

TOWN OF LAUDERDALE-BY-THE-SEA

TOWN COMMISSION

SPECIAL MEETING

MINUTES

Town Commission Meeting Room

4501 Ocean Drive

Monday, January 9, 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 Kennedy, Mayor Pro Tem Clark, Commissioner Wessels, and Commissioner Yanni. Also present were Town Manager Baldwin, Attorney James Cherof, and Town Clerk Medina.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

Mayor Parker explained the reason for the special meeting and referenced the court hearing on Thursday. He said he had called a shade session in order to discuss what the Commission needs to do under the Judge's order.

Attorney Cherof noted publicly that the Commission was to meet in a shade session pursuant to Florida State Statute 286.011(8).

Mayor Parker recessed this meeting at 6:09 p.m. to proceed into closed door session.

3. SHADE SESSION

Attorney Cherof stated that in accordance with the procedures set forth in Florida Statutes Section 286.011(8), the Town Commission and the Town Manager will meet privately with the Town Attorney to discuss the following pending litigation:

McIntee vs. Town of Lauderdale-By-The-Sea, Florida,
Case Number 05-18390 CACE (11).

The meeting, which was closed to the public, would be attended by the Mayor and Commission, Town Manager Robert Baldwin, and himself. He estimated that the closed session would last approximately 45 minutes.

Mayor Parker resumed the special meeting at 7:23 p.m.

Mayor Parker asked that Item 5A be taken out of order. There were no objections.

5. DISCUSSION ITEM

- A. Discussion and/or action regarding the inclusion of two (2) Charter amendments proposed by the Citizen's Initiative Committee for placement on the March or November Ballot

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to place the two Citizen's Initiative Committee amendments on the November Ballot, and directing the Town Attorney to challenge the trial Court's ruling in McIntee vs. Town of Lauderdale-By-The-Sea by all available legal means. In a roll call vote, the motion carried 3-2, with Vice Mayor Kennedy and Commissioner Wessels dissenting.

4. ORDINANCES (2nd Reading) PUBLIC HEARING

- A. **Ordinance No. 2005-20:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, submitting to referendum an amendment to Article XIV, Section 277 of the Town Charter, amending Sections 5(d) through 5(f) and related sections to allow the replacement of existing non-conforming buildings with multiple non-conforming buildings and eliminating restrictions on the square footage of non-conforming buildings that are replaced or rebuilt, but otherwise maintaining height limits; 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 March 2006 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 Ordinance 2005-20 by title only for second reading.

Mayor Parker opened the public hearing.

Jerome McIntee, 1612 SE 21 Avenue, hoped the Town would respect the wishes of the people.

M. Ross Shulmister, 590 SE 12 Street, Pompano Beach, was concerned with the effects of the Ordinance as it pertained to the Burt J. Harris Act.

Tom Carr, 254 Miramar Avenue, spoke in opposition of Ordinance 2005-20.

Gretel McCausland, 251 Oceanic Avenue, spoke against the Charter amendment and expected the Commission to vote against it.

Dale Cooper, 219 Codrington Drive, was opposed to Ordinance 2005-20 and suggested the Commission not proceed with this action.

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Johnny Leachman, 245 Oceanic Avenue, believed the Ordinance was too vague and did not support it as it was currently written.

Peter Debs, 1010 S. Ocean Boulevard, Pompano Beach, favored Ordinance 2005-20 and believed the Ordinance served a purpose, but only a vote by the people could make the decision.

Commissioner Yanni inquired as to whether Mr. Debs intended to build 5-over-1 on the Holiday Inn site, which currently had a 5-story building, and if the three adjacent parcels would remain as 3-over-1 structures. Mr. Debs replied affirmatively.

Mayor Pro Tem Clark inquired as to the existing square footage of the Holiday Inn site and what Mr. Debs envisioned during redevelopment. Mr. Debs replied that the site currently had approximately 75,000 square feet, and would probably expand to 120,000 square feet. Mr. Debs explained that what they would be building on Vila Capri, Atlantic A1A, and the beach, all together created a critical number for the square footage that had to be above 260,000 square feet in order for the hotel owner to make money. He added that the way the Charter was written they could not get above 215,000 square feet.

Kristen Cavanaugh, 4620 Bougainvilla Drive, stated that she was there to represent the younger people in Town, stating she liked Lauderdale-By-The-Sea the way it was.

Christy Furth, 4525 El Mar Drive, requested clarification as to who proposed the language in the proposed amendment. Attorney Cherof said he had prepared several options and discussed the proposed language with Mayor Pro Tem Clark. Ms. Furth asked Mayor Pro Tem Clark the reason for his request and Mayor Pro Tem Clark said it was to clarify the language as to what was the intent of the ordinance.

Sue Delegal, 1741 W. Terra Mar Drive, understood the intent was to remove the square footage restriction, allowing the replacement of an existing non-conforming building with one or more buildings to the height only of that existing non-conforming building on the original parcel of property. She was, therefore, in favor of Ordinance 2005-20.

Joe Corral, 222 N. Tradewinds Avenue, was against the proposed ordinance.

Lawrence Campbell, 6000 N. Ocean Boulevard, was against placing the amendment on the March ballot.

Michael Arker, 5100 N. Ocean Boulevard, requested a moment of prayer for Laura Ward.

Stewart Dodd, 232 Imperial Lane, expressed his disfavor with the Ordinance and wanted to see the Citizens Initiative Committee's proposal on the March ballot.

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John Thompson, 4900 N. Ocean Boulevard, opposed the proposed Ordinance. He referenced an article in the Town Topics, expressing his belief that the article was written in error. He requested a retraction. Mayor Parker agreed that perhaps the article was incorrect.

There was a consensus, 4-1, to direct the Town Administration to print a retraction in the next Town Topics if it was found that an error was indeed printed.

Howard Camack, 550 SE Boca Raton, assured the Commission that, per their surveys, the community wants a hotel industry.

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

The Commission recessed at 9:00 p.m. and reconvened at 9:08 p.m.

Vice Mayor made a motion, seconded Mayor Pro Tem Clark, to approve Ordinance 2005-20 on second reading.

Vice Mayor Kennedy questioned whether the Commission could expand on the perimeters. Attorney Cherof said they could not under the current ordinance or under the proposed language.

Commissioner Clark suggested amending the language on page 5 of 10, item D, to read: The Town Commission may approve a single non-conforming building, or multiple non-conforming buildings to replace a single non-conforming building, but the new building, or buildings, shall be within the same parcel boundaries as the original non-conforming building as those buildings existed on October 1, 2001; subject to zoning regulations and Town Commission approved site plan conditions.

Attorney Cherof said he preferred to follow "multiple non-conforming buildings" with language to include "not separated by right-of-way", and change buildings to boundaries to read "the original non-conforming building as those boundaries existed".

Mayor Pro Tem Clark made a motion, seconded Commissioner Yanni, to amend Ordinance 2005-20 as noted in page 5 of 10, Item D, option 4.

The Commission discussed the amendment regarding the clarity the Ordinance's intent; the effects on existing zoning; and the intent behind grand-fathering.

Mayor Parker believed the existing non-conforming building should have the right to be rebuilt and requested the removal of the language "subject to zoning regulations and Town Commission approved site plan conditions".

Attorney Cherof said that particular language neither added nor removed any rights, and that it simply made a blanket statement subject to zoning regulation and Town

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Commission site plan approval. Commissioner Clark and Commissioner Yanni agreed to omit that language.

Attorney Cherof read the clause as amended; "The Town Commission may approve a single non-conforming building, or multiple non-conforming buildings, not separated by right-of-way, to replace a single non-conforming building, but the new building, or buildings, shall be within the same parcel boundaries as the original non-conforming building as those boundaries existed on October 1, 2001."

In a roll call vote, the motion carried 3-2, with Commissioner Wessels and Mayor Parker dissenting.

At Mayor Pro Tem Clark's request, the Commission discussed amending the language of the proposed amendment. Mayor Parker read the proposed amendment as indicated on page 8 of 9: "If the preceding ballot referendum question is approved by the voters, should Section 277 of the Charter be further amended to allow existing non-conforming buildings that are taller than 4 stories, to be replaced with single or multiple non-conforming buildings that are taller than 4 stories, and to delete language which limits the square footage of non-conforming buildings that are replaced or rebuilt, but to otherwise maintain height limits".

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to amend the amendment as noted on page 8 of 9.

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

The Commission discussed the Ordinance and offered their reasons for supporting it, such as planning for changes that would benefit the Town, providing for better designs, and allowing the tourist / business community to flourish.

Commissioner Yanni said he favored Ordinance 2005-20 as it did not raise height limits all over Town. He advised that the addition of a first class hotel in Town would bring in approximately \$1.5 to \$1.6 million in tax dollars. He said if tax dollars aren't brought into the community, homeowners' taxes would continue to increase.

Mayor Parker said a local newspaper wrote an editorial regarding the special meeting held on December 24, 2005, and suggested he should have canceled his prepaid trip in order to have the meeting on December 27, 2005. Mayor Parker explained the reason he called the meeting on the 24th was because he believed the amendment gave the wrong impression as to how the Town operated. He said it suggested the Commission would do anything a developer, or land speculator, requested. Mayor Parker said, in essence, the special meeting was called because the developer wanted it, and, at the developer's request, the Town waived their rules and procedures for second readings on an Ordinance. He believed the Commission was giving a false impression to the community, as once again, the Commission was having yet another special meeting at

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the developer's request. Mayor Parker said special meetings were called solely for emergencies, and this Ordinance, in his opinion, was not an emergency.

Mayor Parker said the Town was in the process of creating a Community Redevelopment Agency. He said that the members of the Community Redevelopment Agency were not pleased that they would be denied the opportunity to look at this area.

Mayor Parker did not believe the action being taken was necessary to save the downtown area. He felt that by shifting the focus of the businesses from tourist only, the downtown would survive quite well. He said he preferred a hospitality industry, but not at the price of losing the uniqueness of Lauderdale-By-The-Sea.

Mayor Parker said the Town entered a pre-annexation agreement with North Beach before North Beach became part of the Town. He said three main areas of contention in that agreement had been addressed; financial, fire services, and building height. Mayor Parker affirmed that it was agreed that 3-over-1 height limits would not be imposed in the north section of Town, and the residents in the north would not interfere with, or change, the 3-over-1 height limit in the south section of Town. He further stated that the Town would be in violation of the pre-annexation agreement. Mayor Parker stated that half of the people that want, or signed the petition to allow 3-over-1 height limitations in the north, are from the north section of Town and that not a single person from the south asked to tamper with 3-over-1 in the south.

Mayor Parker said Commissioner Clark and Vice Mayor Kennedy did not live in the south section of Town and should not have a say in what 3-over-1 is like in the south. He stated that this amendment raised height limits in Old Town. He explained that this amendment says that if you tear down one building, as many buildings that would fit on that property would be allowed to be constructed.

Vice Mayor Kennedy disagreed with Mayor Parker that a developer had called a special meeting, explaining that since one of the Commissioners had wanted further clarification of the ordinance, he was allowed to call a special meeting. He talked about the annexation agreement and that his only interest was the unification of the Town, and referred to the municipal sewer project, stating it was environmentally desirable for the entire Town.

Commissioner Yanni asked Mayor Parker why he was against the petition going on the March ballot. Mayor Parker replied that he had proposed 3-over-1 town wide be placed on the ballot last November, and Sue Delegal, Vice Mayor Kennedy, Commissioner Yanni, and Mayor Pro Tem Clark, noted that would violate the pre-annexation agreement.

On a roll call vote, the motion carried 3-2, with Commissioner Wessels and Mayor Parker dissenting.

5. DISCUSSION ITEM

- A. Discussion and/or action regarding the inclusion of two (2) Charter amendments proposed by the Citizen's Initiative Committee for placement on the March or November Ballot

This item was discussed earlier in the meeting.

4. ADJOURNMENT

Vice Mayor Kennedy made a motion to adjourn the meeting. As there was no further business to discuss, the meeting was adjourned at 10:28 p.m.

Oliver Parker
Mayor

ATTEST:

Alina Medina
Town Clerk

Date Accepted: _____