \$21,052.75*) (*tabled from April 11, 2006*) (***staff requesting this item be removed from the agenda until a complete analysis can be presented***)

This item was tabled to May 23, 2006. There were no objections.

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- B. Discussion and/or action concerning the reconfiguration of Jarvis Hall, including the enclosing of the portico and the moving of the dais (*tabled from April 11, 2006*) (**staff requesting this item be removed from the agenda until a complete analysis can be presented**)

This item was tabled to May 23, 2006. There were no objections.

- C. Discussion and/or action on a request made by Norma Fayer, of 5100 North Ocean Boulevard, concerning the policy for key deposits for shuffleboard/bocci court (*Mayor Oliver Parker*) (*tabled from April 11, 2006*)

Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, to direct the Town's Administration to prepare a proposal for the budget. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action regarding a request to televise the Property Owners' Association Meeting with regards to hurricane preparedness (*Vice Mayor John Yanni*)

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to record the Property Owners' Association meeting and rebroadcast only that portion of the meeting that dealt with hurricane preparedness. In a roll call vote, all voted in favor. The motion carried 5-0.

- E. Discussion and/or action concerning the selection of an attorney for an independent review of the fire assessment (*Commissioner Jerome McIntee*) (*tabled from April 11, 2006*)

This item was tabled to May 23, 2006. There were no objections.

- F. Discussion and/or action concerning the Commercial Boulevard Pavilion (*Commissioner James Silverstone*)

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to require the Request for Proposal to obtain public input.

Commissioner McIntee suggested the inclusion of advertising a contest to perk interest. Brief discussion followed as to presenting awareness of a contest with Engineer Hart suggesting making the intention known at the final evaluation.

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

#### 14. NEW BUSINESS

- A. **“PUBLIC HEARING” – VARIANCE REQUEST; Lowe/1808 West Terra Mar Drive (Planning and Zoning Board tabled to May 16, 2006) (staff recommending tabling to June 13, 2006)**

This item was tabled to June 13, 2006. There were no objections.

Items 14B and 14C were taken out of order. There were no objections.

- C. Selection of members for the Planning and Zoning Board (*new term to run through April 2008*) (*five members, two alternate members*)

Mayor Parker announced there were 23 applicants for seven positions. He stated that the Commission would choose five members to serve on the Planning and Zoning Board and the selection of the two alternate members would follow the selection of Board of Adjustment members.

Vice Mayor Yanni nominated Brendan Barry, seconded by Mayor Parker, as a regular member to the Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee nominated Lawrence Wick, seconded by Commissioner Silverstone, as a regular member to the Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Silverstone nominated Barbara Cole, seconded by Mayor Parker, as a regular member to the Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark nominated Roseanne Minnet, seconded by Mayor Parker, as a regular member to the Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker nominated Bernard Eckhardt, seconded by Vice Mayor Yanni, as a regular member to the Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. Selection of members for the Board of Adjustment (*new term to run through April 2008*) (*five members, two alternate members*)

Vice Mayor Yanni nominated Shevaun Steward-Kuhn, seconded by Mayor Pro Tem Clark, as a regular member to the Board of Adjustment. In a roll call vote, all voted in favor. The motion carried 5-0.

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Commissioner McIntee nominated Thomas Carr, seconded by Commissioner Silverstone, as a regular member to the Board of Adjustment. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Silverstone nominated William Hubly, seconded by Commissioner McIntee, as a regular member to the Board of Adjustment. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark nominated Ron Piersante, seconded by Mayor Pro Tem Clark, as a regular member to the Board of Adjustment. In a roll call vote, the motion carried 3-2 with Commissioners Silverstone and McIntee dissenting.

Mayor Parker nominated Cindy Geesey, seconded by Mayor Pro Tem Clark, as a regular member to the Board of Adjustment. In a roll call vote, the motion failed 2-3, with Vice Mayor Yanni and Commissioners McIntee and Silverstone dissenting.

Vice Mayor Yanni nominated Joseph Couriel, seconded by Mayor Parker, as a regular member to the Board of Adjustment. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee nominated Benjamin Freeny, seconded by Mayor Pro Tem Clark, as the first alternate member to Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner Silverstone nominated Julio Omana, seconded by Commissioner McIntee, as the second alternate member to Planning and Zoning Board. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Pro Tem Clark nominated Sarah Stewart, seconded by Mayor Parker, as the first alternate member to Board of Adjustment. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker nominated Michael Arker, seconded by Mayor Pro Tem Clark, as the second alternate member to Board of Adjustment. In a roll call vote, all voted in favor. The motion carried 5-0.

Discussion followed regarding confusion over the selection of a Chair to the Boards. Attorney Cherof referred to Section 24 of the Town Code of Ordinances, page 1814, Subsection 6, stating the Town Commission selected the Chairman and Vice Chairman to the Board of Adjustment. He added that Section 272 of the Town Charter stated that the Planning and Zoning Board selected their own.

Mayor Parker suggested allowing the Board of Adjustment to nominate their Chair and Vice Chair and bring it before the Commission for approval. Attorney Cherof stated that would be permitted.

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Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, to have the Board of Adjustments nominate members for Chair and Vice Chair and bring back to Commission for ratification. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker suggested a change in the Ordinance and placed it for discussion and/or action on May 23, 2006 to amend the Ordinances regarding the Board of Adjustment to have the Chair and Vice Chair appointed by the Boards in the same manner as other Town boards.

- D. Discussion and/or action requesting permission from the Court to remove Ordinance 2005-20 from the ballot in November (*Mayor Oliver Parker*)

This item was tabled to May 23, 2006 to allow consultation between Commissioner McIntee and the members of the Citizen's Initiative Committee. There were no objections.

- E. Discussion and/or action concerning the contracting of Chief Frank Buchert as a consultant to the Town for issues pertaining to emergency management, as well as fire support and emergency medical services issues (*Mayor Pro Tem Chuck Clark*)

Mayor Pro Tem Clark stated that the Town was faced with a void pertaining to emergency management procedures. He advised that even though he recommended Chief Buchert he had no objection to the consideration of other candidates; however, he did feel that this position had to be filled quickly with the coming of a new hurricane season.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to direct the Town Manager to choose a contract employee to provide emergency management, to include fire and emergency medical services support and bring the contract back for Commission consideration and approval.

The Commission discussed the matter, with Commissioner McIntee expressing his dislike towards the idea of hiring Chief Buchert as the consultant for emergency management.

Mayor Parker stated that the Town was under specific deadlines to comply with the Federal Emergency Management Agency for emergency aide. He stated Chief Buchert was a good candidate and believed that Manager Baldwin should decide and hire the most qualified applicant.

In a roll call vote, the motion carried 3-2, with Commissioners McIntee and Silverstone dissenting.

- F. Discussion and/or action regarding an office for Commissioners (*Commissioner Jerome McIntee*)

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to grant the Commissioners an office containing a desk, a phone, a computer, and five (5) locked

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cabinets, to be used only for town business. In a roll call vote, the motion carried 4-1, with Mayor Parker dissenting.

Mayor Parker moved a motion to restrict the use of the office to office hours, explaining his reasons for his disapproval to have commissioners in Town Hall without staff being present. The motion died for lack of a second.

Additional discussion followed regarding after hour use of Town offices and the distribution of keys.

G. Naming of Portals-By-The-Sea (*Mayor Oliver Parker*):

- i. Portal located at Datura: in honor of William and Eva Karley, with Mr. Karley having been a resident for over 50 years, serving as Commissioner for 20 years, being a founding member of the Volunteer Fire Department, and serving as president of the Broward League of Cities
- ii. Portal located at Hibiscus: in honor of Joseph and Betty Barbara, with Mr. Barbara having been a long term resident; serving on the Town Commission for nine years, as both Mayor and Vice Mayor; and being a founding member of the Volunteer Fire Department

Mayor Parker made a motion, seconded by Commissioner McIntee, to name the Datura Portal in honor of William and Eva Karley. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker made a motion, seconded by Vice Mayor Yanni, to name the Hibiscus Portal in honor of Joseph and Betty Barbara. In a roll call vote, the motion carried 4-1, with Commissioner McIntee dissenting.

Vice Mayor Yanni stated that he had spoken with Ms. Mae Gibson who had expressed her preference to the Commercial Boulevard portal.

H. Discussion and/or action regarding a hurricane trailer (*Commissioner Jerome McIntee*)

Commissioner McIntee described a hurricane trailer and stated that the Town had previously purchased a hurricane trailer that was readily available for use at the time of a hurricane. He suggested that the Volunteer Fire Department take responsibility for setting up the trailer and, upon the approach of a hurricane, Municipal Service Director Mason could transport the trailer to either the Dixie Highway Public Works Facility or to Holy Cross Hospital until such time as the hurricane passed.

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Commissioner McIntee made a motion, seconded by Mayor Parker, to allow the Volunteer Fire Department access to the hurricane trailer, and to maintain and prepare it for hurricanes.

Mayor Pro Tem Clark asked about the contents in the trailer and Municipal Services Director Mason explained the trailer contained portable restrooms, sleeping bags, pick axes, food, chainsaws, toothbrushes, canopies, and enough supplies to sustain ten people for three days, post disaster.

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

- I. Discussion and/or action to provide additional funds for the Town Manager to get the medians and entranceways cleaned up into and in the Town  
*(Commissioner Jerome McIntee)*

This item was tabled to May 23, 2006. There were no objections.

- J. Discussion and/or action regarding the establishment of a protocol for using assessments for neighborhood improvements *(Mayor Oliver Parker)*

Mayor Parker suggested an enactment of an Ordinance that would set a protocol for requested improvements if 75 percent of the property owners on a street or neighborhood wished to have those improvements done. He indicated that residents in the specific neighborhood would need to be made aware that they were to be assessed for the costs, but that the Town could float a bond to complete the project.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to set a workshop to discuss this matter and set an appropriate protocol as suggested.

Mayor Pro Tem Clark believed the Town staff should contribute options prior to scheduling a workshop.

Commissioner McIntee withdrew his motion. Commissioner Silverstone withdrew his second.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to direct Town staff to come up with options prior to holding a workshop and to report to the Commission by July. In a roll call vote, all voted in favor. The motion carried 5-0.

- K. Discussion and/or action regarding the spending of the additional \$39,000 left on referendum question *(Commissioner Jerome McIntee)*

Commissioner McIntee made a motion, seconded by Mayor Parker, to withdraw the \$39,000 or whatever the balance was and return it to the appropriate account. In a roll call vote, all voted in favor. The motion carried 5-0.

**15. TOWN MANAGER REPORT**

A. Municipal Services Department Monthly Report

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

Mayor Pro Tem Clark requested that additional detail be provided regarding the action that was taken that produced the results noted in the report.

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

B. Capital Improvement Projects Quarterly Status Report

Municipal Services Director explained the status report on the projects.

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

C. Code Compliance Quarterly Status Report

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

**16. TOWN ATTORNEY REPORT**

A. Rules of Order for Town Commission Meetings

Attorney Cherof stated that the Rules or Order depict the change to paragraph 14 as confirmed by Clerk Medina.

B. Report on the Australian pines located east of El Mar Drive (*continued from February 28, 2006*)

Attorney Cherof indicated that the State of Florida would not deviate from its regulations that the Australian pine trees be removed, explaining that they were considered an exotic species. He advised that it was unlikely that the State would sign off on the permit to finalize it until such time as the trees were removed.

Mayor Parker recommended the Commission contact Senator Jeff Atwater and State Representative Ellyn Bogdanoff to make the Town's sentiments clear.

Attorney Cherof advised that at the next meeting, the Commission would be considering the first reading of the Stormwater Fee Uniform Method of Collection Ordinance. He distributed a memorandum and a timetable that would be followed.

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Attorney Cherof submitted a package containing a letter addressed to the State Attorney's Office and its backup regarding the proposed Charter Amendment and reviewed the contents in the backup. He believed it was an unusual occurrence for a Town Attorney to be asked by a Commission to ask the State Attorney's Office to investigate that same governing body. He indicated that, unless otherwise directed at this time, the letter would go out the next day. The Commission offered no alternate directions.

**17. ADJOURNMENT**

Vice Mayor Yanni made a motion to adjourn the meeting. As there were no objections and no other business to discuss, the meeting was adjourned at 10:17 p.m.

\_\_\_\_\_  
Oliver Parker, Mayor

ATTEST:

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

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