

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

Town Commission Meeting Room
4501 Ocean Drive
Tuesday, June 26, 2007
7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

Mayor Parker called the meeting to order at 7:02 pm

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. INVOCATION, TOWN CHAPLAIN

Father Handrahan gave the invocation.

Mayor Parker asked Commissioner Clark to give a quick overview of the Fourth of July festivities.

Commissioner Clark stated that the event will start off with a parade at 10:00 am, followed by food, beverage, music, and a good time by everyone with a tent in front of Town Hall. He stated that games for kids will be available as well. He said the fireworks will take place at the pier rather than a barge, which represents substantial savings to the Town. The fireworks display will take place between 8:30 and 9:00 pm.

Mayor Parker asked the Town Manager if the barriers on El Mar Drive could be cleared for the holiday.

4. PRESENTATIONS

A. Presentation of a professional planner RLI # 06-07-01 (Power Point)

1. Keith and Schnars

Vice President Michael Davis of Keith and Schnars presented. He stated that he is responsible for all the planning, environmental, landscape architecture, and public involvement services for the firm. He thanked the Commission for the opportunity to present. He stated that Keith and Schnars is a fixture in South Florida. He also indicated that the business is nearby. He stated that they are a multidisciplinary firm and have great depth in planning arena and supporting disciplines. He stated that they have the strength and a robust planning division firm and he explained the things that go along with that in terms of their experience.

Mr. Davis then discussed the project manager's experience and the group of planner's backing up the project manager. He then introduced Project Manager Jim Kahn.

Mr. Kahn thanked the Commission for hearing them. He stated that they are a full service firm. He directed his comments to planning and listed their planning services available. He stated that he would work with the Town so that it would maintain its identity and follow the principals of design already established. He stated that they have worked for various cities of various sizes, including, but not limited to, Plantation, Hollywood, Downtown Fort Lauderdale, South Miami Dade Watershed, etc.

Mr. Kahn then presented other services the firm provides. He stated that they have FDOT experience and grant writing. He said they work with landscape architects and traffic engineers. He then offered examples of their public involvement process, stating that public input is very valuable. He then moved on to engineering projects dealing with traffic engineering, indicating that they do everything in-house, and he further discussed the engineering services they provide.

Mr. Davis stated that their firm brings the best team to the Town. He said they have the depth, resources, people, and they're our neighbors. He said they look forward to working with us.

Commissioner McIntee asked where they were located.

Mr. Davis stated they are located at 6500 N Andrews Avenue, at Cypress and I-95.

2. Keith and Associates

Mayor Parker asked if Keith and Associates was in any way related to Keith and Schnars.

Senior Engineer, Tracy Scheppskei, explained that they are related. She stated that William Keith founded Keith and Schnars many years ago. She stated that approximately ten (10) years ago, Keith split off and started Keith and Associates. She stated that Mr. Schnars passed away many years ago and his son Jeff Schnars Engineering in Palm Beach County. She stated that there is a Keith and Schnars, a Schnars Engineering, and a Keith and Associates.

Mayor Parker wanted to know who owned Keith and Schnars.

Ms. Scheppskei indicated that it is owned by a partnership.

Ms. Scheppskei stated that she works for Keith and Associates as a senior engineer. She stated that with her is Michael Vonder-Muelen, their planning director. She stated they are pleased to be here. She stated they are located on Atlantic Blvd. in Pompano Beach. She then presented some history of the company in terms of establishment and she discussed the current president and surveyor, Dodie Keith.

Ms. Scheppskei indicated that their staff consists of over 35 professionals and have a full service firm. She stated that they have worked in both the public and private sector. She discussed other types of areas the firm has worked for. She stated that she knows what it takes to put a project together and build relationships. She then discussed the other municipalities they work for. She stated they have strived for state of the art equipment to keep up with the economy. She stated that Keith and Associates have been certified through Broward County for the Minority Woman Business Enterprise, Disadvantage Business Enterprise, and Small

Business Enterprise. She stated they are about giving back to the community and presented examples of how.

She then turned the presentation to Michael Vonder-Muelen.

Mr. Vonder-Muelen stated that Keith and Associates is a veteran planning and engineering firm. He stated that the planning services were on the general side, so he wanted to highlight more. He then named some of their clients.

Mr. Vonder-Muelen stated that their general planning services is divided into both long range and current planning. He then provided slides presenting the work they have done.

He then discussed long range planning followed by current planning. He said that they could assist in possible land development code revisions. He said they could also provide zoning permit services and zoning analysis through the development review process.

He stated they are experienced in grant acquisition. He then discussed other planning studies and mapping services they provide. He said that staff would be Dodie Keith, himself, the senior planner and two (2) GIS technicians.

He said they are great for a team approach; they're local, experienced, full service; they are certified in various enterprises, and concluded by thanking the commission for its consideration.

Vice Mayor Yanni stated that both associations have similar backgrounds. He wanted to know how they would contribute to creating a CRA.

Mr. Vonder-Muelen stated that a key portion would be accepted by Broward County. He wanted to know if there would be mix use or changes to any districts and asked for some details to clarify where the Town was in terms of the CRA.

Vice Mayor Yanni stated that it was just redevelopment. He wanted to know how they would help the CRA.

Mr. Vonder-Muelen then stated they could help with getting the approval with Broward County; he stated they could review funding and could come up with a strategic plan.

5. REPORTS

A. End of Month Budget Report for May 2007

Commissioner Silverstone motioned, seconded by Commissioner Clark, to approve the End of Budget report for May 2007.

The motion passed 5-0.

B. Broward Sheriff's Office Monthly Report for May 2007 (Chief Scott Gooding)

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

C. Broward Sheriff's Office Fire Rescue Monthly Report for May 2007 (Chief Sievers)

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Commissioner Silverstone asked Chief Sievers about a fire last month in Sea Ranch Lakes Condos. He wanted clarification of page one (1) of the call regarding seven (7) apparatus suppression vehicles that were called out for that call and eleven (11) personnel.

Chief Sievers stated that they were the responding units, but most were cancelled in route.

Commissioner Silverstone stated that according to the narratives, the fire maintenance personnel advised there was a fire, so he stated that as far as the Chief knew, there was a fire there.

Chief Sievers stated that it did come in as a structure fire.

Commissioner Silverstone stated that he was concerned about an issue, and was hesitant to bring it up because he feels that people may see it as him picking on BSO when he is not. He stated that it is his job as Commissioner to make sure that the Town is meeting its contracts and the Town is safe, etc.

He then stated that he noticed that the apparatus going to the scene was BC37, which was coming from a distance 8.3 miles away, which is about 15 minutes away.

Chief Sievers stated that would be accurate if the Battalion Chief was there. He stated that the Town pays for half of the Battalion Chief and that right now he was having dinner in Town.

Commissioner Silverstone stated that the next apparatus listed was Apparatus Rescue 32, which was coming from SW 31st street that is 14.3 miles from Town and about 25 minutes away.

Chief Sievers stated that that was accurate if they are not in Town. He said they are in Town quite a bit, and noted that this was the first official response.

Commissioner Silverstone stated that Engine 23 was about 12.3 miles from Town, which is about 23 minutes away. He then noted another engine that was 9 miles away. He said the responding units for the first alarm are coming from a great distance away, and he deems that to be unsafe.

Chief Sievers stated that the initial response was Engine 36, which is located in Town, and Rescue 12 and Tower Ladder 32 which are the primary units, and per the contract, the Town only pays for two (2) apparatus (Rescue 12 and Engine 36). He said that they subside with other units responding to make that response to a structure fire in Town.

Commissioner Silverstone stated that per contract on the BSO side there is one shared battalion chief, a three person ALS Engine (36), and Rescue 12, which are two (2) people. He said that per the reports, in Town, Ladder 32 has four (4) people, Engine 36, which is an additional four (4) people. He said that Rescue 12 was not dispatched to this call because it was already on another call.

Commissioner Silverstone asked Town Attorney Cherof if the contract states that this is the amount of staffing we're paying for and we are actually receiving more of a benefit, then who is paying for it, and if the Town is not paying for it, is it ethically correct. He said that it seems like the Town is receiving personnel that it is not paying for.

Chief Sievers stated that Broward County Sheriff's Office (BSO) will do whatever it takes to make the Town safe. He said that they are aware that the Town does not pay for all the units they possibly need here for a first alarm response.

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Commissioner Silverstone stated that that is not obvious because under the contract it states that if the staffing level is ever changed then that would be a change in the cost.

Chief Sievers stated that if they would like to do a reopener, the Town could always do that. He said that he wants to do what's safe for the residents if they get a structure fire, and he stated that that is what he's doing. He said that if there is extra staff in the system, they are going to put them on Engine 36 and on Rescue 12.

Commissioner Silverstone stated that he had a couple of issues; one issue was that the Town is receiving a benefit that it's not paying for and the other issue dealt with personnel on the scene. He stated that according to NFPA, he believed it stated that there should be 15 personnel here for a high rise fire on the scene within 10 minutes. He stated that per Chief Sievers's numbers, and per where they're coming from, that is impossible.

Chief Sievers stated that this was a first alarm response and most were cancelled.

Commissioner Silverstone questioned what would have happened if it wasn't cancelled.

Chief Sievers stated that then other units would be dispatched on a second alarm, and they would use their partners in Pompano Beach, Fort Lauderdale, or within anywhere else in Broward County. He stated that what the Commissioner was reading from was the first initial response.

Commissioner Silverstone stated that when ISO looks at the Town, they are looking at the first response for insurance rates.

Chief Sievers stated that he was confused and wanted clarification on whether the Commissioner wanted response to what they pay for or response for what they need.

Commissioner Silverstone stated that was a two part question.

Chief Sievers wanted to assure the residents that they will do whatever it takes to make them safe.

Commissioner Silverstone then asked the Town Attorney if it is legal to receive a benefit that the Town is not paying for even though changes in staffing levels are in the contract.

Town Attorney Cherof stated he would comment on the forcibility of the contract. He stated that the contract sets minimum personnel standards that the Sheriff's Office has to provide the Town, and if they provide that, then they are in compliance with the agreement. He said if they choose to do anything above that, they chose to do it at their own discretion and there is nothing illegal about that.

Mayor Parker stated that it is at BSO's own expense.

Town Attorney Cherof concurred.

Commissioner Silverstone stated that the way he read the contract was that if staffing levels are changed the cost would be changed plus or minus and he stated that staffing levels have changed.

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Town Attorney Cherof stated that that was a point of negotiation. He said that they have the opportunity to ask the Town to reopen the contract or for the Town to ask them to reopen the contract. He said that the terms of the contract are fixed until that is accomplished.

Commissioner Silverstone asked if it was the Town Attorney's belief that the Town is not liable for receiving the benefit, and he asked if there were problems with that.

Town Attorney Cherof stated that the Town is under no obligation to pay anything other than what has been contracted.

Commissioner McIntee stated that U.S. Fire Chiefs stipulate that at a high rise fire, five pieces have to be out and on scene within eight minutes of the box. He said that he would like the Chief to explain automatic aid.

Chief Sievers stated that automatic aid is when they are dispatched automatically with the units here in Town.

Commissioner McIntee stated that if they had a contract with Wilton Manors, or whoever, to respond here on an automatic aid agreement, then he wanted to know if that would or wouldn't be automatic aid.

Chief Sievers stated that he did not follow the question.

Commissioner McIntee clarified, stating that if they had a contract with Fort Lauderdale of automatic aid and a fire call came in and they responded on the fire call, he wanted to know if that would be different than mutual aid.

Chief Sievers concurred.

Commissioner McIntee then defined automatic aid as meaning whenever they get the 911 call, and their companies are dispatched from Town, then the automatic aid kicks in and their companies are dispatched also.

Commissioner Clark stated that if the Chief is giving bonus fire support, he is not offended.

Mayor Parker stated that according to the report in front of him, on that fire at 5200 North Ocean Blvd., took them 1.9 minutes to get the first unit there (Unit 36)

Chief Sievers concurred.

Mayor Parker stated that Unit 32 was also there and in Town. He stated that Unit 32 didn't make it there because it was cancelled. He said that they got to the fire in 1.9 minutes which he sees as a good response time. He said he wanted to point out that Commissioner Silverstone is Chief of what is known as the Volunteer Fire Department and Commissioner McIntee is Deputy Chief of the Volunteer Fire Department. Mayor Parker stated that he believed both Commissioners Silverstone and McIntee are upset at the fact that their corporation has not been given the fire contract.

Commissioner McIntee stated that Mayor Parker was taking the issue way beyond what the discussion was and that Mayor was looking for a confrontation.

Mayor Parker stated that he was not looking for confrontation, but he stated that to him, it is a blatant conflict of interest exhibited and he believes they go out of their way to hold the BSO fire

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department to standards that no one can keep. He said that on one hand they stated that BSO fire had not provided enough man power and on the other had they stated that they provided too much man power. He stated to them that they cannot have it both ways.

Commissioner McIntee stated that he is distressed with a major conflict he sees with the Mayor. He stated that whenever Mayor Parker votes on fire assessment to charge everyone \$260.00 universally throughout the Town, he neglects to state that his home is worth \$3.0 million, and in the new proposal would make the fire assessment be over \$1,000. He said that the Mayor is voting himself a \$740.00 discount.

Mayor Parker stated that it was not a point of order. He then stated that his home is not that much.

Commissioner Clark asked to move on.

A short discussion followed.

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

D. Development Services Department Monthly Activity Report for May 2007 (Jim Bell—Development Services)

Commissioner McIntee stated that he believed that he had made a motion requesting the height of Oriana. He then asked the Town Manger if it was researched.

Town Manger Colon indicated that Development Services Director, Jim Bell, was reading the minutes to verify the approval of the motion.

Jim Bell stated that he was not sure if there was a motion on that because if was with other issues. He stated that the Commissioner had called him asking if the height survey could be done.

Mayor Parker asked if he could do a height survey and wanted to know about the cost.

Mr. Bell stated that the applicant would be paying for it.

Commissioner McIntee stated that Oriana paid for a survey that showed that they were in a dispute and not correct in the layout of their plan, but they never told the Town. He stated that he had no problem with Oriana paying for the height survey, but he requested that the Town Manager pick the surveyor, and he said if that is not the case, then he requests that Town pay for its own surveyor of the tallest building.

Commissioner McIntee motioned, seconded by Commissioner Clark, that Oriana be requested to pay for a survey of the tallest building (the Town will choose the tallest), and if Oriana does not choose to pay for it, then the Town would pay for its own surveyor of the tallest building.

Mayor Parker wanted to know what a height survey would cost.

Mr. Bell stated that he didn't think they would have a problem with it.

Commissioner Clark asked Walter Keller to come forward.

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Walter Keller stated that it should not be that expensive, and he said that he would have no qualms having the Oriana surveyor doing it. He said that their surveyor is a professional and has a seal on it. He stated that they set the benchmarks and have the heights established, and it's their seal that would be in jeopardy if there's a problem with it.

Commissioner McIntee stated that they went out and did a survey of the structure in June, and said there were no problems and there were, but no one told the Commission.

Mr. Keller said that the surveyor showed that the project was built and there was a problem.

Commissioner McIntee stated that it wasn't shown to the Commission.

Mr. Keller disagreed. He said that they showed a problem in the setback.

Commissioner McIntee stated that it was not shown to the Commission until they stated that it was an issue.

Mr. Keller said it was provided to the Town with the information. He said that the height survey would cost more money with a different surveyor. He stated that for one building it could cost from \$750 to \$1500.

The motion passed 5-0

Commissioner Silverstone motioned, seconded by Commissioner Clark, to approve the report.

Commissioner Clark stated that this is the best report he has seen come out of that office.

The motion passed 5-0.

E. Municipal Services Monthly Report for May 2007 (John Olinzock—Assistant to the Town Manager)

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to accept the report.

The motion passed 5-0.

6. APPROVAL OF MINUTES

A. June 12, 2007

Vice Mayor Yanni motioned, seconded by Commissioner McIntee, to accept the June 12, 2007 minutes.

The motion passed 5-0.

7. PUBLIC COMMENTS

Stuart Dodd, 232 Imperial Lane, Item 14A postponing the election to November. He asked if Mayor Parker was getting cold feet about the forthcoming elections. He wanted to know if it was about the Mayor wanted to vote himself into a few extra months in power. He said if he is trying to adjust this on cost savings, please don't because he and some friends will be prepared to

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raise the cost of the election within 48 hours. He asked the Mayor Parker since when has he been worried about spending the Town's money. He said the Mayor wasted 10 times the amount of an election on investigations on who best would provide fire services for the Town. He also stated that Mayor Parker quadrupled fire assessments for most residents. He said that if the Mayor believes he's doing what is best for the Town then he would stand up and call a special election tomorrow. He said that the CIC and VFD and all 764 who voted for term limits would be happy to pay for the chance of replacing him earlier rather than later. He said that it wouldn't cost the Town anything. He said it's not personal only political. He then stated that many residents are fed up with the Mayor secretly brokering deals in attempts to micromanage the Town. He asked if the parking deal for Mack's Groves was the same. He then stated that Commissioner Clark had the right idea about saving money, and agreed with moving the election forward to January.

Maureen McIntee was called, but chose to pass.

Barbara Cole, 221 Washington Ave. and 5000 N Ocean Blvd, stated that she wasn't happy with the move of the fireworks to the pier. She said that she hoped that changing the election to November was wrong. She agreed with Commissioner Clark wanting to move the elections to January. She stated that she did not agree with allowing parking on El Mar Drive Friday nights. She stated that she agreed with Vice Mayor Yanni about not giving out addresses. She said that getting rid of rentals before 30 days was not a good idea. She then mentioned Sandy by the Sea renting her property out to vacationers. She said that buyers need to find a way to make ends meet. She then stated that, for her, positive news is finding out what's really going on. She said that having both newspapers available to all is important. She stated that she heard that some strong arming is going on where one newspaper shouldn't be at one location, or papers are being placed on top of other papers, or papers are being thrown out, or mysteriously lost at condos. She stated that they should try to have both papers available to all.

Frank Herrmann, 4244 Seagrape Drive, stated that he wanted to vote yes for March voting and no for November voting. He stated that he is not ashamed of whom he is, and he stated that his name, address, and phone number are three of his most prized possessions, and would proudly share them with anyone. He said that if he refused, it could still be found out on the internet. He stated that any person should be proud to divulge his name, rank and serial number. He said that the Commissioners would not acknowledge an anonymous letter, so why should he be forced to listen when one of the Commission's members has a statement to make and then doesn't want to be identified as the author. He said that the volunteers will not be marching in the parade. He asked if he was the only one who heard the evasive reply, which to him was a clear no. He stated that if he were the parent of a young child, he would do anything to make the holiday a day to remember, he stated he would not want to destroy this vision of a great day in this country's history. He stated that he wants this child to grow up into a patriotic adult and raise his family the way his parent's raised him. He stated that he wanted this child to be kind, honest, faithful to this Town, and he said he wanted this child to someday become chief of the Lauderdale-By-The-Sea Volunteer Fire Department. He said that they should never make anyone beg to be in a parade.

Cristi Furth, 4525 El Mar Drive, spoke on two (2) agenda items. She stated that the first was about the request for inside lane of El Mar Drive to be used for free parking during the weekly Friday night events. She stated that she loves jazz on the street, but she feels the Village Grille has already utilized the Town's street as an extension of their restaurant and bar business. She stated that using El Mar Drive as a parking lot is not safe and should be used sparingly, not just for one town business, but for events that benefit the whole town. She said that restaurant customers should not be given free street parking, but instead should be encouraged to put money in the Town's meters to help pay off the new parking lots. She stated that excessive

favors should not be granted to one (1) or two (2) business. She then discussed Mayor Parker wanting to change the election dates from March to November. She stated that under no circumstances should any sitting commissioner vote to extend their own elected term of office. She said that those additional eight (8) months belong to the citizens, and they have the right to choose who sits in those seats as Town representatives. She said that important municipal elections need to be at the forefront during March elections, not tucked behind page 13 of a November ballot. She stated that cutting terms six (6) weeks was more appropriate rather than stealing eight (8) additional months from the Town's citizens.

Thomas Carr, 254 Miramar Avenue, shared a story about Lighthouse Point. He said that townhouses were being built and the inspector came during construction and the buildings were six (6) inches beyond where they were supposed to be. He stated that the builders stated that they were told about it, and the inspector came back after the townhouses were built, and it was going under roof, and windows were going in, and Lighthouse Point told them to tear it down. He stated that he looked at the location and all the townhouses were torn down. He then stated that he would like to hear what reasons the Commission had for even considering fiddling with the Town elections. He said that the issue was previously discussed and there seemed to be agreement that the elections would perhaps be moved to November in 2010. He said that moving the elections to January was illogical. He stated that in November there are at least 11 to 13 pages to vote on. He then noted that as long as he's lived here, the Fourth of July has always been a Volunteer Fire Department event, and there should be no question at all about allowing them to march.

Lisa Mitchell, 4641 North Ocean Drive, said that she agrees with the previous commenter, and stated that she does not agree with moving the elections. She said that there are too many buttons to push. She said they are a small town, and she said that the people who care will come out and vote. She said that in 1951 the Town was founded, and in 1961 the Volunteer Fire Department was founded, and she said that the Volunteer's should march in the parade. She then stated that Vice Mayor Yanni ran a wonderful meeting last meeting. She again stated that the Volunteer's should march in the parade. She said that every time Commissioner McIntee and Commissioner Silverstone look good, they get attacked. She said that Mayor Parker should tone down attacking people and pull together as a community. She said that as for BSO Fire, she said she has very little confidence in there.

Paul Novak, 4900 North Ocean Blvd, said he loves the jazz, but he is against the free parking on El Mar Drive on Friday nights. He discussed what happens in the area on Friday nights. He said that El Mar Drive should not become a parking lot.

Karen Hunsaker, 4629 Poinciana Street, wanted to add a vote to no parking on El Mar Drive, and she stated that she sees a lot of danger to allowing additional parking infringing on El Mar because it will be less possible for people who want to walk to the events. She then stated that she would say yes to allow the Volunteer Fire Department and supporters to march in the parade. She also said yes to elections in March, and if that's not possible then in January. She wanted to speak on behalf of the Lauderdale-By-The-Sea Performing Arts that brings many plays, musical events, and other cultural happenings to the Town. She also spoke on behalf of the computer education programs. She stated that without continued funding, these programs might not be available.

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

9. COMMISSIONER COMMENTS

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Commissioner Clark went back to some of the earlier public comments. He said the volunteers were going to march in the parade. He said the January election will not change the terms of office, and he stated that he would continue to vote for the center for performing arts. He then thanked all the Fourth of July Volunteer Committee members. He said that they have done a great job and are super people. He named a few people: Ron Piersante, Vincent Ragusa, Bonnie Clark, and Lorene Parker. He said he has also had good support from Chief Gooding, Chief Sievers, and Bob Terrien.

Commissioner Silverstone stated that he gets many comments about how the Commission acts on the dais at times, and he stated that he tells people that the Town has a strong foundation, and financially the Town is strong, and he stated that it's the passion that they have to do what's right for the Town. He then moved on to the Town's webpage, and he stated that it has been changed for the better. He said that he wants to have a webcast of the meetings. He stated that the youth basketball league has started again, and he's been doing this for 10 years. He indicated that he teaches them how to learn how to play basketball. He then directed a comment to the Mayor. He said that he did not agree with the Mayor's comments regarding the earlier discussion of the BSO fire report. He indicated that he had some concerns with the report and for the Mayor to turn those ideas around into something it was not, is not correct. He stated that the Mayor, or any Commissioner, should not do that. He said that when the Mayor speaks it acts as if it is coming from the Town, and he believed that to be incorrect, uncalled for, and inappropriate.

Commissioner McIntee greeted everyone. He said that the agenda has many people requesting extensions. He said that he has learned something from Town Manager Colon and Mr. Unger of Minto. He said Mr. Unger has been upfront with him at all times. He stated that Mr. Unger indicated that money's tight but he would do whatever he could for the Town. Commissioner McIntee stated that if he would build an Oceanside park on one of his corners, then he would support Mr. Unger. Commissioner McIntee noted that in 30-40 days the park was up and running. He said it was phenomenal. He said that this is a developer who came to the Town, explained how tough things were, and asked what could be done, and he did it. Commissioner McIntee stated that Mr. Unger would have his support, but assured that Mr. Unger would still be watched and there would be no free rides. He stated that at least Mr. Unger kept his word and helped the Town. He said that he is telling the people coming up for extensions that he knows it's a tough market, but he said that he would support them if they turn those vacant lots into green lawns. He said that he doesn't want people to look at green fences or rusty aluminum fences. He said that the lots could be made into nice lawns. He stated that as far as Coral Key is concerned, nothing has been torn down, the building is well maintained and he stated that they have a right to the year, but all the other properties out there should turn those lots into lawns. He concluded by noting that he has seen an absolute change in the employees of the Town. He said that people stay late. He said that Town Manager Colon comes in early and leaves late, he noted that the Town Clerk comes in early. He said that the employees are happier, the building is cleaner. He said that the wall in Town Hall was redesigned by Kelly because she wanted to do it, not because she was asked to do it. He said that the Town is turning around. He said that sometimes you have to demand respect, but he said he is a firm believer in asking questions and getting straight answers. He said that a person wouldn't get away with lying to him twice.

Vice Mayor Yanni wanted to bring up was bus shelters. He said that FDOT was supposed to put the pads in.

Town Manager Colon stated that they are reviewing the Town's application with property reform and she is still waiting for the numbers from the County.

Vice Mayor Yanni wanted people to think about selling Town property and put Town Hall at SunBank because it is more centrally located for the residents and businesses, and the opportunity is now here because the bank is for sale. He said that they could save \$400,000.00 by not closing in the portico. He stated that the Performing Arts Center could stay at Jarvis Hall. He suggested selling the maintenance building by Dixie Highway, and bringing the maintenance department back to Town. He said there is a hall where meetings could be held. He said that it is a great opportunity for the Town, and they should look into it. He said that it is a new building and has everything in it in terms of offices, a drive through, etc. He stated that he would like Town Manager Colon and Assistant to the Town Manager Olinzock look into it. He said that it was brought up before, and asked people to think about it. He said there is plenty of parking and not only that, if they have a new fire station, then the fire, police and street department could be at the current Town Hall location, and the new Town Hall could be away from it on Commercial Boulevard.

Mayor Parker asked if there was an objection to having Town Manager Colon look into purchasing the SunBank property. There was no objection.

Mayor Parker wanted to wish everyone a happy Independence Day and hoped everyone would attend the Fourth of July celebration. He stated that he wanted to thank Commissioner Clark and his staff of volunteers. He stated that the Performing Arts Center had trouble getting dates for Jarvis Hall. He indicated that he wanted to place the issue of giving the Performing Arts Center priority on dates for Jarvis Hall, subject only to Town Commission meetings, Halloween, and Easter. He stated that he is proposing moving the election to November 2010, not 2008. He said that he supported moving the election to January. He said that if they could, he would like to shorten the term. He didn't think there should be any lame duck meetings. He then stated that he would like to discuss both items together, and finally, he wanted to address Commissioner Silverstone. Mayor Parker stated that his complaint is that from everything he's seen, and he said Commissioner Silverstone and Commissioner McIntee hold BSO fire to a higher level of scrutiny, and he said that they are only looking for problems and things that are wrong. He said that he believed that to be a conflict of interest because the volunteers are a competing organization bidding for a contract with the Town, and Commissioner Silverstone works for that organization. He said that by all means, if there is a problem with BSO Fire, then Commissioners Silverstone and McIntee could bring it up, but they should use the same level of scrutiny everywhere throughout the Town. He again wished everyone a happy 4th of July.

Commissioner McIntee wished a happy 37th anniversary to his wife, Maureen.

Mayor Parker stated that he wanted to wish them, the Furth's and the Carr's a happy anniversary as well. He stated that he wanted to point out that Vice Mayor Yanni and his wife Kaye were celebrating their 51st anniversary.

10. ORDINANCES (1st Reading)

11. CONSENT AGENDA

Mayor Parker stated that he wanted to pull items A, B, E off the consent agenda.

Commissioner Clark wanted to pull item C from the consent agenda.

Mayor Parker called for a recess. The meeting was recessed at 8:42 p.m. and resumed at 8:52 p.m.

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Mayor Parker stated that there was a request to move item 14J forward because the proponent of item J was not feeling well. There was no objection to doing that.

ITEM 14J: Staff has received a request for a one (1) year time extension to July 9, 2008 for the Coral Key Ocean Club located at 4601 El Mar Drive (See attached memorandum and applicant's justification letters) (Jim Bell Development Services)

Mayor Parker read the agenda request item.

Vice Mayor Yanni motioned, seconded by Commissioner Silverstone, to approve the request.

Commissioner McIntee asked if Coral Key was going to stay up during this one year period.

Mr. Arker concurred.

The motion passed 5-0.

Mr. Arker asked for a minute of the Commission's time. He stated that he appreciates what has been done. He said that he suggested to the Commission that they should consider when someone starts a building, having the builder's surveyor there and Mr. Bell's representative there and they should sign each other's papers.

Mayor Parker indicated that he believed that to be a rule.

Development Services Director, Jim Bell, stated that they would have spot surveys at various points in the development to correct issues early.

Mayor Parker stated that they would then have a paper trail, and if a developer continued to ignore the fact then they can prove that they were told of issues.

Mr. Arker also asked about Commission approval of a project. He stated that when a project is approved, no matter whom it is, and he noted that in his case he was given six (6) months. He said that he was approved five (5) months ago, and he noted that it has taken that long to receive development orders, changes, and the fire marshal's approval. He stated that the time allotted should start at the date when a person wants to put up a project, and receive all their preapprovals before they can move on. He stated that he asked for the extension because it took five to six months to get the papers together. He then stated that he requested in his letter that he wanted to supply pavers to go from the west side of El Mar to the park and from the north side of Washingtonia to the south side. He then stated that he had a rendering of what it would look like.

Mayor Parker stated that the pavers must match whatever style of paver that the Town selects. Town Attorney Cherof stated that this could not be part of a motion, and it needed to be part of the next agenda.

Mayor Parker asked for discussion and/or action regarding placing pavers in on El Mar for the Coral Key project to be added to the next agenda.

A. Selection of Beach Pavilion Design (Walter Keller)

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Sandra Booth, Chairman of the Master Plan Steering Committee, stated that they brought five (5) concepts to the Commission, and the Commission would choose the final design. She explained their selection process for the finalists.

Mayor Parker asked if the Committee had a recommendation.

Sandra Booth stated that they had five (5) finalists.

Mayor Parker asked if there was a recommendation out of the five (5) that they liked the best.

Commissioner McIntee asked if there was one that came to the top.

Ms. Booth indicated that they did not select that way. She stated that she could go back to the Committee and have them select for the Commission, but she noted that they felt the Commission wanted choices.

Town Manager Colon stated that she thought that there was an informal vote among the Committee that indicated their preference.

Ms. Booth stated that they did not choose a preference; they chose instead a selection for the Commission to decide on.

Mayor Parker asked a question about #1, which was the option he liked the best. He then asked for some clarification of the drawings provided for the first candidate's proposal.

Mr. Keller explained some of the details of the first candidate's pavilion depiction. He then noted that it was not clear that the Master Plan Steering Committee was going to recommend a single design. He said that these were not finished designs, but instead were concepts that needed detailing by an architect.

Mayor Parker stated that the first selection by Ken Brenner was his preference.

Commissioner Silverstone thanked Sandra Booth and the Committee for doing a great job. He said that he also likes the first one, but he wanted to see the bathrooms on one side, and a thinner roof and maybe a rearrangement of the seating. He also suggested taking segments from the other designers so that they could all be incorporated. He said that he would like, during the final stages of construction, have the volunteers go out and all put a piece in there.

Commissioner McIntee stated that he believed that the Master Plan Steering Committee preferred Edwin Forbes's design. He then asked if Edwin Forbes was the one that stood out the most to the Committee members.

Sandra Booth said that the Commissioner was correct, but she stated that she didn't know that they were supposed to offer their preference.

Commissioner McIntee motioned to accept Mr. Forbes's design. The motion died for lack of a second.

Commissioner Clark stated that he also liked Ken Brenner's design. He stated that a professional architect would deal with refining the design.

Vice Mayor Yanni stated that he liked Edwin Forbes's design. But he was concerned about the bathroom.

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Mr. Keller stated that the bathroom was a separate building on the north or south side of the pavilion.

Mayor Parker stated that he still preferred the Ken Brenner design, and he said that he liked the symmetry of having bathrooms on both sides. He then discussed what he liked about Ken Brenner's design.

Mayor Parker motioned, seconded by Commissioner Clark, to accept Ken Brenner's design.

Commissioner Silverstone asked to amend the motion and leave the design open.

Mayor Parker said that the design is open.

Mr. Keller stated that the Committee wanted them to select a concept, and then two (2) architects will put construction drawings together based on the Commission's choice.

Mayor Parker stated that he understood that nothing is concrete, but he would like to see some details worked out.

Commissioner Clark stated that the architects could make a presentation, and they would still have the final say.

Mayor Parker stated that there was a motion on the floor to adopt the Ken Brenner design, but leaving it open.

The motion passed 3-2 with Vice Mayor Yanni and Commissioner McIntee dissenting.

Mayor Parker stated to Mr. Keller that he might want to inform the architects that some are keen on the Forbes floor plan, but the general design of Ken Brenner.

Ms. Booth said that they put together a timeline for the Commission. She said that she wanted the Commission to know that the letter went out to the University of Miami's School of Architecture, FAU and the Art Institute. She stated that in three (3) months and two (2) weeks, and one (1) day they were able to bring this process to the Commission. She stated that Ms. Shevaun Stewart-Kuhn put together the timetable and she said that by September 11th, the architect will make a final presentation and October 9th would be their vote on the particular design. She said that they are looking to break ground by June.

Town Manager Colon stated that they already had the dates mapped out because they want to meet the grant date and RFP it for about a month. She stated that they need to put it out there for 30 days.

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to let the Town Manager do whatever she needs regarding dates. The roll was not called on the motion.

Sandra Booth wanted to know if the Committee would be working with the architects.

Mayor Parker said that as long as it doesn't delay things, it would not be a problem.

Commissioner Silverstone stated that if the Commission wanted any changes then they could work through the Master Plan Steering Committee.

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Town Manger Colon stated that they were submitting both designs to the architects and they would give their PowerPoint based on both designs, and after the presentations, the Commission would choose an architect, and then the architect should be given at least a month to start construction drawings that the Master Plan Steering Committee would review before it comes back to the Commission.

Commission McIntee asked what would happen if the structure is extremely high in cost.

Mayor Parker stated that they could rethink things at that point.

Vice Mayor Yanni stated issues he didn't like about the Ken Brenner design.

Commissioner Clark suggested letting the architects work it out.

B. July 4th Expenditures (John Olinzock—Assistant to the Town Manager)

Mayor Parker wanted to know about the expenses and wanted to know if some of these were included in the \$51,000.00

Commissioner Clark stated that they were not. He stated that in the past they had a \$50,000.00 budget, plus donations, and in the past it has cost over \$50,000.00 for the fireworks.

Mayor Parker said that he thought there was more money because of the expense saved from not using the barge for fireworks.

Commissioner Clark said money was saved, but not that much.

Mayor Parker asked about donations.

Commissioner Clark stated that about \$22,000.00 is on record with the Town Manager, but in fact, it's right at \$30,000.

Mayor Parker asked if the additional \$20,000.00 would keep them under \$50,000.00 of Town funds.

Commissioner Clark stated that the Mayor was incorrect. He then detailed the expenses.

Mayor Parker stated that he didn't know the Pier was charging the Town.

Commissioner Clark stated that the Pier was charging.

Commissioner McIntee stated that the issue was discussed last meeting, but he wanted to note that an issue that bothered him and that he thought was outrageous was that the Town is paying the County \$700.00 for the permits.

Commissioner Clark agreed.

Commissioner Silverstone motioned, seconded by Commissioner Clark, to approve the July 4th expenditures.

The motion passed 5-0.

C. Jarvis Hall Application (John Olinzock—Assistant to the Town Manager)

Commissioner McIntee stated that he heard that Jarvis Hall could not be used for political organizations. He stated that after review of the Ordinance, it is clear that there are no restrictions in the ordinance and any civic organization in the Town can use the space. He stated that there were only restrictions in terms of televising meetings. He said that any legitimate Town committee can use Jarvis Hall.

Commissioner McIntee motioned, seconded by Commissioner Clark, to allow any organization to use Jarvis Hall, noting that the only argument the Commission can make is whether the meetings are televised or not.

Mayor Parker stated that there was a policy that political organizations could not use Jarvis Hall, and he stated that despite that, the Commission can decide who can and cannot use Jarvis Hall.

Town Attorney Cherof stated that, according to the Code, the restriction deals with the broadcasting issue, which is reserved to the Town Commission to decide. He stated that the provision is not applied to the other provisions.

Commissioner McIntee then asked the Town Attorney if what he meant was that anyone can use Jarvis Hall and the broadcasting issue was the only question.

Town Attorney Cherof stated that the ordinance is silent to use.

Vice Mayor Yanni stated that the Code indicated that the event had to be approved by the Town Commission.

Town Attorney Cherof stated that the section the Vice Mayor referred to was not specific to Jarvis Hall; it was instead, for any permit.

Mayor Parker asked if they have the authority to decide who can and who can't use Jarvis Hall.

Town Attorney Cherof stated that that would require the Commission to agree on the interpretation of the Code, which defines the definition of an event; he said it is a broad definition, unless the Commission which adopted it interprets it otherwise.

Mayor Parker stated that it was the Commission's choice whether a political meeting is an event.

Town Attorney Cherof stated that it is broad enough to include political events. Mayor Parker asked if they could prohibit having them use the television.

Town Manager Colon stated that once the application is done and approved by the Town administrative staff, they then just follow the process. She stated that she saw the only exception dealt with broadcasting. She stated that if everyone follows the process and completes the forms, she does not see a problem as long as everyone is treated equally.

Vice Mayor Yanni stated that that privilege was given to the Town Manger because the previous Town Manger would throw the issue back to the Commission.

Town Manager Colon stated that is why she has placed the application on the Consent Agenda to indicate that the issue is not a change, but rather an application that has not been used for

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some organizations. She stated that the application is being sent out to everyone who is currently using the hall and anyone in the future who wants to use it, has to follow the process, which is set forth in the Code.

Mayor Parker asked the Town Attorney if political organizations were civic organizations.

Town Attorney Cherof stated that he did not know the answer to that because it was an undefined term.

Commissioner Silverstone asked if restricting organizations went against the Bill of Rights.

Town Attorney Cherof stated that it did not.

Mayor Parker wanted to amend the motion to add that political organizations should not be civic organizations and they should pay the fee that anyone else has to pay. The amendment to the motion died for a lack of a second.

Commissioner McIntee restated the motion stating that anyone can use Town Hall as a civic or any other type of organization with the only restriction the dais can place is on the use of Town wide television.

Town Attorney Cherof stated that a motion was not needed; they could just go by the Code.

Mayor Parker instructed the Town Manager to go by the ordinance set in the Code.

Mayor Parker then moved to the Jarvis Hall application form.

Commissioner McIntee motioned, seconded by Vice Mayor Yanni, to accept the Jarvis Hall application form.

The motion passed 5-0.

D. Disposal and Sale of Surplus Property (John Olinzock—Assistant to the Town Manager)

Commissioner Silverstone motioned, seconded by Commissioner McIntee, to approve item D. The motion passed 5-0.

E. Proposed Budget/TRIM Calendars (Tina Angelone—Town Clerk)

Mayor Parker asked if the final budget hearing could be moved from September 28th to September 27th.

Town Manager Colon stated that the calendar followed last year's pattern. And she stated that they also considered staff ability to produce the proposed budget to an adopted budget within less than ten (10) days. She stated they also had to consider the availability of the Town Attorney. She said that she thought the dates were ok as no other Commissioner stated that there was an issue.

Mayor Parker again asked if there would be a problem moving the date of the final hearing from September 28th to September 27th.

Town Manager Colon said that there was not, but she preferred September 28th.

Town Attorney Cherof stated that he did not have a problem with the date.

Commissioner McIntee wanted to know why it had to be moved, if the Town Manager preferred the later date.

Mayor Parker indicated that he would be out of town that day.

Town Attorney Cherof stated that the Mayor would get preference over the Town Manager because the budget is adopted by the Commission, and not the Town Manager. He stated that the benefit would be to have all members of the Commission present.

Mayor Parker motioned, seconded by Vice Mayor Yanni, to approve the dates with the exception of moving the final hearing date from Friday, September 28th to Thursday, September 27th.

The motion passed 5-0.

Commissioner McIntee noted that the change was occurring because the Mayor will be out of Town on September 28th, and the Mayor is asking this as a personal favor from the dais.

12. RESOLUTION

- A.** Resolution approving inventory list of all municipally owned real property for use as affordable housing (Town Attorney via Town Manager)

Town Attorney Cherof read the resolution by title only.

Mayor Parker asked if they had to do that even though they do not have such property.

Town Attorney Cherof concurred.

Commissioner Silverstone motioned, seconded by Mayor Parker, to adopt the resolution.

The motion passed 5-0.

13. OLD BUSINESS

- 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

Development Services Director Jim Bell recommended the item to be tabled until September 11, 2007. He stated that they would be working with Chen & Associates on creating an internal Town building department, which will be on the agenda on September 11, 2007, and he would like to have the items coincide.

Commissioner Silverstone motioned, seconded by Mayor Parker, to table the item until September 11, 2007.

Town Manger Colon asked what two items he wanted to combine.

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Mr. Bell indicated it was the current item and item B listed under future agenda items for September 11, 2007.

Town Manager Colon asked why he would want to combine with that item.

Mr. Bell indicated that the research involves what their input would provide.

Town Manager Colon suggested that Mr. Bell offer her comments and she can incorporate that with what she is working on with Chen & Associates.

Mayor Parker stated that this item would be, on the September 11th meeting agenda, considered immediately after the discussion of the request for the Chen & Associates study on internal building.

The motion passed 5-0.

- B.** 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 4/24/07,5/8/07,5/22/07 meetings

Development Services Director Bell gave the report regarding the parking spaces. He stated that this was an analysis. He stated that he researched the restaurants to determine how much parking would be needed for the various restaurants sidewalk cafés. He stated that any increase to their customer service area is where parking is required. He then discussed Code provisions regarding parking for sidewalk cafés. He then provided an analysis of each sidewalk café and the parking calculated for the restaurants. He concluded that staff research has concluded that parking spaces required for the various restaurants in the Town's core area, for any customer service area on private property, including any sidewalk cafés have been addressed; however until recently, parking was not required for the customer service area of sidewalk cafés that go into the public right of way. He stated that it is staff's opinion that the Commission should clarify whether parking should be required for the customer service area of sidewalk cafés in the public right of way.

Commissioner McIntee stated that he believed that restaurants should have to lease from the Town spaces for those seats. He stated that the problem he sees is that Mack's is coming into Town and will be looking for 117 spaces. He wondered if they give Mack's all those spaces, then what would be done for the rest of the Town. He stated that they have to gain control of the outside seating, and believed restaurants should have to pay a fee for those seats, and it should be parceled out fairly to all the major restaurants. He said that he would like ideas from Jim Bell on how to do it, and would like some feedback for October.

Commissioner McIntee motioned, seconded by Mayor Parker, for Mr. Bell to come back at the October 23, 2007 meeting with what is an equitable way to charge for the exterior seats for all the restaurants.

Mr. Bell asked if it was safe to say that in the future, staff should request parking for public sidewalk cafés.

Commissioner McIntee concurred, but he stated that he feared that the established restaurants in Town will not get a fair shake when someone else comes in.

The motion passed 5-0.

- C. Regarding the Garden Court Townhomes project, at their May 22nd meeting, the Commission recommended a time extension to May 22, 2008 for the Garden Court Townhomes project provided the applicant returned to the Commission on June 26, 2007 with a cost estimate for the improvements. The Town Engineer has some concerns regarding the documents and does not accept the cost estimate of \$35,000 for the improvements (Jim Bell Development Services)

Development Services Director, Jim Bell, stated that the \$35,000 estimate is for the sidewalk improvements, and he said that the applicant was under the impression that that was the only element they should address. Mr. Bell noted that he was not sure if it should be. He stated that if the project was to not continue, he wanted to know what would happen if the applicant had to put the waterline in, or tear up the road, etc. He stated that that would involve things outside of the sidewalk improvements. He stated that they needed clarification from the Town Commission if this was only for conditions of approval that related to paver and sidewalk improvements. He stated that if it is supposed to include any construction to the sidewalk including those elements, then it would have to be a higher cost.

Attorney Alan Gabriel greeted the commission and stated that he agreed to bonding the offsite improvements. He said that their conditions of approval specifically identify what the offsite improvements are going to be and that is what they looked at. He said that they got a cost estimate to perform that work, and that was what submitted to the Town's staff. He stated that now they are asking for them to build it and guarantee that it will be built with sewers and water and everything else that is part of onsite development, which he stated was not what was approved.

Commissioner McIntee stated that as a result of doing this, they were giving them a big piece of property there.

Mr. Gabriel stated that they were not going to be given anything.

Commissioner McIntee asked Mr. Gabriel if the Town did not deed them a piece of property.

Mr. Gabriel stated that he has not been deeded anything.

Commissioner McIntee stated that it would be given in the future, and so then they would be given something. He then thanked Mr. Gabriel for his gratefulness.

Mayor Parker asked Mr. Bell about the other improvements.

Mr. Bell stated that the Commission's main concern was the timing of the project. He conjectured what would happen if they did not finish the project, and already started the waterline improvements; he stated that they would have to cover it up and finish the sidewalk; he stated that then they couldn't get to the paver construction, and then the Town would not have a cost estimate that would address those improvements that need to be done. He explained that that was why they needed clarification.

Mayor Parker asked Attorney Gabriel if they have to build these other improvements.

Mr. Gabriel stated they do. He stated that the improvements would be built as part of the development when it goes in. He said that at the time, the question was about issuing the vacation and right of way.

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Mayor Parker stated that they don't want the improvements put in, to only dig them up, and if the improvements have to be put in anyhow, there shouldn't be a problem guaranteeing that they would be put in.

Mr. Gabriel stated that that was an unreasonable request to require them to put water and sewer lines into the ground, or provide the Town with a bond or money in escrow for that work to be performed. He said that no other development does that.

Mayor Parker stated that they have to do the work anyway to do the project.

Gabriel stated that this was all part of the question of whether the Town would adopt the vacation on the abandonment.

Mayor Parker asked Town Attorney Cherof to comment.

Town Attorney Cherof stated that the conditions were specific when the Commission approved the project. He stated that his concern was that the modifications of those conditions post hearing by questions or interpretations by staff, which allows every project after obtaining approval to be questioned and re-questioned by the administration and coming back time and time again. He said that the process is not consistent with the way the Commission has done things in the past and he stated that he doesn't think it is consistent with the language in the Code.

Mayor Parker asked if the Town Attorney meant that Attorney Gabriel was right and that staff should have told the Commission to put the information in before approving it.

Town Attorney Cherof stated that he believed the developer complied with the conditions of approval by tendering the proper amount of money based upon their engineer certificate.

Mr. Bell stated that they are able to address the other improvements and they will have to apply for those permits, but the only thing is that the Commission wanted to know what the Town would get if the project goes bankrupt.

Mayor Parker stated that next time the issue should be brought up when they are approving the issue.

Commissioner McIntee said it was not Mr. Bell's fault.

Mayor Parker stated that if they are going to do this in the future, they needed to get an amount sufficient.

Jim Bell stated that this is a unique case.

Town Attorney Cherof stated that this is something that could be brought to the Commission as part of the Land Development Regulation rewrite.

Commissioner McIntee stated that he does not like the attitude of the developers. He stated that they are getting a tremendous piece of property abandoned to them so that they can make a lot of money, and he stated that they were going to give the Town \$35,000.00 in improvements, which was not impressive. He stated that the Mayor is right, and they have to do the work anyway, so why not do it in good faith. He said that he would not have given them one square foot of that property and he says that their attitude makes his point about not giving them the property more right. He said that he will watch their project as close as any other project,

and maybe a little closer, and he said that they have to build it anyway, but they want to fight about it.

Mr. Bell stated that there were also some problems with the easements lining up, and he recommended postponement to July 24th.

Town Attorney Cherof stated that there is nothing that needs to come back to the Commission. He said that if there is an issue regarding engineering, then that is reserved to the Town engineer.

Town Attorney Cherof stated that it doesn't need to come back again, and when the engineer signs off on the easements, then the Mayor will sign off; he stated that there is no more approval required of the Commission.

Commissioner McIntee stated that he wants them to come back again for further discussion.

Dave Carothers stated what the Commission is asking for they will get at the beginning of the project.

A short discussion of the escrow followed.

Mayor Parker stated that the solution is that if it's put in escrow then they could use that portion of the escrow to pay for it.

Mr. Carothers stated that he didn't want to be looked at as bad developers because he does not do bad developments. He stated that this is costing about \$100,000.00 a month and they still do not have an answer.

Mayor Parker stated that they have their approved project, and now they have to come up with \$35,000.00 for cost if that is what the engineer agrees to.

Mayor Parker stated he wants to make sure the easements line up and he needs two people to tell him that: the engineer and the Town Attorney. He said that if the easements do not line up, then he is not signing.

Town Attorney Cherof stated that it did not have to come back on for any additional approval; it is only coming back as a discussion item for Commissioner McIntee.

14. NEW BUSINESS

Item 14E was moved forward, which was discussion and/or action pertaining to moving the March 11, 2008 Municipal Election forward to January 29, 2008 (Commissioner Clark)

Town Attorney Cherof stated that the state statute provides that any city may by ordinance move the day of general election to the January day of the Presidential Preference Primary. He stated that the term of office shall commence as provided as the relevant municipal charter or ordinance, and the term of office whose term was due to expire in March 2008 shall expire as provided by the relevant municipal charter or ordinance.

Mayor Parker asked if the charter provides that officers take office seven days after the election.

Town Attorney Cherof stated that the charter stated that in March. And he stated that the intent was to avoid altering the terms of office and all that is moving is the date of the election.

Mayor Parker stated that the legislature is empowering the municipalities to do this.

Commissioner Clark stated that his purpose was simply two fold. One reason was to save money for the Town and the other was to get a greater turn out at the polls. He said there's no other reason to do it. He said it just pushes up the calendar to the election process itself.

Commissioner Clark motioned seconded by Mayor Parker, to instruct the Town Attorney to prepare an ordinance moving the March 2008 General Election to January 29, 2008.

Mayor Parker explained what he saw as the benefits to moving the election. He stated that historically, twenty percent more people vote when municipal elections coincided with the Presidential Preference Primary. He stated that he wanted to encourage more people to vote. He said he wished he could shorten the terms, but he can't.

Commissioner McIntee stated that he did not think that the March elections should be changed. He stated that they are a small town and the elections have been this way since the Town began. He said it is the way they do things, and the Town could afford the \$12,000.00 a year. He said that he's not for it, but he said that if it carries, then he will support it. He said that he worried that if the seating commission changes drastically, then three (3) commissioners could do a lot of damage in six weeks. He said the lame duck argument is pretty strong. He said that it won't happen, but it could. He asked the Town Attorney if he could amend the motion to say that the new elected officials will take office within seven (7) days of the election.

Town Attorney Cherof stated that Commissioner McIntee could not without amending the charter.

Commissioner McIntee stated that he's worried if there's a lame duck situation. He again stated that he was for keeping the elections in March.

Vice Mayor Yanni stated that he agreed with everything except the part about lame duck Commissioners doing damage. He said that the people in Lauderdale-By-The-Sea are going to come out and vote in March. He said that people will be here to vote because they are interested in what happens in Town, and he thinks it should stay that way.

Commissioner Silverstone agreed with Vice Mayor Yanni, and he said that by having too many things on the ballot confuses people. And, he said that people do come out and vote in this Town. He said that he also worried that some future commission may abuse that extra six (6) weeks.

Mayor Parker stated that the proposed ordinance would only be for the 2008 year. He said that in years where elections coincide with the Presidential Preference Primary more people come out to vote. He stated that he thinks it should be moved. He said that he thinks that any concerns for lame duck could be resolved by amending the motion to provide that they do not enact any ordinances during the lame duck period.

Town Attorney Cherof stated that the Commission cannot impose a restraint on their legislative authority.

A short discussion followed on the problems that may occur with a majority lame duck commission.

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Town Attorney Cherof stated that while all the Commissioners are in office, lame duck or not, they have the power provided to them in home rule.

Commissioner Silverstone stated that he wouldn't mind placing a referendum in March to let the people vote on whether they want to move the election to January or not.

The motion to move the election from March to January failed 3-2 with Vice Mayor Yanni, Commissioner McIntee, and Commissioner Silverstone dissenting.

**A. Discussion and/or action regarding moving the election from March to November
(Requested by Mayor Parker at 5/22/07 meeting)**

Mayor Parker stated that he would like to move the March elections to November 2010 or 2012. He suggested passing an ordinance putting on the November 2008 ballot, a charter amendment moving the elections from March to November because more people will vote.

Vice Mayor Yanni asked to wait and see if the Old Guard wins again and bring it up then.

Mayor Parker stated that this only gives the people the opportunity to vote on it.

Mayor Parker motioned, seconded by Commissioner Clark, to direct the Town Attorney to draft an ordinance to put on the November 2008 ballot a charter amendment that will move municipal elections from March to November starting 2012.

Commissioner McIntee stated that the motion defeats the argument of the Vice Mayor. He said that March is the family thing here and they will get the votes.

Commissioner Clark stated that they are putting it on the ballot to let the people decide. He said the will of the people should be heard.

Vice Mayor Yanni said he is supporting it because the people are voting on it.

Commissioner Silverstone said that the people should be given three (3) choices: stay the way it is, move it to November, or move it to January.

Mayor Parker said that January is only for this year.

Commissioner Silverstone then stated that he would like to see the other two (2) options spelled out.

Town Attorney Cherof stated that ballot questions do not work that way. Voters either vote up or down on a proposed item.

Commissioner McIntee stated that he agreed with the argument for the will of the people. He said that the will of the people wanting term limits got ignored, so that is why he initially said no.

The motion passed 5-0.

B. Discussion and/or action to allow parking Friday nights on El Mar Drive (Vice Mayor Yanni)

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Vice Mayor Yanni stated that every event is allowed parking on Friday nights. He said that it doesn't matter to him, but he thought it would release some congestion. He wanted to know if there would be parking on the inside lane during July 4th, and wanted to know the difference between that and the Friday night events. He said he just wanted to help the businesses relieve some of the parking problems.

Vice Mayor Yanni motioned to approve parking on El Mar Drive Friday nights.

Commissioner Clark asked when the parking lot would be ready.

Town Manager Colon stated that the new parking lot will be available for July 4th.

Commissioner Clark stated that the parking lot is going to relieve a lot of the problems.

Commissioner McIntee stated that a lot of the small hotels may suffer from allowing parking on the inside lane of El Mar. He stated that the parking lot will be open in a week, and he said they could see how that works out, and if it turns out that it's not opening up then they can discuss the issue again. He said that they are trying to generate funds for the Town, so he suggested letting people park in the parking lot and generate money for the Town. He said he's against it at this stage.

Mayor Parker stated that his problem with the motion is that if they allow free parking on El Mar, then the Town will take a revenue hit 52 weeks out of the year.

Vice Mayor Yanni stated that it does not make any difference to him, he just wanted to help the businesses. He also wanted to note that they do park on Las Olas Boulevard at night, on one lane.

The motion failed for lack of a second.

C. Discussion and/or action regarding bringing an end to the public giving out personal information (name and address) at Commission meetings (Vice Mayor Yanni)

Vice Mayor Yanni stated that he thinks it is wrong for people to give their address. He said that a person has to be from Town to speak, and all they have to give is their name and the fact that they live in Lauderdale-By-The-Sea. He said that in today's society, no one knows what other people will do with personal information.

Vice Mayor Yanni motioned, seconded by Commissioner Clark, that during public comments residents only give have to give their name and the fact that they live in Town

Mayor Parker asked for clarification and asked that they would only give their name and the fact that they are residents of Lauderdale-By-The-Sea.

Commissioner McIntee wanted to amend the motion to allow people who work in town, speak in Town.

Vice Mayor Yanni stated that a person who worked in Town could then name the business they work for.

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Mayor Parker stated that they should not change the subtenant rule that one had to either live in Town or own property in Town.

Vice Mayor Yanni stated that a person could offer his name and the name of the business they work at.

Mayor Parker stated that public comments are limited to people who either live in Town or own property in Town, not simply working in Town.

Vice Mayor clarified the motion stating that people would give their name and note if they are a resident or they would state where they work in Town.

Commissioner Clark stated that they are not changing the rules, they are only changing the fact that an address is not given, and he said that allowing people who work in Town speak would open the door to anyone who is an employee of the Town.

Mayor Parker stated that he thought the Vice Mayor's original motion was only dealing with the omission of addresses and that the people would now say that their name and the fact that they live in Town or own property in Town.

Vice Mayor Yanni stated that that was his motion.

Commissioner Silverstone stated that he didn't see what the fear was as to who can speak.

Commissioner McIntee wanted to know why they are limiting access; he said that they shouldn't be afraid.

Commissioner McIntee motioned, seconded by Commissioner Silverstone, to amend the motion to allow people who work in Town but do not live or own property in Town to speak during public comments.

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

The motion to have the public omit giving their address and instead having the public state only their name and whether they are a resident in Town or property owner in Town passed 4-1 with Commissioner McIntee dissenting.

- D. Discussion and/or action on creating an ordinance to prohibit rentals in residential areas for a period of less than 30 days (Commissioner Clark)

Mayor Parker asked for clarification of residential areas.

Commissioner Clark stated that it was brought to his attention that many properties in single family areas that are now being rented out for a few days to a couple of weeks at prices that they couldn't pay in a hotel, but can in the residential areas. He said that that shouldn't be allowed in the residential areas. He said that it is unacceptable in a single family area.

Commissioner Clark motioned, seconded by Mayor Parker, to have an ordinance drafted prohibiting rentals in residential areas for a period of less than 30 days.

Commissioner McIntee stated that the issue is not reasonable. He stated that real estate agents are starving, and he said there is abuse, but he would advise people to call 911 and make a complaint about the noise. He said taking away this opportunity may make or break

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someone's mortgage payment. He said that it takes away rights of property owners. He said that there are too many rules and regulations, and they should be going through the Code book and remove ordinances.

Commissioner Silverstone stated that imposing a penalty on people who are renting their house to people in good faith. He said they are taking something away from them. He said that he would amend the motion to put in there that if someone has a complaint on the property, then they would not be able to rent out in less than 30 days.

Mayor Parker stated that Commissioner Silverstone's issue was not Germaine.

Commissioner Silverstone stated that if the motion was amended to put stipulations would make it a different motion, but he said that the issue is still Germaine.

Vice Mayor Yanni stated that he agreed with both Commissioner McIntee and Commissioner Silverstone. He said that he knows someone who rents his house for a few weeks and that would be detrimental to some people. He stated that the item should be tabled.

Vice Mayor Yanni motioned, seconded by Commissioner McIntee, to table the item until July 24, 2007.

The motion passed 5-0.

A short discussion regarding staff direction followed, and Town Attorney Cherof and Development Services Director Jim Bell were asked to report back.

- E. Discussion and/or action pertaining to moving the March 11, 2008 Municipal Election forward to January 29, 2008 (Commissioner Clark)

This item was discussed prior to 14A.

- F. Discussion and/or action regarding renewing performing arts center contract (Vice Mayor Yanni)

Vice Mayor Yanni stated that the Performing Arts Center is a very important part of the Town and a lot of people depend on and look forward to it.

Vice Mayor Yanni motioned, seconded by Mayor Parker, to see the Performing Arts contract renewed for ten (10) years.

Commissioner McIntee asked Vincent Ragusa if he was going to be around for ten (10) years.

Mr. Ragusa stated that he would be around long after everyone is gone.

Commissioner McIntee said that he cannot give ten (10) years, but he would give five (5).

Mr. Ragusa stated that he had to prepare for the future of the Performing Arts Center. He said that he's asking for a ten (10) year contract to accomplish more things. He said he's asking for this for the Town, not himself.

Commissioner McIntee asked if he had a contract in the past.

Mr. Ragusa stated that he had a five (5) year contract.

Commissioner McIntee stated that he would give him 7.5 years.

Mr. Ragusa asked for eight (8) years so that it would end at the end of the year.

Commissioner McIntee amended the motion for 8 years.

Commissioner Silverstone stated that 8 years is fine, but 10 years is a little longer; he said they do a great job, and the more culture and the more community involvement provides for a stronger Town.

Town Manager Colon asked what funding source was being approved.

Mayor Parker stated that the funds came from special events.

Town Manager Colon stated that the funds do not come from special events; she said that they have been providing \$12,000.00 for community performance arts, where he provides a profit and loss. And, she stated that any profit comes back to the Town.

Mayor Parker stated that the profit does not come back to Town, instead it goes back into the Performing Arts Center.

Town Manager Colon stated that the current contract that he had was \$12,000.00 and in the past, he used to submit receipts. She stated that last year he received the money up front, but prior years, they used to get a monthly check upon submittal of receipts. She asked the question because a profit and loss was given for this fiscal year, and she was asking if the \$12,000 is going to be upfront with no support documentation.

Mr. Ragusa stated that they were submitting bills and the Town was paying them, but that was the year they had no venue, and they were being kept alive so that they could further themselves the following year. He stated that he returned to the Town almost \$15,000.00 in checks that they did not use.

Town Manager Colon stated that that was why she was asking if in 06-07 a profit and loss was given. She stated that they show an income of 27,000.00 expenses of \$18,000.00 and a profit of \$9,000.00. She wanted to know if part of that profit is part of the Town's contribution of the \$12,000.00.

Mr. Ragusa wanted to know how they are supposed to grow; he said that microphones, drapes, and spotlights are expensive. He stated that when they didn't have a venue and did nothing that year, he gave the money back, but he said that when they did a play and was given \$2,000.00 to do it, he gave the \$800.00 profit back. He said they have always given back money they have either earned or brought back. He said that he just returned a check for \$2,000.00 on the Stargazing-By-The-Sea. He said that that leaves them \$6,000.00; he stated that the operating expenses are close to \$500.00 a month for telephone, warehouse, and bank charges. He said that the money from the so called profit they will need until September. He then read from a statement about the formation of the Performing Arts Center. He discussed the plays, variety shows, musical acts, stargazing, and volunteer work in the past nine years. He said they are now known as the Lauderdale-By-The Sea Performing Arts. He said he hoped that future contributions will not end. He said they now have a fund raising committee, and he explained the need for equipment. He said that they would love the Town's continued support.

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Town Attorney Cherof stated that if they want to move forward with an eight (8) year contract, they return a contract to the Commission and allow the Town Manager to work on some details of the contract.

Vice Mayor Yanni stated that funding is important. He said that the contract doesn't mean anything without the funding.

Town Manager Colon stated that she wanted to know if they are funding, but allowing them a profit and loss then it appears that they are over funding.

Vice Mayor Yanni stated that it costs them \$500.00 to run the place.

Town Manager Colon wanted to know if they were going to give over and above his expense.

Mayor Parker stated that what he thinks Vincent is saying is that in order to build a performing arts center, they need to get equipment. He stated that whatever profit is generated goes back into the center for things they need.

Commissioner Clark stated that it should show up on an expense.

Mayor Parker stated that accounts should be created within the profit and loss statement and should be earmarked for microphones, etc.

Mr. Ragusa stated that the directors of the Performing Arts Center voted to give the executive director a \$500.00 a month salary and he said that he's never taken it. He again expressed his need for the \$12,000.00

A short discussion about how to handle the books followed.

Mayor Parker restated that motion about giving Mr. Ragusa an eight (8) year contract at \$12,000.00 a year.

Mayor Parker stated that Mr. Ragusa needs to know that he will have a contract and have the money.

Commissioner McIntee stated that he would get it, but not tonight.

Mayor Parker clarified the new motion stating that they are going to enter into an eight (8) year agreement with Mr. Ragusa with the stipulation that a contract is created.

The motion passed 5-0.

Mayor Parker stated that the contract will come back on the July 10th meeting. He then asked if Mr. Ragusa was having problems scheduling Jarvis Hall.

Mr. Ragusa explained that he tries to put three (3) plays on and can't because other organizations already have events scheduled. He stated that he has a play, but he is on contract with another entity so his time is limited. He stated that he would like to use the middle of February, and he said he would take down the set, but leave up the stage, but they said it would be a conflict because someone could hurt themselves.

Mayor Parker stated that they need to discuss it because Mr. Ragusa won't be here at the next meeting it discuss the issue.

Commissioner McIntee motioned to adjourn the meeting because of 11:00 rule.

Town Manager Colon stated that they needed to speak about property taxes.

Town Attorney Cherof stated that this would have fallen either under Town Manager or Town Attorney report. He explained that under new legislation there is a form that needs to be signed by the Mayor or the Mayor's designee. He stated that they would need Commission approval to authorize signing it. He explained that it was the form certifying to the Department of Revenue what the rates are.

Mayor Parker stated that the Mayor's designee is the Town Manager.

Commissioner Silverstone motioned, seconded by Mayor Parker, to authorize the Town Manager to sign the document.

The motion passed 5-0.

Town Manager Colon asked to meet with the Commissioners on an individual basis to discuss some of the agenda items and she requested all the items to be tabled to the next agenda and not postponed.

Mayor Parker stated that items 14G, 14H, 14I, 14K, 14L, 14M, and 14N were tabled to the next agenda. There were no objections.

Commissioner McIntee motioned, seconded by Commissioner Silverstone to adjourn. Hearing no objections, the meeting was adjourned at 11:17 p.m.

- G.** Staff has received a request for an additional time extension (unspecified duration) for the Bougainville Townhomes project located at 4430, 4432, and 4436 Bougainville Drive (See attached memorandum and applicant's justification letter) (Jim Bell Development Services)
- H.** Staff has received a request for an additional time extension (unspecified duration) for the Poinciana Townhomes project located at 4415, 4417, 4419, and 4421 Poinciana Street (See attached memorandum and applicant's justification letter) (Jim Bell Development Services)
- I.** Staff has received a request for an additional six (6) month time extension to December 14, 2007 for the Pelican Cove Townhomes project located at 235 Hibiscus Avenue (See attached memorandum and applicant's justification letter) (Jim Bell Development Services)
- J.** Staff has received a request for a one (1) year time extension to July 9, 2008 for the Coral Key Ocean Club located at 4601 El Mar Drive (See attached memorandum and applicant's justification letters) (Jim Bell Development Services)

Item J was discussed prior to Consent Agenda Item A.

- K.** Staff is requesting the Town Commission review proposed amendments to the Code that would address provisions for the placement and durations of POD's

dumpster (construction type) containers, and portable storage units in the Town (Jim Bell Development Services)

- L. Discussion and/or action regarding member of sitting volunteer committee verbally abusing Town employee three (3) times publicly (Commissioner McIntee)
- M. Discussion regarding response units to Fire calls in Lauderdale-By-The-Sea by Broward Fire Department and who is covering TL32 when it is out of Town (Commissioner McIntee)
- N. Discussion and/or action regarding missing beach buoys (Commissioner Silverstone)

15. TOWN MANAGER REPORT

16. TOWN ATTORNEY REPORT

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

18. FUTURE AGENDA ITEMS

July 10, 2007

- A. Burton and Associates (Preliminary Report regarding Fire Assessment)
- B. Recommend award of a professional planner RLI # 06-07-01
- C. At the May 8, 2007 Town Commission meeting, the Commission directed staff to return on June 12, 2007 with standards that would allow drive-through businesses in Town (Jim Bell – Development Services) – tabled from 4/24/07, 5/8/07, 5/22/07, and 6/12/07 meetings)
- D. Presentations of Professional Architects (RFQ 06-07-01; 05-06-02)

July 24, 2007

- A. Recommend award of a professional architect for the Commercial Boulevard Beach Pavilion (RFQ 06-07-01;05-06-02) (Walter Keller)
- B. Discussion and/or action regarding the possibility of establishing a Town Ethics Committee (Commissioner McIntee - tabled from 3/13/07)
- C. Burton and Associates (Final Report regarding Fire Assessment)
- D. Redlined version of the ULDR to be held at 6 p.m. (Jim Bell, Development Services)
- E. The Planning and Zoning Board tabled the proposed Wings site plan (fka: Mack's Groves) located at 4405 N. Ocean Drive to the meeting of June 20, 2007 to allow the applicant time to address parking issues. The project will need Board of

Adjustment approval of a proposed parking study to address their parking needs. At public hearing, Staff recommended the item to be tabled. (Jim Bell, Development Services—tabled from 6/12/07 meeting)

September 11, 2007

- A. Discussion and/or action regarding change to El Mar Drive from present configuration to one lane (Commissioner Silverstone—tabled from 6/12/07 meeting)
- B. Commission approval to further study of Town of Lauderdale-By-The-Sea Internal Building Department and negotiable agreements as recommended by Chen & Associates (John Olinzock, Assistant to the Town Manager—tabled from 6/12/07 meeting)

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)

19. ADJOURNMENT

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

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

**Minutes were: Prepared by: Tina Angelone
Reviewed by: Dolores Regis**

Mayor Oliver Parker

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ATTEST:

Tina Angelone, Town Clerk

Date