

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

## **TOWN COMMISSION**

### **REGULAR MEETING**

### **MINUTES**

Town Commission Meeting Room

*4501 Ocean Drive*

*Tuesday, April 24, 2007*

*7:00 P.M.*

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

Mayor Parker called the meeting to order at 7:01 PM. Present were Vice Mayor Yanni, Commissioner McIntee, Commissioner Silverstone, and Commissioner Clark. Also present were Assistant Town Manager Esther Colon, Town Attorney Jim Cherof, and Town Clerk Tina Angelone.

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

The pledge of allegiance was recited.

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

Town Chaplain, Father Handrahan delivered the invocation.

Mayor Parker introduced the new Town Clerk, Tina Angelone.

#### **4. PRESENTATIONS**

##### **A. Broward County Commissioner Keechl (Commissioner Silverstone)**

Mayor Parker introduced Ken Keechl.

Mr. Keechl stated that he wanted to speak to the Town and introduce himself officially and talk about his philosophy. He stated that during his campaign he informed the public that he didn't care if someone was a republican, democratic, or independent; he stated that he would represent everyone and he meant that. He indicated that he made three promises to the Commission and residents of Lauderdale-By-The-Sea. His first promise was that he would not raise the property taxes and he stated that he intends to keep that promise. He stated that we are in a position where property taxes are too high and he stated that the people have spoken and they want tax relief and stated that he believes he will be successful in that endeavor. The second promise dealt with the environment. He expressed concern about overdevelopment on the Barrier Island, and he stated he is not against development per se, but believes that decisions in regard to land use need to have an environmental outlook in everything we do. He stated that he is aware that the Commission has accepted 5-0 on the Blight study. He stated he has not reviewed the Blight Study or looked at the plan, but he will keep an open mind. And third, he stated that since we're paying a Broward County Commissioner 100K a year, we are entitled to have a full-time County Commissioner who would show up when asked to and even when not asked to. He then discussed that he was a lawyer by trade, and he never held an office before. He indicated that politicians make a lot of promises and he stated that the people needed a full-time County Commissioner, so he sold his interest in his law firm to run for full-time County Commission. He stated that he could be reached at: [www.broward.org](http://www.broward.org). Lastly, he

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wanted to publicly thank two dear friends Bob and Ruby who, without their support, he would not be here today.

Commissioner Clark stated that Broward County Commissioner Keechl will be our Grand Marshall on the 4<sup>th</sup> of July.

Commissioner Silverstone stated that Broward County Commissioner Keechl always supported open spaces and cookout and development; he stated there's a change in Broward County and the future is looking brighter. Commissioner Silverstone then thanked Broward County Commissioner Keechl for attending.

B. Proclamation: Robert Baldwin Day (Mayor Parker)

Mayor Parker read the proclamation for Robert Baldwin.

**5. REPORTS**

- A. Quarterly Report of Minor Site Plan Amendments as required by Ordinance 2004-007. In the 1<sup>st</sup> quarter of 2007, two (2) projects had Minor Site Plan Amendments, Seagrape Townhomes, and Benihana.

Jim Bell presented the Quarterly Report. Mr. Bell stated that the code has provision that Development Services will give an update on any changes that are done to a project that constitute minor site plan amendments. He stated there were two projects in various stages of the development process: Seagrape Townhomes and Benihana.

Mr. Bell reminded the Commission where Seagrape Townhomes were. He indicated that the changes included increasing window size, door adjustments, as well as minor stucco treatment permits. He stated that he provided the Commission with a letter from the applicant that specifies the changes in detail. He also provided a typically front and rear elevations for the B and D buildings from the previous site plan and the current site plan. He indicated that staff determined that the changes were minor and did not change the appearance of the building. Mr. Bell stated that report does not require action. He indicated that he wanted to provide the Commission with updates and wanted acceptance of his findings.

Vice Mayor Yanni stated that the Benihana project was beautiful and a nice thing to look at when coming over the bridge.

Commissioner McIntee stated that Benihana did an outstanding job, and although they vary on the rules for the signs, the signs look spectacular. He concurred with Vice Mayor Yanni, indicating that Benihana's is a great thing to see coming into Town on the right.

Mayor Parker called for a motion accepting the report.

Vice Mayor Yanni motioned, seconded by Commissioner Silverstone, for the acceptance of the report. The motion passed 5-0.

B. Budget Report – March 2007

Commissioner Silverstone stated that he asked Esther Colon about the off-site building the Town purchased. He stated that in the budget there is an item for debt service which is over budget, but it turned out that we save money in the future by buying the building sooner than expected, and he thanked Mrs. Colon for doing a great job.

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Mayor Parker asked for clarification on the purchase of the building.

Acting Town Manager Colon stated that the Town paid off the debt for the building.

Commissioner Clark motioned, seconded by Commissioner McIntee, to accept the budget report.

The motion passed 5-0.

Commissioner Silverstone stated that in reference to the reports in the agenda, he received the reports from BSO and Fire in his mailbox. He asked if it belonged on the agenda. He indicated that he recalled that it was on the agenda before.

Mayor Parker stated that he did not believe the police report was ever on the agenda.

Commissioner Silverstone asked if the BSO and Fire reports could be placed on the agenda because he often has questions about the reports and feels the only way to address them would be at a Commission meeting.

Commissioner Silverstone motioned, seconded by Mayor Parker, to place both the BSO and Fire department monthly reports on the agenda.

Commissioner McIntee wanted to amend the motion regarding the type of report. He stated that he would like the Fire Department to produce a report that is closer to what the BSO sheriff does, because the sheriff does an outstanding job. He stated that he doesn't want just numbers out of computers; he wants more. He wanted to amend the motion for the Fire Departments report to be similar to that of BSO.

Mayor Parker suggested leaving the motion as it is to see what type of report the Fire Department generates, and if the Commission is not happy with the report given, then they can modify the report request.

Commissioner McIntee stated that they had already received a report that he was not happy with.

Commissioner Silverstone indicated that the BSO report is about 11 pages, and the BSO Fire was only three pages. The police provide more line in calls than EMS and Fire does. He stated that this is about accountability. He also stated that he previously asked Chief Sievers to match the reports presented by BSO, and he stated that Chief Sievers assured him that it would be ok.

Chief Sievers stated that the report is very similar to BSO, but he stated that the some of the financial information is not included.

Commissioner Silverstone disagreed and stated that the report was neither complete nor similar.

Chief Sievers indicated that what he supplied was daily information, the hydrants, complaining, call volume, EMS, fire related.

Commissioner McIntee stated that call volume tells nothing, and he indicated that there are only 30 fire calls a month tops, and he wanted to know why BSO Fire cannot provide the date and time for the calls as well as the company responding.

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Chief Sievers indicated that they do supply that.

Commissioner McIntee clarified stating that he wanted a specific run card. He stated that he wanted to know who was dispatched and time of arrival, and actual work time at the scene.

Chief Sievers indicated that what Commissioner McIntee was asking for was not part of his contract with the Town. He further indicated that what he is supplying is everything that he does not have to create. He stated that he can not create a document that does not exist. He stated that when the contract is negotiated again, then they can discuss specifics.

Commissioner Silverstone stated that they (he and Chief Sievers) had a conversation regarding the format of Chief Gooding's report, and he indicated that Chief Sievers agreed to offer the same information.

Chief Sievers stated that BSO Fire and BSO Police do very different jobs, so they would not have the same information. He restated that he is showing call volumes, response time, breakdown of what the calls were, hydrants that were maintained, and employees of the month. He again stated that during contract negotiations they can negotiate exactly what they want the contracts to say.

Commissioner McIntee asked if, in good faith, BSO Fire would provide the reports listing the running fire calls for the month.

Chief Sievers indicated that at this point he could not.

Commissioner Silverstone asked Chief Gooding if it was in his contract to provide the specific reports, or did he do it of his own volition.

Chief Gooding stated that specifically they are to give a monthly report, and he indicated that when he began the report was only a few pages, so he made many additions. He stated that he understood what the Commission wanted, and he spoke to Chief Sievers and knows that Chief Sievers is trying to supply the Commission with that, but he is not sure exactly what the fire chief does as compared to himself.

Commissioner Silverstone indicated that he knows there is a program called SunPro, Pro Reporting that gives detailed accountability for each call. He stated that previously, Vice Mayor Yanni indicated that the volunteers never gave a report. Commissioner Silverstone stated that they did; he stated that every call had a sign-in sheet to it with a space for describing the call, who was there, and what happened.

Commissioner McIntee stated that BSO Fire has a computer that sends the calls transmitted, following company responded, and a quick summary of the report. He stated that it is in the SunPro.

Mayor Parker stated that what he thinks Commissioner McIntee is describing is that the police offer a report for each incident.

Chief Gooding clarified, stating that it is a report of each arrest, not incident. He explained the report procedure on calls processed. He said that he does offer a statistical breakdown of all calls, but specifics on arrests only.

Mayor Parker asked Chief Sievers to produce a basic synopsis of various calls.

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Chief Sievers indicated that he would have to create a report. He stated that they may receive about 25 fire calls a month, but they receive 120 calls a month in the district.

Commissioner McIntee stated that he is not interested in the EMS calls; he stated that the call volume for fire is low, and those are the calls he would like to see.

Chief Sievers stated that what he prints now is what he's able to do. He stated that the report he has now includes the response time.

Mayor Parker suggested going with Commissioner Silverstone's motion, get the generated reports next month, and then when the Commission have the reports, they can then consider Commissioner McIntee's suggestion that the reports be more detailed.

Commissioner McIntee stated that the Town's BSO fire vehicle was seen on Military Trail in Palm Beach County, and wanted to know why.

Chief Sievers stated that the car was titled to the sheriff, and it is a Town asset, and he stated that he no longer uses the car to drive home, and he stated that it was his take home car and he drove it everyday. He indicated that it is now down in motor pool and would no longer be his car, and the reserve firefighters will now use the vehicle.

Vice Mayor Yanni wanted to know exactly what was documented in a report.

Chief Sievers stated that there are many categories and gave some specifics.

Vice Mayor Yanni asked if they list how long they were on a scene, how many firefighters responded. Vice Mayor Yanni indicated that those issues are what are being asked of them.

Chief Sievers stated that they do not do those things.

Commissioner McIntee stated that report is simple; first the call is addressed, the amount of men responding, the amount of equipment responding, what kind of response, etc.

Mayor Parker asked if they do a report for each incident.

Chief Sievers indicated that he does, and he stated that it would be easier to print those out for the Commission.

Mayor Parker stated that BSO Fire should give the report they've created and attach the incident reports to it for each fire call.

Vice Mayor Yanni stated to Chief Sievers that no matter what he does, how hard he tries, he should document everything because Commissioner McIntee and Commissioner Silverstone are looking at him with a microscope and if BSO Fire does anything wrong, and the two Commissioners will bring it to the dais.

The motion passed 5-0.

Mayor Parker clarified stating that the report is to include a copy of the incident reports.

Chief Sievers stated that he would be bringing this downtown because he stated the contract with the Town does not include the reports and he wants to confer with the fire chief.

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Mayor Parker stated that if there was a problem, Chief Sievers should let him know.

Commissioner McIntee requested that on for the next agenda, he wants the Town Clerk to set up per Commissioner requests for every fire call in the Town.

Mayor Parker stated that he believed the Commission was going to get what they asked for from BSO Fire.

Commissioner McIntee stated that if Chief Sievers does not provide the incident report he will place on the agenda for the Town Clerk or Town Manager demand copies of each incident report.

**6. APPROVAL OF MINUTES**

- A. March 27, 2007 Regular Meeting
- B. April 10, 2007 Regular Meeting

Commissioner Silverstone motioned, seconded by Commissioner Clark, to approve the March 27, 2007 and April 10, 2007 minutes. The motion passed 5-0.

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

Beverley Kennedy, 3242 Seaward Drive, stated that we need to get involved and hoped that things that are not true be said or heard or written; she said the Town has neighborhoods with boats and trailers; she asked if it was fair to have one part of town enforces no trucks, no trailers, no boats, and the other part of Town allows it. She stated that it is important for the Town to work as one town, one unit, and to enforce something that should be enforced. She wants no trailers, trucks, or boats; she wanted to know why the Town is letting this happen and said that it's time for the Commission, the Mayor, and all those in attendance to go forward and help us to unite to protect the values of our neighborhoods and the integrity of the Town.

George Hunsaker, 4629 Poinciana Dr, spoke on 13 C and M. He encouraged the Commission to interpret broadly what public comments can address. He agreed that public comments should be about agenda items or potential future business of the Commission. He stated that the way we begin to make this stuff happen is for the Commissioners to demonstrate how we talk about items and not about people. He stated that already, Vice Mayor Yanni attacked Commissioners McIntee and Silverstone because they served as volunteer fire department. He stated that Vice Mayor Yanni spoke directly about them. He stated that Vice Mayor Yanni insinuated that because Commissioners McIntee and Silverstone were former volunteer firemen they were going to act in a certain way. He stated that he wants the Commissioners to show how they are going to act, not how others are going to act. He stated that Commissioner comments do not need to be attacking people in the Town by name or subject. He stated everyone is entitled to opinions without discussing the character of an individual on the dais or an individual in Town. He told the Mayor that there should be latitude to make sure the business of the Town is being spoken of. He stated that it is appropriate to talk about how to conduct that business and stated that we can learn to conduct this business as humans that live in community, that care for one another and honor each other as a person.

L. "Peanuts" Wick, 4900 N Ocean Blvd, addressed issues 13C and 13I; he stated up until three months ago they could have public comments from everyone for three minutes; he agreed that some of those comments became abusive, but disagrees with the fact that comments have to

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be based on the agenda. He stated that if someone had a problem with a neighborhood, they should be able to point it out so that it's brought out to the public. He indicated that he received a call from Marie White and stated that she is doing well and is home recuperating. In regards to 13L, Mr. Wick indicated that he's worried about how the way the Town spends money. He stated that if the tax structure is changed, the Town would have to begin finding ways to save money. He indicated that he looked up 4 places to buy legal fireworks; he stated that they all have small to generous displays. He stated that if they could use the pier, they Town could save 20,000.00+. He further stated that the Town could indemnified with the insurance that would be a lot less than 20,000.00 and the Town could go up to an 11inch diameter. He indicated that the barge costs 21,000. He noted that he is not requesting this to be done this year, but for the future. He said where he used to live; fireworks were paid out of people's pockets. He said that letters are sent out for people to pay an additional \$5.00 for fireworks. And, he stated that their display lasted 25 minutes and cost about 35,000.00. Mr. Wick stated they should see if the people want to donate to help out.

Stuart Dodd, 232 Imperial Lane, wished to speak on items 4B, 10A, 12B, 12F, 13B, 13C, 13I, 13J, 13M, and maybe 15A. Mr. Dodd, reference to 4B, asked if we are going to have Alina day. Referencing 10A, he asked if the 17foot high pelicans are going to Broward and Dade County approved to withstand hurricanes and coconuts at 120 miles an hour without disintegrating. He wanted to know if they would be wind tunnel tested. In regards to 12F, he stated that the Commission should send a message to every developer that the procedures are in place, but none of the old guard has the courage to apply them and instead they prefer a slap on the wrist and a back door deal by the Mayor leaving everyone a monstrosity. And he stated that many were wondering if Mr. Cherof can beat the loophole lawyer that is drafting the agreement on their side. In reference to 12G, he stated that the Commission ought to accept Baldwin's resignation quick before he changes his mind and appoint Esther. He stated that the Commission should not try to bring in an unqualified candidate into the job, because they would only end up with more egg on their faces. He stated that Esther is incorruptible and has demonstrated that she can run the Town with one hand tied behind her back. In reference to 13B, he stated that Michael Arker should be treated the same as Peanuts, Barbara, and Marilyn, and should be dismissed without trial. He stated that many witnesses heard the derogatory remarks and deemed that the foul language should not be used in Jarvis Hall under any circumstances. In reference to 13C, he stated that a clarification is not needed; he said that Mayor Parker is denying the public the right to address the Commission on any topic of interest if it is not on the agenda. He stated if public comments are limited, then he asked if the Commission could leave item 13I as a permanent agenda item. Mr. Dodd moved on and stated that Mayor Parker's intentions were honorable, but wanted him to think before putting his foot in it. Every student assumed that he was one of the judges, so anything said regarding the pavilion would impress the young architects. He stated that if Mayor Parker would have only told the students to use their imaginations. He then stated that the Commission needed a raise, and he concluded by asking for a clock so the public knows how much time they have left for public comments.

Larry McGuinness, 5100 North Ocean Blvd, stated that he agrees to public comments being limited to 30 minutes in the beginning and the balance at the end, but disagrees with the order limiting comments to agenda topics. He stated that he and his wife, many years ago, brought to the Town's attention that anti-noise laws did not protect the majority of the citizens, and they were fixed; he also brought to the Town's attention the staggering differential the citizens are pay for permit fees, which are now under discussion; he said they've been complaining for 3 years about the lack of street lighting and it has been passed on to a higher authority. He said none of those items and many more could not be brought before the Commission under today's

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rules; he stated that when dictators feel threatened, they clamp down on freedom, and freedom of speech is one of the first victims.

Maureen McIntee, 1612 SE 21 Ave, stated that the Commission should vote yes in dismissing Michael Arker for disgraceful, unacceptable behavior as displayed on and off camera. She stated that some members of the Commission removed members from various boards for less offensive actions; she stated that Arker's behavior is not acceptable, not forgivable on the Commission's behalf. She stated that this member viciously attacked a citizen and a board member. She stated that at the April 9<sup>th</sup> meeting, a board member called a citizen a most distasteful name and later was caught on tape bragging about it to another board member. She indicated that he also angrily said he would go out with the citizen after he was done attacking. He then threatened to call the police to remove her from the meeting. After the meeting adjourned he directed the "f"-word several times at a fellow board member while in Jarvis Hall. At the April 11<sup>th</sup> meeting, he never approached the attacked citizen; at the April 16<sup>th</sup> meeting, the day the tape recording was distributed to Commissioners, the attacker approached the citizen; that citizen asked not to be talked to; the board member then threatened the citizen further by saying "you'll be going away." She stated that the facts can not be disputed, nor can exceptions be made. She stated that the board member must be removed. In regards to item 13C, she stated that Commissioner Clark is opposing 10-story developments in Pompano Beach; she believed it to be hypocritical that the old guard will fight against development in somebody else's town when they don't fight against development in their own town. She also believed it to be hypocritical that the old guard forced its own citizens to court on two separate occasions; she stated the citizens were fighting against high-rise development; she stated the citizens paid their own legal fees while the old guard used taxpayer money to higher Attorney Cherof. She stated that the old guard created overlay districts without voter approval allowing the development on just about every inch of land; she stated that the voters need to change decisions made by the old guard. She stated the old guard gives away Town land to developers allowing additional sales of units to be built on Town property; she pointed to Shore Court and Garden Cul-de-Sacs. A writer suggested that CIC members go to Pompano to fight against the 10-story Pompano project, while the same writer opposed the CIC's fight against height restrictions in his own town. She indicated that Commissioner Clark while serving as president of North Beach/ South Beach Association favored 10-story projects, while 95% of the citizens of the annexed area in the north, do not; and yes CIC supports the Sea Colony 15-story site plan, which was properly submitted to the Town in 2005 before height limit restrictions.

Lisa A. Mitchell, 4238 Seagrape Drive, stated that she wanted to discuss public comments; she stated citizens had a right to come up and speak what they feel and think; she said the citizens are the voters who vote the Commission in, and they need to listen to the citizens. She stated that Commission needs to listen to the voters, and she said that citizens should not be shut down. In regards to Lauderdale-By-The-Sea inviting people to deliver invocations, she said it was one of the best ideas she's heard; she said that this was one of the things the Town needs; she said the invocation request showed tolerance; she said everyone is tired of the fight; as for the BSO and reports, she said if there is a volunteer department, the volunteers can put the paper work together; she said Michael Arker should be removed; no one should be called a name. She stated that everyone has an opinion and deserves an opinion, and no one should be attacked for it; she wanted everyone to learn to compromise.

Barbara Cole, 2211 Washingtonian, 5000 N. Ocean Blvd, stated that she does not want the water rights given away; she stated that this is one of the last things the Town owns; In regards to Mr. Baldwin's resignation, she referenced his letter and stated that Town helped him find a new town with new goals, and she stated that she would like to have Esther step in. In regards to 13C she stated she looked up recalls and attorney's fees and she found something on Marco

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Island. She said that public comments are not on the agenda, and after each item on the agenda, they invite the public to come up and address that agenda item. She moved on to item 13F, and stated that she hoped Commissioner Clark was not a member of NIMBY (not in my backyard). She indicated that she is a firm believer of people having different opinions and having dissent when it is done in the right forum; she think it should be done in public, at meetings, but she stated that if someone does not want pretend greetings in public, then the other people involved should honor that.

Frank C. Herrmann, 4244 Seagrape Drive, stated he hates speaking on agenda items. In reference to Michael Arker's removal, he stated that he has never met Arker, but has heard a lot about Arker and said that Arker should voluntarily resign from the Master Plan Steering Committee, and thanked him for his past service. In reference to Baldwin's resignation, he stated that the Commission should let him go or fight to keep him only if they would lose Mrs. Colon. In reference to the Town Attorney's report, he explained that he was in favor of doubling the Commissioner's salaries effective after the new election. He stated that in regards to the sidewalk pavers, he did not think it was a big deal; he said that a new contractor should be smart enough to match the previous pavers. In regards to public comments, he said the voter's understand it, and pictures should be drawn for the old guard so that they understand it. He indicated that the Town should control all departments, but not in this case; he suggested selling all the assets. He liked the idea of the Town saving money on building permits, services, and fees.

Ron Piersante, 227 Lake Court, stated that Commissioner McIntee had 5 items on the agenda, and he stated that not one was positive; he stated that he did not understand the request for a polygraph test from the police chief. He wanted Commissioner McIntee to come up with some positive things to improve the Town instead of attacking everyone. He stated that if Commissioner McIntee did that, then maybe more people would get to know him and like him.

Cindy Geesey, 256 Imperial Lane, discussed item 13A regarding Garden Court. She stated that when the Commissions looks at the project, she wanted them to try to think compromise; in other words win-win; she said above all, the citizens should not be mislead; she said no one has the right view the water from another person's land. She said it was ridiculous to paint a picture of a father leading a child down to the cul-de-sac with a child holding a fishing rod; she said that is leading people to believe that it is ok for people to go on private land and fish; she said it sounds good, but it's a lie; she said to get the facts straight and communicate them honestly. She turned to issue 13B and stated that if after the meeting, someone uses a word that offends her delicate sensibilities, then she doesn't need to act like a grown up, but instead, she should run off to a favorite Commissioner to fight her battles for her; she said handling nonsense like this takes time, and no wonder some of you would like a raise. In regards to public comments, she stated that there was never a problem until 15 months ago; she said if the system is abused then that is why changes are needed. She gave an example of a slam against a town clerk who is already gone, serves no purpose; she said it was petty and childish, and she further stated that coming up a putting on a comedy show is inappropriate; she said that Town business needs to be conducted; she said it's serious and should be treated with respect.

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

**9. ORDINANCES (1st Reading)**

- A. **ORDINANCE NO. 2007-07: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA AMENDING CHAPTER 20, "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES CREATING A NEW ARTICLE V TITLED "WATER CONSERVATION**

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REGULATIONS" CREATING SECTIONS 20-46 THROUGH 20-40, PROVIDING FOR WATER CONSERVATION REGULATIONS DURING PERIODS OF WATER SHORTAGES; PROVIDING FOR DEFINITIONS, ENFORCEMENT PROCEDURES AND PENALTIES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND EFFECTIVE DATE. (Public Hearing May 8<sup>th</sup>)

Attorney Cherof read the ordinance; he explained that the ordinance makes violations of the South Florida Water Management districts regulations on watering enforceable under local code. He stated that this codifies them as part of the Town's Code of Ordinances, and they can be prosecuted as local violations of code. Attorney Cherof indicated that if the ordinance is not passed, then people could only be prosecuted by the South Florida Water Management District, which, he explained, would be difficult because they have very few opportunities or personnel to regulate and enforce at the same time. He said that the Town is not required to adopt the ordinance.

Commissioner Silverstone motioned, seconded by Commissioner Clark to adopt Ordinance 2007-07.

Commissioner McIntee asked Attorney Cherof if enforcement would have a penalty phase and fines.

Attorney Cherof stated that there were; he explained that the first violation is \$50.00 and the second and subsequent violation fine not to exceed \$250.00 and/or imprisonment in the county jail for a term not to exceed 60 days.

Commissioner McIntee then wanted to know who would get the fine.

Attorney Cherof stated that the Town would get a portion of the fine through the collections process through the county clerk's office.

Commissioner McIntee stated that BSO gets the fine money, and not the cities or towns.

Attorney Cherof stated he would look into whether or not the Town receives money from BSO fines.

Mayor Parker expressed that he did not like the idea of giving Code Enforcement one more thing to go around and hitting people for. He stated that the South Florida Management District is discussing making the water restrictions permanent whether we need them or not, and he stated that it was not clear to him that this is the wisest course. He said that the Town managed to last all this time without the need for an ordinance like this, and he indicated that this was not the first time they've had water rationing, but it is the first time the Water Management District has talked about making it permanent even when we're not in drought. He said he did not see a need for the ordinance, and he stated he would vote against it.

Commissioner Silverstone wanted to clarify with Attorney Cherof that BSO has the authority to ticket people.

Attorney Cherof clarified stating that the ordinance provides that every code enforcement officer, police officer, or sheriff having jurisdiction in the area can issue a citation.

Commissioner Silverstone believed the ordinance to be important because we are tight on water, and Lake Okeechobee is almost at a record low, and he said the water issue is

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something we should be conscious of and that alone should be a reason to support the ordinance; he said he would support the ordinance because it is important to our future.

Commissioner McIntee stated that he was using his sprinklers on the wrong day, and his code enforcement officer gave him a warning, but she did exactly what he wanted Town employees to do, and that was to come and warn people first.

Commissioner Clark stated that the water is a serious situation and said that he believes this to be a serious situation, and said he would vote for it, and he said he is not going to rely on what the Water Management Authority will or won't do. He said the Town needs to do something like this, and indicated that the Town should have done something like this a few years ago.

Mayor Parker suggested an amendment to the ordinance that would change the first violation from \$50.00 fine to a warning, and then a second violation would be \$50.00, and so on. Mayor Parker indicated he wanted the warning as a part of the code; he stressed that before giving tickets, we should give warnings because they may not realize that they are in violation. He said if the warning is not in the code, the Town will wind up with people on a first violation paying \$50.00. He then reiterated the need for warnings first.

Commissioner McIntee indicated that he had confidence that the staff would issue warnings first without placing it in the code.

Discussion continued on whether or not the motion should be amended.  
Mayor Parker motioned to amend the ordinance, hearing no second, the motion died.

Attorney Cherof stated that at the League of Cities dinner, a representative from the South Florida Management District spoke to the collective representatives of the commissions throughout the county, and those individuals are available to come and speak to the public to explain the extent of the crisis, and an invitation could be extended to them through the Town Manager.

Mayor Parker asked if the invitation could be extended through the Town Attorney.

Attorney Cherof indicated that he could do that.

Commissioner McIntee stated that it may be a great idea to have the Town Manager direct that person to make a DVD that could be run on channel 78 throughout the week.

Attorney Cherof stated he would invite a representative for the next meeting, and he stated he would ask them to bring an informational DVD.

Commissioner Silverstone asked Attorney Cherof if we could direct the administration to serve warnings before they go to the penalty stage.

The motion to accept the first reading of Ordinance 2007-07 passed 3-2 with Mayor Parker and Vice Mayor Yanni dissenting.

Mayor Parker wanted to know if the Ordinance passes on second reading, what is needed in order to set a policy that warnings are issued before citations.

Attorney Cherof indicated that the Commission would direct the Town Manager at the next meeting.

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Mayor Parker asked to place on the agenda a motion immediately following the second reading of the ordinance.

**10. CONSENT AGENDA**

- A. Town Entry Ways Vision Project – Approval to proceed with project construction documents. (Commissioner Clark – John Olinzock – Municipal Services – tabled from 4/10/07 meeting)

Commissioner Silverstone Wanted item A removed. Mayor Parker stated that item A was now removed.

Commissioner Clark stated that in the last meeting Commissioner McIntee questioned whether or not the project had been approved by the Commission at any point and time and he had in budget year 2003-04. He indicated that on September 20, 2003 there was a final adoption of millage rate and the budget. He stated that in 2005 the budget was approved for 200,000.00 for budget years 2006-07. He stated that on September 13, 2005 the final adoption of the millage rate and the budget was approved for 210,000.00 for budget year 2006-07. He stated that in the most recent budget, it was passed again on September 20<sup>th</sup> the final adoption of millage rate and budget was adopted for 2006-07 for 310,000.00. He said that nothing has been done on this and it needs to go out for bids before it goes forward. Commissioner Clark motioned, seconded by Vice Mayor Gianni, to send the project out for bids.

Commissioner Silverstone stated that he thinks the Town can do better than this and he said that he had the FAU people over to give a presentation and they stated that the architects presentation at the third meeting was a full blown presentation on a monolith that grew into an interesting but impractical 14foot high 2 feet wide 11 foot long structure that was determined not to be practical because of location restraints. The committee voiced that they still liked the pelican gateway anyway. Commissioner Silverstone stated that he thinks the pelicans do not fit within the pattern of the Town, and thinks that they should see what happens with the pavilion and see what the students come up with and add that idea to that. He said the Town needs something, but he thinks they could do better.

Commissioner McIntee stated that he is negative towards the project. He stated that he can't see 14 foot birds at the entrances to the Town, but in the interest of fair play, he stated that they should try one before committing to all three, and he thinks that it is a reasonable way to compromise. He stated that if they were to do one on the north or south entrance to the Town, then people can decide if they like it. He said if he's proved wrong, and people like it, then he would be on board for the other two.

Commissioner Clark stated that before we misread the tea leaves, when the Town goes out for bids, they will need specifications to come back from the bidders with regard to what the statues will withstand with regard to winds, so it's not a done deal. He said that his problem with the project is that there is grant money involved and there are too many projects, which apparently have gotten on the shelf after approval and nobody tracks these things and they come back to say they haven't been done. He stated that if we don't use grant money given, the Town will no longer get grant money because people will look at the Town and say that it is foolish with the way they handle these things. He said if he was sitting on county commission, looking at a grant request from the Town, and the Town blew the money two or three times, then he'd say no to the request.

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Vice Mayor Yanni stated that he disagreed with Commissioner Silverstone and thinks that the pelicans are consistent with the Town. He said there are hundreds of pelicans out on the pier, he said there are bronze pelican statues in the middle of Town, and he stated that this project isn't new. He said the project has been in conception since 2001. He said that in 2005 there was a request by Mayor Parker to have the project completed. He said that the Town Commission has approved this and if they would have followed through with it, it would have been done. He said if people didn't like the project, they should have said something then, not now when they want to do it. He then read from documents indicating when there were past public meetings from 2001, and stated that no one ever complained; he said that now, all of a sudden, the Commission wants to get something done in Town and the same group of people are coming forward that are against everything they do, and he stated it's about time they stopped listening to some of these people; he said that you can't please everybody, and he stated they should go ahead and get the bids on the project and get it completed.

Commissioner Silverstone agreed with Vice Mayor Yanni up to one point. He indicated that the statue is not a pelican. He said that the designs look nothing like a pelican.

The motion to send the project out to bid passed 4-1 with Commissioner Silverstone dissenting.

Acting Town Manger Colon asked for clarification. She wanted to know if they were asking for permission to get the construction drawings so they can't put it out to bid yet; she noted that that was the request on the agenda. She asked if they want to proceed with project construction documents. She indicated that they need an engineer to draw plans before it goes out to bid.

Mayor Parker asked if they had an engineer who came up with this.

Acting Town Manager Colon stated that the Town did not.

Commissioner McIntee indicated that they were hiring an engineer today, and suggested that this could be his first job.

Acting Manager Colon stated that he could after he offers a proposal to do the construction plans. She clarified to the Commission that staff is requesting permission to proceed with construction documents, which of course a proposal from Chen & Associates or other engineers, and once we get the construction documents they will be brought to the Commission for approval.

Commissioner Clark corrected the previous motion and motioned, seconded by Vice Mayor Yanni, to proceed with construction documents. The motion passed 4-1 with Commissioner Silverstone dissenting.

- B. Commission Approval of Special Event Permit for Chamber of Commerce Green Market (John Olinzock – Municipal Services)

Commissioner Silverstone motioned, seconded by Commissioner Clark, to approve the special event permit for Chamber of Commerce Green Market. The motion passed 5-0.

**11. RESOLUTION**

**12. OLD BUSINESS**

- A. Discussion and/or action regarding Commission approval of Professional

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Engineering Consultant Agreement with Chen & Associates (John Olinzock –  
Municipal Services – tabled from 3/13/07)

John Olinzock stated that they had successfully negotiated an agreement with Chen & Associates.

Commissioner McIntee made a motion, seconded by Commissioner Clark, to hire Chen & Associates and approve the contract.

The motion passed 5-0.

John Olinzock introduced the new engineer, James Barton with Chen and Associates.

James Barton thanked the Commission and stated that he is a professional engineer and indicated that they do civil engineering for Coral Springs and several other cities.

Commissioner McIntee asked Mr. Barton what he knows about pelicans.

Mr. Barton stated that he knew quite a bit about pelicans and statues. He stated that they drove around to look at prospective sites, so they are up on the subject. He stated he did not foresee any wind tunnel testing on the pelicans because it would be very expensive, but he wanted the Commission to rest assure that it would be an aesthetic thing that the Town council would approve they would strictly do engineering and provide the best location to ensure that it wouldn't fall in a hurricane.

B. Discussion and/or action regarding the Town's water system to Fort Lauderdale  
(John Olinzock and Town Attorney-tabled from 3/13/07)

Mayor Parker asked if the item should state selling the Town's water system.

John Olinzock said that it is indeed regarding the sale of Town's water system.

Mayor Parker asked if there was a proposed contract and asked how much the Town was getting.

Mr. Olinzock stated that the Town would receive 350,000.00.

Mayor Parker then asked if the Town had the right to buy it back.

Mr. Olinzock indicated that there was a reversion clause, and then asked the Commission if they wanted to be in the water business and noted that the Town does not own the water in the pipe.

Mayor Parker asked what the reversion clause states.

Attorney Cherof stated that the reversion clause states that if the facilities, which include the pipes and all the accoutrements to it, can revert back to the Town.

Mayor Parker clarified the point, asking if in the event that Fort Lauderdale gets out of the business, the Town gets the pipe back for free.

Attorney Cherof concurred.

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Mayor Parker asked if the Town could buy the facilities back.

Attorney Cherof stated that there is a provision for purchase of the facilities and that is based upon what is then determined to be the fair market value.

Mayor Parker asked if that would be more than what they are paying now.

Cherof stated it could be.

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to not sell the water system to Fort Lauderdale.

Mayor Parker asked if the motion was worded correctly since it was in the negative.

Attorney Cherof indicated that, under Robert's Rules, motions should be stated in the affirmative whenever possible, but there is not strict prohibition against a negative formed motion.

Mayor Parker asked if there was any reason to sell to Fort Lauderdale.

Mr. Olinzock stated that the Town has an aging water system; he then explained that the agreement would be a 30 year agreement; he stated there is a municipality offering to take over the maintenance and improvements to the system. He stated that the report references the condition of the system and many times we are below average with the quality of the system. He stated there is a replacement dollar figure in the report that talks about 1.9 million dollars to replace the system, which is a 2004 number and he stated that he would add a 42% inflation factor to that number, which would move it closer to 2.7 million dollars.

Mayor Parker stated that if the Town sells the infrastructure of the pipes and Fort Lauderdale ends up owning it, he wanted to know what redress the Town has if Ft. Lauderdale decides to keep charging the Town without repairing or upgrading the system.

Mr. Olinzock stated that they are governed by water quality standards that would not allow Fort Lauderdale to do that. He stated that occasionally they get notices from Fort Lauderdale water system that they are chlorinating the systems as part of the maintenance of the water system.

Mayor Parker asked Attorney Cherof about what assurances the Town had that Fort Lauderdale is going to properly maintain the system.

Attorney Cherof stated that the document requires Fort Lauderdale to maintain the system. He stated that the standards could be enforced for an action for specific performance and breach of contract.

Mayor Parker asked about the standards that Fort Lauderdale would have to meet. Attorney Cherof indicated that Fort Lauderdale would have to provide palatable water in accordance with the State's regulations and standards.

Vice Mayor Yanni wanted to know why Fort Lauderdale would want to buy a deteriorated system that could cost them 2 million dollars to fix. He wanted to know Fort Lauderdale's motive.

Mr. Olinzock stated that Fort Lauderdale would be taking over the billing.

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Vice Mayor Yanni indicated that he knew what they were taking over, he wanted to know why they wanted to.

Mr. Olinzock stated that Fort Lauderdale provides the water, and the Town does not have its own aquifer, etc.

Vice Mayor Yanni stated that they want to buy deteriorated pipes, which could cost 2 million dollars.

Attorney Cherof stated that from what he understood, their desire to own the infrastructure is because they provide the product that moves through the infrastructure, and they feel they have better control over the quality of it and therefore the quality of the water that they deliver to the customer.

Vice Mayor Yanni stated that if the Town keeps it, then they risk having to spend 2million to fix the water line as well as risking the chance of water being contaminated; He stated that if there was a water break and water gets contaminated then Lauderdale-By-The-Sea that would have to pay any bills that would occur as a result of a faulty system. He stated there are many ways to look at it. One way is that it's a disadvantage to the Town if they keep it and it's an advantage to Fort Lauderdale if they get it. He said that it's a no win situation. He indicated that he doesn't want to be stuck with the cost of repairing the system.

Mr. Olinzock asked the Commission was aware that the City of Fort Lauderdale has been helping the Town upgrade the water system to meet current fire standards in the areas where development is taking place.

Vice Mayor Yanni stated he understood that everything the Town has is outsourced and now the Town is giving the water line away, and the next thing will be Fort Lauderdale taking over, and that's what people are afraid of, and if there was some assurance from Fort Lauderdale people would be happier about it. He doesn't think the water lines should be sold without recourse, especially since there are lawsuits coming up where the Town will be hit hard and may go bankrupt. But, he did not know of any town who would want to take over a town with a lot of lawsuits.

Commissioner Clark stated that he knows John Olinzock is an engineer and wanted to know the downside for the Town.

Mr. Olinzock stated that as long as we do not have a water department, there is no staff available to deal with the problems that may occur. He stated that the Town's been fortunate because its had good contractors that its been able to work with. He said the Town is fortunate to have the City of Fort Lauderdale come in and assist the Town. He stated that the Commission is aware that the City of Fort Lauderdale is doing a major project through the Town as a part of the water quality 2001 project and that is to produce a main that runs through the area that can handle the pressure for the continuing demand of water needs in the area. He stated that if he knew that they could go in the direction of creating yet another department to maintain something like that, he supposed that he would then be able to say that they could maintain the water infrastructure but currently there is nothing in place. He stated that Fort Lauderdale is an organization who has a track record in doing this and they would know maintenance of traffic issues, etc, and put the Town on a regular replacement program to maintain the quality of water that the Town has had this far.

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Commissioner Clark noted that in the various seminars he attended, he was told that if the Town has a utility never ever sell it.

Mr. Olinzock reminded the Commission that the Town does not own the water, only the infrastructure.

Commissioner Clark concurred stating that it was not a utility, it is an infrastructure.

Com Silverstone was concerned that the Town would lose control over the infrastructure. He noted that at this point if something breaks down, we call Fort Lauderdale to fix it, but we have some idea of what the problem is and we have the choice of calling someone else to fix it. He says if another entity owns the system that gives away any other options saying that the entire infrastructure needs to be replaced and the Town would have no say so.

Mr. Olinzock stated that Fort Lauderdale would have to replace it at their expense.

Commissioner Silverstone said that nothing is for free and that somehow the water prices will go up. He said that the Town would end up paying for it in the long run. He indicated that he would be voting against it because by keeping the infrastructure, the Town will maintain some control over the future cost and tax. He said a chart of pros and cons had been provided but nothing in it sways him either way, and for simple reasons he wants to keep fiscal control over it.

Commissioner McIntee stated that everyone in Town should realize that the water comes from two places, Pompano and Fort Lauderdale. He clarified that the North End gets water from Pompano and the South End gets water from Fort Lauderdale. He said what scares him the most is that the Town is facing 2.5 million dollars in budget deficits next year as a result of tax deductions. He stated that Fort Lauderdale was around 13 million. He wanted to know why Fort Lauderdale wanted the infrastructure. He also wanted to know why they would want to pick up a potential headache of 1.5 million dollars. He stated that there is something in the middle that has not been ground. He stated that no one would come forward and give \$300,000 for a deteriorated infrastructure that will cost 1.5 million dollars to fix. He said that it was a dangerous thing to give up and it scares him that they want it. He said that he is 100% against it. He then asked Attorney Cherof if the water authority could assess a Town for major problems if something went down.

Attorney Cherof stated that he was not aware of that, but he suggested that the last time the agreement was prepared 2 years ago, the Town Commission approved it and then it went on to the City of Fort Lauderdale where it did not get approved. Then time lapsed and there was a desire to update the terms of it. He suggested that the Commission could indicate that they are reviewing the matter, and let the City of Fort Lauderdale approve it first and then send someone to their Commission meeting and pose the question or listen to the discussion on why its beneficial from their point of view.

Commissioner McIntee did not like the idea, and he said he had to trust his first feeling. He said he had no desire to let Fort Lauderdale think they are interested in doing this, and as far as he is concerned the issue is a dead issue.

Attorney Cherof urged the Commission to substitute fact for feeling on the issue because it's a thirty year franchise. He said it was worth providing a lot of energy and effort into understanding the terms and rationale from both points of view.

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Commissioner McIntee indicated that if Fort Lauderdale wanted the infrastructure bad enough, they would have sent a representative to answer their questions.

Mr. Olinzock stated that they currently have the water main replacement project and the Town is requiring the City of Fort Lauderdale to pull right of way permits, and they would be charged like any other individual. He stated that that has been an issue of discussion with the City of Fort Lauderdale. He reminded the Commission that the City of Fort Lauderdale has been assisting in maintaining the water system.

Commissioner Silverstone discussed the change to permit fees to intergovernmental services fees to a dollar and asked if the Town could do that.

Attorney Cherof stated that a fee study would have to be done first. He stated that the concept is that the ultimate cost is the same and when a fee is waived for one person or entity then the balance of the cost is shifted to the other citizens or users. He stated that the amount shifted to other people would have to be found out to accomplish the waiver.

Acting Town Manger Colon reminded the Commission about a study that was started by Hartman and Associates, a contractor hired by the Town, which stated that repair and replacement of the system could approximate 1.9 million dollars, but in view of the fact that it is the Town's infrastructure the system has depreciated \$900,000.00 and as the Town has done with other infrastructures, money was set aside. She continued noting that the water system (infrastructure) has not been done because the contract was approved in 2004 by the prior Commission and administration is waiting to see what decision the current Commission was going to make. She stated that if the Town does not sell the system, then the depreciation has to go into its own fund for infrastructure purposes.

Mayor Parker asked how much of that had to go into the next budget.

Acting Town Manager Colon indicated that \$923,000.00, and it would be a reserve like the other reserves the Town has.

Vice Mayor Yanni asked for a line item assessment for water.

Acting Town Manager Colon stated that administration does not set the rates for drinking water.

Vice Mayor Yanni asked if there could be an assessment.

Acting Town Manger Colon stated that an assessment could be done for anything.

Vice Mayor Yanni said if they could do that then if something does happen then there would be some money.

Acting Town Manager Colon stated that what Vice Mayor Yanni was proposing was a policy decision.

Vice Mayor Yanni asked if the 1.9 million was for the old part of Town or if it was the whole Town.

Mr. Olinzock referred him to exhibit A of the back up documents; he stated that it was for the old section and a portion of the new annexed section, which are the sections not currently handled by Pompano Beach.

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Vice Mayor Yanni stated that if the Town wanted to keep the water system, they have to come up with an assessment to protect the Town, even if it was \$2.00 or \$3.00 a person. He also said that maybe it needs to be made into an agenda item if the Town doesn't want to sell it.

Mayor Parker stated that he's gone through the contract and wanted to point out a few things that eased his mind. He indicated that under the contract, Fort Lauderdale is required to provide the same level of service and infrastructure quality as they do for their own residents. He continued noting, if they have to upgrade the infrastructure in Fort Lauderdale, they have to upgrade the Town's. He stated that if the Town's infrastructure is below what Fort Lauderdale's is, they have to upgrade it. He stated that Fort Lauderdale is allowed to charge 125% of what they charge their own residents for water, which is what they charge now. He stated that the northern part of Town gets water from Pompano, and they are charged 125% of what Pompano charges, and he stated that the City of Pompano owns the infrastructure. He stated the only advantage for the Town is the fact that the Town has to maintain the infrastructure. He doesn't know if the Town can hook up the Town's system to Pompano. He also stated that he did not know if Pompano had any legal obligation to allow the Town to hook up to them. He stated that the Town should pass it, and he stated if the Town does not pass it, then they would have to add \$925,000.00 to next year's budget. He stated that they are getting \$350,000.00 and that would be enough for the renovations to Jarvis Hall. He recommended passing the item.

Commissioner Clark stated that a couple of things bothered him. He stated that the Mayor indicated that he did not know if the Town could get water from Pompano. He said there are two water authorities, one is Pompano and one is Fort Lauderdale. He doubted that the Town could crossover into either one of them. He stated he wanted to table the issue until they find out more about the situation. He also noted that he wanted to know why Fort Lauderdale did not want to approve it in the first place.

Commissioner Clark motioned, seconded by Com. McIntee, to table the issue until 5/8/07.

Vice Mayor Yanni asked the Town Manger for a report on what a \$3.00 assessment would bring in to help the Commission make a decision on whether or not to keep the infrastructure.

Mayor Parker asked Commissioner Clark if he wanted to request Attorney Cherof to provide information regarding the boundaries of the two water districts and information on why Fort Lauderdale never approved the sale the first time around.

Commissioner Clark discussed the issue with Attorney Cherof.

Mayor Parker asked Attorney Cherof if the information could be provided to the Commission.

Attorney Cherof stated that he could provide that information to the Commission.

Mayor Parker asked if Commissioner Clark could include in the motion to table a direction to the Town Attorney to get the information and bring it back to the next meeting.

Commissioner Clark motioned, seconded by Commissioner McIntee, to table the item until 5/8/07 meeting with direction to the Town Attorney to find out both items that were indicated by Commissioner Clark.

The motion passed 5-0.

- C. Report on options for the Town to save money on building permit services and fees (per Commission directive at 3/13/07 meeting) (Jim Bell – Development Services)

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Jim Bell stated that at the 3/13/07 meeting the Commission asked for a report on options for the Town to save money on building permit services and fees. He stated that there were a series of questions the Commission asked Staff to research. He then went through each question and answer. The first question regarded research where Broward County took in for building permit revenue in 2006. He declared that for fiscal year 2006 the County received 1,337,328.00 in building permit revenue for the Town of Lauderdale-By-The-Sea. He then stated that the Town received 9% of that, which is approximately 115,181.00.

Commissioner McIntee wanted clarification on the statement that there were 1,337,000 in fees and the Town only received 115,000.

Mr. Bell confirmed. Mr. Bell moved on to the next issue that dealt with research of Lighthouse Point contracts with Deerfield Beach for building permit services. He stated that Lighthouse Point does contract with Deerfield Beach of building permit services but only for partial building permit services, not full building services like the Town has with the County currently. He stated Lighthouse Point uses Deerfield Beach building plan review and building inspections, and asserted that the Town of Lighthouse point performs their own permit intake issuance, tracking and billing functions. He stated they have three employees with a total salary of \$160,000.00, and he noted that they also purchased their own permit software that was about \$20,000.00. And, he stated, they also established their own building permit fee schedule.

The next issue Mr. Bell addressed concerned what Lighthouse Point's cost for their service contract with Deerfield Beach. He indicated that Lighthouse Point's cost for their service contract with Deerfield Beach is based on hourly rate for plan reviewers and inspectors that they get from Deerfield Beach. He stated that the cost is \$65.00 an hour for the plan reviewers and inspectors and about \$3,000.00 a month to have a building official on site.

Mr. Bell discussed how much Deerfield Beach took in for building permit revenue from Lighthouse Point. He stated that Deerfield Beach received between \$300,000.00 - \$400,000.00 in permit revenue form the Town of Lighthouse Point; Mr. Bell then discussed the percentage of permit revenue that went to Lighthouse Point. He indicated that Lighthouse Point retains all revenues it receives from building permits after the Lighthouse Point pays the City of Deerfield Beach's plan reviewers, inspectors, and building officials. The town's revenue is not based on a percentage since they had a pay as you go contract for building permit services with Deerfield Beach.

Mr. Bell discussed contacting Oakland Park to see if they would be interested in contracting with the Town and do building services. He stated that he contacted the City of Oakland Park and indicated that they had no desire to provide building permit services to the Town of Lauderdale-By-The-Sea. The City of Oakland Park indicated that they had a partial contract with Broward County for building permit services. Mr. Bell stated that city administration indicated that they contract about 75% of their services with Broward County so they are already understaffed. The City of Oakland Park indicated that they have their own structural plan and examiners and intake person, but for all of their plan reviewers and inspectors they contract with Broward County. Mr. Bell stated that the City of Oakland Park indicated that they pay about \$500,000.00 a year for the contract with Broward County.

Mr. Bell moved on to the final issue regarding investigating options to save money overall on building permit fees. He stated that he wanted to point out that most cities that are around the Town actually have a partial contract with Broward County. He stated the cities do not do things all by themselves. He stated that things ranged from a partial to a will call to a full service or

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morphed service where they also contract with a private company for building permit services. He stated that after many discussions with administration, various municipalities such as Oakland Park, Deerfield Beach, North Lauderdale, and Wilton Manors, he determined that Lauderdale-By-The-Sea had various options to reduce building permit fees.

One option was to terminate the contract with Broward County and have the Town establish its own permit system. He stated that as previously researched by Staff that would cost about 800,000.00 per year, and that cost would include all staffing, plans, examiners, inspectors, equipment, cars, etc. He indicated the advantages to be self sustaining and cost prohibited.

Mr. Bell stated that the second option would be to research another adjacent municipality that would be willing to perform building services for the Town. He stated the advantage could save money by using another municipality's permit fee schedule if they've already adopted one and in most cases the fee schedules are cheaper in other municipalities than in the County. He indicated that the disadvantage is that most municipalities adjacent to the Town already have some sort of partial service contract with Broward County. He said the cost savings would not be as apparent and would probably even out. He said there could also be a manpower issue associated with absorbing another municipality for permit services; he stated the municipality providing the services could prioritize their jurisdiction over the Town's in terms of when the inspections occur. He also stated that the turn around time may not be as good because of possible prioritizing; he stated that his research indicated that most municipalities that take on another municipalities permitting function end up dropping the municipality at a later date due to work load and staffing obligations; the exception, he noted, would be the Deerfield Beach/Lighthouse Point situation.

The third option discussed by Mr. Bell suggested is the hiring of a private permit company for permitting services. He stated the advantages would be that the firms could be hired on an as needed or contractual format. The disadvantages is that the cost is about the same for the companies and Broward County. He stated that quality of service and turn around time is not as guaranteed with a private company because they are working for multiple municipalities. He stated that since the current contract with the County is a full service contract the Town has been given above standard quality of service from the County and the County does have an excellent permit turn around time.

Mr. Bell indicated that the fourth option would be to establish a partial building service for the Town. He stated that the Town could hire a consultant to establish a fee schedule for Town building permits and spend approximately \$300,000.00 to start the partial building service, which would involve approximately 3 employees a computer software program for permit intake and tracking, and enter into a contract with the County for partial building service for building plan reviewers and inspectors, and the Town could possibly enter a contract with a private contractor for partial services. He stated the advantages would be that the Town would be able to establish its own fee schedule, control its own cost of building permit service fees. He stated the disadvantages would be that initial cost would be expensive. In addition, the County and some private contractors do like partial contracts. He stated that staffing levels may be difficult to estimate. He stated the contract could be cost inefficient since the Town would have to estimate into the contract the Town's needs and a percentage of time needed for each of the planners, examiners, and inspectors. The Town could pay more or less for what is necessary to meet the Town's need. He stated it may be hard to maintain a single service with inspections and turnaround time that the Town currently has.

Mr. Bell stated that the fifth option would be to work with the County to revise the current building permit fee schedules, especially for jobs valued under \$20,000.00. He stated that the

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counties indicate that they have hired a consultant to perform a rate study to address job values of building permits in the range of costs that affect the average home owner. The County has indicated that they are hopeful that a modification to their fee schedule can be put in place in the interm as early as May 2007. He referred to a letter from Cynthia Chambers, in charge of Broward County Building Division. He stated that the advantages to this option would be that the Town would maintain the same quality of service and turnaround time that it has with Broward County and there is a letter from the Town's building official on the advantages of retaining Broward County for building permit services. He stated the disadvantage would be that there would be an uncertainty as when the fee schedule would be adjusted as to the liking of both the Commission and residents.

Mr. Bell recommended that the Town continue to use Broward County for building permit services but work with the County on adjusting the fee schedule for building permits with the job value under \$20,000.00. He stated that if the building permit fee schedule is not adjusted in a timely manner then the Town can consider renegotiating its contract with the County to establish some sort of partial service contract with the County.

Vice Mayor Yanni asked Mr. Bell to clarify that the County received 1,337,328.43 in building permit fees, and the Town receives about 115,000.

Mr. Bell indicated that Vice Mayor Yanni was correct.

Vice Mayor Yanni asked Mr. Bell to clarify that it would cost the Town \$800,000.00 to start the Town's own building permit services.

Mr. Bell indicated that Vice Mayor Yanni was correct.

Vice Mayor Yanni indicated that they would lower the fees a bit on the permits, but though it would be more feasible for the Town to have its own building department and inspectors. He said that there fees were not the only problem. He stated citizens were complaining about inspectors. He stated he would like to look into the Town starting its own building department. He stated it was unacceptable that the County is making approximately 1,337, 000.00 and the Town is only receiving about \$100,000.00.

Commissioner Silverstone incited that he agreed with Vice Mayor Yanni 100%. He discussed the revenue with Mr. Bell to clarify the figures again. He suggested a hybrid system so that the Town could slowly wean itself off of Broward County, and have the Town's own building permit services to ease the cost over a few years.

Mr. Bell stated that that was an option, but he stated there was a lot of initial start-up.

Commissioner Silverstone asked Mr. Bell if his recommendation indicated that anything above \$20,000.00 Broward County would do, and anything below the Town could do.

Mr. Bell clarified and stated that right now, looking at the fee schedule there really isn't a problem for items over \$20,000.00 when the Town's fee schedule is compared to other municipalities. He stated that the majority of permits that come into Town are items under \$20,000.00, such as windows, shutters, doors, etc. He stated what has the most impact on residents are those items. And, he indicated, that Broward County realizes that their sliding scale permits is a lot higher at the lower end and tapers off at the higher end. And, he stated, that they know it's a problem. He stated that Broward County has not given him a definitive time frame of when they could adjust the fee schedule.

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Commissioner Silverstone asked Mr. Bell if he would be able to do an analysis over a three-year period to wean the Town out of Broward County's holding to the Town's own department Made motion to wean the Town off of the system.

Mr. Bell stated that it would take an exorbitant amount of time, and he would have to hire a consultant.

Acting Town Manager Colon stated that she asked for a study 7 years ago. She discussed how the Town, at one point, did have a partial building department. She stated that at one time she had to collect \$70,000.00 that was never properly collected when the Town had its own building department. She explained that if the revenue is 1.3 million that was during a two-year period. She stated that a study was done that showed during some years the Town did not even collect the 800,000 to run the building department. She stated that a study has not be done the right way and maybe the Town could get a quote for a real study and get real numbers about revenues have been raised in the past 10 years. She said there may not be construction forever and that is what dictated the 1.3 million dollars. Acting Town Manager Colon also stated that staff does not have the qualifications to conduct the proper research.

Com. Silverstone asked how much a study like that would cost.

Acting Town Manager Colon stated that she wanted to speak to the new engineers and get some kind of a ballpark figure. She wanted someone new to the picture to give a good perspective of what is going on and what has happened in the past.

Commissioner Clark stated that he agrees with Acting Town Manager Colon. He stated that the \$800,000.00 figure is an old number. He then stated that the 1.3+ million in revenue is a figure for this year, and he stated that the Town can't depend on that year after year after year.

Commissioner Clark motioned, seconded by Commissioner Silverstone, for Chen & Associates to provide an estimate on a study and report back to the Commission at the 5/22/07 meeting.

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to table the issue until June 26<sup>th</sup> with direction generated by Commissioner Clark's request.

The motion passed 5-0.

- D. Report on the allocation of parking lots to serve the various restaurants in the Town's core area. (per Commission directive at 3/27/07 meeting) (Jim Bell – Development Services) (requested to be tabled by staff)

Mr. Bell requested to table until the 5/8/07 meeting.

The request to table until 5/8/07 was so ordered.

- E. Sidewalk/ Pavers Standards (Walter Keller and John Olinzock – tabled from 3/27/07)

John Olinzock stated that he placed in the agenda packet a standard that he would like considered for adoption. Mr. Olinzock explained that the standard shows the proper compaction of sub-grade materials, filler joints, concrete restraints, and notes discussing proper swale dimensions. Mr. Olinzock indicated that this was a typical standard for a driveway; he stated that with the engineer's seal of approval, the Town would have its own standard.

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Mayor Parker asked if the standard would include the coral color.

Mr. Olinzock stated that Municipal Services will say exactly what they want it to say.

Discussion about the coral color followed.

Commissioner McIntee motioned, seconded by Mayor Parker, to accept the proposal with the direction that the coral color be the key color to be used and that no other color could be used without permission from the dais.

The motion passed 5-0.

- F. Discussion and/or action reference standard procedures and penalties regarding major infractions of approved site plan (Commissioner Silverstone – tabled from 4/10/07 meeting).

Com Silverstone motioned, seconded by to take any costs the Town has incurred for whatever penalties developers have done, or anything that has gone against a site plan, and double it and that would be the Town fine to developers.

Commissioner Silverstone stated he was referring to Oriana, and stated that somehow the Town charged them \$20,000.00 for legal fees but the fees are approaching \$40,000.00.

Mayor Parker expressed confusion over the topic and asked if it was costing the Town \$40,000.00.

Commissioner Silverstone stated that it was.

Commissioner McIntee stated that the Town was \$21,000.00 short of where Oriana said they would pay for the Town's legal fees.

Commissioner Silverstone stated that the legal fees were exactly \$41,144.53.

Mayor Parker stated that \$18,000.00 was for the Town Attorney.

Commissioner McIntee stated that the cost the Town incurred was because of Oriana's mistake. He also asserted that the Town should not have accepted the \$20,000.00 in legal fees until the Town had its legal figures.

Mayor Parker stated that the Town still received 1 million dollars out of Oriana in addition to the \$20,000.00.

Commissioner McIntee stated that the million dollars was for redevelopment not attorney fees. Mayor Parker asked if what Commissioner Silverstone wanted was an ordinance in addition to any other fines or conditions that there is a cost to the Town.

Vice Mayor Yanni stated that the Town should send Oriana a bill for 21,000 and if they do not pay it, they do not get their CO.

Attorney Cherof stated that the Town could not do that.

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Mayor Parker indicated that the Town would lose the million dollars if they did what Vice Mayor Yanni suggested.

Commissioner McIntee stated that Vice Mayor Yanni came up with a proposal that should be discussed. Discussion about the legal fees followed. He stated that the Town's legal fees are 41,000.00, which was double what was negotiated with Oriana.

Vice Mayor Yanni motioned, seconded by Commissioner McIntee to send Oriana an additional bill for 21,144.53 and if it is not paid, they do not get their CO.

Attorney Cherof announced that the Commission cannot condition the issuance of the CO on something that is not code based.

Vice Mayor Yanni asked if they could still send the bill.

Attorney Cherof stated that they could.

Vice Mayor Yanni rephrased and motioned, seconded by Commissioner McIntee, to send Oriana an additional bill for 21,144.53 with a copy of the bills sent to Oriana.

Mayor Parker asked Attorney Cherof what would happen if the bill is not paid by Oriana.

Attorney Cherof stated that they would have to decide what to do when that happens.

Acting Town Manager Colon stated that the administration pays things within 30 days, so she thinks they should do the same.

Attorney Cherof stated that if they don't pay it, they would have to have a legal basis for sending the bill.

Attorney Cherof stated that the Town should codify what Silverstone is talking about and apply that rule in the future, and stated that if so directed, he would draft something.

The motion passed 5-0.

Commissioner Silverstone motioned, seconded by Commissioner Clark, to direct the Town Attorney to codify standard procedures and penalties for major infractions.

Mayor Parker asked Attorney Cherof how soon he could draft something.

Attorney Cherof stated that he could have something by 2<sup>nd</sup> meeting in May.

The motion passed 5-0.

G. Discussion and/or action regarding how to proceed further on the issue of Town Manager Baldwin's resignation (Mayor Parker -- tabled from 4/10/07)

Mayor Parker stated that Mr. Baldwin knows that the Commission has accepted his resignation in 90 days, and Mr. Baldwin indicated that he did not intend to withdraw the resignation. Mayor Parker indicated that he doesn't think they should wait 90 days hoping Mr. Baldwin will change his mind. He further stated that the Town needed to take some steps to figure out what its going to do.

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Commissioner McIntee motioned to have Esther Colon be appointed Town Manager and request the car be returned immediately. He stated that Town workers have a right to know who their boss is.

Discussion followed regarding keeping Acting Town Manger Colon until they could workshop and work towards hiring a permanent Town Manger.

Commissioner Clark asked if Acting Town Manager Colon was agreeable to this.

Acting Town Manger Colon stated that she was tired of sitting second fiddle to everyone. She said that either she's the Town Manager or she's going back to Finance.

Mayor Parker asked if Acting Town Manager Colon was willing to take the job permanently.

Acting Town Manager Colon stated that she is willing to take the position with the same contract that Robert Baldwin had with the exception that she will not work on a day to day basis.

Mayor Parker moved, seconded by Commissioner Clark, to appoint Esther Colon as Town Manager with the same contract as Robert Baldwin with the one exception.

Vice Mayor Yanni asked if the Town would need a new Finance Director.

Acting Town Manager Colon stated that for 11 weeks she has been doing five jobs, and the only thing she is asking of the Commission is that they hire professional people in the Town. She said it may take longer, but she'd rather have a decent staff that can all work together towards.

Commissioner McIntee asked to withdraw his previous for acting, and wanted to amend it to permanent Town Manager.

Mayor Parker stated that he already made the motion.

Commissioner McIntee stated that his own motion was before Mayor Parker's.

Attorney Cherof stated that there is no such position as permanent Town Manager, only Town Manager.

Commissioner McIntee amended his motion to Town Manager.

Mayor Parker asked Attorney Cherof whose motion counted.

Attorney Cherof indicated that the chair decides what came first or second.

Discussion followed.

Everyone withdrew their motion.

Commissioner Silverstone motioned, seconded by Vice Mayor Yanni, to appoint Esther Colon as Town Manager starting immediately.

Commissioner McIntee directed the Town Attorney to send a letter to Mr. Baldwin asking him to return the car.

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Vice Mayor Yanni stated that Esther Colon should get the car.

The motion passed 5-0.

Discussion followed regarding Robert Baldwin's resignation.

Mayor Parker stated that the Commission needed to pass a motion accepting Robert Baldwin's resignation.

Commissioner Clark motioned, seconded by Vice Mayor to accept Robert Baldwin's resignation.

The motion passed 5-0.

The Commission recessed for 5 minutes at 9:45 p.m.

The Commission resumed at 9:55 p.m.

### **13. NEW BUSINESS**

- A. **PUBLIC HEARING – SITE PLAN AMENDMENT** Marina Village Townhomes, located at 227-237 Garden Court, north side of Garden Court and the Silver Shores Waterway

Attorney Cherof swore everyone in, and directed staff to make brief presentation of the item before the Commission and stated that the burden is on the applicant who established a basis for obtaining the site plan amendment that is being requested.

Jim Bell stated that a site plan amendment for the Marian Village Townhomes. Mr. Bell stated the project was initially approved in August 2003; he said that the Commission was aware of the issue of the cul-de-sac. Mr. Bell stated that staff periodically went out to the site as it progressed and had done inspections, and in that process they determined that three were changes done to the site that were a lot different than the previous site plan. He stated that most of the changes constituted minor site plan changes with the exception of one thing, which was a wood fence put around the site's perimeter. He indicated that the site was in an overlay district, and there was a provision that had a metal railing fence with columns, which was more aesthetically pleasing.

Mr. Bell noted that the applicant was told to come back for the fence, but staff wanted to address all the issues listed on the plan, most of which are minor. He indicated that the Planning and Zoning Board heard the item and approved the project 3-2; he stated their issue was with the landscape plan. He indicated that it was not provided for the Board's review. He stated that the landscape plan did not reflect the changes done to the site, so they gave staff direction to have the applicant revise the landscape plan to show the differences and the species and any changes that were done to the site. He stated that staff determined the changes to be minor.

Mr. Bell then stated that there was a series of things done to the project. He stated that what the applicant proposed for fence revision is that the removal or replacement of the fence be subject to an escrow account. He stated that eventually they would put in the decorative fence. He indicated that staff recommended that if fence removal or replacement is not done by the timeframe Town will use the money in the escrow account to remove or replace the fence and staff has provided the condition to provide the Planning and Zoning Board's recommendation.

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Mr. Bell went then addressed the modifications. Mr. Bell stated that the major modification was to replace the metal rail and concrete fence with a wood cedar box shadow fence east north sides of the property. The second modification was the addition of an interior wall extension on the west side of the east building. He stated there was a deletion of a front fence with concrete pillars in front of units D & E. He also indicated that there was a request to move the entrance of the courtyard of the B unit from the front wall to the side. He stated there was an addition of a concrete retaining wall and three step-down areas from units to docks on the Intercoastal. He stated that they installed new concrete dolphin pilings that have not yet received approval from State agencies and they did come in on 4/24/07 for a temporary permit. A short explanation of the dock permit followed.

Mr. Bell indicated that there was a deletion of 2 of 4 columns on the south side of unit A and the pool equipment area, and they added a decorative trellis; he then noted the deletion of one of two double doors and a column from the rear patio of unit B, and then he stated that the pool is now located at the front setback rather than the outside of the side setback because the cul-de-sac has not yet been abandoned. He moved on to the deletion of the aluminum fence with concrete fillers in front of the pool area; he said they moved the landscape area in front of unit A to a different location in front of unit A. He stated the outside deck of Unit F has been eliminated; and the outside deck of Unit E has been minimized; he said there were additional revisions that were not yet built on the site. One of those was to relocate the fence around the pool area. He stated they've already moved the fence. He said they added guest parking space. He stated they increased the grass green area in the northern portion of the center driveway aisle and they deleted two pelican motifs on the interior gate columns. And the last thing was that if the cul-de-sac is abandoned, then they want approval of one additional parking space.

Mr. Bell stated the concerns he had issue with, and then recommended approval of the change order based on the conditions provided in the backup, including the escrow agreement to convert to a metal fence with pillars and the other condition regarding the cul-de-sac abandonment.

Commissioner Silverstone asked the height in the plan change.

Mr. Bell indicated that he was not sure, but stated it meets the requirements.

Commissioner McIntee called Mr. Hiott and stated that Mr. Hiott did everything the Commission asked of him, and he also did things on his own; Commissioner McIntee then pointed to some of the changes. He then indicated that he stated it looks green and is a tremendous asset for the area. He stated that the problems he has with the cul-de-sac abandonment is not with Hiott's side, but it is with the other side. Commissioner McIntee said Mr. Hiott had his support in getting the CO because Mr. Hiott has been more than fair, and he stated that Mr. Hiott was given bad advice from Brad ?.

Mayor Parker asked the staff about the removal of the aluminum fence with concrete pillars around the pool, and asked if there the pool was now unfenced.

Mr. Bell said that the pool still had an aluminum fence but it did not have the fence with the pillars.

Mayor Parker asked about the funds in escrow. He stated that if they do not take down the shadowbox fence and put in the pillar metal fence he said there is supposed to be money in

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escrow that would enable the Town to do that. He then asked two questions. The first question asked was if there was enough money in escrow.

Mr. Bell stated that they have not established that, but the way the condition is written will determine an appropriate amount for that.

Mayor Parker stated that it should be sufficiently large enough that if the Town is waiting a year then it can cover raised construction costs. He then asked if the Town is legally authorized to put the fence in.

Attorney Cherof stated that that currently was not a condition. He stated that it should be because in addition to having to send the escrow fund to do the fence they also should have a temporary access easement to undertake that change.

Discussion on the type of easement required followed.

Attorney Cherof stated that the easement would be granted as a condition of approval that they would grant access to the property if it becomes an enforceable right under the site plan approval.

Mr. Hiott, 235 Garden Court, stated he's been a part of LAUDERDALE-BY-THE-SEA for 19 years. He said they are proud of what they've done, and he stated that they were approved in September 2003. He never suspected they would have the opposition of the Town, County, and the City of Fort Lauderdale. He said 2 ½ years later, he is still trying to complete the project. He stated that he wrote a letter on April 17<sup>th</sup> regarding the issue of the decorative pillar aluminum fence he has to put in, and he said that it was not logical. He stated that the City of Fort Lauderdale stated that since he was first in, he should supply the water for the person across the street; he stated that the water cost him \$22,000.00, and 7 months of dead in the water for his project. He said he was 80% complete. He said now the Commission wants him to escrow a fence, which is on the development order for the people around him. He said that the planning commission told him he had to put the fence in within a year, they did not hear what he was telling them. He stated that there is no one around him that is going to build in a year; he stated that no one would want to live on the property across from him. He said it is in the other property's development order to also put up a fence, and he said when that project is complete, is when he will put up the fence. He said he should not have to put up the fence within the year. He stated he is coming to the Commission to have the surrounding developers complete the project with their fence and then he would take the shadowbox fence down at that time. He said that the shadowbox fence is for privacy, safety, etc.

Mayor Parker asked Mr. Bell if the surrounding properties have approved site plan that require them to put up a concrete fence.

Mr. Bell confirmed stating that they have an approved site plan and he deferred to Walter Keller on the fence requirement.

Mr. Keller stated that when the property was approved, the site plan drawing depicted the fence that Marina Villa Townhomes was supposed to construct, and he stated that he did not believe that the site plan to the east had to build the fence; it was only recognizing that Mr. Hiott was building a fence and it was part of their site plan.

Commissioner McIntee asked Attorney Cherof if Mr. Hiott had been cooperative.

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Attorney Cherof stated that Mr. Hiott had done a very nice project.

Commissioner McIntee asked Mr. Bell if Mr. Hiott had been cooperative with him.

Mr. Bell stated that Mr. Hiott was.

Commissioner McIntee did not believe that a 19 year resident should be challenged on this issue. He stated the Commission should do whatever it has to do in order to get Mr. Hiott the CO.

Mayor Parker asked Attorney Cherof if the Commission had the authority to require the adjoining property owner to put in a fence.

Attorney Cherof stated that he was not sure and he deferred to Mr. Bell. He stated that he recalled the language to state that it was the requirement of the first person to develop.

Mr. Bell stated that if the site plan shows fence by others or fence already there then that is not something they are going to require them to do in the development order.

Discussion about the futility of adjacent fences.

Mr. Bell offered an option, stating that both projects that are adjacent to the site have to come back for time extensions. He stated that the Commission had the authority to do conditions of approval on them when they are up for a time extension, so they could put the fence stipulation on the project at that point.

Attorney Cherof stated that they could not do what Mr. Bell suggested based on the current code. He stated that the right to extension stands alone.

Discussion followed.

Vice Mayor Yanni asked what the specific issue was.

Mr. Hiott said the argument was that the Commission would not live next door to what is there, and his stated that he did the most logical thing, and that was to put up a fence that ensured safety and privacy, etc. He restated his previous points.

Mayor Parker stated that the Commission, at this point and time, did not have the option to tell the person last in to put in the fence.

Mr. Hiott asked how could the person first in be told to do all the improvements for the person across the street, which he noted was not legal at the time, nor is it legal now.

Vice Mayor Yanni wanted to know if a motion to approve went through, then how would it resolve the issue with the fence.

Mr. Bell stated that if there was a condition of approval that mentioned escrow, so right now it would stay a shadowbox fence but by April 2008 it would have to be removed, and if it wasn't the escrow funds would be used to remove/replace it.

Vice Mayor Yanni, seconded by Commissioner Clark, to approve with those conditions.

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Mr. Hiott stated that nothing was going to happen in a year.

Mayor Parker wanted to know if they could have the escrow for longer than the year.

Mr. Hiott said that he is being made to pay and pay and pay.

Mayor Parker stated that those were the terms of his site plan.

Mr. Hiott stated that his site plan did not include neighbors.

Mayor Parker stated that the site plan did include neighbors.

Mr. Hiott stated that it did not include doing improvements in the cul-de-sac that now is torn out.

Mayor Parker stated that he was required to put the fence in. He told Mr. Hiott that he was asking permission that is a benefit to himself to have a shadowbox fence in until such time he sees other property develop.

Mr. Hiott stated that he was not; he said he wanted to keep the shadowbox fence until the other properties are improved.

Mayor Parker stated that the Commission cannot make the other developers put in the fence, but they can make Mr. Hiott do it because it is a condition of his site plan. He stated that he did not have a problem allowing Mr. Hiott to keep the shadowbox fence until such time that the other properties are developed, but when that is done, the fence needs to go in.

Commissioner McIntee said that if Mr. Hiott gave his word, he would take it.

Commissioner Clark asked if there was a solution to this issue.

Attorney Cherof stated that the focus should be on what the code requires; he said that if the code is applied over time that becomes equitable because everyone is treated the same. He stated that if things are altered on a case by case basis from the code then over time that becomes inequitable because there's disparity of treatment depending on who the developer is. He urged the Commission to apply the code as written.

Commissioner McIntee stated that they did not do that with Oriana, and since Mr. Hiott has done everything they asked and what Mr. Hiott is asking for now is reasonable.

Commissioner Clark asked if there was a way to do this without the escrow.

Discussion followed.

Barbara Cole, 221 Washingtonia; 5000 North Ocean Blvd, stated she went to the Planning and Zoning meeting and said she had a lot of heartfelt sympathy for the Hiotts; she stated that she's received variance in the past, she stated that she thinks that the Commission does not go through with the cul-de-sac then the Commission should do the same for the Hiotts; in regard to the fence, she stated that code enforcement in Town is not reliable; and she stated that she understood trying to preserve something new. She said the reason she is up there tonight is because she had a problem with a neighbor and code enforcement; she said that the south should be separated from the other people. She agreed that the Commission should take the Hiotts' word.

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Diane Bouten, Windjammer Resort (Manager) 4244 El Mar Drive, 5100 Bayview Drive, stated that she was there when the site plans were approved; she stated that this was one of the first projects approved under the new codes; she said the Town has seen more site plan improvements and building permits in the last 2-3 years than the Town has seen in the last 35 years. She stated that the Town, at times, is not as realistic as it can be when construction occurs; she stated that what Hiott faces is tremendous, and she thinks that Mr. Hiott should be allowed to keep the shadowbox fence until everything is done and maintain what he has until projects around him are completed. She believes that Mr. Hiott will do the right thing because he has a major investment and it is in his site plan to be concluded when all the other developments are.

Stuart Dodd, 252 Imperial Lane, stated that Mr. Hiott had an uphill battle in the Town with the changing whims of the Committee and Commission. He stated for self preservation the Hiotts had to erect a fence to keep out the trash and deadwood. He stated that the Town has let them down; he stated that if there is a problem with the fence, there should be a way to spread the cost either equally between the future development and Mr. Hiott's development, or not grant the extension so the future developments have to come back with a revised plan. He stated that he believed Mr. Hiott has jumped through enough hoops, and we, as a Town, owe it to him to help him.

Mayor Parker turned to Attorney Cherof.

Attorney Cherof referred to the site plan revision. He stated the first item noted replacing metal railing and concrete pillar fence with a wood cedar shadowbox fence along the east side of the north property line. He noted that if he understood the requirements of the overlay district the only type of fence that is prohibited is a chain link fence, so the cedar shadow fence would satisfy the requirements of the code if they accept that as a modification of the site plan and therefore the need to build a different kind of fence or upgraded fence would not be required and there would be no escrow requirement.

Mayor Parker asked Mr. Bell why they are requiring the other kind of fence.

Mr. Bell deferred to Mr. Keller.

Mr. Keller stated that the other fence that was originally approved for the site plan is a better looking fence; architecturally it's a better looking fence, and the shadowbox fence is not the best looking fence; he stated that Staff felt the differences in the fence were significant and that is why it is there as a change in the site plan, but he stated that it could be approved either way.

Commissioner McIntee stated that Attorney Cherof read a cite in the Town's Ordinances that says the fence that he has is legal therefore there is no need for an escrow account.

Attorney Cherof stated that if they approve the site plan with the condition that the metal rail and concrete pillar fence be replaced with a wood cedar shadowbox fence then there is no need for the escrow because there is no subsequent need to replace the fence.

Discussion followed.

Vice Mayor Yanni amended his previous motion, and motioned, seconded by Commissioner McIntee, to approve the amended site plan eliminating condition # 8 on page 6.

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The motion passed 5-0.

- B. Discussion and/or action for removal of Michael Arker from the Master Steering Committee (Commissioner Silverstone).

Commissioner Silverstone motioned, seconded by Commissioner McIntee, to remove Michael Arker from Master Plan Steering Committee for reasons discussed earlier.

Commissioner Clark stated he watched the DVD of the meeting and stated that he did not see a need to remove Mr. Arker; he stated that he understood there was a lot of cursing and that sort of thing that went on, but that was hearsay; he stated it was not on the DVD. And, he stated that they could not go after people who say things in private conversation.

Commissioner McIntee stated that he was prepared to call in Mark Furth who would could come in and tell exactly what was said and it would not be hearsay.

Commissioner Clark stated that what he saw on the DVD did not warrant removal.

Commissioner Silverstone stated that calling someone named "Cole" "Colon" and laughing about it was inappropriate.

Vice Mayor Yanni stated that he also reviewed the DVD, he and indicated that he feels the same way as Commissioner Clark; he stated that he did not see anything in that video that was enough evidence for him to kick Mr. Arker off the Steering Committee. He agreed with Commissioner Clark statement about what happens outside a meeting is not the Commission's business. He stated that there was nothing in the video that provided enough reason to kick Mr. Arker off the Committee. He stated that he knew there were words after, and they pretty much jive, and he stated that the "f-word" was used by both of them.

Mayor Parker stated that he also reviewed the tape; he said on the tape he saw there was no cussing; he said that the people they've removed from previous boards was due to personal attacks on Town residents. He stated he saw no personal attacks; and he stated that he played the section of the tape 3 times, and he stated that what he saw was Mr. Arker having trouble remembering somebody's name. He stated that it did not look like a personal attack, but it seemed like he was defending himself from personal attacks made by certain individuals in certain newspapers. He stated there was no cussing or swearing, and there was nothing done to remove him from the Board. Mayor Parker stated that whatever interactions he may or may not have had with someone after the meeting is private. And he restated that what the Commission removed people for in the past were direct attacks from the dais during a meeting and he did not do that.

Vice Mayor Yanni stated that what he sees as the issue is that Mr. Arker called Barbara Cole, Barbara Colon, and that's what Barbara Cole was upset about, but he said if they think about it, at one time Mrs. Cole called the entire Commission colonoscopies and she called the Town Clerk a cancer, but yet she gets upset when somebody calls her "Colon." He stated that Mr. Arker apologized and she would not accept the apology.

Commissioner McIntee stated that Mark Furth did not use the "f-word," at all, and he said that Mr. Arker went off on him pretty aggressively. But he said that this occurred in Town Hall and Mr. Arker is a representative of that Committee and they sit on the Committee together. He stated that there was no question that it was a belligerent statement directed at Mrs. Cole because he laughed about it at the end of the tape.

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Mayor Parker stated he did not hear that.

Commissioner Silverstone stated that if Mr. Arker made an effort to apologize then he must have done something wrong. Commissioner Silverstone then stated that the incident occurred in Town Hall and he believed it to be uncalled for. He stated that this incident is equal to or greater than reasons people were removed from boards in the past and stated that everyone should be treated fairly.

Mayor Parker stated that he agrees that everyone should be treated the same, and the people who were removed in the past were removed for making personal attacks on residents of the Town from the dais.

Commissioner McIntee called Barbara Cole forward and noted that she had a right to speak because the issue concerned her directly.

Discussion followed.

Barbara Cole stated that the Commission let Mr. Wick speak, and he did not yell at anyone or threaten anyone, he merely asked questions, and he did not even mention a person's name and he was removed from a committee. She stated that Marilyn Carr asked a question about a friend of the Mayor's and she was thrown off, and through some weird act she was put back on. She stated that what happened that night, whether it was intended or unintended, wasn't so much the way it was said, but it was the fact that he threatened to have her removed by the police; she stated that he threatened afterwards when someone said that he couldn't think when she was talking. She stated that she turned to Mrs. McIntee and questioned "Colon" quietly. She said that he then said that he would go outside with her afterwards. She said that she took that as a threat because months ago when she was first on Planning and Zoning she was warned by several people that Mr. Arker was trying to have her removed. She said at a Master Plan Steering Committee meeting she had Mr. Arker and Mr. Terrien outside in the parking lot warning her about who she hung around with. She said the third time was at the special meeting when he threatened her with removal and about going outside. She said she did take that as a threat. She said the fourth time occurred when he approached her to offer an apology. She indicated that she then told Mr. Arker to go away. She said she saw no reason to talk to him because of the previous acts because she believed that whatever he had to say did not mean anything. She said that he then took it upon himself to yell out at the audience that she would not accept his apology. She stated that she then again asked him to go away, and he told her that she would be going away in a month. She said that she took that as a threat, she said that he then sat down and yelled out before the cameras started and asked what kind of a woman does not accept a gentleman's apology. So, she stated that the Commission could do what they want, but as far as she's concerned she's still a resident of the Town and there should have been the same criteria for this outburst as there was for the others, and if they are going to allow him to stay on then they should let Mr. Wick go back on.

The motion was defeated 3-2 with Vice Mayor Yanni, Commissioner Clark, and Mayor Parker dissenting.

- C. Clarification Reference: Public comments pertaining to current agenda items or future agenda items (Mayor Parker)

Mayor Parker asked Commissioner Clark about his rule that public comments should be limited to agenda items.

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Commissioner Clark read from previous minutes pertaining to public comments being limited to current agenda items.

Mayor Parker wanted to know if public comments could address future agenda items.

Commissioner Clark stated that he didn't think they could, but it didn't matter because any Commissioner could easily put on the agenda discussion for town topics and that gets around it, so it's a moot point. He said he did not care and that all he wanted to do was to limit the public comments because it was turning into a circus when it got up to 2 hours when they needed to do the business of the Town; he indicated that as long as public comments remain in the 30 minutes, he really didn't care what they addressed.

Mayor Parker stated that he found it virtually impossible to maintain the rule that public comments be limited to agenda items. He asked the Town Attorney if they could reconsider a portion of the rule they adopted.

Attorney Cherof stated that that would not be the right way to reach that issue. He stated that the rules of procedure are not permanent rules; he stated that overtime they will develop better ways to conduct the meeting collectively. He said when it was time to modify the rule, they could make a motion to modify.

Mayor Parker motioned, seconded by Commissioner Silverstone, to allow public comments to address any topic.

Commissioner McIntee stated that what was just seen here was off the wall. He stated that one minute residents are told they can't speak, and the next they are told they can.

Vice Mayor Yanni stated that if there is a problem that was not on the agenda, then they could place the item on the agenda. He stated that he thinks that is how they decided on it, but now they want to go back to the way it was. He said if there was a serious issue, a resident could contact one of the Commissioners or the Town Manager and have it placed on the agenda.

The motion passed 4-1 with Vice Mayor Yanni dissenting.

- D. Discussion and/or action regarding letter received from BSO Fire dated 4/11/2007 (Mayor Parker)

Mayor Parker stated that the Sheriff's office filed a letter of complaint against concerning the disruptive behavior of one of the Town's elected officials. Mayor Parker read the letter.

Mayor Parker stated that Commissioner McIntee verbally confronted a couple of volunteers. He stated that Commissioner McIntee wanted to know where the volunteers were from. He stated that when the volunteers indicated where they were from, Commissioner McIntee allegedly ordered them to leave the Town, and the Mayor Parker noted that Commissioner McIntee engaged in a conversation with a firefighter.

Mayor Parker then turned to a section of the Town Charter which states that a Town Commissioner cannot interfere with the administration of the Town. He stated that sheriff's deputies and firefighters are contract employees of the Town. He said that this was not the first time Commissioner McIntee has done this.

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Commissioner Silverstone asked Attorney Cherof if BSO Police and BSO Fire were considered administration.

Attorney Cherof stated that they were not. He explained that employees of the Sheriff's office are not considered contract employees of the Town.

Mayor Parker again referred to section 3.6 of the Town Charter.

Attorney Cherof stated that the provision applied to individuals or subordinates under the Town Manager.

Mayor Parker stated that either way the actions described were reprehensible, and he said that Commissioner McIntee should not have engaged in that conduct.

Commissioner Silverstone wanted to hear Commissioner McIntee's side.

Commissioner McIntee called Barbara Cole and Peanuts Wick forward to speak; he then showed a picture that was placed in a local paper, which was cropped. He stated that there were 2 eyewitnesses to everything that happened, Barbara Cole and Peanuts Wick.

Mayor Parker made clear that his complaint was with the way Commissioner McIntee treated the volunteers.

Barbara Cole stated that she was standing on the sidewalk with Commissioners Silverstone and McIntee who were both sad that the Volunteer Fire Department was not there this year. She stated that 2 teens walked by, and, in a casual manner, Commissioner McIntee asked where the kids were from. They both stated they were from Coral Springs; she said a few minutes later 3 more boys walked by on their way to Jarvis Hall and Commissioner McIntee asked where they were from and she stated they each said Davie. She said that that was the extent of the exchange and there was nothing else. She said the kids kept walking and did not miss a beat. She said that later on she noticed Commissioner McIntee talking to a BSO firefighter and they were arguing and Commissioner McIntee was stating that a firefighter could not yell at a Commissioner. She stated that a few minutes later the BSO officer was on the phone with his chief and told the chief that he was yelling at the Commissioner because the engines were running, and she stated that he was standing behind the Mayor's truck and the motor was not running. She said that the picture was after the fact when Commissioner McIntee was walking back, and she saw Mrs. Terrien take the picture. She said that in that picture was furious with the kids, not with Commissioner McIntee. She said the firefighter cursed the kids for not being strong, and Commissioner McIntee with his hand on him is telling the firefighter that everything was ok. A while later, Mrs. Cole stated that Commissioner McIntee was back with his family and behind her the firefighter was still cursing the kids because he had to go and apologize to Commissioner McIntee.

Peanuts Wick stated that there was no confrontation, and he said the only confrontation that occurred was when Commissioner McIntee stated that he never told any kids to leave. Mr. Wick stated that he also asked kids where they were from because he never saw them before. He said there was no offense by Commissioner McIntee to this gentleman or people going past. He said the story was blown up.

Commissioner McIntee called Chief Gooding forward and stated there was a question about Commissioner McIntee asking the Chief for a polygraph. He asked the Chief if he ever asked him for a polygraph.

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The Chief said that the item could have been worded better.

Commissioner McIntee stated that he went into Chief Gooding's office after the paper came out and he asked Chief Gooding to give him a polygraph on the issue.

Chief Gooding clarified that members of BSO cannot discuss the event because it is now a part of internal affairs.

Commissioner McIntee stated that he made the complaint and offered an immediate sworn statement. He said to date no one from internal affairs has contacted him. He stated that all the witnesses present have also agreed to give sworn statements, and he wanted the other side to do the same.

Commissioner McIntee stated that there may be a recording of what happened and he stated that the sworn statements should match what was on tape. He stated that it was a set up and an attack piece; he said the picture in the paper clearly shows two people cropped out. He said that he did stop each of those kids, and he said there was no nastiness; he did say he was abrupt and not nice; he stated that prior to this meeting Mayor Parker was offered all the Volunteer Fire Department Explorers who wanted to help, and he stated that Mayor Parker chose to pick other kids from 15 miles away. He said that he didn't blame the kids that showed up because they did not know any better.

Commissioner Clark stated that he saw Commissioner McIntee get in the face of Sam Malloy, and stated that Commissioner McIntee was not being very nice. He stated that Commissioner McIntee approached a couple of teens and asked if had said anything to them and one nodded yes. Commissioner Clark then stated that Commissioner McIntee yelled that he had it on tape. Commissioner Clark then asked for the tape.

Commissioner McIntee said that he did not believe that was ever said.

Commissioner Clark said that he did say that. Commissioner Clark stated that Commissioner McIntee asked if Commissioner Clark was proud of the teens, and Commissioner Clark said that he was.

Commissioner Clark said that he also told Commissioner McIntee to knock it off because it was a kid's event.

Commissioner McIntee agreed and stated that Commissioner Clark did tell him that, but wanted clarification that Commissioner Clark also told BSO to knock it off.

Commissioner Clark said that he told everyone to knock it off.

Commissioner Clark stated that he heard Commissioner McIntee in Mr. Malloy's face; he said he did not hear any of the other exchange. He said that he heard Commissioner McIntee ask one of the youngsters if he was intimidated and the teen shook his head yes, and then one of them left in tears. He said he would ask Chief Sievers what went on, but he can't reply because it is an internal affairs issue.

Commissioner McIntee stated that he thinks everyone should make sworn statements.

Commissioner Clark said that was fine, and noted that he really wanted to hear the tape.

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Commissioner Silverstone stated that he was with Commissioner McIntee when the first two kids went by and he stated that what Barbara Cole noted was exactly what happened. He stated that he didn't see anything after that, but he stated that the kids had a great day that day and what happened after that was ridiculous. He said that he did call up Mayor Parker to specifically ask if he wanted the Volunteer's to help out, and he said that Mayor Parker did not consider the Volunteers part of the Town anymore, so he didn't want them to help.

Mayor Parker stated that Commissioner Silverstone never once mentioned about the Explorers, and stated that he didn't know there was an Explorers program. He said it was a new program, and he said that the only thing Commissioner Silverstone asked was if the Volunteer Firefighters could help, and he said that he said no because they were no longer part of the Town.

Commissioner Silverstone said that the Volunteer Firefighters and Explorers were part of the same organization.

Mayor Parker said they were not the same.

Commissioner McIntee stated that they were in front of the Commission 3 months ago before the termination of the Volunteer Fire Department.

Discussion followed.

Mayor Parker asked Commissioner McIntee if a tape existed.

Commissioner McIntee stated that they would have to find out.

Commissioner McIntee motioned, seconded by Vice Mayor Yanni, to terminate and table everything to the next meeting because of the 11:00 rule.

The Commission took items F and G out of turn before calling the roll to adjourn.

- E. Discussion and/or action regarding allowing drive-thru businesses in the Town and whether Staff should begin code amendments to allow drive-thru businesses (Jim Bell – Development Services)
- F. Discussion and action regarding ten story hotel project Pompano on A1A – Pompano P&Z # 6-1200054 Commissioner Clark to propose resolution in opposition thereof. Items F and G taken out of turn.

Commissioner Clark stated that he objects, not to the hotel project, but to what the project will do as far as parking. He stated that they have 3 10-story buildings and a 600 room hotel and the parking is on the west side of A1A and they plan to do valet parking. He said it was a dangerous situation; he stated that when Pompano's Planning and Zoning had their meeting they were not allowed to consider traffic whatsoever; only the east/west traffic. In addition, he said that they plan to have 28 boat slips on Spanish River, and Terra Mar is across that river. He stated that that will accommodate about 50 boats, which will cause a lot of noise pollution. He stated that the people in Pompano, on the beach area, was opposed to it. He stated that at the meeting he went everyone there supports not having this project go through. He said there will be a 10-story building, but the problem is having it built with an east/west ingress is not a safe thing on A1A when there are only 2 lanes. He motioned to move resolution 2007-08,

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seconded by Commissioner Silverstone, to advise Pompano Commission that we, as neighbors, are opposed to it.

Attorney Cherof read the resolution by title.

The motion passed 4-1 with Commissioner McIntee dissenting.

Commissioner Clark stated that in the resolution he expressed common interest and that is why they were proposing that resolution.

Commissioner McIntee stated that he agreed with the theory, but disagreed with interfering with another municipality's government.

G. Review of special events permit application process (John Olinzock –  
Municipal Services)

Commissioner motioned to extend the permit for the Village Grille's Friday Night Jazz festivities until the next meeting where the Commission could formally address the issue.

Commissioner Silverstone stated that Mr. Gatsby submitted all of his permits and just wanted an extension.

Dave Gatsby, Village Grille 4400 El Mar Drive, spoke and stated that the paper work had been sent in a long time ago.

Mayor Parker asked why they would do it twice.

Commissioner Silverstone indicated that they had not seen it yet.

Mr. Olinzock stated that item 13 G is not about that item and secondly there was not a glitch. He stated that according to the ordinance, he is allowed 60 days to process these through the two agencies and 4 departments that review this and give him the recommendations that he needs to put the item together for the Commission for approval.

Mayor Parker suggested that Commissioner Silverstone make the motion to extend the permit for 90 days.

Commissioner Silverstone deferred to Town Manger Colon.

Town Manger Colon stated that there was no problem placing it on the agenda as long as the application goes through the process. She said it is not a new process, but it is a process that some individuals fail to abide by. She stated that she wanted to put it on May 8<sup>th</sup> once Mr. Olinzock gets all the authorizations, but they have to also address the issue that currently Village Grille is using the Town's electricity to run the event and there are certain things that need to be in place.

Commissioner Silverstone motioned, seconded by Commissioner McIntee, to extend the permit for the Village Grille's Friday Night Jazz festivities until the next meeting where the Commission could formally address the issue.

Mr. Gatsby stated that he did turn the paperwork in a long time ago and Alina had been dismissed since then so it landed in Mr. Olinzock's lap at a later date, so that was untimely.

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Vice Mayor Yanni stated that parking is really bad on Friday nights and he stated that they need the inside lane of El Mar.

Mayor Parker stated that they needed to address that at the next meeting.

The motion passed 5-0.

Commissioner Silverstone motioned, seconded by Commissioner McIntee, to table the remainder of the agenda until the 5/8/07 meeting.

The motion passed 5-0.

The meeting was adjourned at 11:25 p.m.

- H. Offsite Public Works Facility, Notice of Building Safety Inspection Program (John Olinzock – Municipal Services)
- I. Discussion and/or action regarding public comments on town related matters (Commissioner McIntee)
- J. Discussion and/or action on inappropriate influences of architecture students by Mayor Parker regarding the pavilion foot of Commercial (Commissioner McIntee)
- K. Discussion and/or action on internal affairs complaint to Broward Sheriff's Office and a request for a polygraph of Chief Gooding Broward Sheriff's Office (Commissioner McIntee)
- L. Discussion and/or action regarding the cost of the Fourth of July celebrations and bids for any cost over \$15,000 (Commissioner McIntee)
- M. Discussion and/or action on Commissioner's comments at meetings (Commissioner McIntee)
- N. Discussion and/or action regarding inviting all faith based denominations to Lauderdale-By-The-Sea to deliver the invocation (Commissioner Silverstone)

**14. TOWN MANAGER REPORT**

- A. Payment of legal bill (Coker)
- B. Legislation Update

**15. TOWN ATTORNEY REPORT**

- A. Discussion and/or action regarding resolution for Elected Official Pay Raise (Town Attorney- tabled from 3/13/07)

**16. COMMISSIONER COMMENTS**

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

## **18. FUTURE AGENDA ITEMS**

### **May 8, 2007**

- A. Sidewalk/Pavers Standards (Walter Keller and John Olinzock – tabled from 3/27/07)
- B. Discussion and/or action scheduling of future Commission workshops pertaining to the proposed Unified Land Development Code (Jim Bell, Development Services – tabled from 4/10/07 meeting staff to provide time frame for redlining report).
- C. Discussion and/or action regarding the Elected Official Pay Raise Resolution discussed on 4/24/07.
- D. Discussion and/or action reference the Armada Project resolution discussed on 4/24/07

### **May 22, 2007**

- A. Discussion and/or action reference nomination to fill vacancy (1) Board of Adjustment (Jim Bell, Development Services – tabled from 4/10/07 meeting).
- B. Discussion and/or action reference the abandonment of Garden Court. Consideration to retract cul-de-sac vacation of Garden Court and rescind site plan approval for Garden Court Townhouses (Jim Bell, Development Services – per 4/10/07 meeting – move to direct staff to negotiate impasse and bring back to the 5/22/07 meeting and prepare an amended development order and report back to commission).

### **June 12, 2007**

- A. Discussion and/or action regarding the selection of a professional architect for the Commercial Blvd. Beach Pavilion (Walter Keller - tabled from 3/13/07)
- B. Presentation of a professional planner consultant (Pending RFQ's - tabled from 3/13/07)
- C. Discussion and/or action regarding Site Plan review and approval to remodel the building to allow both retail and restaurant uses.

### **July 17, 2007**

- A. Discussion and/or action regarding the possibility of establishing a Town Ethics Committee (Commissioner McIntee - tabled from 3/13/07)

### **June 23, 2009**

Discussion and/or action regarding Ordinance No. 2007-03.

**18. ADJOURNMENT**

*LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 776-0576 FOR ASSISTANCE.*

*IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.*

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Mayor Oliver Parker

**ATTEST:**

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Tina Angelone, Town Clerk

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Date