

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

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, March 27, 2007
6:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

Mayor Parker called the regularly scheduled Commission meeting to order at 6:00 p.m. Vice-Mayor John Yanni, Mayor Pro Tem Chuck Clark, Commissioner Jerome McIntee and Commissioner Jim Silverstone were present. Assistant Town Manager Esther Colon, Town Attorney James Cherof and Deputy Town Clerk Angela Gerlach were also in attendance.

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 17th Judicial Circuit in and for Broward County, Florida. In attendance will be the Town Commission, Town Attorney and Town Manager.

Town Attorney Cherof stated, he had previously requested in a public meeting that the Commission meet behind closed doors to discuss ongoing litigation in the Town of Lauderdale-By-The-Sea in a case that is referred to as versus Coastal Arms, James Edmonson and others, also referred to as a declaratory judgment action. The Commission will recess from this public meeting into a closed-door session. Attending the closed-door session will be the members of the Commission, the Assistant Town Manager, the Town Attorney and court reporter. The duration of the meeting will be approximately fifteen (15) to thirty (30) minutes.

Having no objection, Mayor Parker recessed the public hearing at 6:15 p.m.

Mayor Parker reopened the public hearing at 7:05 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION, TOWN CHAPLAIN

In the absence of the Town Chaplain, George Hunsacker led the Invocation.

4. PRESENTATIONS

A. Report on Economic Development Task Force - *Siemon & Larsen*

Mayor Parker stated the Commission has heard this presentation before and asked Town Attorney Cherof if it needed repeating.

Town Attorney Cherof replied that when speaking with respect to the report that underlies the creation of the community redevelopment area, the answer is no so long as on the record, the

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Commission incorporates by reference the previous reports that have been made. Those will be reflected as part of the record of tonight's proceedings.

Commissioner Silverstone motioned to incorporate the previous reports submitted to the Commission with regard to the report on the Economic Development Task for Siemon and Larsen. The motion was seconded by Mayor Pro Tem Clark and carried unanimously.

5. REPORTS

A. February 2007 End Of Month Report

Commissioner Silverstone motioned to accept the February 2007 End of Month Report as submitted. The motion was seconded by Commissioner McIntee and carried unanimously.

6. APPROVAL OF MINUTES

A. January 9, 2007 Regular Meeting

Mayor Parker asked for any additions, deletions or corrections to the January 9, 2007 meeting minutes.

Commissioner McIntee stated that he had multiple changes and corrections and added that there were also blank spaces on the tape of that meeting. Commissioner McIntee continued to say it would take him some time to review these minutes and consult with staff.

Assistant Town Manager concurred that blanks had occurred on the tape and she would like to fill in the blanks.

Commissioner McIntee motioned to table the approval of the January 9, 2007 regular meeting minutes until the regularly scheduled meeting of April 10, 2007. The motion was seconded Commissioner Silverstone and carried unanimously.

7. PUBLIC COMMENTS *(random selection of individuals; limited to half hour)*

Hilda Maier of 1780 East Terra Mar Drive commented on the new sewer system saying that the cost to the homeowner is a lot of money. Mrs. Maier continued to say that she lives in beautiful community and for that she must pay the price.

Cristie Furth of 4525 El Mar Drive commented it is time to set the record straight and mentioned the Broward Sheriff's Office publication Signal 14 that is mailed to all residents saying she objected to the Broward Sheriff's Office claiming credit for the Lauderdale-By-The-Sea Halloween Haunted House completely ignoring the hard work of Town residents. Mrs. Furth chastised Mayor Parker for focusing on and making private concerns of residents a public matter.

Stuart Dodd of 232 Imperial Lane commented on the changes that Assistant Town Manager Colon has brought about in the absence of Town Manager Baldwin. Mr. Dodd told the Commissioners they have seen how a small town should be run and asked the Commission if

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they have the courage to make that happen. Mr. Dodd spoke on behalf of resident Marie White saying she was unable to attend tonight's meeting as she is recuperating from surgery. Mr. Dodd said that Mrs. White had asked him to relay her wishes concerning no speed bumps south of Commercial Boulevard, please.

Maureen McIntee of 1612 SE 21st Avenue commented on the Bert J. Harris claim filed against the Town by the Sea Colony as announced at the previous Commission meeting by Town Attorney Cherof. Mrs. McIntee continued to say that if the Sea Colony had been allowed to build under the watch of the previous Commission, there would not be a Bert J. Harris claim today. Mrs. McIntee distributed a hand out to the Deputy Town Clerk and requested it become a permanent part of this record.

Frank Hermann of 4244 Seagrape Drive commented that he is fighting over the outrageous fire protection assessment and tax studies searching for the least painful way of raising taxes. Mr. Hermann humorously commented on the Town's state of affairs, but said on a serious note he wants his fire assessment removed from his tax bill and placed in his ad valorem taxes and calculated by his assessment just as the budgets are for the North District Hospital and the Hillsboro Inlet.

Lisa Mitchell of 4238 Seagrape Drive commented that summer would soon be upon us and emphasized the safety of our beaches. She thanked Assistant Town Manager Colon for efforts in moving the Town forward. Ms. Mitchell made a plea to use the volunteer fire department to promote public safety.

John MacMillan of 223 Commercial Boulevard questioned the job performance of a former employee and asked how it was allowed to continue. Mr. MacMillan further commented on questionable minutes and concluded that the Town Clerk did not act alone. Mr. MacMillan said that it is time to look at the Town Manager's overall performance and commended Assistant Town Manager Colon for a job well done.

Barbara Cole of 221 Washingtonia Avenue and 5000 North Ocean Boulevard commented on some of tonight's agenda. Ms. Cole wondered why occupational licenses were going to be referred to as "business tax" or "business tax receipt" and why attorneys were not being included. Ms. Cole stated she was confused as to why the Villa Solemar was on the agenda and why Town Planner Keller was presenting it. Ms. Cole also questioned the Garden Court project and expressed concern that the Town has given public property away to private developers.

George Hunsacker of 4629 Poinciana Street stated after the previous Commission meeting he went to Town Hall and picked up a copy of the Bryant Miller Olive memorandum and commented on issues raised in that memorandum. Mr. Hunsaker said he believes there is simply too much tension to deal with the issues effectively. Mr. Hunsaker stated the memorandum recommends considering ways to release this tension and ways to make the Town more legally sound. Mr. Hunsaker suggested separating contracts for rescue service and fire suppression and deal with them independently. This will eliminate the need for a consultant to tell you how to divide the cost. Mr. Hunsaker commented on agenda item 13I dealing with dog leash and poop scooper laws saying he would like code enforcement to do their present job which apparently they do not have time to do.

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Diane Boutin of 5100 Bayview Drive, Fort Lauderdale and the Windjammer Resort located at 4244 El Mar Drive addressed Old Business Item C, the revisiting of Oriana. Mrs. Boutin commented on the newly painted color of the Oriana and complimented how sharp and nice it looks. Mrs. Boutin said there are many unfinished projects on our slate and it is time to get a little real and actually complete and finish these allowing people to join our tax base.

Ron Piersante of 227 Lake Court commented on speed humps and spoke in favor of them on Seagrape Drive saying cut through traffic is horrendous. Mr. Piersante said speed is not the problem but rather drivers going through the stop signs.

8. ORDINANCES (2nd Reading) “Public Hearings”

There were no ordinances for second reading.

9. ORDINANCES (1st Reading)

- A. **ORDINANCE NO. 2007-06:** An ordinance of the Town of Lauderdale By The Sea, Florida amending the Town code of ordinances to replace the term “Occupational License” with “Business Tax” or “Business Tax Receipt”; providing for conflicts, severability, codification and an effective date. *(Public Hearing to be held on April 10, 2007).*

Town Attorney Cherof read Ordinance 2007-06 by title only. Mr. Cherof advised there was a statute adopted in the last legislative session that changed the terminology from occupational license to business tax. It has been mandated that all municipalities in the State of Florida that use the term business license change the term to business tax. This Ordinance implements that statutory requirement.

Vice-Mayor Yanni motioned to approve Ordinance 2007-06 on first reading. The motion was seconded by Commissioner McIntee and carried unanimously.

Mayor Parker announced the second reading of Ordinance 2007-06 would be April 10, 2007.

10. CONSENT AGENDA

- A. Ratification of Special Event Permit – Arts & Craft Show - held March 10 and March 11, 2007

Commissioner Silverstone motioned to approve the ratification of the Special Event Permit to the Arts and Craft Show held March 10, 2007. The motion was seconded by Mayor Pro Tem Clark and carried unanimously.

11. RESOLUTION “Public Hearings”

- A. A resolution of necessity of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, promulgated pursuant to Section 163.355, Florida Statutes, in order to begin the formal process of creating

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a Community Redevelopment Agency to function within the Town of Lauderdale-By-The-Sea; approving a slum and blight study; defining the redevelopment area; determining that the redevelopment area suffers from one or more indicators of blight; determining that the redevelopment area is appropriate and critically necessary in the interest of the public health, safety, morals, and welfare of the residents of the Town; making certain other required findings and determinations; and providing effective date therefore (*Public Hearing to be held on March 27, 2007*)

Town Attorney Cherof read the Resolution 2007-04 by title only.

Mayor Parker opened the public hearing.

There was no public discussion and Mayor Parker closed the public hearing.

Vice-Mayor Yanni motioned to adopt Resolution 2007-04. Commissioner McIntee seconded the motion.

Commissioner Silverstone asked Mr. David Nixon if there had been any material changes since this last time the Commission addressed this matter.

Mr. Nixon replied no changes.

There was no further discussion and Resolution 2007-04 was adopted unanimously.

Mr. Nixon thanked the Commission for getting this matter back on track and approving the Resolution. Mr. Nixon assured the Commission he would provide monthly updates.

Mayor Parker asked how soon we could anticipate the creation of a Community Redevelopment Agency.

Mr. Nixon responded most likely by September or October of this year.

- B. A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, requiring Town Administration disclosure to the Town Commission when there is a cost overrun anticipated or required for an approved Town project; providing an effective date.

Mayor Parker advised those in attendance that Resolution 2007-07 did not require a public hearing.

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

Commissioner McIntee motioned to adopt Resolution 2007-07. Commissioner Silverstone seconded the motion.

Town Attorney Cherof explained that Resolution 2007-07 requires the administration to promptly advise the Town Commission when a project that has been approved by the Town Commission exceeds the anticipated cost by ten percent (10%). Mr. Cherof stated that administration is a

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broad term to mean the Town Manager or any member of staff. This will allow the Commission to anticipate earlier on in the process the need to appropriate additional funds or to transfer funds to make the project successful.

Commissioner Silverstone asked if this Resolution would suffice to stop or freeze a project if the need should arise.

Town Attorney Cherof replied no, not in all cases. Mr. Cherof further said many times there are projects under way that are the subject of complicated construction contracts and there are procedures in place to deal with cost overruns. There is also exposure to the Town under the way those documents are prepared to stop a project midway. Mr. Cherof reiterated that you cannot stop them in all cases. Mr. Cherof continued to say that in light of this Resolution, the Commission's desire to be advised of these types of cost overruns, language will probably be added to future contracts to give the Town the ability to bring them to a conclusion earlier than anticipated.

Commissioner Silverstone stated he is all for having language that would better protect the Town.

There was no further discussion and Mayor Parker asked the Deputy Clerk to call the roll on Resolution 2007-07.

The motion carried unanimously.

Vice-Mayor Yanni motioned to move Old Business Item C to be discussed at this time. The motion was seconded by Mayor Pro Tem Clark and passed with Vice-Mayor Parker, Mayor Pro Tem Clark and Mayor Parker voting yes and Commissioner McIntee and Commissioner Silverstone voting no.

After consideration, Vice-Mayor Yanni proposed that public comments be heard prior to Old Business Item C.

12. OLD BUSINESS

A. Open Space Requirements For Beach Properties (Development Services – Jim Bell - tabled from February 13, 2007)

Development Services Director Jim Bell said at the Commission meeting of February 13, 2007, staff was directed to research ways that open space for beach front properties could be calculated. Mr. Bell proceeded to explain how open space is currently calculated town wide. Mr. Bell advised that twenty-five percent (25%) of the area must be pervious and areas in the beach overlay district can actually be reduced to twenty percent (20%). It should be noted that to date no development in the beach overlay district has ever gone below that twenty-five percent (25%). Typically, municipalities allow beachfront property to be included in the pervious open space area. Mr. Bell explained three options for calculating open space as included in the Commission back up documentation.

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Mayor Parker said it would be much simpler to say that at least twenty percent (20%) of beachfront property west of the seawall would need to be put to referendum. Mayor Parker asked if this would need to be put to referendum.

Town Attorney Cherof advised he would need to research this to determine if a referendum would be required under the Town Charter.

Commissioner Silverstone asked if the Oriana project would be affected by these percentages.

Mr. Bell answered no because the development provides thirty percent (30%). Mr. Bell said the Commission may want to consider additional landscaping requirements.

Commissioner McIntee requested that Mr. Bell bring parking requirements based on restaurant square footage to the Commission meeting of April 10, 2007. Commissioner McIntee said he is interested to see parking requirements for restaurants in the Town of Lauderdale-By-The-Sea.

Mr. Bell requested additional time due the absence of a Town Clerk.

Commissioner McIntee stated the Commission meeting of April 24, 2007 would be fine.

Mayor Parker asked for a report from the Town Attorney on the charter requirements for changing the pervious area requirements for beachfront property.

B. Appointment of member to the Walk Around Committee (Vice Mayor John Yanni - tabled from February 27, 2007)

Vice-Mayor Yanni requested this item be tabled until the regularly scheduled Commission meeting of April 10, 2007.

C. Discussion and/or action regarding a reconsideration of motion that passed on the Oriana site plan amendment application (Town Attorney Jim Cherof - tabled from March 13, 2007)

Town Attorney Cherof stated that this matter, on the agenda, was a written request to him asking that the Oriana site plan determination by the Town Commission be reconsidered.

Commissioner McIntee asked Town Attorney Cherof to explain when an item would be allowed for reconsideration.

Town Attorney Cherof responded that an item can be reconsidered by the Commission at the same meeting it occurs by the motion of anyone on the prevailing side or it can be returned to the next Commission meeting by request of the Town Manager or the Town Attorney.

Mayor Parker announced that Mr. Richard Coker has been appointed special town attorney for this matter and asked him to step forward.

Mr. Coker said he had received a written copy of the settlement proposal; he reviewed it and forwarded his comments to the Oriana developers and Town Attorney Cherof via e-mail. A copy

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of the e-mail was faxed to the Town Manager with a request to distribute it to all the Commissioners.

Commissioner McIntee asked Mr. Coker when he had faxed his comments.

Mr. Coker replied he had faxed them this morning and said it should be in the Commissioner's packages.

Assistant Town Manager Colon advised the agendas went out last week and anything faxed this morning would be impossible to have been included in the back-up documentation. Ms. Colon added that this fax would be in the Commissioner's mailbox.

Mayor Parker requested that if something like this occurs again that it be given to the Commission at the dais.

Commissioner McIntee said it would be impossible for him to respond to a proposal that he has not even read yet. Commissioner McIntee asked if this was a new proposal.

Mr. Coker said he merely commented on the written proposal that was presented last week on March 22, 2007 by the Oriana attorneys and copied his comments to the Town.

Commissioner McIntee asked Mr. Coker when he presented his comments to the Oriana attorneys.

Mr. Coker responded this morning and said the Oriana attorneys were present to answer any questions about the proposal. Mr. Coker continued to say that his comments pertained to the Town's function that would be in approving or denying the site plan and what the consequences of approval or denial would be and what any future appeals would be.

Commissioner McIntee motioned to table this matter until the regularly scheduled meeting of April 10, 2007 giving the Commission the opportunity to review the response made by Mr. Coker. Commissioner Silverstone seconded the motion.

Mr. Coker advised the Commission he was prepared to discuss his report this evening.

Mayor Parker stated he would have the Deputy Clerk call the roll but indicated he hoped the motion would not carry.

Commissioner McIntee stated that the Mayor was verbalizing a personal opinion in an attempt to direct other members of the Commission on how to vote. Commissioner McIntee stated he believed this was absolutely unethical, unprofessional and should not have been said.

Mayor Parker advised his statement was neither unethical nor unprofessional and asked the Deputy Clerk to call the roll on the motion to table. The motion to table was defeated with Vice-Mayor Yanni, Mayor Pro Tem Clark and Mayor Parker voting no and Commissioner McIntee and Commissioner Silverstone voting yes.

Mayor Parker directed Mr. Coker to go over the proposal and review his comments.

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Mr. Coker advised the Commission that the proposal by the Oriana attorneys was communicated in their letter of March 22, 2007. The Oriana representatives proposed that within forty-five (45) days following the date the development order is issued, the Oriana would pay to the Town the sum of \$20,000 to cover legal fees and planner fees. They would also deliver a check or by wire transfer to the trust account of the Town Attorney the sum of one million dollars to be held in escrow until the Oriana developers receive all the Certificates of Occupancy or eighteen (18) months, whichever first occurs. The one million dollars would be earmarked for pedestrian improvements on El Mar Drive and this is discussed in detail. It would be up to the Town Commission to deem the proper pedestrian improvements. Mr. Coker further stated that the Oriana developers are asking that the encroachments into the front setback be approved. The Oriana developers have agreed to all the conditions set forth in Town Planner Keller's development order with the exception of burying the power lines off site because that is subsumed in the one million dollar payment for pedestrian improvements. The one million dollars would be released after thirty days (30) following the issuance of the last Certificate of Occupancy assuming there are no legal or administrative challenges to the project. If upon the final adjudication or order and completion of all appeals and expiration of the appellate periods, a challenge results in the invalidation of any approval, including any building permits or Certificates of Occupancy for the building project, then all the funds in the escrow account will be returned immediately back to the Oriana developers.

Commissioner McIntee asked Mr. Coker if he had, prior to the last Commission meeting, advised Mayor Parker of all these conditions.

Mr. Coker responded that he had informed the Commission of exactly what had happened in a five-page (5) letter.

Commissioner McIntee asked Mr. Coker if he could guarantee to the Commissioners if the one million dollars is put into escrow and developer declares bankruptcy, would the Town still be entitled to it.

Mr. Coker responded that he is not a bankruptcy attorney and he could not guarantee that.

Mayor Parker said he had posed that very question to the Town Attorney today and he believed that Mr. Cherof had obtained an answer from an associate at his firm.

Town Attorney Cherof said he has a partner in his firm that used to be a bankruptcy trustee and in his opinion placing the funds into an escrow account to be held by Mr. Cherof's law firm or any other law firm would not be sufficient to remove it from the reach of the bankruptcy proceeding. There would be alternative ways to escrow those funds that would allow protection.

Mayor Parker asked Town Attorney Cherof to explain.

Town Attorney Cherof explained that if funds were actually deposited with the Town and if provisions of the agreement provided for essentially the same terms for use of the funds, but would also provide for a contingency use for release based upon a breach. The breach would be the failure to issue Certificates of Occupancy.

Mr. Coker said he addressed his comments to respects of the settlement letter and further said the challenge from a third party to invalidate the project must be related to the Town Commission's approval of the site plan. The challenge cannot be from a disgruntled unit

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purchaser or cannot be related to an allegation of non-compliance of some other code or criteria. Mr. Coker provided examples of these codes and added that these would be totally unrelated to the site plan approval. Once the site plan approval is held to be valid, the Town Commission has done all it can do to grant approval, it is not in control of any other challenges related to other criteria.

Commissioner Silverstone asked Mr. Coker if he had done any kind of financial impact analysis concerning the additional square footage that had been obtained and how much it was worth.

Mr. Coker responded that he had no way of doing that he was attorney.

Commissioner Silverstone asked Mr. Coker if had inquired as to how the developer arrived at the one million dollar amount.

Mr. Coker said initially the number was lower, but a lot of discussion ensued that was disclosed in the previously mentioned five-page (5) letter. Mr. Coker said that issue was closed and tonight the Commission had a proposal before them

Commissioner McIntee wanted to know who says the issue is closed.

Mr. Coker responded that he is saying the issue is closed.

Commissioner McIntee told Mr. Coker he works for the Commission.

Mr. Coker responded no sir. He has been retained by the Commission to give advice.

Commissioner McIntee asked Mr. Coker if had been retained to be a negotiator for the project.

Mr. Coker reminded Commissioner McIntee that he works for the Town and not the Commission.

Commissioner McIntee insinuated that the one million dollar deal had been a product of his conversations with Mayor Parker.

Mayor Parker told Commissioner McIntee that he would have no way of knowing what he discussed privately with Mr. Coker. Mayor Parker stated that Commissioner Silverstone was still in control of the floor.

Commissioner Silverstone asked if the one million dollars is a fine.

Mr. Coker responded it is a one million donation to the Town to create improvements to El Mar Drive and to address the pedestrian friendly issues that were raised by this Commission.

Commissioner Silverstone asked Mr. Coker, in his best guess, why is the developer giving the Town a donation in the amount of one million dollars.

Mr. Coker replied he is not guessing anything. This proposal is before the Commission to accept or reject.

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Mayor Parker said he was the other party to the negotiation and said Commissioner Silverstone should ask him.

Commissioner Silverstone then posed the question to Mayor Parker.

Mayor Parker responded that he had made a determination as to what he thought would be the minimum amount necessary to offset the pedestrian unfriendliness of the changes to the site plan.

Commissioner Silverstone asked Mayor Parker if he had studied the added value due to the additional square footage.

Mayor Parker said that would not have been proper based upon the instructions given to the Commission by both the developer's attorneys and our own attorneys. The only thing the Commission was to consider was whether or not the amendment to the site plan met the criteria of our statutes. Mayor Parker continued to say that approval to the site plan was denied because the changes made the section of El Mar Drive pedestrian unfriendly. Mayor Parker emphasized that Mr. Coker contacted him in an effort to find out what would mitigate the pedestrian unfriendliness of the development. Mayor Parker said he suggested one million dollars and added that any figure would be arbitrary.

A discussion ensued between Commissioner Silverstone and Mayor Parker as to whether or not a deal had been made.

Mayor Parker stated a proposal is not a deal. A deal is a deal when you have a legally binding agreement.

Commissioner McIntee said he would want for the entire Commission to sit down and negotiate with developers in an effort to solve the dilemma.

Glenn Goldstein of Greenburg Taurig 401 E Las Olas Boulevard spoke on behalf of Oriana. Mr. Goldstein said he wanted to make sure that everyone understood the position of the developer concerning this proposal. They are very near the end of construction and every unit is sold, leaving the owners to be the innocent bystanders. The developers are giving the Town one million dollars to compliment and enhance its own project and the El Mar Drive district. Mr. Goldstein advised the conditions were applied to the money because it would be naive for anyone to think there are not opponents to this project. The developer is willing to give this money so long as the project is completed. Mr. Goldstein said he would be remiss in responsibilities to his client if he did not assist his client in applying conditions as to how this money is to be released to the Town. Mr. Goldstein stated they believe this is a great project for the Town and it already is pedestrian friendly. Mr. Goldstein said he believes it is his client's right to come back to the Commission for consideration. Mr. Goldstein added this money is a victory for the Town and a win for everyone. Mr. Goldstein said his client needs the ability to complete the project.

Mayor Parker wanted to make certain that the Commission would be deciding what constitutes a pedestrian friendly area.

Mr. Goldstein responded that is undisputed and not a problem.

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Mayor Parker stated it seems to him that what was being settled is a disagreement about the site plan.

Mr. Goldstein answered yes.

Mayor Parker was concerned about issues and challenges arising from the Broward County Building Services or government agency.

Mr. Goldstein and Mr. Coker concurred that language could be determined to alleviate this concern.

Mayor Parker asked Town Attorney Cherof if he and Mr. Coker could work out the fine details on this.

Town Attorney Cherof said it is the details that are important and an agreement could be drafted depending on what the Commission approves regarding the issue.

Mayor Parker asked if there is a motion for reconsideration and the site plan is granted, the Commission could make the approval conditional upon both sides working out agreeable language

Town Attorney Cherof advises as long as it tied back to the original reason the site plan portion of the amendment was denied. You tie it back into satisfying the Commission's concern regarding the pedestrian friendly nature.

Mayor Parker motioned to reconsider the site. Mayor Pro Tem Clark seconded the motion.

Commissioner Silverstone asked Town Attorney Cherof if the Commission had denied this site plan.

Town Attorney Cherof responded that some parts of the site plan had been approved and some parts denied.

Commissioner Silverstone asked Town Attorney Cherof if the proposal being made tonight was normal business.

Town Attorney Cherof answered yes, that is normal business.

Commissioner Silverstone said he had a real problem with how this matter transpired.

Mayor Parker asked if the developer would have any problems with the funds being turned over to the new Community Redevelopment Agency once it has been created to make improvements to El Mar Drive.

Town Attorney Cherof said once the project is finished and the funds are turned over to the Town, he did not believe there should be anything in the agreement that would restrict the Town's use of the funds. This is of no matter of concern to the developer.

Mayor Pro Tem Clark stated that in reference to Mayor Parker's last comment, he believes the Commission should not be trying to add things that should not be there.

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Commissioner McIntee compared the attorneys he has dealt with on this project and told Mr. Goldstein that he rated him the top. Commissioner McIntee asked Mr. Goldstein if the developer had received any subpoenas from the State Attorney's Office regarding the project.

Mr. Goldsmith said he was not personally involved, but thought Commissioner McIntee had contacted the State Attorney's Office.

Commissioner McIntee asked if the site plan request was denied tonight would that put him and his clients in a position of wanting to cease and desist negotiations.

Mr. Goldstein answered it would be a violation of the attorney client privilege to say what he or his client would or would not do if this is turned down.

Commissioner McIntee asked Mr. Goldstein if he would have any problem with discussing the negotiations with the entire Commission at a special meeting.

Mr. Goldstein said his client has purchases that in their own mind are in jeopardy and need to move on this project and get it completed. Mr. Goldstein told Commissioner McIntee they have been before the Commission many times on this project and his client has a severe need to get this project finished and any delay would put his client untenable with their purchases.

Commissioner McIntee asked Mr. Goldstein if Mr. Coker had ever indicated he needed to flip one (1) vote.

Mr. Goldstein said he did not recall ever hearing anything close to that.

Commissioner McIntee asked if any of the present owners were canceling out on their purchases.

Mr. Goldstein said he was personally unaware of that.

Commissioner McIntee asked Mr. Goldstein, in his opinion, was the Oriana developer willing to go any further than the proposed one million dollars.

Mr. Goldstein answered that this is the final offer and said sometimes you come to the end of a cliff and that is pretty much where they are at this point.

Commissioner McIntee said that the Commission did not create these problems and that they were created at the building site.

Mr. Goldstein said that if the Commission looks at the plan that was approved in 2004 and you look at the benefit the Town is going to get today, the net benefit is a service to the Town.

Commissioner McIntee said he was going to be crystal clear in saying he wanted one more opportunity to sit down with Mr. Goldstein clients and negotiate in good faith.

Vice-Mayor Gianni said he thinks one million dollars is a good sum of money and the Town could do a lot with it, but mentioned that the performing arts center could use approximately \$200,000 and wanted to know if additional negotiations would be considered.

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Mayor Parker asked the Deputy Clerk to call the roll on the motion to reconsider. The motion carried with Vice-Mayor Yanni, Mayor Pro Tem Clark and Mayor Parker voting yes and Commissioner McIntee and Commissioner Silverstone voting no.

Mayor Parker motioned to approve the application for site plan amendment subject to the conditions of approval contained in Town Planner Walter Keller's revised proposed development order and the additional condition that an agreement be entered into between the Town and the developer which incorporates the March 22, 2007 written offer to fund an additional one million dollars in streetscape improvement along El Mar Drive and with proviso that the item relating to the fountain is deleted from the original twenty-four (24) points. Mayor Pro Tem Clark seconded the motion.

Commissioner Silverstone motioned to amend Mayor Parker's motion to increase the funds to two million dollars. Commissioner McIntee seconded the amended motion.

Commissioner McIntee said that he was absolutely infuriated that Mayor Parker had been involved in this inside deal. Additionally, he was incensed that Mr. Coker went to one Commissioner and totally ignored four others. Commissioner McIntee indicated he would later make a motion to have Mr. Coker terminated. Commissioner McIntee reiterated his offer of one more meeting of negotiation.

Vice-Mayor Yanni asked Mr. Goldstein if his clients agreed to an additional meeting with the Commission would the developer be willing to negotiate an additional \$200,000 for the performing arts center.

Mr. Goldstein responded that that it would be totally impermissible to have any negotiation regarding the performing arts center and he believed that Mr. Cherof would concur. Mr. Goldstein further stated that not another cent would be paid.

Mayor Parker asked the Deputy Clerk to call the roll on Commissioner Silverstone's amended motion for the monies to be increased to two million dollars.

The amended motion was denied with Vice-Mayor, Mayor Pro Tem Clark and Mayor Parker voting no and Commissioner McIntee and Commissioner Silverstone voting yes.

Commissioner McIntee motioned to amend the Parker's motion to increase the monies 1.5 million. Commissioner Silverstone seconded the motion.

Mayor Parker asked the Deputy Clerk to call the roll on Commissioner McIntee's amended motion.

The motion was denied with Vice-Mayor Yanni, Mayor Pro Tem Clark and Mayor Parker voting no and Commissioner McIntee and Commissioner Silverstone voting yes.

Mayor Parker asked the Deputy Clerk to call the roll on his original motion.

Vice-Mayor Yanni voted yes with the condition funds be earmarked for the performing arts center.

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Town Attorney Cherof advised Vice-Mayor Yanni that was a totally inappropriate condition.

Commissioner McIntee asked Town Attorney Cherof if he voted yes could he bring this matter back for reconsideration.

Town Attorney Cherof reminded Commissioner McIntee that the condition of this approval is that the agreement that is drafted and prepared will come before the Commission for approval.

The motion carried with Commissioner McIntee, Vice-Mayor Yanni, Mayor Pro Tem Clark and Mayor Parker voting yes and Commissioner Silverstone voting no.

Commissioner McIntee directed the Deputy Town Clerk to include a reconsideration of the Oriana project on the agenda of the regularly scheduled Commission meeting of April 10, 2007.

Mayor Parker motioned to reconsider. The motion died for a lack of a second.

Mr. Goldstein advised the predicament the project is currently facing concerning permitting and asked the Commission for permission to continue with the project at their own peril while the agreement is being prepared.

Michael Dalton of 908 North Federal Highway, Boca Raton explained the situation to the Commission concerning the holdup on the project and asked for permission to resume work on the buildings fronting El Mar Drive.

Mayor Parker asked if this would be a proper request.

Town Attorney Cherof advised he was a bit surprised that stop work orders essentially were issued in any event since no development order was entered on the Commission's action. Mr. Cherof added he thought it would be appropriate to allow continuation at their on peril which they have been doing in any event.

Assistant Town Manager Colon advised no motion would be necessary because Town Administration would rely on the advice of the Town Attorney.

Mayor Parker recessed the meeting at 9:10 p.m. Mayor Parker reconvened the meeting at 9:24 p.m.

- D. Discussion and/or action regarding the development order for the Pier Pointe/Oriana project (*Town Planner Walter Keller - tabled from March 13, 2007*)

Mayor Parker asked for an explanation as to how Item D differed from Item C.

Town Attorney Cherof explained that Item C was the introductory memorandum presented to the Commission and Item D was to bring closure to that. Mr. Cherof said these items have now been merged and there was need to bring action to Item D tonight.

13. NEW BUSINESS

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A. Installation Of Flagpoles Town Entryways (Commissioner Silverstone)

Commissioner Silverstone said he attended a Planning and Zoning Meeting where officials from the City of Delray Beach attended as well. Commissioner Silverstone is looking to mimic Delray Beach and provide an impact at the entryways to Lauderdale-By-The-Sea.

Mayor Parker said that entryway features are part of our capital improvement and asked if this would be a replacement or an addition.

Assistant Town Manager Colon advised the entryway features are part of the Master Plan and the committee should be consulted before expending any monies.

Town Planner Keller said the Master Plan Steering Committee is considering gateway entry features and suggested this matter be deferred to them.

Commissioner McIntee said he would be willing to second a motion to install a flagpole on Commercial Boulevard as a tester and also said he believes the Town has sufficient funds to accomplish this.

Assistant Town Manager Colon responded that John Olinzock had already researched this and obtained pricing.

Mr. Olinzock advised the Town could spend anywhere from \$2,000 to \$14,000 for a flagpole depending on specifications.

Commissioner McIntee motioned to expend \$3,500 for a flagpole and up to \$500 for a flag and have it erected as soon as possible. Commissioner Silverstone seconded the motion.

Mayor Pro Tem Clark said he understood that entryway features were already approved and budgeted.

Town Planner Keller said Mayor Pro Tem Clark was correct, but there has been some discussion that pelicans are not what the Commission might like to see.

Mayor Pro Tem Clark asked who decided that.

Town Planner Keller said he could not answer that, but said this was something discussed at a joint workshop with the Commission.

Mayor Pro Tem Clark said he loves the Flag and has no issue with that aspect, but he does have a problem with something that has been approved and shelved somehow. Mayor Pro Tem Clark said he does not want to see the pelican monument die.

Mayor Parker asked the Deputy Clerk to call the roll on Commissioner McIntee's motion to have a flagpole installed on Commercial Boulevard.

The motion carried unanimously.

Mayor Pro Tem Clark motioned to direct staff to have the entranceway features installed this year. Vice-Mayor Yanni seconded the motion.

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Commissioner Silverstone said he was unhappy with the pelican monuments and thought we could do better.

Commissioner McIntee said the Master Plan Steering Committee is concentrating on the pavilion and thought we should delay the entryway issue.

Mayor Pro Tem Clark said it was approved, budgeted, and should be done.

Vice-Mayor Yanni said he thinks the steering committee should continue to work on this.

Mayor Pro Tem Clark motioned to table the entryway issue to the meeting of April 10, 2007 in order to find out what transpired regarding the Commission's approval. Vice-Mayor Yanni seconded the motion.

B. Sidewalk Standards – El Mar Drive (Town Planner - Walter H. Keller)

Town Planner Keller stated that Mayor Parker, at the last meeting, asked for sidewalk standards for Town projects. Mr. Keller stated that he could find no evidence that any plans for projects in Town consisted of anything other than concrete sidewalks, eight feet (8') wide.

Mayor Parker asked if the concrete sidewalks were colored.

Town Planner Keller said the sidewalks for the Villas were to be determined, but there is a possibility they would be colored.

Mayor Parker expressed concern that there would be visual consistency town wide.

John Olinzock suggested the Commission adopt some kind of minimum standard for details for sidewalks and pavers that would include visual standards.

Mayor Parker directed Mr. Olinzock bring back standards for the Commission meeting of April 10, 2007.

C. Discussion and/or action regarding request for 1 year extension of Site Plan Approval for Villa Solemar - 4240 Bougainvillla Drive (Town Planner - Walter Keller)

Mr. Keller said the applicant has already received three (3) extensions from the Town commission and is now requesting an additional extension of the site plan approval. Mr. Keller continued to say the applicant did not give much in the way of justification and indicated it would be up to the Commission as to whether or not they would want to entertain this request. Mr. Keller added that it would be within the purview of the Commission to grant a six-month (6) extension, but the applicant should be present to support it.

Commissioner McIntee said the applicant was not present and he saw no reason to entertain this. Commissioner McIntee motioned to deny this request. The motion was seconded by Commissioner Silverstone and carried with Commissioner McIntee, Mayor Pro Tem Clark, Commissioner Silverstone and Mayor Parker voting yes and Vice-Mayor Yanni voting no.

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D. Discussion and/or action regarding termination of Richard Coker from Town employment (Commissioner Jerry McIntee)

Commissioner McIntee motioned to terminate Attorney Richard Coker's services with the Town of Lauderdale-By-The-Sea. Commissioner Silverstone seconded the motion.

Mayor Parker commented he saw no reason to terminate the contract due to the fact the contract term was almost over.

Vice-Mayor Yanni asked when the contract was up.

Town Attorney Cherof said Mr. Coker does not actually have a contract. He was retained to assist with the Oriana project.

Vice-Mayor Yanni asked Commissioner McIntee to explain the reason for his request.

Commissioner McIntee answered that Mr. Coker chose to deal directly with Mayor Parker and ignored the other four Commissioners.

Mayor Pro Tem Clark stated he was not offended by Mr. Coker's actions and did not think he did anything wrong. Mr. Coker did what attorney's generally do and tried to seek an agreement.

Commissioner Silverstone said he did have a problem that all Commissioners were not equally informed.

Town Attorney Cherof pointed out that Mr. Coker's role from this point forward would be very limited. Mr. Cherof said there has been a motion to reconsider the Oriana project of which Mr. Coker plays a significant role. Mr. Cherof added he felt the Commission would be acting prematurely in releasing Mr. Coker tonight.

Mayor Parker said Mr. Coker is not a Town employee. He has done nothing illegal or unethical and the Florida Bar has found that to be so.

Commissioner McIntee said the reason he asked for Mr. Coker to be dismissed is because he has lost trust and faith in him.

Mayor Parker asked the Deputy Clerk to call the roll.

The motion was defeated with Vice-Mayor Yanni, Mayor Pro Tem Clark and Mayor Parker voting no and Commissioner McIntee and Commissioner Silverstone voting yes.

E. Speed bump on South Sea Grape as North Sea Grape (Commissioner Jim Silverstone)

Mayor Pro Tem Clark stated the Commission defeated this previously because the County would not permit it due to the fact that the Pelican Hopper traversed that street.

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It was decided that Commissioner Silverstone could not again address this because he had voted no previously.

Commissioner Silverstone said a citizen had contacted him concerning this and he thought perhaps the Broward Sheriff's Office could step up enforcement.

A discussion ensued regarding the Pelican Hopper route.

Chief Scott Gooding advised the Commission the Pelican Hopper had been rerouted to Basin Drive because the Town was going to install speed bumps on Seagrape Drive. Chief Gooding said just today he had Deputy Joseph Duncan on Seagrape Drive measuring speed. There were only twenty-six (26) cars in forty-five (45) minutes with an average speed of just over twenty-five (25) miles per hour. This was during rush hour and not very busy. Chief Gooding said he did not think speed bumps were necessary.

Commissioner McIntee motioned to deny the request to install speed bumps on Seagrape Drive in the southerly direction. Commissioner McIntee seconded the motion. The motion carried with Vice-Mayor Yanni, Commission McIntee, Mayor Pro Tem Clark and Commissioner Silverstone voting yes and Mayor Parker voting no.

Vice-Mayor Yanni motioned to direct staff to initiate with Broward County to have the Pelican Hopper rerouted to Seagrape Drive. The motion was seconded by Mayor Parker and carried unanimously.

F. Picnic for all Town employees and board members (Commissioner Jim Silverstone)

Commissioner Silverstone said he believes this gesture would enable the Commission to show its appreciation to Town staff and board members volunteering their time. Commissioner Silverstone suggested the picnic be held on Saturday afternoon April 28, 2007 and the Commission would do the cooking.

Assistant Town Manager Colon said she was not sure employees would want to do this on a weekend.

Commissioner Silverstone suggested Administrative Professionals Day on Wednesday April 25, 2007.

Mayor Parker suggested holding the picnic from noon until 2:00 p.m.

Commissioner Silverstone motioned to have the Commission sponsor an appreciation picnic for all Town employees and board members at Town Hall on Administrative Professionals Day Wednesday April 25, 2007 from noon until 2:00 p.m. The motion was seconded by Vice-Mayor Yanni and carried unanimously.

Commissioner McIntee motioned to appropriate \$1,000 for food and supplies. The motion was seconded by Commissioner Silverstone and carried unanimously.

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- G. Discussion and/or action of three (3) signs proposed by the Benihana restaurant currently under permit review previously approved by the Commission on 3/28/06 (Development Services – Jim Bell).

Development Services Director Jim Bell advised that there are currently sign permits under review. After reviewing the proposed signs, it has been determined that these signs do not meet the current code for what would be allowed. Mr. Bell said that further review revealed that originally when the Commission on March 28, 2006 approved these signs there might have been some misrepresentation. Mr. Bell stated he was seeking direction from the Commission.

Mr. Bell recommended that staff direct the applicant to provide drawings that would be consistent with the code or direct the applicant to apply for a variance for these signs.

Vice-Mayor Yanni motioned to approve the signs currently under permit review. Commissioner McIntee seconded the motion.

Town Attorney Cherof advised that the Town Code of Ordinances binds the Commission and this cannot be done. The motion was out of order.

Mayor Pro Tem Clark commented the Commission had approved something with misinformation and this was not the first time this had happened. Mayor Pro Tem Clark continued to say that the Commission could not continue to approve items and have them reappear a year later.

Mayor Parker asked Town Attorney Cherof if this request would constitute a hardship.

Town Attorney Cherof responded that what constitutes a hardship is reserved to the Commission. Mr. Cherof continued to say that during his tenure with the Town he could recall only one (1) true hardship. All the other variances that have come before the Commission have not contained that legal standard.

Mayor Parker asked Town Attorney Cherof if the variance fee could be waived.

Town Attorney Cherof answered the variance fee could not be waived, but the administration could pay the fee on behalf of the applicant.

Mayor Parker asked Mr. Bell if he felt there were any reason the Commission should not grant the variance.

Mr. Bell responded no, he was merely trying to be consistent with the code.

Mayor Parker motioned to accept a variance application from the applicant with the Town administration absorbing the cost of the variance. Vice-Mayor Yanni seconded the motion.

Bill Otts, engineer and architect for the project pointed out that the Town staff report presented to the Commission back in March 2006 did actually conform to Town code and continued to say that this seems to be a matter of interpretation of the sign ordinance.

Mayor Parker asked Mr. Bell about the time frame for seeking a variance.

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Mr. Bell responded that because of advertising and notification it would be one (1) to two (2) months.

Mayor Parker asked Mr. Otts if this would be acceptable to him.

Mr. Otts stated the opening is scheduled for the middle of next month. Mr. Otts continued to say his client has spent over one million dollars for this project and they would open without their signage.

Mayor Parker asked Town Attorney Cherof if the Commission could interpret the pylon sign as a monument sign and the roof sign as a wall sign.

Town Attorney Cherof advised the Commission has the inherent power to interpret its own laws.

Mayor Parker amended his motion to interpret this particular pylon sign as a monument sign and this particular roof sign as a wall sign and that this interpretation is site specific only. Vice-Mayor Yanni agreed to the amendment.

Commissioner McIntee asked Mr. Otts how much money his client already had invested in the signs.

Mr. Otts responded approximately \$35,000.

Commissioner McIntee asked Mr. Otts if, in good faith, he understood that the previous Commission agreed these signs complied.

Mr. Otts answered yes.

Mayor Parker asked the Deputy Clerk to call the roll on the amended motion.

The motion carried unanimously.

Mayor Parker stated that Town staff now had the direction requested.

H. Discussion and/or action reference Garden Court project approved by Commissioner on July 26, 2005 (Development Services – Jim Bell).

Development Services Director Jim Bell discussed the vacation of the cul-de-sac that fronts the Garden Court Project and the Marina Village Townhomes. Since this project was approved in July 2005, nothing has happened with the project. The initial requirement to submit a revised site plan reflecting the conditions imposed by the Commission was not enforced by the previous development services staff. Time has elapsed and now the Marina Village Townhomes project is looming and being held hostage by the Garden Court project and land area that they might have been allowed. Mr. Bell said staff is recommending that the applicant for Garden Court be given until May 15, 2007, allowing the Marina Village Townhomes to proceed with their project and come before the Commission to know where they stand in terms of the cul-de-sac. If Garden Court does not respond staff recommends their development order be revoked.

Commissioner McIntee expressed concern that this arrangement allowed for two (2) additional units. Commissioner McIntee asked what the Town received in return for all the free land.

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Mr. Bell responded nothing. They got a larger land area and more density,

Town Planner Keller reminded the Commission that Mr. Bell was not originally involved in this. Mr. Keller stated they made commitments to the Town to do redo the streets, pavers and sidewalks on the north side.

Commissioner McIntee said they did not follow through and have done nothing. Commissioner McIntee said he believes the Town was originally designed so that no one could put a building along the canal, blocking the view. Commissioner McIntee asked Town Attorney Cherof for advice concerning canceling this agreement.

Town Attorney Cherof advised that staff has proposed a way to do just that. The proposal staff has made is the valid route to go. It is not necessary to give them the deadline staff has given them.

Commissioner McIntee said he wants to take the shortest deadline possible.

Mayor Parker asked if the vacation has been recorded and if not could we rescind the agreement. Mayor Parker is concerned that the vacation and easement would be recorded and the building would never be built.

Developer David Caruthers stated he was just brought onto the Garden Court project to get the project under way.

Vice-Mayor Yanni motioned to extend the meeting past 11:00 p.m. There was no objection.

Town Planner Keller advised a public hearing was held to vacate the right of way and the Commission agreed to vacate the right of way with certain restrictions. However, the applicant never recorded the paper work.

Mayor Parker said until the vacation is recorded is not vacated.

Town Attorney Cherof said that is correct and if the Commission wants to revisit that there should be a motion to rescind the previous action of the Commission on the next agenda.

Mayor Parker requested to include on the agenda of April 10, 2007 a motion to rescind the vacation and the site plan. The motion was seconded by Vice-Mayor Yanni and carried unanimously.

Commissioner McIntee stated for the record he is averse to giving anything away.

Mayor Pro Tem Clark asked Mr. Caruthers how long he had been associated with the project and what is the timeline for the project.

Mr. Caruthers answered about four (4) weeks and said the plan is to apply for permits in about two (2) weeks.

Mayor Parker asked the Deputy Clerk to call the roll.

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The motion carried unanimously.

- I. Discussion and/or action regarding authorizing Code Enforcement officers to enforce dog leash and poopie scooper laws (Mayor Oliver Parker).

Mayor Parker stated he had talked to a resident who thinks the law is not actively enforced. Mayor Parker said he would like to give code enforcement the authority to enforce the dog leash and poopie scooper laws.

Development Services Director Jim Bell told Mayor Parker that code enforcement already has the authority to enforce the law, but unfortunately they never catch the people walking the dogs in the act.

Mayor Parker motioned to direct staff to begin issuing citations to those violating the dog leash and poopie scooper law. Vice-Mayor Yanni seconded the motion.

Commissioner McIntee said he does want think the Sheriff's Office has the time to enforce this sort of thing and the Assistant Town Manager is more than capable of directing staff.

Mayor Parker asked the Deputy Clerk to call the roll.

The motion carried unanimously.

14. TOWN MANAGER REPORT

Assistant Town Manager Colon stated at the last Commission meeting she told the Commission that the Bougainvillea parking lot was over budget. Ms. Colon said she had obtained the cost of the streetlights and poles and reported a cost of \$78,000. Ms. Colon stated the project is \$101,000 over budget.

Vice-Mayor Yanni motioned to authorize the additional expenditure. Mayor Pro Tem Clark seconded the motion.

Commissioner McIntee asked how many bids were obtained for this project.

Assistant Town Manager Colon said there were no bids. The Municipal Services Director without a purchase order ordered the streetlights and poles.

Commissioner McIntee asked if the Municipal Services Director had that authority.

Assistant Town Manager Colon answered he does not.

Commissioner McIntee asked if this situation had been corrected.

Assistant Town Manager Colon answered yes and that it would not happen again.

Commissioner Silverstone asked for the total cost of building the parking lot.

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Assistant Town Manager Colon answered we have encumbered \$315,000 and will end up costing \$417,000.

Commissioner Silverstone wanted assurance that this would never happen again.

Commissioner McIntee suggested using the parking lot as soon as the meters are installed.

Commissioner Silverstone motioned to have staff get the meters installed as soon as possible and to open the parking lot during daylight hours. The motion was seconded by Commissioner McIntee and carried unanimously.

15. TOWN ATTORNEY REPORT

A. Report On Beach Easements as Public Beach Access in the northern sections of town (Town Attorney Jim Cherof—tabled from April 11, 2006)

Town Attorney Cherof stated apparently there is a rumor resurfacing concerning a beach access at the Cristelle Condominium. There is no public beach access there. There are recorded documents that refer to an access point to the beach, but research indicates that this is a private easement in favor of a private property. Additionally, about one (1) year ago a letter went out to all property owners in the north part of Town that have beachfront property requesting that anyone interested in conveying a public access contact the Town. Mr. Cherof said to his knowledge no one has done so.

Commissioner McIntee stated that some time ago the Commission listened to some concerned citizens from Leisure North Condominium. The Commission agreed that if a free entranceway could not be obtained, the Town would pay their \$1,800 per year for entrance. Commissioner McIntee asked Town Attorney Cherof if this was still the situation and why we had not offered to pay that money.

Town Attorney Cherof said the expenditure of those funds under the scenario the Commission has outlined would be a proper expenditure of funds.

Mayor Parker amended the agenda to include this as New Business Item H. There was no objection.

Commissioner McIntee motioned that the Town do the proper methodology to pay for the North Leisure Towers Condominium's cost per year to enter the beach with the caveat that any resident wishing to use the access could do so. The motion was seconded by Mayor Parker and carried unanimously.

Mayor Parker directed Assistant Town Manager Colon to report the cost at the Commission meeting of April 10, 2007.

16. COMMISSIONER COMMENTS

There were no Commissioner comments due to the meeting exceeding 11:00 p.m.

17. PUBLIC COMMENTS *(remaining members of the public to speak at this time)*

There were no additional public comments.

18. ADJOURNMENT

Mayor Pro Tem Clark motioned to adjourn the meeting. There was no objection and Mayor Parker adjourned the meeting at 11:25 p.m.

Mayor Oliver Parker

ATTEST:

Tina Angelone, Town Clerk

Date

Minutes completed by Dolores Regis for Town Clerk