



# AGENDA ITEM MEMORANDUM

**Town Attorney**

**Susan L. Trevarthen**

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input type="checkbox"/> Jan 10, 2012	Dec 30 <sup>th</sup>
<input type="checkbox"/> Jan 17, 2012 SPECIAL COMMISSION MEETING	Jan 6
<input checked="" type="checkbox"/> Jan 24, 2012	Jan 13
<input type="checkbox"/> Feb 14, 2012	Feb 3
<input type="checkbox"/> Feb 28, 2012	Feb 17

\*Subject to Change

- Presentation      Reports      Consent      Ordinance  
 Resolution      Quasi-Judicial      Old Business      New Business

**FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC**

**SUBJECT TITLE:** Inquiry re Comparison Between Continued Use of RM-25 Legal, Non-conforming Lots Without Referendum And 2006 Referendum For Home Occupations

**EXPLANATION:** In 2006, Ordinance 2006-10 (allowing and regulating home occupations) was presented to the voters by referendum. At the January 10, 2012 Commission meeting it was stated that the 2006 referendum was required not just to allow new home occupations but also to legalize existing home occupations in the south end of Town. The following question has been raised: if home occupations went to referendum for both pre-existing and new home occupations, why is the Town not required to hold a referendum in order to authorize the continued use of pre-existing parking lots in RM-25, as was recently done in connection with the conditional use for paid private parking for Aruba?

The analysis herein is based on the information and materials provided by Town staff. Materials reviewed in this analysis include Correspondence to Brenda Snipes dated July 20, 2006, Ordinance 2006-10, Ordinance 2006-11, and minutes of Town Commission meetings on April 27, 1999, May 11, 1999, June 27, 2006, July 11, 2006 (Agenda Conference), July 11, 2006 and July 25, 2006. All materials provided are attached here as exhibits. New materials or facts not previously reviewed may alter the interpretation provided herein.

Aruba's continued use of legal, non-conforming parking lots for its valet parking and Paid Private Parking operated from its B-1 property is significantly different than the home occupation referendum as we understand it.

In the case of home occupations, the 1999 and 2006 Commission minutes both indicate that all home occupations were prohibited and had never been allowed in the south end of Town. After annexation, the north end of Town was allowed to have home occupations, but in the south end they continued to be prohibited. In order to authorize home occupations in the south, the Town had to revise its zoning code to make them a permitted use. This they did when they adopted Ordinance 2006-10. The charter, as amended in 2006, required a referendum to rezone residential properties for any other use. Because the home occupation ordinance allowed a "new" (legal) use in the residential districts, the Town Attorney at that time recommended a referendum. It appears that the referendum was needed to address existing home occupations because those "existing" home occupations were illegal uses that never had been legally established. The home occupation referendum resulted in the legalization of existing home occupations as well as the opportunity to create new home occupations.

In contrast, there is nothing illegal in the Aruba parking lot situation which needs to be legalized, and the Town has not authorized the creation of new parking lots. As noted in the documentation related to the approval of the Aruba paid private parking conditional use, the Town staff has previously advised that its records indicate that the lots in question at 4412 and 4432 Ocean Boulevard are legal nonconforming uses. This means that their existence



as stand-alone parking lots (as well as use by Aruba for valet purposes) has been in place for many, many years and predates the current zoning restrictions. If these lots are legal, non-conforming uses, they were originally permitted and properly developed for use as parking lots under the Town's Code as it existed at the time they were developed.

Whenever the Town Code was amended to prohibit stand-alone parking lots, these lots became legal, non-conforming parking lots. The Charter amendments which prohibited changes to the uses permitted in the Residential Districts did not in any way change the status of legal, non-conforming uses. Thus, the continued use of those parking lots for parking, in any form, is not illegal; it is actually a right under the current non-conforming provisions of the Town Code (Section 30-21). The Aruba Conditional Use for Paid Private Parking approval did not allow a new parking lot in the RM-25 district, nor did it change the legal, non-conforming status of the Ocean Boulevard parking lots. It merely allowed Aruba to use its valet service to park visitors to the downtown and beach, in addition to customers of the restaurant. The 4412 and 4432 Ocean Boulevard properties had the legal right to operate as parking lots as legal non-conforming parking lots before the Aruba approval, and that right has not changed or been provided any additional legitimacy by the approval of Aruba's Paid Private Parking Conditional Use. Their previous principal use was parking, Aruba was legally using them for valet parking, and they continue to be used for that purpose. Other properties in RM-25 could not be developed for the principal use of serving as valet lots based on the decision on the Aruba application.

If the Commission were ever to consider amending the RM-25 district to allow stand alone parking lots, there is no question that a referendum would be required. However, the parking lots in question are already legal parking lots, albeit non-conforming. Who uses them for parking, or by what mechanism (Paid Private Parking) does not change the fact that they remain parking lots – legal, non-conforming parking lots. There has been no Code change or use change which changes that, and therefore no referendum is required.

The Aruba approval does not change the use of the RM-25 lots, affect in any way the nonconforming status of these RM-25 lots, or give the RM-25 lots additional legal protections or rights.

The difference in the two scenarios is shown in the comparison below:

HOME OCCUPATIONS	STAND-ALONE PARKING LOTS
Home occupations not allowed (in south)	Stand-alone parking lots allowed in RM-25
Home occupation "A" started - ILLEGAL	Stand-alone parking lot "A" developed - LEGAL
	Code amended to prohibit stand-alone lots in RM-25
	Parking lot "A" becomes Legal Nonconforming and can remain (See Section 30-21 of Town Code)
Charter amendment approved requiring referendum for any change in use in Residential Districts	
Commission wants to legalize ILLEGAL home occupation "A". Commission must approve a Code change to allow home occupations. Code change requires referendum as a change of use in residential. Thus referendum allows new home occupations and legalizes illegally existing home occupation "A".	Parking lot "A" is still legal, nonconforming.
	Aruba has been using Parking lot A for parking for years.
	Conditional use approval for Aruba for Paid Private



	<p><b>Parking use of its valet service at its restaurant site</b></p>
	<p>Prior to the conditional use – only Aruba customers could use the Aruba valet at the restaurant. After the conditional use, anyone can use the valet at the restaurant. No change to the RM-25 parking lot, which remains a legal nonconforming parking lot. No additional stand alone parking lots authorized.</p>

- EXHIBITS:**
- Letter to Dr. Brenda Snipes
  - Ordinance No. 2006-10
  - Ordinance No. 2006-11
  - Town Commission Meeting Minutes, July 25, 2006
  - Town Commission Meeting Minutes, July 11, 2006
  - Town Commission Agenda Conference Minutes, July 11, 2006
  - Town Commission Meeting Minutes, June 27, 2006
  - Town Commission Meeting Minutes, May 11, 1999
  - Town Commission Meeting Minutes, April 27, 1999
  - Town Code Section 30-21(a)-(g)

Reviewed by Town Attorney  
 Yes     No

Town Manager Initials **JS**

July 20, 2006

**HAND-DELIVERED  
AND ELECTRONIC MAIL**

Dr. Brenda C. Snipes  
Supervisor of Elections  
Broward Governmental Center  
115 South Andrews Avenue, Room 102  
Fort Lauderdale, Florida 33301

Re: Ballot Questions for the General Election  
to be held on November 7, 2006

Dear Dr. Snipes:

Attached please find the ballot questions submitted for your processing to be included in the November ballot.

Two of the ordinances (2005-18 and 2005-20) were previously removed from March's ballot as agreed by the Town and Citizen's Initiative Committee and approved by the Court.

Question Three, concerning terms and term limits is a charter amendment proposal submitted by a Citizen's Initiative pursuant to Florida Statute Section 166.031. The Town Commission approved placing that question on the November 2006 ballot (rather than a special election) at the Town Commission's July 11, 2006 Meeting. I can supply minutes of that portion of the Town Commission meeting if you so desire. The title and explanation is copied from the citizen's petition.

Additionally, a ballot question as referenced in Ordinance 2006-11 is being included for the November ballot. This ordinance was approved on first reading by a unanimous vote at the Commission meeting of July 11, 2006. The second reading is scheduled for July 25, 2006. A certified copy of the signed ordinance will be forwarded at that time.

Thank you for your assistance in this matter. In the meantime, if you have any questions or need additional information, please let me know.

Sincerely,

Alina Medina, Town Clerk

Attachments

c: Robert Baldwin, Town Manager  
James Cherof, Town Attorney

**TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA  
BALLOT QUESTIONS FOR  
GENERAL ELECTION OF NOVEMBER 7, 2006**

**QUESTION ONE**

**Title: ESTABLISHING MAXIMUM BUILDING HEIGHTS**

**Explanation: Should the Charter be amended to establish a Town-wide maximum building height of four stories or forty-four feet, except for existing buildings taller than four stories or taller than forty-four feet that are grandfathered, and except for the area north of Pine Avenue and east of State Road A1A where by variance a maximum building height of fifteen stories or one hundred fifty feet may be allowed?**

**Yes \_\_\_\_\_ No \_\_\_\_\_**

**QUESTION TWO**

**Title: MAXIMUM BUILDING HEIGHTS AND NON-CONFORMING BUILDING**

**Explanation: If the proceeding ballot referendum question is approved by the voters, should Charter Section 277 be further amended to allow existing nonconforming buildings taller than four stories to be replaced with single or multiple nonconforming buildings taller than four stories provided they are within the same parcel boundaries that existed on 10/1/01 and to delete language which limits the square footage of nonconforming buildings that are replaced or rebuilt, but to otherwise maintain height limits?**

**Yes \_\_\_\_\_ No \_\_\_\_\_**

**QUESTION THREE**

**Title: TERM AND TERM LIMITS, CHARTER AMENDMENT INITIATIVE PETITION**

**Explanation: Shall the Town Charter be amended to provide for two year terms for the mayor (instead of four year terms); term limits of two consecutive terms for commissioners, three consecutive terms for the mayor, and two year standdown period,**

with mayor service affecting term limits for commissioners, but commissioner service not affecting term limits for mayor; and avoiding term limit evasion resulting from resignation or removal, effective the next municipal general election?

Yes \_\_\_\_\_ No \_\_\_\_\_

#### QUESTION FOUR

Title: AMENDING THE TOWN CODE TO ALLOW HOME OCCUPATIONS IN RESIDENTIAL DISTRICTS.

Explanation: Should the Town Code be amended by adopting proposed Ordinance 2006-10 to allow for home occupational Activity in residential zoning districts?

Yes \_\_\_\_\_ No \_\_\_\_\_

**ORDINANCE NO. 2006-10**

**AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES, "LICENSES" BY ADDING A NEW SECTION 12-23; PROVIDING FOR THE CONTROL AND REGULATION OF BUSINESS ACTIVITY OCCURRING IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR REGULATION OF HOME OCCUPATIONS; PROVIDING FOR INSPECTIONS AND FEES; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.**

**WHEREAS,** The Town Commission is cognizant of the increasing attractiveness and feasibility of conducting business activity from residential structures evolving technology which makes possible the reception of electronic communications via satellite dishes of small configuration; and

**WHEREAS,** The Town Commission has determined that home occupations can, if unregulated, become an unwelcome intrusion on the peace and tranquility of residential settings; and

**WHEREAS,** the Commission has determined that it is in the best interest of the citizens of the Town to regulate home occupations in a manner which balances the interest of those desiring to engage in home occupation with the interests of surrounding property owners who do not wish to have the residential character of their neighborhoods disturbed.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

**SECTION 1.** Chapter 12 of the Code of Ordinances is hereby amended to include a new subsection 12-23 as follows:

**12-23. HOME OCCUPATIONS.** No person may operate a business from a residence within the Town without first making application for and being issued a Home Occupational license. Home Occupations shall be permitted subject to these specific regulations designed for the protection of residential neighborhoods, where all of the activity takes place within a structure, and where the principal use is for residential purposes.

**CODING:** Words in ~~strike-through~~ type are deletions from existing law;  
Words in underscoring type are additions.

## **ORDINANCE NO. 2006-10**

In order for any home occupation to be permitted or continue to be permitted, the following performance standards shall be agreed to in writing by the applicant and be maintained for the duration of the occupational license:

1. The residential character and integrity of the neighborhood must not be disturbed and the occupational activity at the home shall not be noticeable from off the premises.
2. A home occupation shall only be conducted within twenty (20) percent of the living area of the dwelling including interior halls, closets and storage areas, but excluding garages, screened porches, accessory buildings or any similar space not suited or intended as living quarters.
3. A home occupation shall be conducted at the licensed address only by residents of that dwelling unit.
4. The giving of individual instruction or tutoring to one (1) person at a time, such as a language, art or piano teacher, shall be deemed a permissible home occupation.
5. No equipment or process shall be used in a home occupation which creates fumes, glare, noise, odors, vibration, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
6. No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home occupation shall be met by off-street parking which complies with Chapter 17 and 23 of the Code of Ordinances.
7. All pick ups or deliveries to or from a dwelling unit in which a home occupation is located, shall be performed by vehicles which are able to park on the driveway or within the property of the dwelling unit and shall not park on the swale areas of the public right of way. Such vehicles, pick ups and deliveries shall not block the public right of way, swale, or sidewalk areas in residential neighborhoods. Vehicle deliveries which are associated with the

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**ORDINANCE NO. 2006-10**

home occupation shall be limited to three (3) pickups and/or deliveries per day.

8. All storage of materials or supplies used in the home occupation shall be done within the living area of the dwelling unit, within the space limitations specified in subsection 2 above and shall not be visible from adjacent residential units. Contractors, tradespersons and the like shall not use their home garage or yard areas for storage of materials and supplies used in business activities.
9. There shall be no signs or advertisement of any kind or other exterior indication of the home occupation which is located at the dwelling unit. No window display in the dwelling unit or in any accessory buildings shall be permitted.
10. No person may engage in a home occupation without first obtaining an occupational license from the Town. The annual home occupation license fee shall be \$50.00.
11. The following uses shall not be permitted as home occupations:
  - A. Automobile and boat repair, body work, or storage.
  - B. Automobile, truck aircraft and/or boat engine repairs, sale of parts, fixtures, and equipment and the repair or rebuilding of same.
  - C. Bed and breakfast facilities, hostel, boarding room, or house.
  - D. Woodworking shops, cabinet makers, machine shops.
  - E. Hair salons, barber shops, gymnasiums, dance studios, aerobic exercise studios.
  - F. Limousine or bus service; school bus service.
  - G. Medical, dental, chiropractic or physical rehabilitation occupancy utilizing any employees or staff other than residents of the dwelling unit (limited to consultation with occupant of the dwelling unit).

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**ORDINANCE NO. 2006-10**

- H. Morticians or funeral parlors.
  - I. Palm reading or fortune telling.
  - J. Private, social, dining, or fraternal clubs.
  - K. Restaurants, taverns, cafes, bars or catering facilities.
  - L. Tow truck service.
  - M. Upholstery shops.
  - N. Veterinary uses, including care, grooming, or boarding.
  - O. Photo developing and photo studios.
  - P. Television, radio, VCR, computer, and general electronics repair.
  - Q. Small engine and appliance repair.
  - R. Welding shops.
  - S. Adult entertainment facilities, video rental/sale, drycleaning, self-storage, book stores, or theaters.
  - T. Private schools.
  - U. State or County licensed Alcohol or Drug Rehabilitation or licensed facilities for juvenile delinquents.
1. A home occupation shall be subject to all occupational license provisions defined in Chapter 12 of the Lauderdale-By-The-Sea Code of Ordinances. No Home Occupational license shall be issued without a physical inspection of the property for compliance with the Town Code.

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**ORDINANCE NO. 2006-10**

**2. Enforcement.**

- A. The Town Code Enforcement Board shall have jurisdiction to hear and decide cases in which violations of this Chapter are alleged, or
- B. The Town may enforce the provision of this Code by supplemental Code or Ordinance enforcement procedures as provided by Part 2 of Chapter 162, Florida Statutes, or
- C. The Town may prosecute violations by issuance of Notices to Appear for violation of a Town Ordinance, in which case, the penalty for a violation shall be as follows:
  - (1) First violation - \$100.00
  - (2) Second violation within twelve (12) months of adjudication of first violation - \$150.00
  - (3) Third violation within eighteen (18) months of adjudication of first violation - \$250.00

Each day on which a violation exists shall constitute a separate violation for the purpose of determining the fine, or

- D. The Town Attorney, with authorization from the Town Commission, may bring suit on behalf of the Town to enjoin any violation of this Ordinance.

**SECTION 2. Conflict.**

All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**SECTION 3. Severability.**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

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**ORDINANCE NO. 2006-10**

**SECTION 4. Effective Date.**

This Ordinance shall become effective only when approved by the electors at the November 2006 election. Individuals currently engaged in home occupations shall be granted until January 30, 2007, to obtain a Town home occupational license.

**SECTION 5. Adoption.**

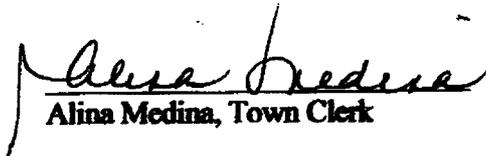
Passed on the first reading, this 11th day of July, 2006.

Passed on the second reading, this 25th day of July, 2006.

  
MAYOR OLIVER PARKER

	First Reading	Second Reading
Mayor Oliver Parker	<u>yes</u>	<u>yes</u>
Vice-Mayor Yanni	<u>yes</u>	<u>no</u>
Mayor Pro Tem Clark	<u>yes</u>	<u>yes</u>
Commissioner McIntee	<u>yes</u>	<u>yes</u>
Commissioner Silverstone	<u>yes</u>	<u>yes</u>

Attest:

  
Alina Medina, Town Clerk

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**ORDINANCE NO. 2006-11**

**AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA SUBMITTING TO REFERENDUM AN AMENDMENT TO CHAPTER 12 OF THE CODE OF ORDINANCES TO ADD HOME OCCUPATIONS AS AN ALLOWABLE USE IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR A NOTICE OF AN ADVERTISEMENT OF THE REFERENDUM ELECTION TO BE PUBLISHED IN ACCORDANCE WITH THE STATE OF FLORIDA ELECTION CODE; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ON THE NOVEMBER, 2006 GENERAL MUNICIPAL ELECTION BALLOT AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission has publicly reviewed, considered, and directed that an Ordinance be prepared to allow home occupations as an allowable use in residential zoning districts; and,

**WHEREAS**, a recent amendment to Section 7.1 of the Town Charter requires that all provisions of new zoning categories of zoning must be submitted to the voters for approval; and,

**WHEREAS**, the Town Commission has determined that it is prudent that the appropriate Charter Referendum question herein described and submitted to the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, at the November, 2006, General Election.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

**SECTION 1.** The foregoing "Whereas" clause is hereby ratified as being true and correct and incorporated herein by this reference.

**SECTION 2.** Proposed Ordinance 2006-10 regarding Home Occupational Uses, hereinafter set forth, is hereby submitted to the voters of the Town for approval.

*PROPOSED ORDINANCE 2006-10*

*AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES, "LICENSES" BY ADDING A NEW SECTION 12-23; PROVIDING FOR THE CONTROL AND REGULATION OF BUSINESS ACTIVITY OCCURRING IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR REGULATION OF HOME OCCUPATIONS; PROVIDING FOR INSPECTIONS AND FEES; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.*

Page 1 of 6

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*WHEREAS, The Town Commission is cognizant of the increasing attractiveness and feasibility of conducting business activity from residential structures evolving technology which makes possible the reception of electronic communications via satellite dishes of small configuration; and*

*WHEREAS, The Town Commission has determined that home occupations can, if unregulated, become an unwelcome intrusion on the peace and tranquility of residential settings; and*

*WHEREAS, the Commission has determined that it is in the best interest of the citizens of the Town to regulate home occupations in a manner which balances the interest of those desiring to engage in home occupation with the interests of surrounding property owners who do not wish to have the residential character of their neighborhoods disturbed.*

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

**SECTION 1.** Chapter 12 of the Code of Ordinances is hereby amended to include a new subsection 12-23 as follows:

**12-23. HOME OCCUPATIONS.** *No person may operate a business from a residence within the Town without first making application for and being issued a Home Occupational license. Home Occupations shall be permitted subject to these specific regulations designed for the protection of residential neighborhoods, where all of the activity takes place within a structure, and where the principal use is for residential purposes.*

*In order for any home occupation to be permitted or continue to be permitted, the following performance standards shall be agreed to in writing by the applicant and be maintained for the duration of the occupational license:*

- 1. The residential character and integrity of the neighborhood must not be disturbed and the occupational activity at the home shall not be noticeable from off the premises.*
- 2. A home occupation shall only be conducted within twenty (20) percent of the living area of the dwelling including interior halls, closets and storage areas, but excluding garages, screened porches, accessory buildings or any similar space not suited or intended as living quarters.*
- 3. A home occupation shall be conducted at the licensed address only by residents of that dwelling unit.*
- 4. The giving of individual instruction or tutoring to one (1) person at a time, such as a language, art or piano teacher, shall be deemed a permissible home occupation.*
- 5. No equipment or process shall be used in a home occupation which creates fumes, glare, noise, odors, vibration, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.*
- 6. No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home occupation shall be met by off-street parking which complies with Chapter 17 and 23 of the Code of Ordinances.*
- 7. All pick ups or deliveries to or from a dwelling unit in which a home occupation is located, shall be performed by vehicles which are able to park on the driveway or within the property of the dwelling unit and shall not park on the swale areas of the public right of way. Such vehicles, pick ups and deliveries shall not block the*

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*public right of way, swale, or sidewalk areas in residential neighborhoods. Vehicle deliveries which are associated with the home occupation shall be limited to three (3) pickups and/or deliveries per day.*

8. *All storage of materials or supplies used in the home occupation shall be done within the living area of the dwelling unit, within the space limitations specified in subsection 2 above and shall not be visible from adjacent residential units. Contractors, tradespersons and the like shall not use their home garage or yard areas for storage of materials and supplies used in business activities.*
9. *There shall be no signs or advertisement of any kind or other exterior indication of the home occupation which is located at the dwelling unit. No window display in the dwelling unit or in any accessory buildings shall be permitted.*
10. *No person may engage in a home occupation without first obtaining an occupational license from the Town. The annual home occupation license fee shall be \$50.00.*
11. *The following uses shall not be permitted as home occupations:*
  - A. *Automobile and boat repair, body work, or storage.*
  - B. *Automobile, truck aircraft and/or boat engine repairs, sale of parts, fixtures, and equipment and the repair or rebuilding of same.*
  - C. *Bed and breakfast facilities, hostel, boarding room, or house.*
  - D. *Woodworking shops, cabinet makers, machine shops.*
  - E. *Hair salons, barber shops, gymnasiums, dance studios, aerobic exercise studios.*
  - F. *Limousine or bus service; school bus service.*
  - G. *Medical, dental, chiropractic or physical rehabilitation occupancy utilizing any employees or staff other than residents of the dwelling unit (limited to consultation with occupant of the dwelling unit).*
  - H. *Morticians or funeral parlors.*
  - I. *Palm reading or fortune telling.*
  - J. *Private, social, dining, or fraternal clubs.*
  - K. *Restaurants, taverns, cafes, bars or catering facilities.*
  - L. *Tow truck service.*
  - M. *Upholstery shops.*
  - N. *Veterinary uses, including care, grooming, or boarding.*
  - O. *Photo developing and photo studios.*
  - P. *Television, radio, VCR, computer, and general electronics repair.*

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- Q. Small engine and appliance repair.*
- R. Welding shops.*
- S. Adult entertainment facilities, video rental/sale, dry cleaning, self-storage, book stores, or theaters.*
- T. Private schools.*
- U. State or County licensed Alcohol or Drug Rehabilitation or licensed facilities for juvenile delinquents.*

1. *A home occupation shall be subject to all occupational license provisions defined in Chapter 12 of the Lauderdale-By-The-Sea Code of Ordinances. No Home Occupational license shall be issued without a physical inspection of the property for compliance with the Town Code.*

2. *Enforcement.*

- A. The Town Code Enforcement Board shall have jurisdiction to hear and decide cases in which violations of this Chapter are alleged, or*
  - B. The Town may enforce the provision of this Code by supplemental Code or Ordinance enforcement procedures as provided by Part 2 of Chapter 162, Florida Statutes, or*
  - C. The Town may prosecute violations by issuance of Notices to Appear for violation of a Town Ordinance, in which case, the penalty for a violation shall be as follows:*
    - (1) First violation - \$100.00*
    - (2) Second violation within twelve (12) months of adjudication of first violation - \$150.00*
    - (3) Third violation within eighteen (18) months of adjudication of first violation - \$250.00*
- Each day on which a violation exists shall constitute a separate violation for the purpose of determining the fine, or*
- D. The Town Attorney, with authorization from the Town Commission, may bring suit on behalf of the Town to enjoin any violation of this Ordinance.*

**SECTION 2. Conflict.**

*All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.*

**SECTION 3. Severability.**

*If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.*

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**SECTION 4. Effective Date.**

*This Ordinance shall become effective only when approved by the electors at the November 2006 election. Individuals currently engaged in home occupations shall be granted until January 30, 2007, to obtain a Town home occupational license.*

**SECTION 5. Adoption.**

*Passed on the first reading, this \_\_\_\_ day of \_\_\_\_\_, 2006.*

*Passed on the second reading, this \_\_\_\_ day of \_\_\_\_\_, 2006.*

**SECTION 3. The Ballot Title shall be as follows:**

**AMENDING THE TOWN CODE TO ALLOW HOME OCCUPATIONS IN RESIDENTIAL DISTRICTS**

**SECTION 4. The following question shall be placed on the ballot for consideration by the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, at the November, 2004, General Municipal Election in Broward County, Florida. The election ballot question shall read as follows:**

**SHOULD THE TOWN CODE BE AMENDED BY ADOPTING PROPOSED ORDINANCE 2006-10 TO ALLOW FOR HOME OCCUPATIONAL ACTIVITY IN RESIDENTIAL ZONING DISTRICTS ?**

**YES \_\_\_\_\_**

**NO \_\_\_\_\_**

**SECTION 5. That should a majority of electors voting on the above-referenced referendum election vote "YES," thereby approving the above ballot issue, the proposed ordinance shall become a part of the Charter of the Town of Lauderdale-By-The-Sea, Florida.**

**SECTION 6. The Town Clerk of the Town of Lauderdale-By-The-Sea is hereby authorized and directed to advertise the referendum election contemplated herein in accordance with the State of Florida Election Code, as well as the Town's Charter and Code of Ordinances.**

**SECTION 7. All Ordinance or parts of Ordinance in conflict herewith, be and the same are repealed to the extent of such conflict.**

**SECTION 8. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way effecting the validity of the other provisions of this Ordinance.**

**CODING: Words in ~~struck-through~~ type are deletions from existing law; and Words in underscoring type are additions.**

SECTION 9. This Ordinance shall take place immediately on passage.  
This Ordinance has been passed as follows:

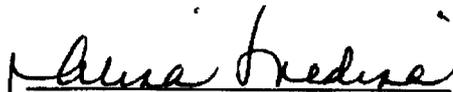
Passed on the first reading, this 11th day of July, 2006.

Passed on the second reading, this 25th day of July, 2006.

  
MAYOR OLIVER PARKER

	First Reading	Second Reading
Mayor Oliver Parker	<u>yes</u>	<u>yes</u>
Vice-Mayor Gianni	<u>yes</u>	<u>no</u>
Mayor Pro Tem Clark	<u>yes</u>	<u>yes</u>
Commissioner McIntee	<u>yes</u>	<u>yes</u>
Commissioner Silverstone	<u>yes</u>	<u>yes</u>

Attest:

  
Alina Medina, Town Clerk

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CODING: Words in ~~struck through~~ type are deletions from existing law; and  
Words in underscoring type are additions.

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

**Town Commission Meeting Room**

**4501 Ocean Drive**

**Tuesday, July 25, 2006**

**7:00 P.M.**

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

The meeting was called to order by Mayor Parker at 7:10 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. Also present were Town Manager Robert Baldwin, Attorney James Cherof, and Town Clerk Medina.

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

The Pledge of Allegiance was recited.

#### **3. INVOCATION, TOWN CHAPLAIN**

Father Handrahan delivered the invocation.

Mayor Parker asked to amend the agenda to allow the Town Attorney to report on the Attorney General's opinion concerning Bert J. Harris Jr. Act and whether it applied to Charter amendments initiated by referendum.

Commissioner McIntee felt that this could be included under Attorney Reports. Mayor Parker stated that it could be included as part of the Attorney's reports, but felt that it should be brought to the attention of the public early in the meeting.

Mayor Parker questioned again if there were any objections. There were no objections noted and the Mayor so ordered the amendment of the agenda to include Item 5B.

#### **4. PRESENTATIONS**

- A. Deputy of the Month, Broward Sheriff's Office, District 13 (*Chief Scott Gooding*)

Chief Gooding advised that Deputy Danny Krystyan had been chosen as deputy of the month. He apologized that he was not in attendance, explaining that Deputy Krystyan worked the midnight shift.

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Chief Gooding explained Deputy Krystyan's initiative in trying to prevent car burglaries, stating that in checking vehicles to make sure they were securely locked, he found a suspicious vehicle that was later determined to be owned by a person of questionable background. He thanked Deputy Krystyan for his constant vigilance.

The Commission congratulated Deputy Krystyan.

**5. REPORTS**

**A. Budget Report for Period Ending June 30, 2006**

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to approve the report as presented. In a roll call vote, all voted in favor. The motion carried 5-0.

**B. Report on the Attorney General's opinion concerning Bert J. Harris Jr. Act and whether it applied to Charter amendments initiated by referendum**

Attorney Cherof stated that he had been directed by the Commission to obtain an opinion from the Attorney General with regards to Bert J. Harris claims and whether they could be applied to Charter amendments initiated by the electors. He stated that he had also requested an opinion as to whether subsequent action by the Commission compelled by language in the Charter as amended constituted action of the governmental entity as defined in the Protection Act. Attorney Cherof stated that the Attorney General had opined that an amendment to the Town Charter proposed and approved by referendum does constitute action of a governmental entity as the term is defined and used in the Protection Act. In addition, any new rules, regulations or ordinances adopted by the Town to effectuate the terms of the amendment to the Charter would also constitute action of a governmental entity as the term is defined and used in the Protection Act.

At Vice Mayor Yanni's request, Attorney Cherof provided a brief history concerning this matter and an explanation of the Attorney General's opinion. He stated that it had been represented that the Town would not be liable when the referendum was presented to the electors in March. Attorney Cherof explained that since there was no case law concerning this particular issue and there was a dispute as to whether a Charter amendment issued by referendum initiated by the citizens constituted an action of the governmental entity, this question had been posed to the Attorney General.

Attorney Cherof stated that the Town had already been the recipient of four claims under the Bert J. Harris Protection Act and, although this opinion certainly did not grant them the right to recovery, it facilitated their arguments that would be made at some point during a court proceeding.

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Mayor Pro Tem Clark asked for a status concerning the letter directed to be sent to the local court. Attorney Cherof stated that he had also been directed to send a letter with the same two questions to a local court in response to the claims letters. He indicated that the Attorney General's opinion was binding upon the Town as it had requested the opinion, but is not despondent on the issue of whether there would be a liability to the Town under Bert J. Harris. Attorney Cherof stated that with regards to this matter, the Attorney General stated that the authority to determine whether such action gives rise to a claim under the Act is expressly vested in the judicial branch. As such, he indicated that a Declaratory Judgment Action was to be filed to test the validity of the claims letters.

Commissioner McIntee stated that we all had to do what the final judge said had to be done, whether or not that happened to be an appellate judge. He stated that if a judge stated that these property owners could build 15 stories, then that's what would happen.

Commissioner Silverstone stated that he had originally requested the opinion letter to help him vote in this matter. He said that in reviewing the claims there were still burdens the applicants would have to prove in a court of law. Commissioner Silverstone stated that the Town had to go through the court system to obtain a final decision, indicating that in that respect the Attorney General's opinion did not mean anything. He indicated that the cost to the Town to proceed in court was approximately \$15,000 to \$30,000.

**6. APPROVAL OF MINUTES**

- A. June 6, 2006, Workshop Meeting (*regarding dog friendly beaches*)
- B. June 6, 2006, Workshop Meeting (*regarding Unified Land Development Regulations*)
- C. June 13, 2006, Workshop Meeting (*regarding Unified Land Development Regulations*)
- D. June 17, 2006, Workshop Meeting (*regarding Town policies and operational issues*)
- E. July 11, 2006, Agenda Conference

Commissioner McIntee referenced the minutes of June 6<sup>th</sup> and questioned whether the beach was public to the water line. Attorney Cherof replied negatively, stating that the majority of the beaches along Lauderdale-By-The-Sea were privately owned; however, he indicated that it was tradition and custom the beaches were accessible and open to

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the public. He explained that to reverse a public accessible beach status in the State of Florida was extremely difficult.

Mayor Parker asked that the June 6<sup>th</sup> minutes reflect 100 feet of public beach on Commercial Boulevard.

Commissioner Silverstone made a motion, seconded by Vice Mayor Yanni, to approve the minutes. In a roll call vote, all voted in favor. The motion carried 5-0.

**7. PUBLIC COMMENTS**

Barbara Cole, 221 Washingtonia Avenue, spoke in favor of the Volunteer Fire Department. She expressed her hope that there would be a bit more civility on the dais.

Ms. Cole referenced the Chamber's new motto "Florida Beach Village" and thought it was great.

Ed Kennedy, 3240 Seaward Drive, referenced hedge heights and reminded the Commission that the Town was in the tropics where the weather was warm, with sudden wind storms and hurricanes. He stated that foliage, planted properly around the house, would reduce heating costs by approximately 15 percent, protected the property from wind damage, and provided a measure of privacy. Mr. Kennedy asked the Commission to consider the environmental benefits of hedges prior to enforcing the current regulations.

Kim Hayes, 4525 West Tradewinds Avenue, addressed the Commission concerning the fire assessment, stating that she did not mind paying \$260 for the safety of her family, but questioned why Sea Ranch Lakes only paid a total of \$45,000 for their public safety services.

Tom Carr, 254 Miramar Avenue, referenced the cost of using Waste Management with no decrease in taxes, the elimination of the Town's own police force, and whether grant funds were collected on. He stated that an outside, independent audit should be performed of the Town's funds.

Mr. Carr stated that perhaps the Town should consider allowing the northern section of Town to maintain and pay for the costs of outside public service assistance and allow the southern section of Town to keep its own.

Marilyn Carr, 254 Miramar Avenue, questioned the water consumption basis used to compute the sewer charges each month and the number of clerical staff used by the Town. She indicated that perhaps it was time for another petition to determine charges.

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**John Thompson, 671 Lakeside Circle, Pompano Beach, spoke in favor of the Volunteer Fire Department, stating that although he did not mind paying money to be safe, he did not want to spend more than was necessary. He indicated that although the Town was twice as large as it was 10 years ago, the Volunteers were at least four times as well trained.**

**Mr. Thompson stated that Mayor Parker had suggested lowering the millage rate, but felt that the recommendation was not enough. He agreed with Mayor Pro Tem Clark's recommendation to include Waste Management expenses on the tax bill. Mr. Thompson referenced the stormwater management fee, stating that it was improper for the Town to charge what he felt was truly an assessment.**

**Geoffrey Evans, 1941 Southeast 18 Street, stated that the Bel Aire area was having a problem with iguanas and asked the Commission to consider paying for the elimination of these nuisance animals. He indicated his understanding that it would cost only \$35 a day and believed it was the Town's responsibility to look into this matter.**

**Carol Schumacher, 1985 Southeast 17 Court, asked that the promises made to the residents in the northern section of Town were kept, ensuring that the infrastructure was to be improved. She indicated, too, that there were only two beach access to the north and asked that the Commission research the possibility of paid access. Ms. Schumacher asked that trash receptacles be placed at the end of the access corridors and that the pathway next to the Sea Watch Restaurant be improved.**

**Ms. Schumacher asked that the Commission to research the possibility of obtaining a single zip code for the Town to ensure proper mail delivery.**

**Ms. Schumacher addressed the subject of hedge heights, expressing the importance of ensuring that trees were maintained and kept away from electrical lines.**

**Mayor Parker stated that improvements were planned for the access next to the Sea Watch Restaurant. He asked Municipal Services Director William Mason to ensure that a trash receptacle was provided at that location.**

**Ken Green, 3 Sunset Lane, asked that the Commission favorably consider the increased cost for the sewer project in his neighborhood. He emphasized that proper sewage treatment was a public health issue and not a private street issue.**

**Burite Clottey, 1770 Southeast 21 Avenue, referenced the iguana problem in her neighborhood and asked that the Commission consider hiring an individual to eliminate these nuisance animals.**

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**Ms. Clotley spoke in favor of the Volunteer Fire Department and expressed concern that the Town felt it needed to evaluate the department by an independent expert.**

**Ms. Clotley also spoke in favor of term limits indicating that a referendum would be voted on in November.**

**Pauline McGuinness, 5100 North Ocean Boulevard, referenced an incident in which water guns had been used to soak her during the Fourth of July festivities, stating that she had received a sincere apology from the family, including the children involved. She admired the strength of the character and felt that this was the making of good citizenship. Ms. McGuinness felt lucky to live in a town where people cared.**

**Stuart Dodd, 232 Imperial Lane, referenced the contract he believed was to evaluate the Volunteer Fire Department. He felt that the Town needed an unbiased, impartial and independent review, believing that Chief Chuck Lanza did not qualify. Mr. Dodd stated that a combined fire department was not as important as the \$1 million savings the residents would enjoy more. He asked the Commission to reconsider their decision.**

**Tony Spanno, 15 Sunset Lane, stated that he was speaking for the homeowners of Sunset Lane. He thanked the Commission for the pending sewer installation in the neighborhood and indicated that the residents were eagerly awaiting the commencement of the project. Mr. Spanno provided a brief history of the easement process pursued in the 1950s, stating that the residents believed it had been sufficient for the inclusion of the sewer improvements as it had been for all other public and private ventures. He hoped that the Commission did not view this unfortunate delay in the project as any attempt on the residents' part to delay the project intentionally. Mr. Spanno hoped that the project would begin shortly.**

**Larry McGuinness felt that sometimes it seemed that the Commission used "so called experts" to come up with solutions to problems so that they did not have to "harm their reelection chances", referencing constant studies, staff time, and legal expenses for the same exact issues. He spoke against the approved contract to evaluate the Volunteer Fire Department.**

**Ian MacLean, 259 Capri Avenue, spoke in favor of the Volunteer Fire Department. He indicated that he had been involved with the writing of the contract between the two parties and felt that an important part of the contract had been training. Mr. MacLean stated that part of the training was suppose to include incident command, which he felt had never been delivered. He indicated that the Volunteers had honored the contract, but felt that the Broward Sheriff's Office had not. Mr. MacLean stated that if the Broward Sheriff's Office did not comply, then "we" would have to sign a contract with someone else.**

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**Diane Boutin, 4244 El Mar Drive, referenced the capital improvement projects and the outlook for the Town for the next 5, 10, and 15 years. She felt that support for the revitalization of the business and hospitality districts would continue to provide quality of life for the residents. Ms. Boutin emphasized the need to ensure equitable user-based fees, the redesigning of non-conforming buildings, burying utility lines, chain on command in the event of hurricanes, and the possibility of additional revenues by allowing extended parking areas on El Mar Drive and Datura Avenue. She believed that the Town needed to work together with courtesy and civility, allowing for the agreement to disagree in order to move forward.**

**Joseph Padden, 159 Southeast 3 Avenue, Pompano Beach, stated that he was unsure whether the State operated some type of process for incident command as it was currently run by the Federal Emergency Management Agency. He indicated that the Volunteers were not thoroughly trained with this type of structure, but felt that they were "pretty far along". He referenced money that had been stolen from the Volunteer Fire Department, stating that although the Fire Department had been ultimately responsible for mismanagement, the Town had been, in his opinion, at fault. Mr. Padden stated that the incident needed to be put into perspective. He felt that the Volunteers worked at a reasonably lower price and did not understand the appeal to maintain the Broward Sheriff's Office. Mr. Padden stated that the Commission had requested information from the Volunteers for review and hoped that the Town would provide the clerical assistance and pay the cost for providing the information to the Town.**

**Marie Chiarella, 1755 East Terra Mar Drive, referenced a partial demolition had occurred on her street in 2004, with the final demolition not being completed until February 2006. She indicated that she had been under the impression that the property was being used while the sewer construction was underway; however, she had since learned that the property had been rented to a contractor for a Pompano Beach sewer project. Ms. Chiarella stated that no records of permits could be found. She asked the Town to ensure that no other residential property could be used in this manner.**

**Mayor Parker asked that the Town Administration look into this matter immediately.**

**Suzanne Gerlick, 16 Sunset Lane, asked that the residents on Sunset Lane be treated fairly and like any other resident in Town.**

**Mark Conn, 4326 Bougainvilla Drive, stated that he had been a firefighter with the Volunteers for 14 years and believed that the department was "400 times better" than it was 10 years ago. He indicated that the Volunteers had been reviewed by ISO last year and jumped the rating from a 6 to a 4. Mr. Conn stated that ISO should be the ones to rate the fire department and its level of performance to ensure an independent review.**

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**Mr. Conn stated that his vehicle had been stolen and thanked the Broward Sheriff's Office for recovering his vehicle within two hours of being reported.**

**Kenneth Most referenced the annexation in 2000, stating that the Town had "lusted" after South Beach knowing it would double the tax roll and require very little incidental expenditure. He stated that in order to obtain the residents' interest, the Town had entered into an agreement which indicated that the extra tax revenues would be used towards the improvement of the Intracoastal Beach Area including the installation of sanitary sewers. Mr. Most stated that these funds were suppose to have been placed in a separate account, but he did not believe this had been the case as no accounting had been provided. He felt that the Commission should request such an accounting to ensure that the agreement was being upheld correctly.**

**Alina Coleman, 2024 Southwest 16 Street, requested a gate at both entrances to Bel Aire to avoid cut-through traffic. She stated that when the sewer system was completed, the power lines should be buried. Ms. Coleman stated that the iguana and rate problem being encountered in the neighborhood was creating a health safety issue. She indicated, too, that the Volunteers should be reinstated at this time, stating that they were an indispensable resource.**

**Ms. Coleman stated that term limits had to be implemented and expressed her opposition to any building greater than the 3-over-1 permitted by the Town. She also spoke in opposition to the proposed bank site on Commercial Boulevard and State Road A1A.**

**Ms. Coleman asked that the Commission look upon favorably at a dog friendly beach.**

**Maria Prunskis, 2024 Southeast 16 Street, stated that the residents wanted a Volunteer Fire Department and felt that anyone who felt they were "beholding" to the Sheriff should abstain from voting based on a conflict of interest. She agreed that gates were necessary at the entrances to Bel Aire, stating that cut-through traffic was endangering the children in the area.**

**Ms. Prunskis referenced the iguana infestation and emphasized the dangers of allowing these animals to continue roaming the neighborhood.**

**Ms. Prunskis also referenced zip codes and asked why the Commission had not yet implemented its own zip code for the entire Town.**

**Ms. Prunskis spoke in favor of term limits and expressed her opposition to changing the height limits. She also spoke in favor of a dog friendly beach.**

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Rosa Mickaliub, 4621 Bougainvillea Drive, spoke with regards to the Waste Management contract and expressed her opposition to the increase in fees. She asked that the Commission review the rates again, stating that the fees were unfair as currently cited.

Beverly Kennedy, 3240 Seaward Drive, spoke in favor of unifying the Town's Code. She spoke in opposition to hedge heights and asked for the Commission's favorable consideration to Mayor Pro Tem Clark's proposal.

Mayor Parker called a recess. The meeting was reconvened at 8:47 p.m.

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

- A. **Ordinance No. 2006-08:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Ordinance 2005-18 to reflect that a referendum election will be conducted November 7, 2006 pursuant to Court Order; providing for severability, conflicts, and an effective date

Attorney Cherof read the ordinance by title only. He explained that this ordinance was merely a housekeeping issue.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Vice Mayor Yanni made a motion, seconded by Commissioner Silverstone, adopting the ordinance on second reading. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **Ordinance No. 2006-09:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Ordinance 2005-20 to reflect that a referendum election will be conducted November 7, 2006 pursuant to Court Order; providing for severability, conflicts, and an effective date

Attorney Cherof read the ordinance by title only. He explained that this ordinance was merely a housekeeping issue.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, adopting the ordinance on second reading. In a roll call vote, all voted in favor. The motion carried 5-0.

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- C. Ordinance No. 2006-10: An ordinance of the Town of Lauderdale-By-The-Sea, Florida, amending Chapter 12 of the Code of Ordinances "Licenses" by adding a new Section 12-23; providing for the control and regulation of business activity occurring in residential zoning districts; providing for regulation of home occupations; providing for inspections and fees; providing for penalty; providing for severability; codification; and an effective date.**

Attorney Cherof read the ordinance by title only.

Mayor Parker opened the public hearing. As no one spoke, the public hearing was closed.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to adopt the ordinance on second reading.

Vice Mayor Yanni stated that this issue had been discussed on several occasions and did not believe it should continue to be considered.

Attorney Cherof advised that this ordinance needed two amendments prior to adoption. He indicated that the first was on page 3, paragraph 10, the Commission had to affix a home occupational license fee.

Acting Development Services Director Brad Townsend stated that home occupational licenses ranged throughout Broward County from \$50 to \$100. Mayor Parker asked if the regular home occupational license for the Town was \$100. Mr. Bradford replied affirmatively.

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, to affix a fee of \$100 to this ordinance.

Commissioner McIntee opposed the \$100 fee, stating that everything seemed to cost residents money. He asked that the cost be reduced to \$50.

Mr. Bradford suggested that perhaps the fee be affixed if the ordinance was approved by referendum, allowing the price of the license to be changed by resolution. Attorney Cherof recommended that the fee be affixed at this time, rather than being deferred. Mayor Parker asked if a new referendum would be necessary if the Commission sought to change the fee at a later date. Attorney Cherof replied negatively.

Mayor Pro Tem Clark amended his motion to affix a fee of \$50. Commissioner Silverstone amended his second.

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**Vice Mayor Yanni made a motion to table this item indefinitely. The motion died to a lack of a second.**

**In a roll call vote regarding the amendment to affix a fee of \$50, the motion carried 4-0, with Vice Mayor Yanni dissenting.**

**Attorney Cherof stated that the second amendment concerned the effective date and suggested the following wording, "this ordinance shall become affective only when approved by the electors at the November 7, 2006 election. Individuals currently engaged in home occupations shall have until January 30, 2007 to obtain a home occupational license."**

**Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone to adopt the language provided by Attorney Cherof for the effective date.**

**Vice Mayor Yanni reiterated his objections to providing for home occupational licenses. He did not feel that there were that many people who needed the licenses and felt that the revenues were not needed.**

**In a roll call vote with regards to the amendment to the language on the effective date of the ordinance, the motion carried 4-1, with Vice Mayor Yanni dissenting.**

**Commissioner Silverstone stated that there were residents who held occupations in their homes and were currently not in compliance with the Town's Code. Mayor Parker stated that several individuals had requested the ordinance as many could obtain group health insurance if they could provide for a home occupation. Mayor Pro Tem Clark stated that in the spirit of providing a unified Code, the Commission should remember that home occupational licenses were already permitted in the northern section of Town.**

**Mayor Parker asked if affixing the \$50 fee would also change the home occupational license fee for the residents living to the north. Attorney Cherof replied affirmatively.**

**In a roll call vote to adopt the ordinance as amended, the motion carried 4-1, with Vice Mayor Yanni dissenting.**

- D. **Ordinance No. 2006-11:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, submitting to referendum an amendment to Chapter 12 of the Code of Ordinances to add home occupations as an allowed use in residential zoning districts; providing for a notice of an advertisement of the referendum election to be published in accordance with the State of Florida Election Code; providing that this ordinance, when adopted, shall be submitted to the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, on the November 2006 General Municipal Election Ballot and shall become effective as provided by law; providing for conflicts' providing for severability; and providing for an effective date.

Attorney Cherof read the ordinance by title

Mayor Parker opened the public hearing.

Beverly Kennedy, 3240 Seward Drive, stated that occupational licenses from Broward County were effective as of October 1<sup>st</sup> each year and asked that the Commission consider the same effective date to avoid problems in the future. She stated that the County only provided for a \$50 fee for home occupational licenses. Attorney Cherof explained that new licenses would be required in October as the Town's occupational license also ran with the fiscal year based on State Statutes.

Diane Boutin, 4244 El Mar Drive, felt that the Town was working towards continuity between its residential and business districts, stating that having the home occupational licenses would allow the Town to keep track of what businesses were being run within the municipalities.

Stuart Dodd, 232 Imperial Lane, spoke in opposition of the home occupational licenses, stating that many already had their licenses through the County. He felt that the Town was making it more difficult for the "small, poor guys" that were trying to run a business.

Mayor Parker closed the public hearing.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, adopting the ordinance on second reading. In a roll call vote, the motion carried 3-2, with Vice Mayor Yanni and Commissioner McIntee dissenting.

## **9. COMMISSIONER COMMENTS**

Mayor Pro Tem Clark asked that the workshop meeting for tomorrow night be rescheduled to Friday as he would need to be out of Town for his father-in-law's surgery.

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There were no objections. Mayor Parker ordered the workshop meeting be rescheduled from July 26, 2006, to Friday, July 28, 2006, at 6:00 p.m.

Mayor Pro Tem Clark stated that the City of Pompano Beach intended to assess Terra Mar residents in the amount of \$750 for a capital recovery fee when the hook up to the sewer system was accomplished. He stated that there would also be a \$120 hook-up charge. Mayor Pro Tem Clark stated that the recovery fee was a farce as there was no capital to recover as the Town had paid for the entire project. He indicated that he would be challenging the legality of this action.

Commissioner McIntee stated that the Town should appeal these costs as its residents were going to be affected by this action. Attorney Cherof stated that Mayor Pro Tem Clark was pursuing this in the correct manner as it was the individual's rate payers challenge. He indicated that the Commissioners were welcome to voice their concerns regarding the charges, but reiterated that Mayor Pro Tem Clark was pursuing this in the correct manner.

Mayor Parker asked if the Town could hire an attorney on behalf of the residents to reduce the fees. Attorney Cherof did not believe this would be possible.

Commissioner Silverstone thanked the public for participating under public comments tonight. He was pleased that the public was participating in Town business.

Commissioner Silverstone stated that the fire issue was "tearing his heart", stating that he had been involved with the Volunteer Fire Department for many years. He indicated that the department had grown tremendously and all its members had "stepped up a notch".

Commissioner McIntee referenced the donated vehicle from the City of Plantation, stating that he had been at a meeting when Chief Putney, of the City of Plantation, had offered to donate the vehicle. He stated that the vehicle had been accepted, believing that it would be a great benefit to the community. Commissioner McIntee stated that two days later, the Volunteers had received a call to have the vehicle returned. He referenced some articles that had appeared in the *Sun-Sentinel*.

Commissioner McIntee felt that "pressure" had been placed on the City of Plantation and apologized because he felt that now the Volunteers might not receive the emergency vehicle. He could not understand that anyone could resist the Volunteers obtaining the vehicle.

Commissioner McIntee felt that non-ad valorem assessments and fees were burdening the Town. He stated that he would support the Mayor with his request to lower the millage rate. Commissioner McIntee felt that many of the assessments and fees should

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be included as part of the ad valorem taxes so that residents could obtain a tax deduction.

Vice Mayor Yanni stated that it was clear that many people wanted the Volunteer Fire Department and assumed that next people would request to have the Town run its own law enforcement department. He indicated that perhaps residents were not aware that the Town had the best police protection in the County. Vice Mayor Yanni stated that what concerned him about the Volunteers was that they were pursuing this issue in the wrong manner. He indicated that the department noted that they wanted to take over fire suppression for the entire Town, yet a true plan was never provided to the Commission for consideration. Vice Mayor Yanni stated that there was no plan to show how the station would be manned 24 hours a day, 7 days a week; nor was there a plan to show what the true costs would be. He indicated that he had no problems with the Volunteers, but felt that he had to be assured that they were prepared and ready to protect Town residents.

Vice Mayor Yanni stated that the Volunteers had requested the Town to obtain costs from the City of Fort Lauderdale and the City of Pompano Beach; however, he indicated that bringing in a separate department only meant that the Volunteers would still be working with professional firefighters. He emphasized that it was a shame that the Volunteers were not working with the Broward Sheriff's Office, stating that the Town enjoyed the best possible protection under the combined plan.

Vice Mayor Yanni referenced the Bert J. Harris Act claims and disagreed with Commissioner Silverstone's comments that the Town did not have to worry about the claims. He explained that there was over \$20 million in claims, a serious situation that could cost the residents a tremendous amount of money.

Vice Mayor Yanni expressed concern that the Town was heading towards a road of self-destruction. He indicated that there was talk about whether he had a conflict of interest because he worked for the Broward Sheriff's Office, but emphasized that unlike Commissioners McIntee and Silverstone, he did not get paid from funds for the fire department and, therefore, he did not have a conflict. Vice Mayor Yanni stated that he had no problems voting in favor of the Volunteers, but reiterated that he first needed to be convinced that the Volunteers could protect the Town by themselves.

Mayor Parker stated that he had spoken with Congressman Clay Shaw's office today with regards to obtaining a unified zip code for the Town. He explained that the Postmaster General was the one who assigned zip codes and, so far, had ignored requests from State Representatives Jeff Atwater and Ellyn Bogdanoff, Congressman Shaw, and one the Town's U.S. Senators. Mayor Parker stated that Congressman Shaw was trying to arrange a Town meeting wherein the Postmaster General would be invited to attend, but had not yet been able to do so.

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Mayor Parker referenced the referendum questions on November's ballots and spoke in opposition to the term limits as they were being represented. He described the proposed height restriction referendums and encouraged residents to vote in favor of proposition one. Mayor Parker expressed concern with the result of the Attorney General's opinion, feeling that Commissioner McIntee and the members of the Citizens Initiate Committee had misled the public when stating that there was no way that the Bert J. Harris Protection Act would apply. He stated that the comments now that if the Bert J. Harris Act is found to apply by a court, then the claimants would be permitted to build 15 story buildings would not close the action. Mayor Parker stated that if the Bert J. Harris Act applied, the Charter now only allowed the Town to pay for damages. He indicated that the Town was seeking a Declaratory Judgment from the local courts in an effort to determine if the Bert J. Harris Act applied to the claims filed against the Town.

Mayor Parker referenced stated that Commissioners McIntee and Silverstone apparently wanted the residents to subsidize the businesses, stating that if the fire assessment was placed into ad valorem taxes, 78 percent of the homeowners would have an increase in their taxes. He explained that the Town's fees were always designed to make the businesses, who could write these expenses off on their income taxes, to pay their fair share.

Mayor Parker stated that the millage rate needed to be reduced this year by at least three percent. He explained that reducing the millage rate by three percent at least ensured homesteaded properties from paying a higher increase due to the cap placed on assessment values. Mayor Parker encouraged residents to contact Commissioners to request that the millage rate be reduced, as well as ensuring that residents did not subsidize the costs for businesses in Town.

**10. ORDINANCES (1<sup>ST</sup> Reading)**

There were no ordinances for first reading to be considered.

**11. CONSENT AGENDA**

- A. **CONTRACT:** with US Grounds, Inc. for sweeping services throughout Town for the period between October 1, 2006 and September 30, 2007
- B. **CONTRACT EXTENSION:** on existing service agreement with Brinks Incorporated for a period of two months
- C. **CONTRACT:** for painting services for the Town Hall Complex and the Chamber of Commerce

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- D. CONTRACT RENEWAL: of existing agreements for emergency services with Waste Management, Grubbs, PBS&J, Tele-Vac South, Inc., and Man-Con, Inc.**
- E. PURCHASE: of three vehicles for use by the Municipal Services Department**
- F. AMENDED AGREEMENT: with Broward Sheriff's Office regarding law enforcement services**

**Commissioner McIntee asked that Item F be removed from the consent agenda.**

**Commissioner Silverstone made a motion, seconded by Vice Mayor Yanni, to approve Items A through E of the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.**

**Commissioner McIntee asked how much was .3 percent of the total cost of the contract. Chief Gooding stated that it was approximately \$1,800 monthly, to cover the costs of pension, insurance, and contributions. Commissioner McIntee stated that the Town's contract with the Broward Sheriff's Office was for five percent and questioned if it had ever been raised. Manager Baldwin replied that the contract was raised by five percent each year. Commissioner McIntee expressed concern that the contract was being raised by an additional .3 percent. Chief Gooding explained that this was a new contract for a five year period and that the 5.3 only applied to pension, insurance and contributions.**

**Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve Item F of the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.**

## **12. RESOLUTION**

- A. RESOLUTION NO. 2006-16: A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, relating to the provision of fire protection services, facilities and programs in the Town of Lauderdale-By-The-Sea, Florida; describing the method of assessing fire protection assessed costs against assessed property located within the town's geographical boundaries, known as fire protection assessment area – townwide; establishing the estimated rates for fire protection services for the fiscal year beginning October 1, 2006; directing the preparation of an assessment roll for fire protection assessment area – townwide; authorizing a public hearing and directing the provision of notice thereof; providing for conflict; providing for severability; providing for an effective date.**

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**Attorney Cherof read the resolution by title only.**

**Mayor Parker asked for confirmation that the hearing date did not conflict with the public hearings of Broward County. Ms. Medina confirmed that the dates did not conflict.**

**Mayor Parker asked if there had been any changes to the rates. Manager Baldwin replied negatively.**

**Mayor Parker opened the public hearing.**

**John Thompson, 671 Lakes Circle, Pompano Beach, stated that the Town had requested an independent analysis concerning the legalities of the special assessment and felt it would be prudent to wait until the Town received the opinion before adopting the assessment. He expressed his concern that this assessment was illegal.**

**Mayor Parker asked if the Town had asked the independent attorney if the Town should proceed with the assessment at this time. Attorney Cherof replied affirmatively, stating that the attorney had indicated that the town should proceed as he did not believe he could render an opinion in time for this round of the assessment process. He pointed out that the adoption of this resolution did not establish the fire assessment, but allowed the announcement of the public hearings to continue the process.**

**Diane Boutin, 4244 El Mar Drive, referenced the timeshare condominiums in Town and that these condominiums were run as businesses and should be assessed accordingly. She stated that timeshare units were not subsidized by the residents and paid all the occupational and license fees as any other business. Ms. Boutin requested that the reclassification be reconsidered so that those properties that met the criteria of a business were assessed as commercial.**

**Mark Conn, 4326 Bougainvillea Drive, stated that the Commission had to understand that although businesses might be able to write-off certain expenses, the increase in fees were typically passed on to the residents. He indicated that renters such as himself could not write-off the fee increases.**

**Mayor Parker closed the public hearing.**

**Commissioner Silverstone asked if the resolution changed the methodology by which the rates were determined. Attorney Cherof replied negatively.**

**Mayor Parker made a motion, seconded by Vice Mayor Gianni, to approve the resolution.**

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Commissioner McIntee asked if the Town could wait a month before reconsidering the resolution. Attorney Cherof replied negatively, stating that there was a very specific timetable that needed to be followed. He reminded the Commission that this was only the preliminary announcement of the continuation of the fire assessment program. Attorney Cherof stated that the public hearing would take effect on September 14, 2006, at which time the Commission could "pull the plug" on the program and directing the Town Manager to address the fees within the budget. Mayor Parker felt that this course of action may require the Town to increase the millage rate.

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

- B. RESOLUTION NO. 2006-17:** A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, relating to the levy and collection of the Town's stormwater management utility fees using the procedures set forth in section 197.3632, Florida Statutes; providing for the area in which the fee will be levied, a description of the stormwater management utility services funded by the fees and the methodology for determining the fees, and setting forth the initial stormwater management utility fees schedule for the fiscal year beginning October 1, 2006; directing the preparation of an assessment roll as defined in Ordinance 2006-07; authorizing a public hearing and directing the provision of notice thereof; providing for conflict, severability, and an effective date.

Attorney Cherof read the resolution by title only.

Mayor Parker asked for confirmation that the fee was not being changed, but rather the Town was changing the manner in which the fees were collected. Attorney Cherof confirmed that the only change was that the fees would be collected with the tax bills as opposed to being billed quarterly by the Town.

Mayor Parker opened the public hearing.

John Thompson, 671 Lakeside Circle, felt that this fee was illegal, despite the Town Attorney advising that it was not an assessment. He felt that the Commission should be careful with the language it was agreeing to, stating that he did not understand the wording provided in the resolution. Mr. Thompson felt that not only did the properties have to benefit from the services, but that the cost had to be distributed fairly based on the degree of benefit. He provided as an example the fire assessment fees which he felt were being used to pay for emergency medical services despite what was told to residents.

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Diane Boutin, 4244 El Mar Drive, asked for confirmation if the charges were based on the square foot of the property, based on the number of stories for a structure, or the square footage of the footprint of the property. Attorney Cherof advised that the fees were calculated based on the square foot of the impervious areas of the footprint of the structure.

Terry Klicklonick, 1770 Southeast 21 Avenue, stated that she lived in Bel Aire and, prior to the annexation, Broward County had installed drainage holes to gather water but not connected to a particular system. She asked if she would have to pay this fee as well. Attorney Cherof replied affirmatively, stating that those types of drainage systems were a part of the overall stormwater plan. Manager Baldwin explained that the Town had to maintain that part of the system as well. Attorney Cherof explained that stormwater management was not a site specific issue as it was just as important to handle stormwater away from a property as much as maintaining proper drainage on a property.

Mayor Parker closed the public hearing.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the resolution.

Commissioner Silverstone asked if the methodology used to calculate the fees was the same. Attorney Cherof replied affirmatively, reiterating that the only change was the manner in which the fee was collected. Commissioner Silverstone asked what would happen if a determination was made that the method in collection was illegal. Attorney Cherof explained that if the Town wanted to maintain the stormwater system, the Town would have to collect the funds from ad valorem taxation. He indicated that in that event, the Commission would have to consider an increase in the millage rate to collect sufficient revenues to pay for the maintenance.

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

Mayor Parker recessed the meeting. The meeting was reconvened at 10:23 p.m.

**13. OLD BUSINESS**

- A. Discussion and/or action regarding ordinance No. 2005-20, as it pertains to the referendum questions concerning the replacement of existing non-conforming buildings (*Mayor Pro Tem Chuck Clark*) (*tabled from July 11, 2006*)

Commissioner McIntee, as Chairman of the Citizens Initiate Committee, stated that he had spoken with the Committee's members and they had determined that they did not

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want to remove the second referendum concerning height restrictions from the ballot.

Mayor Pro Tem Clark asked for confirmation that the Town Attorney believed that if the Commission requested the removal from the court, the judge would probably not be inclined to approve the request unless both parties agreed to the removal. Town Attorney replied that the odds would be against the Town as it was based on a stipulated order settling the case.

Mayor Pro Tem Clark asked if, in view of Commissioner McIntee's allegations of bribery, which he believed tainted the referendum and the Commission until it was resolved, would the judge be inclined to consider the request. Attorney Cherof stated this was an additional factor that could be brought to the judge's attention.

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, instructing the Town Attorney to go back before the trial judge to ask to set aside that portion of the order for those reasons.

Commissioner McIntee expressed his disappointment that Mayor Pro Tem Clark was taking this stand, feeling that if that were the case, any circumstance where there might be some impropriety or actions, one party might try to do something to have something like this happen to their benefit.

Commissioner McIntee asked what would be the percentage in which this request might be requested. Attorney Cherof stated that he could not venture to guess as the outcome was unpredictable. Commissioner McIntee asked what would be the cost to pursue this matter. Attorney Cherof estimated that the cost would be approximately \$1,000. Commissioner McIntee stated that the person involved in these allegations claimed not to be a developer. Mayor Pro Tem Clark stated that whether or not the individual was a developer did not, in his mind, change the fact that the allegations were made and it tainted the referendum and the Commission. He felt that it would be more appropriate to consider this issue at another time, if it was the desire of the Commission. Mayor Pro Tem Clark felt that the general belief was that this individual was a developer and that that in and of itself presented a problem.

Mayor Parker explained the proposed referendum and expressed his belief that the Committee wanted to keep the referendum on the ballot to try to ensure that residents voted against the first proposition because of this one.

Commissioner Silverstone asked if it was determined that the Attorney General's opinion was correct and the Bert J. Harris Act did apply to the Charter amendment, wasn't there an escape clause within the adopted amendment. Attorney Cherof replied negatively, stating that the manner in which the referendum was drafted was faulty and that clause was not part of the referendum. Commissioner Silverstone stated that he

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was led to believe that the intent of the language would be considered in the event of a court case. Attorney Cherof stated that he did not disagree that this might have been the intent; however, he reiterated that the manner in which the referendum was written it did not speak to safety clause. Commissioner Silverstone stated that he supposed this matter would be resolved in court. Attorney Cherof replied negatively, explaining that this issue would not be before the court as the clause was not in the Charter as it was amended.

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

- B. Discussion and/or action regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for residential units (*Mayor Oliver Parker*) (*tabled from July 11, 2006*)

Manager Baldwin stated that Tony Spadacia, of Waste Management, had been unable to attend. Mayor Parker stated that Mr. Spadacia had agreed to amend the contract with regards to duplexes without raising the single family rate. He explained that it provided duplexes with the opportunity to elect the use of only one totor as opposed to two totors for a lower rate. Mr. Mason agreed that Mr. Spadacia had agreed to the change as noted, but felt that there was a condition that the Town would, next year, place the Waste Management fees as an assessment on the tax bills.

Commissioner McIntee made a motion, seconded by Mayor Parker, to table this item to September 14, 2006, providing a letter of intent in advance, and requesting that Tony Spadacia attend the meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

- C. Discussion and/or action regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for commercial units (*Commissioner Jim Silverstone*) (*tabled from July 11, 2006*)

Commissioner Silverstone stated that he had requested some estimated figures on how much residential rates needed to be increased to offset some of the cost for commercial units.

Commissioner Silverstone made a motion, seconded by Mayor Parker, to table this item to September 14, 2006, providing estimated figures prior to the meeting, and requesting that Tony Spadacia attend the meeting. In a roll call vote, all voted in favor. The motion carried 5-0.

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- D. Discussion and/or action to direct Town Attorney to request Broward Sheriff's Office and the State Attorney's Office review allegations and cross-allegations made by Commissioner McIntee and David Beyer (Mayor Oliver Parker) (continued from July 11, 2006)**

**Mayor Parker expressed his belief that this whole episode of allegations had created a cloud over this Commission. He stated that a former mayor had written a letter to the *By the Sea Times* claiming that if an offer had been made to Commissioner McIntee, it must be a routine operating procedure in the Town. Mayor Parker stated that this comment was "odd" in that he had never received an offer, Vice Mayor Yanni had indicated at the last meeting that he had never received one, and Commissioners Clark and Silverstone had also indicated that they had never received an offer. He indicated that he had intentionally reached out to other past commissioners to ascertain if they had ever received a bribe, with everyone replying in the negative.**

**Mayor Parker stated that Commissioner McIntee had discussed this issue with the Federal Bureau of Investigations (FBI) and that this matter was in their hands; however, Commissioner McIntee had discussed this issue during the last meeting while specifically stating that the FBI had instructed him not to do so. He felt that even if the FBI was investigating this issue, the Commission needed to police itself and an investigation was needed. Mayor Parker stated that the authorities the Commission could turn to were the Broward Sheriff's Office and the Broward State Attorney.**

**Mayor Parker made a motion, seconded by Vice Mayor Yanni, directing the Town Attorney to request the Broward Sheriff's Office and the Broward State Attorney to investigate these allegations and cross-allegations by Commissioner McIntee and Mr. David Beyer.**

**Vice Mayor Yanni felt that this issue needed to be cleared up so that the Commission could proceed with its business.**

**Commissioner Silverstone thanked Commissioner McIntee for his "guts" to bring this up. He stated that he knew Commissioner McIntee and felt that Commissioner McIntee would not have brought this up unless he had good cause. Commissioner Silverstone stated that he had since spoken to another resident who had indicated that the same thing had happened to him, with the same individual. Commissioner McIntee felt that the intent of Commissioner McIntee's actions were to ensure that this did not occur to anyone else on the Commission. He felt that this issue in no way tainted the Commission and felt it was Mayor Parker who was tainting the Commission by questioning Commissioner McIntee's intentions. Mayor Parker stated that he was not questioning Commissioner McIntee's intentions; however, he felt that if Commissioner McIntee had been offered a bribe, the person needed to be prosecuted. He felt that the**

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Commission had to ensure that this issue did not "just go by the waist side". Commissioner Silverstone stated that this was the Mayor's opinion and he believed that it was already being handled correctly. He indicated that, in his opinion, the Mayor was questioning Commissioner McIntee's integrity. Mayor Parker stated that Commissioner McIntee's integrity was questioned by Mr. David Beyer who had stated that Commissioner McIntee had not told the truth. He emphasized that he wished to see Commissioner McIntee's integrity cleared, feeling that if Commissioner McIntee's integrity were tarnished, the entire Commission's integrity was tarnished.

Commissioner Silverstone stated that the Commission was self-incriminating itself by making accusations. He felt that if Commissioner McIntee had indicated that he had contacted the FBI - that was "good enough" for him.

Commissioner McIntee felt shocked at how this issue was proceeding, stating that he would cooperate with either the Broward Sheriff's Office or the State Attorney's Office if they wished to investigate the allegations. He questioned Mayor Parker's comments concerning his career as a criminal attorney and his thoughts that the FBI might not investigate \$100 crimes and disagreed. Commissioner McIntee stated that he had never mentioned a developer by name and that he had started his speech with "people, you be the judge". He briefly recounted the incident in question, stating that he understood that it was an un-provable case. Commissioner McIntee reiterated that he would cooperate with any agency, emphasizing that he did not believe this was the "Lindbergh case", but rather a "piece of a puzzle". He stated that the one fact remained that the individual admitted that the \$100 bill was on the seat and it dropped out of his pocket. Commissioner McIntee questioned what the odds were that a \$100 bill would drop out of a pocket on a seat, with someone saying as they left the cars, "oh, I hope nothing fell out of my pocket".

Vice Mayor Yanni felt that Commissioner McIntee had nothing to hide, but stated that this needed to be investigated at "put to bed". He indicated that this had nothing to do with his feelings towards Commissioner McIntee or Mr. Beyer, stating that once the investigation was requested, the Commission could back to its regular business.

Mayor Parker stated that the Commission had already set a precedent that when a cloud was allegedly placed over the Commission or its actions, the Commission asked that the Town Attorney request the Broward Sheriff's Office and the State Attorney to investigate. He indicated that this had previously been done with an alleged "illegal push poll" that the Commission had allegedly engaged in.

In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker asked Attorney Cherof to draft a letter at his convenience.

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Mayor Parker announced that it was 11:00 p.m. and asked if the Commission wished to extend the meeting time.

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to extend the meeting until the Commission reached New Business. In a roll call vote, all voted in favor.

- E. Report by Commissioner McIntee regarding the status of the donation of an emergency vehicle from Plantation Fire Department (*Mayor Oliver Parker*) (*continued from July 11, 2006*)**
  - 1. Discussion and/or action regarding Commissioner McIntee's request to have the Town pay for diesel fuel for the donated emergency vehicle (*Mayor Oliver Parker*) (*continued from July 11, 2006*)**

Commissioner McIntee stated that Chief Putney, from the City of Plantation, was currently on vacation, but that the Volunteers expected to find out by next week whether the vehicle would be donated.

Commissioner McIntee stated that he did not believe that the donation of a vehicle to the Volunteer Fire Department was anybody's business but "our" own. He indicated that with regards to the fuel, he was withdrawing the request as "we" had received a benefactor who was willing to pay for the fuel.

Mayor Parker requested an updated report from the Volunteer Fire Department concerning this matter on the next agenda.

- F. Discussion and/or action regarding off-street parking and off-site parking places (*Vice Mayor John Yanni*) (*continued from June 27, 2006*)**

Vice Mayor Yanni stated that the current off-site parking regulations were for 400 feet and he wished to extend the maximum to at least 1,000 feet.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to amend the ordinance regarding off-street parking.

Mayor Parker asked why this amendment was being considered. Vice Mayor Yanni explained that many businesses required additional parking and felt that there were too few places within 400 feet of another structure that could be used for this purpose.

Commissioner McIntee asked with regards to the ordinance to eliminate parking enforcement in certain areas between the hours of 9:00 a.m. and 5:00 p.m. Attorney

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**Cherof replied affirmatively, stating that the ordinance should be prepared by the next meeting.**

**Mayor Parker asked if it would be improper for the Commission to make a motion to suspend parking enforcement in the noted area. Attorney Cherof replied affirmatively.**

**In a roll call vote, all voted in favor. The motion carried 5-0.**

**Commissioner Silverstone asked if a motion was necessary regarding the vehicle donation. Mayor Parker replied negatively, stating that only a report had been requested.**

**Commissioner Silverstone asked if anyone on the dais had called the City of Plantation with regards to the donation of the emergency vehicle. The Commission responded negatively. Commissioner Silverstone asked Manager Baldwin if he had called Plantation or if he had directed anyone to call representatives of Plantation. Manager Baldwin replied negatively and advised that he had not given anyone direction to contact Plantation.**

**Commissioner Silverstone asked Chief John Frailey if he had called the City of Plantation regarding the donation of the vehicle. Chief Frailey stated that he had called Battalion Chief Gordon to ask about the vehicle when he saw the item listed on the agenda. Commissioner McIntee asked why Chief Frailey had called when the Volunteers had nothing to do with the Broward Sheriff's Office. Chief Frailey indicated that he only wanted to find out the details on the vehicle listed on the agenda and indicated that this was when he had found out that the utility vehicle used as the third vehicle out in a fire had been taken out of service. Commissioner McIntee stated that "we" had sent two individuals in that vehicle to pick up the vehicle and questioned whether Plantation had been discouraged from donating the vehicle. Chief Frailey replied negatively, emphasizing that he only called to obtain information regarding the vehicle.**

**G. Discussion and/or action regarding a change order to the Sunset Lane Sewer Project**

**Mayor Parker stated that the change order was for a total of \$30,000.**

**Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to approve the change order.**

**Commissioner McIntee asked if this project was being piggybacked with another project. Mayor Pro Tem Clark replied affirmatively, stating that it was piggybacked to the Terra Mar project. Commissioner McIntee asked for confirmation that the project**

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costs itself had not been increased. Mr. Mason replied affirmatively, stating that the contractor had had to demobilize because the Town had been unable to obtain the necessary easements.

In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that the Town had not been able to mobilize on this matter as the last project in line had not provided the Town with an easement. He indicated that the residents of Bel Aire had provided the Town with a general easement so the Town could move forward with the project.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to accept the general easement in order to move forward with the project. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker stated that by agreement, discussion under New Business would be tabled to the next meeting.

Manager Baldwin stated that letters had been sent to residents concerning the enforcement of the current hedge heights. He indicated that staff was request direction so that residents could be notified of the Commission's intent.

Discussion was held concerning a motion directing that enforcement be withheld until this item was discussed. Attorney Cherof recommended against the Commission ordering that the Code not be enforced, stating that ordinances were adopted through a formal procedure which included public hearing. He indicated that suspending enforcement of the Town's ordinances was to abrogate the entire process. Attorney Cherof stated that what the Town Manager chose to do from an administrative point of view was his choice.

Ms. Medina advised that staff was requesting the removal of Items F and G as the applicants had requested an additional tabling. She explained that since the items would need to be re-advertised, if they were removed, the Commission would not have to further consider these items at the next meeting. There were no objections and the Mayor ordered the items removed from the agenda.

Mayor Parker announced that the remaining items were tabled to the next meeting.

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**14. NEW BUSINESS**

- A. Discussion and/or action regarding the addition of trash collection as an assessment on property tax roll (*Mayor Pro Tem Chuck Clark*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- B. Discussion and/or action requiring three bids to be obtained for any Town contract over \$15,000 (*Commissioner Jerry McIntee*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- C. Discussion and/or action adopting rules of procedures for making appointments to Town boards, limiting appointments to persons who have filed current applications (*Mayor Oliver Parker*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- D. Discussion and/or action regarding solicitors of signatures for referendum issues to be registered with the Town Clerk, with all solicitors being identified for security (*Commissioner Jerry McIntee*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- E. Discussion and/or action regarding regulations on insurance coverage for paid solicitors or their employees going door-to-door for signatures, ensuring proper identification cards are issued by the Town for protection of residents (*Commissioner Jerry McIntee*) (*continued from July 11, 2006*)

This item was tabled to the next meeting.

- F. "PUBLIC HEARING" – SITE PLAN; Commerce Bank/4353 North Ocean Drive (*tabled from June 13, 2006*) (*applicant requesting additional tabling; new hearing date to be advertised upon Planning and Zoning Board's review of application*)

This item was removed from the agenda until further advertisement was made.

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- G. "PUBLIC HEARING" – VARIANCE; Commerce Bank/4353 North Ocean Drive (tabled from June 13, 2006) (*applicant requesting additional tabling; new hearing date to be advertised upon Planning and Zoning Board's review of application*)

This item was removed from the agenda until further advertisement was made.

- H. Discussion and/or action regarding a proposed ordinance to restrict dogs from public park areas (*Mayor Oliver Parker*) (continued from June 6, 2006)

This item was tabled to the next meeting.

- I. Discussion and/or action regarding beach swimmer protection (*Commissioner Jim Silverstone*)

This item was tabled to the next meeting.

- J. Discussion and/or action concerning existing regulations of hedge heights and hedge placement to ensure safety (*Mayor Pro Tem Chuck Clark*)

This item was discussed earlier in the meeting.

- K. Discussion and/or action regarding who picks Fourth of July parade marshal and the possibility of opening the selection to Town residents (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- L. Discussion and/or action regarding the hiring of a federal lobbyist to obtain federal grant funds (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- M. Discussion and/or action regarding the order in which items are placed on the agenda for Commission consideration (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

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**15. TOWN MANAGER REPORT**

A. Code Compliance Quarterly Report

Mayor Parker asked if there were any objections to accepting the Code Compliance quarterly report. As there were no objections, the Mayor so ordered.

**16. TOWN ATTORNEY REPORT**

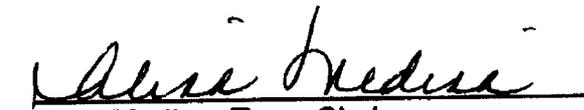
The Town Attorney had no reports for the Commission's consideration.

**17. ADJOURNMENT**

As there were no objections or any further business to discuss, Mayor Parker adjourned the meeting at 11:23 p.m.

  
Oliver Parker, Mayor

ATTEST:

  
Alina Medina, Town Clerk

Date Accepted: 12/12/06

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, July 11, 2006**

**7:00 P.M.**

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

The meeting was called to order by Mayor Parker at 7:10 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. Also present were Town Manager Robert Baldwin, Attorney James Cherof, and Town Clerk Medina.

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

The Pledge of Allegiance was recited.

#### **3. INVOCATION, TOWN CHAPLAIN**

Father Handrahan delivered the invocation.

#### **4. PRESENTATIONS**

- A. Lauderdale-By-The-Sea's Online Community Portal (*Jerry Sehl/Vice Mayor John Yanni*)

Jerry Sehl stated that he had provided information regarding the costs involved concerning the community portal. He asked for the Commission's favorable consideration.

Mr. Sehl provided a brief history regarding some of the properties in Town and provided photographs for the Commission's review. He offered the use of the photographs as a "treasure map" to be used during the next Fourth of July. He asked for the Commission's consideration of donating \$1,000 for prizes for this contest. Mayor Parker suggested that Mr. Sehl discuss this matter with the Fourth of July Committee so that it could be considered.

Commissioner McIntee felt that staff should review the information and provide a recommendation. Manager Baldwin suggested that perhaps the Commission could consider this issue during the budget process. There were no objections.

- B. Traffic Study of State Road A1A and Commercial Boulevard intersection (*Town Planner Walter Keller*)

Walter Keller provided a report concerning the traffic study of the intersection of State Road A1A and Commercial Boulevard. He provided a PowerPoint presentation and provided traffic counts for the intersection. Mr. Keller described the available options, including a partial closure of Commercial Boulevard at A1A and double left lanes, going north on A1A, partial closure of left turning into what was known as Mack's Groves. He also described the evaluations, stating that the level of service did not really substantially improve. Mr. Keller stated that the best case was to close Commercial Boulevard at A1A, but advised that the impact that would be felt by the businesses in that area did not warrant a change.

Mayor Parker asked how accurate the calculations were. Mr. Keller explained that the estimates were just that, estimates; however, he indicated that they were a fair representation of the traffic during peak time.

## **5. REPORTS**

### **A. Fourth of July Celebrations (*Mayor Pro Tem Chuck Clark*)**

Mayor Pro Tem Clark expressed his belief that the Fourth of July celebrations had been a great success and the Town had enjoyed a great turnout. He indicated that staff had been very helpful, specifically the Public Works Department and Judy Mufale. Mayor Pro Tem Clark also thanked Bob Terrien, Sunny Eckhardt, Caroline Fisher, Lorene Parker, Vincent Ragusa, Ron Piersante and his legions of volunteers, and the Volunteer Fire Department. He stated that special thanks was sent to Mark Conn for his assistance with the coordination of the parade, Marie White and Jerry Sehl for the donations of all the prizes, and all the sponsors for their financial and in-kind contributions. Specifically, Mayor Pro Tem Clark thanked his wife for all her support during the planning and execution of the festivities.

Mayor Pro Tem Clark expressed his belief that there had been one glitch, wherein during the event there had been attempts to collect signatures for a petition. He felt it had been distasteful to have people interrupt the festivities in that manner.

Mayor Parker thanked Mayor Pro Tem Clark for his hard work and dedication to make this event a spectacular one.

### **B. Report by the Volunteer Fire Department regarding Status of Contract with**

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*Broward Sheriff's Office (Commissioner Jim Silverstone/Battalion Chief Joseph Padden)*

Battalion Chief Joseph Padden provided a brief history of the contract between the Town and the Broward Sheriff's Office, stating that the Volunteer Fire Department had signed its contract with the Broward Sheriff's Office in June 2004. He stated that the Volunteers were very unhappy with the treatment of the department, as well as the administration of the contract. Chief Padden noted issues of concern, including the intent of the agreement, the Volunteers often being treated with disrespect, inadequate amount of training, responding to incidents removing the ability to train, mutual aid, the failure to provide a 4x4 utility vehicle, command not being provided to Volunteer members so that they can become proficient and acquire experience, communications and a request to discontinue the use of Town vehicles, and a lack of ability to participate in the budget process.

Chief Padden stated that the Volunteer membership was currently up to 66 members and briefly described their certifications.

Chief Padden stated that the Volunteers had been told upon signing that virtually no changes would be noted within the department, including standard operating procedures and qualifications, as well as indicating that the Volunteers would keep control of their department. He felt that nothing could be farther from the truth, expressing his belief that the Broward Sheriff's Office assumed all sorts of authority and power.

Chief Padden indicated that Sheriff's Office personnel that worked with the Volunteers were generous and highly trained and, while they were wished well, he believed this was a very unhealthy and dangerous, not to mention unfair relationship. He placed the blame of this failure "at the feet of BSO management and pressure from the union to save these three or four fulltime positions".

Chief Padden referenced the cost of the administration staff, stating that the cost to protect the Broward Sheriff's Office position in the contract was not equitable.

Chief Padden stated that the Volunteer Fire Department found itself in the position to become political to ensure the Town did not lose its Volunteers.

Vice Mayor Yanni asked what was the advantage to taking over fire protection for the entire Town. He felt that with a few issues that needed to be ironed out, the Volunteers could benefit so much from working alongside the Broward Sheriff's Office. Chief Padden stated that the reason was that the Volunteers did not want BSO.

Vice Mayor Yanni expressed concern that so much emphasis was placed on attending

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to get training, stating that the training should not be obtained during an emergency call.

Commissioner McIntee asked if the Volunteers could, under the standards placed by the Broward Sheriff's Office, go to a resident's home to patch a roof after a hurricane. Chief Padden stated that it was probably not acceptable as they had been told in the past not to participate in these types of services in their vehicles. He indicated that apparently there was some concern with personal use of the vehicles.

Commissioner McIntee asked if the Volunteers had purchased its own vehicle. Chief Padden replied affirmatively and felt that although it had required some recent repairs it was in good working order. Commissioner McIntee asked if the Volunteers were permitted to use the auxiliary truck to respond to calls. Chief Padden replied negatively. Commissioner McIntee asked for confirmation that the Broward Sheriff's Office had chanted the Volunteers' operating procedures. Chief Padden replied affirmatively, stating that the Volunteers were essentially in violation of the contract each time they used equipment for their drills.

Commissioner Silverstone asked who was the original owners of the assets now owned by the Broward Sheriff's Office. Chief Padden replied that the Town originally owned the equipment, with some of the assets being owned by the Volunteers. Commissioner Silverstone stated that Chief Padden was essentially stating that the contract was not working. Chief Padden agreed.

Mayor Parker asked if he had understood correctly that the Volunteers had negotiated their own contract with the City of Fort Lauderdale for mutual aid. Chief Padden stated that the Volunteers had an agreement with the City of Fort Lauderdale, negotiated by the Fire Chief Silverstone and Deputy Fire Chief McIntee, for training and mutual aid. Mayor Parker asked if this agreement had been obtained in writing. Chief Padden replied that he was unsure if the agreement was in writing. He added that negotiations were being held with Pompano Beach for training.

Mayor Parker asked if the report was based on personal opinion or a representation of the opinions of the membership. Chief Padden stated that the membership talked about everything and everyone's opinions had bearing. Mayor Parker asked if this issue was discussed with the membership in a meeting and, asked for confirmation of whether the Chief and Deputy Fire Chief had been in attendance. Chief Padden replied affirmatively with regards to both questions.

Mayor Parker asked that the Commission be provided with a copy of the agreement between Fort Lauderdale and the Volunteers. Commissioner Silverstone explained that the agreement being addressed was that of the Broward County Fire Chiefs mutual aid agreement which allowed training with mutual aid partners. He felt that what Chief Padden was trying to communicate was that the Broward Sheriff's Office had done

nothing to provide mutual aid training. Mayor Parker stated that Chief Padden had indicated that the Volunteers had negotiated its own agreement with Fort Lauderdale. Commissioner Silverstone stated that the Volunteers were only trying to comply with the original agreement. He stated that he had initiated the contact with Fort Lauderdale to make arrangements for the training under the original agreement and advised that the Deputy Fire Chief and the membership had also assisted in the negotiations.

Commissioner McIntee explained the mutual aid program and continued to say that under the contract, the Volunteers were arranging training with their mutual aid providers. He explained that that the mutual aid agreement was that of the Broward County Fire Chiefs Association. Mayor Parker asked if the Volunteers were members of the Fire Chief Association. Commissioner McIntee replied affirmatively, stating that membership had been established in June. Mayor Parker asked who were the representatives for the Volunteers, with Commissioner McIntee responding that Chief Silverstone, Chief Padden, and he were all members and attended the meetings. Mayor Parker asked that the Commission be provided with information regarding the membership to the Chiefs Association for their review.

#### **6. APPROVAL OF MINUTES**

There were no minutes to be considered.

#### **7. PUBLIC COMMENTS**

Barbara Cole, 221 Washingtonia Avenue, stated that she was a member of the Citizens Initiative Committee and was disconcerted that other residents were now not discussing issues with her. She explained why she had joined the Committee and spoke in favor of term limits. Ms. Cole added that she was upset about the Town not always obtaining bids for projects and private streets obtaining sewer services. She indicated that she also opposed the purchase of the parking lot.

David Nixon stated that Siemon Larson was in the process of providing the blight study which was the first step in having the Community Redevelopment Agency. He explained the process and stated that all the information had been assembled and was currently being reviewed. Mr. Nixon stated that the Economic Development Task Force would be holding several small meetings with the public to obtain input and will then bring recommendations to the Commission for its consideration. He hoped that the Agency would be operational by November.

George Hunsacher, 4629 Poinciana Drive, invited all to drive by and see the wall which had been erected by Sea Ranch Lakes. He questioned the location of the easement,

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stating that it would be the perfect place for the Town to bury its utility lines.

Mayor Parker asked staff for an update. Manager Baldwin stated that a survey had been performed and advised that Mr. Kevin Hart and Municipal Services Director William Mason had been carefully following the construction of the wall. He indicated that by all indications, the wall had been constructed on their property. Mr. Mason stated that the poles were located within the easement, stating that he would assume that they were waiting to obtain permission from Florida Power and Light to erect the wall around the poles. He explained that essentially half the wall was located on within the Town's boundaries, while the other half of the wall was located within Sea Ranch Lakes boundaries.

Vice Mayor Yanni asked if there were plans for landscaping. Manager Baldwin replied affirmatively, stating that funds would be included for that project in the upcoming budget.

Alex Kuschma, 4425 Poinciana Street, expressed concern with the increase in the Waste Management service bills. Mayor Parker stated that the bill was a quarterly bill. Vice Mayor Yanni directed Mr. Kuschma to Mr. Mason for additional information.

Colleen McGuinness recalled an incident she had suffered during the Fourth of July celebrations where children had used a "water cannon" to soak her. She was disappointed that this type of assault had been permitted.

Janel Daritsa, 4319 West Tradewinds Avenue, spoke in favor of the Volunteer Fire Department, but questioned Commissioner McIntee's and Commissioner Silverstone's service on both the Commission and the fire department. She stated that in speaking with the Commissioners during campaign time, both had assured her that they were firefighters first. Ms. Daritsa stated that now Commissioner McIntee was requesting a workshop to review the possibility of eliminating the Broward Sheriff's Office for fire suppression. She indicated that one of her concerns during campaign time was the possible conflicts of interests in negotiating their own wages and benefits if the Sheriff's Office was eliminated. Ms. Daritsa stated that now Commissioner Silverstone had been quoted as saying that he would resign his position as Fire Chief and questioned what had happened to being a firefighter first. She stated that she had always been proud of the Commission's accomplishments, but indicated the Town was receiving a lot of bad publicity recently. Ms. Daritsa stated that Commissioner McIntee had announced that the City of Plantation had donated an emergency vehicle and even asked the Town to consider paying for the fuel, yet apparently Plantation officials had not known that the vehicle had been donated to the Volunteers.

Cindy Geesey, 256 Imperial Lane, stated the Town, unfortunately, thrived on gossip. She felt that Town officials should not condone, much less be a part of the gossip and

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bullying. Ms. Geesey questioned the non-reputable practices of the local newspaper, stating that it permitted personal attacks on individuals without demanding that those making the accusations be identified. She felt that it was time that the Town begin to work together again.

Maureen McIntee, 1612 Southeast 21 Avenue, stated that it was wonderful to see residents from both the north and south side of Town working together on the Fourth of July festivities. She indicated that all the workers deserved credit and thanks for a job well done. Ms. McIntee agreed that it had been a shame that individuals were soliciting signatures for a petition during the event.

Ms. McIntee referenced the selection of board members, stating that Commissioners should be permitted to appoint any individual they believed could serve the Town whether or not they had filed an application for the position.

Ms. McIntee stated that the *Town Topics* had begun to post the upcoming month's meeting dates as opposed the meeting dates for the month of issue. She suggested that perhaps the *Town Topics* could include both the current and upcoming month's meetings to encourage resident participation.

Rosa Mickaliub referenced the Waste Management bill and expressed concern with the increase in the rates. She indicated that she had been under the impression that the Commission was still negotiating the contract and asked for the Commission's assistance. Ms. Mickaliub felt that the new rates were unfair and caused a burden. Mayor Parker asked Mr. Mason to assist Ms. Mickaliub with a review of her bill.

Tom Carr, 254 Miramar Avenue, thanked the Town for the Fourth of July festivities stating that the event had been outstanding. He thanked Mayor Pro Tem Clark for his consideration of placing Waste Management fees back on the ad valorem taxes.

Mr. Carr spoke in favor of the Volunteer Fire Department, expressing his belief that just because firefighters served as Commissioners did not mean there were conflicts.

Ron Piersante, 227 Lake Court, referenced an interview provided by Commissioner McIntee to the *Daily Business Review*, dated July 7, 2006. He indicated that Commissioner McIntee had criticized the Commission, former Vice Mayor Ed Kennedy, and all developers. Mr. Piersante stated that Commissioner McIntee had been quoted as saying, "if you come in here and buy property, you knew the rules before you bought. Why then change anything and want more units per acre." He questioned if Commissioner McIntee really felt that way, why was he disregarding the rights of the property owners who purchased properties on the north end of Town, knowing that their properties could be built up to 15 stories. Mr. Piersante questioned what had happened to the rights of these property owners. He indicated that it was well known that the

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residents did not want a town full of high rises, but the results of the referendum initiated by the Citizens Initiative Committee would only cause lawsuits that would have to be defended. Mr. Piersante reminded the Commission that the required defenses would be paid by residents. He questioned whether there were conflicts of interests, with Commissioner McIntee wearing the "hats" of chairman of the Citizens Initiative Committee, Commissioner, and Deputy Fire Chief.

Mr. Piersante referenced the supposed donation of an emergency vehicle to the Volunteers by the City of Plantation, stating that on the day following the announcement, the newspapers reported that the City of Plantation had not been aware of any such donation. He asked Commissioner Silverstone, as Fire Chief, for an explanation as to what had occurred.

Mr. Piersante referenced the Waste Management contract and questioned why Commissioner Silverstone would have requested to lower commercial rates by increasing residential rates. He felt that this was not the way to look after the people of the Town. Mr. Piersante reminded the Commission that businesses could raise their rates when their expenses were increased, while residential owners could not. He felt that the residents deserved an explanation in this matter.

Howard Carmac, 550 Southeast Mizner Boulevard, felt that there was a Commissioner who was a vigilante, who was to caught up in his own self-serving movement with the Citizens Initiative Committee. He felt this Commissioner had broken the law, harassed innocent people, and lied to his own constituents. Mr. Carmac stated that although Commissioner McIntee had been "preaching" to let the voters decide, yet in his opinion Commissioner McIntee was standing in the way of allowing residents to sign another petition. He stated that Commissioner McIntee had, while riding in a fire truck, asked petition signature gatherers for identification and telling them to "get out of his town". Mr. Carmac referenced laws that protected petitioner signature gatherers, reiterating that Commissioner McIntee was interfering with the process and the first amendment rights of residents.

Happy Vasil, 4521 Seagrape Drive, referenced the Waste Management bill and expressed concern with the increase in the rates. She felt that the new rates were causing a burden and were truly unfair. Mayor Parker asked Mr. Mason to assist Ms. Vasil with her bill. Additionally, he asked that the Commission be apprised if these bills were actually quarterly bills or monthly bills.

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

There were no ordinances for second reading to be considered.

Mayor Parker called a recess at 9:00 p.m. The meeting was reconvened at 9:08 p.m.

## **9. COMMISSIONER COMMENTS**

Vice Mayor Yanni expressed concern with all the preoccupation of dividing the Town into the north and south, stating that it almost sounded as though the Civil War was on again.

Vice Mayor Yanni thanked Mayor Pro Tem Clark, along with all the residents and businesses that assisted with making the Fourth of July a great event.

Commissioner McIntee stated that the Fourth of July had been great and everyone had done a super job working together.

Commissioner McIntee referenced the Commission's organizational meeting and indicated that the Commission had agreed that no discussion would be had with individuals during public comments. He stated, too, that the Commission had agreed that individuals, while they could address misgivings with the Commission or a staff position, no names were suppose to be used to avoid personal attacks. Commissioner McIntee felt that it was Mayor Parker's responsibility to enforce those rules. He felt that he had to keep interrupting in order to police "our" own operations.

Commissioner McIntee liked the three minute clock, feeling that it made it more fair and did not allow the Mayor to provide additional time to selected individuals. He referenced again the policing of the Commission's conduct on the dais and opposed personal attacks and the Mayor's cheating and abuse of power.

Commissioner McIntee stated that every time a developer purchased property within the Town, they hired lawyers, spent huge "bucks", and knew what they were buying and the development regulations for the individual properties. He emphasized that developers purchased properties to make a lot of money and, after the money was made, the developers left Town while the residents were stuck with the development of poor planning and elements. Commissioner McIntee stated that he was "going to hold the developers' toes to the fire" and rack "up the heat as much as I can." He added that developers should not come into his Town saying they were developing the area to help the Town when they were only here to make money.

Commissioner McIntee admitted that he had stopped several petitioner signature gatherers and had requested identification, after identifying himself as a Commissioner, because he cared about the safety of the residents. He indicated that he was well aware who they were and what they were doing, but felt that no one should be confronted by strangers. Commissioner McIntee stated that the difference between the Citizens Initiative Committee (CIC) and these other signatures gatherers was that the CIC were neighbors talking to neighbors, while the others were "strangers, being paid

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\$15 an hour to go into our neighborhoods” and that he did not know their backgrounds or if they were “burglars, rapist or prying on old people”. He stated that he had called the Sheriff’s Office to demand identification be reviewed, stating that if the developers really cared about the residents they would provide the identification.

Commissioner McIntee expressed disbelief that the developers had interfered with the Fourth of July celebrations. He could not understand why these individuals could not wear identification and identifying t-shirts to ensure that residents were aware of who they were and what they were doing in their neighborhoods.

Commissioner McIntee stated that he did not enjoy going “head to head” with Mayor Parker at every meeting, but indicated that he would continue to do so until he felt the rules were being followed. He indicated that he broke the rules, he had no objections to being told. Commissioner McIntee stated that the community was divided, but believed that everyone essentially wanted to work together for the benefit of the Town.

Commissioner McIntee stated that developers were coming in and dividing up the Town. He indicated that issues such as law enforcement and the fire department were personal, but developers were paid and pitting residents against each other.

Commissioner McIntee stated that he had been accused of stealing private property, stating that the property he had taken was a petition, which he still had, and did not feel he had stolen it as he already had a copy of it.

Commissioner Silverstone stated that Miguel San Miguel had completed the 2005 annual report for the Volunteer Fire Department. He thanked Mr. San Miguel for all the hours he donated to the Volunteers each year.

Commissioner Silverstone thanked Mayor Pro Tem Clark for his efforts on the Fourth of July celebrations. He apologized to Ms. McGuinness for the mishap during the event, stating that this incident should have never occurred.

Commissioner Silverstone addressed the Waste Management rates and stated that he had expressed concern of the increase to businesses as the hotels had already planned their room rates and were now unable to off-set the costs. He stated that the businesses had been hit with the majority of the increase, stating that he represented the entire community.

Commissioner Silverstone clarified his roles as commissioner/firefighter, stating that if he were sitting as a Commissioner and a fire broke out, he would excuse himself to attend the fire. He felt that serving as a Commissioner was a public service. Commissioner Silverstone did not believe that he should be held liable for being proud to serve as both Fire Chief and a Commissioner.

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Commissioner Silverstone stated there had been some misunderstanding with regard to the donation of the emergency vehicle by the City of Plantation. He indicated "we" had been told about the donation, but apparently there had been some errors in procedures. Commissioner Silverstone stated that the loss of the vehicle placed "us" in a very uncomfortable position as it was something "we" needed that would have been beneficial to the Town.

Mayor Pro Tem Clark stated that he had spoken with Ms. McGuinness during the break and indicated that the incident would be investigated and resolved as quickly as possible. He apologized that the incident had happened and assured that all precautions would be taken to ensure that it did not occur in the future.

Mayor Pro Tem Clark stated that the Commission was reviewing the Waste Management contract in about three different ways tonight and hoped that an equitable resolution could be obtained.

Mayor Pro Tem Clark announced the Property Owners Association meeting and invited all residents to attend, providing information regarding the issues proposed for discussion.

Mayor Parker thanked Mayor Pro Tem Clark for his work on the Fourth of July festivities and all the residents and businesses that had assisted in making the celebrations a true success.

Mayor Parker apologized to Ms. McGuinness on behalf of the entire Commission and the Town staff for the incident she had suffered.

Mayor Parker stated that although the Commission was not supposed to engage in personal attacks, he wanted to respond to one that he had just received. He stated that there was a concept in law which was called "opening the door", explaining that when one person broke the rules they couldn't really expect that a response would not be provided.

Mayor Parker stated that Commissioner McIntee had made a personal attack on Mr. David Beyer and, although he had not mentioned names, Mr. Beyer had taken exception to the statements made as well as other members of the general public. He stated that Commissioner McIntee had claimed to have received a bribe and, although he did not know whether this had occurred, felt insulted that Commissioner McIntee had made it sound as though receiving bribes was a normal course of business for the Commission. Mayor Parker stated he had served this community for 12 years and had never been offered a bribe. He questioned the remaining Commissioners to determine if they had ever been offered a bribe. All Commissioners responded negatively. Mayor

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Parker stated that he had spoken with several former Commissioners who had also indicated that they had never been offered a bribe. Mayor Parker emphasized that it was not the normal course of business for Commissioners to be offered bribe and did not understand why any one would have considered that this particular Commissioner might have been susceptible to receiving one.

Mayor Parker stated that since Commissioner McIntee had made the initial personal attack, he did not feel it was improper not to allow Mr. Beyer to respond to the accusations made. He indicated that upon arriving at the last meeting, Mr. Beyer had provided him a copy of a distribution he wished to make to the Commissioners. Since he had already received his copy, upon conclusion of Mr. Beyers comments, he questioned Mr. Beyer if he wanted to distribute the remaining copies. After doing so, Mr. Beyer requested that this item be placed on the next agenda and, since it was customary for individuals to request items be placed on the agenda for discussion, he had directed the Town Clerk to place the item on the agenda.

Mayor Parker stated that he had not broken the rules adopted by the Commission as Commissioner McIntee had opened the door to the response, nor had he broken the rule as he addressed his comments regarding the agenda to the Town Clerk.

Mayor Parker stated that he had broken the discussion rule during public comments today and apologized for doing so. He explained, however, that based on his conversations with Waste Management today, there had been high concerns expressed over the new bills and questions of whether the bills were quarterly or monthly.

Mayor Parker stated that a cloud had been placed over the Commission upon the allegations that a Commissioner had been offered a bribe, with a counter-allegation that this was untrue. He indicated that the Commission had established a precedent that when a Commissioner or the Commission took wrongful action, the Town Attorney was directed to ask the Broward Sheriff's Office and the State Attorney's Office to investigate whether a crime occurred. Mayor Parker stated that this precedent had been set by none other than Commissioner McIntee and Commissioner Silverstone. As such, he asked that the next agenda include discussion and/or action to instruct the Town Attorney to request the Broward Sheriff's Office and the State Attorney's Office to investigate the allegations made.

Mayor Parker expressed his belief that the Federal Bureau of Investigations did not investigate every allegation of bribery and felt that, in either event, this was State matter.

Mayor Parker stated that another issue he wished to discuss was the fact that the Town had been told by Commissioner McIntee that the Town "could take it to the bank" that the City of Plantation had donated an emergency vehicle. He stated that Commissioner

McIntee had also requested free diesel fuel from the Town for the vehicle being donated. Mayor Parker stated that he wished to have both issues listed on the next agenda.

Mayor Parker stated that he had voted against the Waste Management contract, feeling that the contract was unfair to the multi-family residential.

Mayor Parker stated that the assessed value of the properties in Town had been raised and encouraged residents to contact the Commission, requesting that the millage rate be lowered by a minimum of 3 percent. He stated that in this manner, at least those residents who were homesteaded would not suffer an increase in their property taxes.

Mayor Parker stated that the Commission had agreed to amend the agenda by moving the two proposed ordinances listed under Item 13H to Ordinances, First Reading.

**10. ORDINANCES (1<sup>ST</sup> Reading)**

- A. **Ordinance No. 2006-08:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Ordinance 2005-18 to reflect that a referendum election will be conducted November 7, 2006 pursuant to Court Order; providing for severability, conflicts, and an effective date

Attorney Cherof read the ordinance by title only.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to approve the ordinance on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

- B. **Ordinance No. 2006-09:** An ordinance of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, amending Ordinance 2005-20 to reflect that a referendum election will be conducted November 7, 2006 pursuant to Court Order; providing for severability, conflicts, and an effective date

Attorney Cherof read the ordinance by title only.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to approve the ordinance on first reading. In a roll call vote, all voted in favor. The motion carried 5-0.

**ORDINANCE NO. 2006-10: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES, "LICENSES" BY ADDING A**

NEW SECTION 12-23; PROVIDING FOR THE CONTROL AND REGULATION OF BUSINESS ACTIVITY OCCURRING IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR REGULATION OF HOME OCCUPATIONS; PROVIDING FOR INSPECTIONS AND FEES; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

Attorney Cherof read the ordinance by title only.

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to approve the ordinance on first reading. In a roll call vote, the motion carried 4-1, with Vice Mayor Yanni dissenting.

**ORDINANCE NO. 2006-11:** AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA SUBMITTING TO REFERENDUM AN AMENDMENT TO CHAPTER 12 OF THE CODE OF ORDINANCES TO ADD HOME OCCUPATIONS AS An ALLOWED USE IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR A NOTICE OF AN ADVERTISEMENT OF THE REFERENDUM ELECTION TO BE PUBLISHED IN ACCORDANCE WITH THE STATE OF FLORIDA ELECTION CODE; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ON THE NOVEMBER, 2006 GENERAL MUNICIPAL ELECTION BALLOT AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Attorney Cherof read the ordinance by title only.

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to approve the ordinance on first reading.

Vice Mayor Yanni asked if a referendum was needed to allow residents to have home occupational licenses. Attorney Cherof replied affirmatively, stating that since the ordinance changed the land use, it was necessary to have the voters adopt the change.

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

Upon Mayor Parker's request, Ms. Medina explained the deadline dates to provide ballot questions to the Supervisor of Elections Office. Attorney Cherof explained that the title would be delivered and then the Supervisor of Election would be notified of the

passage of the ordinances upon second reading.

**11. CONSENT AGENDA**

- A. CONTRACT: with Bryant Miller & Olive P.A. for an independent review of the Town's fire assessment
- B. CONTRACT: for the paving of the new municipal parking lot located on State Road A1A and Bougainvillea Drive
- C. CONTRACT: for paving services at Leisure Towers

Vice Mayor Yanni requested that Items B and C be removed from the consent agenda.

Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, to approve the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0

Mr. Hart stated that he had reviewed the bid from Arrow Asphalt, stating that handicap ramps had indeed been excluded from the bid. He indicated that he had also spoken to Mr. Mason regarding the grade of the property, stating that it was possible that the grade would need to be raised. Mr. Hart stated that even with the cost of the handicap ramps not being included, he still recommended approval of the bid. He stated that the bids did not include the lighting or electrical work, as well as landscaping and irrigation.

Attorney Cherof asked if the exclusion of the handicap ramp was considered a material element of the bid, thereby disqualifying the bidder. Mr. Hart replied negatively. He felt that this item could be incorporated and felt that the cost would be far less than the difference to the next highest bid.

Vice Mayor Yanni stated that Man-Con's bid stated that they would install the parking meters. Mr. Hart explained that this item was not necessary as the Public Works Department would be installing the necessary parking meters.

Vice Mayor Yanni made a motion, seconded by Commissioner McIntee, to approve Items B of the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, to approve the use of Arrow Asphalt for Item C as well. In a roll call vote, all voted in favor.

**12. RESOLUTION**

There were no resolutions to be considered.

**13. OLD BUSINESS**

- A. Discussion and/or action regarding the possibility of assessing properties for improvements made and completed in the past (*Town Attorney James Cherof*)

Attorney Cherof explained that the Town could not impose a special assessment to refund the general fund for expenditures made for sewer improvements.

- B. Discussion and/or action regarding the possibility of the Town having its own fire inspector/fire marshal (*continued from June 17, 2006*)

Mayor Parker asked that this item be tabled to the July 25<sup>th</sup> meeting. There were no objections and the Mayor so ordered.

- C. Discussion and/or action regarding the hiring of two additional consultants for the positions of Town Engineer and Town Planner (*Commissioner Jerry McIntee*)

Commissioner McIntee stated that the Town and its tax base were growing rapidly, with a lot of major jobs coming up in the near future. He felt that the Town needed two planners and two engineers in order to provide multiple options and a balanced approach.

Manager Baldwin stated that both Mr. Keller's firm and Mr. Hart's firms provided both planning and engineering services. He indicated that Craven Thompson had advised that they would no longer serve as the Town's engineers and, therefore, the proposal would be to replace that firm.

Mayor Parker asked for confirmation that retainers were paid for these services. Manager Baldwin replied affirmatively.

Commissioner McIntee stated that he wished to leave this matter to Manager Baldwin, providing a report at a later date. Manager Baldwin stated that the Town would put out a request for proposal and review the documentation submitted. He explained that there would be soft costs involved, such as for making the evaluation of the bids. Manager Baldwin stated that this would be well underway by fall.

Manager Baldwin asked Mr. Hart how long his firm would stay with the Town. Mr. Hart stated that as was noted in the firm's letter, the firm would continue to assist the Town. He emphasized that there were current project being worked on and that they would not

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abandon the Town.

Mayor Parker asked that at least a report be provided by the second meeting in October.

- D. Selection of members for the "Walk Around" Committee (*five members needed*) (*next Commissioner to make an appointment is Commissioner Silverstone*)

Attorney Cherof reminded the Commission that this Committee would be bound by the Sunshine Law.

Commissioner Silverstone appointed Penny Dodd.

Mayor Pro Tem Clark appointed Sal Coniglio.

Mayor Parker appointed Nance Nixon.

Vice Mayor Yanni appointed Barbara Cole.

Commissioner McIntee appointed Cristi Furth.

Ms. Medina asked for clarification if the reports from the Committee would be placed on the agenda under "Reports". There were no objections.

- E. Discussion and/or action regarding ordinance No. 2005-20, as it pertains to the referendum questions concerning the replacement of existing non-conforming buildings (*Mayor Pro Tem Chuck Clark*)

Mayor Pro Tem Clark asked if it were true that in order to remove this referendum from the ballot, the Town would need to go to court. Attorney Cherof replied affirmatively.

Mayor Pro Tem Clark asked Commissioner McIntee if he had any objections to removing this issue from the ballot. Commissioner McIntee replied that he could not make that decision and would have to discuss the matter with the members of the Citizens Initiative Committee. He stated, however, that his "gut reaction" was that they Committee would not be in agreement.

Commissioner McIntee stated that he was under the impression that the court order had specified that this issue would be on the November ballot. Mayor Pro Tem Clark agreed, but felt that if everyone was in agreement, he did not believe the judge would have a problem amending the order.

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Commissioner McIntee gave his word that the Committee would meet on this matter and discuss the request. He stated that he would provide a report at the next meeting.

- F. Discussion and/or action regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for residential units (*Mayor Oliver Parker*)

Mayor Parker asked that this item be tabled to the July 25<sup>th</sup> meeting. There were no objections and the Mayor so ordered.

- G. Discussion and/or action regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for commercial units (*Commissioner Jim Silverstone*)

Mayor Parker asked that this item be tabled to the July 25<sup>th</sup> meeting. There were no objections and the Mayor so ordered.

- H. Discussion and/or adoption of Ordinance(s) regarding procedure to adopt home based occupational licenses for the residential areas on the southern side of Town and scheduling a referendum election (*Attorney James Cherof*)

PROPOSED ORDINANCE 2006-10, FIRST READING

**ORDINANCE NO. 2006-10:** AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES, "LICENSES" BY ADDING A NEW SECTION 12-23; PROVIDING FOR THE CONTROL AND REGULATION OF BUSINESS ACTIVITY OCCURRING IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR REGULATION OF HOME OCCUPATIONS; PROVIDING FOR INSPECTIONS AND FEES; PROVIDING FOR PENALTY; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

This item was discussed earlier in the meeting.

PROPOSED ORDINANCE 2006-11, FIRST READING

**ORDINANCE NO. 2006-11:** AN ORDINANCE OF THE TOWN OF

LAUDERDALE-BY-THE-SEA, FLORIDA SUBMITTING TO REFERENDUM AN AMENDMENT TO CHAPTER 12 OF THE CODE OF ORDINANCES TO ADD HOME OCCUPATIONS AS An ALLOWED USE IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR A NOTICE OF AN ADVERTISEMENT OF THE REFERENDUM ELECTION TO BE PUBLISHED IN ACCORDANCE WITH THE STATE OF FLORIDA ELECTION CODE; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ON THE NOVEMBER, 2006 GENERAL MUNICIPAL ELECTION BALLOT AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was discussed earlier in the meeting.

#### **14. NEW BUSINESS**

- A. Discussion and/or action regarding an impartial expert review of the Volunteer Fire Department's standard operating procedures and recommendation on fire suppression contract with the Town  
*(Commissioner Jerry McIntee)*

Commissioner McIntee provided a brief discussion of the request, stating that he was looking for an independent person to review the Volunteer Fire Department and provide the Commission with a recommendation. He stated that from the five individuals who had responded, there was one person he would not recommend.

Commissioner McIntee nominated the use of MGT for the study. Commissioner Silverstone seconded the nomination.

Mayor Pro Tem Clark nominated Chuck Lanza to perform the study. Vice Mayor Yanni seconded the nomination.

David James provided a brief description of his credentials and his experiences.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to close the nominations. In a roll call vote, the motion carried 3-2, with Commissioner McIntee and Commissioner Silverstone dissenting.

Commissioner McIntee stated that Chuck Lanza already had a contract with the Town with a cap of \$80,000 and felt that Chief Lanza would not provide an unbiased

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approach. He indicated that he had wanted an independent, outside source and felt that this would taint the process.

Mayor Pro Tem Clark stated that Chief Lanza had not only worked with the Broward Sheriff's Office, but he had served with the Miami-Dade Fire Department. Chief Lanza stated that he had served with Miami-Dade for 25 years before retiring. He indicated that he had also worked with the James brothers and attested to their qualifications as chiefs and firefighters.

Chief Lanza stated that he was uniquely qualified in this instance because he had the inside knowledge with both departments, as well as having knowledge of the contract between the Town and Broward Sheriff's Office. He assured the Commission that he was not biased for either department and would come up with the best options for the community. Chief Lanza had no objections to including this aspect of the job to his current contract, stating that he felt certain that all the requested studies could be performed within that fee structure.

Commissioner Silverstone agreed with Commissioner McIntee that there were certain biased individuals who should not be a part of this process. He indicated that the same biased review had been provided by the Fire Administrator Frank Buchert.

Commissioner Silverstone asked if Chief Lanza had any experience with other volunteer fire departments. Chief Lanza replied affirmatively, stating that he had worked with a volunteer fire department earlier in his career with Miami-Dade County, but advised that he had not evaluated a volunteer fire department.

Commissioner Silverstone was opposed to the hiring of Chief Lanza. Commissioner McIntee agreed, indicating that Chief Padden had provided an excellent report that stated that the major problem was the contract.

Mayor Parker stated that he agreed with Commissioner Silverstone that the Commission should not repeat its mistakes and stated that he was displeased with MGT's performance in their review of the Town's fire options. He took offense that Chief Lanza is prejudiced or biased, not believing the claims were true. Mayor Parker indicated that he had held several conversations with Chief Lanza and felt that he would provide the Town with an objective view of the options available with the Town's and the resident's best interest at heart.

Vice Mayor Yanni agreed with the comments on MGT, fearing that the Town would only receive a modified version of previous reports. He stated that he was sure that the James brothers were very qualified, but indicated that Chief Lanza knew the Town and the Volunteers. Vice Mayor Yanni stated that it was imperative that this review be made with the safety of the people in mind.

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Commissioner Silverstone stated that he could not believe that a third party could not be agreed to. He indicated that he was only looking to the facts and did not believe that Chief Lanza could provide an unbiased opinion. Commissioner Silverstone stated that volunteer fire departments were a different culture that worked differently, although the services were still very good.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to table this item.

Ms. Medina asked for clarification on the time certain. Commissioner Silverstone questioned how long it would take to obtain further proposals. Mayor Parker explained that upon return of the item, the current nominations would then be considered.

Commissioner Silverstone amended his motion to table this item indefinitely. Commissioner McIntee amended his second. In a roll call vote, the motion failed 2-3, with Mayor Parker, Vice Mayor Yanni, and Mayor Pro Tem Clark dissenting.

In a roll call vote regarding the nominations the vote was as follows: Mayor Parker, Lanza; Vice Mayor Yanni, Lanza; Mayor Pro Tem Clark, Lanza; Commissioner McIntee, MGT; and Commissioner Silverstone, MGT.

Mayor Parker advised that Chief Lanza was awarded the contract on a 3-2 vote.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to include the services in this contract with Chief Lanza's original \$80,000 contract.

Chief Lanza stated that he had no objections to the conditions. Ms. Medina asked for clarification if the contract had to be amended in any way as she had been under the impression the services being discussed had been included in the original contract. Mayor Parker stated that he had been under the same impression, but indicated that no amendment was needed. Commissioner McIntee stated that he had brought up this discussion again. Mayor Parker questioned this action, stating that it had been determined at the last meeting that reconsideration could not be heard.

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

Mayor Parker announced that the contract had been awarded to Chief Lanza as part of the original contract, with no increase in the cap. He thanked the James brothers for attending.

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- B. Discussion and/or action regarding the Town's Emergency Plan for hurricane relief (*Mayor Oliver Parker*)

Chief Lanza stated that he was in the process of reviewing the Town's documents regarding policies and procedures for hurricane preparedness and advised that a report would be forthcoming.

- C. Discussion and/or action regarding the selection of a special meeting date for the Town Manager to deliver the budget message for 2006-2007 (**staff recommending July 17, 2006**)

Mayor Parker stated that the Commission had agreed during the agenda conference to hold this meeting on July 19, 2006, at 6:00 p.m.

Vice Mayor Yanni made a motion, seconded by Mayor Pro Tem Clark, to set a special meeting for the Town Manager to deliver the budget message for July 19, 2006, at 6:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action regarding the selection of a workshop meeting date for Budget review (**staff recommending July 26 or July 27, 2006**)

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to set a workshop meeting to review the budget for July 26, 2006, at 6:00 p.m. In a roll call vote, all voted in favor.

- E. Discussion and/or action concerning proposed ordinance regarding unlicensed contractors (*continued from June 13, 2006*)

Mayor Parker asked to table this item to the September 12, 2006 meeting. There were no objections and the Mayor so ordered.

- F. Discussion and/or action regarding allegations made by Commissioner McIntee and David Beyer (*as requested at June 27, 2006*)

Mayor Parker stated that this item was pulled from the agenda on a 4-1 vote of the Commission.

- G. Discussion and/or action regarding the proposed referendum for terms and term limits (*Petition for referendum filed by the Citizens Initiative Committee*) (*Town Attorney James Cherof*)

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Attorney Cherof stated that the petition had been certified by the Supervisor of Elections as having a sufficient number of signatures, stating all that remained was for the Commission to decide whether this referendum would be placed on the ballot in November or request an earlier election date.

Mayor Parker stated that apparently some of the people proposing the amendment intended it to be retroactive and asked if this were true, would he be prohibited from voting. Attorney Cherof replied negatively, stating that Mayor Parker was required to vote.

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to schedule this referendum question for the November general election.

Mayor Parker asked if a "yes" vote constituted a waiver of any belief that the question might be illegal. Attorney Cherof replied negatively.

In a roll call vote, all voted in favor. The motion carried 5-0.

- H. Discussion and/or action regarding placing a straw ballot in November concerning the possibility of providing assessments for the cost of underground utilities (*Mayor Oliver Parker*)

Mayor Parker made a motion, seconded by Commissioner Silverstone, to hold a straw ballot on the question of whether the Town should spend the funds to put utilities underground.

Mayor Parker made a motion, seconded by Vice Mayor Yanni, to extend the meeting past 11:00 p.m. In a roll call vote, the motion carried 3-2, Commissioner McIntee and Commissioner Silverstone dissenting.

Commissioner Silverstone stated that the people had a right to vote on what they believed to be correct.

Commissioner McIntee stated that he was under the impression that Attorney Cherof had previously indicated that a straw ballot was illegal. Attorney Cherof disagreed, stating that the only issue previously discussed was whether an alternative provision of the referendum question, which was resolved by Special Act of the State legislature.

Commissioner McIntee asked who would prepare the referendum question and how the Commission could vote on it. Manager Baldwin expressed concern that a true estimated cost was not available for the Commission or the voters to consider. Lengthy

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discussion followed, with several options being offered. There was concern with the lack of information available for the residents' review.

Vice Mayor Yanni stated that perhaps the Town could run a straw ballot in the *Town Topics* to obtain a consensus and, if it appeared that the residents were interested a true straw ballot could be prepared. Mayor Parker stated that the language needed to advise residents that the cost could exceed \$50 million.

Vice Mayor Yanni made a motion to amend to place a straw ballot in the *Town Topics* to determine if the Town needed to work on a ballot concerning this matter. Mayor Pro Tem Clark seconded the motion.

Commissioner Silverstone felt this was a great way to obtain input from residents. Mayor Parker suggested that this item be televised and also be placed on the Town's website.

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

In a roll call vote on the amended motion, all voted in favor. The motion carried 5-0.

Mayor Parker asked to table the remaining items to the next agenda, with the exception of Town Attorney reports. There were no objection and the Mayor so ordered.

- I. Discussion and/or action regarding the addition of trash collection to ad valorem taxes (*Mayor Pro Tem Chuck Clark*)

This item was tabled to the next meeting.

- J. Discussion and/or action requiring three bids to be obtained for any Town contract over \$15,000 (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- K. Discussion and/or action adopting rules of procedures for making appointments to Town boards, limiting appointments to persons who have filed current applications (*Mayor Oliver Parker*)

This item was tabled to the next meeting.

- L. Discussion and/or action regarding solicitors of signatures for referendum issues to be registered with the Town Clerk, with all solicitors being identified for security (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

- M. Discussion and/or action regarding regulations on insurance coverage for paid solicitors or their employees going door-to-door for signatures, ensuring proper identification cards are issued by the Town for protection of residents (*Commissioner Jerry McIntee*)

This item was tabled to the next meeting.

**15. TOWN MANAGER REPORT**

- A. Municipal Services Department Monthly Report

This item was tabled to the next meeting.

**16. TOWN ATTORNEY REPORT**

Attorney Cherof stated that the Commission had, earlier in the meeting, approved Bryant Miller and Olive to review the fire assessment, while at the last meeting the Commission had tabled an issue with regards to GSG correspondence asking if the Commission wished to change anything on the assessment. He advised that all the information had been forwarded to Bryant Miller and Olive who had indicated that it would not be possible to review all the information for this year's budget, to have GSG leave things the way they currently were. Attorney Cherof asked for permission to inform GSG that the assessment should remain unchanged at this time.

Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, directing the Town Attorney to inform GSG that the Town's fire assessment should remain the same at this time. In a roll call vote, all voted in favor. The motion carried 4-0.

**17. ADJOURNMENT**

As there were no objections or any further business to discuss, Mayor Parker adjourned the meeting at 11:38 p.m.

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

ATTEST:

\_\_\_\_\_  
Alina Medina, Town Clerk

Date Accepted: \_\_\_\_\_

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **AGENDA CONFERENCE MINUTES**

Town Commission Meeting Room

*4501 Ocean Drive*

*Tuesday, July 11, 2006*

*6:00 P.M.*

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

The meeting was called to order by Mayor Parker at 6:05 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner Silverstone and Commissioner McIntee. Also present were Town Manager Robert Baldwin, Town Attorney James Cherof, and Town Clerk Medina.

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

The Pledge of Allegiance was recited.

#### **3. REVIEW AGENDA FOR REGULAR MEETING OF JULY 11, 2006**

There were no objections to the presentations and reports scheduled.

- 10A, Ordinance 2006-08, amending Ordinance 2005-18 to reflect that a referendum election will be conducted November 7, 2006
- 10B, Ordinance 2006-09, amending Ordinance 2005-20 to reflect that a referendum election will be conducted November 7, 2006

Mayor Parker explained that Town Attorney James Cherof had requested the amendments reflected in the ordinances, indicating that these two ordinances were basically housekeeping issues that would provide for an explanation as to why the two referendum questions did not appear on the March 2006 ballot. There were no objections.

- 11A, Contract with Bryant Miller & Olive P.A. for an independent review of the Town's fire assessment

There were no objections to the proposed contract.

- 11B, Contract for the paving of the new municipal parking lot located on State Road A1A and Bougainvillea Drive
- 11C, Contract for paving services at Leisure Towers

Vice Mayor Yanni questioned some differences between the three bids offered and questioned if all the bids met the Town's specifications. Town Engineer Kevin Hart replied that all three companies had received the Town's specifications, but indicated

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that he had not reviewed the responses. He offered to review the documentation prior to the regular meeting and update the Commission prior to its final consideration. He stated that the work completed would have to meet with the Town's specifications.

Vice Mayor Yanni pointed out that two of the three proposals included the fees for tree removal. He questioned the discrepancy. Municipal Services Director William Mason advised that representatives from Arrow had called to confirm if tree removal services would be needed and that he had advised to the contrary. He indicated that if the Commission chose another proposal, the total would be reduced in the amount quoted for tree removal.

Vice Mayor Yanni asked that items 11B and 11C be pulled from the Consent Agenda during the regular meeting for further review and discussion. There were no objections.

- 13A, regarding the assessing of properties for improvements made and completed in the past

Attorney Cherof advised that this could not be done. He indicated that he would provide a report during the regular meeting.

- 13B, regarding the Town having its own fire inspector/fire marshal

Mayor Parker stated that the Commission had requested that this item be further discussed. He suggested that further consideration be made during the workshop of July 25, 2006. There were no objections.

- 13C, regarding the hiring of two additional consultants for the positions of Town Engineer and Town Planner
- 13D, regarding the selection of members for the "Walk Around" Committee
- 13E, regarding Ordinance No, 2005-20, as it pertains to the referendum questions concerning the replacement of existing non-conforming buildings

It was agreed that the above items would be discussed with more detail during the regular meeting.

- 13F, regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for residential units [as referenced with duplex vs. single family residences]

Mayor Parker advised that he had been speaking with Tony Spadaccia regarding the newly imposed fees. He stated that duplexes had historically been charged the same fees as that of single family homes, yet the rates had recently been increased. Mayor Parker felt this was an oversight that needed to be repaired, if at all possible. He stated that Mr. Spadaccia had requested that this item be tabled to July 25<sup>th</sup> so that he could

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further discuss this matter with the company's management. There were no objections to tabling this item to the next meeting.

- 13G, regarding the current contract with Waste Management, Inc. and the possibility of seeking an amendment to the rates for commercial units

Commissioner Silverstone indicated that he, too, had been dealing with Mr. Spadaccia to determine if the commercial rates could be renegotiated. He felt it was important to ensure that the commercial rates did not create a burden to neighborhood businesses and believed that a more equitable distribution of costs was in order.

- 13H, regarding procedure to adopt home based occupational licenses for the residential areas on the southern side of Town and scheduling a referendum election

Attorney Cherof stated that the Commission had agreed that it wished to amend the existing ordinance to provide for home based occupational licenses in the southern areas of the Town. He explained that since the proposed change did allow for a change in property use, a referendum would be required. Attorney Cherof explained the two proposed ordinances, stating that the first would create the use, while the second would send the referendum to ballot. He further explained that the ordinance creating the use would not become effective until such time as the referendum was approved. There were no objections to proceeding with the approval of both proposed ordinances.

Mayor Parker advised that he would amend the agenda for the regular meeting to include proposed ordinances 2006-10 and 2006-11 under Ordinances, first reading as items 10C and 10D, respectively. There were no objections.

- 14A, regarding an impartial expert review of the Volunteer Fire Department's standard operating procedures and recommendation on fire suppression contract with the Town

Commissioner McIntee stated that he would prefer to discuss this issue during the regular meeting. He commended Manager Baldwin for ensuring that several resumes had been made available for the Commission's consideration.

- 14C, regarding the selection of a special meeting date for the Town Manager to deliver the budget message for 2006-2007
- 14D, regarding the selection of a workshop meeting date for Budget review

Some discussion followed concerning availability, with the Commission agreeing that the special meeting wherein the Manager would provide his budget message would be set for July 19<sup>th</sup> at 6:00 p.m. Additionally, the Commission agreed to hold its budget workshop on July 26<sup>th</sup>, at 6:00 p.m.

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- 14E, regarding a proposed ordinance concerning unlicensed contractors

After a brief discussion, the Commission agreed to table this item to the first meeting in September for further consideration.

- 14F, regarding allegations made by Commissioner McIntee and David Beyer

Commissioner McIntee questioned if this would be an appropriate item of discussion to be considered by the Commission. Attorney Cherof stated that this was not the correct forum to hold these types of discussions, indicating that members of the public could address the Commission during public comments. Mayor Pro Tem Clark agreed, stating that if either of the parties wished to pursue the matter, it should be done in a court of law. Vice Mayor Yanni agreed, adding that it was not proper to allow a member of the public to personally attack any Commissioner.

Commissioner McIntee claimed that he had been set up for this issue and believed that the Mayor was prejudice in his actions. Mayor Parker disagreed, reminding Commissioner McIntee that he had been the one to open the door to accusations by alleging to them first himself. Commissioner McIntee stated that due to the ongoing investigation he would be prohibited from discussing any of the allegations previously made.

In polling the Commission to determine whether this item should remain on the agenda for discussion, Commissioner McIntee requested he be allowed to abstain from voting. Attorney Cherof explained that it would be improper for Commissioner McIntee to abstain from voting in this matter and, in fact, that Commissioner McIntee had an obligation to vote on all issues presented to the governing body for consideration.

In a majority consensus, it was agreed that this item would be pulled from the agenda of the regular meeting. The consensus held 4-1, with Mayor Parker dissenting.

- 14G, regarding the proposed referendum for terms and term limits

Attorney Cherof stated that this issue was before the Commission for a determination as to whether the title would be included in the November ballot or, in the alternative, the Town wished to hold a special election prior to that time. Mayor Parker questioned if he would be permitted to vote on this matter even though the issue at hand requested retroactive term limits. Attorney Cherof replied affirmatively.

- 14H, regarding placing a straw ballot in November concerning the possibility of providing assessments for the cost of underground utilities
- 14I, regarding the addition of trash collection to ad valorem taxes

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It was agreed that the above issues would be discussed in more detail during the regular meeting; however, Mayor Pro Tem Clark requested that 14I be corrected to show trash collection added to special assessments.

Brief discussion followed, with the Commission agreeing that the remaining issues on the agenda would be addressed during the regular meeting.

**4. ADJOURNMENT**

Commissioner Silverstone made a motion to adjourn the meeting. As there were no objections and no other business to discuss, the meeting was adjourned at 7:01 p.m.

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

ATTEST:

\_\_\_\_\_  
Alina Medina, Town Clerk

Date Accepted: \_\_\_\_\_

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, June 27, 2006**

**7:00 P.M.**

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

The meeting was called to order by Mayor Parker at 7:17 p.m. Present were Mayor Parker, Vice Mayor Yanni, Mayor Pro Tem Clark, Commissioner McIntee and Commissioner Silverstone. Also present were Town Manager Robert Baldwin, Attorney James Cherof, and Town Clerk Medina.

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

The Pledge of Allegiance was recited.

#### **3. INVOCATION, TOWN CHAPLAIN**

Father Handrahan delivered the invocation.

#### **4. PRESENTATIONS**

- A. Deputy of the Month, Broward Sheriff's Office, District 13 (*Chief Scott Gooding*)

Chief Gooding introduced Deputy Maria Sosa as Deputy of the Month, stating that Deputy Sosa was instrumental with her work with the Citizens on Patrol and 211 programs. Chief Gooding advised that Deputy Sosa paid special attention to residents and their needs and went the extra mile to ensure those needs were met.

The Commission congratulated Deputy Sosa and thanked her for her services.

- B. People for Progress (*John Hart/Jim Cummings*)

Messrs. John Hart and Jim Cummings were not present.

- C. Atlantis Reef Society (*Dr. Scott Woodburn*)

Dr. Scott Woodburn and Dr. Michael Haley described the products being offered and presented documentation and proposals for the Commission's consideration. Mayor Parker asked if the cost to the Town consisted of the permits fees, with the Society obtaining funds to proceed with the project. Dr. Woodburn stated that the Society was searching for a Commission-based program. He explained that while the Society did not want to be a burden to the Town, it would require community involvement in order to

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move forward. He indicated that the Society would design and move forward with the project of completing a feasibility study. Dr. Woodburn explained that if the Town was interested, he and Dr. Haley would meet with the Town Manager and move forward with the implementation of the project.

Manager Baldwin stated that there was a competing reef project which had been approved by the Commission and asked if this project was in addition to the existing proposal. Mayor Parker replied affirmatively.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, directing that negotiations be held with the Town Administration to determine the next step.

Commissioner McIntee asked if there were any similar projects within the State of Florida. Dr. Woodburn replied negatively, but indicated that there was a smaller project that had just been installed in the Florida Keys. Commissioner McIntee asked what was the cost for fund-raising on behalf of the Town. Dr. Woodburn replied that the Society would obtain 10 to 15 percent for its education programs. Commissioner McIntee stated that he did not believe the Town should allow its name and its logo to be used for fund-raising while 10 to 15 percent of the proceeds were used for private industry. Dr. Woodburn advised that the Society was not in this business for the purposes of collecting funds, but agreed that as a not-for-profit organization it also required revenues to proceed with its projects and educational programs. Some discussion followed concerning the various programs for reef restoration.

Vice Mayor Yanni questioned how much it would cost the Town if insufficient funds were collected. Dr. Woodburn stated that he was unsure what the total cost would be. Mayor Parker explained that he had been under the impression that the Town only had to pay for the required permit fees.

In response to Commissioner Silverstone, Dr. Haley stated that maintenance of the reef project was recommended. He indicated, however, that he had no objections to training other individuals to take over the maintenance.

Mayor Parker asked for confirmation that the motion permitted the Town Manager to further discuss the project without approving funds. He felt that while he had no objections to diving into two projects, he did not want to fund two separate projects.

Mayor Pro Tem Clark amended his motion to include a provision that the Society meet with the Town Manager prior to further consideration, having the Society provide the Town Manager with a written business plan, copies of financial statements for the past three years, references providing the company's track record, a proposed three-year budget to the Town Manager prior to meeting for further discussions. Vice Mayor Yanni amended his second. In a roll call vote, the motion carried 4-1, with Commissioner McIntee dissenting.

## 5. REPORTS

### A. Budget Report for Period Ending May 31, 2006

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, to approve the budget report as presented. In a roll call vote, all voted in favor. The motion carried 5-0.

### B. Proposal for protocol to provide color palettes for site plan reviews (*Vice Mayor John Yanni/Michael Arker*) (*tabled from May 9, 2006*) (**Planning and Zoning Board recommends acceptance of the samples under the premises that it was a guide for suggested hues for commercial and multi family properties and not necessarily that of residential properties**)

Michael Arker provided samples of the color palette for the Commission's review. Brief discussion followed, with the Commission having a full consensus that the color palette would not include single family or duplex residences. Mr. Arker explained that the intensity of the colors could vary providing a large array of colors.

Commissioner McIntee made a motion, seconded by Vice Mayor Yanni, to adopt the color palette as presented for multi-family and commercial properties. In a roll call vote, all voted in favor. The motion carried 5-0.

### C. Report regarding "additional minutes" approved by the Commission for meters within the Town (*Municipal Services Director William Mason*)

Municipal Services Director William Mason stated that all Dunkin meters were set to provide ten minutes of additional time upon activation. He indicated that the ten minutes came into effect after the time ran out, prior to the meter appearing as expired. Manager Baldwin advised that Parking Enforcement personnel provided warning citations on all other meters.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, provide the additional ten minutes on all meters, Town-wide. In a roll call vote, all voted in favor. The motion carried 5-0.

## 6. APPROVAL OF MINUTES

- A. May 9, 2006, Regular Meeting
- B. May 23, 2006, Agenda Conference

Vice Mayor Yanni made a motion, seconded by Commissioner Silverstone, approving the minutes as presented. In a roll call vote, all voted in favor. The motion carried 5-0.

## 7. PUBLIC COMMENTS

David Beyer, 4305 Ocean Drive, stated that the accusations made by Commissioner McIntee were self-serving, slanderous, fraudulent, and misrepresented the truth. He asked for an investigation by the Town to review the allegations made and requested an opportunity to rebut the claims made. Mr. Beyer stated that he had been to the Federal Bureau of Investigations, filing a complaint for extortion. He distributed copies of a document, stating that while meeting with Commissioners McIntee and Silverstone in December, both had endorsed the square footage for the Holiday Inn. Mr. Beyer felt that the Commissioners had deceived the members of the Citizens Initiative Committee.

Mayor Parker asked that discussion and/or action regarding allegations made by Commissioner McIntee and David Beyer be included in the next agenda.

Cristie Furth, 4505 El Mar Drive, stated that she was speaking tonight as chairperson for the Citizens Initiative Committee's ad hoc committee for term limits and term lengths. She encouraged residents to vote in favor of term limits.

John Thompspon, 671 Lakeside Circle, Pompano Beach, thanked the Citizens Initiative Committee for their efforts on behalf of Town residents. He also spoke regarding the negotiations the Town Attorney was directed to hold with those individuals who had filed Bert J. Harris Act claims against the Town, expressing his belief that the Charter amendment allowed for conditional agreements to avoid these types of suits.

Mr. Thompson referenced the fire assessment and indicated that since it could be assumed that no changes would be made to the method in which the rates were established, he felt that the Town was in collusion to hide the facts in this matter. He indicated that in addition, the workshops to discuss fire suppression should be scheduled, ensuring that additional information was obtained from other fire and emergency medical service providers.

Ed Neil, 252 Corsair Avenue, addressed the sidewalks within his neighborhood, stating that the presentation provided last year had been simple and easy to pursue. He indicated that the plans had evidently changed, with a price increase to almost \$500,000. Mr. Neil expressed concern that the proposal would not provide continuity in aesthetics and felt that a meeting should be held where the residents could discuss their concerns with Mr. Walter Keller.

Mr. Neil also discussed the Volunteer Fire Department and asked that the Town allow them to continue their volunteer efforts. He indicated that he could not suggest that the Broward Sheriff's Office contract be terminated, as he did not have all the facts concerning this matter. He only felt that the Volunteers should be allowed to continue to serve the community.

Cindy Geesey, 256 Imperial Lane, requested that the Commission consider allowing the Property Owners Association to televise its upcoming meeting. She assured the Commission that the meeting would continue to be non-political, in a forum developed to be informational to all residents. Ms. Geesey briefly described the proposed agenda for the upcoming meeting and again asked the Commission to permit the televising.

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

There were no ordinances for second reading to be considered by the Commission.

**9. ORDINANCES (1<sup>ST</sup> Reading)**

There were no ordinances for first reading to be considered by the Commission.

**10. COMMISSIONER COMMENTS**

Mayor Pro Tem Clark advised that all plans for the Fourth of July festivities were well underway and briefly described the celebrations being planned. He invited all residents to attend.

Commissioner Silverstone thanked Mayor Pro Tem Clark for his work on the Fourth of July, including members of his committee which were diligently working to make this event a success. He also thanked Ms. Cristie Furth for her work on the referendum which had been put forth, expressing his belief that "we" were working for the people.

Commissioner Silverstone felt it had been proven that the safety clause against Bert J. Harris claims did exist within the Charter amendment.

Commissioner Silverstone referenced the recent statements sent out by Waste Management, stating that the corrected invoicing had not yet been provided to residents. He asked that the Town's administration take a look at this issue.

Commissioner Silverstone stated that the City of Plantation had donated an emergency medical unit to the Volunteers. He indicated that he was looking forward to discussing the fire issues that were coming up.

Commissioner McIntee stated that he had spent a lot of time within prisons and that he had never met an inmate that claimed to be there because he was guilty. He stated that he had contacted the Federal Bureau of Investigations several times and, although he was not allowed to discuss what was happening, he was fighting for everyone in the room. Commissioner McIntee advised that he had told the truth when he made his accusations and assured everyone he had "done his homework" before making the accusations. He claimed that the writing on the documentation distributed by Mr. Beyer was not his.

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Commissioner McIntee referenced a survey put out by the North Beach Civic Organization, stating it was biased and prejudiced. He indicated that the survey claimed that Town residents paid \$260 for fire and emergency medical services; however, he emphasized that the \$260 assessment was for fire suppression services only. Commissioner McIntee stated that the survey also contained a push poll, which in his opinion was developed only to place the Volunteers in a bad light. He felt that the survey also tried to make the Town's administration look poorly, believing that the administration was working hard for the community.

Commissioner McIntee stated that with regards to the Property Owners Association request to have their meeting televised, he would gladly vote in favor of it if the Commission agreed to televise all civic organization meetings. He referenced the regulations provided by Cindy Stoddard, of Comcast Communications, indicating that the regulations did not allow these types of meetings to be aired.

Vice Mayor Yanni asked if all organizations were permitted to use the government access channel. Manager Baldwin stated that the Commission had delegated that authority to him; however, since he did not approve such requests, the individual boards appealed to the Commission. Attorney Cherof stated that when the Commission allowed the use by one organization, the Commission opened the door for all other organizations to have access. He indicated that it made it difficult to avoid challenges by organizations that might not share the same views as the Town.

Vice Mayor Yanni apologized for not voting in favor of Sandra Booth as a member of the Master Plan Steering Committee. He indicated that his vote had no bearing on Mrs. Booth's qualifications and was sure that she would properly represent the Town and its residents.

Vice Mayor Yanni asked about the progress in reviewing the possibility of the Town obtaining its own inspectors. Manager Baldwin advised that staff was still working on this issue, but expected a report to be ready for the Commission's consideration in the near future. Vice Mayor Yanni indicated that he had received several complaints regarding the fire inspections, stating that individuals were claiming that unnecessary repairs and modifications were being required. Manager Baldwin advised that staff would look into this matter.

Vice Mayor Yanni stated that he had received notification that Thompson Craven would no longer serve as the Town's engineers and expressed concern for the drainage projects currently underway in Terra Mar Island. Kevin Hart explained that Craven Thompson would fulfill its current commitments with the Town, but would not serve as the Town's engineers. He promised to work through the transition process.

Mayor Parker wished everyone a happy Independence Day and thanked Mayor Pro Tem Clark and the Fourth of July Committee for their work in ensuring a spectacular event.

Mayor Parker stated that he had received several phone calls from residents who were not happy with the new contract with Waste Management. He indicated that there had been a change that he had not been aware of wherein duplexes were no longer treated as single family homes. Mayor Parker indicated that duplexes were now being charged commercial rates and asked that staff immediately look into this matter. He asked that this issue be addressed at the next agenda, seeking an amendment to the contract to ensure that this changed.

Mayor Parker stated that the Town had been informed by the Broward County Property Appraiser's Office, that assessed values would be raised approximately 25 percent. He felt that the millage rate needed to be lowered and encouraged the other Commissioners to seriously consider this matter.

#### **11. CONSENT AGENDA**

- A. **CONTRACT PROPOSAL:** to award bid for landscape maintenance

Mayor Pro Tem Clark made a motion, seconded by Commissioner McIntee, to approve the consent agenda. In a roll call vote, all voted in favor. The motion carried 5-0.

Mayor Parker reminded Mr. Mason to look into getting an extension for the Washingtonia Park.

#### **12. RESOLUTION**

- A. **RESOLUTION No. 2006-14:** A resolution of the Town of Lauderdale-By-The-Sea, Florida, supporting the South Florida Regional Transportation Authority's initiative to encourage the State Legislature to legislate a dedicated local funding source for transit in South Florida and Regional Transit Projects

Attorney Cherof read the resolution by title into the record.

Commissioner Silverstone made a motion, seconded by Mayor Pro Tem Clark, to approve the resolution. In a roll call vote, all voted in favor. The motion carried 5-0.

**13. OLD BUSINESS**

- A. Discussion and/or action regarding the proposed Capital Improvements Program for Fiscal Year 2006-2007 (*continued from June 13, 2006*) (Town Manager Robert Baldwin)

Manager Baldwin distributed a listing of the capital improvement projects. He indicated that in preparing the proposed budget, Mr. Hart had advised that the cost for the sewer projects had increased to \$4,468,163 for the Bel Aire area. Manager Baldwin advised that due to the increase in price, the budget had been revamped to provide funding for a large part of the capital improvements as mandated by the Commission. He indicated, too, that the costs of the sidewalk improvements on Seagrape Drive had increased to approximately \$500,000. Walter Keller indicated that \$500,000 may not be sufficient and suggested that the Commission could consider phasing the project. Manager Baldwin explained that the mandatory contract had been signed for beach renourishment, stating that if the \$700,000 from the lawsuit contingency was returned to the general fund, the Town could pursue these other projects.

Vice Mayor Yanni asked if the Bel Aire sewer project could be bid out in increments. Mr. Hart replied affirmatively, believing it might be possible to lock into the price for the project. Manager Baldwin advised that the funds were available to pursue this project as originally requested; however, he indicated that if the Commission wished to pursue other projects, staff would work with the direction provided.

Mayor Pro Tem Clark asked for confirmation that the budget was predicated by the amount of the millage rate. Manager Baldwin replied affirmatively, stating that he would be recommending a millage rate of 4.7 mills.

Commissioner McIntee did not believe that taxes would be lowered. He expressed concern that Mr. Hart had not kept the Town informed that the prices were increasing so rapidly. Commissioner McIntee stated that the cost for Palm Club had also increased from approximately \$1 million to \$2.95 million. He felt that further complications in Palm Club was that the Town did not own the roadway and, therefore, not only did the improvements go in, but the Town had to completely replace their private roadways. Commissioner McIntee stated that the same concept would be in place for the improvements to Sunset and expressed his belief that this was not an equitable distribution of the benefits.

Commissioner Silverstone asked why the Town was paying for the sewer improvements on the north side of Town. Mayor Parker explained that the improvements were a part of the annexation agreement. He explained that the increase in revenue added by the additional ad valorem taxes was essentially paying for the improvements. Commissioner Silverstone felt that the annexation agreement did not mean anything and asked if it was possible to retroactively charge the residents in that area for the

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costs of the improvements. Attorney Cherof did not believe it was possible, but offered to research the possibility. He explained the process for special assessments. Mayor Pro Tem Clark stated that it was time to stop dividing the Town, indicating that residents on the north side of Town also paid taxes to make improvements within the Town that were not direct benefits to them and their properties. Lengthy discussion followed.

Commissioner McIntee asked that discussion and/or action concerning the hiring of an additional Town planner and Town engineer be placed on the next agenda.

- B. Discussion and/or action regarding the traffic circle proposal for South Seagrape Drive (*continued from June 13, 2006*) (Town Planner Walter Keller)

After a brief discussion, this item was removed the agenda and tabled indefinitely.

- C. Discussion and/or action regarding the United States Postal Service's response to the Town's request for a unified zip code (Town Manager Robert Baldwin)

Manager Baldwin advised that all indications were that the United States Postal Service would not honor the Town's request.

- D. Discussion and/or action to create a "walk around" committee and appoint its members (Commissioner Jerome McIntee)

Based on discussions at the agenda conference, Mayor Parker tabled this item to the next meeting.

- E. Discussion and/or action regarding the cancellation of the contract between the Town and the Broward Sheriff's Office for fire services (Commissioner Jerome McIntee)

Commissioner McIntee stated that he would like Attorney Cherof to provide a presentation at the workshop meeting regarding fire issues. He stated that he was truly bothered by the idea that Sea Ranch Lakes paid only \$40,000 for their fire suppression and emergency medical services, feeling that Sea Ranch Lakes was piggybacking on the costs paid by the Town's residents. Manager Baldwin explained that the Town had negotiated its own contract with Broward Sheriff's Office and that the contract was specific that the Town was not to subsidize Sea Ranch Lakes. Commissioner McIntee reiterated his belief that the Town was subsidizing Sea Ranch Lakes. He felt it was criminal against Town residents and stated that he would send the State Attorney a complaint regarding this matter.

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Commissioner McIntee demanded that Battalion Chief John Frailey explain the differences between the contracts for the Town and Sea Ranch Lakes. Chief Frailey explained that he was not privy to contract issues with either municipality.

Commissioner Silverstone made a motion, seconded by Commissioner McIntee, to provide Commissioner McIntee with another three minutes to discuss this issue. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee stated that there was unfair distribution of costs, with Town businesses carrying the responsibility for payment. He felt that the Broward Sheriff's Office had violated the contract by subsidizing the costs of services to Sea Ranch Lakes by charging the Town's residents.

Attorney Cherof read into the record a part of the contract which indicated that the Town acknowledged that the Broward Sheriff's Office provided fire and emergency medical services to Sea Ranch Lakes and, that the parties agreed that the Town would not bear any of those costs. He explained that the Village of Sea Ranch Lakes was to pay a proportionate share of the costs for its own services. Mayor Pro Tem Clark stated that although he agreed that the costs were not equal, it was a not "a deep, dark secret". He explained that upon becoming a Commissioner, he had discussed this matter with Sheriff Ken Jenne who had explained that the contract in question had been negotiated prior to his becoming sheriff. Mayor Pro Tem Clark indicated that he had been assured that upon renewal, the contract with Sea Ranch Lakes would be renegotiated to ensure a proportionate payment of costs.

Commissioner Silverstone stated that the item of discussion before the Commission was the consideration of cancelling the Town's contract with the Broward Sheriff's Office. He indicated that the Town had adopted a resolution last year that indicated that the Town would support the Volunteer Fire Department working to become the sole fire suppression provider within the Town. Commissioner Silverstone stated that the Volunteers had worked hard, and "we deserve" to see that resolution come to an end.

Vice Mayor Yanni stated that the Volunteer Fire Department used to provide fire suppression services to the Village of Sea Ranch Lakes for a charge of \$10,000 yearly. He indicated that when the Volunteers raised the cost to \$25,000, Sea Ranch Lakes had opted to use the services of the City of Fort Lauderdale. Vice Mayor Yanni stated that under its contract with Fort Lauderdale, Sea Ranch Lakes was paying more for its public safety services than it was now.

Commissioner Silverstone stated that the Volunteers were prepared to currently take over fire suppression services within the Town. Vice Mayor Yanni questioned if the Volunteers had all the necessary equipment to protect the Town, asking if an aerial truck was needed to provide fire suppression to highrises. Commissioner Silverstone stated that although an aerial truck would be an asset, it was not necessary to provide

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fire suppression services. Vice Mayor Yanni asked what would occur with emergency medical services. Commissioner Silverstone replied that emergency medical services would just be contracted out to someone else.

Vice Mayor Yanni stated that Commissioners McIntee and Silverstone wanted to cancel the contract with the Broward Sheriff's Office concerning public safety services; however, he expressed his concern in considering this matter until the Commission was provided with detail information such as fiscal capabilities and proposals for the services required to maintain the same level of service. Commissioner Silverstone assured the Commission that the Volunteers could maintain the same level of services the Town was currently receiving from the Broward Sheriff's Office. Vice Mayor Yanni felt that the information needed to be studied to determine if the Volunteers could provide the public safety services the Town required. Commissioner Silverstone offered to provide bid information prior to the workshop meeting so the Commission could consider the information. He indicated that the Volunteers had been directed to follow the samples of the Plantation Volunteer Fire Department and felt that the Town's volunteers had accomplished that goal.

Commissioner Silverstone felt that residents were provided with wrong information with regards to the Volunteers capabilities and volunteerism around the country. He stated that the majority of all fire departments within the State were volunteer departments and felt that the Volunteers could make it work as well. Commissioner Silverstone indicated that maintaining the Volunteers was a great way to get the community involved and saving money.

Vice Mayor Yanni asked what were the plans for providing a proper fire station. Commissioner Yanni stated that with all the money saved, a new fire station could be constructed.

Mayor Pro Tem Clark stated that the Commission had discussed the scheduling of workshops and felt that workshops were needed to determine what progress had been made by the Volunteers. He emphasized the need to discuss issues such as accountability and fiscal responsibilities. Mayor Pro Tem Clark stated that it was important for the Town to have its consultant on board prior to holding the workshops so that the Town could have representation and an unbiased individual who could explain issues of concern to the Commissioners who were not well versed on the inner-makings of a fire department.

Commissioner McIntee felt that the workshops needed to begin immediately, with bids being collected during the month of August when the Commission took a break. He expressed concern that the hiring of Chief Chuck Lanza as the Town's representative would only serve to have the Volunteers placed in a bad light. Commissioner McIntee felt that the Volunteers and the Broward Sheriff's Office should be allowed to debate

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the issues. He felt the Town should put out requests for proposals to begin this process.

Vice Mayor Yanni asked if there was any possibility that the Broward Sheriff's Office and the Volunteers could work together. Commissioner Silverstone replied affirmatively, if the Broward Sheriff's Office downsized.

Mayor Pro Tem Clark noted the importance of having everyone understand that one workshop would not resolve this matter. He emphasized that everyone would need to be prepared to hold several workshops.

Mayor Parker stated that based on conversations during the agenda conference, it would appear that Chief Lanza would be hired as the Town's Fire Administrator. He felt it was important for the Town to have its own representation, allowing time for the services of the Broward Sheriff's Office and the Volunteers to be studied. Mayor Parker stated that perhaps 30 days was not sufficient and felt that maybe the workshops should be started in early September.

Mayor Parker made a motion to set a workshop in September. The motion died due to the lack of a second.

Commissioner McIntee made a motion, seconded by Mayor Pro Tem Clark, setting a workshop for July 25, 2006, from 6:00 p.m. to 7:00 p.m. In a roll call vote, all voted in favor. The motion carried 5-0.

Commissioner McIntee stated that the topic of discussion should include direction to the Town Manager to obtain request for proposals from other departments and private ambulance services.

Mayor Parker suggested that this issue also be placed on the following agenda for a regular meeting as no action could be taken during a workshop meeting. There were no objections.

- F. Discussion and/or action regarding the re-design and re-bidding of Jarvis Hall (*Town Engineer Kevin Hart*)

Mayor Parker stated that based on the discussions during the agenda conference, this item would be tabled indefinitely.

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- G. Discussion and/or action regarding the approval of selection for National Incident Management System (NIMS) Emergency Preparedness and Response consultant (*Town Manager Robert Baldwin*)

Manager Baldwin stated that based on Commission discussion, it had been agreed that a contractor would better serve the Town than an employee. He indicated that the services to be provided would include training for the National Incident Management System, emergency preparedness and response, as well as fire consulting to assist the Commission with its decisions.

Vice Mayor Yanni asked if there was an escape clause from the contract. Manager Baldwin stated that the contract was written so that the Town would only be obligated to pay for work performed. Attorney Cherof agreed, stating that the contract could be terminated at any time.

Mayor Pro Tem Clark asked Chief Lanza if he had any objections to placing a cap on the contract in the amount of \$80,000. Chief Lanza had no objections, stating that the cost of the contract would depend solely on the amount of work the Commission wished to have completed. Mayor Pro Tem Clark stated that he had no objections to raising the cap if the Town felt additional work was necessary.

Mayor Pro Tem Clark made a motion, seconded by Vice Mayor Yanni, to approve the contract, with a cap of \$80,000.

Commissioner Silverstone asked how much it was expected to cost for the NIMS training. Chief Lanza indicated that costs would be kept to a minimum whenever possible. He advised, however, that all first responders, which included most of the regular employees, as well as all supervisory level employees, would require training. Chief Lanza offered to take a look at the specifics for the Town and provide some ideas within a week or two. He reminded the Commission that compliance had to be obtained by the end of the current fiscal year. Lengthy discussion followed.

Commissioner Silverstone stated that he had not been pleased with the previous Fire Administrator, believing him to be biased against the Volunteers. He indicated that he would not agree to any Fire Administrator that he did not believe was a qualified, third party who had no connections with the Broward Sheriff's Office.

Commissioner McIntee stated that the Volunteers had sat at a computer and taken the required tests. Chief Lanza reminded Commissioner McIntee that as a supervisor within the fire department, he was required to take the supervisory tests as well. He questioned if the protocols and procedures had been updated. Commissioner McIntee replied negatively. Chief Lanza explained that this was one of the areas that he would be reviewing for the Town to ensure compliance. Commissioner McIntee stated that "we" were looking for the minimum compliance to the requirements. Chief Lanza

explained that it was important to ensure that the personnel had the knowledge necessary to support the Town in the event of a disaster.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, to table this item for two weeks. In a roll call vote, the motion failed 2-3, with Mayor Parker, Vice Mayor Yanni, and Mayor Pro Tem Clark dissenting.

Commissioner Silverstone offered the services of the Volunteer Fire Department to provide NIMS compliance training to all the employees of the Town. He indicated that the training would be free of charge to the Town.

In a roll call vote, approving the contract with a cap of \$80,000, the motion carried 3-2, with Commissioner McIntee and Commissioner Silverstone dissenting.

Commissioner McIntee asked that this item be placed on the next agenda for reconsideration to re-review Chief Lanza's contract and a specific report on what he will do regarding the fire evaluation. Mayor Parker indicated that Commissioner McIntee was not on the prevailing side of the motion and, therefore, a motion for reconsideration could not be considered. Attorney Cherof agreed.

#### **14. NEW BUSINESS**

- A. Selection of two alternate members for the Board of Adjustment to fill vacancy (*term expires on April 30, 2008*) (*two members chosen by Commission to serve on the Master Plan Steering Committee*) (*next Commissioner in line to make an appointment is Mayor Pro Tem Clark*)

Mayor Parker stated that James Pollack was a sitting alternate on the Board of Adjustment. He indicated that there were two seats that needed to be filled.

Mayor Pro Tem Clark nominated David Gillman. Mayor Parker seconded the nomination. In a roll call vote, the nomination failed 2-3, with Vice Mayor Yanni, Commissioner McIntee, and Commissioner Silverstone dissenting.

Mayor Parker nominated Dennis Ritchie. Mayor Pro Tem Clark seconded the nomination. In a roll call vote, the nomination failed 2-3, with Vice Mayor Yanni, Commissioner McIntee, and Commissioner Silverstone dissenting.

Vice Mayor Yanni nominated Helen Swinghammer. Commissioner McIntee seconded the nomination. In a roll call vote, all voted in favor. The nomination carried 5-0.

Commissioner McIntee nominated Robert Perkins. Commissioner Silverstone seconded the nomination. In a roll call vote, the nomination carried 4-1, with Mayor Parker dissenting.

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Mayor Parker explained that the only reason he was dissenting was that he did not know Mr. Perkins and a proper application had not been submitted for Commission review.

- B. Discussion and/or action regarding fire assessment information request by Government Services Group, Inc. (*Town Manager Robert Baldwin*)

Mayor Parker indicated that based on discussions held during the agenda conference, he was tabling this item to the next meeting.

- C. Discussion and/or action regarding more than one motorcycle to a parking space (*Mayor Pro Tem Chuck Clark*)

Mayor Pro Tem Clark made a motion, seconded by Commissioner Silverstone, allowing a maximum of one automobile or two motorcycles or like vehicles to be allowed in a parking space. In a roll call vote, all voted in favor. The motion carried 5-0.

- D. Discussion and/or action regarding donation of fire apparatus from the City of Plantation (*Commissioner Jerry McIntee*)

Commissioner McIntee stated that he was honored to announce that the Plantation Volunteer Fire Department had donated a Freightliner emergency vehicle to the Volunteers, with a price exceeding \$50,000. He indicated that the vehicle had been completely overhauled, including new tires and brakes. Commissioner McIntee stated that the Volunteers did not have enough equipment. He explained that the vehicle would be used for a manpower squad and, when the Volunteers became the sole provider, the vehicle would be used as a support ambulance vehicle. Commissioner McIntee offered a promise that if any resident needed a ride to the hospital or a nursing home, a ride would be provided free of charge.

Commissioner McIntee stated that the Volunteers had created such a good reputation that even the paid fire departments were offering assistance. He said it was an honor and privilege to receive such acclaim from chiefs all over the county.

Commissioner McIntee stated that the Volunteers were going to sustain the complete cost of that ambulance without using tax dollars. He asked the Commission to direct Manager Baldwin to allow "us" to use the diesel fuel from Town to reduce some of the expense to the Volunteers. Commissioner McIntee felt that this was the type of assistance the Volunteers needed in order to continue pursuing the goals set by the resolution adopted by the Town.

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Mayor Parker stated that the Lauderdale-By-The-Sea Volunteer Fire Department was a private organization that did not need the Commission's approval to accept a donation nor did the Commission have the authority to accept a donation on its behalf.

Discussion followed concerning the consideration of donating fuel to the Volunteers, with Attorney Cherof reminding the Commission that this was not the item for discussion on the agenda. Commissioner Silverstone asked that discussion and/or action regarding the donation of fuel to the Volunteers be placed on the next agenda.

Commissioner Silverstone requested that discussion and/or action regarding the reconsideration of the contract for hurricane preparedness be placed on the next agenda. Mayor Parker explained that Commissioner Silverstone was not on the prevailing side of that motion and, therefore, could not make a motion to reconsider the item. Attorney Cherof agreed.

E. Discussion and/or action regarding home based occupational licenses  
(*Commissioner Jim Silverstone*)

Commissioner Silverstone stated that home occupational licenses were allowed within the northern section of Town and believed that this item should be considered for the southern section of the Town.

Mayor Parker had no objections to the proposed ordinance, but requested a modification on Page 2, paragraph 3. He asked that the paragraph end with "a home occupation shall be conducted at the licensed address only by residents of that dwelling unit." Mayor Parker indicated that if the remainder of the sentence was removed, he had no objections to the approval of the ordinance. Brief discussion followed.

Commissioner Silverstone made a motion, seconded by Mayor Parker, to prepare the ordinance for first reading as amended. In a roll call vote, all voted in favor. The motion carried 5-0.

F. Discussion and/or action regarding the televising of the next Property Owners Association meeting, scheduled for July 12, 2006 (*Mayor Pro Tem Chuck Clark*)

Mayor Pro Tem Clark made a motion, seconded by Mayor Parker, to allow the televising of the next Property Owners Association meeting.

Commissioner Silverstone stated that he would have no objections to the request, as long as the meeting was taped and reviewed for content prior to televising. Attorney Cherof did not believe this would present a problem. Manager Baldwin asked who would be reviewing and editing the meeting, stating he did not feel comfortable making the decision as to what might be considered political. Vice Mayor Yanni agreed that as

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long as there was no political content, he had no objections to the meeting being televised.

Commissioner McIntee stated that he would prefer that everyone be permitted to use the government access channel.

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

- G. Discussion and/or action regarding the newly appointed Master Plan Steering Committee and the direction it should pursue on behalf of the Town (*Commissioner Jerry McIntee*)

Sandra Booth, Chairwoman of the Master Plan Steering Committee, requested a workshop with the Commission to ensure that the goals being pursued by the Committee were in compliance with the wishes of the Commission. She felt that it was vitally important that the Commission continue to move forward with project development to enhance the quality of life and protect the investments of the Town. Ms. Booth stated that the Committee had already met once and would be meeting again tomorrow as its membership believed it was important to identify its goals quickly.

After a brief discussion, the Committee agreed to discuss a workshop meeting in September. There were no objections.

- H. Discussion and/or action concerning parking on Commercial Boulevard (*Municipal Services Director William Mason*)

Mr. Mason stated that the Commission had requested a review of the parking meters for the area west of Seagrape Drive, within the strip malls. He indicated that the idea was to provide each of the merchants/retailers with a couple of bags that could be used during work hours and being removed after regular business hours. Mr. Mason explained that after reviewing the policy, it was determined that perhaps free parking should be provided between the hours of 9:00 a.m. and 5:00 p.m. within those areas.

Mayor Parker expressed concern that providing blanket free parking would take control away from the business owners. He indicated that providing the bags would at least provide some control as to who parked in the area. Mr. Mason explained that control could not be given to the merchants as the Town was not able to lease public property for the exclusive use of an individual.

Commissioner McIntee preferred Mr. Mason's suggestion, stating that he had spoken with the merchants who were happy with the offer. He explained that a two- or four-hour maximum parking limit should still be enforced. Commissioner Silverstone agreed that it would be easier to not enforce parking in the area during the specified time. Vice

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Mayor Yanni agreed with the two-hour parking limit.

Commissioner McIntee made a motion, seconded by Commissioner Silverstone, directing the Town Attorney to change the ordinance to suspend parking enforcement from 9:00 a.m. to 5:00 p.m. west of Seagrape Drive, with two- and four-hour parking limits. In a roll call vote, all voted in favor. The motion carried 5-0.

**15. TOWN MANAGER REPORT**

Manager Baldwin advised that he had no reports for the Commission's consideration.

**16. TOWN ATTORNEY REPORT**

Attorney Cherof advised that he had no reports for the Commission's consideration.

**17. ADJOURNMENT**

Commissioner Silverstone made a motion to adjourn the meeting. As there were no objections or any further business to discuss, the meeting was adjourned at 10:31 p.m.

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

ATTEST:

\_\_\_\_\_  
Alina Medina, Town Clerk

Date Accepted: \_\_\_\_\_

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

**Town Commission Meeting Room  
Tuesday, May 11, 1999  
7:00 p.m.**

**4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308**

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

Mayor Oliver Parker called the regularly scheduled meeting to order at 7:00 P.M. Members present were Vice-Mayor Fontaine, Commissioner Wessels, Commissioner Waller and Commissioner Yanni. Also in attendance were Town Manager Robert Baldwin and Town Attorney James Cherof.

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

**III. INVOCATION (Town Chaplain Howard Westin)**

Town Chaplain, Howard Westin lead the Invocation.

**IV. PRESENTATION – Proclamation “Fight Financial Fraud Week”**

Mayor Parker said the Town received a letter from the Office of the Comptroller for the State of Florida. This letter stated on February 23, 1999, Governor Jeb Bush and the Cabinet passed a Resolution declaring, May 9 through May 15, as “Fight Financial Fraud Week”. Mayor Parker continued to say this Resolution recognizes the massive problem faced by Law Enforcement in trying to protect the citizens of Florida from this enormous problem. All the sister Broward County communities have been asked to recognize this important initiative by way of individual Proclamations or other suitable endorsements. These Proclamations will be displayed for the media during “Fight Financial Fraud Week” at a major seminar event on May 13<sup>th</sup>. Officials from Washington D.C. as well as high ranking law enforcement officers and administrators will panel a day of workshops in hopes of educating our citizens about fraudulent financial crimes and how they can keep from being victimized.

Mayor Parker read the Proclamation for “Fight Financial Fraud Week”.

**V. REPORT – Chamber of Commerce Monthly Report**

Mr. Carl Watson, Executive Director of the Lauderdale-By-The-Sea Chamber of Commerce reported to the Commission that for the month of April, 1999, the Chamber of Commerce had 691 walk-ins (YTD 3,295), 153 visitor guides were mailed (YTD 642), there were 53 diving inquiries (YTD 133), there were 8 relocation inquiries (YTD 35), there were 24 car rental inquiries (YTD 113), and there were 307 phone inquiries (YTD 958). Mr. Watson told the Commission there has been a new item added to the report for The Florida Welcome Center Distribution. Mr. Watson said the Chamber of Commerce sent 3,000 visitors guides to the Welcome Centers. There were 2,500 of these visitors guides distributed in April. Mr. Watson said the total traffic for the month of April was 3,736 (YTD 76,076). Mr. Watson reported there were 28,199 Website hits (YTD 108,847).

Mr. Watson said the Chamber of Commerce has received word from the Southeast Tourism Society that OceanFest was recognized as one of the top twenty events in the Southeast in September.

Mr. Watson said the Chamber of Commerce is in the process of putting up two information visitor's signs on the north and south end of the property in order to increase traffic into the Welcome Center. Mr. Watson reported they are also working on the I-95 Welcome Center signs, which will hopefully, be up by July.

#### **VI. APPROVAL OF MINUTES – Regular Commission Meeting of April 27, 1999**

Mayor Parker asked if there were any additions, deletions or corrections to the Regular Commission Meeting Minutes of April 27, 1999.

There were no additions, deletions or corrections to the Regular Commission Meeting Minutes of April 27, 1999 and Mayor Parker asked for a motion to approve.

Commissioner Yanni motioned to approve the Regular Commission Meeting Minutes of April 27, 1999. The motion was seconded by Commissioner Wessels.

Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

#### **VII. PUBLIC COMMENTS**

##### **A. General Public Comments**

Marc Furth of 4525 El Mar Drive told the Commission that for the last twenty-five years he has had the experience of picking up Sea Turtles off El Mar Drive and A1A. Mr. Furth said these turtles are like little wind-up toys and are so cute and they have a mission to get to the ocean. Mr. Furth said, as we all know, because of the lighting, they go the wrong way. Mr. Furth continued to say the state already has a lot of these laws but they don't have the manpower to actually enforcement these laws.

Mr. Furth said last week he saw a T.V. report about Pompano Beach and how they had enacted their own ordinance. Mr. Furth said he had obtained a copy of that ordinance from the City of Pompano Beach and said he feels this is something that is necessary and would like to see this enacted in Lauderdale-By-The-Sea. Mr. Furth said he had contacted the Florida Department of Environmental Protection and received a manual on

how it is done. Mr. Furth said it might be complicated at first, but once it is in place, it is not that difficult to enforce. Mr. Furth requested the Town look into this.

Mayor Parker asked Mr. Furth to provide the Clerk with the information he has obtained. Mayor Parker asked the Commission if they would be interested in pursuing this request.

It was decided by Commission consensus to look into the possibility of enacting an ordinance to protect the Sea Turtles.

Mayor Parker asked the Clerk to make a copy of the Pompano Beach ordinance for all the Commissioners and the Town Attorney.

Mayor Parker asked Town Attorney Cherof if he could review the ordinance and give his comments at the next meeting.

Town Attorney Cherof responded yes he would.

Joe Vogl of 4645 Bougainvillea Drive told the Commission that he received a parking ticket this week for being in violation of Code Section 19-21c which is the parking of commercial vehicles on private or public property. Mr. Vogl said he has parked the vehicle there for seven months and has never had a complaint or previous ticket. Mr. Vogl said he has no signage, lettering or outward indication that this is a commercial vehicle. Mr. Vogl said this vehicle is a Ford Cargo Van (F-150). Mr. Vogl continued to say there are several of these vehicles in Town and he is sure that he is not the only one who received a ticket. Mr. Vogl said he researched the Code Section under which he received the ticket and could see the definition of commercial vehicles is quite broad and could include several vehicles that we might not think are commercial vehicles. Mr. Vogl said these vehicles could include those used for hotel transportation, rental vehicles, and pick-up trucks above the tonnage referred to in the ordinance. Mr. Vogl told the Commission he thinks the ordinance is a good one but he thinks the scope which it reaches is way too far. Mr. Vogl said the van he has now is the only vehicle he has and the only method of transportation he has. Mr. Vogl asked the Commission to suspend enforcement of this particular ordinance until the definition of commercial vehicle is further defined. Mr. Vogl said if this is not done, he is certain there are many vehicles within this community that were not ticketed and he would like to discuss this with whomever is responsible for enforcement.

Mr. Vogl said the code section has been effective since the 1960's, without revision. Mr. Vogl believes it is time to look at the ordinance and narrow down what kind of vehicles the Town wants parked here and which ones we don't. Mr. Vogl said he is aware this is on the agenda for discussion and he certainly recommends the Commission take whatever action is necessary to further define this issue.

Mayor Parker said this issue will be discussed later in the meeting and asked Town Manager Baldwin to explain the policy at that time.

Ken Wensel of 4623 West Tradewinds Avenue requested the Commission reconsider it's position on home business licensing. Mr. Wensel said the opportunity that is denied to the residents, along with the potential expense of not allowing home licenses, demands that this issue receive proper consideration. Mr. Wensel said it would not surprise him if many residents currently maintain offices in their homes and claim deductions for the cost

of this office. Mr. Wensel said it would be a shame for the resident to lose this if you cannot deduct the cost of an office you are not allowed to have.

Susan Beatty of 230 Garden Court thanked the Village Pump for a fantastic street party. Ms. Beatty also thanked the Volunteer Fire Department and the Kiwanis Club for their labor.

Ms. Beatty stated she wanted to comment on the attitude of several members of the Commission regarding the home occupation licensing. Ms. Beatty complimented Commissioner Waller for not allowing this important matter to die. Ms. Beatty said that some, as officers of the court, have a duty to uphold the law. Ms. Beatty said merely keeping home occupations illegal in residential neighborhoods in order to control potential abuse is, at best, ridiculous. Ms. Beatty said whether the Commission wishes to acknowledge it or not, this is the Cyber Age and companies as well as individuals are finding it more cost effective to work from home. Ms. Beatty said she does not know why the Commission feels it is necessary to resist this change that is sweeping the Country. Ms. Beatty said it is time for Lauderdale-By-The-Sea to step into the 20<sup>th</sup> Century, especially since we are on the brink of the 21<sup>st</sup> Century. Ms. Beatty said home occupations are a way of life; the IRS recognizes, this, and has relaxed the standards for deductions associated with this phenomenon.

Ms. Beatty said the continued ticketing of trucks that have been rented for the purpose of private residential moves is a complete travesty. Ms. Beatty asked why the Town is continuing to enforce an outdated ordinance. Ms. Beatty urged expeditious action regarding this matter and said it has been dragging on for some time now. Ms. Beatty urged the Commission to suspend enforcement of the ordinance until the amendment proceedings are complete.

Cristie Furth of 4525 El Mar Drive told the Commission she is speaking to them regarding the sign ordinance. Ms. Furth said she understands the need in Lauderdale-By-The-Sea for a revision of the sign code. Mrs. Furth said she does not agree with Mr. Keller's uniform approach to resolving the problem. Mrs. Furth said Mr. Keller's interpretation that all pole signs are an eyesore and must be eliminated from the Town is out of touch with reality. Mrs. Furth said the majority of the pole signs represent the guest lodging industry whose properties are in the RM-25 Zoning District. Mrs. Furth said RM-25 Zoning requires a building be set back twenty-five feet from the sidewalk. Mrs. Furth said, in addition, most of these businesses have back out parking at their properties to accommodate their guests. Mrs. Furth said all potential customers will be in vehicles, moving along the street. Mrs. Furth said Mr. Keller's proposal will require the potential customer, from a moving vehicle, to search the building face to discern if it is a condominium, residence or motel or, possibly, spot a monument sign sandwiched between parked cars in the parking lot. Mrs. Furth said any number of normal size vehicles will completely obscure a six foot high monument sign, thereby limiting the businesses from reasonably and justifiably advertising to potential customers. Mrs. Furth said Lauderdale-By-The-Sea is an established community with unique conditions that require creative attention and problem solving. Mrs. Furth said restricting personalized creativity by forcing all signage to be a six foot high, rectangular wall, with three colors, including black and white, will do nothing to enhance the charm of Lauderdale-By-The-Sea. Mrs. Furth said it is important to allow each property to individualize itself within certain parameters. Mrs. Furth said with the currently proposed sign ordinance, the Aruba rooftop sign, the Town entrance pole signs and the historical Anglin Fishing Pier

Pole sign will have to be removed. Mrs. Furth told the Commission that many of the signs are tasteful and appropriate and serve their businesses well. Mrs. Furth asked the Commission to work with the business community rather than disregarding what does work and dictating uniformity.

John Torrenga of 4525 El Mar Drive commented that the noise ordinance is a good one and very easily understood. Mr. Torrenga said the past evening the Villas By The Sea had a band to begin playing at 7:00 P.M. and they continued to play for three hours. Officers went to the property on three different occasions and the music was never turned down. Mr. Torrenga said at 10:20 P.M. the music was finally turned off. Mr. Torrenga said at 10:45 P.M. the music started again. Mr. Torrenga said according to the noise ordinance the music should have been stopped at 9:30 P.M. Mr. Torrenga stated the Police should know the ordinance and enforce it.

Mayor Parker stated there have been complaints regarding the noise at establishments in Town and asked Chief Patten why his department is not able to do much about it.

Chief Patten stated he had spoken to the officers about this incident and he was told by the officers they could not hear the music. Chief Patten said the officers asked for cooperation and the music was turned down. Chief Patten said, finally, after the third call a Notice To Appear was issued.

Mayor Parker said approximately one week ago, the Blue Moon Restaurant had a generator going at 10:00 at night and placed it as far away from the restaurant as possible. Mayor Parker said this put the location of the generator right at the bedroom window of one of our residents at West Tradewinds Avenue and Neptune Avenue. Mayor Parker said complaints were made and police responded and issued a Notice To Appear but the restaurant refused to shut the generator down and the noise went on. Mayor Parker asked Chief Patten what can be done.

Chief Patten said a situation like this is a very touchy matter.

Town Manager Baldwin told the Commission this has been clarified in the procedures that will be presented to them later on in the night. Mr. Baldwin continued to say that in this particular situation, the police were called. There was no procedure in place at that time, however a ticket was issued. Mr. Baldwin said it will be set up in the future, so these mechanical type noises will be handled by code enforcement and intermittent noises will be handled by the Police Department. Mr. Baldwin said this will be discussed in more detail later in the meeting.

Joe Couriel of 222 North Tradewinds Avenue said he is representing the Citizens Action Committee and extended an invitation to the next meeting to be held May 24<sup>th</sup> at 7:30 P.M. in Jarvis Hall. Mr. Couriel said the agenda for this meeting will include code enforcement issues. Mr. Couriel said the guests at this next meeting would be Community Services Director Bill Mason, Code Enforcement Director Daniel Stallone and Captain Tom Eastwood.

Warren Meretsky of 4560 West Tradewinds Avenue said there seems to be a lot of interest about his famous wall and he thinks there is a lot of misconception about his pending lawsuit. Mr. Meretsky said for those who are interested, he would like to clarify what the current status is. Mr. Meretsky said he keeps hearing that he has sued the

Town but believes that many residents of Lauderdale-By-The-Sea are not aware of the circumstances that led to the filing of the lawsuit. Mr. Meretsky said in February, 1998 he was granted a variance to construct a wall and three of those Commissioners who voted yes are sitting before you this evening; Mr. Parker, Mr. Yanni and Mr. Fontaine. Mr. Meretsky said in September of last year, after 90% of the wall was complete and only the decorative detail remained, he was informed that the wall had become controversial. Mr. Meretsky said that Commission discussed it for a while and nothing was resolved. Mr. Meretsky said, in fact, he, his wife, Mr. Baldwin and Mr. Cherof met in closed session. Mr. Meretsky said they were unable to resolve anything, because if he recalled the conversation, Mr. Cherof said he had no power to act on behalf of the Commission. Mr. Meretsky said, subsequently they spoke with Mr. Baldwin on the telephone. Mr. Baldwin said the Town was going to file a lawsuit against them to allow the members of the Commission to convene behind closed doors. Mr. Meretsky said without a lawsuit, the Commission cannot meet privately. However, Mr. Cherof was not available at that particular time to file the suit, therefore to expedite the situation, they asked if they should contact their attorney to file the suit. Mr. Meretsky said he incurred all costs with the intent of allowing the Commissioners to deal with this matter privately and hopefully resolve it once and for all, without the pressure of a public forum. Mr. Meretsky stated that is why the Meretsky's are now quoted as suing the Town. Mr. Meretsky asked Mr. Baldwin if this was correct.

Town Attorney Cherof recommended the Commission and the Administration not respond to any questions on this subject matter because there is a lawsuit pending.

Mayor Parker stated on the advise of the attorney he so directs.

Mr. Meretsky continued to say, obviously, the Commission could not resolve this and now a judge must decide the fate. Mr. Meretsky said for everyone's edification, your Commissioners, have spent, to date, over \$6,000 of taxpayers money and we're just getting started. Mr. Meretsky said it is real easy to spend when you don't have to write checks from you own pocketbook. Mr. Meretsky said he must point out that the three Commissioners who voted for the variance, have reneged. It's too bad they didn't decide to change their minds during the thirty day appeal period before I spent so much money to improve my property, which his neighbors are real happy about. Meretsky said one of the Commissioners has said to him he wished he hadn't given permission for the wall, for the variance. Mr. Meretsky said he does not have the same luxury. Mr. Meretsky said he can't call Jane Carroll's office and tell her that I want to change my mind on my vote.

Mr. Meretsky said the fact that he literally has to pay for a change of mind is ludicrous. Mr. Meretsky said these actions are patently irresponsible and indefensible. Mr. Meretsky finished by saying, now, he hopes everyone listening understands the circumstances that led to the lawsuit and if anybody has any questions, they can go over to his wall, he'll let down the drawbridge over the moat and talk.

Mae Gibson of 4540 Ocean Drive, stated everyone is interested in having more parking at their businesses and Mr. Keller is suggesting monument signs that will take parking away. Mrs. Gibson said no one is going to be able to see a monument sign from the street.

Allan Gibson of 4540 Ocean Drive said he wanted to discuss item C regarding the sign ordinance proposed by Walter Keller. Mr. Gibson said the monument signs look very nice and it enhances the property of the larger businesses and hotels. Mr. Gibson said the

smaller businesses and hotels cannot afford monument signs. Mr. Gibson thinks the proposal is not a good proposal for our Town.

#### **B. Comments from Citizens Action Committee**

John Thompson of 4900 North Ocean Boulevard told the Commission he is going to speak on behalf of the Citizens Action Committee. Mr. Thompson thanked the Commission for their generosity and letting him speak for fifteen minutes. Mr. Thompson said the purpose of the Citizens Action Committee, as stated in their By-laws, is to encourage actions and policies of the Town Government which protect and enhance the quality of life for Town residents and monitor performance of Town Officials in that regard. Mr. Thompson said in order to accomplish this, they try to inform members of important issues that are coming up that are going to affect the future of the Town.

Mr. Thompson told the Commission the issue they have been addressing is Redevelopment. Mr. Thompson said the group has been helped by getting input from Walker Keller and the Planning and Zoning Board. Mr. Thompson said the Citizens Action Committee has addressed a number of its own issues and the members decided they did not want to support any positions that did not have a large majority behind them.

Mr. Thompson said he is not sure what the Redevelopment Plan is now. There has been a revised plan since the original was presented. Mr. Thompson stated the groups position refers to the initial plan not to the revised plan.

1) Mr. Thompson said regarding to the Mediterranean Village, the committee favors the position of preserving long established traditional Lauderdale-By-The-Sea businesses by opposing the proposed extension of the Silver Shores Waterway, north to Commercial Boulevard.

2) Mr. Thompson said the committee supports renovation and possible modifications, such as uniform décor of existing buildings along the western portion of Commercial Boulevard rather than their condemnation and replacement of completely new developer concept buildings. Mr. Thompson said he understands the point has been made there is no specific proposal for the condemnation of these buildings. Mr. Thompson continued to say on the other hand it begs the question, how is it proposed to get rid of these buildings that there are now, if not by condemnation. Mr. Thompson said this needs to be made a lot clearer so people can judge for themselves whatever exists in lieu of condemnation.

3) Mr. Thompson said regarding the Marina Village, the committee's position is to preserve the existing luxury homes, in the proposed Marina Village District, and to encourage construction of similar individual, prestigious, high quality private homes, rather than their condemnation.

4) Mr. Thompson said regarding the Residential/Office District, the committee favors maintaining the existing residential character of the Town, rather than encouraging the creation of further mixed residential office space.

5) Mr. Thompson said the committee opposes the closing of West Tradewinds Avenue.

6) Mr. Thompson said the committee wants the number and character of the proposed entry gates and landscape features to be carefully evaluated to be sure they do not interfere with Town residents use of long established access routes.

7) Mr. Thompson said the committee strongly supports the proposed drainage, landscaping and sidewalk improvements along Bougainvillea Drive, Seagrape Drive and Washingtonia Avenue. Mr. Thompson said the committee also feels the other proposed sidewalk improvements in the western portion of the Town should be made but subject to prior approval of local residents.

8) Mr. Thompson said the committee opposes any permanent alteration of the streets to accommodate a tract trolley.

9) Mr. Thompson said regarding the Beach Village District, the committee strongly favors preserving the quiet non commercialized character of El Mar Drive by opposing the proposed zoning revisions to permit limited special accessory uses.

10) Mr. Thompson said the committee wants to see favorable funding options for the burying of current overhead utilities along El Mar Drive fully investigated.

11) Mr. Thompson said the committee believes the changes to the roadway, sidewalks and medians along El Mar Drive should be carefully reviewed for all options and solicit the input from all classes of users of El Mar Drive.

12) Mr. Thompson said the committee strongly opposes, if it is still under consideration, the paver block beach walk that is proposed.

13) Mr. Thompson said the committee, unanimously takes the position of opposing any additional dangerous traffic congestion to the beautiful center of our Town by putting any new parking lots or garages east of A1A. Mr. Thompson said he understands in the revised plan, there is consideration of facilities west of A1A but the group strongly feels there should be no lots or garages east of A1A.

14) Mr. Thompson said the committee supports the beach access improvements. Mr. Thompson said the committee supports a carefully planned greening of the El Prado area by conversion to a park area contingent on identification of alternative parking.

15) Mr. Thompson said regarding the Florida Department of Transportation, the committee urges continued energetic lobbying to permit a left turn off of Commercial Boulevard onto West Tradewinds Avenue, when coming off the Intracoastal Bridge.

16) Mr. Thompson said regarding general beautification and improvement issues, the committee believes it is necessary to redirect the emphasis of the on-going municipal initiative from "Redevelopment" back to beautification and "Improvement" of existing facilities which many of the committee believe was the initial objective and certainly the approach preferred by most of the concerned citizens. Mr. Thompson said, additionally, to conduct an informal referendum of registered voters and other property owners before enacting any redevelopment related zoning changes that would permanently affect the quality of life and the nature of life here in Town.

Mr. Thompson said the committee is asking the Commission to fully evaluate the requirements and solution options for improving lighting throughout the Town. Mr. Thompson stated this could be a difficult question. Mr. Thompson commented some people think there is too much lighting and others think there is too little lighting.

Mr. Thompson said the committee is asking the Commission to promptly update and rationalize the Town statutes and codes; then, vigorously and uniformly enforce the statutes and codes that continue to reflect the citizen's best interest.

Mr. Thompson stressed the citizens should be involved in this process and not just an exercise of the Town Manager, the Town Attorney and the Commissioners.

Mr. Thompson said the committee is asking the three highway entry points into Lauderdale-By-The-Sea be clearly identified and beautified, including better tree landscaping on A1A in the newly annexed area.

Mr. Thompson said, finally, the committee is asking the Commission to vigorously coordinate with the US Coast Guard or other responsible authorities to limit the openings of the Commercial Boulevard Bridge over the Intracoastal Waterway, to no more than three per hour and to strictly enforce that limit with all available sanctions.

Mr. Thompson told the Commission his group consists of approximately eighty citizens and property owners. Mr. Thompson said the group has had their annual meeting, taken these positions, formally communicated them to the Commission are very interested in hearing the response.

## **VIII. OLD BUSINESS**

- A. Discussion and/or action concerning amending the Code of Ordinances to allow home occupations within the residential zoning districts. (Commissioner Waller)

Commissioner Waller said the Commission talked about this at the last meeting. Commissioner Waller said the Vice-Mayor was absent from this meeting and thought he should be present for the discussion. Commissioner Waller said at the last meeting, the Commission discussed not having a need for home licensing and ignoring the ones that exist until there is a problem. Commissioner Waller stated he does not think this is the appropriate approach. Commissioner Waller said we are trying to define our code enforcement efforts and to make home occupations legal, which would be advantageous to everyone. Commissioner Waller said he would like to have the Town Manager's opinion on this.

Town Manager Baldwin said whether or not to permit home occupations is a policy decision. Mr. Baldwin said, personally, he does not think it is a problem enforcing this, but, again, said it is not his decision to make. Mr. Baldwin said the point he would like to make is that it be either permitted or prohibited. Mr. Baldwin said if it is prohibited, then the administration should do the best they can to enforce it. Mr. Baldwin continued to say if it is prohibited, he does not believe the administration should ignore the problem and once it is prohibited, we should do our best to enforce it.

Commissioner Waller said he would like to hear discussion from the Commission.

Commissioner Wessels said it is an enforcement issue and he needs to hear more about how the Town is going to enforce this. Commissioner Wessels said, certainly, no one is going to deny we are in the electronic age and things have vastly changed. Commissioner Wessels said he needs to hear from the Town Attorney exactly what steps the Town is going to take when complaints are made on a situation, if it does or does not arise. Commissioner Wessels said he needs to know how the Town is going to deal with this rather than proceed down the path as in past years on certain zoning issues. Commissioner Wessels said he needs to feel comfortable with the actions and steps and what those steps are.

Town Attorney Cherof said enforcement would be handled in the same manner that enforcement is handled for other code violations. Mr. Cherof said the intent of the draft ordinance, when it was originally prepared, was to create a number of indicators of home businesses that were outward in nature. Mr. Cherof said this is on page 2 and page 3 of the draft ordinances and they deal with issues such as equipment that would generate glare, noise, odor, vibration, increased traffic beyond what you would expect from normal residential traffic, storage of materials outside, signage and items of that nature. Mr. Cherof said these would be tell-tale signs that there is business activity going on. Mr. Cherof said code enforcement would process a violation the same way it is done for any other type of code violation.

Commissioner Wessels said he is asking that when the Town proceeds how many deliveries are going to be a violation, who determines these offensive odors. Commissioner Wessels asked if the Town will end up in court and is the Town in a defensible position. Commissioner Wessels stated he knows what the parameters are but he needs to feel more comfortable that they will be easily effected; not only be put into place but that the Town can defend itself and prosecute those cases that are offenders or abusing the rules.

Town Attorney Cherof emphasized the draft ordinance was really the first step of the process that the Commission was going to undertake. Mr. Cherof said the representative activity of the business is something on which the Commission will have to provide detail. Mr. Cherof said the more detail we can make on any of these items, the easier it is to both find the violation and to enforce it. Mr. Cherof said the way the ordinance is written now, there would be some difficulty in establishing a violation and proving and making it stick in court. Mr. Cherof told the Commission if they are interested in the concept of the ordinance, these are the sections to be worked on and brought back.

Commissioner Wessels said his main concern is that these types of businesses are a reality but, the enforcement needs to be emphasized. Commissioner Wessels said he does not see a quick and swift remedy to the problem.

Vice-Mayor Fontaine said he believes this ordinance can be closed tight enough that it will not affect the people who want to run a little business in their home. Vice-Mayor Fontaine said he believes most of these in-home businesses are designed around computers. Vice-Mayor Fontaine said he agrees there needs to be some time and effort put into this ordinance because it is not a quick decision. Vice-Mayor Fontaine said the main concern is not to affect the quality of life for the people who live next to you. Vice-Mayor Fontaine said the only type of in-home business he would favor would be one

without traffic, without manufacturing or those that are service oriented. Vice-Mayor Fontaine said it would have to be a type of business that is not offensive to the neighbors around you. Vice-Mayor Fontaine said he is in favor of doing something in this area but he thinks it needs to be restricted.

Commissioner Yanni asked Mr. Cherof if someone with a home occupational license is required to have fire inspections, county and state inspections.

Town Attorney Cherof suggested the inspection process be handled the same as a commercial establishment.

Commissioner Yanni believes this ordinance will be difficult to enforce and if someone does not apply for a license, how will you know a business is being operated from the home. Commissioner Yanni questioned how you will gain entry to find out.

Commissioner Yanni said he objects to the \$100 fee. Commissioner Yanni said he thinks this is a little high and thinks \$100 is hitting people a little hard.

Mayor Parker said he does not think the ordinance is needed and he does not think the ordinance is wise. Mayor Parker said he does not think it is needed because there is a number of home office uses that a person has a constitutional right to use and that the government has no constitutional right to tax or regulate. Mayor Parker said under the Fourth Amendment we have a right of privacy to our home and so long as what you are doing in your home can't be detected from outside your home, it's very unlikely that the government can legally do anything to regulate it. Mayor Parker said, because right now all home occupations are illegal, if you engage in an occupation that is noticeable and creates problems to your neighbors, it is fairly simple to enforce and shut you down. Mayor Parker said when home occupations are allowed and create some test of obnoxiousness, the you are beyond a zero tolerance level. Mayor Parker said the Town has a lot of ordinances that theoretically should be easy to enforce but we are finding very difficult to enforce. Mayor Parker stated he does not believe the Town should take a chance by commercializing the residential neighborhoods. Mayor Parker said he has read the ordinance and does not see how it can be enforced and how the Town can avoid complaints and lawsuits trying to enforce it. Mayor Parker said he believes it is bad policy and does not believe it is necessary.

Commissioner Waller said he is agreement with the Vice-Mayor that these businesses should be limited to offices only and added the \$100 fee is excessive. Commissioner Waller said we are one of the only cities that do not allow home occupations. Commissioner Waller said he does not see a problem with home occupations and thinks the Commission should sit down and work out the problems so it can be enforced.

Mayor Parker stated that if you prohibit home occupations completely, people that are going to engage in occupations in their homes, are going to do their best so that nobody notices they doing it because they don't want to get caught. Mayor Parker said that extra degree of caution is protection for the neighbors for finding themselves in the middle of a commercial district.

Commissioner Waller said the Commission is responsible for seeing that things are not done illegally.

Vice-Mayor Fontaine said he originally wanted to run his consulting business from his home but the current code does not permit it. Vice-Mayor Fontaine said this is major dilemma and it seems the biggest concern is enforcement.

Commissioner Wessels said he believes the offensive issues can be itemized. Commissioner Wessels thinks these issues are excessive traffic, noise problems, and personal visits in the sense of clients. Commissioner Wessels said he believes these issues are what denotes a conspicuous business. Commissioner Wessels said he would have to be convinced that the Town could control these points and if there are no solutions to these points, then he has a problem with it. Commissioner Wessels said he realizes this ordinance will be difficult to enforce but he is leaving this up to the Town Attorney and is willing to see what he can come up with.

Mayor Parker said it is going to be very hard to draft something that will distinguish purely residential uses from commercial uses of the property. Mayor Parker said he does not think it can be done.

Commissioner Yanni said he believes it is time to call for a motion or to table it to another time.

Commissioner Waller asked Mr. Cherof if something happened to adjoining property from a place that was running an illegal business, would the Town be liable in any way if the Town did not know the business was there.

Town Attorney Cherof answered, in his opinion the Town would not be liable but it could impact the degree of liability that the operator of this business has. Mr. Cherof said it is one thing to operate in conformity with the law but it aggravates the situation if you're operating in opposition to the law.

Commissioner Waller said as far as he can see, there is no real support for this at this time and the Commission might as well just let it go.

Commissioner Wessels said rather than just sitting on this, he motioned to have the Town Attorney proceed with the points that are of concern and come up with a solution, by which this can be effectively controlled, that would satisfy the Commission.

Commissioner Waller seconded the motion.

Mayor Parker asked for any further discussion.

Vice-Mayor Fontaine asked Mr. Baldwin for his comments.

Town Manager Baldwin said there is an item on the agenda regarding code enforcement. Mr. Baldwin said they have discussed this before and the staff has been criticized for not enforcing the code and he has tried to come up with a system that he believes will allow the enforcement of the code equitably. Mr. Baldwin said he thinks he understands the Commission wants to take a more stringent approach and we will do our best to enforce whatever the ordinance is.

Mayor Parker asked the Clerk to call the roll. The motion passed with Vice-Mayor Fontaine, Commissioner Wessels, Commissioner Waller and Commissioner Yanni voting yes and Mayor Parker voting no.

**NEW BUSINESS**

- A. Consideration of a Special Events Application submitted by the Eastern Surfing Association, a request to hold five surfing contests (August 7, 1999, September 4, 1999, October 2, 1999, December 4, 1999 and February 5, 2000) at 4456 El Mar Drive. (Barry Shaw, Eastern Surfing Association)

Mr. Roray Kam of 1775 N. E. 45<sup>th</sup> Street addressed the Commission and ask for permission to hold surfing contests in the public area of El Prado Beach.

Mayor Parker asked the location for this event.

Mr. Glenn Friedt responded it will be held at 4456 El Mar Drive

Mayor Parker asked for the record to reflect the location is Villas-By-The-Sea.

Mayor Parker asked if there were any questions.

Commissioner Yanni questioned Mr. Kam about insurance for the event and asked if it was up to date.

Mr. Kam responded it is up to date.

Mrs. Polyasko said she does not have a current certificate but, typically, the insurance certificate is submitted a week prior to the event.

Vice-Mayor Fontaine asked Bill Mason if this event will be in conflict with anything else coming up this year.

Mr. Mason answered, no sir, not that he is aware of.

Commissioner Waller motioned to grant approval of the special events application to hold five surfing contests; August 7, September 4, October 2, December 4, 1999 and February 5, 2000.

Commissioner Yanni seconded the motion.

Mayor Parker asked for any further discussion.

Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

Mayor Parker called a five minute recess.

Mayor Parker reconvened the meeting at 8:47 P.M.

B. Discussion and/or action concerning General Code Enforcement Policy  
(Recommendation #1 – Town Manager 4/13/99 Memorandum) Town  
Manager

Town Manager Baldwin said at the Commission Meeting of April 13<sup>th</sup>, he presented a code enforcement system and made some recommendations that the Commission concurred with. Mr. Baldwin said he had told the Commission he would bring these back with all due speed. Mr. Baldwin said number one of the recommendations was to determine a general code enforcement compliance policy to immediately impact code enforcement strategies. Mr. Baldwin said this will require comprehensive legal review if the Commission intends to strictly enforce the code. Mr. Baldwin told the Commission he is not requesting administrative detail but rather an indication of rigor and enforcement. Mr. Baldwin said staff can design an appropriate system to accommodate your enforcement philosophy.

Mr. Baldwin said staff has designed a policy and asked the Commission to refer to his memo and tell him if the policy adequately reflects the direction they want staff to go. Mr. Baldwin said, in general, the recommended approach, (1) creates an understandable, systematic and more stringent approach to code enforcement 2) Delineates code responsibilities between Code Enforcement and the Police 3) reduces the timeframes from initial enforcement action to compliance, eliminating verbal warnings for many offences 4) Increases the maximum fines at the discretion of the Special Magistrate 5) mandates appearances before the Special Magistrate for failure to comply 6) requires the issuance of a Notice to Appear in County Court for some offenses.

Mr. Baldwin asked Bill Mason to explain the comparison of code enforcement levels.

Mr. Mason gave an overview of the methods of code enforcement, stating the Town's current level of code enforcement and explained the recommended level of code enforcement. Mr. Mason told the Commission he has categorized the different code violations, stated the current level of code enforcement and also stated a recommended level of code enforcement.

Mr. Mason's Comparison of Code Enforcement Levels, in its entirety, is being made a permanent part of these minutes.

Mr. Cherof said right now the Commission is dealing with code violations and not with breeches of law. Mr. Cherof said he thinks what the manager is looking for is more of a concept of how serious the Commission wants administration to enforce these activities, minimally or aggressively.

There was a lengthy discussion regarding the parking of commercial vehicles. Mayor Parker asked Mr. Mason if provisions have been made to accommodate residents who are relocating and want to park a U-haul for a few days.

Mr. Mason said this has not really been addressed yet.

Mr. Baldwin said over the next year, the Town Attorney will prepare ordinance revisions.

Commissioner Waller said lately it seems tickets have been issued without a warning.

Mr. Baldwin said this has been in response to a lot of complaints that have been received recently. Mr. Baldwin said this goes back to the current code and how difficult it is for the police officers and code enforcement to make a determination as to how to enforce these old codes. Mr. Baldwin said that over and over he hears the Town is not enforcing the code and then we enforce it and the police officers and code enforcement get criticized for enforcing it.

Chief Patten commented that he is not in any position to tell these police officers not to enforce the law that is on the books. Chief Patten told the Commission that if they have the authority to suspend that right now, please do so, he would welcome it and take care of it right away.

Mayor Parker asked Mr. Cherof if the Commission has the authority to instruct the Police Department to give a 24 hour written warning before they issue a citation.

Mr. Cherof said the Commission can provide some administrative guidelines for enforcement but the Chief is correct. The Commission cannot instruct him or his officers not to enforce. Mr. Cherof said the Commission can impose some guideline as to enforcement.

Mayor Parker asked if it is the Commission's will to request the Police Department, on the commercial vehicle complaints, they first issue a written 24 hour warning and only after the 24 hour written warning, they issue a citation.

Chief Patten said a complaint usually triggers the process.

Mr. Baldwin stated the real solution is to complete the new commercial vehicle ordinance, get it done and get it on the books.

Mayor Parker said he agrees but until it is done, there should be some warning.

Chief Patten asked if the Commission has the authority to suspend.

Mr. Cherof responded no, there is no authority to suspend. Mr. Cherof recommended to the Commission that if they are going to provide this administrative input into the process, it be something that is only done between now and the next Commission Meeting. Mr. Cherof said then there can be some sort of report of the effectiveness of treating it this way.

Mayor Parker asked if it is the Commission's wish to request the Police Department for the next two weeks to issue a 24 hour written warning before they issue a citation for commercial vehicle violations on private property.

Commissioner Waller said 24 hours is long enough but he thinks what will happen is that residents who have been able to have commercial vehicles, will be affected.

Vice-Mayor Fontaine asked Chief Patten if the writing and enforcing parking citations is handled under state statute.

Chief Patten said the writing and enforcement of parking citations is in accordance with City ordinance.

Vice-Mayor Fontaine said the Town does not have a current level of enforcement on a lot of the ordinances. Vice-Mayor Fontaine said the Commission needs to give Mr. Mason and the Town Manager an opportunity to enforce the ordinances. Vice-Mayor Fontaine said some people are going to get angry but these ordinances must be enforced.

Commissioner Yanni said commercial vehicles on private property should be waived until the workshop on commercial vehicles is held and by the time the next meeting is held, the Commission should have a direction on commercial vehicles. Commissioner Yanni asked Mr. Cherof if this would be acceptable.

Mr. Cherof responded this would be the equivalent of suspending the ordinance and he does not recommend it. Mr. Cherof continued to say there is a formal process for suspending an ordinance.

Commissioner Yanni asked Chief Patten how the Police Department determines a vehicle is a commercial vehicle.

Chief Patten said by the markings on the vehicle determining if it is under a 1/2ton.

A discussion ensued regarding zoning density. Mr. Baldwin commented there are a lot of complaints and this is something the Commission is especially interested in regulating. Mr. Baldwin stated if the Commission is in concurrence, an ordinance will be brought back to them to allow occupational licenses to be issued on every rented unit in the Town.

Mayor Parker said he believes all rental properties must have occupational licenses to allow for yearly inspections on the premises to make sure they are not illegal.

Mr. Baldwin said this would allow entry to every unit, at least when the license is initially issued, to check for fire safety hazards and the like.

Commissioner Wessels asked what happens if you don't have an occupational license and you proceed to do business.

Mr. Mason answered it would be a violation to operate a business without an occupational license. The offender would be cited with a written notice and then a citation to appear before the special master.

Commissioner Wessels asked if this would eventually end up in County Court.

Mr. Baldwin said not if the violation is corrected.

Mr. Mason said after all avenues have been exhausted, and the fines have not been paid, a lien can be filed on the property.

Mayor Parker said, unfortunately, if it is a homestead, you can't enforce the lien until the property is sold.

Mr. Cherof said this is one of the things that will be recommended that the administration take a look out if they make a choice between taking the matter to Code Enforcement versus taking the matter to County Court. Mr. Cherof said if the property is homestead, the process that takes us before the code board and eventual lien ends up being a

meaningless process because there is no way for foreclose that lien. Mr. Cherof said the way to handle this is to take it to County Court as an ordinance violation and seek the maximum penalty there.

Mr. Mason said he believes a lot of illegal conversions could be eliminated within the first year of inspection.

Vice-Mayor Fontaine asked Mr. Mason when there are safety violations, if the Town intends, at some time, as other cities do and red tag these buildings and ask people to leave.

Mr. Mason said when there is a violation of the life/safety code, this can happen immediately.

Mr. Mason said that when an offender continues to operate a rental business without an occupational license, it becomes a code violation that will go to the Special Master that could be cited up to \$250 per day until the violation is corrected.

Mayor Parker asked Mr. Cherof if the Town could be empowered to do inspections up to four times a year.

Mr. Cherof said he would have to research this because there are limitations on inspections so there is not invasion of privacy. Mr. Cherof said he would check to see what the case law is on this.

Commissioner Yanni asked how a present owner will be cited for an existing density violation that happened before the property was purchased.

Mayor Parker said this is handled as a continuing violation and the owner can sue the person from which it was bought.

Commissioner Wessels said he believes it is the responsibility of the owner or Real Estate agent to disclose any material fact of that sale.

Mr. Baldwin commented the Right of Way violations will take quite a bit of ordinance revision before the Town can start enforcing it.

Mr. Mason said the Commission will need to adopt some sort of landscape/encroachment policy that will define what can and cannot be placed in the Right of Way.

Commissioner Wessels asked about allowing owners to pave swales and whose responsibility it is to maintain them.

Mayor Parker said in most jurisdictions, the adjoining property owners are required to maintain the swale. Mayor Parker said he does not know if the Town does this but he knows that it could.

Mr. Mason said this is also something that will need to be looked at. Mr. Mason said there are a lot of properties that have swale maintenance problems.

Mr. Baldwin said if there is a consensus that he has captured the direction the Commission wants to go with this policy, he will proceed.

Mayor Parker asked for a motion to adopt the recommended level of code enforcement.

Commissioner Waller motioned to adopt the recommended level of code enforcement. The motion was seconded by Vice-Mayor Fontaine.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

C. Discussion and/or action concerning New Sign Ordinance  
(Recommendation #2 – Town Manager 4/13/99 Memorandum) Town  
Manager

Mr. Baldwin asked Mr. Keller to come forward and address the Commission. Mr. Keller said his associate Tim Lunney has been working on the Sign Code and Mr. Lunney will be making the presentation.

Mr. Lunney said it has been some time since they last talked about the Sign Code. Mr. Lunney said in 1995, the Town adopted a very stringent Sign Code that set a deadline for November of the year 2000 for all non-conforming signs to be removed. Mr. Lunney said that after looking at most of the signs in the community, he estimates that 90% of all the signs in the Town do not conform to the code that is currently on the books. Mr. Lunney said the Town has also been burdened over the last couple of years with numerous requests for sign variances. Mr. Lunney said they have attempted to come up with a draft sign code that is based upon a model sign code for small municipalities that would be 1) easier to read and enforce and 2) somewhat less restricted and provide more flexibility for signage. Mr. Lunney said they are not, as is currently misconceived, a proponent of monument signs. Mr. Lunney said, however, monument signs are one of the alternatives offered in the draft sign code to pole signs. Mr. Lunney said pole signs are currently prohibited by the code and must be removed by November, the year 2000.

Mayor Parker asked Mr. Cherof if pole signs could be allowed in certain areas and prohibited in other areas. Mayor Parker said after giving this considerable thought, he can certainly see how outlawing pole signs in the RM-25 district could create a hardship and he is not sure how this can be easily remedied.

Mr. Cherof answered this is possible if you have clear objectives expressed for zoning districts.

Mr. Lunney said the sign code has been addressed at three workshop meetings. Mr. Lunney stated this is a Land Development Code and as such, is required to be reviewed by the Planning and Zoning Board. Mr. Lunney recommended, at this point, unless the Commission has a wish to discuss a preliminary draft, that this be referred to the Planning and Zoning Board for the required Public Hearing.

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Mayor Parker asked if this draft is sent to the Planning and Zoning Board and the Commission greatly revises the ordinance, will it have to go back to the Planning and Zoning Board.

Mr. Cherof answered no.

Mayor Parker suggested this be given to the Planning and Zoning Board with a time schedule for review.

Mayor Parker asked Ms. Shirley Russotti, Chairperson of the Planning and Zoning Board to come forward.

Mayor Parker asked Ms. Russotti when a meeting could be scheduled to comply with time requirements.

Mr. Keller said because this has not been looked at by the Planning and Zoning Board, he thinks there should be a workshop for Planning and Zoning to review this. Mr. Keller thinks it would be unfair to hold a Public Hearing without, at least, holding a workshop.

Mayor Parker asked Ms. Russotti if she could hold a workshop in the next three weeks and a Public Hearing two weeks after that.

Ms. Russotti answered that is fine.

Town Clerk Polyasko said there is a regular Planning and Zoning Meeting scheduled for the 19<sup>th</sup>.

Mayor Parker asked if the workshop is scheduled for the 19<sup>th</sup> when would the Public Hearing be held.

Mr. Keller stated these things are not simple and the board may need more time. Mr. Keller recommended taking this to the Planning and Zoning Board as a workshop and ask the board what they want on timeframe. Mr. Keller said he will report at the next meeting with a schedule.

Mayor Parker said this seems reasonable.

Vice-Mayor Fontaine said he totally agrees with Mr. Keller.

Commissioner Yanni asked Mr. Keller if he approves or disapproves applications.

Mr. Keller said only if the administration sends it to him. Mr. Keller said as Town Planners they do not see sign applications unless there is an interpretation problem.

Mayor Parker asked for a motion to direct the Planning and Zoning Board to hold a workshop on May 19<sup>th</sup> and the Planning and Zoning Board to report back to the Commission a schedule for the required Public Hearing.

Vice-Mayor Fontaine motioned to direct the Planning and Zoning Board to hold a workshop on May 19<sup>th</sup> and the Planning and Zoning Board to report back to the

Commission with a schedule for the required Public Hearing. Commissioner Wessels seconded the motion.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

Mayor Parker asked the Clerk to post the meeting on Channel 38.

- D. Consideration of a recommendation to schedule a Commission Workshop May 25, 1999 at 6 p.m. to discuss regulation of Commercial Vehicles (Recommendation #2 – Town Manager 4/13/99 Memorandum) Town Manager

Mayor Parker asked for a motion to set a Commission Workshop on May 25, 1999 at 6:00 P.M. to discuss regulation of Commercial Vehicles.

Commissioner Wessels motioned to set a Commission Workshop on May 25, 1999 at 6:00 P.M. to discuss regulation of Commercial Vehicles. Vice-Mayor Fontaine seconded the motion.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

- E. Discussion and/or action concerning the alleyway between El Mar Drive and the Aruba Beach Café (Commissioner Yanni)

Commissioner Yanni said there is a problem with valet parkers speeding down this alley and, also, cars blocking the alley. Commissioner Yanni said there needs to be some traffic control at this alley. Commissioner Yanni said he has talked to the Town Manager and Mr. Peter Beck about putting a stop sign in the alley and Mr. Beck is in agreement with this.

Mayor Parker said this is not the only area in Town where there is a problem with valet parking.

Commissioner Yanni said he is aware of that but realizes people need to do business in Town and he does not want to get too drastic.

Mayor Parker asked if speed bumps are installed to slow down valet parkers and the parkers don't slow down, will the Town be partly liable for damage done to vehicles.

Mr. Cherof said his recommendation is not to install these types of traffic control devices because the appellate court case dealing with their legality is still out there and unresolved.

Commissioner Yanni asked how other communities are getting away with having speed bumps and is it a liability for our Town.

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Mr. Cherof said he is not suggesting that it is a liability issue but he is suggesting there is an appellate court making this decision.

Commissioner Yanni asked whose responsibility is it when someone is injured.

Mr. Cherof said the Town has no liability in the circumstance that has been described this evening. Mr. Cherof said he would not want to create a shopping list of conditions where the Town's liabilities would be increased.

Mr. Cherof repeated he does not recommend the installing of speed bumps or speed humps on city streets until that court case is resolved. Mr. Cherof said he does not think there is any problem with strictly enforcing available traffic control devices such as stop signs or speed limits, etc.

Commissioner Yanni asked if there could be signs posted declaring no parking in the alleyway.

Mr. Cherof said there are good traffic control procedures, if strictly enforced, that would resolve this situation.

Mr. Baldwin asked if the sign should state "no parking in alley".

Commissioner Yanni said the goal is to keep the alleyway open.

Commissioner Wessels asked if the dumpster is still parked and encroaching in the alleyway.

Commissioner Yanni said the dumpster is still there but it is kept out of the alleyway.

Vice-Mayor Fontaine said he does not believe speed bumps will slow down the valet parkers because they are not driving their own cars. Vice-Mayor Fontaine said he believes the stop sign is the way to go.

Mayor Parker asked if we could license valet parkers and could we fine valet parkers.

Commissioner Waller said he believes a traffic ticket is sufficient.

Commissioner Yanni said he has met with Peter Beck and he wants this resolved as well.

Mayor Parker asked Commissioner Yanni if he is proposing a stop sign be placed and stepped up enforcement for not blocking the alley.

Vice-Mayor Fontaine said he believes there should be a motion to install a stop sign. Vice-Mayor Fontaine made a motion to install a stop sign. Commissioner Yanni seconded the motion.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

Commissioner Yanni motioned to prohibit parking in the alleyway. The motion was seconded by Commissioner Waller.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

Commissioner Yanni motioned to have stepped up enforcement in the alleyway. Commissioner Waller seconded the motion.

Mayor Parker asked for further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

**F. Discussion and/or Action concerning scheduling a Commission Workshop to discuss the Fire/Rescue Master Plan (Town Manager)**

Mayor Parker asked Mr. Baldwin when he would like to schedule this workshop.

Mr. Baldwin said everyone should have had a chance to read it by now, so as soon as possible.

It was decided by Commission consensus to hold a workshop to discuss the Fire/Rescue Master Plan on Wednesday, May 26<sup>th</sup> at 6:00 P.M.

**G. Discussion and/or action concerning adopting a summer dress code for Commission Meetings (Mayor Parker)**

Mayor Parker stated every year since he has been seated on the Commission there has been a summer dress code from June 1<sup>st</sup> to August 31<sup>st</sup>.

Vice-Mayor Fontaine motioned to begin a summer dress code from May 15<sup>th</sup> to August 31<sup>st</sup>. Commissioner Waller seconded the motion.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

**X. ORDINANCES (1ST READING)**

None

**XI. ORDINANCES (Public Hearing – 2<sup>nd</sup> Reading)**

None

**XII. RESOLUTIONS**

- A. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, renaming El Prado Street North to Firefighter's Way; requesting Broward County to re-sign the street and install signage; providing for conflict; providing for severability and effective date.

Town Attorney Cherof read the Resolution by title only.

Mayor Parker asked that the Firefighter's Way be plural.

Commissioner Waller motioned to rename El Prado Street North to Firefighters' Way and request Broward County to re-sign the street and install signage. The motion was seconded by Commissioner Wessels.

Mayor Parker asked for further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

### **XIII. TOWN MANAGER REPORT**

Mr. Baldwin told the Commission that Mr. Keller has a couple of items he would like to report on tonight.

Mr. Keller said he has gotten a cost estimate from the Florida Department of Transportation for a pedestrian signal on Washingtonia. Mr. Keller reported this cost estimate was \$45,000.

Mayor Parker asked when the signal is to be installed.

Mr. Keller said he does not think the signal will be installed until near the end of the improvement project so it would probably be a couple of years away. Mr. Keller said they, normally, wouldn't put up a signal and then tear the road up.

Mayor Parker asked if it makes sense for the Town to put the signal up and then have them tear the road up.

Mr. Baldwin said it is expensive and it depends on whether the Commission wants to spend the money.

Mr. Keller said if we put the order in today, it would probably take six months to get the parts for the mast arms because they are individually fabricated. Mr. Keller said another option is to try and get DOT to put up a temporary signal with wooden poles at a lesser cost. This could be changed to the more expensive mast arm when the construction is done.

It was decided by Commission consensus to have Mr. Keller try to get the temporary signal at a lesser cost.

Mr. Keller said the Florida Department of Transportation has asked for some direction on the improvement project regarding colors. Mr. Keller said that, essentially, there are two items for which they have asked for direction. The first one deals with the mast arm

pedestrian traffic signals. Mr. Keller said there are two choices, flat black and hunter green.

It was decided by Commission consensus to use the hunter green.

Mr. Keller said the second decision is for the upgraded light poles. Mr. Keller said these are the light poles that are going on the bridge and along A1A and also Commercial Boulevard. Mr. Keller said previously, we had requested they use something compatible with what is being used at Melvin I Anglin Square. Mr. Keller recommended using the same pole that is being used at Melvin I Anglin Square.

It was decided by Commission consensus to use the light pole that Mr. Keller has recommended.

Chief Patten told the Commission that sometime after the death of Officer Ron Winters, Mr. Bob Hopkins, owner of Ocean Mist, offered to do a benefit in his honor. Chief Patten said he had contacted Officer Winters widow and she was in favor of it but had a problem with the scheduling. Chief Patten said finally a date was picked for the Memorial Day Weekend. Chief Patten said the Mayor of Dania has provided the Town with a young lady named Dana Cline who is a promoter for this kind of thing. Chief Patten said Ms. Kline has a fee of \$1,500 but the AutoNation is getting behind this event and are going to pay her fee, provide tee-shirts, and sponsor a 5K run through town with a Bar-B-Que after.

Mayor Parker said, basically, this is a special event.

Chief Patten said yes and he knows the permit time is not there but this had been approved earlier. Chief Patten said he did not want to proceed without presenting it to the Commission again.

Mayor Parker said there will still need to be a special event application.

It was decided by Commission consensus, that if this special event application is brought before them at the next meeting, they will be favorably disposed toward it and they will waive the ninety day requirement.

Mayor Parker asked for a motion to pre-approve the event subject to getting the paperwork in.

Commissioner Waller motioned to pre-approve the event. The motion was seconded by Commissioner Gianni.

Hearing no discussion, Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

#### **XIV. TOWN ATTORNEY REPORT**

None

#### **XV. COMMISSIONER COMMENTS**

Vice-Mayor Fontaine said it has been brought to his attention the reason the Commercial Boulevard Bridge opens every fifteen minutes is because of our close proximity to Oakland Park. Vice-Mayor Fontaine said if the Commercial Boulevard Bridge opened on the half hour the boats would start backing up. Vice-Mayor Fontaine inquired if the Town could ask for a twenty minute opening.

Vice-Mayor Fontaine asked Mr. Cherof who we contact about this.

Mr. Cherof said there is an application process and a review process and he can get this started.

Commissioner Wessels added that this is a good time to work on the bridge problem while it is under construction. Commissioner Wessels asked if the No U-Turn Signs can be removed before September.

Mr. Mason said every Wednesday there is a construction meeting at 248 Commercial Boulevard and he will bring this up at the next meeting. Mr. Mason said it is his understanding from what he heard at the last meeting, there has been approval from the Coast Guard to limit the bridge to every half hour during the construction.

Mr. Cherof said he heard a comment from the bridgetender today, that the bridge will only open on the half hour.

Commissioner Waller said he has received the same inquiries from the businesses on the south side in between Seagrape and East Tradewinds wanting the U-Turns removed now.

Commissioner Yanni said it is very disturbing to him that there is a prostitution problem in Town.

Chief Patten assured the Commission there are measures being taken. Chief Patten said we have a very capable detective in Robert Delaney.

Mayor Parker thanked the Village Pump for conducting a fund raiser for the Volunteer Fire Department and the Kiwanis Club

Mayor Parker wished all the mothers in Town a wonderful Mother's Day.

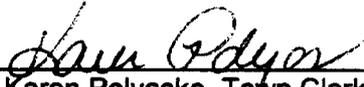
#### XVI. ADJOURNMENT

Mayor Parker adjourned the meeting at 10:51 P.M.

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

May 11, 1999 Commission Meeting Minutes

ATTEST:

A handwritten signature in cursive script, appearing to read "Karen Polyasko", is written over a horizontal line.

Karen Polyasko, Town Clerk

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

*Town Commission Meeting Room*  
*Tuesday, April 27, 1999*  
*7:00 p.m.*

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

Mayor Parker called the regularly scheduled meeting to order at 7:00 P.M. Members present were Commissioner Wessels, Commissioner Waller and Commissioner Yanni. Also in attendance were Town Manager Robert Baldwin, Town Attorney James Cherof and Town Planner Walter Keller. Vice-Mayor Fontaine was not in attendance.

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

**III. INVOCATION (Town Chaplain Howard Westin)**

Town Chaplain, Howard Westin lead the invocation.

**IV. APPROVAL OF MINUTES - April 13, 1999 Regular Commission Meeting**

Mayor Parker asked for any additions, deletions or corrections to the minutes.

Mayor Parker asked for a motion to approve the minutes. Commissioner Waller motioned to approve the minutes of the April 13, 1999 Regular Commission Meeting. Commissioner Yanni seconded the motion.

Mayor Parker asked the Clerk to call the roll. The motion carried unanimously.

**V. BUDGET REPORT - Period Ending March 31, 1999**

Mayor Parker asked if the any of the Commissioners had any comments or questions they would like to ask regarding the Budget Report for the period ending 3/31/98.

Mayor Parker stated it is halfway through the year and 66% of the budget has been spent for the Town Attorney. Mayor Parker said some of this expense seems to be for consulting. Mayor Parker said this has nothing to do with the Town Attorney's budget, however 60% of the amount budgeted for the Town Attorney has been spent. Mayor Parker asked M. Cherof if he anticipates going over in his budget.

Town Attorney Cherof answered he hopes not.

Mayor Parker said he was considering whether a supplemental appropriation needs to be approved.

Mr. Cherof answered not yet.

Mayor Parker said he noticed that throughout the budget there were different percentages for the cost of leasing vehicles. Mayor Parker asked if this is monthly or yearly.

Town Manager Baldwin responded that most of them are once a year.

Mayor Parker inquired if the Town would go over budget for vehicles.

Town Manager Baldwin answered no.

Mayor Parker said he noticed that only 29% of the Parking Enforcement Budget for salaries has been spent. Mayor Parker asked if the Town is understaffed here.

Town Manager Baldwin said the Town has advertised for a parking supervisor, however, no one has been hired for that position. Mr. Baldwin said this position will be re-advertised.

Mayor Parker asked if we have been getting along without one, do we really need one.

Town Manager Baldwin said that one half the cost of the parking supervisor's salary was going to be paid for from meter revenues. Mr. Baldwin said that one half of the parking supervisor's time would be writing citations. Mr. Baldwin said he does think the Town needs someone to fill this position.

Mayor Parker said he is just trying to understand why the Town is under budget.

Mayor Parker applauded the Town Manager, Town Clerk and staff for being under budget at this time.

## **VI. PUBLIC COMMENTS**

John Thompson of 4950 North Ocean Drive told the Commission he wanted to address them regarding the position, of approximately 75 citizens, regarding the Redevelopment issue. Mr. Thompson requested he be allowed to speak beyond the three minute time limit allotted.

Mayor Parker told Mr. Thompson he believes, from an earlier conversation, it will take him about fifteen minutes to make his presentation. Mayor Parker told Mr. Thompson, unless the Commission changes its direction to him, he will need to limit his comments to three minutes. Mayor Parker asked the Commission if they wished to extend Mr. Thompson's comments beyond three minutes.

Commissioner Wessels said if the Commission is going to make a special situation, they need to hear general comments and if there is time at the end, allow Mr. Thompson to speak.

Commissioner Waller suggested Mr. Thompson put the item on the agenda for discussion at the next Commission Meeting.

Commissioner Yanni said he would like to see everyone wishing to speak during public comments treated fairly. Commissioner Yanni said he does not want to see the public comments get out of control.

Mayor Parker told Mr. Thompson the Commission could offer him more time to speak at the next Commission Meeting if he were to ask to be placed on the agenda.

Mr. Thompson told the Commission that he would prefer to prepare for this rather than have to rush through it tonight.

Mayor Parker told Mr. Thompson that if there was time at the end of tonight's meeting, the Commission would amend the agenda to allow him to speak.

Mr. Thompson apologized and said, because of another commitment, he would not be attending the entire meeting.

Mayor Parker requested the Town Clerk designate Mr. Thompson's report on the agenda for the next Commission Meeting.

Mr. Thompson said there was a related issue he wanted to address, very briefly this evening. Mr. Thompson said he is representing the Citizen's Action Group in Lauderdale-By-The-Sea. Mr. Thompson said at the last Planning and Zoning Board Meeting, the Town Planner presented amendments to his plan. Mr. Thompson said these were rather elaborate amendments. Mr. Thompson said these amendments, substantially change the plans, therefore, plans that have been looked at previously are substantially different and is very different from the plan that is now under review. Mr. Thompson said he stopped by Town Hall to pick up a copy of the plan and the new plan is not available to the public. Mr. Thompson suggested that if a new plan is under consideration, this should be the plan handed out.

Mayor Parker said any plan that has been presented has been for discussion only. Mayor Parker said until this Commission adopts a plan, or even a tentative plan, there is no plan. Mayor Parker said he is sure the Commission is going to try and come up with something that everyone in Town can be happy with.

Mayor Parker requested the administration supply the Commission with copies of both sets of plans.

Shirley Russotti of 4315 West Tradewinds Avenue said as Chairperson of the Planning and Zoning Board she wants to thank Walter Keller and Chris Miller for all their help. Additionally, Mrs. Russotti thanked everyone who supported the volunteers of the Planning and Zoning.

Diane Boutin of 4244 El Mar Drive said at several of the Planning and Zoning Meetings and the Public Hearings, she has heard comments regarding condemnation and taking people's land. Ms. Boutin asked the Commission if this is fact or rumor.

Mayor Parker said it is his understanding that, legally, the Town can only take land for public use.

Walter Dendy of 4517 El Mar Drive told the Commission he has received his Department of Environmental Control Permit. Mr. Dendy said these permits are normally issued for 180- days

but his was issued for only 45 days. Mr. Dendy said when he received his DEP permit, he asked Dan Stallone if he could proceed with completing his job. Mr. Stallone said he could not complete the job because the original electrical permit was no longer valid.

Mayor Parker asked the Town Manager and the Town Attorney if the Town has the authority to re-instate the electrical permit.

Town Attorney Cherof responded that under certain circumstances we do, but he does not know all the facts. Mr. Cherof said he would be happy to look at it tomorrow morning and see if it is one of those circumstances where it's just an administrative issue and the permit can be re-issued. Mr. Cherof said he would not want to conclude tonight, whether it can or cannot be issued, without knowing the details of what occurred.

Mayor Parker said the Town should do whatever it can to help Mr. Dendy resolve this issue before his state permit expires in 45 days.

Susan Beatty of 230 Garden Court told the Commission that while it is important to provide for the seniors in our community, it is equally important to realize that there are others in the community in need of the amenities provided; particularly the parking spaces provided for Town Hall business.

Ms. Beatty stated she does not believe our Town is as safe as it has been in the past. Ms. Beatty continued to say times and morals have changed around the country and it is no different here.

Ms. Beatty said she stopped by Town Hall to request documents from the agenda book. Ms. Beatty said she was told she needed to submit this request in writing as the particular staff person was involved in a project. Ms. Beatty said she told the staff person that she wanted to leave with her copies. Ms. Beatty said another staff person returned from lunch and agreed to make the copies. However, she was then told that all public requests had to be written in order to be reviewed by Bob or Karen. Ms. Beatty said she left without the documents. Ms. Beatty said public documents are just that and requests should not be subject to censorship by the administration staff. Ms. Beatty said, subsequently, she received a phone call to say there had been a misunderstanding and the copies were being made. Ms. Beatty said she is self-employed and when she takes time from her day to visit Town Hall, it is at her own expense. Ms. Beatty commented that this behavior and policy is nothing short of rude and wholly lacking the responsibility of service that the administration and staff are responsible for.

Ms. Beatty said it is time to become more sensitive to the needs of citizens with home businesses.

Allan Gibson of 4540 Ocean Drive told the Commission he has heard from the Commission that they are interested in hearing from the residents from the Town of Lauderdale-By-The-Sea. Mr. Gibson said he thinks Mr. Thompson should have been allowed to speak to the Commission and should not have been delayed to the next Commission Meeting.

## **VII. OLD BUSINESS**

None

## VIII. NEW BUSINESS

### A. Discussion and/or action concerning Fire Rescue Master Plan

#### 1. Presentation of Fire Rescue Master Plan analysis and recommendations (Don Long, MGT of America)

Mr. Don Long of MGT of America said he has provided a report to the Commission that includes a great deal of detail that he will be talking about tonight.

Mr. Long told the Commission this report is a result of significant data gathering, feedback and discussions they have had with officials and others within the Town. Mr. Long thanked the members of the Volunteer Fire Department for their help, including feedback, comments criticisms, observations and data they provided to the study team. Mr. Long said, without the help, he received from the Volunteer Fire Department, he would not be able to present this information.

Mr. Long told the Commission, tonight he would be talking about the study objectives, and how the review was conducted. Mr. Long said MGT of America, Inc. was been asked to study the current environment within the county regarding EMS services. Mr. Long said tonight, he would be discussing some of the critical points, as far as the current Volunteer Fire Department operations. Mr. Long said they looked at different models of service delivery. Mr. Long said they identified some costs and financial implications and finally identified some short and long term strategies. Mr. Long said in terms of the overall approach, anytime a study such as this is conducted, a significant amount of information is generated upon which to build by involving the people in the Town. Mr. Long said he had the opportunity to talk with officials, management levels, both in Town and at the county level as well. Mr. Long said he also spoke with people in the adjoining cities of Fort Lauderdale and Pompano Beach. Mr. Long said he talked to the Fire Department Management, staff and service providers in Fort Lauderdale and Pompano Beach.. Mr. Long said there was a great deal of information generated through the process.

Mr. Long said part of the process included looking at legal documents such as ordinances, laws and regulatory requirements.

Mr. Long said the annexation is a key component of this analysis because it is critical to the Town. Mr. Long said he had the opportunity to meet and speak about some of the preliminary ideas and recommendations.

Mr. Long said while looking at the current environment within Broward County, it was found that there are a number of different approaches that cities and towns use in order to deliver fire and EMS service and therefore, there is no one right answer to delivering fire and EMS service. Mr. Long continued to say the Municipal Service Benefit Unit has changed significantly, during the production of this report. Mr. Long told the Commission that the key member, The City of Fort Lauderdale has withdrawn. Mr. Long said the withdrawal of Fort Lauderdale from the Municipal Service Benefit Unit has had a considerable impact on the outcome of this study, recommendations and the cost that will be required to fund fire and EMS operations in the future.

Mr. Long said it was determined, in this environment, that officials wanted to retain the volunteer approach as much as could possibly occur. Mr. Long said he believes this is a good public policy when it works. Mr. Long said this is addressed in the report and alternatives have been offered that would ensure the retention of the Volunteer Fire Department. Mr. Long said officials are seeking and want more data and information about the operations of fire services being provided in the Town.

Mr. Long said in the current environment, they found that the county government, during the process, seems to have sought more involvement in providing services to the Town. Mr. Long said after the City of Fort Lauderdale, withdrew, they were not sure what was going to happen. Mr. Long said the county has accelerated their interest to the Town's benefit. Mr. Long said the report goes into detail regarding this, as well. Mr. Long said they were a bit surprised by this. Mr. Long said there is a commitment at the management level at minimum and in order to make sure this commitment is followed through, it will need to be taken to the elected level.

Mr. Long said the Police Department provides first responder capability and also carries automatic defibrillators in their trunks. Mr. Long said this is a critical element in the EMS response within the Town. Mr. Long said this is excellent and it is a critical component they are recommending be retained and funded.

Mr. Long said one thing they found is that there is really no technical formal relationship between the Town and the Volunteer Fire Department. Mr. Long said some suggestions have been offered to create one.

Mr. Long said one outcome of this entire process, is the cost to fund fire and EMS service will increase, mostly due to the withdrawal of Fort Lauderdale from the Municipal Services Benefit Unit.

Mr. Long reported that the current Fire Department membership is made up of approximately 2/3 town residents and continued to say it is not the number of people serving that is so critical, but there be enough who are able to meet the standards of service that is developed. Mr. Long said it is important that the Town have enough qualified people responding to the calls. Mr. Long said the Fire Department has done a good job creating a balance between day and nighttime responses. Mr. Long reported to the Commission the need for continued support for training. Mr. Long reported there are excellent response times by the Fire Department and are well within the bounds of a good level of service. Mr. Long reported the facilities are marginal in terms of providing an opportunity for providing good service in the Town. Mr. Long said the Town is changing and is recommending the Town pursue a joint facility with the county.

Mr. Long reported, overall, the apparatus seems to be satisfactory. Mr. Long said the report recommends looking at other issues regarding level of service before looking at expensive apparatus. Mr. Long recommended \$40,000 annually be set aside for vehicle and apparatus replacement. Mr. Long recommended joint training with neighboring communities such as Fort Lauderdale and Pompano Beach.

Mr. Long reported there is a Fire Inspector that provides inspection services in the Town and it is a very active and complete program. Mr. Long recommended communication between the Fire Department and management in terms of what is observed in the activity of the fire inspections.

Mr. Long reported it was found there is a lack of sprinkling in the condominiums. Mr. Long said because of the safety factor involved, a level of sprinkling should be pursued in these major structures.

Mr. Long stated there have been some issues over whether the Fire Chief's position should be one of an employee or should he be compensated in some fashion. Mr. Long reported there should be some compensation provided for management and clerical duties.

Mr. Long reported that communications need to be enhanced between the Volunteer Fire Department, Administration and the Commission.

Mr. Long reported a service agreement should be established to maintain accountability without creating an employment arrangement.

Mr. Long reported the option of having the Volunteer Fire Department and the County EMS is probably the most cost effective. Mr. Long reported a new fully evolved and developed fire station is a 1.5 million dollar question. Mr. Long reported the county has offered to support funding but to what level, has not been determined at this point and time. Mr. Long recommended some level of funding to assure full control over the construction and the building.

Mr. Long stated it could be in Town's best interest, both short term and long term, to establish a fire assessment district to raise money to support the fire service.

Mr. Long stated that long term support of the Volunteer Fire Department is essential to the relatively low cost service. Mr. Long continued to say the notion of a service agreement should be embraced in order to make it clear to all parties what is being asked for and what is being received.

Mr. Long reported that if annexation is successful, there should be a move to create a second fire district.

Mr. Long said he would be happy to answer any questions.

Commissioner Yanni commended Mr. Long on the report and said he agrees with recommendations in the report.

Commissioner Wessels asked Mr. Long to extrapolate on the issue of false alarms and penalties.

Mr. Long stated the Town has, at this time, a false alarm ordinance, where a fine would apply after certain amount of alarms, beyond the established norm. Mr. Long stated this varies from municipality. Mr. Long stated that of the number of calls made, it was discovered that maybe 35% are false alarms. Mr. Long said these seem a little bit high and perhaps this should be reviewed and addressed, perhaps with a heavier fine or some other means.

Commissioner Wessels questioned Mr. Long regarding the Fire Inspector and his communications with the Volunteer Fire Department. Mr. Wessels said he believes inspections are very important and asked Mr. Long to expand on the benefits of bringing the Fire Inspector and the Fire Department together.

Mr. Long stated inspections and a report showing results of those inspections should be made known to the Fire Department. Mr. Long said the purpose of this is to make sure the Fire Department is aware of whatever potential hazards exist. Mr. Long said the goal is to make sure this communications happens.

Commissioner Wessels asked if there would be an advantage in using the county in this regard.

Mr. Long said it could, although there does not seem to be any dissatisfaction with the present method.

Commissioner Wessels said he found the information enlightening and commended Mr. Long on his report. Commissioner Wessels said there were many compliments to our Fire Department and it is possible many people did not realize how well it performs. Mr. Wessels thanked Mr. Long for a well done report.

Commissioner Yanni asked Mr. Long if there is a system for determining the number of fireman dispatched on a call.

Mr. Long said there are some provisions in the corporation by-laws that enable the department to restrict the number of people and they are fairly reasonable overall. Mr. Long said they didn't feel compelled to address this because it is normal. Mr. Long said, additionally, they do not want to diminish or down-play the interest and enthusiasm in volunteerism that exists. Mr. Long stated this is a small price to pay.

Commissioner Yanni said he believes it is difficult to justify ten or twelve fireman responding to false alarm.

Commissioner Waller said there is no way to know if it will be a false alarm or not.

Commissioner Yanni asked if is possible to dispatch fireman in stages after determining the nature of the call.

Mr. Long said he understands the concern, said the point has validity and is an important issue to raise from a cost perspective. Mr. Long said he suspects this is an issue that other departments face and ultimately, it has to be determined what level of risk you wish to assume. Mr. Long continued to say in light of current participation, current guidelines that do exist and the manner in which it is implemented, it was felt that it should not be compromised at this time. Mr. Long said he thinks this could be a matter of discussion and feedback and this question could be asked. Mr. Long said the Chief does have some discretion with regards to his actually paid. Mr. Long said, overall, it is pretty well managed.

Commissioner Waller said you never know what you are dealing with until you get there.

Mayor Parker said if his house was on fire, he would want as many firefighters to show up as possible. Mayor Parker said he is, personally, willing to put up with more than five firefighters showing up at a false alarm if he can have more than five firefighters show up to actually put out a fire.

Mayor Parker said the report does not address the issue of false alarms as a separate statistic.

Mr. Long said they were told by Broward County Dispatch the number of alarms, reflected in item 49, is reflective of false alarms.

Commissioner Wessels asked Mr. Long to clarify the recommendation on page 3-14 stating at 90% of all reported structure fires, not less than 11 firefighters, including an incident commander, two fire apparatus, each equipped with not less than the requirements described in NFPA Standard 1901 for Automotive Fire Apparatus, 1996 edition, Chapter 3, "Pumper Fire Apparatus" and a third fire apparatus equipped with not less than the requirements described in NFPA Standard 1901 for Automotive Fire Apparatus, 1996 Edition, Chapter 6, Aerial Fire Apparatus shall arrive at the street address within 10 minutes of notification. Commissioner Wessels asked exactly how many trucks are being talked about here.

Mr. Long said three but that does not necessarily mean the Town has to own them all.

Commissioner Waller said he believes this pertains to an agreement the Town would have with other departments to respond to structured fires.

Mr. Long stated the third truck would come from another provider. Mr. Long said there is no recommendation for the Town to purchase a third fire truck at this time.

Commissioner Wessels asked Commissioner Waller how many structure fires occur a year.

Commissioner Waller stated the number of calls opposed to the number of actual structure fires is probably five or six.

Mayor Parker thanked Mr. Long for the report.

The MGT of America, Inc. report, in its entirety, is being made a permanent part of these minutes.

2. Consideration of continued participation by the Town within the Broward County Municipal Service Benefit Unit for the delivery of Emergency Medical Services within the Town (Town Manager Robert Baldwin)

Town Manager Baldwin said three years ago, the Town entered into an agreement with the county to join the Municipal Service Benefit Unit, allowing the county to provide emergency medical services to the Town. Mr. Baldwin said the deadline for opting out of the agreement is May 1, 1999 or otherwise it is self-renewing. Mr. Baldwin continued to say the Resolution was designed by the Town Attorney to indicate the Town's desire not to opt out of the MSBU agreement with the county if the Town and the County can negotiate and finalize a contract. Mr. Baldwin said this agreement has been negotiated with the Volunteer Fire Department and the County Fire Rescue. Mr. Baldwin said he has had numerous meetings with the County Administrator, Chief Lorenzo and Captain Hernandez. Mr. Baldwin said he and Chief Case have discussed this in detail. Mr. Baldwin said MGT and Mr. Long feel this is the best course for the Town to pursue. Mr. Baldwin said there is no agreement yet and this will have to be finalized with the County.

Mr. Baldwin read to the Commission a letter from Chief Lorenzo thanking him for meeting with him and highlighted the points agreed upon; 1) The County and the Town will develop a new

mutual response plan for all fire incidents in the Town and surrounding unincorporated areas utilizing the Town's Volunteer Fire Department and Broward County Fire Rescue, 2) Broward County will fund the construction of a new fire rescue station on Town-owned property in Lauderdale-By-The-Sea. The new station will jointly house a Broward County ALS rescue/transport unit and engine company in addition to the Town's Volunteer engine and telesquirt engine companies, 3) the County will relocate a modular structure to Town-owned property located opposite the Town's Municipal Complex, to be used as a temporary fire-rescue station, 4) The agreement between the County and the Town should be for a term of twenty-five to thirty years. Mr. Baldwin stressed these are general terms and there are more specific terms.

Mr. Baldwin said the rate for the EMS service in the Town is going up due to the fact that Fort Lauderdale has pulled out of the MSBU agreement. Mr. Baldwin said the single family rate will be \$51.18 and the multi family rate will be \$47.51 per unit.

Mr. Baldwin told the Commission he believes that if the Town can formalize this agreement, along these lines, it is the best action for the Town and the Volunteer Fire Department. Mr. Baldwin recommended the Commission pass the Resolution.

Commissioner Waller commented that he has seen first-hand how the Town works with the County and stated he believes this would definitely be to the Town's advantage.

Commissioner Wessels commented the service the Town has had from Station 36 has been problem free and if the Station moves even closer to us, it would be the best of both worlds. Commissioner Wessels stated, as outlined, this seems to be the most rational thing for the Town to do at this juncture and he supports the idea.

Mayor Parker asked if the Resolution is passed, does the deal that was negotiated have to come to the Commission for their approval?

Town Attorney Cherof answered that is correct.

Mayor Parker asked if the agreement is negotiated for twenty-five or thirty years, will there be some sort of opt out provision?

Town Manager Baldwin said this has been discussed in detail and he just recently discussed it with Captain Hernandez. Mr. Baldwin said there would be some sort of cancellation clause built into the agreement, for both sides, whereby if the Town were to cancel during the course of the agreement, the Town would have to pay back some portion of the cost of the structure. Mr. Baldwin added under this agreement, the County would continue to assess for the EMS fees; the Town would not do that.

Mayor Parker asked if he had the permission of the Commission to take Resolution "A" out of order.

It was decided by general consensus of the Commission to address Resolution "A" at this time.

Town Attorney Cherof read Resolution "A" by title only: A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida authorizing the continued participation by the Town of Lauderdale-By-The-Sea within the Broward County Municipal Service Benefit Unit for

the delivery of Emergency Medical Services by Broward County with the Town consistent with the terms of the April 12, 1999 Letter of Understanding from the Director of Broward County Fire Rescue Division, and subject to the further approval of an Interlocal Agreement between the Town and Broward County by the Town Commission and the Broward County Board of Commissioners; Providing for conflict, Providing for severability; and for an effective date.

Mayor Parker asked for a motion to adopt the Resolution.

Commissioner Wessels motioned to adopt the Resolution. The motion was seconded by Commissioner Yanni.

Mayor Parker asked for any further discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously, 4-0.

Town Manager Baldwin asked Captain Hernandez if Lauderdale-By-The-Sea is the first City that has taken action on this.

Captain Hernandez answered yes.

Town Manager Baldwin requested Captain Hernandez to pass this along to his superiors.

B. Discussion and/or action concerning amending the Code of Ordinances to allow home occupations within the residential zoning districts (Commissioner Waller)

Commissioner Waller stated he believes this is something that should be considered. Commissioner Waller said this issue was brought before the Commission in 1996 and he believes that times are changing. Commissioner Waller said he believes more and more people are, in fact, working out of their homes and there are situations where an occupational license would be required. Commissioner Waller said he feels strongly there should be no traffic in the residential areas.

Commissioner Yanni asked for justification for the \$100 charge for home occupations. Commissioner Yanni stated he believes the fee schedule should be followed and businesses charged according to this already established schedule.

Commissioner Waller commented he believes the \$100 fee for a home occupational license is way out of line. Commissioner Waller said he does not think this is something the Town will make a lot of money on but is something that will make it easier for new business to come into Town and work out of their home.

Commissioner Yanni stated this issue was brought to the Commission three years ago and it was determined to table this, for three months, until the Town had a Code Enforcement Officer. Commissioner Yanni asked why they have waited three years.

Town Attorney Baldwin said the reason the administration did not bring it back to the Commission was because when the Commission was polled, there was no desire to bring it back. Mr. Baldwin said the administration was not told to bring it back on a date certain but to

table it until there was a Code Enforcement Officer. Mr. Baldwin said when he inquired nobody really seemed that interested.

Commissioner Yanni inquired why we are concerned about the issue at this time.

Commissioner Waller responded that times are changing and there are some types of businesses that require licenses. Commissioner Waller stated he is merely bringing this up for discussion.

Commissioner Wessels stated there will be administrative costs involved with this and there should be fees attached and the cost should be a reasonable one. Commissioner Wessels said this type of business is electronic in nature and does not involve business clients visits to the home. Commissioner Wessels said his concern is that the Town would unintentionally interrupt or violate the privacy of a residential area. Commissioner Wessels said the Town needs to insist the peace and tranquility of homeowners be protected. Commissioner Wessels asked if there is a mechanism that will allow enforcement.

Town Attorney Cherof said the enforcement vehicle is injunctive relief and said Commissioner Wessels has raised an interesting point. Mr. Cherof said a lot has changed in the last few years, since this has been drafted, such as the growth of internet related businesses where a tremendous amount of shipping and handling is conducted from a residential structure. Mr. Cherof said there are provisions that need to be made before the Commission can consider it for adoption.

Commissioner Wessels stated unless there are certain residential areas designated for home businesses, it could become problematic. Commissioner Wessels said he would rather err on the conservative side of this issue rather than be too liberal and be sorry later. Commissioner Wessels asked if there is a requirement for inspections of home occupations.

Town Attorney Cherof said there would be an inspection required at the inception of the license in conjunction with issuing it, to make sure the premise, at least, initially met the criteria under the ordinance and was otherwise suitable for the activity.

Commissioner Wessels asked if this is an initial inspection and not an annual one.

Town Attorney Cherof answered the next time you want to go in, you will need some type of inspection warrant to get in the door.

Commissioner Wessels asked Mr. Cherof is this would apply to any occupational license except for a business that is open to the public.

Mr. Cherof answered that is correct. Mr. Cherof said this is what distinguishes these uses from a tradition commercial usage; generally the public is able to walk in the front door of a business and this does not occur in the home occupation.

Commissioner Wessels said he believes this situation is going on now, it will continue to go on in the future and it all depends on how it is managed. Commissioner Wessels said he would like to consider this further with input from the Town Attorney.

Commissioner Waller said he agrees with Commissioner Wessels and the Town has to be careful with what its doing. Commissioner Waller stated the people are already there but they don't have a license because the Town doesn't offer one.

Commissioner Yanni asked if there have been complaints regarding businesses being operated from homes.

Town Manager Baldwin said he does not recall any and asked Bill Mason if he knew of any.

Mr. Mason said he could not recall any complaints.

Chief Patten said he is not aware of any blatant situations and nothing repetitious.

Commissioner Yanni said he has read the restrictions for home businesses and they are all good but he has a problem with charging \$100 for an occupational license.

Mayor Parker said he has had three years to think about this and if someone operates a business out of their home, they keep it unobtrusive enough, then nothing happens. Mayor Parker said there is great incentive to keep the business unobtrusive so that nothing happens. Mayor Parker said, quite possibly, if the business was kept unobtrusive, the Supreme Court would say, the First Amendment would protect them in conducting their business. Mayor Parker continued to say the minute an ordinance is passed allowing home occupations, people will no longer have the incentive to keep their home occupations totally unobtrusive. Mayor Parker said he thinks there is a real need for a residential office category in Town. Mayor Parker said he thinks this is needed as a buffer between the existing business areas and the residential areas. Mayor Parker said if the Town has difficulty enforcing the zoning ordinances in existence now, he does see how the Town will be able to enforce home occupations. Mayor Parker said he does not want the residential neighborhoods to become non-residential.

Commissioner Wessels said he agrees there are usually not as many problems when something is illegal.

Mayor Parker said some things are illegal because they are wrong and others are illegal because it is the easiest way of controlling a problem that isn't necessarily evil, it's just inconvenient. Mayor Parker said that he does not think there is anything inherently evil about a home occupation, it can be bothersome to neighbors. Mayor Parker said he believes the way to keep it from being bothersome is to make it illegal so that the people who are doing it, do it so quietly that nobody knows there are doing it.

**IX. ORDINANCES (1ST READING)**

None

**X. ORDINANCES (Public Hearing – 2<sup>nd</sup> Reading)**

None

**XI. RESOLUTIONS**

- A. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida authorizing the continued participation by the Town of Lauderdale-By-The-Sea within the Broward County Municipal Service Benefit Unit for the delivery of Emergency Medical Services by Broward County within the Town consistent with the terms of the April 12, 1999 Letter of Understanding from the Director of Broward County Fire Rescue Division, and subject to the further approval of an Interlocal Agreement between the Town and Broward County by the Town Commission and the Broward County Board of County Commissioners; Providing for Conflict; Providing for severability; and an effective date.

Note: Resolution "A" was discussed and passed unanimously during New Business.

- B. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, authorizing the granting of a permanent four-foot, non-exclusive easement to the Florida Department of Transportation along Commercial Boulevard North and South rights-of-Way between Seagrape Drive and Tradewinds Avenue West as reflected in Exhibit "A" attached hereto; directing the appropriate Town Officials to prepare and execute the necessary documents to effectuate the granting of the easement; providing for conflict; providing for severability and an effective date.

Town Attorney read Resolution B by title only.

Mayor Parker asked if the Resolution will allow the Florida Department of Transportation to install the ten foot sidewalks.

Town Manager Baldwin answered yes.

Mayor Parker asked if there was motion to adopt the Resolution.

Commissioner Waller motioned to adopt the Resolution. The motioned was seconded by Commissioner Wessels.

Mayor Parker asked if there was any discussion.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously, 4-0.

- C. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, approving an agreement between the Town and the Florida Department of Transportation relating to the installation of certain lighting systems along State Road A1A and State Road 870 (Commercial Boulevard); authorizing the execution of the agreement by appropriate Town Officials; providing for conflict; providing for severability; and an effective date.

Town Attorney Cherof read Resolution C by title only.

Mayor Parker asked for a motion to adopt the Resolution.

Commissioner Wessels motioned to adopt the Resolution. The motion was seconded by Commissioner Waller.

Mayor Parker asked for any further discussion.

Mayor Parker asked if the purpose of this Resolution is to allow the Florida Department of Transportation to put in the improvements on State Road A1A and Commercial Boulevard.

Town Manager Baldwin responded this is the lighting portion of the project.

There was no further discussion and Mayor Parker asked the Clerk to call the roll. The motion carried unanimously, 4-0.

Mayor Parker said the agenda does indicate the Resolution to rename El Prado North to Firefighter's Way.

Town Manager Baldwin said tonight's agenda is dealing with the Master Plan and the Resolution renaming El Prado North to Firefighter's Way will be brought back at the next meeting.

Town Attorney Cherof assured the Commission there is no reason this cannot be on the next agenda.

## **XII. TOWN MANAGER REPORT**

Mr. Baldwin thanked Bill Mason, Captain Eastwood and Finance Director Helen Short for a check in the amount of \$11,038 received from FEMA for reimbursement of expenses.

## **XIII. TOWN ATTORNEY REPORT**

Mr. Cherof said he had nothing to report.

## **XIV. COMMISSIONER COMMENTS**

Mayor Parker asked the Commission if they would like to consider summer dress code beginning June 1 through August 31.

Commissioner Waller asked if summer dress code could begin May 1 through August 31.

Mayor Parker said he did not have a problem beginning May 1. Mayor Parker said summer dress code could begin May 1 if that is the will of the Commission.

Commissioner Waller said his recommendation is to begin summer dress code May 1 through August 31.

Commissioner Yanni said his recommendation is to begin summer dress code June 1 through August 31.

Commissioner Wessels stated he does not want to have a summer dress code.

Mayor Parker said he will ask this to be placed on the next agenda because he wants to hear from the Vice-Mayor.

**XV. ADJOURNMENT**

Mayor Parker adjourned the meeting at 9:10 P.M.

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

ATTEST:

  
\_\_\_\_\_  
Karen Polyasko, Town Clerk

**Sec. 30-21. - Nonconforming uses and structures.**

(a) *Existing uses and structures.* Any lawful use or structure, excluding signs, existing on the effective date of this chapter and which by the terms thereof has become a nonconforming use or structure is hereby declared not to be in violation at this chapter's effective date. Such a nonconforming use or structure shall be subject to all of the provisions of this section pertaining to its continuance, change and discontinuance and Section 7.1 of the Town Charter.

(b) *Nonconforming use; extensions.* The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the effective date of this chapter. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building on the same plot not used for such nonconforming use of land at the effective date of this chapter. The nonconforming use of land shall not be extended to any additional land not so used at the effective date of this chapter.

(c) *Nonconforming use, repair, alteration, enlargement.* No structure utilized for a nonconforming use shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to one which complies with the provisions of this chapter; provided that repairs, maintenance and improvement may be carried out in any 12-month period in an amount not to exceed 25 percent of the assessed value of the structure for that year, and provided that such work does not increase the cubical content of the building nor the floor area devoted to the nonconforming use or increase the number of dwelling units. Nothing in this article shall prevent or excuse compliance with applicable laws or resolutions relative to the safety and sanitation of a building occupied by a nonconforming use.

(d) *Reconstruction after catastrophe.* If any nonconforming structure or if any building in which there is a nonconforming use is damaged by fire, flood, explosion, collapse, wind, war or other catastrophe to such an extent that surpasses 50 percent of the replacement cost of the building or structure, it shall not be again used or reconstructed except in full conformance with all applicable land development regulations and Section 7.1 of the Town Charter.

(e) *Change of nonconforming use.*

(1) In any residential district, any change of a nonconforming use in a conforming building shall be to a conforming use.

(2) In a residential district, a nonconforming use and a nonconforming building shall be changed only to a use permitted in the particular residential district involved except as provided in subsection (e)(4) below.

(3) Any change of a nonconforming use of land shall be to a conforming use except as provided in subsection (e)(4) below.

(4) There may be a change of tenancy, ownership or management of a nonconforming use, provided that there is no change in the specific character of such nonconforming use except as may be permitted by this chapter. For example, a nonconforming professional office may continue as a nonconforming professional office after a change in tenancy, ownership or management but may not continue as another commercial or business use. Likewise, a retail store may continue as

another type of retail store but not as a laundromat or other type of service establishment.

(f) *Discontinuance or abandonment of a nonconforming use.*

(1) If for any reason a nonconforming use of land ceases or is discontinued for a period of more than 60 days, the land shall not thereafter be used for the same or any other nonconforming use.

(2) If for any reason the nonconforming use of a building ceases or is discontinued for a period of 60 days or more (not including periods when restoration is in progress), the building shall not thereafter be used for the same or any other nonconforming use.

(3) Any part of a building, structure or land occupied by a nonconforming use which is abandoned shall not again be occupied or used for a nonconforming use.

(4) Any part of a building, structure or land occupied by a nonconforming use which is changed to or occupied by a conforming use shall not thereafter be used or occupied by a nonconforming use.

(g) *Continuance of nonconforming uses and structures.* Any legal nonconforming use or structure may be continued in accordance with the requirements of this section and Section 7.1 of the Town Charter.