

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

Town Commission Meeting Room  
**4501 Ocean Drive**  
**Tuesday, September 11, 2007**  
**6:00 P.M.**

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

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

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

**3A. TOWN ATTORNEY REQUEST FOR CLOSED DOOR SESSION** to Discuss KAY BAYMAN and NELLIE BAYMAN vs. TOWN OF LAUDERDALE-BY-THE-SEA, CIRCUIT COURT CASE NO. 07-15080 CACE (13) (Town Attorney James Cherof)

Mayor Parker opened the closed door session at 6:05 pm and announced the Regular Commission meeting would start at 7:00 pm with the Pledge of Allegiance.

Attorney Cherof requested a closed door session to discuss KAY BAYMAN and NELLIE BAYMAN vs. TOWN OF LAUDERDALE-BY-THE-SEA, CIRCUIT COURT CASE NO. 07-15080 CACE (13). Mayor Parker granted the request.

Mayor parker opened the Regular Commission meeting at 6:40 pm.

**3B. CHANGE ORDER TO INCLUDE SIDEWALKS ON WASHINGTONIA**  
(Commissioner Silverstone)

Commissioner Silverstone motioned to put a sidewalk on the north side of Washingtonia Avenue, between Seagrape Drive and Poinciana Street. Mayor Pro Tem Clark seconded the motion.

Discussion followed to include the color of the sidewalk should be the same color coral as the sidewalk on Seagrape Drive.

Mayor moved to put sidewalks on both sides of Washingtonia Avenue. Motion died for lack of second.

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

**3A. TOWN ATTORNEY REQUEST FOR CLOSED DOOR SESSION** to Discuss KAY BAYMAN and NELLIE BAYMAN vs. TOWN OF LAUDERDALE-BY-THE-SEA, CIRCUIT COURT CASE NO. 07-15080 CACE (13) (Town Attorney James Cherof)

This item was the first item of business before the Regular Commission meeting.

Mayor Parker moved the Minutes out of order. There were no objections.

### **APPROVAL OF MINUTES**

- a. July 10, 2007 Regular Meeting
- b. July 24, 2007 Workshop Meeting
- c. July 24, 2007 Regular Meeting
- d. July 31, 2007 Special Meeting

Commissioner Silverstone made a motion to accept the minutes. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0

Mayor Parker moved the Consent Agenda out of order. There were no objections.

### **CONSENT AGENDA**

- a. Service agreement between the Town of Lauderdale-By-The-Sea and Bien-Aime Inc., regarding Senior Center Activities Fiscal Year 2007/2008.  
(Town Manager Colon)

Mayor Parker pulled item 11a for discussion.

- b. Special Events Permit – Christmas By The Sea (Assistant to the Town Manager John Olinzock)
- c. Request for Issuance of 50 Parking Permits for Ocean Conservatory's International Coastal Cleanup, Saturday September 15, 2007, 8:00 AM until 2:00 PM, Bougainvillea Drive Parking Lot.
- d. Seagrape Drive Status & Town Permit Fee Waiver Request (Walter Keller)
- e. Application for Jarvis Hall-Morningstar Condominium Association Annual Meeting (John Olinzock – Assistant to the Town Manager)

Vice Mayor Yanni made the motion to approve items 11b, 11c, 11d, and 11e. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

**Item 11a:** Service agreement between the Town of Lauderdale-By-The-Sea and Bien-Aime Inc., regarding Senior Center Activities Fiscal Year 2007/2008. (Town Manager Colon)

Mayor Parker pointed out an error on page 3 of 10 of the proposed contract. He said the contract should commence on October, 2007 and not October, 2003.

Mayor Parker made a motion to change the date of commencement from October, 2003 to October, 2007. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

Mayor Parker pulled Report item 5a out of order. There were no objections

**Item 5a:** End of Month Budget Report for July 2007 (Martin Sherwood – Director of Finance and Budget)

Vice Mayor Yanni made a motion to approve the End of Month Budget Report for July 2007. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

Mayor Parker pulled Item 14G out of order.

**New Business Item 14G:** Discussion and/or action of Award of Agreement for Generator Relocation/Installation and New Town Hall Electrical Service, Invitation to Bid No. 06-07-05 (Assistant to the Town Manager John Olinzock)

Manager Colon recommended Electrical Services, Inc. as the contractor.

Commissioner McIntee made a motion to approve the electrical contractor. Commissioner Silverstone seconded the motion.

Commissioner Silverstone questioned the \$3,000 for telecommunications. Assistant to the Town Manager, John Olinzock advised the \$3,000 was for the cable installation from the servers to the computer stations.

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

Mayor Parker pulled Resolution Item 12 out of order.

**Resolution No. 2007-14:** A Resolution Of The Town Of Lauderdale-By-The-Sea, Florida, Authorizing And Directing The Appropriate Town Officials To Execute A Grant Application For Funds Available Through The Community Development Block Grants Program Through Broward County For The Fiscal Year 2007/2008 Providing For Conflict; Providing For Severability; And Providing An Effective Date. (Town Manager Colon)

Attorney Cherof read Resolution 2007-14 by title.

Mayor Pro Tem Clark made a motion to approve Resolution 2007-14. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0

Mayor Parker recessed the meeting at 6:55 p.m. and reconvened at 7:04 p.m.

**2A. PLEDGE OF ALLEGIANCE**

**3. INVOCATION, TOWN CHAPLAIN**

Father Hanrahan gave the invocation.

Commissioner Silverstone requested a moment to remember 9-11.

Commissioner McIntee requested a moment in memory of George Hunsaker's mother-in-law.

Mayor Parker amended the agenda to include Resolution 2007-03 under Ordinances (1<sup>st</sup>) reading. He moved Item 5g from Reports to the Consent Agenda as Item 11e.

At the September 5, 2007 Special meeting Mayor Parker allowed Commissioner Silverstone to make a motion to create a Change order to include sidewalks on Washingtonia. That meeting was adjourned without the motion. Mayor Parker allowed the motion to take place immediately.

## **PRESENTATIONS**

- a. Employee of the Month - Lauderdale-By-The-Sea: (John Olinzock – Assistant to the Town Manager)

Manager announced that Mike Walker would not be present to accept his award and that John Olinzack would accept on his behalf.

John Olinzack said Mike Walker has been an employee for thirteen years. He added that Mr. Walker had demonstrated that he deserved the honor of being nominated as employee of the month for September, 2007.

- b. Paramedic of the Year 2007 - Broward Sheriff's Office - Fire: Lieutenant Roy Antonucci (Chief Richard Sievers)

Chief Sievers introduced Roy Antonucci. He said Lieutenant Antonucci was the lead paramedic who administered advanced life support to a cardiac arrest patient and ultimately saved her life. The North Broward Medical Center agreed with the selection of Roy Antonucci as paramedic of the year and honored him with the Stars of Life award/

- c. Employee of the Month August 2007 – Broward Sheriff's Office - Fire: Reserve Firefighter Daniel Appelblatt (Chief Richard Sievers)

Chief Sievers introduced and congratulated Daniel Appleblatt. He said Firefighter Appleblatt has displayed intense involvement in fire rescue. He added that Firefighter Appelblatt's name had been submitted for the consideration for the Broward Fire Chief's Scholarship award given yearly to outstanding students. Chief Sievers indicated that Firefighter Appelblatt was a State Certified Firefighter 2, Emergency Medical Technician, and completed several FEMA courses. Chief Sievers said Firefighter Dan Appelblatt set an example for other reserve firefighters and possessed many of the valued traits necessary, and therefore nominated Dan Appelblatt as Employee of the Month for August, 2007.

- d. Deputy of the Month July and August 2007 – Broward Sheriff's Office: (Lt. Caren Pollaccia)

Lieutenant Caren Pollaccia recognized Deputy Danny Kristian for his leadership and decision making skills and indicated he was on the Sergeant list. Lieutenant Pollaccia also recognized Deputy Joe Duncan for his leadership qualities. She said Deputy Duncan was crisis intervention team deputy, a bicycle coordinator, and a rescue max trainer. Lieutenant Pollaccia said both deputies were selected as Deputy of the Month for August, 2007.

- e. Presentation by Raul Ocampo regarding Commercial Boulevard Beach Pavilion Conceptual Drawings (John Olinzock – Assistant to the Town Manager) Tabled from the July 24, 2007 meeting.

Mr. Raul Ocampo gave a PowerPoint presentation of three conceptual drawings. He said he had provided a third concept taken from the two already approved. Mr. Ocampo said the concept was drawn up looking at code, experience and the Commissioner's suggestions.

Mr. Ocampo developed a problem with his presentation. The Commission continued with the agenda until the problem was resolved.

- f. Presentation of Petition by Sea Ranch Club Condo, Larry McGuinness (Mayor Parker)

Larry McGuinness presented a petition from the Sea Ranch Club Condo for distribution to the Commission.

Commissioner McIntee talked about the fire assessment and assured the people that the fire assessment was going down and challenged anyone who said it was alright for Sea Ranch Lakes to pay less than anyone else. He said the \$260 was dropping down and should go down each year.

Commissioner Silverstone said that the people living in the condominiums were misinformed and said the rates were not going up. He thanked Mr. McGuinness for getting involved and said it was important for people to be involved and advised the people of the fire assessment meeting on September 14, 2007.

Mayor Pro Tem Clark thanked Mr. McGuinness and said over the years many things will be changed and the assessment of the business will be addressed.

Mayor Parker said that most people with properties more than \$2 million will have rate increases. Mayor Parker expressed hope that Commissioner McIntee and Commissioner Silverstone would vote against the fire assessment as they had the past two years. Mayor Parker believed there was enough money in the budget without taking out an Ad Valorem taxes. He felt the fire assessment should be put back into the millage rate.

Commissioner Silverstone clarified that the reason he voted against the fire assessment was because he believed it was illegal. He said Mr. Burton recommended a fire assessment of \$260 but said the town could go lower. He said by no means did he intend going higher than \$260.

Commissioner McIntee said he was told by a resident that the fire assessment was going up and pointed out that was an indication of misinformation. He assured the people that the fire assessment was going down.

Vice Mayor Yanni agreed the fire assessment was high and was going to be lowered as Commissioner McIntee had said. He reminded the people that safety was important and not about money. Vice Mayor Yanni said he would do what he could to keep the fire assessment low but could not guarantee there would be none.

Mr. Ocampo resolved his presentation issue that had occurred earlier. The Commission continued with Presentation item 4e.

Mr. Ocampo displayed the site plan of the Brenner version, the arch design, of the Commercial Boulevard Beach Pavilion and explained the changes made. He said that the restrooms were more handicap accessible. Mr. Ocampo was concerned with the close proximity of the restrooms to the restaurants. He added that the original design had a semi-detached restroom that did not meet handicap requirements. Mr. Ocampo said he modified the design to incorporate the restrooms into the main structure. He added that the Brenner version was the most costly of the three versions presented.

Mr. Ocampo displayed the Forbes Pavilion and indicated that type of roof design may present a problem with birds.

Mr. Ocampo talked about their design, the Ocampo version, and pointed out the Ocampo version was cost effective and provided more shade. He added that the restrooms were located on the south side and the portion of the buildings on the north side could be used for storage. Mr. Ocampo said the Ocampo version could function as an amphitheater.

Vice Mayor Yanni asked why the Brenner design would not give any shade and Mr. Ocampo said it would reduce the shade because the arch was very high. Vice Mayor Yanni asked about the Forbes design and questioned the modifications made to meet code. Mr. Ocampo said two out buildings for restrooms were added. Vice Mayor Yanni preferred the Forbes design as felt the other two designs limited the ocean view.

Commissioner Silverstone questioned the difference in cost between the Forbes design and the Brenner design. Mr. Ocampo said the difference would be approximately \$50,000. Commissioner Silverstone asked which would give the best view the Brenner design with arch or the Forbes design. Mr. Ocampo said the Brenner design would be the better one.

Commissioner McIntee questioned the amount of people that would fit in the Brenner design and Mr. Ocampo said approximately 30. Commissioner McIntee asked for clarification on the percentage of shade for the Forbes design at 100% and the Brenner at 75%. Mr. Ocampo agreed. Commissioner McIntee pointed out that the Brenner design was limited to an east / west view and the Forbes design allowed more seating on the ocean side.

Commissioner McIntee asked Manager Colon if all the money allocated was not used would it have to be returned. Manager colon said it would have to be returned. Commissioner McIntee felt the Forbes design was a better design.

Mayor Pro Tem Clark believed all plans lacked a north and south view. Mr. Ocampo said the Forbes pavilion had a north south view and recommended the Brenner design as the best design for ocean view.

Mayor Parker asked which would be best design for concerts. Mr. Ocampo said either the Ocampo design or the Brenner design would be the best. Mayor parker preferred the floor in the Forbes design and asked if it could be incorporated into the Brenner Design. Mr. Ocampo said it could.

Mayor Parker made a motion to use the Brenner design with the inclusion of the floor design as in the Forbes design. Mayor Pro Tem Clark seconded the motion.

Commissioner Silverstone wanted to see more of the ocean and preferred a public vote on the designs before the Commission. The Commission did not believe there was time to get the people involved.

Commissioner McIntee agreed with going with the majority of the people and allowed the residents present to express their preference between the three conceptual drawings. There were four in favor of the Forbes design, sixteen in favor of the Brenner design and three in favor of the Ocampo design.

In a roll call vote, the motion failed 3 -2 with Vice Mayor Yanni, Commissioner McIntee, and Commissioner Silverstone dissenting.

Vice Mayor Yanni made a motion to select the Forbes design. Commissioner McIntee seconded the motion.

Mayor Parker asked if the Forbes plan could be used for bands and Mr. Ocampo said it could by placing it under the roof for acoustics.

Vice Mayor Yanni amended his motion to include an area for bands. Commissioner McIntee seconded the motion.

In a roll call vote, the motion carried 3-2 with Commissioner Silverstone and Mayor Pro Tem Clark dissenting.

Manager Colon reminded the Commission that the next step was to select the Architect at the September 25, 2007 meeting. She added that Ocampo was selected to do the conceptual drawings only.

Mayor Parker moved Reports Item 5f, the City of Ft. Lauderdale / Sale of Water System out of turn. There were no objections.

**Reports - Item 5f:** City of Ft. Lauderdale / Sale of Water System – Report by Mark Darmanin, City of Ft. Lauderdale (James Cherof)

Attorney Cherof explained this item had been before the Commission before beginning in 2004 in anticipation of the expiration of the agreement between the City of Ft. Lauderdale and the Town of Lauderdale-By-The-Sea on a long term maintenance agreement and a franchise agreement as well.

Attorney Cherof added that the Commission gave approval to move forward with the contract and was negotiated under the previous administration. He added that this Commission requested more information, particularly on the City of Ft. Lauderdale's perspective on the pro's and cons of doing the system.

Commissioner McIntee thought the Commission voted on and turned down the contract. Attorney Cherof replied it was put back on for the renegotiation of the long term maintenance responsibilities that the Town would have to deal with for maintaining the

system and reminded Commissioner McIntee that the discussion was only a report and not a motion to reconsider the contract.

Mr. Mark Darmanin of the City of Ft. Lauderdale said the purpose of renegotiations was to replace the existing agreement. He added there were discrepancies in the language within the agreement and reached the Town of Lauderdale-By-The-Sea Commission prior to the City of Ft. Lauderdale addressing those issues. Terms were ironed out between the Attorney for Ft. Lauderdale and Town of Lauderdale-By-The-Sea's Attorney and was currently near the end of negotiations.

Mayor Parker asked if the Town does not sell the system would the money have to be budgeted. Manager Colon said the money was already budgeted. Mayor Parker asked if the money be freed up for other purposes should the Town decide not to sell. Manager colon said it would.

Mr. Darmanin said there would be additional expenses if the Town of Lauderdale-By-The-Sea did not sell the system. He added that all the construction being done would have to be paid to the City of ft. Lauderdale. Attorney Cherof explained that if no sale, the Town would not receive the proceeds from the sale and would be responsible for the costs of future capital improvements.

Attorney Cherof said that the agreement that had been in place since 1981 did not obligate the City of Ft. Lauderdale to pay all the costs for the capital improvements to the system. He added that many of those responsibilities were the responsibility of the Town. Assistant to the Town Manager John Olinzack explained that the agreement was not expired at this time and the Town was working under a Memorandum of Understanding which extended the terms in reaching an agreement.

Commissioner McIntee indicated that Pompano Beach could sell their water to the Town of Lauderdale-By-The-Sea and asked if there was a cut off to where Pompano Beach water ended and Ft. Lauderdale water began. Mr. Darmanin said there was no interconnection with the City of Pompano Beach but there were construction concerns. Commissioner McIntee asked why Ft. Lauderdale would want to pay the Town of Lauderdale-By-The-Sea \$350,000 for the water system. Mr. Darmanin said the infrastructure provided neighboring cities and the interconnection with the City of Pompano Beach and added redundancy to the Ft. Lauderdale water system.

Vice Mayor Yanni questioned the ownership of the water lines and the surcharge for drought conditions. Mr. Darmanin indicated that the surcharge was placed by South Florida Water Management remained until the drought was lifted.

Commissioner Silverstone asked if the Town was budgeted for the work. Manager Colon said no because the City of Ft. Lauderdale was doing the work. Commissioner Silverstone questioned the numbers and thought there was a serious situation that needed to be looked at. He wanted to place an item on the agenda to address this issue.

Attorney Cherof said the South Florida Water Management did not mandate any surcharges but instead strongly encouraged individual cities to apply a surcharge to make people aware of their impact on water use. Commissioner Silverstone thought it was unfair to put a charge on the misuse of water when people out there are not misusing their water.

Commissioner McIntee did not want the Town to give up part of its infrastructure especially the water system. He believed the town would not have to pay to have the water pipe put in.

Mayor Pro Tem Clark was satisfied that the Commission was not going to leave without the information needed. He asked Town Attorney and Town Administration to provide the Commission with bottom line numbers and rationale to aide the Commission in their decision.

Attorney Cherof said the matter was only on the agenda as a report to discuss the matter. He added that the Town of Lauderdale By The Sea does not have its own water supply.

Mayor Parker asked why new pipes were laid. Mr. Darmanin replied that the pipes were increased to carry more water and the pipes in the ground tend to degrade and do not allow the same flow of water as the newer pipes and wanted to interconnect with Pompano Beach for emergency purposes.

Mayor Parker felt this item needed to be brought back to the November 13, 2007 meeting. He did not see any advantage to owning the pipes. Mr. Darmanin said he would have to check his calendar. Mayor Parker expected his report by November 13, 2007.

Manager Colon said the report done by Hartman was old data. She said the values would change and she wanted time to look at the new numbers. Manager Colon preferred a meeting in December. Mayor Parker scheduled the meeting for December 11, 2007.

Mayor Parker recessed the meeting at 9:00 pm and reconvened at 9:15 pm.

## **PUBLIC COMMENTS**

Birute Clatney believed the Mayor should run year after year and that Manager Colon gave good customer service. She also praised the Town's web designer. She talked about the traffic problems and asked the Commission slow it down with stop signs.

Peanuts Wick announced Marie White was in recovery. He talked about Item 10E, the Unified Land Development Regulation, specifically the boats Section 245.146, Section C that changed property lines from 10 foot to 20 foot. Mr. Wicks pointed out that would reduce a 100 foot area wide lot down to 60 feet. He hoped the Commission would discuss that in length. Mr. Wicks did not understand why the Performing Arts contract, which runs until September, 2009 was being discussed at this time. Mr. Wick expressed concern regarding the zoning change situation in RM-25 to B-1 on the west side of A1A. He wanted to know if that was in violation of state code.

Christie Furth lived on El Mar Drive for 35 years and believed change was important to their community. She felt the community should be involved in the decision making.

Stuart Dodd found himself agreeing with Vice Mayor Yanni and Mayor Pro Tem Clark regarding the sidewalk and reminded the Commission that they gave away 1 foot.

Ron Piersante addressed item 13H. He said he had announced a meeting regarding Hurricane Preparedness and that Commissioner McIntee complained that the meeting was

being televised. He believed Commissioner McIntee was not interested in the safety of the community.

William Grady represented Mulligans Restaurant and requested placement on the agenda for valet parking. He apologized as he did not know there was a procedure for the request. He believed he had a professional license for Valet Parking that would provide parking for the citizens and assist the Town of Lauderdale-By-The-Sea with additional parking.

There was no objection to placing Mr. William Grady on the September 25, 2007 agenda under New Business. The Commission advised the correct way to request placement on the agenda.

Frank Herrmann spoke about the fire assessment, water fees. He said he would never complain about his taxes and fees that he happily pays, but would shout any person responsible for making bad decisions.

Al Simon addressed the issue of 13H did not understand why the commission was taking up an issue that was not an issue.

### **COMMISSIONER COMMENTS**

Vice Mayor Yanni wanted to clarify that he was in favor of sidewalks. He believed if sidewalks were going to be on Seagrape Drive they should be on Washingtonia Avenue also for safety.

Commissioner McIntee assured the people that the rumors regarding an increase in fire assessments were wrong and the fire assessment was going to be lower. He added that if the people were overcharged he was going to make sure they would get their money back.

Commissioner McIntee addressed the issue of advertising and said broadcasting was not a means of advertising. He added that the privilege would be taken away if televising is used for that purpose.

Commissioner Silverstone said he appreciated living in the Town of Lauderdale-By-The-Sea and was against anything that would threaten the town's uniqueness. He expressed thoughts on the pavilion and thought the Commission could do a better job in getting the people involved. Commissioner Silverstone was looking forward to the upcoming election as he believed more people were getting involved.

Mayor Pro Tem Clark said he saw a lot of flags commemorating 9-11 and was proud. He commented that he was accused of using a Town employee in an unauthorized matter in violation of the Town Charter. He said that was untrue and explained further that Commissioners were not allowed to direct employees to do anything. Mayor Pro Tem Clark said that he asked Planner Keller if he would like to be at the September 5, 2007 meeting and Planner Keller said he would. Mayor Pro Tem Clark complimented the Town on the improvements made to the website.

Mayor Parker wished everyone a Happy New Year for Rosh Hashana and a Holy Day for Yom Kippur. He said he wanted wider sidewalk on El Mar Drive to make it a safer street and to retain small town charm. Mayor Parker changed his mind on the fire assessment

and believed it should be eliminated along with the stormwater utility fee. He wanted to bring the millage rate to 3.8 and indicated he would not vote for anything higher than the roll back rate.

Commissioner McIntee made a motion to allow one additional minute per speaker. Commissioner Silverstone seconded the motion. In a roll call voted, the motion carried 5-0.

Vice Mayor Yanni talked about a solar stop sign he had recently seen in Marco Island. He said the sign shines bright red, like a red light, when approached within 25 feet. Vice Mayor Yanni asked Manager Colon to look into them.

## **5. REPORTS**

- a. End of Month Budget Report for July 2007 (Martin Sherwood – Director of Finance and Budget)**

This item was discussed earlier.

- b. Broward Sheriff's Office Monthly Report for July 2007 (Lt. Caren Pollaccia)**

Vice Mayor Yanni made a motion to accept the report. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0

- c. Broward Sheriff's Office Fire Rescue Monthly Report for July 2007 (Chief Sievers)**

Mayor Pro Tem Clark made a motion to accept the report. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

- d. Development Services Department Monthly Activity Report for July 2007 (Tatiana Solovieva - Development Services)**

Commissioner Silverstone made a motion to accept the report. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

- e. Municipal Services Monthly Report for July 2007 (John Olinzock – Assistant to the Town Manager)**

Mayor Pro Tem Clark made a motion to accept the report. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

- f. City of Ft. Lauderdale / Sale of Water System – Report by Mark Darmanin, City of Ft. Lauderdale (James Cherof)**

This item was discussed earlier.

- g. Application for Jarvis Hall-Morningstar Condominium Association Annual Meeting (John Olinzock – Assistant to the Town Manager)**

This item was moved to the Consent Agenda as Item 11e.

**6. APPROVAL OF MINUTES**

- e. July 10, 2007 Regular Meeting
- f. July 24, 2007 Workshop Meeting
- g. July 24, 2007 Regular Meeting
- h. July 31, 2007 Special Meeting

The minutes were pulled out of order and approved earlier in the meeting.

**7. PUBLIC COMMENTS**

Public Comments were heard earlier.

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

There were no ordinances for 2<sup>nd</sup> reading.

**9. COMMISSIONER COMMENTS**

Commission Comments were heard earlier.

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

- a. **Ordinance No. 2007-10 - Off-Site Parking:** 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. (Attorney James Cherof)

Attorney Cherof read Ordinance 2007-10 by title only

Vice Mayor Yanni made a motion to approve Ordinance 2007-10. Mayor Pro Tem Clark seconded the motion.

Discussion Commissioner Silverstone asked for clarification on whether an individual who opened a restaurant and did not have parking on the property would that business owner not be able to lease parking space.

Attorney Cherof believed that property could be leased off-site to satisfy the minimum parking requirement. He referred to line 35, page 1 of 2, and indicated that would prohibit someone from opening up without sufficient parking and arranging for that parking by lease.

Mayor Parker felt there was a discrepancy in the next sentence on line 35, page 1 of 2. He said it contradicted the previous sentence and believed it should be removed. Attorney Cherof agreed there was a discrepancy.

Mayor Parker made a motion to amend the Ordinance on first reading to strike that sentence. Vice Mayor Yanni seconded the motion.

Attorney Cherof asked what the minimum term of the lease was and how the Commission intended to enforce it. Mayor Parker said they would get new spaces or get shut down.

Mayor Parker amended the motion to strike the first line and add "within 90 days" on line 1 of page 2, right after Town Code. Vice Mayor Yanni accepted the amendment.

Planner Keller stated that parking for business had to be located in the business district and not in a residential area. Commissioner Silverstone was concerned that if people were leasing spaces to multiple people it could present a problem. Attorney Cherof said a provision could be added that the spacing be leased exclusively to businesses that need it.

Commissioner Silverstone asked if the attorney would redraft Ordinance 2007-10 and Attorney Cherof said the current ordinance could be amended.

In a roll call vote, the motion on the first amendment carried 5-0

Mayor Parker believed Ordinance 2007-10 should specify that the lots used should be located in business lots or an RM-25 lot adjacent to a business lot.

Mayor Parker made a second motion to amend that lots must be located in either business lots or RM-25 lots adjacent to business lots. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

Mayor Parker made a third motion that if more than 600 feet away would have to come before the commission. Motion failed due to lack of second.

Mayor Parker made a motion to add a clause that nothing in the ordinance authorized a commercial parking lot not run by the Town of Lauderdale-By-The-Sea. The motion failed for lack of a second.

In a roll call vote, the motion carried 5-0. Ordinance 2007-10 passed on first reading as twice amended.

- b. Ordinance No. 2007-11- Drive Through Regulations:** AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 24-5-111, "B-1 DISTRICT-BUSINESS" AND SECTION 24-4.4(a)(2)(h) "SITE PLAN REQUIREMENTS" TO SET FORTH CONDITIONS FOR DRIVE THROUGH SERVICE AS AN ACCESSORY USE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (Attorney James Cherof)

Attorney Cherof read Ordinance 2007-11 by title only.

Commissioner McIntee believed the Commission should move forward and grant the drive through to allow Star Bucks in Town.

Mayor Parker did not like the idea of a drive through lane that could back up traffic into a residential street.

Commissioner Silverstone had a problem with something that might affect the residents. He asked if line 3 could be clarified to be more uniform and easier to understand.

Vice Mayor Yanni thought StarBucks would be a great asset to the Town. He asked if the only thing holding up the project was the by-pass lane and Mr. Chris Weaver, Starbucks representative said it was. He said there was enough room for three, and possibly for six cars, but the by-pass lane requirement would not allow it.

Vice Mayor asked Attorney Cherof if the Ordinance could be approved without the by-pass lane. Attorney Cherof said the by-pass language could be removed. Planner Keller said he would need to defer until he looked at the site plan.

Mr. Weaver said he had a preliminary site plan that showed where the building would be, where the drive through would be and why the by-pass lanes would not fit on the site.

Vice Mayor Yanni made a motion to amend Ordinance 2007-11 to remove Sections 3 and 4 of paragraphs 3 and 4 of sub-section H of section 24-4.4a2h. Commissioner McIntee seconded the motion.

Mayor Parker believed most codes required a by-pass lane for safety reasons. He thought the Ordinance only required one bypass lane and thought it was a mistake to eliminate it.

Mayor Parker clarified that the amendment eliminated lines 23 through 27 of page 2.

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

In a roll call vote, the motion carried 4-1.

Ordinance 2007-11 passed as amended on first reading.

**c. Ordinance No. 2007-12 – Prohibiting Rentals in Residential Areas:**  
Request to table to September 25, 2007 (James Cherof)

This item was tabled to the September 25, 2007 meeting. There were no objections.

**d. Ordinance No. 2007-13 - Moving Election from March to January 2008:**  
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA PROVIDING FOR THE MODIFICATION OF THE TOWN'S GENERAL MUNICIPAL ELECTION DATES TO COINCIDE WITH THE PRESIDENTIAL PREFERENCE PRIMARY DATE IN 2008 AND IN EACH SUBSEQUENT YEAR THAT IS A MULTIPLE OF FOUR (4) PURSUANT TO SECTION 101.75, FLORIDA STATUTES; SPECIFICALLY PROVIDING FOR THE 2008 GENERAL MUNICIPAL ELECTION IN THE TOWN TO OCCUR ON JANUARY 29, 2008; PROVIDING FOR THE QUALIFYING PERIOD FOR THE GENERAL MUNICIPAL ELECTIONS, AND SPECIFICALLY FOR THE QUALIFYING PERIOD FOR THE 2008 MUNICIPAL GENERAL ELECTION TO OCCUR BETWEEN NOON ON FRIDAY, NOVEMBER 2, 2007 THROUGH NOON ON FRIDAY, NOVEMBER 16, 2007; PROVIDING FOR THE DATE ON WHICH ELECTED OFFICERS TAKE OFFICE; PROVIDING FOR CONFLICTS;

PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Cherof read by title only.

Vice Mayor Yanni made a motion to approve Ordinance 2007-13. Mayor Parker seconded the motion.

Commissioner Silverstone wondered whether there would be a conflict with upcoming general elections in Florida that may change the Ordinance. Attorney Cherof said there were none that he was aware of at this time.

Attorney suggested adopting as is and possibly modify the Ordinance later if necessary.

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

- e. **Ordinance 2007-14 – Unified Land Development Regulations:** AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA, AMENDING CHAPTER 24 OF THE CODE OF ORDINANCES TO PROVIDE A COMPREHENSIVE REVISION TO THE TOWN'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE RENUMBERING AND RECODIFICATION OF THE LAND DEVELOPMENT REGULATIONS AS CHAPTER 30 OF THE CODE OF ORDINANCES; AMENDING OR ADDING PROVISIONS REGARDING FINAL SITE PLANS, SITE PLAN REQUIREMENTS FOR PERVIOUS AREA AND GREENSPACE, ARCHITECTURAL STANDARDS FOR THE RD-10, RM-25, AND RM-50 ZONING DISTRICTS, PROCEDURES AND REQUIREMENTS FOR REZONING INCLUDING APPLICATION PROCESS AND REQUIREMENTS, VESTED RIGHTS DETERMINATIONS, QUASI-JUDICIAL PROCEEDINGS, GENERAL PROVISIONS INCLUDING LEGISLATIVE INTENT, PURPOSE, RULES OF INTERPRETATION, EFFECTIVE STAFF DECISIONS, ENFORCEMENT, VIOLATIONS AND PENALTIES AND COMPUTATION OF TIME, DEFINITIONS, NON-CONFORMING USES AND STRUCTURES, INCLUDING PROVISIONS FOR EXTENSIONS, ALTERATION, ENLARGEMENT AND RECONSTRUCTION, ZONING MAP, INTERPRETATION OF DISTRICT BOUNDARIES, PURPOSE AND INTENT OF ZONING DISTRICTS, CORNER LOT LANDSCAPING IN THE RS-5 ZONING DISTRICT, PLANNED UNIT DEVELOPMENT REGULATIONS, OFF-STREET PARKING REQUIREMENTS IN THE RM-25 ZONING DISTRICT, OFF-STREET PARKING REQUIREMENTS IN THE B-1-A ZONING DISTRICT, OFF-STREET PARKING REQUIREMENTS IN THE B-1 ZONING DISTRICT, BOATS, BOAT LIFTS AND BOAT HOUSES, BOAT DAVITS, HEIGHT OF FENCES, WALLS AND HEDGES, SWIMMING POOL AND DECK SETBACK REQUIREMENTS, ACCESSORY BUILDINGS AND STRUCTURES, OFF-STREET PARKING AND LOADING REQUIREMENTS, TELECOMMUNICATION TOWERS AND ANTENNAS, WINDOW AWNINGS AND ENTRANCE CANOPIES, SIGNS, AND LANDSCAPING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR

CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. (Attorney James Cherof)

Attorney Cherof read Ordinance 2007-14 by title only.

Vice Mayor Yanni made a motion to approve with discussion.

Vice Mayor Yanni thought the Commission voted to leave the boats and docks alone. Commissioner McIntee believed a line needed to be added that said that all regulations and rules regarding waterways in the Town of Lauderdale-By-The-Sea would remain as in effect this date. Attorney Cherof believed that was already addressed in what was prepared and referred to page 30, Section 24-5.1463c, Exhibit "A".

Mayor Parker said item C, line 23, it increased from 10% to 20% to make it uniform throughout the Town.

Commissioner Silverstone questioned line 22 of page 30 and thought it should say equal to no more than 20%. Attorney Cherof agreed to add the language "was not to exceed".

Commissioner Silverstone made a motion to amend the distance not to exceed 20% of the width of the canal or waterway or a distance of 20 feet whichever was less. Mayor Parker seconded the motion.

Commissioner Silverstone wanted to clarify with staff that all issues and concerns were addressed in Ordinance 2007-14. Attorney Cherof said Mr. Bell provided a cover memorandum and felt it should be included in the agenda packet for second reading.

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

Ordinance 2007-14 was approved as amended on first reading.

- f. **Ordinance 2007-15 - Setback Regulations For Construction Site Containers And Regulation Of Portable Storage Units:** AN ORDINANCE OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA AMENDING CHAPTER 6, BUILDING AND BUILDINGS REGULATIONS, OF THE TOWN CODE OF ORDINANCES BY AMENDING SECTION 6.8 TO PROVIDE SETBACK REGULATIONS FOR CONSTRUCTION SITE CONTAINERS AND TO ADD A NEW SECTION 6-8,1 TO PROVIDE REGULATION OF PORTABLE STORAGE UNITS; PROVIDING FOR ENFORCEMENTS AND PENALTIES FOR NON-COMPLIANCE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (Attorney James Cherof)

Attorney Cherof read Ordinance 2007-15 by title

Vice Mayor Yanni made a motion to approve Ordinance 2007-15. Commissioner McIntee seconded the motion.

Mayor Parker referred to page 2, lines 26 and 27. He said the way it read, only one permit per year was allowed.

Mayor Parker made a motion to amend the motion to allow two permits per year instead of one. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

Ordinance 2007-15 was approved as amended on first reading.

- g. Ordinance 2007-03 – Changing the Date of Municipal Elections from March to November:** 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 (Attorney James Cherof)

Attorney Cherof read Ordinance 2007-03 by title only.

Vice Mayor Yanni made a motion to approve Ordinance 2007-03 on first reading. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

## 11. CONSENT AGENDA

- a. Service agreement between the Town of Lauderdale-By-The-Sea and Bien-Aime Inc., regarding Senior Center Activities Fiscal Year 2007/2008. (Town Manager Colon)
- b. Special Events Permit – Christmas By The Sea (Assistant to the Town Manager John Olinzock)
- c. Request for Issuance of 50 Parking Permits for Ocean Conservatory's International Coastal Cleanup, Saturday September 15, 2007, 8:00 AM until 2:00 PM, Bougainvillea Drive Parking Lot.
- d. Seagrape Drive Status & Town Permit Fee Waiver Request (Walter Keller)
- e. Application for Jarvis Hall-Morningstar Condominium Association Annual Meeting (John Olinzock – Assistant to the Town Manager)

The Consent Agenda was moved out of order and discussed earlier in the meeting.

## 12. RESOLUTION

- a. **Resolution No. 2007-14:** A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A GRANT APPLICATION FOR FUNDS AVAILABLE THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANTS PROGRAM THROUGH BROWARD COUNTY FOR THE FISCAL YEAR 2007/2008 PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (Town Manager Colon)

This item was moved out of order and discussed earlier.

## 13. OLD BUSINESS

- a. **Public Hearing** - The Planning and Zoning Board tabled the proposed Wings site plan (fka: 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 (Walter Keller, Town Planner) (Tabled from July 24, 2007 meeting)
- 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 23, 2007 (Walter Keller, Town Planner) (Tabled from July 24, 2007 meeting)

Attorney Cherof swore in those wishing to speak.

Commissioner McIntee requested the meeting be adjourned for the evening after the two public hearings were complete. There were no objections.

Attorney Cherof announced that both public hearings could be heard together and voted on individually.

Planner Keller said the Variance was recommended for denial.

Mayor Parker announced that Old Business Items 13c through 13h and New Business Items 14s through 14h were tabled until Friday September 14, 2007 following the special meeting.

Commissioner McIntee questioned Albert Levy, owner, as to other restaurant chains he had been in contact with prior to this meeting. Mr. Levy said he had not been in contact with any other restaurant chains.

Mayor Parker talked about the conditions to the site plan and referred to page 7 of the memorandum, specifically item 6. He said he would prefer it to read that the applicant shall

dedicate the site's existing parking lot to the Town on a form approved by the Town Attorney.

Mr. Levy wanted to know if there would be a mechanism worked it into an agreement to use the fair market value for that land to count towards the spaces. Mayor Parker said credit for the space would stay with the land.

Planner Keller advised that Code allowed a variance based upon the parking space submitted. He added that staff was concerned that they would take up too much of the available parking spaces in the area. Planner Keller indicated that the Board of Adjustment was not supportive of the variance itself because in peak season conditions did not have a much parking facilities as was suggested. He added that staff was concerned that granting the full restaurant space at this time was premature. Planner Keller said Wings was asking for approval for 6500 square feet of restaurant.

Discussion followed regarding whether Wings was grand-fathered and whether the credit for the number of spaces was 32 or 43.

Mr. Levy said if it was not the desire of the Commission to allow more space for the size of the restaurant he was looking for then he was willing to stick with the residential that is there already and just bring in Wings and willing to build with residential on top.

Attorney Cherof asked Mr. Levy if the property was owned by Wings or under contract subject to Commission approval, and whether Wings could walk away from the transaction. Mr. Levy replied in the negative. He also asked if the merchandise being sold would be visible from the street in the evenings. Mr. Levy said the window display would not be obstructed by the tinted windows. Attorney Cherof asked if outside storage and merchandise for sale was planned for this project. Mr. Levy replied that depended on what the Town Code allowed. With respect to the alley way, Attorney Cherof whether it would be a point of delivery for products. Mr. Levy said yes.

Mayor Parker said Wings was grand-fathered for 32 spaces and 11 spaces for residential. He asked Mr. Levy if he was willing to build with residential on top and Mr. Levy said he was.

Mayor Parker made a motion to grant the site plan with the additional condition that the applicant shall dedicate the site's existing parking lot to the Town and convey to the Town any residual interest it may have in the alley way, subject to dedication and reversionary interest, on a form approved by the Town Attorney.

Mayor Parker advised that the Town owned the alleyway but would also have the reversionary interest in it. Mr. Levy questioned the "reversionary interest" and Mayor Parker said that if the Town vacated the alley way as a street the Town would still own it.

Mr. Levy said as long as Wings had access to the alley way and a dumpster he would agree.

Mayor Parker advised Mr. Levy that in exchange for the dedication Wings would be grandfathered in with 43 parking spaces so long as the use is not changed.

Mayor Parker asked Mr. Levy if he understood and accepted the conditions and Mr. Levy said he did.

Mr. Levy requested ten additional Hardship Parking Permits. Brief discussion followed regarding the process, followed by disclosure of information from the Town Attorneys office. Attorney Cherof advised that Mr. Levy only received information from one of their associates regarding the understanding of Town Code.

Mayor Parker made a motion to approve the site plan with the conditions set forth. Vice Mayor Yanni seconded the motion.

Attorney Cherof said there needed to be disclosure as to who the Commission spoke with.

Mayor Parker spoke with two of the gentlemen associated with Wings, along with the previous Development Services Director, Jim Bell regarding deeding the parking lot to the Town and the reversionary rights to the alley way, in exchange for credit for the parking spaces and dumpster.

Commissioner McIntee had a brief telephone conversation with Mr. Levy and his father.

Vice Mayor Yanni said he had no discussion with anyone associated with Wings.

Mayor Parker addressed Mr. Levy's request for an additional ten parking permits. He advised that part of the agreement would allow Wings an additional ten permits that could be used at any other metered spaces in that lot or the adjacent lot. Mayor Parker also advised that additionally the annual fee for the parking permits would be waived.

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

Attorney Cherof advised that the next step was for Planner Keller to draft the Development Order that incorporated the modified condition that the Commission had discussed and approved. He added that the Development Order would be reviewed by himself and the Town Manager to make sure it conforms to what was agreed upon.

The remaining items were tabled to September 14, 2007 earlier in the meeting.

- c.** Discussion and/or action regarding change to El Mar Drive from present configuration to one lane (Commissioner Silverstone – tabled from June 12, 2007 meeting)
- d.** Discussion and/or action regarding renewing performing arts center contract (Vice Mayor Yanni) (Tabled from July 10, 2007 meeting)
- e.** Discussion and/or action regarding giving the Performing Arts Center priority with dates at Jarvis Hall (Mayor Parker) (Tabled from July 10, 2007 meeting)

- f. Staff has received a request for an additional time extension (unspecified duration) for the Duval Townhomes project located at 4209 and 4215 Seagrape Drive (See attached memorandum and applicant's justification letter) (Walter Keller, Town Planner) (Tabled from July 10, 2007 meeting)
- g. Discussion and/or action regarding Town hiring a fire inspector (Commissioner Silverstone) (Tabled from July 10, 2007 meeting with direction for BSO Fire to attend meeting)
- h. Discussion regarding unauthorized advertisements on Channel 78 "infomercials" at recent group meeting (Commissioner McIntee) (Tabled from July 24, 2007 meeting)

**14. NEW BUSINESS**

- a. Discussion and/or action pertaining to Ordinance 2007-04 (Waiving Weekday Parking Meter Fees) (Commissioner Clark)
- b. Discussion and/or action to change zoning on the south of Commercial Boulevard from RM-25 to B-1 on the West Side of A1A. (Vice Mayor Yanni)
- c. Discussion and/or action pertaining to July 24, 2007 Consent Item 11-E: Construction of Permanent Monument Signage (Commissioner Silverstone)
- d. Discussion and/or action for reconsideration of Variance pertaining to 4243 Bougainvillea Drive (Commissioner McIntee)
- e. Discussion and/or action pertaining to reduction of one sergeant position with BSO – Police Contract (Commissioner McIntee)
- f. Discussion and/or action pertaining to Violation of Town's Code of Ordinance – Order Imposing Fine / Certificate of Lien / Abatement Order ( Town Manager Esther Colon)
- g. Discussion and/or action of Award of Agreement for Generator Relocation/Installation and New Town Hall Electrical Service, Invitation to Bid No. 06-07-05 (Assistant to the Town Manager John Olinzock)

This item was discussed earlier.

- h. Request to change Regular Commission Meeting date of December 25, 2007 (Town Clerk June White)

**15. TOWN MANAGER REPORT**

**16. TOWN ATTORNEY REPORT**

**17. FUTURE AGENDA ITEMS**

**18. ADJOURNMENT**

Commissioner Silverstone made a motion to adjourn the meeting. With no further business to discuss Mayor Parker adjourned the meeting at 11:36 p.m.

\_\_\_\_\_  
Mayor Oliver Parker

ATTEST:

\_\_\_\_\_  
Town Clerk, June White

\_\_\_\_\_  
Date