

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

## **TOWN COMMISSION**

### **AGENDA CONFERENCE MINUTES**

Town Commission Meeting Room

*4501 Ocean Drive*

*Tuesday, May 23, 2006*

*6:00 P.M.*

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

The meeting was called to order by Mayor Parker at 6:04 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner Silverstone and Commissioner McIntee. Also present were Town Manager Robert Baldwin, Town Attorney James Cherof, and Chief Deputy Clerk June White.

Town Clerk Alina Medina was not present.

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

The Pledge of Allegiance was recited.

#### **3. REVIEW AGENDA FOR REGULAR MEETING OF MAY 23, 2006**

Mayor Parker advised that Item 5E, Report on four Burt J. Harris claims and request for action was to be added to the regular agenda. He stated that Attorney Cherof would be providing a report on this item.

Attorney Cherof advised that the Town had 180 days to formulate and submit a settlement offer. Mayor Parker indicated that although the Commission might not be ready to take action tonight on this issue, it was important that Attorney Cherof provide a report.

There were no objections to the presentation to be made during the regular meeting.

Mayor Parker provided a brief history of the reef restoration project.

Mayor Parker asked if the Commission felt it was necessary to have the agenda request forms for each item if the items were self explanatory. It was agreed that, at least for the time being, the agenda request form would be included with each item.

#### Reports

- 5A, Budget Report for Period Ending April 30, 2006

Commissioner Silverstone questioned the revenues listed under Licenses and Permits, on Page 1, of the report. Manager Baldwin stated that he would look into the reason for the increase and advise the Commission. Commissioner Silverstone also inquired as to

the operating expenditures for the portals, stating that there were a considerable amount of funds still available. He asked if these funds would be spent. Manager Baldwin stated Town Engineer Kevin Hart had just submitted for reimbursement from the grant funds; however, he indicated that he would review the remainder of the funds and provide the Commission with an update. Manager Baldwin explained that if the Commission noted such questions prior to a meeting, he would ensure to have the answers available for discussion during the meeting.

- 5B, Report on the review of costs for the town to obtain satellite internet connections as part of its hurricane preparedness program

Municipal Services Director William Mason stated that Mr. Jerry Sehl was much more familiar with the services provided; however, he indicated that the costs were approximately \$300 for start up costs, with a \$100 a month fee.

Commissioner Silverstone asked if the Town could set this up so that the Volunteer Fire Department could also use the wireless system. Mr. Mason replied that he was unsure, but indicated that he would look into its possibility.

- 5C, Placement of two additional benches at the Palm Avenue Portal

Mr. Mason stated that Vice Mayor Yanni had requested that staff review the possibility of adding two additional benches to the Palm Avenue Portal. He indicated that the cost would be approximately \$5,700. There were no objections.

- 5D, Report on the Australian Pines located east of El Mar Drive

Mr. Mason stated that he had met with members of the Sea Ranch Condominium Association who had chosen some trees they believed would be acceptable if the State was not amenable to keeping the pines. Mayor Parker stated that he had spoken with Representative Elyn Bogdanoff who would look into the possibility of allowing the Town to keep the pines without penalty. Commissioner McIntee stated that he had spoken with several of the leaders of Sea Ranch Lakes and believed they were ready to accept that the trees had to be removed as they were in violation. He felt that the Commission should move forward without procrastination. Mayor Pro Tem Clark stated that the Australian pines had been classified as nuisance trees prior to the portal being constructed. He believed the State would not acquiesce in this matter.

At the request of Manager Baldwin, Mr. Hart provided a brief history of the project. He stated that the State had, upon the inception of the portal project, advised the Town that the Australian pines had to be removed. Mr. Hart stated that the Town had requested a letter, but it had never been received and, therefore, the Town had not offered to remove the trees. He emphasized that the State had in deed indicated that this would become a problem. Mr. Hart stated that upon the final inspection of the Portal, the State mandated, as a condition of final acceptance, that the trees be taken down.

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Commissioner McIntee felt it had been incorrect for any member of the Commission to request that the tree cutting cease. Mayor Parker disagreed, believing that the Commission had a duty to discuss this matter upon the request of its residents to determine if another option was available to the Town.

Mr. Hart stated that the Town had a good working relationship with the State in these regards. He did not believe the State would have a problem with the Town reviewing its options as long as it did not go unresolved indefinitely.

Vice Mayor Yanni stated that the trees had already been designated as nuisance trees and, although he understood the residents' feelings in not wanting to lose them, the Town could not risk an incomplete job when the portal was an improvement for all residents and visitors.

Mayor Parker requested an update regarding the claim letters that had been delivered to the Town. Attorney Cherof stated that four claim letters had been hand-delivered today and briefly described each claim and the amount of damages stated therein. He advised that the total of the damage claims represented the difference between the value of the property before the passage of the referendum when properties could be developed at 15 stories, and what they could be developed as now. Attorney Cherof stated that the total damages were approximated at \$20.9 million, that the Town had 180 days to evaluate the claims and make a proposal to resolve the claims. He advised that the 180 days began on the day of delivery of the notice of claims.

Commissioner McIntee stated that the claims seem to be represented by the same law firm and believed that this would not effect the Town for the costs that estimated a total of damages as one lawsuit would decide the fate of the remaining properties. Attorney Cherof replied negatively and emphasized that these were four separate and distinct claims. He indicated that any or all of the property owners could move forward or resolve their individual claims with the Town. Attorney Cherof stated that he anticipated that if there were no written settlement offered by the Town which was acceptable to any of the property owners, individual lawsuits would be filed and not a combined offer.

Mayor Parker discussed a recent case in Palm Beach County and suggested the commencement of a declaratory action to determine if Burt J. Harris did indeed apply to the Charter Amendment. Commissioner McIntee stated that this was "a massive event of \$20 million" and could not see "wheeling and dealing". Attorney Cherof stated that the letter to the Attorney General, requested by the Commission, was confirmed as received and assigned; however, Attorney Cherof stated that the Attorney General's Office would not commit to a specific date for providing an answer. Commissioner McIntee felt that in that case, it seemed that the Town was premature in moving forward. Attorney Cherof disagreed, stating that this was an important issue and that there were different tools to accomplish the same purpose.

Mayor Parker explained that an Attorney General opinion was only an opinion where a Court decision was a decision unless and until it was appealed. He felt that the Town's future depended, in part, on whether the Burt J. Harris Act applied to these claims. Attorney Cherof stated that he was concerned that the response from the Attorney

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General would be a lot more conservative and in line with the approach coming out of Tallahassee in property right's issues. He expected that there was a greater chance that the Attorney General would indicate that the Burt J. Harris Act did apply.

Commissioner McIntee stated that he was not prepared to tell Attorney Cherof to defend this action.

Attorney Cherof offered to provide a full review at the next meeting.

- Minutes

Commissioner Silverstone requested a correction of the minutes of April 25, 2006, page 14, wherein James Pollack was referred to as Fire Chief instead of Fire Chaplain. With no other corrections offered, the Commission agreed to accept the minutes as amended.

- Ordinances, Second Reading

Minor discussion followed concerning the two proposed ordinances. Commissioner Silverstone referred to Article 3, Section 1, stating that it appeared that in some instances 48-hours notice would be required and other times free access would be permitted. Attorney Cherof explained that paragraph "E" modified paragraph "A".

There were no objections to the ordinances, second reading.

- Ordinances, First Reading

There were no objections to the ordinances requiring properties on the beach to have their addresses posted on the beach side.

Attorney Cherof explained the Stormwater Management Utility ordinance, indicating that it was required in order to determine the issue of collecting funds for the utility fee through the Property Appraiser's Office. He explained that this ordinance was part of the formality required to have the funds collected as part of the property tax bill. Commissioner McIntee stated that there was some question as to constitutionality of the ordinance; however, he questioned if this was only a formality to obtain the funds from Broward County. Attorney Cherof stated that he was unaware of any challenge to the underlying Statute, Section 403 of the State Statutes. He reiterated, however, that this ordinance was only a formality to allow the change in methodology in the collection of the funds on behalf of the Town.

- Consent Agenda

Mayor Parker asked if there were any objections or clarification needed regarding the Consent Agenda. There were no objections noted and no clarification requested.

- Resolution

Attorney Cherof stated that the proposed resolution, Resolution No. 2006-12, supported Broward County's adoption of County-wide standards for dealing with the implementation of affordable housing. He emphasized, however, that the resolution did not represent a commitment on the Town's part to provide affordable housing, but simply supported the County's efforts in this matter.

Attorney Cherof stated that the proposed resolution, Resolution 2006-13, announced the Commission's intent to cancel its meetings for August 2006.

Manager Baldwin stated that prior to the Commission's summer recess, he would be providing his Budget Presentation for the Commission's consideration. He indicated that the Commission was considering the use of a citizen's budget advisory committee and discussed the dates available for review and recommendations prior to the September public hearings. Manager Baldwin stated that if the Commission wished to move forward with the use of a citizen's budget advisory committee and both regular meetings in August were canceled, the Commission might find itself in a time crunch.

Commissioner McIntee asked if the Commission could move forward with its plans to recess for the month of August and, if needed, call an emergency meeting. Attorney Cherof indicated that could be done.

- Old Business

- A. Sea Colony Site Plan Project

Mayor Parker stated that the Sea Colony would be making a presentation and the public would be invited to participate.

- B. Use of Round-A-Bouts

Mayor Parker stated that staff would be provided a report during the regular meeting.

- C. Reconfiguration of Jarvis Hall

Mayor Parker stated that staff would be making a presentation during the regular meeting for the Commission's consideration.

- D. List of Attorney's Names provided by the Florida League of Cities

It was agreed that the Commission would make its determination for negotiations with one of the listed attorneys during the regular meeting.

E. Removal of Ordinance 2006-20 from the November Ballot

Mayor Parker stated that this item had been continued to provide the Citizen's Initiative Committee with an opportunity to voice its opposition to the removal of the ordinance from the ballot. Commissioner McIntee replied that the Committee was opposed to the removal of the ordinance.

F. Equipment Used and Schedule Followed for Street Clean-Up

Municipal Services Director Mason stated that the Commission's back-up provided information regarding the costs involved to move forward with this project. He indicated that for long-term plans, the Commission should consider purchasing its own equipment.

G. Site Plan Layout for the Fire Station and Fire Truck Parking at Spicola Park

H. Consulting Contract with Russ Klenet

Mayor Parker stated that both these issues would be discussed during the regular meeting.

I. Town's Hurricane Trailer

Commissioner McIntee stated that a Commissioner's name was not listed on the agenda for this item and did not believe it should be discussed. Mayor Parker explained that he believed Manager Baldwin would be initiating discussion on this topic, but since no name had been added he would take responsibility for the item. He felt this issue needed to be further discussed in detail.

- New Business

A. Architectural Style of Property Located at 258 Commercial Boulevard

Mayor Parker asked if the Planning and Zoning Board had reviewed this change to the site plan. Mr. Townsend replied negatively, stating that the Planning and Zoning Board only reviewed architectural changes if it was part of an actual site plan. Attorney Cherof agreed that in absence of an architectural review board, the decision rested with the Commission.

Commissioner Silverstone stated that it was his understanding that the property owner had chosen to go with a lighter color. Commissioner McIntee thought that Attorney Cherof had specifically indicated that the Commission could not stop this color from being approved. Attorney Cherof replied negatively, reiterating that it was the Commission that had the final say in whether this architectural change was acceptable.

B. Additional Funds to have Medians and Entrances Cleaned Up

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Commissioner McIntee wanted to ensure that the Town's Administration understood that any funds needed to clean up the medians and entranceways would be made available.

C. Appointment of Representative to the Broward County Metropolitan Planning Board

Mayor Parker explained that although this position was historically held by the Mayor, Vice Mayor Kennedy had held the position as he had previously been a County Commissioner and was familiar with the process. Mayor Parker stated that he had no objections to accepting the reappointment to this position.

D. Appointment to fill one vacancy on the Board of Adjustment

Mayor Parker stated that one of the appointed members had decided against serving on the Board of Adjustment due to other commitments. After a brief discussion, the Commission agreed on the procedure to follow in this matter. It was determined that the first alternate would now become a regular member, with the second alternate becoming the first alternate. The newly appointed member would become the second alternate for this Board. There were no objections.

E. Ratification of Chair and Vice Chair of the Board of Adjustment

F. Ratification on Chair and Vice Chair of the Planning and Zoning Board

It was agreed to discuss these appointments during the regular meeting.

G. Appointment of a New Special Magistrate

There were no objections to the new appointment for Special Magistrate. The Commission agreed to discuss this matter during the regular meeting.

H. Proposed Amendment to have Board of Adjustment chose its own Chair and Vice Chair

Mayor Parker explained that he felt that all boards and committees should follow the same rules and regulations and that if one chose their chair and vice chair, they should all do the same. Otherwise, it should be the Commission's responsibility to appoint all chairs and vice chairs from the members nominated to the individual boards.

I. Walk-Around Committee

Commissioner McIntee stated that he would prefer to discuss this matter during the regular meeting. There were no objections.

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- J. Town Manager to provide approximate cost figures whenever the Commissioners request additional work from consultants

Commissioner Silverstone stated that he would discuss this matter during the regular meeting. There were no objections.

- K. Use of Middle Lane of Bougainvillea Drive, south of Commercial Boulevard, for Parking Spaces

Mayor Parker stated that he would discuss this matter in detail during the regular meeting. There were no objections.

- L. Contract between the Town and Broward Sheriff's Office Department of Fire Rescue and Emergency Services
- M. Creation of a Citizen's Budget Review Committee
- N. Providing for Port-A-Potties near the Business District

The Commission agreed to discuss the above issues during the regular meeting.

Mayor Parker stated that the Agenda Item Request Forms mentioned under the Town Manager's Report would be reviewed by the Commission during the regular meeting. There were no objections.

#### **4. ADJOURNMENT**

Commissioner Silverstone made a motion to adjourn the meeting. The meeting was adjourned at 7:00 p.m.

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Oliver Parker, Mayor

ATTEST:

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Alina Medina, Town Clerk

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