

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

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, May 22, 2007
7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

The meeting was called to order at 7:03 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan performed the invocation.

4. PRESENTATIONS

A. Lauderdale-By-The-Sea Employee of the Month

Town Manager Colon indicated that this was the first time Lauderdale by the Sea had an employee of the month. Donald Prince, Public Works employee, was honored as May 2007 Employee of the Month. Town Manager Colon discussed Mr. Prince's time with the Town and his dedication to his job, pleasantness to residents, and amiable personality. She then presented him with the certificate and a gift certificate.

B. Burton and Associates (Fire Assessment)

The Fire Assessment Presentation was taken out of turn because Burton and Associates had a flight delay. There were no objections.

Mike Burton presented a Fire Assessment study. He said the study and document is the basis for discussion. He said before they go forward he wanted to present all the considerations so that the final fire assessments not only comply with judicial standards through case law, but objectives in terms of what the Town wants to accomplish. He stated that he was putting forth an alternative to the current assessment by another consultant. He said that other places have gone the alternate route. He presented the scope that contained cost identification, cost apportionment, and specific assessment they are recommending.

Mr. Burton stated that the scope of the work is to recommend a cost apportionment methodology for the recovery of the Town's fire protection service costs, calculate fire service assessments, and provide an assessment role for specific properties within the Town. He stated that to determine the cost to be recovered in fire service assessment they had to determine how the Town currently provides fire services. He said that he understood our fire service was provided through a contract with Broward Sheriff's Office (BSO). He said that the detail of the cost from BSO has not been

provided as of yet. He said discussed the difference between fire and EMS cost assessment. He noted that the fire costs do not include EMS in them.

He said the cost must be apportioned to properties based upon benefit received. He then explained rate systems people are used to and discussed benefit assessment and clarified differences in property classes based on residential and non residential. He stated that in terms of residential they have not varied from the current methodology which is to charge based on dwelling unit. He then explained how other places break down dwelling units. He stated that there are a lot of condos in the city and the square footage has not been made available to him as of yet.

He then discussed benefit cost pools. He stated that this was the biggest departure to the current methodology. He stated that he that there is a wide standing benefit and a calls for service benefit. He then explained the differences between the two in terms of a marginal cost basis. He stated that he believed that the calls for service were a byproduct of the process even though that is what ultimately gives protection when there is a fire. He said this could coincide with the Town's current methodology if the Town allocated all of the cost into the calls for service benefit pool. He then stated that this was a departure from the current methodology.

He indicated that he spoke with Mr. Cirullo about the existing methodology regarding case law. He said that the methodology he is presenting has not been challenged at this point and avoids pitfalls of some calls for service that aren't associated with real property when allocating the benefit to real property.

He moved on to the specific assessment calculations. He stated that they were proposing an equivalent residentially, or dwelling unit, concept and not differentiating by size or type of the dwelling units. He said that they are recommending square footage of developed space for the non residential properties.

He discussed a schematic of how they believe the cost allocated if the Town had the fire service cost; they would allocate between watch standing benefit and calls for service benefit. He then discussed the benefits, and pointed to tables and gave various examples to clarify the area under discussion.

Town Manager Colon asked if he had done any other completed or rate studies that have a combined calls for service and watch benefit and, if so, she wanted to know who contributed more residential or non residential.

Mr. Burton stated that he did not know at this point. He said that he wanted to come back in a couple of weeks with what the Town Manager is asking and what others may want to know in term of differences of using this method versus the current methodology.

Commissioner Silverstone stated that he had a nice talk with Mr. Burton earlier, and he said that Mr. Burton did not have all the information from Broward County Property Appraisers Office yet. He then asked if they could have a model of what Burton and Associates is recommending, the way it was done before, and another way in terms of using the improved value of each property per tax roll.

Mr. Burton stated that he would have to make sure that the last item referred to was available. He stated that by charging more for larger properties then it's waited by value. He said that there might be an argument that on the residential side, if it is not varied by larger dwellings, then they won't have the weighting there. He discussed information he needed to retrieve from the property appraiser, and stated that if the distribution is tight, then they may say that it is not worth varying, but if it is broader then they may want to vary.

Commissioner Silverstone stated that his focus is to assess equally.

Mr. Burton stated that he didn't disagree, and he said that whenever value is brought into the equation people may challenge and say that it is a tax. He said that it should be the building value and not a property value.

Commissioner Silverstone explained how Broward County does its taxes, and wanted to make sure that it would be included in one of the models. He then asked if he felt comfortable with the numbers received from Broward County.

Mr. Burton stated that he assumes that they look at their array of assets and personnel and equipment that are necessary to provide those services. He said that he does not have a basis to think anything other than what they have provided.

Commissioner Clark asked if they use the calls for service, he wanted to know if they would recalculate that on a yearly basis since it would differentiate from one year to another.

Mr. Burton said that if calls for service were the soul criteria then he agreed.

Commissioner McIntee stated that Mr. Burton lost a lot of the people with numbers and figures. He wanted to put things in simple terms. He speculated and stated that if he owned a \$200,000.00 house and someone has a \$1 million dollar home then he should be paying a sum for his fire assessment proportionate. He said if he is paying 100 and he is 1/5 the value of a \$1 million dollar house, then the \$1 million dollar house should pay 500 because they are getting more service. He said that the law is clear that it is about property, not people, protection. He said that a million dollar piece of property that is being protected is getting five times more protection than the \$200,000.00 home. He wanted to know if his theory was reasonable.

Mr. Burton stated that he didn't know if it was linear. He said that what Commissioner Silverstone asked him to do would address that. He stated that if it was the same cost of protection per square foot, then varying by square foot would do that.

Commissioner McIntee then presented his ideas on the issue. He said essentially it should be based on value assessed.

Mr. Burton stated that he was not sure about looking at a property appraisers system; he said he didn't know the criteria for setting the value of a building; he said they usually have a construction type. He then explained various building types.

Commissioner McIntee stated that he wanted to protect the little guy.

Mr. Burton stated he would do that, and he said that he's having a problem getting information on condos, and he said then they could do a tiered structure and weight that by value.

Commissioner McIntee asked if Mr. Cirullo influenced the report in any way.

Mr. Burton said no.

Mayor Parker asked if they count hotels and motels as residential.

Mr. Burton stated that they are counted as commercial property.

Mayor Parker stated that he recalled them being listed as residential. He then asked Town Manager Colon if they were included.

Town Manager Colon stated that if the study said that they are classified as commercial then that is how they are classified. She stated that the study had not been changed.

Mayor Parker asked if it was true if in a multifamily structure the fire is more likely to spread to other units than in a single family home.

Mr. Burton stated that that was a reasonable assumption.

Mayor Parker stated that it was not clear to him to say that just because a single family unit is smaller than a home, that it should be charged a different rate because it creates a greater risk of spreading. He said that if they assess by value then they would be mirroring the ad valorem assessments, and he said that it was not allowable to use ad valorem. He then said that fire protection is not insurance. He said that fire protection services cost the same amount of money to provide fire protection to extinguish the fire for a \$200,000.00 house as it does for a 300,000.00 or \$400,000.00 house.

Mr. Burton stated that the last point may be true, but the benefit assessment is based on benefit, not cost. He said that it is a benefit issue, not a risk issue. He stated that all the points Mayor Parker made were good, but he said that they have to be careful as to how they fit in the construct of what a fire assessment has to be.

Mayor Parker stated that the most likely places for fires to start are in kitchens.

Mr. Burton stated that he did not know.

Mayor Parker stated that all residential should be treated alike and that motels and hotels should be treated as residential units.

Vice Mayor Yanni stated that there are two (2) sections in town residential and commercial. He said that the town pays 3 million dollars for fire service, and said they need to figure out what they assessed each property to pay the 3 million dollars. He asked Mr. Burton if he thought it was fair to charge by square foot or by value. He wanted to know the fairest way to do it.

Burton stated that has been predominately done by square footage. He said that going by square footage is adequate as an indicator. He said that by weighting by value runs the risk of people getting it confused with an ad valorem type of approach. He said that it could be a bit problematic. He said that he thinks it's safer to go by sq footage.

Vice Mayor Yanni wanted to know how they would assess square footage.

Mr. Burton stated that for non residential they would determine what a rate would be per 1000 square feet. He said that based on that, they would take the ranges and determine the midpoint and assign that cost to any parcel that would have a square footage in that range. He then gave an example. He said on the residential side, it would be the rate per dwelling unit. He said that the study does the cost per service and allocates into the residential and non residential cost pool and then takes the residential cost pool and divides it by the dwelling units and it comes up with a rate per dwelling unit. He said he would propose dividing that by the number of square feet of developed space on the residential if they can get it.

Vice Mayor Yanni stated that right now residential pay \$260 for fire service and he wanted to know if that would be in the ball park figure.

Mr. Burton stated that he did not know.

Town Attorney Cherof wanted to remind the Commission and Mr. Burton about the deadline for adopting the preliminary assessment resolution; he stated that they would need this before July 24th, 2007.

Commissioner McIntee stated that ad valorem takes in the land, and he wasn't suggesting that.

Mr. Burton agreed with Commissioner McIntee and stated that the building value contributes to the overall parcel value and he said there are some legs for an argument.

Mayor Parker said that he would like a breakdown of what the residential cost per unit would be if they include hotels/motels as residential and hotels/motels as non residential. He pointed out that all the hotels and motels are not in residential zoning districts. He said that he realizes that he would have to treat the hotels as both residential and non residential. He illustrated stating that the individual units would be residential and a lobby or restaurant would be non-residential.

Mr. Burton said that he would like to do some research on that issue and come back with a response in terms of whether it would be appropriate to do that as residential. He stated that the square footage of the whole space is available; and he suggested taking the amount of the whole space and dividing it by the number of rooms to get a number of the assessable space by the number of rooms.

Mayor Parker stated that he would think that an assessment that treats a residential area that has a residential zoning as if it were commercial might be subject to challenge.

Mr. Burton said he would look into it.

Mayor Parker stated that if commercial properties are going to be done by size, and he asked if they would do residential properties by size also, and he asked if he could explain the categories.

Mr. Burton stated that he would prefer to see the distribution of the parcels, to tell where the logical breakdowns were. He gave an example of where he did this before.

Mayor Parker asked how hard it was for the property appraiser to send out a bill when it is broken up this way.

Mr. Burton said it was not hard at all; he noted that he said they do not have to do the calculation within their system; he said they do the calculation and just go to the assessment amount.

Commissioner Silverstone stated that, in addition to the models Mayor Parker requested, he wanted him to come back with a square footage model and a model based upon the property value.

Mr. Burton said if they could get the data for the condo units, they would come back with a tiered residential alternative view, and another alternative that weights the value of the building.

Mayor Parker asked if when Burton and Associates does the value of the building, if they go that route, they would be the non saving the home value, and instead they would do the total value.

Mr. Burton agreed and stated that there would be no exemption applied at all.

Commissioner Silverstone asked about bringing back a model of how it is currently and the new way they are suggesting.

Town Manager Colon asked about the size categories small, medium, and large and wanted to know if that would equate to residential, multifamily, and commercial.

Mr. Burton stated that within the commercial class he would take all the residential types and look at their size distribution and that's where they would fall.

Town Manager Colon asked if they had any studies about residential, multifamily, and commercial as three separate classes instead of the two, residential and non residential.

Mr. Burton stated that he did a study for another county where they had mobile homes as a separate unit. He said they did not distinguish between single and multifamily. He said the other way to do it would be to distinguish by single family, multifamily, or condominium. He said they could get to a level of detail to decide where it matters.

He then discussed reasons why they may distinguish differently between the type of home.

Town Manager Colon wanted to know if residential or non residential bore the greater cost.

Mr. Burton stated that he did not know.

Commissioner Clark asked when they could have the various models ready by.

Mr. Burton stated that he would try to get back within the next couple of weeks.

Commissioner Clark asked about the 1st meeting in June.

Mr. Burton stated that he could make the June 12th meeting.

Commissioner McIntee motioned to table the issue to June 12th.

Mayor Parker stated that it was not a proper motion and deferred to the Town Attorney.

Town Attorney Cherof stated that it was not a proper motion. He said that the report is complete and so there is no action to take.

Commissioner McIntee asked if he would come back with a report on June 12th.

Mr. Burton said he would come back with as much information as possible, but it would not be a report, but instead it would be a preliminary assessment.

Mayor Parker asked if he could come back June 26th.

Mr. Burton stated that he could not. He stated that the Commission needs to give him direction on June 12th.

Mayor Parker asked if he could come back on July 10th.

Mr. Burton stated that he would have preliminary results on the 10th, and he said that there may be some refinements to be made by the 24th, but he stated he would have a preliminary report on the 10th.

Vice Mayor Yanni asked Mr. Burton to bring back the cheapest route.

Mayor Parker asked that Mr. Burton bring back a detailed report in writing on June 12th.

Mr. Burton stated that he would bring a model, and he said that he would show the changes in the model. He said that he would draft a summary of what they would be going over. He then asked BSO if he would be able to work with them to look at the allocation.

Deputy Chief Raiken discussed some percentages and said that he would have time to work with him.

5. REPORTS

A. Municipal Services – Monthly Report (April 2007)

John Olinzock presented his monthly report. Commissioner Silverstone motioned, seconded by Commissioner Clark, to accept the report. The motion passed 5-0.

B. Finance Department – Monthly Report (April 2007)

Commissioner Silverstone asked about the revenue coming in from the ad valorem taxes. He wanted to know if it was normal to not include all those amounts.

Town Manager Colon stated that most come in January or February, and she stated that this was normal.

Vice Mayor Yanni motioned, seconded by Commissioner Clark, to accept the report. The motion passed 5-0.

C. Development Services – Monthly Activity Report (April 2007)

Commissioner McIntee asked Development Services Director Jim Bell if part of his reporting operations was to report contact with attorneys regarding projects in Town.

Development Services Director Bell stated that it depends on whether or not it is a detailed conversation that involves something new that is not ongoing.

Commissioner McIntee asked if Mr. Bell had any contacts with attorneys regarding Mack's Groves.

Mr. Bell indicated that he did have a conversation with an attorney.

Commissioner McIntee asked for a report through the Town Manager regarding what was discussed.

Commissioner Clark motioned, seconded by Commissioner Silverstone, to accept the report. The motion passed 5-0.

D. BSO Police Department – Monthly Report (April 2007)

Commissioner Silverstone motioned, seconded by Commissioner Clark, to accept the report. The motion passed 5-0.

E. BSO Fire Department

1. Monthly Report (April 2007)

Commissioner Silverstone asked some questions. He stated that the fire calls were broken down, but the EMS calls were not. He asked if Engine 36 responded to all EMS calls.

Chief Sievers said that it could be a single unit response.

Commissioner Silverstone wanted to know if the time Engine 36 responds could be included as well.

Chief Sievers stated that there were fifty seven (57) EMS related calls. He said it would not be an easy process to pick out the calls Engine 36 responded to.

Commissioner Silverstone then asked about the report regarding an April 14th call. He said that twelve (12) members showed up for the call. He referred to page one of the report dealing with apparatuses on report. He stated that four (4) units and twelve (12) personnel arrived. He then asked wanted to know what Apparatus HM 23 was.

Chief Sievers stated that it was Hazardous Materials.

Commissioner Silverstone wanted to clarification on HM-23 taking 17.45 minutes to respond.

Chief Sievers stated that it depended on location. He stated that their station is off of 441 and Davie Blvd, which was more than five (5) miles away. He indicated that the Hazardous Materials Team is a county wide response team who respond as precautionary.

He also asked about Battalion Chief 32, and stated that her response time was 16.39 minutes.

Chief Sievers indicated that she was not the primary Battalion Chief, but instead, she was the person who came in with the Hazardous Materials team.

Commissioner Silverstone asked for clarification on Apparatus E-23.

Chief Sievers indicated that E-23 was also part of the Hazardous Materials team.

Commissioner Silverstone asked if the personnel showing up were paid or reserves.

Chief Sievers stated that they were paid.

Commissioner Silverstone asked if they were stationed in Town in ladder 32 and asked about Engine 12. And he wanted to know how many people were in the rescue.

Chief Sievers stated that it was generally three (3) but the Town pays for two (2).

Commissioner Silverstone wanted to how things work if the Town is paying for three (3) member of Engine 36 and two (2) members of Rescue 12 plus a part time battalion chief and fourteen (14) people show up to a scene. He wanted to know who is paying for it.

Chief Sievers stated that most were from the Hazardous Materials team that is not located in Town and he stated that Tower Ladder 32 is a regional asset that happens to be stationed in Town.

Commissioner Silverstone indicated that he had a safety concern. And wondered what would happen if there was a call in Town, but Ladder 32 is out of Town on another call.

Chief Sievers indicated that there would always be someone covering; whether it was Pompano or Fort Lauderdale.

Commissioner Silverstone asked if Chief Sievers was familiar with ISO ratings, and he wanted to know if trucks are coming in from out of Town, how would that count for mutual aid or automatic response. He asked if the Town was adequately covered.

Chief Sievers indicated that they are working on automatic response.

Commissioner McIntee asked if Chief Sievers if he told the Town that anytime Truck 32 was out of Town there would automatically be another ariel to take the position.

Chief Sievers stated that what he had stated was that they are always adequately covering the area of Lauderdale-by-the-Sea.

Commissioner McIntee disagreed with Chief Sievers and then asked the question again. He wanted to know if Chief Sievers told the residents of the Town that when Engine 32 left the Town a truck was on the way to take its place and take its position in Town.

Chief Sievers stated that in most cases it is true.

Commissioner McIntee stated that on May 15, 2007, Engine 32 went to an accident injury roll over at mile marker 46, which is 46 miles off of Alligator Alley. He then read a memo from Chief Sievers that detailed response time and information from the scene. He then asked if Chief Sievers was told that the report was untrue, would Chief Sievers believe it.

Commissioner Sievers stated that he would not believe it.

Commissioner McIntee then asked Chief Sievers if he would believe that Tower Ladder 32 only got as far as the Cloverleaf, which is before the tollbooths at Alligator Alley. And he then stated that Tower Ladder 32 never arrived at the scene even though the report states that it did.

Chief Sievers stated that Engine 32 was at the scene, and he stated that the area Commissioner McIntee discussed was the scene.

Commissioner McIntee disagreed and said that it was not the scene, and he indicated that the Cloverleaf was thirty (30) miles away.

Mayor Parker said that when someone is asked a question they need to be allowed to answer.

Chief Sievers answered and stated that the Cloverleaf was the emergency scene and their job was to land the helicopter.

Commissioner McIntee stated that three separate ambulances, and he said that they drove from mile marker 44 to the Cloverleaf and met Ladder 32 who had secured the scene. He stated that he listened to the tapes and also heard that it took Engine 32 4.5 minutes to leave and get to the emergency call.

Chief Sievers wanted to clarify some issues, and he stated that the trucks were not dispatched at the same time. He said that it was not one of the Lauderdale by the Sea runs, so it was not included in the report.

Commissioner McIntee said that he listened to the transmission and he discussed what he heard. He then asked if it was protocol that a rollover TRT responds automatically.

Chief Sievers stated that was true, and he went further to say that it was a regional response. He said they are housed here as they were in Dania beach.

Commissioner McIntee asked Chief Sievers if he stood in front of the Commission and said that whenever a truck leaves another truck comes and takes the position of that truck in the bay area.

Chief Sievers stated that he did not say that. He stated that he said that they would cover the area and he referred to a memo that explained that Pompano Beach was on standby.

Commissioner McIntee said he (Chief Sievers) was going back on his word.

Chief Sievers said that he is always making sure that the Town is covered.

Commissioner McIntee said that they pay \$100,000.00 a year for a fire expert, another \$50,000.00 for the last person who was in Town, and he said they all said that the trucks had to be stationed here and running out of here or the Town was not protected. He said there was none of this mutual aid.

Chief Sievers clarified the difference between mutual aid and automatic aid.

Mayor Parker asked Chief Sievers if he provided Commissioner McIntee and Commissioner Silverstone with radios to monitor dispatch.

Chief Sievers stated that he did not.

Commissioner McIntee stated that he has three (3) or four (4) radios called trunk scanners from Radio Shack. He said that it was completely legal.

Mayor Parker stated that he wanted a report from the Town Attorney to know if it was legal to monitor police and fire calls.

Commissioner Clark motioned, seconded by Vice Mayor Yanni, to accept the report. The motion passed 4-1 with Commissioner McIntee dissenting.

2. Oriana Development – Fire Code Compliance

Deputy Chief Fire Marshall Charles Raiken represented the town as fire code official. He presented information on land development regarding Oriana. He stated that initially they had the developers make modifications to the site plan. He said there were concerns with accessibility for fire fighting. He stated that they required the developers to provide complete automatic fire sprinkler system.

Mayor Parker stated that the specific objection was with width of the lanes built at Oriana for a fire truck to go in and make a U-Turn or to make a left hand turn out, and instead it has to back in. Commissioner McIntee stated that the road has to be treated as a dead end because of the egress or regress in them, and NFPA 182253 stated that anything over 150 feet long that's a dead end must have a turn around so it can't be trapped.

Deputy Fire Chief Raiken stated that the roadway meets requirements of the land development code and NFPA 1 code. He said the street width is the minimum width required and the dead end does not come into effect until it is over 150 feet, but at Oriana it is 85 feet. And therefore, he stated, there is

no requirement for a turnaround. He stated that the fire official under the code has the authority not to require the access road at all based on the fact that the sprinkler system was installed in the building. He said that the access road was still there for a fire rescue truck.

Commissioner McIntee stated he was in disbelief and called Walter Keller forward and he then asked Mr. Keller if when he (Keller) went over the plans if they considered whether or not the fire engines could make the turn.

Mr. Keller stated he could not say that specifically. He said that several months went by and several versions of the site plans were done; he noted that three (3) were done by the original architect and one (1) was done by the final architect. He stated that in one of the plans there was a fire access lane that had a 38 foot inside radius and a 12 foot wide fire lane and a 50 foot outside radius. he stated that he was under the impression that during that process they were advised that the fire marshal had looked at it, and those provisions were deemed what was required. He noted that because there was entrance at the south driveway and an exit out the north alleyway, then the internal roadway was not considered a dead-end because the amount of dead-end was only 85 feet south of the south driveway. And he indicated that that was the way the commission approved the project. He said the center driveway was improved so it could also be an exit out rather than just the north alleyway. He said a few of the radii were also changed so that the south, middle, and north access ways became fire access driveways. He stated that he did not recall asking what type of vehicles could or could not use the fire access lane.

Commissioner McIntee asked if it was fair to say that Mr. Keller was advised that it was set up for firefighting equipment to come in the south east/west driveway and proceed to the center roadway and make a left on the north/south center road.

Mr. Keller agreed.

Commissioner McIntee stated that in order for that to be effective than the equipment coming in the east/west driveway would have to make a left turn onto the north/south driveways. He then asked Deputy Chief Raiken if the fire engines could go into the east/west driveway and make a left turn.

Deputy Chief Raiken stated that the vehicles could move within the property access, and he stated that if the reference is to an aerial apparatus then he noted that, as an operational chief, he would not put an ariel apparatus in between those buildings.

Commissioner McIntee asked if it could make an east/west turn

Deputy Chief Raiken stated that a fire truck can do whatever it needs to do to access. He stated that the apparatus can access the property and provide the fire protection it needs for that property.

Commissioner McIntee stated that what Deputy Chief Raiken's representatives stated that the fire fighting system was set up where equipment would come in the east/west driveway, proceed to the center of the structure where there is a north/south lane, make a left turn, and flow through the structure. He then asked again if the apparatus could come in the east/west lane and make a left turn onto the north/south.

Deputy Chief Raiken stated that it could go through in the way it was attended.

Commissioner McIntee again asked if the truck can make the left turn.

Deputy Chief Raiken stated that he had answered the question the way he wanted to answer it. He said that he took objection to the fact that it was stated that the road was an unsafe access road. He said that there was nothing unsafe about the access road.

Commissioner McIntee wanted to know if it made sense that the first alarm response should all have equal access.

Deputy Chief Raiken stated that he disagreed.

Commissioner McIntee commented on the death rates of people from smoke inhalation.

Deputy Chief Raiken stated that he would not debate fire fighting with Commissioner McIntee. He said that from a fire code standpoint they have enhanced the requirements in fire protection of that property and they have made the developers do things that people do not typically have to do to make it safe.

Commissioner McIntee asked how tall the tallest ladder was on the engine.

Deputy Chief Raiken stated that it could be 24 or 35 depending.

Commissioner McIntee stated that there were no 35's on any Broward County truck.

Deputy Chief Raiken stated that they do not have to operate in the way Commissioner McIntee may be used to in a sprinklered property. He then read part of the code that dealt with access roads. He said that they can get the apparatus there, and they would not put the ladder truck there, but because they wanted to have the extra protection, they required a significant expense to protect the buildings with fire sprinklers.

Commissioner McIntee stated that the big picture consisted of the Oriana developer to do whatever Mr. Keller asked. He stated that if they wanted a bigger turn, they would have received that. He stated that the fire marshal of Broward County did not ask what he should have asked for.

Deputy Chief Raiken stated it was his job as fire code official of the Town to reasonably apply the fire codes in the Town. He stated that if the Commission wanted to hold everyone to the most stringent requirements then there would not be half the developments that there are in the Town.

A short discussion regarding safety followed.

Commissioner McIntee asked Town Attorney Cherof to research whether or not the Town would be placed in jeopardy if the Town accepts the fact that an ariel truck cannot get into four story buildings above the ground reach ladder on a fire engine when they had the opportunity to allow it.

Deputy Chief Raiken stated that the purpose of the development is for the people to get out without the use of ground ladders from fire trucks. He said the decision was made to reasonably apply the land development code to the fire access on that property, and he stated that he felt they had done that.

Commissioner McIntee clarified his request to Town Attorney Cherof to research the law to see if the Town is in legal jeopardy for knowing that an ariel truck cannot get in when there was an opportunity to allow it.

Town Attorney Cherof stated that he would not do that unless the entire commission agreed

Vice Mayor Yanni stated that it sounds like there are unhappy volunteer fire fighters, and he stated that it was obvious that they would do anything they could to make the Broward County Sheriff's Department look bad so that they could have a chance to come back. He brought up the 15 feet bldg near the beach that the big fire trucks can't even get close to, and he said no one says anything about that. He stated that he didn't understand why a big issue is being made. He then reminded Chief Sievers to dot his i's and cross his t's because they are going to be on him.

Commissioner Silverstone stated that this was more of a question of what they were told from the developers and the site plan that a fire truck would be able to turn.

Deputy Chief Raiken stated that in an emergency scene, he said they would not be turning the truck right away; he said that based on his 32 years of fire experience that he would more apt to use the main roadways to stage their equipment and maybe have a fire truck with a jump line on it and do a mop up. He wanted to assure all that as a fire code official, he understands clearly. He stated that he has given a fair and accurate answer as to how they'd operate. He said the decisions were made clearly, and he felt that they have a safer building then having a fire truck w/out sprinklers.

Commissioner Silverstone asked when they demanded the sprinkler system.

Deputy Chief Raiken stated that when they did the construction plans, Captain Nance came to him with the issue. He stated that they clearly knew they wouldn't be using the fire truck in that area. He stated that he knew there were things he had to do to get the trucks in without any obstruction. He said that they got 20 feet and had no vertical clearance issues and he said they had what was allowable up until the dead end.

Commissioner Silverstone stated that he saw it as an error in communication between the Commission and the primary developers. He said they were lead to believe that the access to the fire trucks would be there. He stated that he thinks it's safer to have access allowable, but they would have to back up.

Deputy Chief Raiken stated that they felt the way they operated was reasonable.
Commissioner McIntee wanted to know if all 4 story residential buildings had to be sprinklered.

Deputy Chief Raiken stated that new buildings would have to have 13R life saving systems. He then discussed the protection the sprinklers provided.

Commissioner McIntee wanted to know, bottom line, if all (4) story buildings have to be sprinklered.

Deputy Chief Raiken stated that all (3) story buildings had to be sprinklered.

Mayor Parker expressed concern over some of Deputy Chief Raiken's answers. He said that there were two east/west roads and one north/south road. He asked if the fire trucks would be able to make the left turn onto the north/south if they were to enter one of the east/west roads.

Deputy Chief Raiken stated that he could not answer that question.

Mayor Parker asked as a practical matter.

Mr. Keller asked Deputy Chief Raiken if they could make the left turn if the trucks came to an intersection to the internal road and it had a thirty foot inside radius, 12 foot wide fire lane, and a 50 foot outside radius.

Deputy Chief Raiken stated that they can make the turn.

Mr. Keller discussed the approved 2004 site plan.

Mayor Parker asked if the building was built in conformance to those standards. He then clarified Mr. Keller's response stating that a fire truck could make the turn, but a ladder truck may or may not make the turn.

Commissioner McIntee stated that at the last meeting, Chief Sievers indicated that the trucks could not make the left turn.

Mayor Parker asked Chief Sievers if the fire truck could make the left hand turn.

Chief Sievers said yes, an engine and rescue company could make the left hand turn, but the ladder truck may not be able to.

Commissioner Silverstone stated that he thought Commissioner McIntee asked Chief Sievers about a fire truck making a turn from the alley or straight on el mar drive. Commissioner Silverstone asked again about the turn.

Chief Sievers said yes, but he said the last question was about ladder trucks turning around in the complex, and he said that they cannot.

Commissioner Silverstone stated that he remembered Chief Sievers stating that a fire truck would have to back up.

Chief Sievers stated they were speaking of ladder trucks and turnarounds at that point. He said that he felt the Commission took an issue and made something big out of it

Commissioner Clark motioned, seconded by Commissioner Silverstone, to accept the fire code compliance report. The motion passed 3-2 with Commissioner McIntee and Commissioner Silverstone dissenting.

The meeting adjourned at 7:58 while Mike Burton from Burton and Associates set up his laptop. The meeting reconvened at 8:05.

6. APPROVAL OF MINUTES

- A.** May 8, 2007
- B.** May 14, 2007 (Shade Session)

Mayor Parker asked for any additions, deletions, or corrections to both sets of minutes. There were none. Commissioner McIntee motioned, seconded by Commissioner Silverstone, to approve both minutes. The motion passed 5-0.

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

Stuart Dodd, 232 Imperial Lane, addressed Vice Mayor Yanni about moving the overlay back. He question Vice Mayor Yanni as to whether it would have the desired effect of turning into a tasteful development with green trees and asked if all would be well simply by changing the set back. He

stated that, in his opinion, overlay districts are illegal and are spot zoning. He said they were introduced by a Commission ordinance, another illegal move, to achieve an end run around the charter. He said he would be happy to support getting rid of them entirely and going back to the 1973 charter, scrapping the ordinance and creating a workshop to start again in light of the two (2) monstrosities that have been inflicted on the Town by the tenure of the Old Guard. He again addressed Vice Mayor Yanni in regards to the volunteer fire equipment. He stated that the Town is being sued and he may be liable for what is with that equipment if the volunteer fire department becomes reinstated. He wanted to know if thanks were offered to the volunteers for providing over 50 years of service. He asked Mayor Parker about the town being inadequately covered; he stated that the Town is worse off when the BSO is out of town. He said that he did not think that Mayor Parker was winning any votes with his derogatory attacks on Commissioner McIntee.

Maureen McIntee, 1612 SE 21st Ave, said that some of the wrongs done by the Old Guard will never be righted, and she stated that by simply looking around one would see the near destruction of the once quaint seaside village. She asked where the green spaces were. She said that no matter how the overlay districts are changed in the future the Old Guard has already caused permanent damage. She stated that the Old Guard gave away a cul-de-sac to developers in return for installation of pavers and upkeep. She said that Vice Mayor Yanni and Commissioner Clark voted to let developers off for building offences while Mayor Parker was making a secret deal with developers. She said that Mayor Parker acting unaware when developer/attorney Sue Delagal was about to publicly present an already negotiated deal in which Mayor Parker was already a major player. She quoted Mayor Parker as saying, "we don't know what her proposal is yet, can we hear it please." She said that the previous statement was an untruth Mayor Parker got caught telling. She said that some of the wrongs must be and will be changed. She said the Old Guard defiantly used its power to willfully disapprove the vote of 74% percent of the voters who voted for term limits. She said in 10 months the Commission seats of Mayor Parker, Vice Mayor Yanni, and Commissioner Clark will be up for election. She said that in March 2008 those same 74% of the voters will use their voting power to disapprove the Old Guard. She then thanked Commissioner McIntee for the temporary park across the street and stated that it was a great improvement.

Thomas Carr, 254 Miramar Avenue, stated that just over 65 years ago our parents and others joined forces to fight the largest war in history. He said five years later, Korea broke out and by the early sixties our advisors were in Vietnam where they and many others fought until 1975. He then discussed others who were called to Beirut, Panama, the Caribbean, Somalia, Sylvania, and many other places. He then mentioned the Gulf War, Gulf War 2 and Afghanistan. He stated that he mentioned this to remind people that Memorial Day is to pay tribute to those who fought and those who did not return. He stated that the American Legion Post 222 is holding a brief service at Collins Park on Monday May 28th at 11:00 a.m.

L. Peanuts Wick, 4900 Ocean Drive, wanted to thank Vice Mayor Yanni for bringing up the change to the beach overlay district and thought that it would get us back to what it used to be. He then requested that Vice Mayor Yanni delete item 13B, regarding the Volunteer Fire Department equipment, because he thought it was vindictive. He asked the people at home to contact the Florida Commission of Ethics who put out a Sunshine Law Guide and Code of Ethics for Public Office. He provided a phone number: 1-850-488-7864. He then addressed all the Commissioners. He stated that every member of the Commission was elected. He said that the side they should be on is the people's side. He said Mayor Parker had a tendency to bicker with certain people. He also stated that Commissioner McIntee sometimes bickered with people. He congratulated Commissioner Clark and Commissioner Silverstone because they are less bickering. He said that they represent the entire Town, and when people hear about the Town, they may think the Townspeople are squirrely for electing squirrely Commissioners. He asked that they stop bickering and start looking at what is best for the Town in the long term.

Lisa Mitchell, 4641 N. Ocean Drive, addressed Vice Mayor Yanni, and stated that the 50 year lease will destroy Lauderdale by the Sea. She said that they would fall into the hands of Fort Lauderdale or Pompano. She said that the Town would go right into the hands of developers. She said that if the Town is put into that the Town would no longer be Lauderdale by the Sea. She addressed Commissioner Clark and said that he promised that he would make the training report of the Volunteer Fire Department (VFD) public. She proposed that Commissioner Clark and Town Manager Colon get the report and make it public because Broward Sheriff's Office is not making the Town anymore safe. She said that they are leaving one truck in the Town's firehouse; and she believes that the VFD is being dishonored. She said that the VFD was renowned for safety and now the Town is down to just one truck, and she is worried. She said that she wanted to see the report and she noted that Commissioner Clark is a nice man and good commissioner. She said that Commissioner Silverstone and Commissioner McIntee are very fine men, and she is tired of seeing them being picked on. She addressed Mayor Parker in regards to personal attacks and asked him not to pick on anyone anymore. She concluded by stating that the Town is about unity and not going at each other's throats.

Charles Leachman, 245 Oceanic Ave, addressed parking permits. He said that as a resident, the parking is important; he said that he is upset with everyone who has permits. He said that back in November he noticed 11 spots, and he said that he came in and was told that the developer had to make their tie in and it would be a few weeks until the spots were returned. He said that it's may and there are no spots. He said he is fed up driving around and looking for spots. He said that there are not enough spots for the number of permits sold. He said they earned those spots as residents. He stated that on the way to the meeting he looked his street and stated that since he's been here (since 1992) not much has been done. He said there are a bunch of sink holes patched up three and four times and he said there is no painting on the streets to designate lanes. He said that there were cars 3 and 4 deep to get a spot. He said that he was told to get around and drive like everyone else, and he said that that is not what he expects to happen. He said that the residents of the Town should be looked after. He said that they need more than 11 spots; he then said that no one took the time to consider the impact; he said that he thinks he earned the spots, and he wants the spots back.

Barbara Cole, 221 Washingtonia and 5000 N Ocean Blvd, said thank you for the new town manager and the new town clerk; she said they are honest hard working, and fair. She also thanked Attorney Cirullo who attended the Planning and Zoning meeting. She then said thank you for the parking meters being covered. She wanted to know the cost for leaving them free and how much it cost for the person who gets the quarters. She thanked Commissioner McIntee for the park at the end near El Prado. She then thanked the Commission for relaxing the rules on Benihana and wished the same for Starbucks because she believed a drive thru with a Starbucks at that end of Town would bring some of the vitality of the Town Square west. She then thanked the Volunteer Fire Department for keeping strong so that they come back in 2008, and she thanked Mr. Hiott of Garden Court and Mr. Alias from Sea Colony for being honest and wanting not to sue the Town, but simply wanting what is best for the Town. She thanked the merchants for supplying both papers and remaining neutral to the factions. She then thanked the 74% who voted for term limits that they are planning to uphold that vote when the time comes. She thanked Ken Worley and John Thompson for caring about accuracy for the past, present, and future. She thanked the Town's sister coastal cities who decided to support the cause against overdevelopment, and she finally thanked the future candidates.

Frank C. Herrmann, 4244 Seagrape Dr, stated that he would address the Town Manager's employment contract; he thanked everyone for allowing him to speak in a calm and rational way; he said that he does not like to speak in a vindictive manner; he said that it was not the vindictive speaking that brought him sorry, it was the vindictive action that occurred as a result of the word spoken. He said that this is the real Frank Herrmann speaking; he said that the Commission is responsible for momentarily displaying an act of consideration for the voters. He said thank you for

the unanimous 5-0 vote at the last meeting surprised and pleased him and gave him reassurance that the Town can survive. He said that as a result, he would look upon a certain person as his Town's mother, and he said he would never question any decision she makes. He said that old grouchy people don't have many friends or birthday cards, and he said thanks to one of them he received a birthday card. He told the candidates to never trash the voters until after the election, and he told voters not to trash candidates before the election; he said just cast votes based on past performances and/or the company they keep.

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

- A. ORDINANCE NO. 2007-08:** AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE MUNICIPAL CODE OF ORDINANCES CHAPTER 23 TAXATION, ARTICLE V, EXEMPTIONS TO PROVIDE FOR AN INCREASED ADDITIONAL HOMESTEAD EXEMPTION FROM AD VALOREM TAXES LEVIED BY THE TOWN OF LAUDERDALE-BY-THE-SEA FOR QUALIFYING PERSONS 65 AND OLDER PURSUANT TO THE PROVISIONS OF SECTION 196.075 FLORIDA STATUTES; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (First Reading May 8, 2007)

Town Attorney Cherof read the ordinance by title only.

Mayor Parker explained the ordinance.

Mayor Parker opened the public hearing.

Mr. Thompson congratulated the Commission for putting this ordinance on the agenda. He assumed that they would vote 5-0, and he said that there are few people who qualify, but they are the people who need it.

Vice Mayor Yanni motioned, seconded by Commissioner McIntee, to approve Ordinance 2007-08. The motion passed 5-0.

- B. ORDINANCE 2007-09:** AN ORDINANCE OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA AMENDING THE TOWN CODE OF ORDINANCES SECTION 24-68, SIGN REGULATIONS BY ZONING DISTRICT, TO CLARIFY WHEN ROOF SIGNS ARE PERMISSIBLE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (First Reading May 8, 2007)

Town Attorney Cherof read the ordinance by title only.

Mayor Parker opened the public hearing.

Stuart Dodd, 232 Imperial Lane, congratulated the Commission and noted that he gathered this was in connection with Kilwin's. He said at least they got the signs up, the business going, and they didn't penalize them, and they caught up with the paperwork afterwards. He said it was the right way to do it.

Mayor Parker asked Development Services Director Jim Bell and Town Attorney Cherof if this does what it is supposed to do, which is allow places like Kilwin's to have their sign.

Town Attorney Cherof stated that, in his opinion, it does.

Mr. Bell concurred.

Vice Mayor Yanni motioned, seconded by Commissioner Silverstone, to approve Ordinance 2007-09.

Commissioner Silverstone asked if free chocolate could be placed as part of the ordinance.

Mayor Parker said that it was not Germaine.

Commissioner Silverstone indicated that he was only bringing some lightheartedness to the dais.
The motion passed 5-0.

9. ORDINANCES (*1st Reading*)

10. CONSENT AGENDA

- A. Contract with Bornaman Tree Services, Inc. for Emergency Services (John Olinzock – Municipal Services)
- B. Award of Bid for Construction of Beach Access Sidewalks (John Olinzock – Municipal Services)
- C. Execution of Agreement for Preparation of Engineering Design and Bidding Documents for the Construction of the Town Entryways Project (John Olinzock – Municipal Services)
- D. Chamber of Commerce Art and Craft Show October 27-28, 2007 10 a.m.-5 p.m. (John Olinzock – Municipal Services)
- E. Lauren Katzenstein Celebration Ride (John Olinzock – Municipal Services)
- F. United Cerebral Palsy Volleyball Tournament June 2-3, 2007 (John Olinzock – Municipal Services)
- G. Town Manager Employment Agreement (Town Manager Colon)
- H. Approval to increase Siemon and Larson, P.A. contract to \$30,000 (4/11/06 \$20,000 approved) (Town Manager Colon)

Commissioner Silverstone removed items G and H.

Mayor Parker motioned, seconded by Commissioner Clark, to include 4th of July celebration as item I under the Consent Agenda.

Commissioner McIntee asked if anything needed to be done before they approved it.

Town Manager Colon stated that they are waiting on the special event application; she said they are pending the alcoholic beverages.

Commissioner Clark stated that they have it.

Town Manager Colon stated that she did not see the completed application with all approvals.

Mayor Parker stated that she would not get the alcoholic beverage license until the very end of June; she said that the alcoholic beverage commission prefers that people not apply until 30 days out.

Town Manager asked if the that application was made.

Mayor Parker indicated that he will make it when he returns from his trip.

Commissioner Clark stated that the letter requesting that is with John Olinzock.

Town Manager Colon stated that the letter requesting it is, but the letter approving it, is not. She stated that the Town needs a certificate of insurance especially alcohol is served, and she stated that she needs to make sure the document is in place.

Mayor Parker stated that it can be approved subject to the securing of the alcohol beverage license. He said without the license they can't serve alcohol anyhow.

Town Manager Colon asked if there was a reason this cannot be on the following agenda, so that all the documents can be reviewed. She said that she also still has not seen the Fire Marshall's approval. She stated that she needs to make sure everything is approved, but noted that if they want to waive the process, they are the Commission.

Mayor Parker asked if it could be put on for the next meeting on the Consent Agenda.

Commissioner Silverstone motioned, seconded by Commissioner McIntee to adopt Consent Agenda items A-F. The motion passed 5-0.

Commissioner Silverstone stated that Esther took over Robert Baldwin's old contract, and in that contract he was given 10 weeks off a year that was supposed to be unpaid.

Town Manger Colon indicated that her contract does not include the 10 weeks.

Commissioner Silverstone stated that she was being paid the same but working more, and he thanked her for doing that.

Mayor Parker wanted to correct the previous statement and indicated that the 10 weeks were unpaid leave, and if he took it would have reduced his salary.

Commissioner McIntee said that Town Manager Colon took the 10 weeks out of the contract without anyone asking her to do it. He said that if she is gone for ten weeks, then the second in command has to step in and get paid 10% over his payroll. She he stated that she gave the Commission a very nice gesture without asking for it. She said that she removed other things as well, on her own.

Mayor Parker stated that he commends the Town Manager for taking the out the 10 weeks, he noted that he was just pointing out that it was unpaid leave.

Commissioner Clark motioned, seconded by Vice Mayor Yanni, to approve the contract. The motion passed 5-0.

Commissioner Silverstone asked Town Manager Colon if she was comfortable with this.

Town Manager Colon stated that she spoke twice with Kathy Randazzo and stated that they do need to respond to the findings and Mr. Siemon believes that it is anywhere between \$5,000 and \$10,000 to resolve it.

Commissioner Silverstone asked if this was something she expected

Town Manager Colon stated that she believed that they were going to get challenged on some areas.

Mayor Parker stated that he believed the question to be if she recommended it.

Town Manager Colon stated that Commissioner Silverstone asked her if she expected it.
Commissioner Silverstone asked if she recommended it.

Town Manager Colon stated that the Town can reply to some of the answers, but there are some that the Town can't reply to and they would need Mr. Siemon to do it. And she said that if they wanted to go ahead with the CRA, she would recommend approval.

Commissioner Silverstone asked if there was a time factor.

Town Manager Colon stated that it is not time driven.

Commissioner McIntee said he spoke to Ms. Randazzo. He said that Jack Cooney came to him asking if he would support this. He said that he would not support it at this time, but is open to it in 2 weeks because in 4/11/06 Commissioner Silverstone requested an amount prior to casting his vote and Town Attorney Cherof said that section 4.01 of the contract provided an amount based upon hourly rates set forth and that was not to exceed \$20,000. He said that it was voted on and carried 5-0. He said it was clear at that time that Mr. Siemon knew what his contract agreement was to a maximum of \$20,000 and he noted that Commissioner Silverstone emphatically stated that it should not be over that. He said that if a man gives his word, then he is obligated to do the contract at that price. He said that the caveat he would give Mr. Nixon and Mr. Cooney was that he asked Ms. Randazzo if she would contact and sit down with the Town Manager to see if money is being wasted or not. And he stated if they he stated that if they are wasting money then there is no way he would vote for it. He asked for the Town Manager to give a report. And he stated that if the Town Manger brings a report that recommends giving an additional \$10,000.00, he will accept her judgment.

Commissioner McIntee motioned, seconded by Commissioner Clark, to table the item until June 12th. The motion passed 5-0.

11. RESOLUTION

12. OLD BUSINESS

- A.** Discussion and/or action regarding the Town's water system to Fort Lauderdale – requested to be tabled for 5/22/07 meeting (John Olinzock and Town Attorney – tabled from 3/13/07; tabled from 4/24/07; tabled from 5/8/07)

Town Manager Colon stated that the issue was approved two (years) ago, she stated that the Town never entered into agreement with the city of Fort Lauderdale therefore there have been ongoing conversations about who is going to maintain the infrastructure; she said that there is still no solution. She recommended that if the Town wants to keep the infrastructure there were funds set aside for the depreciation. She stated that she could give an example of the pump station problem and said that

funds were not set aside and the Town had to go out and get a \$900,000.00 loan to repair that system. She stated that if the Town intends on keeping it, then she would like to know. She said that if the system is kept, then the Town has to capitalize the assets and put the depreciation expense in a bank.

Mayor Parker asked how much that would cost.

Town Manager Colon indicated that pulling out the meters would cost, and she said that the system is 929,000 as the system has depreciated 54% to the date of the report she referred to that is three (3) years old. She said that is what would be capitalized.

Mayor Parker motioned to sell the system.

Vice Mayor Yanni asked about Fort Lauderdale currently replacing water lines in Town.

Town Manager Colon stated that the Town has been replacing some of the systems, maintaining some of the lines, and have been installing fire hydrants because at one point the sale of the water system was approved.

Town Attorney Cherof stated that the prior Commission authorized the execution of the agreement by the Town, but when the document was submitted to Fort Lauderdale, they did not approve, so the deal died at that point.

Commissioner McIntee noted that they may not approve this either.

Town Attorney Cherof stated that they don't know that until the Fort Lauderdale Commission votes on it. He stated that the staff has approved it because they worked on the draft.

Vice Mayor Yanni said he didn't understand why they voted against, yet they are in Town replacing the lines. He wanted to know why they would want to sell it, when Fort Lauderdale is fixing it anyway.

Mayor Parker asked for a second to the motion.

Commissioner Clark maintained that the issue was still up for discussion.

Mayor Parker stated that they needed a second to continue discussion.

Commissioner Clark seconded.

Mayor Parker said that they were going to have a tight budget year, so that would be a reason to sell.

Vice Mayor Yanni stated that he knew that; he wanted to know why they would sell it if Fort Lauderdale is already fixing the lines.

Mayor Parker stated that if they don't sell it, then the Town has to add almost 1 million dollars to the budget. He said that they still have to capitalize the depreciated value.

Town Manager Colon said that the funds are available to put capital depreciation aside, and it will come from the Town's current cash flow.

Mayor Parker asked if it would come from the tax payers.

Town Manager Colon said that it would come from the current fund balance.

Mayor Parker stated that then there would be less money to do capital improvements.

Town Manager Colon agreed.

Mayor Parker stated that there would be no benefit from owning the system. He said it would only be an expense without a revenue.

Commissioner McIntee said that Fort Lauderdale will probably say no. He said that at the meeting of the managers, Hollywood was told that it would be down 15 million. He did not think Fort Lauderdale would want to take on an additional expense. He said it should be voted down and tabled to see what they're going to lose.

Commissioner Clark said that they probably voted it down because they were having their own financial problems. He said he was ok to table the idea to get a better feel on the research and get more facts on the table.

Commissioner McIntee said that they should vote to not sell it and then bring it up at a later date.

Mayor Parker pointed out that they would never find out if Fort Lauderdale would buy it from the Town unless they offer to sell it to them.

Commissioner McIntee stated that it was offered once, and they said no.

Mayor Parker stated that it was two (2) years ago, and they may have changed their minds. He stated that their staff is recommending buying it.

Town Manager Colon stated that the item was put back on the agenda because they contacted the Town Attorney.

Commissioner Silverstone asked for pros and cons.

Town Attorney Cherof stated he would defer to Town Manager Colon for pros and cons. He said that the document is a legally binding document if it is approved by both parties. He also noted that the City of Fort Lauderdale supports it because they have been advancing amendments to the document and have contacted him recently to ask if it was being moved forward or not.

Commissioner Silverstone said that the Town could now control the cost if something breaks in the system. He also explained that if they fix the water system and the Town then sells to Pompano Beach, the Fort Lauderdale is out. He indicated that he thinks Fort Lauderdale is trying to protect their investment.

Mayor Parker stated that the Town cannot sell to Pompano because the southern half of Town is in the Fort Lauderdale water district.

Commissioner McIntee said that Pompano could provide full water service to the Town as could Fort Lauderdale.

Acting Municipal Services Director, John Olinzock, stated that all water districts have boundaries, and he said that it would be a formality to change the boundary from one district to another; he stated that it would be a net zeroing out effect, but the Town would still have to go through the permitting process with the South Florida Water Management District.

Commissioner Silverstone asked if Pompano could take over the water.

Mr. Olinzock stated that it could be done.

Mayor Parker asked Town Manager Colon if she had a recommendation.

Town Manager Colon stated that if the Town keeps the system, then they have to bank the depreciation because it has to be done by standard, and she stated that if the system is sold then there might be a gain of \$350,000.00 for the sale of the system.

Mayor Parker asked if they would also still have the \$900,000.00 for capital improvements.

Town Manger Colon agreed if that is where he thinks the funds of the sale are going to.

Mayor Parker said that it would be a 1.2 million dollar swing.

Commissioner McIntee stated that they would lose complete control of the water by Fort Lauderdale. And he said that if a main blows and they want to increase the rate then they would be able to.

Mayor Parker stated that by statute they could only charge the Town 25% more than what they charged their own residents, and they are required to maintain the same level of service that they provide for their own residents. He urged that they vote for the sale of the system

The motion to sell the system failed 4-1 with Mayor Parker dissenting.

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to not sell the water system to Fort Lauderdale. The motion passed 5-0.

- B.** Discussion and/or action regarding drafting a condition that would address returning the cul-de-sac back to the Town in the event that the Garden Court Townhomes project was not completed and regarding a time extension on the development order (Jim Bell – Development Services) (both issues tabled from 4/10/07 for discussion on 5/22/07)

Town Attorney Cherof asked if Old Business item B could be moved forward as both of the issues have often been discussed together. He stated that there was one attorney there to address both issues.

Mayor Parker stated they can take them one right after the other. He asked for any objections, there were none.

Development Services Director Jim Bell read from his report. He stated that the time extension for the project would be expiring on May 22nd. He stated that they have the condition drafted. Mr. Bell then read the condition.

Mayor Parker asked the Town Attorney if he drafted the language.

Town Attorney Cherof stated that he did not draft it, but he reviewed it, and he stated that he believed it accomplished what the Commission stated goal was.

Mayor Parker stated that he thought the completed goal was a complete project, not simply asking them to start. He said there should be language noting that the project be completed within a certain time.

Town Attorney Cherof stated that the driving issue was to ensure a reverter of the abandonment of the easement, and he noted that the condition accomplished that. He stated if they do not complete they do that at their risk.

Mayor Parker asked if they could reword it to state that the project must be completed in 60 months.

Town Attorney Cherof stated that it could be amended to say that.

Mayor Parker stated that it would indicate that they have to start within 36 months and complete by 60 months.

Commissioner McIntee asked about the length of time the developers had the project, and he stated that he wanted to ask the attorney a few things.

Mayor Parker said that if they were going to go that route, they needed to add something more to the condition.

Mr. Bell stated that there were two (2) issues, the reverter clause and the time extension issue. He said that they were requesting a 12 month time extension to 5/22/08, and he noted that Staff was in agreement with that; he said they provided a letter and the time spent on the project. He said there was also a cost analysis of the money spent to date, and they have a project timeline for future construction.

Mayor Parker asked if Mr. Bell and Staff if they were anticipating additional extensions.

Mr. Bell stated that they would need this extension to get to May 2008, but according to the time line provided, he did not foresee any additional extensions.

Mayor Parker asked why the note stated 36 months.

Mr. Bell stated that the developers were referencing when the project was originally approved. He said that this is their third extension.

Attorney Alan Gabriel stated that he wanted to clarify that they were speaking of Garden Court, and he said that the request for the extension would bring them to May 2008 for the site plan approval. He said the 36 month was for the cul-de-sac conveyance. He stated that in order to get financing for the property, they need a firm approval in place. He stated that the cul-de-sac is important and cannot be taken from them once construction is started. He said that a letter was provided that outlined what the developer has done since approval. He said the developer has already spent over 3.5 million. He said that it is almost impossible to develop property without great difficulty. He said the developer has the wherewithal to do it, and has put the money on the table to bring the property forward. He said they are asking acknowledgement of what they have done through the information provided in the letter and the information presented, and they are asking to be granted the additional time in which to bring forward the development. He stated that if they fail to do it within the requested timeframe, then they would lose the cul-de-sac and lose the right to develop. He said they cannot go forward and secure building permits because it is not an approved site. He said they cannot get zoning approval because they do not have the necessary documentation from the Town. He said they are prepared to do it. He said they have already submitted applications.

Commissioner McIntee asked if he was in the real estate business as an attorney.

Mr. Gabriel said he was in land use zoning attorney.

Commissioner McIntee asked how much a vacant waterfront lot is worth in Lauderdale by the Sea. Mr. Gabriel stated that there is no debate that waterfront property is valuable.

Commissioner McIntee asked what the client is giving the Town for the Town giving a full lot on the intercostals.

Mr. Gabriel stated that land use was granted on the property in 2005. He said that part of the agreement between the Town and the developer was that certain improvements were to be made as a benefit to the Town.

Commissioner McIntee asked if they were aware of the problems the people across the street from the developer's property had.

Mr. Gabriel said he was aware, and he said that he had agreements with that developer as well for easements and other cross access points.

Commissioner McIntee wanted to know how much the cost to his developer for the improvements granted to Lauderdale by the Sea for the Town giving a free lot on the intercostals

Mr. Gabriel said it was impossible to give a solid number.

Commissioner McIntee said he would take a vague number. He stated that if the Town is giving a gift of a million dollar lot on the intercostals, and only \$50,000.00 of improvements will be done, then that is inequity that he will not accept.

Mayor Parker stated that it was not on the intercostals.

Commissioner McIntee said it was on a canal and that lots on the water are valuable.

Mr. Gabriel stated that they provided for waterfront viewing through the pools and other improvements being placed at that location. He said that there would not be a single family lot or unit being placed there. He said it gives them the ability to add to the development site.

Commissioner McIntee said there had to be equity between what they are doing for the Town and what the value of the property is. He said he would like to have the Commission hire an appraiser to see how much the lot should be worth.

Town Attorney Cherof said that that is not the legal standard that the Commission must apply when making determinations to abandon property. He then explained abandonment standards.

Mayor Parker asked if there is some purpose for abandoning the property. He then asked if receiving money is a purposed served.

Town Attorney Cherof stated that the legal standard for determining whether or not a property should be abandoned is the decision by the commission that it no longer serves a public purpose.

Commissioner McIntee asked how they could stop giving them the cul-de-sac and not give the abandonment. He said that when they bought the property they knew what they had, but they didn't follow the rules, and they didn't get their work done on time.

Town Attorney Cherof stated that their development rights are now contingent on their ability to gain an extension.

Commissioner McIntee said that if that is the direction, then he suggested that they should not give the extension, and moreover, they should come back with a proposal that provides more equity to the Town. He asked Town Attorney Cherof for direction on how to make the aforementioned ideas into a motion.

Town Attorney Cherof said that he did not have a suggestion.

Mayor Parker asked if they have to grant the extension.

Town Attorney Cherof stated that they did not have to grant the extension, but they need to apply their standards for applying the extension in the same manner that they have in the past. He suggested hearing the attorney out for the property owner's point of view.

Mayor Parker stated that Commissioner McIntee motioned, seconded by Commissioner Silverstone, to not grant the extension. He said that they will continue with Mr. Gabriel's presentation.

Mr. Gabriel stated he did not come there to threaten. But he said that it is his obligation to the property owner to state for the record that they presented a legal, legitimate argument for why the development has not occurred in a timely fashion.

Mayor Parker wanted to be reminded of the reasons.

Mr. Gabriel stated that they came forward for applications, which they secured; they came forward and made applications for certain development approvals, which they secured from the Town, and he stated they moved forward to try and complete that development but for the fact of items that were not under their control. He stated that their developer became ill and was out of town and not available for over a year; he said there were hurricanes that interfered with their ability to proceed; they filed for an building permit extension with the Town and were told that because they had items presented that no extension was required. He said that there were items that caused confusion. He said that it was not as if they had done nothing for 6 months or a year. He said that that was the reason that they received the past extension and why they are still valid up until this time. He noted that he's bringing it forward because the developer has made efforts to bring forward the development. He said that they are in the process and are unable to proceed and are asking for this one opportunity to move forward.

Mayor Parker asked Town Attorney Cherof about the process. He stated that he understood that their development did not require the Town to give them an abandonment of the right of way. He said that the abandonment has not been recorded and he asked if they are legally obligated and he wanted to know if they can decide if the abandonment is no longer appropriate.

Town Attorney Cherof said the real question is if the Town can rescind the previous commitment to abandon the property.

Mayor Parker said there were 24 months with no activity.

Mr. Gabriel stated that that was not the case. He indicated that efforts were made.

Mayor Parker stated that it was first approved in May 2005 and it is now May 2007 and not one brick has been laid. He said from where he sits, nothing had been done.

Town Attorney Cherof said that their ability to rescind is fact dependent because when the Commission acts to do something, if another party takes action and expends funds on that then the ability to rescind is not simply diminished; it's probably extinguished.

Mayor Parker clarified stating if it would then be an astopal.

Town Attorney Cherof concurred.

Mayor Parker said there was an abandonment that was not recorded, and there should have been a deed of easement recorded at the same time. And, he stated, that since it hasn't been recorded yet then the 36 months would be from when they record it. He said that if a new abandonment is going to be executed then it shouldn't be 36 months, it should be 12 months. He indicated that he didn't want them to simply start, he wanted them to complete the project. He wanted 12 months to start and 36 months to finish from now.

Mr. Gabriel stated that the time line was based on when the document gets recorded because it would take at least 12 months to get the permit for the development of the property.

Mayor Parker stated they had 24 months to get the permit.

Mr. Gabriel stated they cannot get the document for permit until all the items have been signed off, so that they get zoning approval.

Commissioner McIntee asked why they were not here a year ago.

Mr. Gabriel noted that they were not here because of items that were out of their control.

Mr. Bell stated that they got the extension.

Mayor Parker asked Mr. Gabriel and the Town Attorney about getting the permit, and again stated that they had 24 months to get the permit.

Mr. Gabriel stated that they could not make the application for the permit. He said that things have to happen in a set stage before moving forward.

Mayor Parker wanted to know everything that was done in the past 24 months.

Mr. Gabriel read from a timeline that had an entry for November 2005 and then jumped to April 2007.

Mayor Parker wanted to know what happened during those 17 months.

Mr. Gabriel stated that that was when they had problems with their developer/partner.

Mayor Parker stated it will still take another 36 months before they get a piling in the ground.

Rick Rodriguez, Rodriguez Design Group in Fort Lauderdale, stated that part of the jump was because they were producing construction documents at that time. He said that the injury/illness of the partner slowed them down and stopped the project. He said that the construction documents were ready to go for permit in February 2007.

Mayor Parker wanted to know why they didn't submit in February for a permit.

Mr. Rodriguez stated that they could not because the cul-de-sac needed to be abandoned before they can submit the document.

Commissioner McIntee asked Mr. Gabriel how long he was involved in the project.

Mr. Gabriel stated that he had been involved for two (2) months.

Commissioner McIntee asked if there were any financial problems to build the buildings.

Mr. Gabriel said that the loans on the property were paid off.

Mayor Parker asked when the pilings would go in the ground if they were granted permission.

Mr. Rodriguez stated that first they would have to submit the permit and that could be done within a week.

Mayor Parker said that the dedication was issued in November 2005.

Mr. Gabriel said the document was prepared, but it was not recorded.

Mayor Parker said that the thing that prevented them from getting the permit is because they didn't record the vacation of the easement, which they have had since November 2005. He then wanted to know why it wasn't recorded.

Mr. Gabriel said that there were other issues and documents as well, such as easements.

Commissioner M said that Mr. Hiott had nothing but trouble with them and had to spend \$50,000.00

Dave Carothers stated that David Hiott made a deal with the owner of the property. He stated that Mr. Hiott charged the property owner \$38,000. 10 days later, Mr. Hiott was told by Mr. Hart that he had to run the line further, but the deal was already made. He said the last developer had to leave and now he's out. Mr. Carothers explained what was holding them up as far as paper work.

Mayor Parker wanted to know the drop dead date to put pilings in the ground if the extension is granted.

Mr. Carothers stated that it would take 8-12 months to get the building permit.

Mayor Parker asked if the extension is granted and they execute a new abandonment he stated that there will have to be language in there to provide for a reverter clause. He said that he wants 12 months to start the foundation and 36 months to complete the building.

Mr. Carothers stated that it may take 12 months to receive the building permit.

Mayor Parker asked how long it will take once they get the permit.

Mr. Carothers stated that it could take anywhere between 18 months to 60 months.

Mayor Parker said if they vote to grant it, then they need some sort of timeline.

Commissioner Clark asked how long will it take to record the abandonment and wanted to know why it wasn't recorded before.

Mr. Gabriel said that there was never a signed document from the Town.

Mayor Parker asked if 18 months is reasonable time to start the building, and if they don't start within 18 months then the abandonment is void.

Mr. Gabriel stated that that was reasonable.

Mayor Parker asked if 24 months to finish was reasonable.

Mr. Gabriel stated that it was not.

Commissioner McIntee said that he made a motion

Vice Mayor Yanni asked if they were against the project or against giving the property away.

Mayor Parker said he was for the project, but he wants some iron clad limits on how long it would take to finish.

Commissioner McIntee stated he was against giving the cul-de-sac away.

Vice Mayor Yanni asked about giving the cul-de-sac to them with a time extension and if they do not fulfill the timeline the Town gets the cul-de-sac back.

Mayor Parker said that 60 months is too long to finish.

Commissioner McIntee said that they cannot tell the Commission what to do.

Mr. Gabriel said it was his job to discuss the problems they may have.

Commissioner McIntee said the bottom line was that they had everything set for the abandonment and they let it fall.

Mr. Carothers stated that after the permit, they are permitted 36 months to build.

Walter Keller suggested 18 months to get the project permitted and 12 months to finish. He said if they are in the middle of construction, they can come back for more time then.

Mayor Parker said that he would give them 18 months to start and 42 months to finish.

Commissioner McIntee said that they should deny it and let them come back.

The motion to deny the extension failed 3-2 with Vice Mayor Yanni, Commissioner Clark, and Mayor Parker dissenting.

Mayor Parker motioned to grant the 12 month extension with the following condition: that the Town executes a new abandonment that has a clause (approved by the Town Attorney) that states they must start the construction of the foundation or installation of any necessary pilings within 18 months from now, and they have to finish construction within 42 months from now.

Mayor Parker stated that if they cannot make it and they have a good reason, the Commission would then have the option of extending it. He said that they also have to execute the easement that they are supposed to give, and they record that at the same time, and they are recorded now.

Commissioner Clark stated that 42 months is too long.

Mayor Parker amended the motion to 36 months rather than 42.

Mayor Parker stated that if they do not follow that timeline, they can rescind the cul-de-sac and then they would have to tear down the building.

Town Attorney Cherof stated that buildings would have to be removed.

Mayor Parker moved, seconded by Commissioner Clark, to approve the motion.

Commissioner McIntee asked to add to the motion that they promise and do the work first. He said that they should build a path in and out. He then asked to escrow the cost up front so that they cannot get it back.

Mr. Gabriel said that was fine, but wanted the timeline removed.

Mayor Parker stated that he was not willing to do that.

Commissioner McIntee stated that they needed to make sure to escrow the check upfront before they sign for an abandonment. He asked Jim Bell to give estimate of what he thinks is reasonable amount for the escrow.

Mr. Bell stated that he had never done that type of calculation before. He said that they developers are throwing out 36,000.00 as an amount. Mr. Bell stated that they could get their engineer to come up with a price and then Staff could certify that and see if it is acceptable by the Town Attorney.

Mayor Parker said they needed a cost estimate and they needed to approve the time ...

Mr. Gabriel agreed to escrow.

Mayor Parker indicated that the approval is subject to the cost estimate.

Discussion followed.

Mayor Parker restated the motion. He stated that the motion is to give them an 18 month extension on the site plan and as a requirement there has to be a new abandonment which will provide for a reverter, where the abandonment reverts back to the Town if they do not start construction within 18 months or don't complete construction within 36 months, and they have to come up with a cost estimate for the public improvements that they are supposed to be constructing and they have to escrow the amount with the Town, and the Town collects the interest.

Commissioner Clark agreed to that as a second and he also wanted to know how long it will take to get the abandonment recorded.

Mayor Parker said that they need a cost estimate, and then the Town has to review the cost estimate.

Mr. Gabriel asked about the escrow for public improvements; he wanted to know if it had to be cash dollars, or could they bond them out.

Mayor Parker said cost dollars.

Town Attorney Cherof stated that the Town Manager will set up account, and the interest would go to the Town.

Mayor Parker said that they do not have to go for this.

Commissioner Silverstone said that this was done in 2005 before his time, and now there is a problem; he said it was a bad idea, and it sets a bad example for the Town.

Mayor Parker pointed out that it's an irrevocable escrow.

The motion passed 3-2 with Commissioner McIntee and Commissioner Silverstone dissenting.

Jim Bell asked when the escrow amount and reverter language would be brought back to the Commission.

Mayor Parker indicated June 26th.

Commissioner McIntee asked for one minute to ask Town Attorney Cherof about Oriana and the \$1 million they owe the Town.

Town Attorney Cherof said they have not received it, and he said that they had a deadline.

They moved on to New Business item J.

- C. Discussion and/or action regarding Board of Adjustment nominations (1 member) and to allow for new applications to be received for the position. The last nomination was made by Commissioner McIntee. Commissioner Silverstone is the next in line to appoint a Board of Adjustment member. (Jim Bell – Development Services) (tabled from 4/10/07)

Commissioner Silverstone motioned, seconded by Commissioner McIntee, to appoint Mr. Kenneth Mikos to be the fifth member of the Board of Adjustment. The motion passed 5-0.

Commissioner Clark motioned, seconded by Commissioner Silverstone, to appoint Susie Glen as first alternate. The motion passed 5-0.

- D. Discussion and/or action formalizing the Town Mission Statement (Commissioner Silverstone) (continued from 5/8/07)

Commissioner Silverstone motioned, seconded by Commissioner McIntee, to accept the Town Mission Statement. The motion passed 5-0.

- E. Discussion regarding research of fire truck access and turnaround requirements for the Oriana project. See attached memorandum (Jim Bell – Development Services) (tabled from 5/8/07)

This issue was discussed earlier in the meeting.

13. NEW BUSINESS

- A. Discussion and/or action regarding amending front set back in Beach Overlay District Ordinance to 25 feet (Vice Mayor Yanni)

Vice Mayor Yanni asked if they could amend without going to referendum.

Town Attorney Cherof said that it would have to go to referendum, and he said it could not be amended without a referendum.

Vice Mayor Yanni withdrew items A and B

- B.** Discussion and/or action regarding removing Volunteer Fire Department equipment from Town property (Vice Mayor Yanni)
- C.** Discussion and/or action regarding changing ordinance for leasing property for parking; get rid of 50 year lease (Vice Mayor Yanni)

Vice Mayor Yanni motioned, seconded by Commissioner McIntee, to direct the Town Attorney to draft an ordinance getting rid of the 50 year lease requirement. The motion passed 5-0.

- D.** Discussion and/or action regarding enacting an ordinance to allow parking enforcement officers to enforce dog ordinance (Mayor Parker)

Commissioner McIntee motioned, seconded by Mayor Parker, to allow parking enforcement officers to enforce the dog ordinance. The motion passed 5-0.

Mayor Parker asked for both of those ordinances for the next meeting.

Town Attorney Cherof said that he would provide them.

- E.** Discussion and/or action regarding fire marshal ok-ing unsafe roadways at Oriana for fire access (Commissioner McIntee)

Commissioner McIntee withdrew the item.

- F.** Discussion and/or action regarding Broward Fire Department not keeping their word and not providing a fill in fire truck when TRT 32 was sent to MM 46 Alligator Alley May 13th 2007 11:30 p.m. to accident scene (Commissioner McIntee)

Commissioner McIntee withdrew the item.

- G.** Discussion and/or action regarding summer dress and August recess of Commission (Commissioner McIntee)

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to allow summer dress and August recess.

Town Attorney Cherof wanted to make sure that the Town Manager could get all of the budget issues done without the August meeting.

Town Manager Colon stated that she wanted to get something in tonight, and she stated that they could have workshops in July.

Commissioner McIntee motioned, seconded by Mayor Parker, to continue the meeting until 11:15; the motion passed 5-0.

Commissioner McIntee added to the motion that both the Town Attorney and Town Manager be included for summer dress if they want to. The motion passed 5-0.

H. Discussion regarding review of business parking and residential permit parking issues
(Commissioner Silverstone)

Commissioner Silverstone stated that he has been receiving many calls from residents regarding parking. And he wanted to know if the permit spots that were taken away could be replaced.

Town Manager Colon stated that if the spaces are reallocated; she said that they have to find the spaces.

Mr. Keller stated that when Villas by the Sea finishes El Prado parking lot, it will have almost the same number of spaces as they have now, but it has to be finished.

Commissioner McIntee stated that across the street there is Mintos properties along green fence and the pavement is already there. He stated that if they could get Mintos to grant permission to turn those into private parking for residents along the street, and then try to give the business owners a break.

Commissioner McIntee motioned, seconded by Mayor Parker, to direct the Town Manager to ask Mintos if they can convert the stretch north/south opposite of Town Hall in the parking marked solely for permanent parkers, and then they could try to work out a deal where the bars pay Mintos for those spaces. The Town Manager will then report back at the next meeting.

Jim Bell stated that he doesn't know when the area is up for construction.

Commissioner McIntee stated that it would be at least another 18 months.

The motion passed 5-0.

I. Staff has received an application for a construction trailer to be located at 4433 and 4437 Poinciana Street. (Jim Bell – Development Services)

Jim Bell stated that typically they allow construction trailers related to an actual project's construction, but this is for the greater good of the Town.

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to accept the application. The motion passed 5-0.

Commissioner McIntee motioned, seconded by Commissioner Clark, to grant an excused absence to Mayor Parker from the June 12th meeting. The motion passed 4-1 with Vice Mayor Yanni dissenting.

Mayor Parker asked if items C and D on the future agenda items of June 12th could be moved to the June 26th meeting. There were no objections.

J. Staff has received a request for a time extension of thirty-six (36) months to July 11, 2008 for the Shore Court Townhomes project located at 230 Shore Court (Jim Bell – Development Services)

Development Services Director Jim Bell discussed the reasons for the request. He said that they abandoned the cul-de-sac, but have not recorded the new easement.

Mayor Parker motioned, seconded by Vice Mayor Yanni, to grant the extension on the condition that they either record the easement and provide proof of recording the easement.

Mr. Gabriel said that they have applications for building permits on the item, and they are going forward.

The motion passed 3-2 with Commissioner McIntee and Commissioner Silverstone dissenting.

14. TOWN MANAGER REPORT

Town Manager Colon stated that she wants to freeze positions currently open. She stated that staff would work more with less. She stated that they would like to reduce fleet size and would like to have any suggestions regarding Commissioners' benefits or salaries. She stated that if raises are not going to be discussed, then she would want to know if there would be some kind of benefits; for example, a cell phone benefit or an insurance benefit. She stated that she would have to discuss litigation expenses with the Town Attorney. And she said that she would be providing notices to terminate some of the outsourcing. She asked for a consensus so that she may begin.

Mayor Parker motioned, seconded by Commissioner Clark, to give the Town Manager authority in regards to reducing the level of staffing with BSO.

The motion passed 5-0.

Mayor Parker asked if she wanted authority to reduce some of the contractors.

Discussion followed regarding outsourcing.

Commissioner McIntee stated that motions should not be made for her to do basic managerial skills.

Town Manager Colon stated that she wanted a consensus.

Commissioner McIntee motioned, seconded by Commissioner Clark, to give her consensus to do what she needs to do.

The motion passed 5-0.

Commissioner McIntee stated that each Commissioner should have a laptop and instead of the books, the documents should be issued on laptops.

Town Manager Colon stated that she has already sent a scanned version to the Town Attorney to see the quality. She stated that they cannot do things overnight. She also stated that she has looked into cell phones and computers. She stated that the average cost for cells are about \$45.00 a month, or offer flex dollars in an expense account.

Mayor Parker offered forgoing the annual cost of living raise given the fact that this is going to be a tight budget year.

15. TOWN ATTORNEY REPORT

Town Attorney Cherof stated that he wanted to pass down a check for \$550.00 from the Mayor Parker recall case. He then discussed the lawsuit filed by the Volunteer Fire Association against the Town. He stated that there are three (3) members of the Commission who he's already discussed the issue with. He suggested that they each seek guidance from the Commission on Ethics. And he stated that he has been in contact with the Commission on Ethics, and he had a recommendation,

which was that the Town Commission should seek a collective opinion from them because of the nature and impact of the conflict of issue involving three (3) members of the Commission. He stated that that entailed preparing a letter to the Ethics Commission that sets forth the facts related to the three (3) members of the Commission where assertions have been made that they have conflicts of interest. He further stated that from the Commission of Ethics perspective all their opinions are fact dependent. He said that it is important that the facts be disclosed to them. He stated that if they agree to do that, he would prepare a draft for review at the next Commission meeting, and he stated that he would need to speak to three (3) of them to make sure the facts were right.

Mayor Parker motioned, seconded by to

Commissioner McIntee asked about the date regarding when Oriana is to pay the 1 million dollars.

Town Attorney Cherof stated that on 4/20/07 was the date after the settlement agreement was approved and the date the development order was filed with the Town Clerk. He said the deadline for the wire transferring the million dollar escrow account is June 4th 2007.

Vice Mayor Yanni asked if they ever received a response about the attorney's fees.

Town Attorney Cherof stated that the letter was sent as requested, but they still have not paid.

Mayor Parker motioned, seconded by Commissioner Clark, to empower the Town Attorney, as requested by the Commission of Ethics, to file a request for an opinion.

The motion passed 5-0.

Vice Mayor Yanni wanted the issue of moving Commissioner Comments back to where they were placed on the next agenda.

Commissioner McIntee motioned to adjourn. Hearing no objections, Mayor Parker adjourned the meeting.

The meeting was adjourned at 11:21 p.m.

16. COMMISSIONER COMMENTS

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

18. FUTURE AGENDA ITEMS

June 12, 2007

- A.** Discussion and/or action regarding the selection of a professional architect for the Commercial Blvd. Beach Pavilion (Pending RPQ's – tabled from 3/13/07)
- B.** Presentation of a professional planner consultant (Pending RFQ's - tabled from 3/13/07)
- C.** 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) – tabled from 4/24/07 meeting; tabled from 5/8/07 meeting)

- D. 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) (tabled from 4/24/07; tabled from 5/8/07)
- E. Naming Public Facilities Report (Master Plan Steering Committee)

June 26, 2007

- A. 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) – tabled from 4/24/07 meeting)

July 24, 2007

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

Items Tabled until Uncertain Date

- A. Discussion and/or action regarding BSO letter of complaint dated 4/11/07 and event report dated 4/7/07 (Mayor Parker) (Pending IA report)
- B. Report on public records request regarding tape referred to in 4/27/07 Commission Meeting (Mayor Parker) (Pending IA report)

Items Tabled Indefinitely

- A. Special Event Permit/ Villas by the Sea Grand Opening (John Olinzock – Municipal Services)

19. 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 ON. 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.

Mayor Oliver Parker

ATTEST:

Tina Angelone, Town Clerk

Date