

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, November 13, 2007

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

Mayor Parker called the meeting to order at 7:00 P.M. Present were Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. Also present were Town Attorney Jamila Alexander, Town Manager Esther Colon and Town Clerk June White.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Parker announced the flag was at half mast due to the death of Broward Sheriff's Deputy Paul Rein and Commissioner William "Bill" Karley.

3. INVOCATION, TOWN CHAPLAIN

Father Hanrahan gave the Invocation.

4. PRESENTATIONS

- a. Employee of the Month – November 2007 (Frank Rabinowitz – Director of Development Services)

Development Services Director Rabinowitz awarded Colleen Tyrrell with the Employee of the Month award. He said Ms. Tyrrell was a valuable asset to Development Services since she started work in January, 2006 and presented a superb work ethic.

- b. Employee of the Month – November 2007 – Broward Sheriff's Office Fire Rescue (Chief Sievers)

Chief Sievers presented 24 members of the C Shift with the Employee of the Month award. He said they responded to a water rescue incident where a man was stuck under the bridge in the Intracoastal Waterway. Firefighter/Paramedic Toni Miller accepted the reward on their behalf.

5. REPORTS

- a. Discussion regarding options to obtain an entrance to the parking lot on A1A – Bougainvillea Parking Lot Entrance (Esther Colon, Town Manager)

Manager Colon explained the \$16,250 would come out of the available parking fund.

Mayor Parker made a motion to authorize expenditure and the project. Vice Mayor Yanni seconded the motion. In a roll call vote, the motion carried 5-0.

- b. Report on current agreement with Sea Ranch Lakes (Chief Sievers)

Chief Sievers gave a follow up to the report submitted last meeting regarding the current status on the agreement with the Sea Ranch Lakes. He said the agreement was a 30 year agreement and the only way Broward Sheriff's Office Fire could get out of the contract was to terminate the contract as they did not have the right to not renew. Chief Sievers added that only Sea Ranch Lakes could terminate the contract.

Mayor Parker wanted the cost of providing EMS services to Town of Lauderdale-By-The-Sea to be the same amount that Sea Ranch Lakes paid. Sievers said there was a tentative working document currently with Sea Ranch Lakes where Broward Sheriff's Office Fire was attempting to increase the cost which was currently \$58,000.

Mayor Parker said the Town of Lauderdale-By-The-Sea was paying \$3.2 million and believed there was a discrepancy there.

Commissioner McIntee remarked that this was a 3 to 4 year old issue. He said it should be equitable to what the Town of Lauderdale-By-The-Sea was paying. Commissioner McIntee pointed out that every year the contract continued to renew and that was unfair to the tax payers.

Mayor Pro Tem Clark suggested Chief Sievers bring it back to the person who is doing the negotiating. Chief Sievers said the best efforts were being used in negotiations. Mayor Pro Tem Clark told Chief Sievers to advise the negotiators that this Commission was not happy with their negotiations.

Commissioner Silverstone asked what would happen to the contract if Broward Sheriff's Office was terminated. Chief Sievers said they would not be able to serve Sea Ranch Lakes.

Mayor Parker requested Chief Sievers to have someone from Broward Sheriff's Office Fire come before the Commission on November 27, 2007 and give their position on the Sea Ranch Lakes contract.

6. APPROVAL OF MINUTES

- a. October 23, 2007 Regular Minutes

There were no additions, deletions or corrections to the minutes.

Commissioner McIntee made a motion to approve the minutes of October 23, 2007. Vice Mayor Yanni seconded the motion. In a roll call vote, the motion carried 5-0.

7. PUBLIC COMMENTS

Mayor Parker placed a time limit on public comments. There were no objections.

Bill Vitollo did not believe that businesses should use Jarvis Hall for meetings. He believed that was an avenue of commercial advertising. Mr. Vitollo also believed it should be used for association and not for political reasons.

Maureen McIntee asked the Commission to approve the By-The-Sea-Times request to hold a candidate debate.

Pauline Brooks McGuinness was against changing El Mar Lane into one lane. She said the Commission always said it was what the people wanted, but no one asked the tax payers.

Cristie Furth mentioned that there was to be an El Mar Drive Workshop in Jarvis Hall November 14, 2007 and encouraged everyone to attend. She talked about plans for El Mar Drive to put 4 and 5 story buildings along El Mar Drive.

Bumin Yuce liked El Mar Drive the way it is.

Tom Carr thanked those who supported the Volunteer Fire Department and thanked those who attended the Fireman's Ball. He said he heard rumors that the people in the north end of Town desired de-annexation.

L. McGuinness said that State Representative Bogdanoff talked about spending and the upcoming state budget cuts. He suggested the Commission stop all unnecessary work.

Beverly Wilson referred to the 4 hardship parking permits issued to her in the past and said they were necessary to keep their business running.

Lisa Mitchell thanked the Volunteer Fire Department for putting their time and energy into the Fireman's Ball. She felt her first amendment rights were being stepped on and believed everyone should be allowed to speak, including the Citizens Initiative Committee. Ms. Mitchell asked the Commission to bring the fire assessment down.

Roseann Minnet thanked everyone for attending the Veteran's Day celebration. She said the attendance to State Representative Bogdanoff's event was wonderful and she was pleased she attended the event. Ms. Minnet said the plans for El Mar Drive included a European Boulevard with beautiful landscaped pedestrian walkways. She asked the Commission not to allow a few voices change the plan as they did not see the benefit. Ms. Minnet wished everyone a Happy Thanksgiving.

Mark Shumati was against the rental Ordinance. He said he purchased his home for the rental potential.

Beverly Kennedy thought that it was a conflict to have two Volunteer Fire Chiefs sitting on the Commission.

Paul Novak asked the Commission to vote against the rental ordinance. He believed it took away the right of a homeowner after they purchased it.

L. Peanuts Wick announced Santa by the Sea on December 15, 2007. He said unwrapped toy donations were needed along with cash donations. Mr. Wicks announced a Memorial service for Bill Karley on Saturday, November 17, 2007 at 3:00 p.m. at the Holy Cross Hospital. Mr. Wicks said that the Florida Department of Transportation determined that pavers were a safety and structure issue. He believed that By-The-Sea-Times had a right to change their dates to use Jarvis Hall as did anyone else.

Barbara Cole wanted to preserve the sea side from 8 to 10 miles out. She said a meeting regarding the building of gas terminals will be held on November 28, 2007 at the Mariott Court Yard on Cypress Creek Road and encouraged those interested in preserving their quality of life to attend. She said El Mar Drive did not want a European El Mar.

Birute Ann Clotney believed people expected delivery on promises made and referred to a report on fire suppression.

Commissioner McIntee made a motion to waive the time limit and allow the final two speakers. Mayor Parker seconded the motion. In a roll call vote, the motion carried 5-0.

Stuart Dodd said the Citizens Initiative Committee meeting was attended by 220 people. Mr. Dodd thanked the Commission for televising State Representative Ellen Bodgandoff's visit and expressed his disappointment at the lack of Commission attendance.

Diane Boutin said the Town mandated over 3 to 4 years ago, that any future development afforded the general public state of the art sidewalks, drainage, additional landscaping, and bicycle paths. Ms. Boutin said hardship permits were issued many years ago and requested 4 for the Windjammer Resort.

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

- a. **ORDINANCE NO. 2007-12 - Rentals: AN ORDINANCE OF THE TOWN OF LAUDERDALE BY THE SEA, FLORIDA, ADDING A NEW ARTICLE IV TO CHAPTER 6 OF THE TOWN CODE OF ORDINANCES ESTABLISHING REGULATIONS AND LICENSING REQUIREMENTS FOR THE RENTAL OF RESIDENTIAL DWELLINGS; PROVIDING FOR SEVERABILITY AND**

PROVIDING FOR AN EFFECTIVE DATE. (Attorney James Cherof) (Tabled from October 23, 2007)

Attorney Alexander, read Ordinance 2007-12 by title only.

Mayor Parker was disappointed that the Ordinance was not amended as intended.

Mayor Pro Tem wanted to hear comments from the public regarding Ordinance 2007-12. Mayor Parker said that if a motion to table was to be made then the Commission would not need to hear from the public. He added that if a motion to approve was to be made then the Commission would need to hear from public.

Commissioner Silverstone said the intent of this Ordinance was to protect people and was against the Ordinance as written. Vice Mayor Yanni thought the Ordinance was unnecessary. He said when he was disturbed by noise he called police. Vice Mayor Yanni would not support the Ordinance 2007-12 the way it was written.

Mayor Parker was willing to meet Vice Mayor Yanni halfway by eliminating duplexes and only prohibit rentals on single family homes for less than six months.

Commissioner McIntee made a motion to table Ordinance 2007-12 indefinitely. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0

Vice Mayor Yanni believed the Ordinance was needed but not the way it was written. Mayor Pro Tem Clark and Mayor Parker agreed the Ordinance needed something to deal with the problem.

- b. ORDINANCE NO. 2007-16 – Waiving Parking Meter Fees: AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 19-25, “TIME RESTRICTED PARKING” BY AMENDING SUBSECTION (g), FOR PORTIONS OF COMMERCIAL BOULEVARD; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.** (Attorney Cherof)

Attorney Alexander read Ordinance 2007-16 by title only.

Mayor Parker opened the public hearing.

Roseann Minnett recognized the need to waive parking meter fees and presented a two hour parking limit as a solution.

Diane Boutin encouraged the Commission to support Ordinance 2007-16 as there was a need for it.

Bill Vitollo indicated that Benihana employees occupied all the parking spaces along Commercial Boulevard on Saturdays.

With no one else wishing to speak Mayor Parker closed the public hearing.

Commissioner Silverstone made a motion to approve Ordinance 2007-16.
Commissioner McIntee seconded the motion.

Commissioner McIntee said people were parking for extended periods. He said he retrieved signatures on a petition from the businesses which would be provided at a later date. Commissioner McIntee said the petitioners signed 37 to 1 to keep the bags on the meters. He said he spoke with the manager of Benihana's who in turn told his staff that they were not allowed to park in those spaces on Commercial Boulevard.

Mayor Parker thought the Ordinance was not satisfactory and wanted to change Section 19-25. He suggested that in the last sentence where it said "meter coverage or adjacent signage, it should also say, "in addition there shall be a two hour time limit on parking at the parking spaces and a fine of \$25 for over-parking and the meter cover or adjacent signage shall so indicate".

Mayor Parker made a motion to amend Ordinance 2007-16 as so stated.
Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

Discussion followed regarding the enforcement of two hour limits on parking. Assistant to the Town Manager Olinzock read Code Section 19-25 regarding time restricted parking, specific locations of restricted parking, and specific days.

Mayor Parker believed an Ordinance was needed to end two hour parking limits on Commercial Boulevard, east of A1A or on El Mar Drive. Manager Colon said the Ordinance would need to be changed as it was being enforced as written.

In a roll call vote, the motion carried 5-0. Ordinance 2007-16 passed on second reading as amended.

Mayor Parker directed Clerk White to place on the November 27, 2007 agenda for discussion and/or action eliminating two hour parking limit on all parking on Commercial Boulevard east of Bougainvillea Drive.

9. COMMISSIONER COMMENTS

Vice Mayor Yanni stated that Saul Rubinoff Sultanoff, an 92 year old Marine Veteran, who was in a coma, said he respected Broward Sheriff Deputies Paris and Contanza for their treatment of him. Vice Mayor Yanni said Mr. Sultanoff was impressed by Commissioner Clark's biography in the By The Sea Times and commended him.

Commissioner McIntee challenged everyone to go by Oriana. He showed a picture of an entryway that was supposed to be a beach access. Commissioner McIntee remarked that he had not seen any green space. Commissioner McIntee mentioned that the State planned large cuts and said he would look for ways to get it done.

Commissioner Silverstone was pleased with the attendance. He believed the fireman's Ball was a great success and thanked everyone involved. He praised William Karley who started the Volunteer Fire Department in 1961 and was a 20 year Commissioner. He spoke about whether there was an ethical conflict serving both the Commission and the Volunteer Fire Department and said he will support whatever the majority believes is fair. Commissioner Silverstone indicated he was not able to attend State Representative Bogdonoff's meeting and sent her an email apologizing.

Mayor Pro Tem Clark wished everyone a happy Thanksgiving. He assured the people that the rental, Ordinance 2007-12, would be revisited and made right. Mayor Pro Tem Clark mentioned the availability of information could be found on the Town's web site and, if not on the web site, was available in hard copy through the Clerk's office.

Mayor Parker said he was not here for State Representative Bodganoff's event because he spent his grandson's first birthday out of town. He thanked Marc Furth and Ron Piersonte for the Halloween success this year and for all the years they dedicated their time. He also thanked his wife for organizing and purchasing the candy and the toys. Mayor Parker wished everyone a Happy Thanksgiving.

10. ORDINANCES (1st Reading)

11. CONSENT AGENDA

Mayor Parker removed Items 11f, 11g, and 11i for discussion.

Commissioner Silverstone made a motion to approve items 11a thru 11e, 11h and 11j of the Consent Agenda. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

- a. Commission approval of Sidewalk Replacement Program with Florida Youth Conservation Corps. by Cooperative Purchasing (Piggybacking) though existing City of Fort Lauderdale Agreement (John Olinzock – Assistant to the Town Manager)
- b. Annual Street Sweeping – Southern Street Sweepers (Esther Colon, Town Manager)
- c. Ratification of poll (Saturday, October 27, 2007) to allow parking on inside lane of El Mar and suspend parking enforcement during the Arts and Craft festivities held Saturday, October 27 and Sunday, October 28, 2007 (Esther Colon, Town Manager)

- d. Florida Fuel Service Program (Esther Colon, Town Manager)
- e. Maintenance of relocated trees (North Seagrape Drive) (Esther Colon, Town Manager)
- f. Renewal of sidewalk café agreements – The Village Grill and Mulligans (Beach Restaurant) (Esther Colon, Town Manager)

Commissioner Silverstone made a motion to approve. Mayor Pro Tem Clark seconded the motion.

Discussion followed regarding the renewal of the agreements and why the costs for the agreements have not gone up. Commissioner McIntee made a motion to amend to increase the fee 10%. Mayor Parker seconded the motion to amend.

Mayor Pro Tem Clark believed the Consumer Price Index should be included and made a motion to amend the amendment to increase the fee 5%. Vice Mayor Yanni seconded the motion.

Dave Gatsby Village Grill felt the Consumer Price Index was a good idea and the rent fair, and a 10% increase was fair.

In a roll call vote, the motion to raise the fee 5% plus the Consumer Price Index, or 1 ¼% for 4 years failed 3-2 with Commissioner McIntee, Commissioner Silverstone, and Mayor Parker dissenting.

In a roll call vote, the motion to raise the fee 10% plus the Consumer Price Index thereafter, starting Fiscal Year 08-09 carried 4-1 with Vice Mayor Yanni dissenting.

Commissioner McIntee made a motion that this would apply to all future café agreements. Mayor Parker seconded the motion. In a roll call vote, the motion carried 4-1 with Vice Mayor Yanni dissenting.

The Commission recessed at 9:25 p.m. and reconvened at 9:35

- g. Commission approval of Professional Town Planning Services Agreement with Keith and Schnars, PA (John Olinzock – Assistant to the Town Manager)

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

- h. Renewal of Wastewater Service Agreement with City of Pompano Beach (John Olinzock – Assistant to the Town Manager)
- i. Paying \$1,800 to Corniche for Beach Access (Vice Mayor Yanni)

Mayor Pro Tem Clark made a motion to table this item to the November 27, 2007 meeting. Mayor Parker seconded the motion. In a roll call vote, the motion carried 4-1 with Commissioner McIntee dissenting.

Mayor Parker directed this item be placed under Old Business on the November 27, 2007 agenda.

- j. Service for maintenance of servers and workstations (Esther Colon, Town Manager)

12. RESOLUTION

13. OLD BUSINESS

- a. Discussion and/or action for Issuance of Hardship Permits (Esther Colon, Town Manager)

Development Services Director Rabinowitz verified that there were no discrepancies.

Commissioner McIntee suggested allowing the issuance of the hardship permits to those who had them for a minimum of three years at the current rate. He added that anyone requesting additional permits or new permits would need to go through the complete procedure.

Commissioner McIntee made a motion to approve the issuance of hardship permits as stated. Mayor Parker suggested inclusion of the Consumer Price Index.

Discussion followed regarding the motion and the fairness of it. Commissioner McIntee clarified his motion was to approve the 10 current applicants for this year with the understanding that if they wanted the permits again next year they would have to return to the Commission for approval, and anyone else who wanted a hardship permit would have to come before the Commission.

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 placing pavers on El Mar Drive for the Coral Key project (Mayor Parker – Tabled from the July 10, 2007 meeting)

Manager Colon said staff was against the installation of pavers in pedestrian crosswalks at El Mar Drive and Washingtonia Avenue for safety and maintenance concerns. She added that that Florida Department of Transportation recommended using stamped asphalt or concrete.

Commissioner Silverstone made a motion to follow the recommendation of Florida Department of Transportation. Mayor Parker seconded the motion.

Commissioner Silverstone amended his motion to add that the costs would be paid for Coral Key. Mayor Parker seconded the motion.

Commissioner Silverstone incorporated a friendly amendment that the project be completed in one year. Mayor Parker accepted. In a roll call vote, the motion carried 5-0.

The Commission discussed item 13d before 13c.

- c. Discussion and/or action regarding giving the Performing Arts Center priority with dates at Jarvis Hall (Mayor Parker) Tabled from the September 25, 2007 meeting)

Mayor Parker believed the Performing Arts Center should have priority with dates at Jarvis Hall and made a motion to allow. Discussion followed regarding preference over dates and priority given to one group over another. Manager Colon explained that historically the Women's Club always had their annual meeting the first Saturday of February and therefore, other than that there were no conflicts.

Vincent Ragusa said that if the Town wanted to continue with a Performing Arts Center then he would need two weekends in a row as he cannot put up a stage and then take it down between performances.

Mayor Parker suggested that as long as Mr. Ragusa submitted a 6 month advance request and does not conflict with governmental action, he should be allowed preference.

Mayor Pro Tem Clark seconded the motion.

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

There was discussion regarding \$1,053 that Mr. Ragusa owed. Mayor Parker directed this be placed on the November 27, 2007 agenda if not satisfied privately.

- d. Discussion and/or action regarding renewing performing arts center contract (Vice Mayor Yanni) (Tabled from the September 25, 2007 meeting)

Vice Mayor Yanni made a motion to extend the contract. Mayor Parker seconded the motion. Commissioners McIntee and Silverstone did not see any reason to extend the contract for an additional 5 years.

Mayor Parker explained that in order for Mr. Ragusa to get the quality events he needs the Performing Arts Center successful he needs a long enough contract to plan ahead.

In a roll call vote, the motion carried 3-2 with Commissioner McIntee and Commissioner Silverstone dissenting.

- e. Application for Jarvis Hall – By-The-Sea Times – Change of dates (John Olinzock – Assistant to the Town Manager) (Tabled from the October 9, 2007 meeting)

Mayor Parker made a motion to table this item to the first meeting in February. The motion failed for lack of a second.

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

Vice Mayor Yanni said it was unfair for a newspaper that never reported anything positive about him or two other Commissioners and already had their candidates selected. He said he would not be against it if someone else would do it.

Mayor Parker believed in debates and believed they were supposed to be sponsored by a neutral party such as the League of Women Voters. He suggested they be asked to host all the debates and set the ground rules.

Mayor Parker made a motion to amend Commissioner Silverstone's motion to request the League of Women Voters to run the debates on the specified dates. Commissioner McIntee seconded the motion provided that if the League of Women Voters do not accept, then there would be no Property Owner's Association debates or By-the-Sea-Times debates.

As an alternate Mayor Parker said he would ask a local Republican Club and Democratic Club to run the debate. Commissioner McIntee agreed.

Commissioner McIntee clarified that the motion was that there would be no Property Owner's Association debates or By-the-Sea-Times debates and that the League of Women Voters or a local Republican Club and Democratic Club would run the debate. Mayor Parker confirmed.

Mayor Pro Tem Clark was opposed to By-The-Sea Times and By The Sea Future running debates but was ok with the League of Women Voters and the Democratic/Republican Organization.

Commissioner McIntee amended his motion to include that no one from the Town of Lauderdale-By-The-Sea could be a moderator. Mayor Parker and Silverstone agreed.

Vice Mayor Yanni thought the Property Owners Association should be allowed to run the debates. Mayor Parker pointed out that not only was Ms. Geesey the President of the Property Owners Association; she was also one of the newspaper editors for the By-The-Sea-Future.

Vice Mayor Yanni made a motion to amend the motion to allow Property Owners Association and the By-The-Sea-Times to have a candidate's night. The motion failed for lack of a second.

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

Mayor Parker instructed Manager Colon to contact the League of Women Voters.

Discussion followed regarding the preference for dates. Mr. John McMillan of By-the-Sea-Times preferred December 12, 2007 with a backup date as January 14, 2008. Ms. Cindy Geesey preferred January 23, 2008.

- f. Discussion and/or action regarding instructing the Town Attorney to file an ethics complaint against Commissioner Silverstone and Commissioner McIntee for repeated violation of the rule of voting, conflict of interest, and for attempting to terminate the contract of an existing Town vendor and giving the contract to another vendor controlled by them and which employs them (Mayor Parker) (Tabled at the October 23, 2007 Meeting)

Mayor Parker made a motion to approve. Vice Mayor Yanni seconded for discussion.

Mayor Pro Tem Clark moved to table until Attorney Cherof was present. Attorney Alexander said she spoke with Attorney Cherof and said his opinion was that he will not request the Ethics Committee to investigate.

Discussion followed with Commissioner McIntee reading the minutes of January 24, 2006. He said in those minutes the question arose as to the political rights of the employees such as the Fire Chief and Deputy Fire Chief and whether or not they were considered agents of the Town. Commissioner McIntee said the minutes stated that that it was the opinion of Attorney Cherof that the Fire Chief and Deputy Fire Chief were not agents of the Town and were not officials of a private organization.

Commissioner McIntee seconded the motion to table until November 27, 2007 or until Attorney Cherof was present. In a roll call vote, the motion carried 5-0.

14. NEW BUSINESS

- a. Variance Application review for 259 Codrington Drive and repeal application fee request approval (Frank Rabinowitz – Director of Development Services)

Development Services Rabinowitz gave an overview and recommended approval.

Mayor Parker made a motion to approve the variance providing the fence is located on the inside of the property line. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 4-1.

- b. Variance Application review for 107-109 Commercial Boulevard. Commission approval is needed (Frank Rabinowitz – Director of Development Services)

Frank gave an overview and recommended approval.

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

Mayor Parker said that if people need to back out on either side, their views may be blocked. Director Rabinowitz did not feel the visibility would be blocked.

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

- c. Discussion and/or action for reconsideration of Variance pertaining to 4243 Bougainvillea Drive (Commissioner McIntee) (Tabled from the September 25, 2007 meeting)

Commissioner McIntee made a motion to reconsider the variance. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 3-2 with Mayor Pro Tem Clark and Mayor Parker dissenting.

Commissioner McIntee made a motion to approve the variance and the proper fines or costs be paid. Commissioner Silverstone seconded the motion for discussion.

Commissioner Silverstone said he saw the property and it was not an enclosed area, but a simple frame structure.

Mayor Parker did not believe the variance should be granted when there is no hardship and the applicant did not come before the board.

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

- d. Discussion and/action in relation to the Volunteer Fire Department (Commissioner Clark) (From the September 25, 2007 meeting and tabled at the October 9, 2007 meeting)

Commissioner McIntee suggested this item be deferred until Wednesday, November 14, 2007. He believed it would require lengthily discussion. Mayor Pro Tem Clark had no objection. Mayor Parker deferred this item temporarily. It was decided later in the meeting to continue discussion at the November 14, 2007 Commission meeting.

- e. Granting a day off for employee of the month along with a \$25 check (Vice Mayor Yanni) (From the October 9, 2007 meeting)

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

Vice Mayor Yanni amended his motion to be retroactive to the first employee of the month selected. Mayor Parker seconded the motion. In a roll call vote, the motion carried 5-0.

- f. Review of the Jarvis Hall Use Ordinance (Attorney Cherof) (Tabled from the October 9, 2007 Meeting by Commissioner McIntee)

Mayor Parker Tabled this item to November 27, 2007. There were no objections.

- g. Discussion and/or action of candidate debate with regard to format (Mayor Pro Tem Clark)

Mayor Pro Tem Clark pulled this item as it had been discussed earlier.

- h. Discussion and/or action regarding "Oriana" entrances and exit north end of the property and install Town gate (Commissioner McIntee)

Commissioner McIntee presented a picture of the beach access talked about the safety issues regarding people walking to and from the beach. He said the liability lies with the Town of Lauderdale-By-The-Sea should there be an incident. Commissioner McIntee wanted to stop vehicles from using the beach access before an incident occurred.

Commissioner McIntee made a motion to have a fence installed to prevent vehicles from using the access and a gate for pedestrians to walk to the beach and exit the beach. Mayor Parker seconded the motion for discussion. Mayor Parker recalled that the plans called for a 15 foot alley way and Oriana was to build a road with a sidewalk.

Commissioner McIntee made a motion to table remaining items after this item. Mayor Parker wanted to see the plans and preferred tabling this item and all remaining items. There were no objections.

Mayor Parker made a motion to table New Business items 14d through 14n to November 14, 2007 at 6:30 p.m., with direction that the Commission began the meeting with New Business item 14d. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion carried 5-0.

Commissioner Silverstone made a motion to recess the meeting to November 14, 2007 at 6:30 p.m. There were no objections.

NOVEMBER 14, 2007 (CONTINUED FROM THE NOVEMBER 13, 2007 MEETING)

Mayor Parker called the meeting to order at 6:30 p.m. Present were Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. Also present were Town Attorney Jamila Alexander, Town Manager Esther Colon, and Town Clerk June White.

The Pledge of Allegiance to the Flag was performed.

Mayor Parker deferred New Business item 14d to the end of the meeting and began the meeting with New Business item 14h. There were no objections.

14h. Discussion and/or action regarding "Oriana" entrances and exit north end of the property and install Town gate (Commissioner McIntee)

Commissioner McIntee showed a picture of the entry way at Oriana. He wanted to place a fence across Town property as he believed it was unsafe for pedestrian use.

Mayor Parker said the Fire Marshall insisted a temporary gate get installed to allow emergency vehicles access and a permanent gate would be installed later. Mayor Parker said he measured the area and a gate could be installed. Frank Rabinowitz said he had an approved plan that showed the fences and said it was a workable situation for the project and recommended to abide by the plan. He added that it was agreed that the ingress egress be left open.

Commissioner McIntee stated that left a free entryway for 2 years ingress and egress. McIntee believed it was unsafe. He said the other two entry ways could be used safely. Director Rabinowitz said the plan should two other entryways but could not use one of them at this time. Mayor Parker said that when the property was given to the Town the developers were allowed to use it on an interim basis. Commissioner McIntee thought that they were using it for their own purposes and their own benefit, and the town was liable.

Vice Mayor Yanni asked if both entrances to Oriana were open. Frank said the south end was open the middle section was fenced off as part of the completion of construction of the units. He said closing that off would only allow ingress and egress from one side. He believed it was agreeable with the fire department to leave it open until either the opening was finished or the project was finished. Vice Mayor Yanni thought the Town could put a limit on it and that negotiations with the developer would be beneficial. Frank said he would find out what the developer's intentions were and what their time frame was.

Attorney Alexander addressed the liability issue and said it would be looked at on a case by case basis. She suggested negotiating with the developer and to discuss the safety issue with them and perhaps place the liability on them.

Commissioner Silverstone made a motion to instruct Town Administration to meet with the developers and negotiate a hold harmless agreement. Mayor Parker seconded the motion. In a roll call vote, the motion carried 5-0.

Commissioner McIntee made a motion to install a gate immediately with a Knox Box to allow fire emergency vehicles access and do it to the deeded property that belongs to the Town. Commissioner Silverstone seconded the motion. Vice Mayor Yanni suggested negotiating first and if unsuccessful, then proceed. Mayor Parker agreed.

Commissioner McIntee responded that legal fees would arise as the potential was there. Commissioner McIntee said he could live with a temporary gate forcing the developer to move along.

Commissioner McIntee amended his motion to install a temporary gate. Commissioner Silverstone accepted the amendment.

Manager Colon said there was a temporary plan in place already that allowed them to do what they are doing and did not believe a gate could go there.

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

- i. Discussion and/or action regarding Mayor Parker, ethics violation, voting on job worth \$20,000 over 5 years (Commissioner McIntee)

Commissioner McIntee made a motion to rescind the appointment and appoint Commissioner Silverstone to that position. Commissioner Silverstone seconded the motion. In a roll call vote the motion failed 3-2 with Vice Mayor Yanni, Mayor Pro Tem Clark, and Mayor Parker dissenting.

- j. Discussion and/or action regarding reimbursement by the Town of \$4,154.00 in repairs to NW corner property owned by Ocean East Apartments, Inc. 1530 South Ocean Boulevard (A1A), incurred in 2004 during placement of utilities underground (John Olinzock – Assistant to the Town Manager)

Assistant to the Town Manager, Olinzock explained that the Condo Association entered into an agreement with Florida Power and Light allowing them to install underground utilities.

Mayor Pro Tem Clark asked to see copies of the agreements. Mr. Olinzock pointed out that the agreements were between the property owner and Florida Power and Light. He added that the Easement Agreement was between Ocean East and Florida Power and Light. Mr. Olinzock said the Town of Lauderdale-By-The-Sea was not involved. Mayor Pro Tem Clark stated that unless the Town had a liability then the owner would need to take the issue up with Florida Power and Light.

Mayor Parker said the Town of Lauderdale-By-The-Sea hired Florida Power and Light to place the utilities underground. He believed that if the Town hired a contractor to do the work and the contractor created damage then the one who hired them would be responsible. Attorney Alexander said individual contractors usually have a liability clause in their contract. She said the contract would have to be looked at to make that determination.

Commissioner Silverstone made a motion to table to November 27, 2007. Commissioner McIntee seconded the motion. Mayor Parker directed someone from

Ocean East to appear and submit the contract. In a roll call vote the motion carried 5-0.

- k. Discussion and/or action to establish Town policy for free parking on inside lane and town wide at all meters for major Town events (Mayor Parker)

Mayor Parker said he received a call from a resident stating that people who were parked on the inside lane were getting tickets during Town events. He suggested creating a Lauderdale-By-The-Sea policy that when a Town event is scheduled, tickets should not be issued on that day. Mayor Pro Tem Clark seconded the motion.

Commissioner Silverstone inquired as to how the people would be made aware. Mayor Parker replied that parking enforcement would be instructed not to issue tickets on that day. Commissioner Silverstone said signs are normally out there, but not always posted.

Mayor Pro Tem Clark suggested making the sign part of the motion.

Not only do we waive parking but also put up signs and failure to put up signs was not an excuse to issue a ticket as parking would still be waived. Mayor Pro Tem Clark accepted.

Commissioner McIntee believed parking enforcement should be granted the day off if they were not going to issue citations. Mayor Parker included that in his motion. Mayor Pro Tem Clark accepted.

Manager Colon said it needed to be made clear what a Town event was. She added that if it was a Town Event then the Town should sponsor it; pulling the permit and paying the fees.

Discussion followed regarding the areas involved where the parking would be waived, and what Jarvis Hall events and other Jarvis Hall events actually were. Mayor Parker specified the mayor events.

Mayor Parker made a motion that during the five (5) major events: the 4th of July, Christmas By The Sea, the Craft Fair sponsored by the Chamber, Stargazing By The Sea, Taste of the Beach and, in addition, any Jarvis Hall event, would have free parking on El Prado Avenue in front of Town Hall and by the Tennis Court. Mayor Pro Tem Clark accepted the motion. In a roll call vote, the motion carried 5-0 and signed by Mayor Parker.

- l. Discussion and/or action with annexing the remaining of Terra Mar, Real Espana, and Emerald Tower (Commissioner Silverstone)

Commissioner Silverstone said he understood that there were people with a Pompano Beach address that wanted to annex with the Town and others that wanted to de-annex.

Commissioner Silverstone made a motion to begin the procedure to see if it could be done. Mayor Parker seconded the motion. Commissioner Silverstone added that he would not negotiate with anyone wishing to annex with the Town.

Mayor Parker advised that the City of Pompano Beach would need to give permission for the de-annexation of property. He clarified the areas in question were the remainder of Terra Mar Island, Rio Espana Condominium, Emerald Tower Condominium, and the Manor Club.

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

m. Discussion and/or action regarding placement of video surveillance signs at Town Entryways (Commissioner Silverstone)

Commissioner Silverstone thought that by placing video surveillance signs at the entrance to the Town people would be made aware that if they commit a crime they would be caught. Commissioner McIntee agreed and added that if surveillance was in place at the three locations in the Town, the police may have been able to capture the man that shot Deputy Paul Rein. Mayor Pro Tem Clark believed the video and the signs together were a good idea, but not one without the other.

Mayor Parker motioned to table to November 27, 2007 with direction to Chief Gooding to review and give his opinion and to have administration obtain the costs. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

n. Discussion and/or action regarding MSC look into having LBTS designed as a green town (Commissioner Silverstone)

Commissioner Silverstone spoke about setting Code and incentives to get people to use recycled materials and florescent lights and whatever else to help protect our economy. Commissioner Silverstone made a motion to direct the Master Plan Steering Committee to review and report back to the Commission what avenue the Town would pursue. Mayor Pro Tem Clark seconded the motion.

Manager Colon announced that she had a Resolution from the Florida League of Cities that set the standard and the process in place and would bring it to the November 27, 2007 meeting.

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

14d. Discussion and/action in relation to the Volunteer Fire Department (Commissioner Clark) (From the September 25, 2007 meeting and tabled at the October 9, 2007 meeting)

Mayor Pro Tem Clark made a motion to direct the Broward Sheriff's Office to renegotiate with the Volunteer Fire Department.

Mayor Parker requested the motion include that a Fire Chief be appointed by the Town Manager, the Sheriff, or anyone other than the Volunteer Fire Department. Mayor Pro Tem Clark preferred the Fire Chief be appointed by the Town Manager and confirmed by the Town Commission. Mayor Parker seconded the motion.

Commissioner Silverstone asked to hear from the Volunteer Fire Department. Bob Perkins, President of Volunteer Fire Department said they took a vote and the motion was not negotiable. He said the Volunteer Fire Department wanted to keep Commissioners McIntee and Silverstone as firefighters because they believed it was a benefit to have them remain as Commissioners. Mayor Pro Tem Clark withdrew his motion.

Mr. Perkins said he had contacted Mayor Pro Tem Clark to talk and Mayor Pro Tem Clark presented his thoughts and Mr. Perkins advised that removing Commissioner McIntee and Commissioner Silverstone from the fire department was not negotiable.

Commissioner McIntee believed most of the town wanted Broward Fire Department and Volunteer Fire Department working together. He asked whether anyone approached the fire department and asked if Mr. Perkins would respond if anyone did approach them. Mr. Perkins said he would. Mr. Perkins said their monthly meetings were open and Manager Colon was welcome to attend their meetings.

Commissioner McIntee made a motion to allow the Volunteer Fire Department to use the firehouse for training. Commissioner Silverstone seconded the motion. Mayor Pro Tem Clark believed Commissioner McIntee's motion was out of order. He stated that contractually, the firehouse was under the control of the Broward Sheriff's Office.

Manager Colon said the Broward Sheriff's Office paid rent on the trailer. She said she could call and ask if the Volunteer Fire Department could use the unoccupied firehouse for training. Mayor Pro Tem Clark disagreed and believed the Broward Sheriff's Office, under contract, had control. He expected the Town Attorney to determine the whether the Broward Sheriff's Office had control over the use of the firehouse.

Mayor Parker stated that Mayor Pro Tem Clark's point of order was out of order.

Commissioner Silverstone made a motion to appeal. Commissioner McIntee seconded the motion for discussion to address Mayor Parker's point of order. Commissioner McIntee wished to discuss the issue prior to voting. Attorney Alexander allowed discussion.

Commissioner McIntee believed there was nothing in the Broward Sheriff's Office contract that gave them control over the firehouse. He did not see any reason why Mayor Pro Tem Clark would not want the Volunteer Fire Department to use the firehouse for training purposes.

Commissioner Silverstone asked Mayor Parker to explain his point of order. Mayor Parker said the point of order was that the Town did not have control of the firehouse because under the contract with the Broward Sheriff's Office, they have control. He said therefore, Commissioner McIntee's motion was out of order because he requested the Commission to allow something that the Town was contractually prohibited from doing.

Commissioner Silverstone disagreed. He said the contract did not contain a specific clause that referred to the use of the building; only leasing agreements for the fire trucks. Commissioner Silverstone said the firehouse belonged to the taxpayers.

Vice Mayor Yanni stated that the bottom line was public safety. Vice Mayor Yanni did not believe the Volunteer Fire Department would fall apart if Commissioner McIntee and Commissioner Silverstone were not firefighters. He believed that if Commissioners McIntee and Silverstone stepped down the Volunteer Fire Department would return without objection. Vice Mayor Yanni felt the Volunteer Fire Department should operate independently and not under the control of the Commissioners.

Mayor Pro Tem Clark understood the point of order was the legality as to who controlled the firehouse. Mayor Parker clarified that the point of order was that Commissioner McIntee's motion was out of order because he was directing the Commission to approve something they were prohibited from doing. Mayor Pro Tem Clark had no objection to anyone using the firehouse as long as he was certain that the firehouse was not under a contractual agreement with Broward Sheriff's Office.

Mayor Pro Tem Clark withdrew his original motion.

Commissioner Silverstone withdrew his motion to appeal. Commissioner McIntee withdrew his second.

Mayor Pro Tem Clark withdrew his point of order.

Commissioner McIntee withdrew his motion. Commissioner Silverstone withdrew his motion with the intent to table.

Mayor Parker tabled this item to the November 27, 2007 meeting with direction to the Town Attorney, Town Administration, and the Broward Sheriff's Office to advise whether the Broward Sheriff's Office contract gave them control over the firehouse and to present it as a report at the meeting.

Commissioner McIntee said it was not the Broward Sheriff's Office to make the decision. He believed the Town attorney would need to rule. Mayor Pro Tem Clark agreed.

There were no objections.

15. TOWN MANAGER REPORT

Manager Colon requested the Commission allow parking Enforcement employees to take the Federal Holidays that the Town enjoys.

Mayor Parker made a motion to allow parking enforcement personnel to take their holidays.

Commissioner McIntee made a motion to leave that at the discretion of the Town Manager. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

Manager Colon stated she wanted it on record when employees had to be at work and when they did not have to be at work.

16. TOWN ATTORNEY REPORT

- a. Opinion regarding an Ordinance prohibiting the display of inappropriate material in store fronts (Jim Cherof – Town Attorney) (Tabled from the October 23, 2007 meeting)

Mayor Parker tabled this item to November 27, 2007. There were no objections.

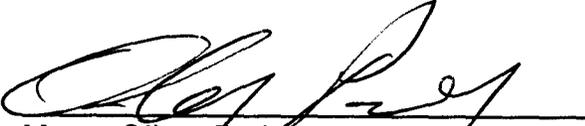
17. PUBLIC COMMENTS (remaining members of the public to speak at this time)

There were no remaining public speakers.

18. FUTURE AGENDA ITEMS

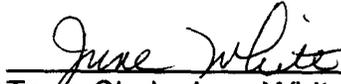
19. ADJOURNMENT

Commissioner McIntee made a motion to adjourn the meeting. With no further business before the Commission Mayor Parker adjourned the November 14, 2007 meeting 8:05 p.m.

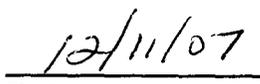


Mayor Oliver Parker

ATTEST:



Town Clerk, June White



Date