TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, April 8, 2014
7:00 PM

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 7:05 p.m. Also present were Vice Mayor Chris Vincent, Commissioner Mark Brown, Commissioner Stuart Dodd, Commissioner Elliot Sokolow, Town Attorney Susan Trevarthen, Town Manager Connie Hoffmann, Assistant Town Manager Bud Bentley, Assistant Town Manager Pat Himelberger, Finance Director Tony Bryan, Public Information Officer Steve d'Oliveira, and Deputy Town Clerk Tedra Smith.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION – Pastor Jim Goldsmith

Pastor Jim Goldsmith gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

It was noted that the following changes would be made to the Agenda:

- Addition to Item 17c of the appointment to AMR Review Quality Board and Broward Metropolitan Planning Organization (MPO);
- Addition of Item 17g, number of respondents to the Town Engineer RFP to give presentations to the Town Commission

5. PRESENTATIONS

None.

6. PUBLIC COMMENTS

Mayor Sasser opened the meeting for public comment.

Todd Chase stated he represents a client who was granted site plan approval in September 2013 for the development of an empty lot. He explained that his client is ill and the permit has expired, and asked if it would be possible to extend the permit without going through the submission process once again.

Rosa Michaliuk advised that business and property owners on El Mar Drive hope to see additional beautification efforts as the result of a recent settlement, and asked when these could be expected.

Yann Brandt addressed the Bel Air drainage project, stating that it may be best to continue working with State Contractors in an RFP setting. He felt that price should be the utmost consideration.

Rick Imboden requested clarification of the regulations governing vacation rentals, including whether or not a one-week minimum is required, whether there is a maximum number of people that can occupy one rental property, and how these and other Code regulations are enforced.

Gail Albohn also discussed the beautification of El Mar Drive, stating that funds assigned for this area should be set aside until they are needed.

Edmund Malkoon addressed Agenda Item 16b, which deals with a proposed foreclosure. He asserted that the subject property is a problem in the neighborhood, and asked the Commission to support foreclosure on the house. He also felt the Town should focus on Code enforcement for vacation rental properties.

Cristie Furth briefly reviewed the history of the Oriana project, stating that the settlement funds were dedicated to El Mar Drive to create a more pedestrian-friendly environment and the use of these funds for other projects would violate the spirit of the agreement.

Diana Kugler addressed Item 11c, extension of the Athena permit, stating that the stage presents a pedestrian hazard in its current location. She described a modification in which another area could be opened for parking.

Louis Marchellos commended the Mayor and Commissioners on the April 7 workshop, which addressed street closures and noise levels.

With no else one wishing to speak, Mayor Sasser closed the public comment portion of the meeting.

7. PUBLIC SAFETY REPORT

None.

8. TOWN MANAGER REPORT

Town Manager Connie Hoffmann recalled that the Commission had discussed taking noise measurements during the Downtown entertainment on an upcoming weekend, and recommended that they select a date or dates. It was determined that the

Commissioners and Assistant Town Manager Bud Bentley would meet over the weekend of April 25-26. The meeting will be posted and the public is invited to attend.

9. TOWN ATTORNEY REPORT

Mayor Sasser asked that Town Attorney Susan Trevarthen respond to the request made during Public Comment for a permit extension. Town Attorney Trevarthen explained that she would need to review the development order for the project. Town Manager Hoffmann advised that all expired development orders should be treated in the same way, which would necessitate re-application at a reduced fee.

Vice Mayor Vincent addressed the issue of vacation rentals raised during Public Comment, asking if rental advertisements must specify the one-week minimum and how this time frame must be enforced. Town Attorney Trevarthen confirmed that some vacation rental properties advertise a nightly rate despite the one-week minimum; however, when Town Staff has investigated, the rental contracts specify seven days. She asked that any infractions be brought to Staff's attention.

She continued that the maximum number of individuals who may occupy a rental property begins at ten, with additional allowances based on the number of bedrooms. The State Legislature is considering the return of power to regulate vacation rentals to local governments, although they would not be able to regulate the length of time for which a rental may be offered. Town Attorney Trevarthen encouraged residents to reach out to their State officials with respect to this topic.

10. APPROVAL OF MINUTES

a. January 28, 2014 Town Commission Meeting Minutes (Tedra Smith, Deputy Town Clerk)

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

b. February 11, 2014 Town Commission Meeting Minutes (Tedra Smith, Deputy Town Clerk)

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

11. CONSENT AGENDA

a. Budget Transfer for Recycling & Solid Waste Programs (Bud Bentley, Assistant Town Manager)

b. **Special Event Application from the Community Church for an Easter Sunrise Service on Sunday, April 20, 2014 (Bud Bentley, Assistant Town Manager)**
c. **Extend the Special Event Permit of Athena By The Sea for Saturday Nights Music to June 28, 2014 (Bud Bentley, Assistant Town Manager)**
d. **2014 Amendments to the Interlocal Agreements between Broward County and the Town of Lauderdale-By-The-Sea providing for Division and Distribution of the Proceeds of the Local Option Gas Tax (Tony Bryan, Finance Director)**

Commissioner Brown made a motion, seconded by Commissioner Sokolow, to approve all items. Motion carried 5-0.

12. **ORDINANCES – PUBLIC COMMENTS**

a. **Ordinances 1st Reading**

None.

b. **Ordinances 2nd Reading**

None.

13. **RESOLUTIONS**

a. **Resolution 2014-12 – A resolution of the Town of Lauderdale-By-The-Sea, Florida, providing for the appointment of the Second Alternate Member of the Planning and Zoning Board; providing for conflict, providing for an effective date (Connie Hoffmann, Town Manager)**

Mayor Sasser opened the meeting for public comment, which he closed on receiving no input.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to appoint David Quinones as Second Alternate. Motion carried 5-0.

b. **Resolution 2014-13 – A resolution of the Town of Lauderdale-By-The-Sea, Florida, authorizing approval of a proposal from Maria M. Yip, Chapter 11 Bankruptcy Trustee for the Estate of Ocean 4660, LLC, to seek to settle the Town's claims against the Bankruptcy Estate, directing the appropriate Town Officials to take whatever steps are necessary to accept the offer; providing for an effective date (Susan Trevarthen, Town Attorney)**

Mayor Sasser opened the meeting for public comment, which he closed on receiving no input.

Commissioner Dodd made a motion, seconded by Vice Mayor Vincent, to approve. Motion carried 5-0.

c. **Resolution 2014-14 – A resolution of the Town of Lauderdale-By-The-Sea, Florida, directing the Town Clerk to deliver to the Florida Secretary of State a copy of the Town's revised Charter, which was approved by a majority of the Electors on March 11, 2014 Election; and providing for an effective date (Susan Trevarthen, Town Attorney)**

Mayor Sasser opened the meeting for public comment, which he closed on receiving no input.

Town Attorney Trevarthen clarified that once an elected official reaches his or her term limit in one elected position, s/he may not run for another office immediately following the completion of this term.

Commissioner Sokolow made a motion, seconded by Commissioner Dodd, to approve. Motion carried 5-0.

d. **Resolution 2014-15 – A resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, revising the Commission Meeting and Agenda Procedures; providing for conflicts; providing for severability; and providing for an effective date (Susan Trevarthen, Town Attorney)**

Mayor Sasser opened the meeting for public comment, which he closed on receiving no input.

Commissioner Dodd made a motion, seconded by Commissioner Brown, to approve. Motion carried 5-0.

14. QUASI JUDICIAL PUBLIC HEARINGS

None.

15. COMMISSIONER COMMENTS

Commissioner Brown noted that on Wednesday, April 16, 2014, a public meeting will be held at 7 p.m. in Jarvis Hall to discuss potential renovations on El Mar Drive. The Town has an opportunity to secure a grant to pay for these improvements.

Commissioner Sokolow noted that the April 7, 2014 workshop to discuss street closures and noise levels on El Mar Drive and Commercial Boulevard had resulted in civil dialogue from all interested parties, which he commended.

Commissioner Dodd noted that North Lauderdale has joined Davie, Plantation, and other municipalities in passing an ordinance to ensure that pet shops will not sell dogs bred in puppy mills.

Mayor Sasser reported that although State Senate Bill 356, which would allow municipalities to once again regulate vacation rentals, has passed the Florida Senate, it has done so with an addendum that restricts towns and cities from requiring minimum stays of more than seven days. He strongly expressed his disappointment in this bill, and encouraged residents to contact State Senator Maria Sachs and State Representative George Moraitis and make their voices heard on this issue.

16. OLD BUSINESS

a. Designation of an Alternate to Commissioner Vincent for the RRB Lawsuit Mediation Meeting on April 11th (Connie Hoffmann, Town Manager)

The Commissioners agreed by unanimous consensus to appoint Commissioner Dodd as Alternate for the April 11, 2014 meeting.

b. Consideration of Foreclosure or Other Options to Achieve Code Compliance (Susan Trevarthen, Town Attorney)

Town Attorney Trevarthen advised that Staff has prepared an item explaining how the Town may collect its outstanding Code liens, as well as achieving Code compliance, on properties that have been in foreclosure for some time. The backup materials provide information on the subject property. Alternatives open to the Town include:

- Filing a motion to intervene in the bank's pending foreclosure action and seek a foreclosure sale; and
- Filing foreclosure against the property to seek collection of the liens.

Town Attorney Trevarthen stated that both methods would serve the purpose of encouraging the bank to respond.

The Commissioners discussed these options, clarifying that while the Town's liens are second in priority to those of the bank, the Town is not prohibited from legal pursuit of collection, as the property is not homesteaded. Bringing the property back into compliance would prevent it from causing any further nuisance to the surrounding neighborhood, although Town Attorney Trevarthen acknowledged that it is not likely the Town will be able to collect the full balance of its liens.

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to intervene in the bank's foreclosure action and order [a] foreclosure sale, and foreclosure of the Town's Code Enforcement liens. Motion carried 5-0.

c. Strategic Priorities (Mayor Sasser)

Mayor Sasser explained that he wished to compile a list of the most important strategic priorities for the Town Commission to work toward throughout the coming year. Once the list has been confirmed, he will work with the Town Manager on a plan of action to achieve these priorities.

Based on earlier Commission discussions, he believed the list should contain:

- Determination of action on parking strategies;
- Plan to provide beach bathrooms;
- Planning process for El Mar Drive;
- License plate reader cameras.

The Commissioners discussed the proposed priorities, noting that action is underway on all four items. It was suggested that resolution of the noise and street closure issues be added to the list. Mayor Sasser agreed to include this priority in the plan of action, which will be presented at a later date.

d. Artificial Reef Project Update (Steve d'Oliveira, Public Information Officer)

Public Information Officer Steve d'Oliveira recalled that the Town staff proposed the Town create a snorkeling reef to the south of the pier in 10-12 ft. of water so it is more accessible to snorkelers. The proposed artificial reef would be approximately 200 yards in length and would create a habitat for marine life. Town Staff is seeking the advice of coral restoration experts from Nova Southeastern University to determine the best materials to use for this reef. The Town plans to apply for a State permit, and to apply for State grant funding by January 2015.

The Commission discussed the project, including the permitting process, pursuit of grant funding, potential status of the proposed reef as a marine park or preserve, use of different materials to create the artificial reef, and the project's effects on both tourism and the fishing community. The Commission agreed that they are in favor of proceeding with another artificial reef project and for staff to determine which type of materials or approach work best.

17. NEW BUSINESS

a. Town Commission Ranking of Respondents to the Parking Consultant's Requests for Proposals (Bud Bentley, Assistant Town Manager)

Mr. Bentley advised that Staff received and evaluated three responses to the parking consultant RFP, and the top-ranked respondent Desman Associates is present at tonight's meeting. It was noted that the second-ranked respondent Rich & Associates, Inc, was also invited to tonight's meeting, but was unable to attend. They have been invited to attend a subsequent Commission meeting, but have not responded thus far.

The Commissioners agreed to hear the proposal from Desman Associates, the top-ranked respondent, at tonight's meeting. A brief proposal was presented at this time, touching on parking for beachgoers and businesses, commercial traffic and parking on El Mar Drive and Commercial Boulevard, loading/unloading for businesses, data collection methods, and use of existing parking.

The Commissioners discussed the presentation, noting that they hoped to see an analysis of current programs, such as restaurant exemption, meter rates, and employee parking, which were not included in the proposal. It was clarified that Desman Associates' printed proposal includes these items, as did the proposals of the other two respondents. While Desman Associates' fee of $55,800 is higher than the other firms, Town Staff has identified aspects of their proposal which go beyond the requirements of the RFP and could be eliminated and reduce their fee. The Commission agreed by unanimous consensus that they did not need to see a presentation by the second-ranked respondent.

Town Manager Hoffmann clarified some of the reasons behind Staff's top ranking of Desman Associates, which included their project team, presentation, economic development expertise, extensive data collection, scope of services, and local status. Staff agreed that these issues justified the cost of the firm's contract.

Vice Mayor Vincent made a motion, seconded by Commissioner Dodd, to approve Staff's ranking of the respondents and direct Staff to negotiate a contract with Desman Associates. Motion carried 5-0.

The Commission took a recess at this time and reconvened ten minutes later.

b. Purchase of Additional Wayfinding Signage (Pat Himelberger, Assistant to the Town Manager)

Assistant Town Manager Pat Himelberger advised that in January 2014, she had requested a transfer of $5100 from the contingency fund to the way-finding sign budget to expand the number of signs being ordered. Tonight's request would waive the purchasing rules for signs designed by Creative Sign Designs in the amount of $10,002 because staff realized that some of the signs ordered were not of the specific size that were contained in Creative Sign Design's original bid. Signage that wasn't specified in the bid were the Plaza entry signs, Town complex signs, and parking signs, which have already been ordered, delivered, and placed.

The Commissioners discussed the way-finding project, suggesting that signs could be erected to list the names of local businesses or to take the recommendation of the parking consultant. Ms. Himelberger clarified that a sign is also on order for El Prado Park. The overall cost of signs was $50,031.

With regard to the plaza entry signs or business directory signs, staff noted that the Florida Department of Transportation (FDOT) does not allow signs referring to private businesses in their rights-of-way. Town Attorney Trevarthen advised against including the names of individual business on way-finding signage, as this could potentially undermine the Town's prohibition of off-premise signs.

Motion made by Vice Mayor Vincent, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

c. **Appointment of Town Representative to the Hillsboro Inlet District (Tedra Smith, Deputy Clerk)**

Commissioner Brown made a motion, seconded by Vice Mayor Vincent, to appoint Commissioner Dodd as representative to Hillsboro Inlet. Motion carried 5-0.

Commissioner Brown made a motion, seconded by Commissioner Dodd, to appoint Commissioner Sokolow to the AMR Review Board. Motion carried 5-0.

Commissioner Dodd made a motion, seconded by Commissioner Sokolow, to appoint Commissioner Brown to the Broward MPO. Motion carried 5-0.

d. **Board of Directors – Broward League of Cities (Tedra Smith, Deputy Clerk)**

Commissioner Brown made a motion, seconded by Commissioner Dodd, to appoint Commissioner Sokolow as the Director, Commissioner Brown as 1st Alternate, and Vice Mayor Vincent as 2nd Alternate. Motion carried 5-0.

e. **Allocation of Certain Costs Associated with the East Commercial Project and the Related Utilities Underground Project to the Oriana Settlement (El Mar Reserve) (Tony Bryan, Finance Director)**

Mayor Sasser opened the meeting for public comment.

Marc Furth pointed out that the East Commercial Boulevard project is complete and should not need additional funds from another project. He felt the Oriana settlement funds should be used for all of El Mar Drive, and requested an explanation of why they would be allocated to another project.

Town Manager Hoffmann advised that the Town's Capital Improvement Project (CIP) budget anticipated that $250,000 from the Oriana settlement would be used to pay for pedestrian improvements on El Mar Drive, including sidewalk widening, landscaping, and placing the utility wires on El Mar Drive in the downtown area underground. The CIP budget includes significant future expenditures for El Mar Drive three to four years from now.

It was clarified further that all funds requested from the El Mar Drive settlement fund were spent on improvements to El Mar Drive, including one area at which it crosses Commercial Boulevard. These expenditures were segregated by State Contracting at the Town's request. The fees paid to the utilities companies were paid directly by the Town from the Underground Utilities project account.

The Commissioners discussed the allocation, noting some of the specific improvements on El Mar Drive. Commissioner Brown cited the positive impact of undergrounding utilities, and noted that the language of the Oriana settlement is very general. He did not feel that keeping the $250,000 in the El Mar Drive fund would result in better improvements than those that have already been made. Vice Mayor Vincent also spoke in favor of the undergrounded utilities, and noted that the same amount of Oriana funds would still be spent in in any case. Commissioner Sokolow added that a workshop to discuss El Mar Drive is planned for the following week, and the Commission is committed to making El Mar Drive as attractive as Commercial Boulevard.

Commissioner Dodd did not agree, stating that the Oriana funds should have been retained for general improvements to El Mar Drive, such as improved lighting. Mayor Sasser also disagreed, stating that while the requested accounting procedure does not violate any rules, the funds would have been better kept specifically for El Mar Drive projects.

Commissioner Brown remarked that he had believed tonight's vote was specifically for the costs of undergrounding. Town Manager Hoffmann explained that the allocation included all the costs directly related to pedestrian improvements on El Mar Drive, which are summarized in the backup materials. Finance Director Bryan added that the cost of utilities undergrounding in the last fiscal year was $135,000, with $11,554 spent on undergrounding so far in the current fiscal year. Other costs identified in the backup materials could potentially be allocated to the El Mar Reserve as well.

The Commission and Staff discussed the allocation further. Finance Director Bryan confirmed that tonight's vote was for the $250,000 spent on pedestrian improvements El Mar Drive in 2013, and that more funds are budgeted for this project in the future from the El Mar reserve fund. Commissioner Dodd asserted that he could not consider the entire undergrounding cost to be part of the El Mar Drive project due to some of its locations.

There was discussion about what would happen from a financial records standpoint if the Commission did not follow the previous year's budget by not approving the allocation from the Oriana El Mar Drive settlement reserve. Town Manager Hoffmann asked if the Commission is required to approve the $250,000 allocation, as it has already been budgeted for the previous fiscal year. Finance Director Bryan said there would be no such requirement if enough funds were available from other sources, such as the General Fund and the Capital Fund balance. If monies are not allocated from the

El Mar Reserve, they would come from the unassigned balance of the Capital Fund if that balance is sufficient to cover the costs.

Commissioner Sokolow made a motion, seconded by Vice Mayor Vincent, to allocate $250,000 from the balance of the El Mar Reserve. Motion carried 3-2 (Mayor Sasser and Commissioner Dodd dissenting).

f. Selection of a date for the next Commission Workshop (Connie Hoffmann, Town Manager)

It was determined by unanimous consensus that the next workshop date would be May 12, 2014 at 6 p.m. This workshop would address:

- Policies for the of the new plazas
- Possible changes to the code concerning launching watercraft
- Special Events policies, fees, and administrative issues

g. Number of respondents to make presentations to Town Engineer

It was determined that all three respondents presenting to the Selection Committee will also present to the Town Engineer.

18. ADJOURNMENT

With no further business before the Commission, Mayor Sasser adjourned the meeting at 10:35 p.m.

Scot Sasser

Mayor Scot Sasser

ATTEST:

Tedra Smith

Deputy Town Clerk Tedra Smith

5/27/14

Date