

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, July 24, 2007

7:00 P.M.

AMENDED July 23, 2007

1. CALL TO ORDER, MAYOR OLIVER PARKER

Mayor Parker called the meeting to order at 7:00 p.m. Vice Mayor Gianni, Commissioner McIntee, Commissioner Silverstone, Mayor Pro Tem Clark were present. Also present were Town Attorney James Cherof and Town Clerk Tina Angelone.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION, TOWN CHAPLAIN

Commissioner Silverstone gave the invocation

Without objection, and at Mayor Pro Tem Clark's request, Mayor Parker moved Item 14C before 14A and at Town Manager Colon's suggestion, moved Item 14L to immediately after 14C and before 14A.

4. PRESENTATIONS

5. REPORTS

- A.** Finance Department Monthly Report June 2007 (Kathy O'Brien, Interim Finance Director)

Commissioner Silverstone made a motion to approve the Finance Department Monthly Report for June 2007. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

- B.** Municipal Services Monthly Report June 2007 (John Olinzock, Assistant to the Town Manager)

Commissioner McIntee made a motion to accept Municipal Services Monthly Report for June 2007. Commissioner Silverstone seconded the motion. The motion carried 5-0

- C.** Monthly Activity Report June 2007 (Jim Bell, Development Services)

Vice Mayor Yanni made a motion to accept the Monthly Activity Report for June 2007. Commissioner McIntee seconded the motion. The motion carried 5-0

D. BSO Police Monthly Report June 2007 (Lt. Caren Pollaccia, Broward Sheriff's Office)

Vice Mayor Yanni made a motion to accept the Broward Sheriff's Office Police Monthly Report for June 2007. Commissioner McIntee seconded the motion. The motion carried 5-0.

Lieutenant Caren Pollaccia distributed a report regarding sea turtles and highlighted the important sections of the reports. She said according to the Conservation Act no one was supposed to touch the turtles nor any flashlights were allowed on the beach. Mayor Parker suggested Lt. Pollaccia invite the Marine Biologist to the September 25, 2007. Lieutenant Pollaccia agreed.

Mayor Parker explained that a previous workshop it was decided by Commission consensus to address John Thompson concerning change of property use upon his arrival at this meeting. Mayor Parker asked John Thompson of Pompano Beach whether the Town was allowed to change the property of a residential zoning or if a referendum was required. Mr. Thompson believed that if the property zoning or use was changed it must go to a referendum.

E. Monthly report from BSO Fire Rescue June 2007 (Chief Sievers, Broward Sheriff's Office)

Vice Mayor Yanni made a motion to accept the Monthly report from BSO Fire Rescue for June 2007. Commissioner McIntee seconded the motion.

Commissioner McIntee questioned Battalion Chief Tim Keefe regarding a ladder truck that was supposed to be maintained in Town at all times. Chief Keefe said BSO Fire Rescue had spare aerial devices and was supposed to supply backup when they are down. There was further discussion regarding Mutual Aid and the order of first responder.

Assistant Chief Dominick Lanza said that every agency in Broward County depended on Mutual Aid. He said BSO Fire Rescue was in Fort Lauderdale three times last week.

Commissioner McIntee said that BSO Fire Rescue gave their word that an aerial truck would be in Town the day the Volunteer Firefighters were terminated and would always be in Town and that word has not been kept. He questioned whether Chief Lanza disputed the Broward Fire Department could not meet IFC requirements to have five

pieces of equipment on the beach in eight minutes without going to Fort Lauderdale or Pompano Beach. Chief Lanza disputed.

Commissioner Silverstone questioned the ability of BSO to handle a full structure fire alarm. Chief Lanza said BSO Fire Rescue dispatched a full commercial or residential fire alarm. He added that nearby resources would be supplemented when necessary.

Pembroke Park/Westpark District Chief Keefe personally thanked the Commission and the residents of the Town of Lauderdale By-The-Sea for their thoughts of sympathy for the recent loss of their firefighter.

In a roll call vote, the motion carried 5-0.

F. Burton and Associates (Preliminary Report regarding Fire Assessment)

Michael Burton gave a brief presentation. He said he received an email from Chief LeDuc that contained allocation of costs but it was not sufficient for his needs. Mr. Burton said he had not yet received the detailed information he had requested.

There was discussion regarding the numbers within the documentation, whether they were accurate, and whether an accurate methodology could be based on those numbers legally. Mr. Burton said he had no evidence that would tell him the numbers were not accurate.

Commissioners Silverstone and McIntee expressed displeasure that the Broward Sheriff's Office has not been forthcoming with their numbers.

Discussion followed regarding attempts made to obtain the information to no avail and Vice Mayor Yanni advised BSO that serious consequences would be forthcoming if the information was not supplied. Chief Lanza indicated that BSO had staff working on it. He said because Mr. Burton's methodology was different than what they were accustomed to, the task was more time consuming.

Mr. Burton said he would need to have the information at the beginning of business on Thursday July 26, 2007, and the ability to speak with Della Ambrozewicz, BSO Assistant Budget Manager by telephone, and if not, then personally the same day.

Mayor Parker questioned the numbers and believed Mr. Burton needed to make an 8.25 percent adjustment rather than a 3 percent adjustment. Mr. Burton said that he had made his calculations quickly prior to the meeting and agreed with Mayor Parker's assessment. Mayor Parker questioned whether Mr. Burton differentiated between ALS and EMS vehicles in his allocation. Mr. Burton said he did not have that level of information and had no idea what vehicles were in the numbers.

Mr. Burton advised that the numbers showed a 4 percent decrease on the residential side and a little over 2 percent on the commercial side if done at 91.82 percent. Mr.

Burton said that even if he did not receive the documentation from BSO he would use this allocation.

Discussion followed regarding the Florida Statute relating to charges for EMS. Mayor Parker directed Attorney Cherof to review the Statute and report back to the Commission and Mr. Burton by Thursday, July 26, 2007 specifically whether a fire vehicle can also be used for ALS and vice versa.

Manager Colon said she would need time to meet with Mr. Burton at the Attorney's Office to validate the numbers before Friday, July 27, 2007. Mr. Burton suggested Della and whoever could interpret the underlining data. Chief Lanza said that Chief Ocaza might be subject matter expert. Chief Lanza said he would also be there.

Mayor Pro Tem Clark asked Mr. Burton if the timeframe at hand supplied him the information he requested by Thursday, he would be able to finalize his report. Mr. Burton said as long as everyone that made the decisions came to the meeting on Thursday, and answered his questions, he would be able to finalize his report and present it on Monday, July 20, 2007.

For the record, Commissioner McIntee said the Commission and Mr. Burton ran through hoops, and Manager Colon was backed up with the budget because of BSO. He said Manager Colon had a budget hearing on Monday and half her day was to be spent with Mr. Burton. Commissioner McIntee apologized to Mr. Burton.

Commissioner Silverstone made a motion to defer the report until Monday, July 30, 2007. Vice Mayor Yanni seconded the motion. The motion carried 5-0.

G. Report by Edwin Forbes—Pavilion (Commissioner McIntee)

Commissioner McIntee said Mr. Forbes requested an opportunity to express his feelings regarding Commission direction on his beach pavilion proposal.

Mr. Forbes disagreed that his design blocked the view of the beach and showed that the pavilion was made up of a series of columns and was not any different than existing shelters at that site. He stated that the design was more of a beach architectural design and not a Key West design. Mr. Forbes said only the colors were similar to a Key West design.

The Mayor and Commissioners told Mr. Forbes they appreciated his candor and all his effort. The design was very nice but lacked the uniqueness they were looking for.

H. Quarterly Report, 2nd Quarter 2007, of Minor Site Plan Amendments as required by Ordinance 2004-07. In the 2nd Quarter of 2007, two (2) projects had Minor Site Plan Amendments: Oriana and Villas by the Sea (Jim Bell, Development Services)

Vice Mayor Yanni made a motion to approve minor site plan amendments. Mayor Pro Tem Clark seconded the motion. The motion carried 5-0.

At this time, Mayor Parker asked Mr. John Thompson to come forward and address the Commission concerning the interpretation of the Charter as it speaks to rezoning property without a referendum.

Mayor Parker motioned to direct Town Attorney Cherof to draft an ordinance that speaks to whether or not the Commission can rezone residential property without a referendum. Commissioner Silverstone seconded the motion. The motion carried 5-0.

6. APPROVAL OF MINUTES

There were no minutes for approval.

Mayor Parker recessed the meeting at 8:54 p.m. and reconvened at 9:02 p.m.

7. PUBLIC COMMENTS

Sandra Booth, Master Plan Steering Committee regretfully accepted the resignation of Mr. Bob Terrien. She spoke highly of his activities within the Town and wished him and his wife well.

Lisa Mitchell was distressed over the choice of design for the Pavilion. She was disturbed that BSO did not keep their promise with regards to keeping volunteers on the trucks. She added that the Town was a community and should stand together and be together. Ms. Mitchell praised Manager Colon and Clerk Angelone for their remarkable work ethics.

Barbara Cole read an open letter addressed to the Property Owners Association Board Members withdrawing her membership due to the behavior of the President of the Association and requested other members insist the President step down.

Ruth Clottery did not agree with the course of the Commercial Boulevard Pavilion. She felt the Pavilion should unite the Town, not turn them against each other.

Stuart Dodd thought that the will of people was not being considered in many of the Commission's choices or decisions.

Chris Weaver represented the Starbucks Project at 251 Commercial Boulevard. He said efforts had been made to incorporate the proposed drive thru standards emergency bypass lane requirement, but was not successful. Mr. Weaver respectfully requested the Commission not codify the drive thru standard in its current format and send it back to Planning and Zoning for reconsideration.

Frank Hermann expressed high standards for BSO and believed they should be held to a higher standard of scrutinization.

Christi Furth believed developers should read the Town Code and design their projects accordingly.

Diane Boutin expressed her concern with the current inequitable fire assessment methodology. She said from 2004 to 2006 she had been assessed as residential dwelling units when in fact end use of the property was rental or transit lodging. She said she would be glad to present tax bills from the past years to Burton & Associates and requested recognition of the 628 rental units and reevaluation of the fire assessment methodology.

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

There were no Ordinances on 2nd reading.

9. COMMISSIONER COMMENTS

Mayor Pro Tem Clark spoke highly of Mr. Terrien, expressed his appreciation, and said Mr. Terrien would be missed. He thanked Kristen Colette for her contribution to the 4th July celebration. Mayor Pro Tem Clark said there are a great number of properties in Town that should be reclassified in the commercial area. He said he would do what he could to get it corrected.

Commissioner Silverstone wished for an accurate representation of the resident's preference regarding the Commercial Boulevard Beach Pavilion. He talked about areas of the design that he preferred and areas he felt could use improvement. Commissioner Silverstone questioned the definition of commercial property. Attorney Cherof said he would research Town Code and report his findings.

Commissioner McIntee felt that BSO Fire was costing the Town thousands of dollars. He believed the current Fire Assessment Methodology was illegal. Commissioner McIntee believed the people had a right to defend themselves and said that if citizens wished to defend themselves he would put it on the agenda.

Vice Mayor Yanni was irritated with the signs that were displayed during the 4th of July parade. He said the parade was a function that should have brought the community together. Vice Mayor Yanni believed there are many good things to say about BSO but was unhappy with BSO recently for not producing the documents requested by Burton & Associates.

Vice Mayor Yanni said he was unable to attend the Special Meeting & Budget Workshop on Monday, July 30, 2007. Discussion followed regarding legality and availability of rescheduling to July 31, 2007.

Vice Mayor Yanni also requested placement of the Starbucks Drive Thru Project on the agenda for September 11, 2007.

Vice Mayor made a motion to reschedule the Special Meeting & Budget Workshop from Monday, July 30, 2007 to Tuesday, July 31, 2007 at 5:00 p.m. with the Fire Assessment to be the first item of discussion. Mayor Pro Tem Clark seconded the motion. The motion carried 4-1 with Commissioner McIntee dissenting.

Town Attorney Cherof advised this would be a Special Meeting. Mayor Parker pointed out that apartment units referred to by Diane Boutin were in residential zoning districts and the units she referred are places where people reside, even if temporarily. He added that it was unjust to declare those units as residential for homestead purposes and commercial for fire purposes.

Mayor Parker referred to a letter recently received regarding a parking citation that was issued for parking against traffic flow and another for parking on the sidewalk. He believed one citation would have been enough and asked if there was any way to resolve the issue.

Attorney Cherof advised that individuals wishing to contest their tickets would go through a hearing to challenge the issuance of the ticket. He added that it was inappropriate for the Commission or the Town Manager to intervene in that process. Attorney Cherof suggested the citation be returned with instructions for the individual to follow the instructions on the ticket.

Mayor Parker said Mr. Bob Terrien was chosen as this year's Hometown Hero and was sad to see him go.

10. ORDINANCES *(1st Reading)*

- A. ORDINANCE NO. 2007-03**—AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA CHANGING THE DATE OF MUNICIPAL ELECTIONS FROM THE SECOND TUESDAY IN MARCH TO THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER IN EVEN NUMBER YEARS COMMENCING IN 2012; PROVIDING FOR EXTENSION OF THE TERMS OF OFFICE FOR ELECTED OFFICIALS AT TIME OF TRANSITION FROM MARCH TO NOVEMBER ELECTIONS; PROVIDING FOR AMENDED QUALIFYING PERIODS; AMENDING CONFLICTING PROVISION IN SECTION 6.1 OF THE TOWN CHARTER; SUBMITTING THE AMENDMENT TO APPROVAL BY REFERENDUM; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (Town Attorney Cherof)

Attorney Cherof read Ordinance 2007-03 by title only.

Vice Mayor Yanni motioned to adopt Ordinance 2007-03 on first reading. Mayor Pro Tem Clark seconded the motion.

Mayor Parker suggested amending the Ordinance by deleting Section 6 and renumbering the other Sections. He said there were no references to February in the Town Code or Charter with regard to Elections.

Referring to Section 4 Mayor Parker suggested changing the language to read Commencing January 1, 2012, all references to March in the Town Code or Charter, when used in the context of election, shall be construed to mean November.

Referring to Section 5 Mayor Parker suggested changing the language to read Starting January 1, 2012, all references to January in the Town Code or Charter, when used in the context of election, or qualifying elections, shall be construed to mean September.

Mayor Parker made a motion to delete Section 6, renumber the Sections that followed, and change the language in Sections 4 and 5 as suggested. Vice Mayor Yanni seconded the motion. The motion to amend Ordinance 2007-03 carried 4-1 with Commissioner McIntee dissenting.

In a roll call vote, the motion carried 5-0 as amended.

Mayor Parker noted that 1st reading of Ordinance 2007-03, as amended, would be at the September 11, 2007 Regular Commission meeting.

B. ORDINANCE 2007-10—AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 24-5-155 “PARKING OTHER THAN ON-SITE LOCATION” TO SET FORTH CONDITIONS FOR WHEN OFF-SITE PARKING IS ALLOWED; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (Town Attorney Cherof)

Attorney Cherof read Ordinance 2007-10 by title only.

Vice Mayor Yanni made a motion to adopt Ordinance 2007-10. Commissioner Silverstone seconded the motion.

Vice Mayor Yanni amended his motion to change 1,000 feet to 1,500 feet. Commissioner Silverstone seconded the motion for discussion. Commissioner Silverstone suggested eliminating restrictions. Development Services Director Bell advised there was statistical data about how far people walk to get to a destination.

Mayor Parker thought that Ordinance 2007-10 was a mistake. He said parking problems needed to be solved not papered over.

Commissioner McIntee asked Louie Marchello, a local parking lot owner, for his opinion. Mr. Marchello felt that 1,000 feet was adequate and anything more would be too long a walk. Commissioner McIntee indicated he would go along with the majority.

Commissioner Silverstone felt Lauderdale-By-The-Sea was a walking Town and believed Ordinance 2007-10 would increase business and decrease traffic flow.

Vice Mayor Yanni made a motion to amend 1,000 feet to unrestricted. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

Attorney Cherof wanted clarification that the restriction was within Town limits. Vice Mayor Yanni said it was.

In a roll call vote, the motion carried 5-0 as amended.

11. CONSENT AGENDA

- A.** Approval of Palm Club Sanitary Sewer Project Design Budget and Preliminary Construction Budget (John Olinzock, Assistant to the Town Manager)
- B.** Approval of Agreement with Chen and Associates to Prepare and Submit NPDES MS-4 Year 4 Annual Report (John Olinzock, Assistant to the Town Manager)
- C.** Approval of Annual Electrical Maintenance Services Agreement (John Olinzock, Assistant to the Town Manager)
- D.** Approval of Study for Traffic Signal Warrant Analysis—SR A1A and SE 15th Street (John Olinzock, Assistant to the Town Manager)
- E.** Approval of Budget for Design and Construction of Permanent Monument Signage—2 Town Parking Lots (John Olinzock, Assistant to the Town Manager)
- F.** Approval of Granicus (Tina Angelone, Town Clerk)
- G.** Approval of Town Network/Systems and Service (Town Manager Colon)
- H.** Re-clarification of Position Numbers (Town Manager Colon)

Mayor Parker removed Items 11 A, 11 D, 11 F, 11 G, 11 H from the consent agenda. Commissioner Silverstone made a motion to adopt Items 11 B, 11C, and 11E of the consent agenda. Vice Mayor Yanni seconded the motion. In a roll call vote, the motion carried 4-1 with Commissioner McIntee dissenting.

Item 11A - Approval of Palm Club Sanitary Sewer Project Design Budget and Preliminary Construction Budget (John Olinzock, Assistant to the Town Manager)

Mayor Parker agreed there was a public health purpose to put in sewers but had a problem with spending money on repaving private roads. He asked whether there was an alternative to repaving the roads with Town funds. Attorney Cherof advised a special assessment could be created under statute for everyone to pay their proportioned share. He said another option would be to allow the residents the opportunity to repave their own roads, within the same standards, at their own expense.

Commissioner McIntee made a motion to approve the sewer project design budget and preliminary construction budget cost. Mayor Pro Tem Clark seconded the motion. Brief discussion followed regarding the re-pavement of roads on Sunset Lane and in Palm Club and whether the Town could do a special assessment in arrears. Attorney Cherof agreed to research that option.

In a roll call vote, the motion carried 5-0.

Item 11D - Approval of Study for Traffic Signal Warrant Analysis—SR A1A and SE 15th Street (John Olinzock, Assistant to the Town Manager)

Mayor Parker asked Assistant to the Town Manager John Olinzock for an explanation of this request.

Mr. Olinzock explained that the study would allow for a traffic signal to be placed at the intersection of A1A and SE 15th Street.

Mayor Parker made a motion to approve the Study for Traffic Signal Warrant Analysis. Vice Mayor Yanni seconded the motion. In a roll call vote, the motion carried 5-0.

Item 11F - Approval of Granicus (Tina Angelone, Town Clerk)

Town Clerk Angelone explained that Granicus allowed webcasting of Commission Meetings on the Internet. She added the program would provide the agenda, and all backup, the minutes and public access to view the meeting live or at a later time. Mayor Parker did not believe the use would warrant the cost.

Commissioner McIntee made a motion to approve Granicus. Vice Mayor Yanni seconded the motion.

Commissioner Silverstone asked if the program was inclusive of everything or whether the Town could just do the webcasting. Clerk Angelone said the program was inclusive of everything and added that the point of the software was that everything would be uploaded together. Commissioner Silverstone liked that concept.

Vice Mayor Yanni asked whether the program would replace the Deputy Town Clerk. Manager Colon said with the use of this program a Chief Deputy Clerk would not be needed, saving the Town close to \$60,000 year.

Mayor Pro Tem Clark expressed concern that if there were no Deputy Town Clerk who would be responsible if the Town Clerk was on vacation or sick.

Town Manager Colon assured the Commission that staff would be dedicated and trained to operate the system.

Attorney Cherof requested verification as to the source of funds and whether a budget amendment would be required. Manager Colon indicated budget amendments would be made within General Funds from salary savings and/or Professional Services where there is a surplus at this time.

Attorney Cherof advised that the Commission would only be approving the concept as there was no suitable contract in the backup and he had not yet received one.

After hearing the program was not just for broadcasting, but to save the Town money Mayor Parker changed his opinion of the software.

In a roll call vote, the motion carried 5-0.

Item 11G – Approval of Town Network/Systems and Service (Town Manager Colon)

Manager Colon advised that currently 183,329 files had been backed up compared to 4,409 files in April 2007. She said that the current server was unable to handle the increase in file backup. Manager Colon said that individual departments were backing up their files on their individual computers making the system of availability unreliable. Vice Mayor Yanni made a motion to approve. Commissioner McIntee seconded the motion.

Attorney Cherof advised that approval would be subject to the appropriation of proper transfer to the budget amendment and proper contract preparation.

In a roll call vote, the motion carried 5-0.

Item 11H - Re-clarification of Position Numbers (Town Manager Colon)

Mayor Parker thought that if employee salary structures were to be changed it should be part of the budget process. He said he was hesitant in increasing salary ranges due to the recent financial straits the Town was facing. Manager Colon said only one position was to be changed.

Mayor Parker made a motion to table this item for inclusion in the budget process. The motion failed due to lack of a second.

Commissioner McIntee made a motion to approve the re-clarification of Position Numbers. Commissioner Silverstone seconded the motion.

Mayor Pro Tem Clark questioned the position of the Public Information Officer, whether the position was a full time position or contracted, the duties performed, and hours of performance. Manager Colon said the position was currently contracted without benefits and she wanted to incorporate it into a full time position. She added that in addition to broadcasting, the position produced Town Topics and handled outside press

inquiries. Manager Colon also said that re-clarification would allow the existence of this position with the choice of becoming full or part time.

Vice Mayor Yanni asked Public Information Officer Steve D'Olivera why he never sees news regarding Lauderdale-By-The-Sea in the local newspapers.

Mr. D'Olivera reported that he sends press releases to the newspaper all the time and they are printed at the discretion of the newspaper.

Vice Mayor Yanni requested copies of all press releases.

In a roll call vote, the motion carried 4-1 with Mayor Parker dissenting.

12. RESOLUTION

There were no Resolutions for consideration.

13. OLD BUSINESS

- A. Discussion and/or action regarding the selection of a professional architect for the Commercial Boulevard Beach Pavilion (RFQ 06-07-01;05-06-02) (Town Manager Colon)

- 1. Ocampo: Conceptual Drawings Quote
- 2. Russell Partnership

Commissioner McIntee said he had a difficult time choosing between the two. He said he had to choose the lower cost but wanted to see three concepts and three rough proposals.

Commissioner McIntee made a motion to accept Ocampo and Associates as the Architect for the Commercial Boulevard Beach Pavilion. Vice Mayor Yanni seconded the motion. In a roll call vote, the motion carried 5-0.

Commissioner Silverstone made a motion authorizing the Town Manager to sign a contract approved by the Town Attorney. Mayor Pro Tem Clark seconded the motion. Commissioner Silverstone amended his motion to authorize the Town Mayor to sign a contract upon Town Manager and Town Attorney approval. Commissioner Clark seconded the motion. In a roll call vote, motion carried 5-0.

Commissioner McIntee suggested at this time to move approval of a contract with Grancious.

Mayor Parker inquired as to whether the contract for Grancious could be signed and approved in the same manner as the Ocampo and Associates contract. Attorney Cherof recommended the entire Commission review and vote on the Granicus contract since it was more involved.

Commissioner McIntee made a motion to authorize the Town Mayor to sign a contract with Granicus upon Town Manager and Town Attorney approval. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 4-1 with Mayor Parker dissenting.

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

Commissioner McIntee wanted to establish a basic concept to follow and not necessarily an Ethics Committee to specifically address meetings with developers. He requested an opportunity for presentation of five ideas, along with Commission suggestions, for discussion at the October 23, 2007 Regular Commission meeting.

The Commission objected to a Town Ethics Committee but had no objection to adding items to the Commissions internal rules.

Mayor Parker scheduled the item to appear under Old Business as “discussion and/or action regarding the possibility of establishing a Town Ethics Code” for the October 23, 2007 Regular Commission meeting.

C. Discussion and/or action on creating an ordinance to prohibit rentals in residential areas for a period of less than 30 days (Commissioner Clark - tabled from 6/26/07 meeting)

Mayor Pro Tem Clark said apartments were offered for rent for less than 30 days and believed that interfered with the privacy of neighbors and took business away from the hotel/motel businesses.

Mayor Pro Tem Clark made a motion to direct Town Attorney to draft an ordinance to prohibit any rentals within a residential area for less than 30 days. Mayor Parker seconded the motion.

Mayor Parker stated that a residential area is not a commercial business and should be recognized as such.

In a roll call vote, the motion carried 4-1 with Commissioner McIntee dissenting.

14. NEW BUSINESS

C. Public Hearing—Variance for Windjammer Resort and Beachclub located at 4244 El Mar Drive (Jim Bell, Development Services)

Attorney Cherof swore in anyone wishing to speak during the Public Hearing. Director Bell gave an overview of the variance request and recommended approval. Discussion followed regarding the grounds taken to grant the variance and whether there was a provision for the screening of the air conditioning unit. Director Bell added

that approval was given with the provision that landscaping was placed around the air conditioning unit.

Town Attorney Cherof questioned Mr. Bell whether or not staff has determined that seven grounds for granting a variance do exist.

Mr. Bell replied that the applicant did not meet all seven, but rather two of the seven criteria.

Mayor Parker made a motion to approve the variance with the condition to provide landscaping around the air conditioning unit. Mayor Pro Tem Clark seconded the motion. Applicant Diane Boutin agreed to the condition.

For the record, Director Bell added that the SeaSpray provided a letter that stated they had no objection to the variance. In a roll call vote, the motion carried 5-0.

Commissioner McIntee made a motion to continue the meeting to 11:30 p.m. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

L. Public Hearing—Variance for 4243 Bougainvilla Drive (Jim Bell—Development Services)

Attorney Cherof swore in anyone wishing to speak during the Public Hearing. Director Bell gave an overview of the project and recommended approval to allow an open-air porch to be located 16'5" rather than 25' from the front property line as required by code. Mr. Bell added the porch has already been constructed.

Commissioner McIntee inquired of Jim Owen, the applicant how long the porch has existed and if he had applied for any building permit. Mr. Owen said he constructed the porch in December and he did not have a permit.

Discussion followed as to why staff recommended approval if proper permits were not issued. Director Bell indicated that the applicant must first obtain a variance. He added that if the Commission granted the variance then the applicant would need to obtain the proper permits for the completed construction.

Mayor Pro Tem Clark said under the circumstances there is no way he could support this request.

Commissioner Silverstone commented that no matter how honorable Mr. Owen's intentions are, it sets a bad example and in good conscience he could not support the request.

Vice Mayor Yanni motioned to approve the variance request. The motion died for a lack of a second.

Mayor Parker explained to Mr. Owen that the Commission does not want to have him tear down the structure, but he could not be rewarded for breaking the rules.

Mayor Parker motioned to deny the variance request without prejudice to the applicant's right to reapply after the structure is removed. The motion died for a lack of a second. Commissioner Silverstone motioned to deny the request. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 4-1 with Vice Mayor Gianni dissenting.

- A. Public Hearing**—The Planning and Zoning Board tabled the proposed Wings site plan (aka: Mack's Groves) located at 4405 N. Ocean Drive to their meeting of July 18, 2007 based on their concerns with the architecture of the proposed building (Jim Bell, Development Services) (Tabled from 6/12/07 meeting)

Staff recommended this item be tabled to September 11, 2007 Regular Commission meeting.

Mayor Parker made a motion to table the approval of the Wings Site Plan to the September 11, 2007 Regular Commission meeting. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

- B. Public Hearing**—The Board of Adjustment is scheduled to review a proposed parking variance for the Wings Beachware project located at 4405 N. Ocean Drive at their July 17, 2007 meeting. There is an accompanying zoning petition request that was originally scheduled for the Planning and Zoning Board on June 20, 2007 in which the Board tabled the accompanying zoning petition to their meeting of July 18, 2007 (Jim Bell, Development Services)

Staff recommended this item be tabled to September 11, 2007 Regular Commission meeting.

Commissioner McIntee made a motion to table approval of the Wings Beachware Variance to the September 11, 2007 Regular Commission meeting. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

- D. Discussion and/or action regarding applications for use of Jarvis Hall and approval for televising (Town Manager Colon)**

Manager Colon recommended approval of the applications and requested direction from the Commission. She added she did not grant the televising, as that was the right of the Commission. However, she did recommend that either all are televised or none are televised.

Mayor Parker made a motion to televise nothing. Commissioner McIntee seconded the motion.

Commissioner Silverstone felt it was unfair for those who could not make it to the meetings but was against televising inappropriate material. Commissioner McIntee asked for clarification on the motion and Mayor Parker clarified that his motion was to televise only meetings of the Commission and or meetings of the Town Boards and other Town affiliated meetings. Commissioner Clark felt other meetings should be televised such as By-The-Sea-Times Meet the Candidates, Planning and Zoning meetings, Board of Variances, and Home Owners Associations. He believed the Town Manager should review requests for televising and if not political or one sided, should be allowed to televise. Manager Colon wanted to know how the salary for the person televising would be considered.

Commissioner Silverstone amended the motion to include By-The-Sea-Times Meet the Candidates and the Home Owners Association. Mayor Parker disputed the motion.

Vice Mayor Yanni believed either all applicants should be denied or all should receive permission.

In a roll call vote, the motion to deny all failed 5-0.

Vice Mayor Yanni made a motion to allow any organization to televise, without politics other than candidates night, and if not Town business, then they would pay the fee to the cameraman. Mayor Pro Tem Clark seconded the motion.

Vice Mayor Yanni reminded everyone that even candidate's night, the organization would have to pay the cameraman.

Attorney Cherof questioned whether a signed document would be required from the organization. He advised an inclusion of a provision for indemnification in the event

that if the form used was defamatory and the Town was sued, the organization that sponsored the event would indemnify the Town.

Vice Mayor Yanni amended his motion to include Attorney Cherof's recommendation. Mayor Pro Tem Clark concurred. In a roll call vote, the motion carried 5-0.

Attorney Cherof agreed to prepare a document for approval at the September 25, 2007 Regular Commission meeting.

Vice Mayor Yanni made a motion to extend the meeting past 11:30 p.m. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 4-1 with Mayor Pro Tem Clark dissenting.

E. Discussions regarding canceling BSO Fire contract for clear violations of same (Commissioner McIntee)

Commissioner McIntee believed BSO Fire was in clear violation of their contract for not cooperating in the request to submit requested information.

Commissioner McIntee made a motion directing Town Attorney to cancel the BSO Fire contract. Commissioner Silverstone seconded the motion. In a roll call vote, the motion failed 3-2 with Mayor Parker, Vice Mayor Yanni and Mayor Pro Tem Clark dissenting.

F. Discussion regarding unauthorized advertisements on Channel 78 “infomercials” at recent group meeting (Commissioner McIntee)

Commissioner McIntee made a motion to table Item 14F to the September 11, 2007 Regular Commission meeting. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

G. Discussion regarding Commissioner Yanni calling Christie Furth a liar and claiming she displayed a sign in 4th of July Parade that said “BSO Fire Must Go” (Commissioner McIntee)

Mayor Parker ruled that this was not an appropriate matter to come before the Commission and should be stricken from the agenda.

Commissioner Silverstone made a motion to appeal the ruling. Commissioner McIntee seconded the motion. In a roll call vote, the motion failed 3-2 with Mayor Parker, Vice Mayor Yanni and Commissioner Clark dissenting.

Vice Mayor Yanni made a motion to reconsider the vote. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

Christi Furth addressed comments Vice Mayor Yanni made against her during Commissioner Comments at the July 10, 2007 Commission meeting and denied all accusations.

Vice Mayor Yanni denied calling Ms. Furth a liar and asked why, during a 4th of July parade, she would hold up a sign that said, “we love our volunteer firefighters”? Ms. Furth said the holders of the signs were guests of the Ocean Revere Apartments. Vice Mayor Yanni admitted he made a mistake saying the sign said, “BSO must go”, but he did not call her a liar.

H. Discussion and/or action regarding reconsideration of fire assessment methodology (Commissioner Silverstone)

Commissioner Silverstone asked if it was possible at this time to change the methodology to a tier system according to square footage. Attorney Cherof believed it was too late at this point. Town Manager Colon concurred.

Commissioner Silverstone made a motion for reconsideration of his vote. Commissioner McIntee seconded the motion.

Mayor Parker advised that a “yes” vote was to reconsider the fire assessment methodology and put it in the ad volorem.

In a roll call vote, the motion to reconsider failed 3-2 with Vice Mayor Yanni, Mayor Pro Tem Clark and Mayor Parker dissenting.

- I. Discussion and/or action regarding comments made by Shoal Levy referencing a variance for property to the Town (Commissioner McIntee)

Mayor Parker ruled that Item 14I was not Town business nor an appropriate matter to come before the Commission for regarding something somebody said, and should be stricken from the agenda.

Commissioner McIntee made a motion to appeal the ruling. Commissioner Silverstone seconded the motion.

Discussion followed regarding the proper interpretation of the item before the Commission. Attorney Cherof advised the proper interpretation was that there was a motion on the floor. He said the Mayor ruled and the Commission had the right to overrule with three votes.

Mayor Parker advised that a “yes” vote was to appeal the ruling. In a roll call vote, the motion carried 3-2 with Mayor Parker and Vice Mayor Yanni dissenting.

Commissioner McIntee said Mr. Shoal was told that if the Town gave him a parking lot, he would get a variance for his property. Commissioner McIntee indicated that Mr. Shoal was told by his son that the person who said that was Jim Nardi and that Jim Nardi denied it. Commissioner McIntee said that Jim Nardi was hired by the Town for real estate matters. He believed that if a developer, under oath, claimed someone tried to offer him a deal, he felt the Commission needed to know who that person was and wanted to bring it before the Commission.

Mayor Parker reminded Commissioner McIntee of the proper way to address this issue as an agenda item.

- J. Discussion and/or action regarding Florida League of Cities’ 2007-08 FLC Legislative Policy Council Application (Town Manager Colon)

Mayor Parker advised that anyone could apply for application to the Legislative Policy Council. Town Manager Colon said only one could serve on each Board.

Mayor Parker advised the meeting dates as August 16, September 7, October 12, November 8, 2007 and all were in Orlando.

The Commission volunteered as follows:

Municipal Service Delivery Council - Commissioner McIntee
Urban Planning Council – Commissioner Silverstone

Fiscal Stewardship Council – Mayor Parker
Home Rule Administration Council – Open

- K.** Discussion and/or action regarding selection of members for the Master Plan Steering Committee and extending current terms until September 2007 (Tina Angelone, Town Clerk)

Town Clerk Angelone advised that the terms expire July 2007 and there are currently no applications. The vacancies have been advertised on the Town website and the government access channel.

Mayor Parker said it was his understanding that all board terms run until the month after an election, which he believed would now be February 2008.

Town Clerk Angelone said that was true for all boards except the Master Plan Steering Committee. Documents indicate July 2007, but Ms. Angelone said she would happy to recheck.

Mayor Parker motioned to make the criteria for the Master Plan Steering Committee consistent with other Town boards. Commissioner Silverstone seconded the motion. In a role call vote, the motion carried 5-0.

Mayor Parker advised that resignation of board member Bob Terrien had left a vacancy on the Master Plan Steering Committee.

Town Clerk Angelone reiterated that at this time there were no applications submitted.

It was agreed by Commission consensus to continue advertising in Town Topics, on the Town website and on the government access channel 78.

15. TOWN MANAGER REPORT

Manager Colon stated that Mr. Burton said he was uncomfortable with the timeframe allocated to review data and come up with a final report and had concerns regarding the liability issue. She said he believed this Commission should request BSO certify that there are no EMS costs included in the Fire costs.

Attorney Cherof said he would like to speak with Mr. Burton and report to the Commission at the July 31, 2007 Special Commission meeting.

16. TOWN ATTORNEY REPORT

There were no reports at this time.

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

There were no further public comments at this time

18. ADJOURNMENT

Commissioner Clark made motion to adjourn. With no further business to discuss the meeting was adjourned at 12:01 a.m.

Mayor Oliver Parker

ATTEST:

Town Clerk, June White

Date