

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

REGULAR MEETING

AGENDA

Town Commission Meeting Room

4501 Ocean Drive

Tuesday, November 27, 2007

7:00 P.M.

1. CALL TO ORDER, MAYOR OLIVER PARKER

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

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION, TOWN CHAPLAIN

Mayor Parker gave the Invocation.

4. PRESENTATIONS

- a. Certificate of Achievement for Excellence in Financial Reporting Government Finance Officers Association of the United States and Canada for the fiscal year ending September 30, 2006 (Allan Owens – GFOA Representative)

Alan Owen presented the award for Excellence in Financial Reporting. He said this award marked the ninth consecutive year the Town of Lauderdale-By-The-Sea achieved this award. And hoped it would encourage others.

- b. Supervisor of Elections update regarding the upcoming 2008 elections (Mary Cooney)

Mary Cooney highlighted election changes for the upcoming election year. She said the moving of the presidential election primary was the largest change. Ms. Cooney said the primary election, which was generally the Tuesday after Labor Day, was changed to the Tuesday before. She added that 17 year olds were now allowed to pre-register as long as they had a driver's license. Ms. Cooney said new equipment would make updating voting information easier by swiping a driver's license. She announced the need for bi-lingual poll workers.

Mayor Parker inquired the time period to certify the election results. Ms. Cooney replied it would take two days. Mayor Parker advised the Commission should plan on having a special meeting on February 2, 2008 for the change in Administration and asked Town Attorney to confirm that the recently enacted Ordinance stated that the change was to take place two days after the results were certified.

5. REPORTS

- a. Finance Budget Report – October 2007 – Preliminary Close (Martin Sherwood – Director of Finance and Budget)

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

- b. Development Services End of Month Report – October 2007 – (Frank Rabinowitz – Director of Development Services)

Commissioner McIntee asked Director Rabinowitz if a standard was set to allow him the authority to make a decision and allow the people the right to appeal.

Commissioner McIntee explained he enclosed his car port so he needed a variance and had to pay \$900. Mayor Parker thought that was an exuberant amount and asked if the costs could be cut back. Rabinowitz said arrangements could be made to see whether it could be changed and advised that expenses involving planner costs, advertising and notification to the community are involved for all projects.

Manager Colon suggested putting a policy in place for smaller situations otherwise the town code would be enforced as written.

Vice Mayor Yanni questioned the report regarding the number of violations issued with zero citations issued. He said there were forty-three verbal warnings and thirty-seven notices of violations and asked Rabinowitz to verify whether everyone had come into compliance. Director Rabinowitz said he would concur with Code Enforcement as to how their reports were summarized.

Mayor Parker questioned whether notice was required for a variance request. Attorney Cherof explained that Quasi Judicial Hearings required notice. Mayor Parker asked if the Building Department could be given authority to grant variances without having a hearing. Attorney Cherof replied in the negative and advised that Town could lower the threshold of what type of activity constituted the need for a variance. He added that it was possible for administrative approval of minor changes to property that don't constitute a need to request a variance. Mayor Parker asked if in the alternative, the Town could lower the cost of a variance for single family homes. Attorney Cherof said it was possible by category. Commissioner McIntee did not think that would be fair to the rest of the Town and said his concern was with the large amount required to be paid. Discussion continued regarding appeals, setbacks, and minor repairs or replacements, and the possibility of creating a new Ordinance.

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Commissioner McIntee requested this item be placed on the next agenda and asked Director Rabinowitz to present ideas and Attorney Cherof to present an outline. Mayor Parker asked to include a cost analysis to lowering fees for single family homes and duplexes.

Attorney Cherof suggested that if adjacent property owners objected to the variance it would trigger a hearing and not an administrative decision. He added however, that if there were no objection, then it could be moved forward for an administrative hearing. Mayor Parker requested placement on the December 11, 2007 agenda.

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

c. Municipal Services Monthly Report – October 2007 (Rick Mesiano - Director of Municipal Services)

Vice Mayor Yanni asked Director Mesiano how often the portals were cleaned and Director Mesiano said they were cleaned on a daily basis.

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.

Attorney Cherof announced that according to the Ordinance 2007-13, the swearing in of Elected Officials would take place on Monday, February 4, 2008.

d. Broward Sheriff's Office Fire Rescue Monthly Report – October 2007 (Chief Sievers)

Commissioner McIntee asked about control over false alarms. Chief Sievers said most were mechanical or operational. Commissioner Silverstone asked whether the false alarms were monitored. Chief Sievers said they had a regular meeting with the property owners and/or management companies.

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.

e. Verbal report from BSO Fire Rescue on the current agreement with Sea Ranch Lakes (Chief Sievers or Chief Lello)

Chief Sievers said Chief Lello was on vacation and he would be representing the Broward Sheriff's Office. Commissioner McIntee said the Commission directed the Broward Sheriff's Office to have either Chief Lello or someone with personal knowledge on this issue to appear. Mayor Parker suggested this item be tabled to the next meeting as first report of the meeting.

Manager Colon advised that the Town Clerk's office had sent a request to Chief Lello.

Mayor Parker referred to an email addressed to the Town Clerk from Deputy Chief He said it indicated that Chief Sievers was well versed in the contract. Mayor Parker gave Chief Sievers an opportunity to address the issue.

Mayor Parker said that he would rather the Town piggyback on the contract with the Village of Sea Ranch Lakes. He asked Chief Sievers if he was correct in stating that it would not cost the Broward Sheriff's Office any more to provide service to the Town of Lauderdale-By-the-Sea than it already cost them to provide service to the Village of Sea Ranch Lakes. Chief Sievers said he was correct. Mayor Parker said suggested the Town of Lauderdale-by-the-Sea piggyback off the Village of Sea Ranch Lakes contract.

Commissioner McIntee said that the Commission continually asked the Chief or Deputy Chief to appear and address this issue and Broward Sheriff's Office continued to make Chief Sievers take the heat.

Commissioner McIntee made a motion to table to December 11, 2007 with direction for someone from the Broward Sheriff's Office to appear before the Commission that had the knowledge and personal contact with the Village of Sea Ranch Lakes contract. Commissioner Silverstone seconded the motion. In a roll call vote, the motion carried 5-0.

- f. Discussion and/or action regarding placement of video surveillance sign at Town Entryways (Commissioner Silverstone) Pending report from Chief Gooding and cost of camera from Manager Colon)

Chief Gooding said that Chris Simmons, of Pena Global specialized in video surveillance camera and networks. He said Mr. Simmons recommended six cameras in order to capture license plate numbers of vehicles entering and exiting the Town. Chief Gooding said he had gotten six proposals for the hardware, the computers, the bay stations, access points, and equipment with an initial cost of approximately \$37,000. He added the equipment was very high tech and heavy duty. Mr. Simmons stated that the first year maintenance was included and then approximately 10% or \$3700. Mayor Parker advised Chief Gooding that the surveillance should not be used for traffic enforcement. Chief Gooding said it will not. Discussion followed regarding the costs of the network, parts and labor and maintenance.

Commissioner Silverstone made a motion to instruct Town Administration to go forward. Commissioner McIntee seconded the motion. Manager Colon reminded the Commission that bids take thirty days. She said she would try to get this item on the February 2008 agenda. Chief Gooding said approval would need to be obtained from Florida Department of Transportation, which could take longer than 30 days.

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

6. APPROVAL OF MINUTES

7. PUBLIC COMMENTS

Pico Cassada asked to speak on the Palm Club. The Commission agreed to allow him to speak when that item came up for discussion.

Ron Piersonte reminded everyone that the Chamber will be having Christmas by the Sea on Tuesday, December 4, 2007 from 5:00 p.m. to 9:00 p.m.

Rosa Michailiuk said she needed her hardship permits.

Roseann Minnett talked about amending Ord 2005-05 and asked the Commission to review the history of the Ordinance and create a pedestrian friendly corridor and not another highway for vehicles wanting to avoid A1A. She applauded the town for the Green Town Resolution. Ms. Minnett asked whether the Pavilion and Jarvis Hall were geared for energy efficiency.

Diane Boutin thanked Director Mesiano for cleaning the portals on a daily basis. She address the award of partnership and was deeply concerned about the design and the costs involved in maintenance. She liked the eco friendly idea and thought the Green Town Resolution was a good step forward. Ms. Boutin preferred one lane on each side of El Mar Drive.

Stuart Dodd addressed Ordinance 2005-05. He asked the Commission to look for positive solutions rather than additional workshops.

Vito Chiarello talked about the rental situation and believed that a three month minimum should be placed on single family homes. Mr. Chiarello believed the Property Owners Association should be the ones to hold "Meet the Candidates Night".

Cindy Geesey thought surveillance cameras were too much. Ms. Geesey thought that the Town made a promise to Palm Club and should keep that promise. She also believed that in fairness, Palm Club needed to deed the roads to the Town. Ms. Geesey announced the Property Owners Association was sponsoring a holiday decorating contest with six categories. She also announced that judges were needed.

Frank Herrmann thanked the Commission for voting for two lanes on El Mar Drive.

Maureen McIntee gave an overview regarding the South Beach Civic Association Annexation.

James Reagan wanted fire suppression and EMS handled by paid professionals.

Bonnie Myers felt that honoring the Veterans was a lovely event and thanked the Commission for attending.

Anthony Antonicello was upset that the developer dug up 19th Street and left it that way.

Mayor Paker ended the Public Comments for the evening except for Pico Cassada who will speak on the Palm Club item later in the evening.

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

9. COMMISSIONER COMMENTS

Mayor Pro Tem Clark reminded everyone to participate in the Christmas by the Sea on December 4, 2007. He was in favor of leaving Ordinance 2005-05 the way it was written. He supported the Palm Club sewer project whether Palm Club deeded the roads to the Town or not.

Commissioner Silverstone mentioned Marie White's Christmas by the Sea December 15, 2007 from 12:00 p.m. to 3:00 p.m. He announced the Toys for Children drop off locations were at Bank United, Sea Ranch Grill, Damon's Restaurant, Village Grill, Aruba Beach Café, Holiday Inn Lobby, Town Hall, and Midtown Mobil. He said Christmas Eve the Volunteer Fire Department brings Santa on their truck and the kids love it. He looked forward to the election and hoped it would benefit the Town.

Commissioner McIntee thought the video surveillance was an excellent idea. He said Lauderdale-By-The-Sea was the prettiest Town with low rises and said Lauderdale-By-The-Sea was also the safest Town. He said if Lauderdale-By-The-Sea was advertised as the prettiest and the safest it could increase property value, bring more visitors, and increase business. Commissioner McIntee said he was in favor of paying for outside professionals but he had faith in the Broward Sheriff's Office.

Vice Mayor Yanni said his campaign was the safety and welfare of the residents of the Town. He said he discovered an audit on the Volunteer Fire Department in 2000 – 2002 and read the response time of fire trucks, fire chiefs and volunteer firefighters. He believed the results were unsatisfactory and frightening. He read another section that he believed showed that a Commissioner could not serve on the Board and also be a fire fighter as it goes against their own ethics.

Mayor Parker was thankful for his wife and family and for serving the Town for 10 years. He announced Roseann Minnett and L. Peanuts Wick as the candidates for Mayor at the 2008 election. He said the League of Women's Voters would be sponsoring the campaign debates and encouraged everyone to ask questions. He was confused as to why Town Planner Walter Keller was replaced by Keith and Schnars. He did not recall a decision by the Commission to replace Planner Keller. Manager Colon reminded the Mayor that bids went out for Town Engineer and then for Town Planner. She said she brought the bids back to the Commission for approval. Mayor Parker wanted this item placed on the December 11, 2007 agenda as a report as to why Walter Keller was replaced and the minutes to accompany the report that showed the Commission approved Keith and Schnars.

Mayor Parker talked at length about Ordinance 2005-05 and believed the Town needed a four lane El Mar Drive. He asked for a first reading amending the plan on El Mar Drive, keeping it the way it was but eliminating the vegetation strips and bicycle lanes.

10. ORDINANCES (1st Reading) - Amending Ordinance 2005-05 returning El Mar Drive to two (2) lanes:

- a. Ordinance 2007-17: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 24, LAND DEVELOPMENT CODE AMENDING ARTICLE VIII "EL MAR DRIVE STREETScape PLAN"; ADOPTING REVISIONS TO THE STREETScape PLAN FOR EL MAR DRIVE FROM PINE AVENUE TO PALM AVENUE; REQUIRING CONFORMITY TO THE STREETScape PLAN AS A CONDITION OF SITE PLAN APPROVAL FOR PROPERTIES FRONTING ON EL MAR DRIVE; THE PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE. (Attorney Cherof)**

Attorney Cherof read Ordinance 2007-17 by title.

Mayor Parker requested confirmation that the Ordinance retained the requirements for the underground utilities, the proposed drainage, and the color of the sidewalk. Manger Colon and Attorney Cherof agreed. Mayor Parker stated that the only change was the configuration that eliminated the vegetation strips and the bicycle lanes, and created two ten foot lanes, a ten foot curb and gutter, and an eight foot sidewalk.

Vice Mayor Yanni made a motion to table this item to after the January 29, 2008 election. Mayor Pro Tem Clark seconded the motion. In a roll call vote, the motion failed 3-2 with Commissioner McIntee, Commissioner Silverstone and Mayor Parker dissenting.

Mayor Parker made a motion to approve Ordinance 2007-17. Mayor Pro Tem Clark seconded the motion with discussion. Mayor Pro Tem Clark did not believe this Ordinance gave a pedestrian friendly atmosphere. He said the only change he would make would be to change the median around the business district so that only delivery vehicles could park there. Commissioner Silverstone believed this was the Town's walkway and patterns develop from that design. He believed to change that walkway would have a negative effect.

Commissioner McIntee said a vote from the residents of twenty four to three wanted four lanes on El Mar Drive.

Vice Mayor Yanni said there were no problems on the other streets with one lane north and one lane south. He believed there were other ways to beautify El Mar Drive and keep four lanes.

Mayor Parker said two developers were in the process of making changes, and believed waiting could cost money.

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

Discussions regarding making the Developers comply with the new Ordinance. Attorney Cherof advised that the Developer had to comply only with the existing Ordinance when they obtained the permits. Mayor Parker asked the Attorney to write a letter to the Developers to advise them that Ordinance 2007-17 was passed on first reading and request that no further action be taken until the second reading of the Ordinance.

Mayor Parker placed this item for discussion and /or action requiring Oriana and Mintos to comply with Ordinance 2007-17 on the December 11, 2007 meeting.

11. CONSENT AGENDA

Mayor Parker removed items 11b and 11d from the Consent Agenda.

Vice Mayor Yanni made a motion to approve items 11a, 11c, 11e, and 11f. Commissioner Silverstone seconded the motion. In a roll call vote the motion carried.

- a. Renewal of Hardship Parking Permit – Sea Cliff Apts (June White, Town Clerk)
- b. Award of Architect Agreement with the Russell Partnership, Inc., for the Design and the contract administration of the Commercial Boulevard Pavilion (John Olinzock - Assistant to the Town Manager)

Manager Colon advised there was only \$360,000 to construct the pavilion if Russell Partnership was selected. Discussion followed regarding the option to obtain other bids or select another architect.

Commissioner McIntee made motion to table this item to December 11, 2007 meeting with direction to Manager Colon to seek another bid from Ocampo. Mayor Parker seconded the motion. In a roll call vote, the motion carried 5-0.

- c. Approval of the use of Jarvis Hall for Town Meeting with Congressman Ron Klein on Wednesday, January 9, 2008 at 5:30 p.m. (John Olinzock - Assistant to the Town Manager)
- d. Purchase of street sweeper (Esther Colon – Town Manager)

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

- e. Special Events Application for Sister Cities – Christmas Caroling 12/1/07-12/15/07 (John Olinzock - Assistant to the Town Manager)

- f. Special Events Application for Village Grill's New Years Eve Party (John Olinzock - Assistant to the Town Manager)

12. RESOLUTION

- a. **Resolution 2007-21:** A Resolution of the Town of Lauderdale-By-The-Sea of Florida to pursue measures to become a "Green Local Government" through improved environmental performance, using criteria and standards developed by the Florida Green Building Coalition, and encouraging the Legislature and Governor to support the Green Local Government Program (Attorney Cherof)

Attorney Cherof read Resolution 2007-21 by title. He explained the purpose of the Resolution was to encourage the Legislature and the Governor to allow municipalities to participate in the Green Town Program.

Mayor Parker made a motion to approve Resolution 2007-21. Commissioner Silverstone seconded the motion. Brief discussion followed regarding the avenues the Town of Lauderdale-By-the-Sea would take to make the Town more environmental friendly.

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

13. OLD BUSINESS

- a. Discussion and/or action Mayor Pro Tem Clark (Mayor Parker) (Tabled from the October 9, 2007 meeting)

Picot Cassada represented Palm Club and distributed copies of Resolution 2000-1458. He referred to the agreement with the South Beach Annexation, page 3 (marked as page 1) which spelled out the details of the agreement. Mr. Cassada wanted those commitments kept.

Mayor Parker summarized that the Town was obligated to put sewers to the point of connection at the property line and not on private property. Lengthy discussion followed as to the agreement made with Palm Club and who was responsible to pay for the installation.

Mr. Cassada said the Palm Club wanted to be treated the same way the rest of the Town was treated.

Commissioner McIntee motioned to table this item until after the January 29, 2008 election. Commissioner Silverstone seconded the motion. Mayor Parker requested discussion from the public.

Mr. Cassada said they paid for their own garbage collection, their own street lights, and if the Town were to replace their roads the Palm Club would maintain them as they always did.

Mayor Parker opened public discussion.

Roland Reiche said they take care of their own roads, pay for their lights, their schools, and pay top dollar on property taxes.

Mark Brown encouraged the Commission to keep in mind that septic tanks were the biggest environmental threat to the Town of Lauderdale-By-The-Sea and was an issue that affected everyone in the Town.

Tom Warden said the Palm Club was the same as Bel Air and thought the Town was making a lot of money on them.

Unidentified resident remembered Mayor Parker promised Palm Club would get the sewers.

Henry Overton wondered what the difference was between Sunset and Palm Club. Mayor Parker explained that Palm Club had private roads and private access. He said if the roads were made public then the Town would have to put the sewers in. Mr. Overton said the Palm Club was private property since the 50's and did not believe that the Mayor did not know Palm Club was private at the time the deal was made.

Vice Mayor Yanni said he was keeping the promise made to Palm Club and was not happy with the negative remarks in regards to the Old Guard not keeping their promises.

Roseann Minnett said the future did not endorse any Mayoral Candidate for the upcoming election. She said she wanted to read the Annexation agreement before making any comments.

Anthony Antonicello thought the sewers should be brought to their house also.

Ted Freed was there when the Palm Club was wooed into the sewer deal.

Larry Gipeta , President of the Palm Club said all they wanted was what was agreed to.

Unidentified resident that was not a resident of the Palm Club stated that she had to pay the cost of connecting the sewer lines to her home and would be very upset if the Town paid to connect the lines at the Palm Club.

Barbara Cole heard that Sea Ranch Lakes decided to keep their septic. She believed the cost should come from the excess revenues. Ms. Cole thought the Town Manager should look into what those revenues were before proceeding.

L. Peanuts Wick asked about ad valorem monies that were collected and wanted to know where the money went that was \$1.75 million out of \$3.4 million. He wanted to know why the Town did not contact Broward County for funds. Mr. Wick did not like the fact that the Burt J. Harris Act would come into play.

John Thompson was a member of the annexation advisory committee and Vice President of the Citizens Initiative Committee at the time the agreement was made with the Palm Club. He remembered asking the Commission to keep him advised of the Palm Club Sewer Project.

John McMillan said he always looked up to a man who kept his word, and said lived by that. He thought the Commission should keep their promises.

With no one else wishing to speak Mayor Parker began Commission discussion.

Mayor Pro Tem Clark said when the agreement was made the intent was to give sewers to everyone. He said Municipalities were not allowed to spend tax dollars on private property unless it was determined that it was for the common good.

Commissioner McIntee said he could not give the Palm Club his word that everything was going to be alright. He indicated that he would prefer to table this item until after the January 29, 2008 election.

Otis Herb addressed the issue of keeping the roads private so that outsiders could not get in. He stated that when the sewer went down in Sunset Lane the Palm Club broke their fence to allow everyone on Sunset Lane to use the road.

Mayor Parker supported putting sewers in Palm Club at the Town's expense until he discovered it would cost \$1 million do repave Palm Club's roads. He said that at the time of the agreement he was under the impression that the Palm Club was like most Home Owner's Association and not individually owned. Mayor Parker said the Town had kept their promise as the sewer lines were brought to the property line. He said it would cost \$35,000 per household and the property taxes paid from each household would not cover the costs. Mayor Parker believed an Ordinance was passed that required Palm Club to pay for the hook up to their properties. He asked Attorney Cherof to check on that.

Vice Mayor Yanni said no one should be on septic tanks in 2008. Vice Mayor Yanni stated that everyone paid taxes and the Town should give the Palm Club the same as give everyone else.

Commissioner Silverstone looked at the contractual agreement with Pompano Beach that included Palm Club, Terra Mar Island, and Bel Air. He said the contract mentioned that 118 individual units had to have separate sewers. He believed the entire annexation agreement was a disaster and should not have been done. Commissioner Silverstone requested Attorney Cherof to look into Palm Clubs by-laws and perhaps

divide the land to become public roadways and become a part of the Town. He believed this item should be tabled until this idea could be looked into.

Mayor Pro Tem Clark said Palm Club was part of the Town. He said when the South Beach Civic Association voted to annex with Lauderdale-By-The-Sea the options were to go to Ft. Lauderdale, Pompano Beach, Lauderdale-By-The-Sea, or become their own municipality. He stated that the majority chose Lauderdale by the Sea partly because of lifestyle. Mayor Pro Tem Clark said had they chosen to be annexed with Pompano Beach the sewers would have been done with no cost to the north part of Town. He wanted the project to go forward as intended.

Commissioner McIntee wanted to put this on the December 11, 2007 agenda to negotiate with the Palm Club to designate a path to the beach and use of the parking lot for beach access.

Mayor Parker suggested another solution would be to give the roads to the Town. Mayor Parker said there was a reason for not doing the sewers all at one time. He said that the project at Pelican Square was not properly supervised and not done well and the only way to make sure the sewer project was properly supervised with quality control, the Town had to do the sewer projects individually.

Commissioner McIntee made a motion to table to the December 11, 2007 meeting. Commissioner Silverstone seconded the motion.

Mayor Parker asked if the motion to table passed, without taking the item off the table, how would the Commission bring up the item negotiating for the sewers? Attorney Cherof inquired as to the nature of the negotiation. Commissioner McIntee said it would refer to the future of the Palm Club and how it could be made a safer environment. Attorney Cherof advised that the item on the agenda was regarding a special assessment for Palm Club or in the alternative, deed the roads to the Town. He said if that item was tabled then the negotiation of the Palm Club could not include those two items.

Commissioner McIntee withdrew his motion.

In a roll call vote, the motion to table to February 12, 2008 carried 3-2 with Vice Mayor Yanni, Mayor Pro Tem Clark dissenting.

Mayor Parker called a recess at 10:48 p.m. and reconvened at 10:55 p.m.

Mayor Parker took Old Business item 13f out of turn.

- f. 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)

Manager Colon said staff did not recommend approval. She stated that the owner of Ocean East said the Town promised to reimburse him and therefore, he requested to come before the Commission.

Steven Pierpoint, the President of the Board of Directors for Ocean East said in effect, that the letter he had received from Kevin Hart indicated that the Town would reimburse him. Mayor Parker referred to the memo written to Mr. Pierpoint from Kevin Hart which stated that the project costs would include any restoration to the private and/or public property that were impacted by construction activity.

Attorney Cherof said the responsibility was that of Florida Power and Light and thought the Town could use whatever leverage they had to request Florida Power and Light to pay them.

Commissioner Silverstone made a motion to deny payment. Commissioner McIntee seconded the motion.

Discussion followed as to whether the Town had any obligation and whether the motion should be amended to request payment by the Town should Florida Power and Light refuse payment.

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

Commissioner McIntee made a point of order that since it was 11:00 p.m. to complete Old Business and then adjourn the meeting. Mayor Parker agreed but asked to take New Business item 14e out of order. There were no objections.

Item 14e - Consideration to approve the Villas by the Sea Site Plan Amendment to allow minimal changes to the architectural design of building "C". (Frank Rabinowitz – Director Development Services)

Attorney Cherof swore in those wishing to speak.

Director Rabinowitz said they wanted to reduce the mass of the building, create more common area, to keep the same footprint and the same number of units but smaller in size. He stated that staff recommended approval.

Attorney Cherof pointed out that Town Code had a provision that when there was a site plan amendment requested by a property owner that the first determination was a minor or major modification. He stated that a minor modification can be approved administratively. Attorney Cherof said that the indication here was to have the Commission endorse that determination by staff.

Mr. Thompson suggested that perhaps this could be used as an example to the approach to get developers to agree to the changes along El Mar Drive.

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Scott Lamont, Ed Stone and Associates, and Johnny Lynch from Minto properties said the four lane version would cost more but agreed to comply should Ordinance 2007-17 pass second reading. Mayor Parker asked if Minto would have a problem if that was placed as a condition on the site plan approval. Mr. Lynch agreed to accept it as part of the site plan approval.

Mayor Parker made a motion to approve the Villas by the Sea Site Plan amendment with condition as stated. Commissioner McIntee seconded the motion. In a roll call vote, the motion carried 5-0.

Mayor Parker suggested continuing this meeting November 28, 2007. The Commission was not in favor. The meeting continued with the remaining Old Business items.

- b. Discussion and/or action regarding placing pavers on road work in Bel Air after sewer job (Commissioner McIntee)

Commissioner McIntee said he received a letter from the President of the Association asking why they could not have pavers. Assistant to the Town Manager Olinzock said there were no sidewalks in Bel Air and, as the Engineer indicated, the pavers only acted as a visual and did not go anywhere.

- c. Paying \$1,800 to Corniche for Beach Access (Vice Mayor Yanni) (Tabled from November 13, 2007)

This item was pulled by Commissioner Clark at the last meeting to hear from Town Attorney. Attorney Cherof said this was inappropriate unless the beach access was opened to all members of the public and Corniche was not willing to do so.

Vice Mayor Yanni said this was going on for four years. He said other hotels are paying Corniche.

Vice Mayor Yanni made a motion to pay Corniche \$1,800. Commissioner McIntee seconded the motion.

Mayor Pro Tem Clark said Corniche had agreements with three or four other entities. He said if the Town paid Corniche then the Town would have to pay the other hotels as well.

Mayor Parker moved to table this item to first meeting in February 2008. The motion failed for lack of a second.

In a roll call vote, the motion to pay Corniche failed 3-2 with Commissioner Silverstone, Mayor Pro Tem Clark, and Mayor Parker dissenting.

Vice Mayor Yanni made an amendment to the motion to approve \$1,800 and to negotiate with Europa, if they deny access the Town takes back their money. The motion failed for lack of a second.

- d.** Discussion and/or action regarding instructing the Town Attorney to file 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 employ them (Mayor Parker) (Tabled at the October 23, 2007 Meeting) (Tabled at the November 13, 2007 Meeting)

Mayor Parker withdrew his request.

- e.** Discussion and/action in relation to the Volunteer Fire Department - use of Fire House for training purposes (Commissioner Clark)

Mayor Pro Tem Clark withdrew this item. Commissioner McIntee made a motion to place this item on the December 11, 2007 meeting. There were no objections.

- f.** 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)

This item was discussed earlier.

- g.** Review of Jarvis Hall Ordinance No. 378 (Attorney Cherof) (Tabled from the October 9, October 23, and November 13, 2007)

Attorney Cherof said he would prepare the document with direction from the Commission. Commissioner Silverstone referred to Section 3a and requested a definition of Civic Organization. Attorney Cherof explained that a Civic Organization was any organization that was formed together and engaged in any civic activity. He added that any local civic organization had the right to use Jarvis Hall. Mayor Parker asked if a corporation or a business was considered a civic organization and Attorney Cherof replied it could be. Attorney Cherof added that he believed the definition was broad.

Mayor Parker did not believe the Ordinance should include a business and felt the Commission had the right to refuse a business. Attorney Cherof suggested that Commission direct to him to draft an amendment that provided a restrictive definition of local civic organizations.

Mayor Parker made a motion to direct the Town Attorney to draft an amendment that provided a restrictive definition of local civic organizations. Mayor Pro Tem Clark seconded the motion. Heated discussion followed regarding the denial of rights. Mayor Parker clarified that he wanted to eliminate for-profit corporations and for-profit businesses as a civic organization.

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

Commissioner McIntee made a motion to table the remaining items to the December 11, 2007 meeting. Mayor Parker removed New Business Item 14b and tabled the remaining items. There were no objections.

Mayor Parker adjourned the meeting after the Town Attorney report.

14. NEW BUSINESS

- a. Discussion and/or action on sale or purchase of property (Commissioner Silverstone) Tabled to December 11, 2007
- b. Discussion and/or action regarding elimination of parking meter enforcement east of Bougainville Drive (Mayor Parker) Tabled to December 11, 2007

This item was removed.

- c. Discussion and/or action regarding a stand alone Ordinance to prohibit single rentals on family homes for less than 6 months (Mayor Parker) Tabled to December 11, 2007
- d. Discussion and/or action to hold a workshop for the people to come together and make a decision on El Mar Drive (Vice Mayor Yanni) Tabled to December 11, 2007
- e. Consideration to approve the Villas by the Sea Site Plan Amendment to allow minimal changes to the architectural design of building "C". (Frank Rabinowitz – Director Development Services)

This item was discussed earlier.

- f. Discussion and/or action regarding parking on El Mar Drive on Friday Nights from 6:00 p.m. to 11:00 p.m. (Commissioner McIntee) Tabled to December 11, 2007
- g. Discussion and/or action regarding new safety program approach for the Town (Commissioner McIntee) Tabled to December 11, 2007

15. TOWN MANAGER REPORT

There were no reports.

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) (Tabled from the November 13, 2007 meeting)

Attorney Cherof said he surveyed the area in question and although some items may be considered lewd or offense, he did not see anything characterized as obscene. He felt there was no need to amend any portion of the Ordinance or that there was anything to enforce.

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

18. FUTURE AGENDA ITEMS

19. ADJOURNMENT

Commissioner Silverstone made a motion to adjourn. With no further business coming before the Commission Mayor Parker adjourned the meeting at 11:30 p.m.



Mayor Oliver Parker

ATTEST:



Town Clerk, June White

12/11/07

Date