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TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
WORKSHOP MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, April 6, 2021
5:00 PM

1. CALL TO ORDER

Mayor Chris Vincent called the meeting to order at 5:00 p.m. Also present were Vice Mayor Alfred "Buz" Oldaker, Commissioner Edmund Malkoon, Commissioner Elliot Sokolow, Commissioner Randy Strauss, Interim Town Manager Linda Connors, Assistant to the Town Manager Neysa Herrera, Town Attorney Susan Trevarthen, Director of Finance and Budget Lucila Lang, Director of Public Works Ken Rubach, Acting Development Services Director Jhanelle Campbell, Public Information Officer/IT Administrator Steve d'Oliveira and Town Clerk, Tedra Allen.

2. PUBLIC COMMENT

At this time Mayor Vincent opened public comment.

Town Clerk Tedra Allen read the following public comments:

- Barbara Cole, resident, requested that chairs be returned to the Plazas and El Prado Park, as well as benches by the Pavilion, once outdoor dining in the Downtown area is discontinued
- Mike Burke, resident, advised that once businesses have returned to 100% indoor capacity, they should remove their tents
- Spiro Marchelos, resident, stated that public parking should be reopened for businesses and restaurants
- Ellen Zavell, resident, supported necessary Fire Code measures in order to maintain outside dining through fall 2021
- Peggy Mohler, representing Aruba, Taco Craft, 101 Ocean, and Village Grille, requested that outdoor dining be extended until July 4, 2021

The following individuals also provided public comment:

- Eva Marissa, representing the Chamber of Commerce, asked that the Commission consider extending outdoor dining until September 6, 2021, with the stipulation that any safety issues be addressed; she also emphasized the importance of complying with Americans with Disabilities Act (ADA) requirements

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- Craig Jaffa, resident, addressed the possibility of a sidewalk on the north side of Washingtonia Avenue, where large trees and parking currently exist; he expressed concern that this would disrupt parking and shade on his businesses near that location

It was noted that additional public comments would be heard later during the meeting as necessary due to technical issues.

Mayor Vincent advised that the Town is not considering sidewalks on Washingtonia Avenue at the location referred to during public comment. He added that Mr. Jaffa would be informed in advance of any plans for this area.

3. DISCUSSION ITEM

a. Lauderdale-By-The-Sea Surtax Projects (Neysa Herrera, Assistant to the Town Manager)

Assistant to the Town Manager Neysa Herrera recalled that in November 2018, Broward County residents approved a transportation surtax by referendum. This initiative was intended to support transportation efforts throughout the County by establishing a 30-year one-cent surtax. After its approval, the County, Broward municipalities, and the Broward Metropolitan Planning Organization (MPO) entered into an inter-local agreement (ILA) that established the relationship between these parties and tasked the MPO with developing a process by which municipalities could submit projects on an annual basis to be considered for surtax funding.

At the March 23, 2021 special Town Commission meeting, the Commission reviewed the Town's five-year Community Investment Program (CIP), and Staff identified projects that were eligible for surtax funding. Some of these projects are listed in the Commissioners' backup materials for tonight's meeting, including:

- Complete Streets project and construction for Codrington Drive
- Complete Streets project and construction for Bougainvillea Drive, including pedestrian and ADA improvements
- Community shuttle stops, parking guide, and systems to help implement the Town's Action Plan and comply with their ILA for the community shuttle program

Assistant to the Town Manager Herrera clarified that "Complete Streets" is a term used to represent street design that takes different users and modes of transportation into account. Use of this term will position the Town for higher ranking and funding

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consideration of projects in line with the criteria used by the Broward MPO and the County.

The scope of the Complete Streets project on Codrington Drive could include drainage enhancements and landscape improvements as well as traffic calming measures. A number of these improvements are identified in the Town's Stormwater Master Plan.

The Complete Streets project on Bougainvillea Drive will be an extension of the project designed on that roadway between Pine Avenue and the Fire Station. Improvements associated with this project include drainage, landscaping, crosswalk enhancements, decorative thermal plastic, and traffic calming measures.

Pedestrian and ADA improvements were recommended as part of a pedestrian study completed in 2020. This is an ongoing effort that is expected to take more than one year to implement. Later in the year, the Town and Staff will discuss the upgrades recommended by this study and prioritize a number of improvements.

As part of the Town's ILA with Broward County for community shuttle service, the Town must meet ADA requirements, including the placement of ADA-compliant shuttle pads. Surtax funds will help support the design, engineering, and construction of these pads.

One of the goals identified for parking in the Town's Action Plan is the implementation of a parking guidance system that would notify the public of available parking spaces. This project would qualify for surtax funding, as it offers smart solutions to mobility throughout the Town.

The timeline for the surtax process is as follows:

- April 6: Town Commission Surtax Workshop for discussion of proposed projects for surtax funding
- April 13: Town Commission considers a Resolution of support for these municipal capital projects; approved projects will be submitted for MPO for consideration and ranking
- April 22: deadline for submission of new surtax projects
- April 24-May 31: Broward MPO considers projects for surtax funding and releases a list of recommended projects to the County
- June 11: Surtax Oversight Board considers list of recommended projects submitted by the MPO
- September 2021: County Commission approves the surtax funding allocation for eligible projects as part of the County's budget process

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Staff recommends that the Commission discuss the list of prospective surtax projects and direct Staff to make any necessary additions or modifications to those plans.

Vice Mayor Oldaker requested additional information on the concept of Complete Streets, asking if this would require the Town to “remodel” any streets on which projects are brought forward for MPO consideration. Assistant to the Town Manager Herrera reiterated that the term “Complete Streets” covers a design approach that considers different users of the roadway. A project including Complete Streets elements would meet more of the required ranking criteria for surtax funding.

Interim Town Manager Linda Connors cited the proposed Codrington Drive project as an example. While drainage issues must be addressed on this street, this is not necessarily a project that would be eligible for transportation surtax funds; however, if drainage is tied to other improvements the neighborhood has indicated they would like to see, as well as improvements identified in the recent pedestrian study, these would meet some of the criteria for surtax funding. She emphasized that the neighborhood and residents on that street would be asked to identify any traffic calming elements they would like to see implemented. If the neighborhood is not in favor of any of these improvements, the project can be fully funded through the CIP.

Mayor Vincent asked what must be presented to the Broward County Board of County Commissioners before they are asked to vote on surtax projects in September 2021. Assistant to the Town Manager Herrera advised that the Town will submit the phase of the project for which funds are requested. The MPO will conduct its evaluation based on this information and rank the project. From there, the MPO will develop the list of recommended projects that will ultimately go before the Oversight Board, which will determine the projects’ eligibility. The County Commissioners will ultimately approve the funding allocations.

Commissioner Sokolow asked whether Complete Streets projects must provide sidewalks, bike lanes, benches, or other amenities as part of the project, even though residents may not want them. He cited examples of Complete Streets projects in Fort Lauderdale, pointing out that many of these features would not be feasible in a residential neighborhood. Mayor Vincent observed that this would be best left to the discretion of the Town, and more specifically to the residents of the affected neighborhood(s).

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Commissioner Malkoon asked if surtax funding would completely fund Town projects or if it would cover only a percentage of costs. Assistant to the Town Manager Herrera replied that this is typically a percentage, offering the example of a surtax project for which the surtax funds covered 9% of planning costs and 12% for design costs. In 2021, the County is allowing municipalities to apply for each specific phase of the project.

Commissioner Malkoon explained that his concern was to ensure that when these projects are budgeted, the costs are realistic estimates. He also felt the Town should consider mitigating features, such as swales to assist with drainage, that might lower costs.

Interim Town Manager Connors noted that in 2021, the CIP includes an engineering study to determine the issues and costs associated with construction of a drainage project. The cost estimate included at the moment is not specific, as all of the necessary information has not yet been identified and gathered; however, it is Staff's best estimate of costs without knowing exactly what the project will entail to fix the drainage. The further into the future a cost is projected, the less certain Staff can be with the figures.

Mayor Vincent asked if a list of all the projects done within the Town over the last 10 years is available for review of costs for drainage, curbing, paving, and other improvements over that period. He recommended using these previous costs to estimate future costs of projects that made similar improvements. Interim Town Manager Connors explained that this information is used to extrapolate further cost estimates. Once the design phase is complete, Staff will have a better idea of the estimated costs.

Public Works Director Ken Rubach stated that designs for both the Codrington Drive and Bougainvillea Drive projects, with more accurate engineering data, will be brought before the Commission over the next few meetings.

Mayor Vincent asked if the locations where ADA and other pedestrian improvements need to be made have been identified. Interim Town Manager Connors replied that the pedestrian study included a list of these locations, although it was not prioritized.

Vice Mayor Oldaker expressed concern that residents of the neighborhoods where drainage and other improvements are planned may not be interested in seeing Complete Streets improvements, which could lessen the possibility of securing surtax funding. Assistant to the Town Manager Herrera confirmed that this could decrease those projects' prioritization and ranking by the MPO.

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Mayor Vincent noted that some projects may need to be accomplished whether everyone is in favor of it or not for the best interests of property values, pedestrian use, and other considerations. Interim Town Manager Connors stated that Staff would bring work authorizations to the Commission to move forward with these projects, first developing 25% of the design phase and then meeting with the community to better understand their wishes. During the project review process, the Town may amend its application for surtax funds before the end of the process; however, they must meet the April 22 submission deadline to have any chance of receiving surtax funding.

Commissioner Strauss asked if the Town is entitled to any surtax funds to compensate them for the costs of the design phase. Assistant to the Town Manager Herrera replied that once surtax funding allocated by the County, the Town will need to enter into a project funding agreement with the County and provide documentation showing that the project's scope and deliverables have been met. If they are not met, the Town would not be eligible for reimbursement of these funds. For example, if the project is a design project, design documents must be submitted to have access to surtax funds.

Commissioner Strauss explained that his concern was in case the affected communities do not want Complete Streets improvements: he wished to make sure that the Town could be compensated for design costs in this case. Assistant to the Town Manager Herrera explained that for a project to be reimbursed for a previous phase, the project will have to be programmed within the Town's five-year Action Plan. If it is programmed and a project funding agreement has been signed with the County, these costs may be reimbursed.

Mayor Vincent commented that even if there were no surtax funds available, the Town would need to prioritize these necessary projects and budget for them in any case.

Interim Town Manager Connors concluded that Staff will bring forward a Resolution at the April 13 Commission meeting so the process may continue forward. They will ensure necessary applications are submitted in a timely manner.

b. Downtown Business District Discussion (Jhanelle Campbell, Acting Director of Development Services)

Acting Development Services Director Jhanelle Campbell recalled that at the March 23 Commission meeting, the Commissioners requested that the reopening of the Downtown Business District be brought back for further discussion. This District has had to adapt to a number of changes throughout the COVID-19 pandemic, including closure

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of restaurants, takeout service only, and reopening for outdoor dining in accordance with U.S. Centers for Disease Control (CDC) guidelines.

To assist the businesses, the Town allowed them to expand their outdoor seating areas into Town parking spots and relaxed its prohibition on tents and canopies in this area. The Town adopted two Resolutions to formalize these provisions: Resolution 2020-39, which expired on January 15, 2021 and was extended, and Resolution 2021-03, which expires on July 15, 2021.

Based on the Commission's request for further discussion, Staff is presenting two options for consideration:

- Option 1: keep the existing expiration date of July 15, 2021
- Option 2: amend the expiration date to May 17, 2021

Acting Development Services Director Campbell explained that under Option 2, the Downtown area would revert to its pre-COVID-19 configuration on May 17. Town Hall will reopen on May 3, 2021, with the first Commission meeting scheduled for May 11.

Regardless of the option selected at tonight's meeting, Staff wished to note the following concerns:

- Pedestrian safety: to ensure that pedestrians have a safe and comfortable walking area, all sidewalk café areas should revert to their previous approved configuration, and tents would be removed from the sidewalk
- The Fire Marshal has surveyed the Downtown area and expressed concern with some of the current conditions, including tent arms crossing the barrier and lighting that has been installed projecting out of the barrier

All tents, canopies, and pergolas would be removed from the sidewalk area upon reversion to the previous sidewalk café configurations. Tables and chairs would remain in the parking areas. Town Staff will assist businesses with adjusting back to pre-COVID-19 conditions. Any missing sidewalk café boundary markers will be replaced.

If the July 15 date is selected, Resolution 2021-03 will remain in place and the status of the Downtown Business District will be revisited on June 8, 2021. If the change to May 17 is requested, Staff will bring forward a new Resolution at the May 11 Commission meeting.

Commissioner Sokolow asked for an update on state and County regulations addressing restaurant capacity. Town Attorney Trevarthen replied that there have been

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no recent changes to Emergency Orders for Broward County, although she noted that Miami-Dade County has issued an updated order. State law permits between 50% and 100% occupancy of restaurants, depending upon the configuration of tables.

Commissioner Malkoon observed that his greatest concerns are for both potential safety issues and liability. He pointed out that the Town's existing sidewalk café requirements include insurance, with liability for activities within the sidewalk café area. Upon expanding into the Town's right-of-way, however, it is possible that any harm to persons or property within that right-of-way could expose the Town to potential liability claims or issues.

Commissioner Malkoon added that noise is also a consideration. The possibility of noise Ordinance violations was not addressed under the Town's emergency Resolutions. He advised that enforcement of the noise Ordinance should resume, including the requirement that speakers face the inside of businesses.

Vice Mayor Oldaker felt it would be best to allow barriers to remain until July 15, and did not believe any comparison of removing Downtown barriers to the reopening of Town Hall was appropriate. He concluded that the reopening of these two entities should be discussed separately from one another.

Vice Mayor Oldaker continued that the outdoor music and speakers and café licenses should be discussed separately moving forward. He also noted that the Broward Sheriff's Office (BSO) patrols the Downtown area every night, and recommended coordinating with them to address the positioning of speakers.

Vice Mayor Oldaker asked if the Fire Marshal has the right to address safety hazards, such as tent arms and lighting. It was clarified that violations can be addressed either by providing notice for the business to remove or requiring immediate removal of the hazard. Interim Town Manager Connors advised that the Fire Marshal has begun citing businesses to ensure sidewalk safety. The reason this issue was brought forward was to inform the Commission that the Town is likely to hear from the businesses on this issue.

Vice Mayor Oldaker asked if BSO patrols provide reports on any Downtown issues. Interim Town Manager Connors replied that Staff receives feedback, and information is sent to Code Enforcement in order to build a case in the event it goes before the Special Magistrate.

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Commissioner Strauss agreed that there was little connection between reopening Town Hall and returning to pre-pandemic conditions in the Downtown area. He also agreed that while restaurants are recovering at present, this cannot compensate for lost revenue over the previous year, particularly during the early months of the pandemic. He did not object to maintaining current conditions through July 15 while Downtown retailers and restaurants continue to recover. He noted, however, that Town Staff will need to ensure that safety and noise requirements are being enforced.

Mayor Vincent emphasized that businesses need to respect both Code and law enforcement Staffs for the work being done to keep them both safe and viable. He pointed out that if outdoor seating options are no longer available, hotels may be less likely to reach higher occupancy rates if visitors do not feel safe. He concluded that the Town will not condone any activity in the Downtown area that poses a threat or hazard.

Mayor Vincent recommended maintaining the water barriers at present, but advised that businesses will be responsible for adhering to the conditions imposed during the COVID-19 pandemic. If tables, chairs, tents, or umbrellas are in locations outside the businesses' original outdoor seating plans, they are considered to be in violation. Should this activity continue, the barriers will be removed, and the emergency plans will be revoked. He asked that businesses police themselves and one another to avoid this complication, with regard to both safety and noise.

Commissioner Malkoon asked if Staff plans to add seating in the Town's public plazas, as discussed under Public Comment. Interim Town Manager Connors advised that ongoing social distancing requirements limit the placement of chairs. More seating can be added if that is the Commission's desire. Benches have not been returned to sidewalks because they would add to congestion in those areas. Because seating for restaurants extends into the plazas, portions of the plazas remain blocked off for this purpose. Commissioner Malkoon requested that the possibility of additional seating be considered if social distancing can be maintained.

Corina, hotelier, noted that hotel guests continue to appreciate the opportunity for outdoor seating, as they may be uncomfortable with indoor restaurant seating. Due to the additional seating for restaurants, however, cars are often parked in one lane of El Mar Drive, which can be disconcerting to visitors.

Mayor Vincent requested that parking enforcement be monitored throughout the day and evening to address this concern. Captain Tom Palmer of BSO advised that he

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would reach out to the Town's valet service as well, noting that while some temporary stacking may be permitted, it would not be allowed late into the night.

Commissioner Sokolow also agreed with maintaining current conditions until July 15 in order to help Town businesses continue to recover. He recommended that notice be sent to businesses with tents and outdoor seating, informing them that they will need to ensure cooperation with the requirements for these measures or the Town will return to its regular outside seating configurations.

Mayor Vincent also addressed lighting and additional signage, advising that this will need to be scaled back as well prior to July 15. He emphasized again that businesses will need to be responsible for meeting safety and other requirements.

It was noted that the Commissioners agreed by consensus to continue to utilize parallel parking spaces for sidewalk cafés through the expiration date of July 15, 2021. There was also a consensus to review the conditions on the sidewalk and return them to their approved revokable license.

It was confirmed that the Commission workshop originally scheduled for April 13, 2021 would be postponed until the May 11 meeting, at which time Jarvis Hall will have reopened to the public.

4. ADJOURNMENT

With no other business to come before the Commission at this time, the workshop was adjourned at 6:36 p.m.

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Mayor Chris Vincent

ATTEST:

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Tedra Allen, CMC
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4/29/2021

Town Clerk Tedra Allen Date