

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

Town Commission Meeting Room  
**4501 Ocean Drive**  
**Thursday, February 27, 2007**  
**7:00 P.M.**

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

The meeting was called to order by Mayor Oliver Parker at 7:40 p.m. Present were Vice Mayor John Yanni, Mayor Pro Tem Chuck Clark, Commissioner Jerome McIntee, and Commissioner James Silverstone. Also present were Acting Assistant Town Manager Esther Colon, Town Planner Walter Keller, Town Engineer Kevin Hart, Town Attorney James Cherof, and Town Clerk Alina Medina.

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

The Pledge of Allegiance was recited.

**3. INVOCATION, TOWN CHAPLAIN**

The invocation was not delivered as the meeting started late and Father Handrahan was unable to wait. Mayor Parker indicated the Town Council would need to be timely in the future.

**4. PRESENTATIONS**

- A. Comprehensive Annual Financial Report for Fiscal Year 2005-06  
Rachlin, Cohen & Holtz

Mr. Jerry Chiocca introduced himself stating that he was in attendance to present the annual financial statements of Lauderdale-By-The-Sea. The financial statements were broken down into four parts as follows:

- Introduction – prepared by the staff of the Town of Lauderdale-By-The-Sea.
- Financial – consisting of the financial statements and footnotes which the auditors are responsible for.
- Statistical – prepared by the staff of the Town of Lauderdale-By-The-Sea.
- Compliance – auditor's responsibility

Mr. Chiocca noted that once again the Town received a Certificate of Achievement of financial reporting. Mr. Chiocca said that he had lost track of how many times the Town had received such a certificate; however, he was told it had been approximately 10 years.

In addition, the Town received the Distinguished Budget Award. Mr. Chiocca offered congratulations to the staff for receiving this award.

- **Page 1 – Financial Section**

The first paragraph noted that the financial statement had been audited as of September 30, 2006 and for the year-ended. The audit was conducted according to generally accepted auditing standards and standards specifically applicable to government financial audits.

The importance of paragraph three was pointed out, which states: “In our opinion, the basic financial statements referred to above present fairly in all material respects with respect to financial position of each major fund as of September 30, 2006 and for year then ended.

- **Statement of New Assets**

Page 10 of the Statement of Net Assets states that the Town has approximately \$44 million reduced by \$16.6 million in liabilities with net assets of \$27.6 million. Mr. Chiocca specifically noted the last line under “General, Governmental Activities,” pointing out that the Town has approximately \$20 million in unrestricted net assets and approximately the same amount in cash and receivables reflecting that currently the Town is in good financial shape. Mr. Chiocca pointed out that most municipalities have the larger amount of their net assets invested in capital assets.

Page 12 (previously referred to as the “General column”) showed a balance of \$12.9 million in assets, with \$12.8 million in fund balance, most of which was designated, with approximately \$9.5 million undesignated, indicating a very good financial position.

- **Statement of Revenues, Expenditures, Changes in Fund Balance**

Page 13, the Statement of Revenues, Expenditures, and Changes in Fund Balance, reflects in the “Total” column, total revenues of \$15.7 million and expenditures of approximately \$15.1 million, showing an excess of revenues over expenses of slightly over \$.5 million. When added to other financing sources, which is primarily debt issued for \$4 million and transfers in and out, the City still has a positive net amount of \$3.2 million in the general fund.

- **Statement of Net Assets for Utility and Enterprise Funds**

Page 15, the Statement of Net Assets for the Utility and Enterprise Funds, shows \$10 million in total assets with \$2.6 million in liabilities; net assets are \$7.2 million.

- **Statement of Revenues for Enterprise Funds**

Page 16, Statement of Revenues for Enterprise Funds - The total column reflects \$1.6 million in revenues and over \$1 million in operating expenses with operating revenues of \$500,000. Again, when the transfers are added in, including General funds from parking improvements, there is a \$1.8 million increase in net assets.

Mr. Chiocca announced there is positive equity in all three categories.

- **Budget Statement**

Comparing final revenues to the final budget in the amount of \$13.4 million, actual revenues were \$14.6 million. The total budget is \$12.1 million, only \$10.4 million of which was spent leaving a positive balance of \$1.7 million and a net change of positive variance in fund balances of \$5.5 million.

- **Compliance Section**

Report on Internal Controls over Financial Reporting – Mr. Chiocca pointed out his concerns to the Commission regarding the following in the report, “We noted no matters involving the Internal Control over Financial Reporting at its operation that we considered to be material weaknesses,” although he stated that the accounting firm’s testing showed no instances of actual non-compliance.

- **Management Letter**

This report notes that there were no significant findings or recommendations from the preceding financial audit. The Town was in compliance with the investment of its public funds. No instances of non-compliance, violation of any laws or regulations, improper or inadequate accounting procedures, or failure to properly report financial transactions were found. In addition, there was no need to discuss a financial emergency as the Town appears to have a very healthy financial position.

Mr. Chiocca pointed out that the only carryover matter in the Compliance Section Management Letter was the investment of the public funds from the volunteer firefighters. Mr. Chiocca noted the first line indicates the Volunteer Firefighters’ Pension Plan Policy states that no more than 70% of the fund’s assets can be invested in equities; however, the audit found that percentage to be 93% - the same amount as reported in the prior year. It was the accounting firm’s recommendation that the Town either change the policy or reduce the equity holdings to 70%.

In response to the Commission’s inquiry whether there was anything particularly wrong with having 93% in equities, Mr. Chiocca noted that the Town was not in compliance with the Pension Plan Policy and there was nothing in State law specifically addressing this issue as it appears the problem is that the Pension Trustee specifically developed the pension fund in this format. Mr. Chiocca also advised there is no State-recommended policy for the pension plan.

Motion made by Commissioner McIntee to accept the report, seconded by Commissioner Silverstone. Mayor Parker asked if any Commissioner wanted to discuss the matter further.

Commissioner Silverstone indicated that he had a major concern on the first page of the report which says that State Law requires the audit to be done within one year. Commissioner Silverstone recognized the good work Esther Colon has performed on behalf of the Town in this regard.

Mr. Chiocca also congratulated Ms. Colon, saying this is the first presentation he has made this year and that he really appreciated the speed with which she completed the documentation.

Mayor Parker asked for further comments. With none, the motion passed unanimously (5-0).

## **5. REPORTS**

### **A. Monthly Report for the period ending January 31, 2006**

Mayor Parker asked if there were any questions concerning this report. With no further discussion, Mayor Parker requested a motion approving the report.

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Motion made by Vice Mayor Yanni, seconded by Commissioner McIntee, to approve the Monthly Report. In a roll call vote, the motion passed unanimously (5-0).

The agenda was amended to allow Mr. Novak from the Master Plan Steering Committee to provide his report from the previous night's meeting. A request was then made to next discuss the Walk Around Committee.

Paul Novak, 4900 North Ocean Boulevard, Co-Chairman of the Master Plan Steering Committee, indicated that at the Master Plan Steering Committee meeting an issue came up regarding direction previously provided by the Commission to the Committee asking that the Master Plan Steering Committee "take a couple of items and get something done." One of the items discussed was the Pavilion. The Committee had set up subcommittees for the Pavilion, the Walk-Around Committee, and several other items.

With regard to the Pavilion, Town Planner Walter Keller and Sandra Booth had announced that the Town would be putting this out for bid to an architectural firm, although this information had not been known to the Committee and had caused some surprise as they had set up subcommittees, gone to the site, and formulated action plans as to how this should be accomplished. Mr. Novak noted that the Committee did not have a problem with an architectural firm doing this work, but felt that their group would have a better understanding of the Town than an architectural firm and would like to at least present their opinions on how the Pavilion should be built.

Mr. Novak concluded by asking the Commission to specifically outline the Committee's responsibilities in this regard.

Acting Assistant Town Manager Colon reminded the Commission the Town had sent out a Request For Proposal (RFP) in November 2006. The deadline for responses was extended to December 11, 2006 and they had received only one response. She felt it was the intention of the Commission and Administration that the Master Steering Committee, the Architect, and the citizens all have input on this project. She added there is a deadline for the grant and the Town Manager thought the Commission felt it might move more quickly if there was a professional on board to assist the Steering Committee in the process. The deadline for the grant is in 1-1/2 years which Mr. Novak felt was enough time for the Master Steering Committee to get the job done in a proper manner.

Another problem pointed out by Mr. Novak was that when the Steering Committee got to their meeting place, there had been no microphones or television broadcast equipment available. He did not know if this was a result of a technical problem; however, he did ask in the future that microphones and television equipment be set up as the Master Steering Committee is supposed to be televised.

Commissioner Silverstone apologized on behalf of the Town for the misunderstanding and miscommunication adding that he has talked to Ms. Booth who told him she had been assured the Committee meeting would be televised, but for some reason it had not been. Commissioner Silverstone reiterated that the Pavilion does need the support of the Master Steering Committee and as part of the bid process was to get input from Town residents. He indicated that there should have been more communication between the Town and the Committee to be certain all parties were on the same page and they should do everything possible to make the process as easy as possible for the Committee.

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Commissioner McIntee also apologized for the lack of communication, adding that he will not support only one architectural firm taking direction for this project; he wants the Master Planning Committee to review five or six plans, sending the best to the Commission for final selection. It was mentioned that one of their goals had been to get University of Miami students involved in the project, but the letters had not gone out as planned.

Commissioner McIntee inquired regarding the specifications of the RFP and was advised by Town Engineer Kevin Hart that the RFP was for selection of an architect with the intent to have several proposals for the Pavilion to present before the Commission to make a selection of the concept. Unfortunately, only one submission had been received. Mr. Hart added it had always been intended that the residents have direct input into the project. Commissioner McIntee volunteered to work with the Master Planning Committee to get the project back on track.

Acting Assistant Town Manager Colon recommended that since Town Planner Walter Keller was receiving a fee to work with the Master Planning Committee, he should communicate more effectively with them.

Vice Mayor Yanni noted that several plans had been developed in the past and he wondered if any of those plans were appropriate to the Town's needs. Mr. Novak replied that the Master Plan Steering Committee had looked at several different ideas, but none suited the needs of the community.

Commissioner McIntee indicated that the Commission did not want engineers coming directly to them with plans and all communication with engineers should be conducted with the Master Plan Steering Committee. Once a decision has been made, the Master Plan Steering Committee will meet with the Commission to make a final decision. Mr. Novak confirmed that the Commission had previously provided them with \$5,000 to cover expenses. Commissioner McIntee indicated it would be good to send information to the colleges and have a spokesman talk to them. Mr. Novak noted that Sandra Booth would be the ideal person to accomplish that task.

Motion made by Commissioner McIntee, seconded by Vice Mayor Yanni, that the engineers present their plans to the Master Plan Steering Committee and that the Master Plan Steering Committee present the plan to the Town Commission with their recommendation; the engineers may talk to the Commission also, but only with the Master Plan Steering Committee's approval. In a roll call vote, the motion passed unanimously (5-0).

With a December 31, 2008 deadline for completion, the project will need to go out to bid by October 1, 2007, with a decision on the plan by the following July. Mr. Novak confirmed that he and his Committee would get the job done in that time frame.

Mayor Parker mentioned he had been told a letter has been sent out to the Art Institute of Fort Lauderdale, the FAU Architecture Department, and possibly to the University of Miami. It was suggested that the Commission instruct Ms. Colon to send out as many letters as possible, asking for suggestions for the Pavilion design.

**B. Walk Around Committee**

Mayor Parker asked that Commissioner McIntee lead the discussion relative to the Walk Around Committee.

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Commissioner McIntee indicated that the Walk Around Committee had been somewhat devastated by the firing of one of their members and another one who had resigned. Two more members will have to be appointed. Commissioner McIntee stated that until he gets some sort of guarantee that they are “not going to fire people just because we don’t like them,” he would refuse to participate in appointing any more members.

**6. APPROVAL OF MINUTES**

- A. September 14, 2006, Regular Meeting
- B. September 28, 200, Regular Meeting

Town Clerk Medina stated that the minutes would be completed by the independent company hired after which staff has to review them prior to putting them on the March 13, 2007 agenda. Ms. Medina indicated she would make sure that staff makes time to review them prior to placing on the agenda. Approval of the minutes was then tabled until March 13, 2007.

**7. PUBLIC COMMENTS**

Diane Boutin, 4244 El Mar Drive, discussed reclassification of properties to appropriately indicate the commercial district versus residential citing the Lauderdale Beach Club and the Windjammer as being considered residential when they are commercial properties. Ms. Boutin also spoke about separate assessments for residential refuse collection.

Frank Hermann, 4244 SeaGrape Drive, addressed the Commission expressing his feelings on the actions taken by Town officials and resident negativity.

Stuart Dodd, 232 Imperial Lane, brought up the matter of construction of the Oriana, land ownership, and avoiding litigation in that regard.

Lisa Mitchell, 4238 Seagrape Drive, discussed her concerns regarding current and future development.

Barbara Cole, 221 Washingtonia Avenue and 5000 North Ocean Boulevard, mentioned the Planning and Zoning Board being unfairly “stacked,” Vice Mayor Gianni’s comments regarding term limits, and a grass roots group called “WHYHEY” (Well, Have You Had Enough Yet).

Maureen McIntee, 1612 SE 21<sup>st</sup> Avenue, discussed millage rates, a vacancy on the Board of Adjustment, and her concerns regarding Board appointments.

**8. ORDINANCES (2<sup>nd</sup> reading) “Public Hearings”**

- A. ORDINANCE NO. 2006-18:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, providing interpretation of the November 2006 Charter amendment regarding qualifications for office and term limits; providing for severability; codification; and an effective date.

Town Attorney Cherof read Ordinance 2006-18 by title only for second reading.

Mayor Parker then opened the public discussion portion of the proceeding.

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Mr. Lawrence "Peanuts" Wick, 4900 North Ocean Blvd, #1105, quoted from the *Weekly Standard* of February 26, 2007. "Politicians Often Say Foolish Things" stating that he was addressing his comments to Commissioner McIntee. He indicated that if the way the ordinance had been rearranged is correct, then Commissioner McIntee was "either fabricating a story or was doing one for the city."

John Thompson, 671 Lakeside Circle, Pompano Beach, asked to have the Commission consider that the ordinance as drafted was not understood, citing the following changes: "Whereas the Citizens Committee that drafted and advanced the charter amendment to not include language expressly stating that the charter amendment was retroactive," - it was not intended to be retroactive. "Indeed the spokesman drafted and advanced the charter amendment" - the committee did not draft the amendment. Mr. Thompson indicated he was glad to see that the Commissioners had taken the consulting language out of the draft. Mr. Thompson cautioned, with the current wording of the ordinance, on the possibility of the necessity of a declaratory judgment from the courts and/or an electoral ordinance repealing the ordinance.

Maureen McIntee, 1612 S.E. 21<sup>st</sup> Avenue, pointed out that 74% percent of the voters in the Town had voted for term limits which would be eliminated by the proposed ordinance.

Mayor Parker then closed the public hearing.

Motion made by Commissioner Silverstone, seconded by Vice Mayor Yanni, to adopt Ordinance 2006-18 on second reading.

Commissioner Silverstone noted that the will of the majority should be adhered to.

Commissioner McIntee expressed concern regarding a lawsuit for declaratory judgment further stating that this is a "lose-lose for the senior members of the Commission because there is no question if you pass this, the people are going to rise up again and be twice as mad for making them do it twice and putting more restrictions and controls on the government." He agreed overriding a 74% majority vote would be a mistake.

Vice Mayor Yanni indicated that his dispute was not with implementing term limits, but in making them retroactive.

Commissioner Silverstone gave a brief history of this issue warning he did not think previous lessons had been learned, also acknowledging it may take a lawsuit to sort out this controversy.

Mayor Parker indicated he felt term limits were a mistake, addressing retroactivity by pointing out Florida law which says if statutes are to have a retroactive effect the statute ordinance or charter amendment has to so state that it is retroactive. There was further concern that if it was retroactive, the ordinance is probably unconstitutional.

Mayor Parker said he did not believe the ordinance is retroactive by its virtue of its language and if the writers wanted it to be retroactive, it should have been clearly stated.

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

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- B. **ORDINANCE NO. 2007-01:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, creating an Article IV of Chapter 6, Buildings and Building Regulations of the Code of Ordinances; providing for regulations and building color; providing for permits; providing for amortization of non-conforming buildings; providing for conflicts, severability, codification, and an effective date.

Town Attorney Cherof read Ordinance 2007-01 by title only for second reading.

Mayor Parker asked if the Ordinance 2007-01 applies to all buildings within the Town and if single family homes would not be required to pay for permits and was advised that information was correct, although Mr. Cherof noted that duplexes could be added by amendment.

Mayor Parker noted that he voted against this ordinance, as he did not feel private homes and duplexes should have to get permits to be painted.

Discussion continued regarding the Town creating a color scheme and bringing all buildings into compliance through the permit process as well as mandates for time frames.

Mayor Parker then opened the public discussion portion of the proceeding.

Barbara Cole, 221 Washingtonia and 5000 North Ocean Boulevard, stated there is already too much unnecessary permitting.

Diane Boutin, Windjammer Resort, 4244 El Mar Drive, indicated that the Windjammer has been painted three times and it is anticipated to be redone again in December of 2008, after installing impact-resistant windows throughout the north building. She felt that important permitting issues such as for fire assessment purposes, parking restrictions, garbage and water issues make no sense and if the Town is going to request permits, they should be requested uniformly.

Rosa Macaluik, 4621 Bougainvillea, felt that the majority were being penalized for the few who paint their homes "outrageous" colors.

Karen Hunsaker, 4249 Poinciana Street, pointed out that condominium owners will wind up paying an inordinate amount of money based on the size of common areas to be painted stating the permitting is inappropriate and asking the Commission to reconsider.

Stuart Dodd, 232 Imperial Lane, asked that the Commission allow residents to choose the color they want for their houses.

Ed Neal, 222 Corsair Avenue, felt the ordinance is an unnecessary nuisance, concurring that they may need a law for new construction, but not for existing residential areas.

Bob Roberts, 110 Imperial Lane, asked regarding the Commission's incentive in passing the ordinance, adding there is no need for it, either residential or commercial.

Lisa Mitchell, 4238 Seagrape Drive, expressed concern regarding forcing landlords to paint rental complexes necessitating a raise in rent to cover the cost.

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John Thompson, 671 Lakeside Circle, Pompano Beach, agreed it is an unnecessary expense, not only for the residents but for the Town, as they will have to pay to monitor compliance and issue permits. He suggested the policy be by exception, requiring repainting when necessary, and subject to a fine.

Ron Persante, 227 Lake Court, agreed that permits are ridiculous as most homes and commercial buildings are not painted inappropriate colors.

Mayor Parker then closed the public hearing portion of this meeting.

Mayor Pro Tem Clark stated he finds the ordinance inappropriate and is going to vote against it.

Motion made by Mayor Pro Tem Clark, seconded by Commissioner McIntee, to remove the ordinance from the agenda. In a vote of 5-0 the motion passed unanimously.

- C. **ORDINANCE NO. 2007-02:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Section 4-32 of the Code of Ordinances to prohibit animals in Town parks; providing for conflicts, severability, codification, and an effective date.

Town Attorney Cherof read Ordinance 2007-02 by title only for second reading.

Mayor Parker then opened the public discussion portion of the proceeding.

Barbara Cole, 221 Washingtonia and 5000 North Ocean Boulevard, suggested placing doggie plastic bag holders for people to clean up after their dogs in lieu of passing another ordinance.

Diane Boutin, 4244 El Mar Drive, Manager, Windjammer Resort, felt the ordinance was important as she has seen numerous dogs running on the beach and people do not pick up after their dogs. She asked that the Commission support the ordinance.

Stuart Dodd, 232 Imperial Lane, suggested placing doggie bags rather than denying pets access to the Town parks. He suggested testing the bags in one park.

Ron Persanti, 227 Lake Court, stated there are dog parks throughout Broward County that can be utilized by dog owners.

Rosa Macaliuk, 4621 Bougainvillea, agreed that dogs should be restricted from the beach.

Mayor Parker then closed the public discussion portion of the proceeding.

Motion made by Mayor Pro Tem Clark, seconded by Mayor Parker, to adopt ordinance 2007-02 on second reading.

Commissioner Silverstone noted there is already an ordinance on the books that dogs are not allowed on the beach; he did not see it as a problem, and was going to vote against it.

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Commissioner McIntee asked Municipal Services Director Bill Mason regarding the issue of dog droppings on the City's lawns and flowers. Mr. Mason noted he would need to talk to his employees to be 100 percent accurate, but he did state his employees told him it is a problem when using weed eaters or lawn mowers. Commissioner McIntee mentioned that the dog signs which were to be removed months ago are still up on El Mar Drive. Mr. Mason mentioned that the signs were not to come down until the bags were in place.

Vice Mayor Yanni asked if Chief Scott Gooding kept a log on persons cited for not picking up after their dogs. Chief Gooding answered that he would have to go back through deputy's reports to determine how many there are. Chief Gooding mentioned that he cites about three people per month. He agreed the bags along El Mar would definitely help.

Mayor Parker spoke in favor of the ordinance.

In a vote of 3-2 with Commissioners McIntee and Silverstone dissenting, the motion passed.

- D. **ORDINANCE NO. 2007-03:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida changing the date of municipal elections from the second Tuesday in March to the first Tuesday following the first Monday in November in even number years; providing for extension of the terms of office for elected officials at time of transition from March to November elections; providing for amended qualifying periods; amending conflicting provision in Section 6.1 of the Town Charter; submitting the amendment to approval by referendum; providing for conflicts, severability, codification, and an effective date.

Town Attorney Cherof to read Ordinance 2007-03 by title only for second reading.

Commissioner McIntee pointed out that on Page 2, Section 2, year references to 2010 should be conformed to Section 3 (2012) and to the way it also reads on Page 4 in Section 8.

Mayor Parker wanted to make clear that in order to change the Charter the voters will have to approve it; and second, it will not extend the term of Commissioner Yanni, Mayor Pro Tem Clark, or Mayor Parker. There will be a March election in 2008; the ordinance will move the election from March to November either starting to 2010 or starting 2012, depending upon November election outcomes.

Commissioner McIntee pointed out that Vice Mayor Yanni had clearly said 2012. Mayor Parker believed the ordinance would require an amendment to clarify the wording. It can be amended either way, to 2010 or to 2012.

Town Attorney Cherof noted in Section 3 the date is shown as 2012; the operative provision in 6.1 of the Charter, Page 4, Section 8, Line 140, states "commencing in 2010." Mr. Cherof also stated there is one other amendment to be put in Section 8, as it states, "Monday in November in even numbered years commencing in the 2012 Municipal Election." It should read "will be held on the first Tuesday following the first Monday in even numbered years.

Commissioner McIntee asked for a ruling from the Town Attorney on the issue of whether the year can be either 2010 or 2012 or if it has to be 2012.

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Town Attorney Cherof stated that the last direction of the Commission was to change the language to 2012 and that this was most likely a clerical typographical error.

Mayor Parker then opened the public discussion portion of the proceeding.

Lisa Mitchell, 4238 Seagrape Drive, expressed concern regarding the number of issues generally on the ballot for November election and the numerous decisions which will have to be made by the voters.

Barbara Cole, 221 Washingtonia and 5000 North Ocean Boulevard, remembered that the Commission had chosen 2012 adding that her preference would be to keep the election in March.

George Hunsaker, 4629 Poinciana Street, stated he had no preference for whatever year decided upon, however, there are statistics showing that more people vote in November, although in November local elections get lost in the multitude of media blitz for national and statewide offices. He asked that the ordinance not be passed.

Stuart Dodd, 232 Imperial Lane, agreed the vote had been for 2012, adding that the Town does not have the problems of large municipalities where elections cost many thousands of dollars, asking that the Commission keep the elections in March.

John Thompson, 671 Lakeside Circle, Pompano Beach, agreed with the Town Attorney that the Town can make any amendment it wants, pointing out that the Commission will have to be clear that if the amendment corrects 2010 to 2012, they are correcting a scrivener's error. Speaking to the difference between March and November, Mr. Thompson agreed the election should remain in March.

Maureen McIntee, 1612 SE 21 Avenue, disagreed with moving the election to November.

Mayor Parker then closed the public portion of the proceeding.

Motion made by Commissioner McIntee, seconded by Commissioner Silverstone, to table indefinitely. In a roll call vote, the motion passed unanimously (5-0).

Mayor Parker stated the item would be tabled indefinitely.

Town Attorney Cherof advised that a motion to table without a date specific would carry this item over to the next meeting. Mr. Cherof further said if a motion to strike is preferred, that would require the ordinance be returned for first reading.

There was further discussion clarifying the terms "tabling" an item as opposed to "strike" from the agenda.

Commissioner McIntee removed his original motion to table and amended his motion to table this item to the second meeting in July 2009. Commissioner Silverstone seconded the motion.

Town Attorney Cherof stated that if the vote passes, any Commissioner can put the issue back on the agenda simply by making a motion to take it off the table.

Mayor Parker amended Commissioner McIntee's motion to strike the item from the agenda, seconded by Vice Mayor Gianni,

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Mayor Parker asked the Clerk to call the roll on the motion to amend. In a vote of 3-2 with Commissioner McIntee and Commissioner Silverstone dissenting, the motion passed.

Mayor Parker asked the Clerk to call the roll on the motion to strike the item from the agenda.

In a roll call vote, the motion passed unanimously (5-0).

Mayor Parker stated that to bring this issue back to the agenda, it would now have to come back as a first reading.

**9. ORDINANCES (1<sup>st</sup> Reading)**

- A. **ORDINANCE NO. 2007-04:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Section 19-25, "Time Restricted Parking" to create subsection (g), providing that parking fees shall be waived for weekday parking as defined herein for portions of Commercial Boulevard; providing for conflicts, severability, codification, and an effective date.

Town Attorney Cherof read Ordinance 2007-04 by title only for first reading.

Mayor Parker asked for a motion adopting Ordinance 2007-04 for first reading.

Mayor Pro Tem Clark asked to make a comment prior to a motion, asking for an explanation and definition of specific locations affected by this ordinance. It was suggested that the current ordinance be reworded providing exact locations.

Town Attorney Cherof advised the ordinance could be amended tonight at first reading and moved forward.

Motion made by Mayor Pro Tem Clark, seconded by Mayor Parker, to amend the title and the body of the ordinance to read "for portions of Commercial Boulevard and Bougainvillea Drive." Section 19-25 of the Ordinance further would read "All metered parking fees along the north and south sides of Commercial Boulevard, west of Bougainvillea Drive, and along Bougainvillea Drive from 200 feet north of Commercial Boulevard to 200 feet south of Commercial Boulevard shall be waived from 7 am each Monday until 5 pm the following Friday. In a roll call vote, the motion passed unanimously (5-0).

Town Attorney Cherof then read the Ordinance 2007-04 entitled "An Ordinance of the Town of Lauderdale-By-The-Sea Amending Section 19-25, Time Restricted Parking to Create Subsection (g) providing that parking fees shall be waived for weekday parking as defined herein for portions of Commercial Boulevard and Bougainvillea Drive providing for conflict, severability, codification, and an effective date.

Motion was made by Commissioner Silverstone, seconded by Commissioner McIntee to approve the first reading. In a roll call vote, the motion passed unanimously (5-0).

Second reading will be held on March 13, 2007.

**10. CONSENT AGENDA**

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- A. LEASE AGREEMENT: WITH Clean, Green Trash Machine for two solar compaction systems.
- B. AGREEMENT: with Government Services Group, Inc. for the continuing services for the fire protection assessment program.
- C. SPECIAL EVENT PERMIT: Surfing Contest/Eastern Surfing Association; February through December 2007.
- D. SPECIAL EVENT PERMIT: Easter Sunrise Services/Community Presbyterian Church; Sunday, April 8, 2007, at sunrise, with set up commencing after 6:00 p.m. on Saturday.

Mayor Parker asked if anyone would like to remove any item from this agenda.

Commissioner Silverstone asked to remove item B.

Motion made by Mayor Pro Tem Clark, seconded by Vice Mayor Yanni, to adopt items A, C, and D. In a roll call vote, the motion passed unanimously (5-0).

Item B, an Agreement with Government Services Group (GSG) for Continuing Services for Fire Protection Assessment Program came under discussion with Commissioner Silverstone asking why this item did not have other bids. It was noted that GSG currently has the contract and this is for continuing services. Commissioner Silverstone asked if there was some reason the Town was required to use this particular company. At the recommendation of the Florida League of Cities, Commissioner Silverstone had called Burton and Associates in St Augustine, Florida and was advised that that company is servicing other municipalities in the area saving between 30% and 50% of the cost.

Discussion continued relative to putting this item out to bid to solicit other interested companies.

Acting Assistant Town Manager Colon wanted direction concerning the methodology to be used in obtaining other quotes.

Town Attorney Cherof recommended sending out the GSG letter of October 16 which outlines the scope of the services and asking for a quote.

Motion made by Commissioner Silverstone to obtain one or two additional bids for continuing services for the Fire Protection Assessment Program by the next Commission of March 13, 2007, seconded by Mayor Parker. In a roll call vote, the motion passed unanimously (5-0).

Commissioner McIntee further asserted that GSG has lost millions of dollar in lawsuits and are over-charging the Town \$20,000 for what appears to be simple computerized services. He suggested obtaining quotes from at least three potential bidders as GSG has not had a good track record.

Mayor Parker mentioned the two different contracts with Appendix A and Appendix B.

Acting Assistant Town Manager Colon advised she would get a cost for services for Appendix A and Appendix B.

## 11. RESOLUTION

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- A. A resolution of the Town Commission of Lauderdale-By-The-Sea, Florida, recognizing the dedicated public service of former Vice Mayor and Commissioner Ernie Fontaine by designating El Prado in his honor and memory, authorizing the Town Administration to prepare the necessary and appropriate signage to commemorate this designation; and providing for an effective date.

Town Attorney Cherof read Resolution 2007-05 by title only.

Mayor Parker noted there were two problems with this resolution, the first being they are not designating El Prado; they are designating the El Prado Portal (not the Street but the Portal). Also, it is to be named "The Ernie and Debbie Fontaine Portal."

Mayor Parker motioned to amend Resolution 2007-05 with the indicated changes, seconded by Vice Mayor Yanni. In a roll call vote the motion passed unanimously (5-0);

Mr. Cherof read the resolution amended as follows:

Recognizing the dedicated public service of former Vice Mayor Ernest Fontaine by designating the El Prado portal in his honor and memory as the "The Ernie and Debbie Fontaine Portal to the Sea," authorizing the Town Administrator to prepare the necessary and appropriate signage to commemorate this designation and provide an effective date.

Motion made by Mayor Parker to pass Resolution 2007-05 as amended in the title and in the body, seconded by Vice Mayor Yanni. In a roll call vote, the motion passed unanimously (5-0).

- B. A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, extending the sewer connection deadline for property owners in the Terra Mar section of Town until April 1, 2007; and providing an effective date.

Town Attorney Cherof read Resolution 2007-06 by title only.

It was explained that the City of Pompano Beach has one date for completion and Lauderdale-By-The-Sea another. With regard to sewers for Bellaire, the contract for ManCom has been approved; however, there have been issues as the project exceeds the budget by about approximately \$1 million.

Lengthy discussion continued regarding the cost overrun with Mayor Pro Tem Clark claiming it would have been appropriate for the Commission to be advised of this problem. Documentation will be provided at the next Commission meeting explaining the cost overrun and how it will be handled.

Acting Assistant Town Manager Colon confirmed that the Town had originally budgeted \$4.4 million for this project.

Mayor Parker proposed that the Commission be notified of any cost overruns exceeding 20% in writing from the contractor and be verbally presented at a Commission meeting. Ms. Colon stated that procedure is already in effect, and the lack of notification had been an oversight on the part of staff.

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Mayor Parker directed the Town Clerk to put on the agenda for the Commission meeting of March 13, 2007 a resolution that whenever a bid is more than 10% over budget, that matter be placed on the agenda to verbally inform the Commission.

Motion made by Mayor Pro Tem Clark, seconded by Vice Mayor Yanni to adopt the resolution. In a roll call vote, the motion passed unanimously (5-0).

- C. A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, waiving parking meter fees on weekdays; providing for severability; providing an effective date.

Town Attorney Cherof read Resolution 2007-07 by title only.

Mr. Cherof noted that the Commission did not need to act on this agenda item as they have already adopted an ordinance directing staff to suspend parking meter fees on Commercial and Bougainvillea.

Mayor Parker interjected that this had only happened on first reading.

## 12. OLD BUSINESS

- A. Discussion and/or action regarding the possibility of establishing a Town Ethics Committee (*Acting Assistant Town Manager Esther Colon for Town Manager Robert Baldwin*) (tabled from November 28, 2006)
- B. Discussion and/or action regarding the possibility of the Town providing trash collection (tabled from January 9, 2007)
  - 1. Discussion and/or action regarding the possibility of providing for an assessment for solid waste collection for residential customers
- C. Appointment of member to the Walk Around Committee (*Vice Mayor John Yanni*)
- D. Update regarding the Broward Sheriff's Office returning all Lauderdale-By-The-Sea fire equipment within Town limits as our taxpayers bought this equipment with their tax dollars (*Commissioner Jerry McIntee*) (continued from January 9, 2007)
- E. Update concerning the members chosen for a committee to consider the Grand Marshal selection for the 2007 Fourth of July Celebrations (*Mayor Pro Tem Chuck Clark*) (continued from January 23, 2007)
- F. Discussion and/or action regarding a request for extension on the site plan for Bougainvillea Townhouse, located at 4417 Bougainvillea Drive (tabled from January 23, 2007)
- G. Discussion and/or action regarding the Florida Conflict Resolution Consortium (*Acting Assistant Town Manager Esther Colon for Town Manager Robert Baldwin*) (tabled from January 23, 2007)
- H. Discussion and/or action regarding Commission inquiries (*Town Manager Robert Baldwin*) (tabled from January 23, 2007)
- I. Discussion and/or action regarding a reconsideration of motion that passed on the Oriana site plan amendment application (*Town Attorney James Cherof*)

### **13. NEW BUSINESS**

- A. Discussion and/or action regarding the possibility of providing a public monument to place names of those who have been honored (*Commissioner Jim Silverstone*) (*continued from January 9, 2007*)
- B. Discussion and/or action regarding the possibility of providing a speed hump on West Terra Mar Drive (*Mayor Pro Tem Chuck Clark*) (*continued from January 23, 2007*)
- C. Discussion and/or action regarding the selection of a professional engineering consultant (*Municipal Services Director William Mason*)
- D. Discussion and/or action regarding additional information to be recorded in order to clarify the land use on specific property (*Development Services Director Jim Bell*)

### **14. PUBLIC COMMENTS**

Public comments were heard earlier in the meeting, Agenda Item 7.

### **15. COMMISSIONER COMMENTS**

Commissioner Silverstone stated he was not sure about what was meant by the comment regarding lowering the millage rate to his proposal of 3.96 asking Ms. Colon to clarify and further asking if it included capital deductions. Ms. Colon responded that she did not believe there had been budget cuts and the CIP project was still being funded. She also said that the 3.96 mil rate would take care of all budgeted items for the 2006-2007 tax year, although it did cut the \$1 million reserve fund.

Commissioner Silverstone continued that he had received complaints from residents that there are no more resident parking spaces on the beach even though they are paying fees for parking privileges. It was pointed out that construction on El Prado had caused all parking to be at a premium and although they are saving some spots only for people who live nearby to park, parking could be made available on the north side of El Prado in the east parking lot on the ocean side. There are approximately 10 spaces without meters that could become temporary residential permit parking. Commissioner Silverstone asked Mayor Parker if he could do something to get those parking spots for residents who do not have them in the construction zone. After brief discussion, Mayor Parker indicated that Commissioner Silverstone could make a motion to make those parking places temporary residential permit parking. Mayor Parker noted for the record that these spots would only be available until the construction was completed.

Motion made by Commission Silverstone, seconded by Mayor Parker, to direct the Town administration to allow the ten spaces on the north side of El Prado in the east parking lot on the ocean side to be utilized for resident parking until construction is completed. In a roll call vote, the motion passed unanimously (5-0).

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Commissioner McIntee discussed the reef project stating it is a great asset for the community and will bring business to the Town. He also stated that local businesses are quite happy that the parking meters are free on Commercial Boulevard, with one business person suggesting meter bags indicating "Free Parking Courtesy of the citizens of Lauderdale-By-The Sea." Commissioner McIntee asked this matter be put on the agenda of the regularly scheduled Commission meeting of March 13, 2007.

Commissioner McIntee stated his opinions that the fire assessment is "smoke and mirrors," and the assessments are nothing more than a tax. It was his suggestion that all fire, water, and garbage assessments be included in the ad valorem allowing for a tax deduction and write off.

Mayor Parker called Commissioner McIntee on his five minute time limit.

Commissioner McIntee motioned to extend his time by one minute. The motion seconded by Commissioner Silverstone, passed unanimously (5-0).

Commissioner McIntee ended by saying he was hopeful that the members of the Commission could be begin to give something back to the community.

Vice Mayor Yanni mentioned the success of the Performing Arts Center adding that he wanted to put renovating Jarvis Hall on the agenda for consideration and/or action. He also talked about leaking fire hydrants, as well as the March election issue and people not taking time to vote on local issues.

Mayor Parker discussed voter turnout and statistics showing a 50% higher turnout in November than in March, reporting that the State Legislature had endorsed November elections. With regard to the fire assessment, Mayor Parker pointed out that in going from a fire assessment to a millage rate, the millage rate would need to be raised by one mil.

Mayor Parker requested all remaining agenda items (12, 13, 16, and 17) be tabled to the March 13, 2007 meeting at 7 pm. Hearing no objection, all remaining items were so tabled.

**16. TOWN MANAGER'S REPORT**

Deferred.

**17. TOWN ATTORNEY REPORT**

Deferred.

- A. Report concerning Code Section 24-43(g) (*continued from January 23, 2007*)
- B. Request for a closed door session in accordance with the procedures set forth in Florida Statutes Section 286.011(8) to discuss the following pending litigation: Case No. 06-1156(21), The Town vs. The Coastal Arms, Inc., James Edmonson, The Palm Yacht & Beach Club, Inc., Delrado, Inc. d/b/a El Dorado, in the Circuit Court of the 17<sup>th</sup> Judicial Circuit in and for Broward County, Florida.

**18. ADJOURNMENT**

Having no further discussion the meeting was adjourned at 11:00 p.m.

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

ATTEST:

\_\_\_\_\_  
Dolores Regis for Tina Angelone, Town Clerk

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