

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, March 14, 2017
6:30 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 6:39 p.m. Also present were Vice Mayor Mark Brown, Commissioner Alfred "Buz" Oldaker, Commissioner Elliot Sokolow, Commissioner Chris Vincent, Town Manager Bud Bentley, Assistant Town Manager Tony Bryan, Development Services Director Linda Connors, Town Attorney Susan Trevarthen, Finance Director Lisa Fuentes, Municipal Services Director Don Prince, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. FPL Line Hardening Project (Tony Bryan, Assistant Town Manager)

Assistant Town Manager Tony Bryan provided a presentation on Florida Power and Light's (FPL's) line hardening project in Lauderdale-By-The-Sea. He stated that he and Municipal Services Director Don Prince met with FPL, Comcast, and AT&T to clarify a number of questions regarding this project, including maintenance of traffic (MOT), safety, and communication between the three companies in order to ensure continuous work.

Commissioner Sokolow asked why wooden poles are still in place at multiple locations within the Town. It was explained that FPL typically waits until there are at least 15 poles ready for removal before sending a crew for this task.

Town Attorney Susan Trevarthen asked if the pole attachment agreement between FPL, Comcast, and AT&T includes standards for a quick response to infrastructure changes such as pole transference. It was clarified that a process is in place with each company

to allow them to indicate when they are complete and the next company may begin their process. The attachment agreement relates primarily to allocation of space and attachment heights.

Town Attorney Trevarthen concluded that if such a standard exists, the participating companies should be asked to honor it. Tim Hogans, External Affairs Manager for FPL, added that the agreement refers to "a reasonable amount of time" by other utilities.

6. PUBLIC COMMENTS

At this time Mayor Sasser opened public comment.

Michael Connelly, resident, stated that he had sent a letter to the Mayor in December 2016 alleging the possibility of fraudulent activity by a local merchant on Commercial Boulevard, which he felt could violate the rights of individuals living in pet-free buildings. A follow-up letter was sent in January 2017. Mr. Connelly requested an update on the status of his inquiries and provided the Commission with copies of the letters. He also asked what would be the best means of communication with the Town Commission.

Ellen Zavell, President of the Lauderdale-By-The-Sea Lodging Association, requested that the safe pedestrian atmosphere of El Mar Drive be maintained by not adding a valet parking station on that roadway. She also asked that the Town look into the possibility of a \$10/day parking fee for beachgoers. She felt a valet station would be welcomed on the west side of town.

Cari McCormack, resident, stated that the Oriana Master Association also opposes valet service on El Mar Drive for reasons related to public safety, traffic delays, and driveway access. She provided a letter to the Commission outlining these reasons, stating that residents of the Oriana would support a valet station on the west side of town. She concluded by encouraging the development of a cut-through at the Oriana's exit gate.

Pat Hodgson, visitor, advised that she had experienced the traffic issues to which Ms. McCormack had referred. She agreed that locating a valet station on the west side of town would encourage visitors to come to that area.

Cristie Furth, resident, also addressed traffic issues on El Mar Drive in relation to valet service, stating that the results are inconvenient and unsightly in an otherwise quiet location. She felt the Commission should ensure protection of the quality of life in non-commercial neighborhoods.

Steve Gagas, representing Gold Coast Scuba, offered to answer any questions relating to Item 11a, which schedules a pier cleanup for April 29, 2017.

Dorothy Seibert, resident, advised that abandoned wooden and cement utility poles have remained in place on South El Mar Drive for a number of years. She also addressed the

valet service on El Mar Drive, stating that it is noisy, inconvenient to residents, and contributes to traffic issues on adjacent roadways as well as on El Mar Drive itself. She added that if valet service continues to use the parking areas of nearby vacant hotels, it removes any incentive for the hotels' owners and developers to replace or improve these properties in a timely manner.

Dan Kanell, resident, also reported concerns regarding valet service on El Mar Drive, stating that pedestrian safety is a primary issue.

Doug Smith, resident, advised that the Town experienced strong event attendance and pedestrian business traffic before the advent of valet service on El Mar Drive. He reported traffic delays on El Mar Drive and adjacent roadways as a result of this service.

Yara Bashour, resident, addressed recent improvements on Basin Drive, which resulted in the addition of eight parking spaces in front of residential properties. She explained that this has created significant difficulties for these properties, as nearly all of the individuals parking in these spaces are customers of a nearby Benihana restaurant. It also creates safety issues. She requested that the Town undertake a parking study and remove these parking spaces.

Dr. Pannu, resident, addressed the valet parking station on El Mar Drive, which he felt was a safety hazard for residents and pedestrians. He advised that he has also sent the Commission an email listing his concerns.

Mary Davis, resident, stated that she had sent the Commissioners and Chief of Police a letter approximately 18 months ago describing her concerns with a "party atmosphere" surrounding the Aruba restaurant. These concerns included intoxicated drivers in a crowded area and public response to these incidents.

With no other individuals wishing to speak at this time, Mayor Sasser closed public comment.

Mayor Sasser advised that these comments would be addressed as part of the Town Manager Report.

7. PUBLIC SAFETY DISCUSSION

a. AMR February 2017 Report (Chief Brooke Liddle)

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

b. BSO February 2017 Report (Captain Tom Palmer)

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

c. VFD February 2017 Report (Chief Judson Hopping)

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

8. TOWN MANAGER REPORT

**a. Chamber of Commerce Welcome Center February Statistics Report
(Tedra Allen, Town Clerk)**

The Commissioners accepted the report without discussion.

b. Town Manager Report (Bud Bentley, Town Manager)

Town Manager Bud Bentley addressed the issues raised during Public Comment, noting that he had received Mr. Connelly's letters regarding the acceptance of emotional support animals (ESAs) into residences where pets are prohibited. The Broward Sheriff's Office (BSO) has researched this issue and determined that this is a federal issue related to the Fair Housing Act. The Town responded to Mr. Connelly's letter and will follow up to determine why it was not received.

Town Manager Bentley continued that while valet parking on El Mar Drive was a success in terms of cars parked, it was a disappointment due to its negative impact on the residents of that area. Issues include use of a gas-powered vehicle by the service provider, as well as significant traffic congestion. Mayor Sasser emphasized that this service was implemented by Town Staff on a trial basis, and thanked all who commented for their feedback.

Assistant Town Manager Bryan continued that El Mar Drive was the third location in which valet service was implemented in order to determine its potential effectiveness. The golf cart is now being retrofitted with noise-reducing features in response to residents' complaints regarding its noise, although he cautioned that this will not eliminate all sound.

Assistant Town Manager Bryan also met with Ms. McCormack, who provided photographs of the location that showed activity the Town had not intended, such as blocked lanes and traffic congestion at the Oriana entrance. Town Staff will meet with BSO Staff to discuss other potential locations for valet service, including the South Ocean parking lot.

Commissioner Vincent addressed the concerns raised by Ms. Bashour during Public Comment, stating that the Town should immediately discontinue the public parking spaces in front of residential properties on Basin Drive until they better understand the

use of these spaces. He emphasized the need to encourage pedestrian traffic in and near Downtown in other ways.

The Commissioners also discussed the trial period on El Mar Drive, arriving at unanimous consensus to suspend valet service at that location. The Commissioners also agreed by unanimous consensus to suspend use of the eight public parking spaces on Basin Drive.

Assistant Town Manager Bryan added that Town Staff was willing to discuss an appropriate fee for valet parking when the trial service is reestablished elsewhere in the Town.

Mayor Sasser also asked Town Staff to look into the possibility of the requested cut-through at the Oriana gate. Assistant Town Manager Bryan advised that there is some Staff support for this improvement. Vice Mayor Brown suggested that this be considered as part of the upcoming El Mar Greenway project, and requested that residents of El Mar Drive provide additional feedback on this and other prospective greenway features.

Town Manager Bentley reported that Vice Mayor Brown has agreed to represent the Town Commission on the Coastal Oceans Task Force, which is scheduled to meet in December 2017. The Commission confirmed this by consensus.

Town Manager Bentley concluded by encouraging pedestrians on Commercial Boulevard to enjoy the orchids in bloom, which were provided by the Garden Club and the Chamber of Commerce.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

- a. **February 28, 2017 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

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

11. CONSENT AGENDA

- a. **Special Event Application for Underwater Pier and Beach Clean-Ups in April, July, and September 2017 (Debbie Hime, Special Projects Coordinator)**

Vice Mayor Brown observed that one of the proposed cleanup dates on April 29, 2017 may coincide with plans for a sea oat planting project on the same day. Mr. Gagas of

Gold Coast Scuba advised that the planting will be located north of El Prado Park, which should not conflict with parking for the cleanup event.

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

- b. Continuing Services Update (Debbie Hime, Special Projects Coordinator)**
- c. Authorization to Purchase New Doors for Jarvis Hall and Community Center (Lisa Fuentes, Finance Director)**
- d. Extension of the Building Plan Review and Inspection Services with C.A.P. Government, Inc. (Tony Bryan, Assistant Town Manager)**

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

12. OLD BUSINESS

a. Solid Waste Proposal (Tony Bryan, Assistant Town Manager)

Assistant Town Manager Bryan advised that the proposal before the Commission includes both the contractor fee and the amount for which individual customers will be billed. The latter is used to pay for additional services by the Staff liaison and offset costs associated with keeping Downtown clean.

Assistant Town Manager Bryan continued that the proposal is for a 7% increase in the contractor fee, effective upon passage of an Ordinance, as well as a 2% increase on October 1, 2017 and an additional 2% the following year, followed by consumer price index (CPI) increases. In exchange for these increases, WastePro has offered to provide up to \$64,000 over two years to assist with the cost of replacing dumpsters for multi-family units. This contribution is expected to replace approximately 65% of these units.

The contractor fee for a single family would increase from \$12.81/month to \$13.37/month, or a 7% increase. Multi-family units would see an increase from \$13.33/month to \$13.93/month.

Staff separately proposes a 7% increase in the amount customers will be billed. Assistant Town Manager Bryan explained that these rates have declined significantly in recent years; the proposed increase would return these costs to \$15.38, which is close to the amount paid in fiscal year (FY) 2012. The increase for single-family homeowners would be \$1.01/month and for multi-family units would be \$1.06/month.

Commissioner Oldaker raised the issue of recycled waste, asking to know the cost of replacing existing recycling bins with larger units. Town Manager Bentley replied that Staff would look into the costs of a minimum order to replace these bins.

Mayor Sasser advised that he would like to see more carts provided for multi-family units, which he felt could be done at a reasonable cost. Russell Mackey, Regional Vice President of WastePro, replied that the company has taken an aggressive approach to replenishing these containers in recent years, having replaced roughly 35% thus far. He agreed that the company would like to eventually provide 100% plastic bins for multi-family units. All new containers ordered will be plastic.

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

13. NEW BUSINESS

a. Selection of Chairperson for the Town's 4th of July and Veterans' Day Events (Tedra Allen, Town Clerk)

The Commission agreed by consensus that Mayor Sasser will serve as Chair of the Veterans' Day event and Commissioner Oldaker will be Chair of the 4th of July event.

b. Rescheduling / Cancellation of the April 11, 2017 Town Commission Meeting (Tedra Allen, Town Clerk)

Commissioner Sokolow made a motion, seconded by Vice Mayor Brown, to cancel the April 11, 2017 meeting. Motion carried 5-0.

14. COMMISSIONER COMMENTS

Vice Mayor Brown congratulated the Town's Community Center on their recent series of plays written and performed by residents. Over 300 people attended the production over three days.

Vice Mayor Brown also requested that a transportation workshop be scheduled for the summer in response to the recent confluence of transportation-related issues affecting the Town at present. These include trial valet parking, a parking in lieu program for new businesses, contracted use of ride sharing services, potential schedule adjustments for the Pelican Hopper, and route changes proposed for the Fort Lauderdale Transit Management Association's (TMA's) Sun Trolley. He felt a workshop would be a more appropriate structure for a full discussion of these transportation issues.

15. ORDINANCES

a. Ordinances 1st Reading

- i. **Ordinance 2017-05 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, TO REGULATE DUPLEX / TWO-FAMILY DWELLINGS, MULTIFAMILY DWELLINGS WITH 3 OR 4 DWELLING UNITS, AND DWELLING UNITS IN MIXED USE DEVELOPMENTS WITH 1 TO 4 DWELLING UNITS, AS SHORT TERM RENTALS WITHOUT LIMITATION AS TO THE FREQUENCY OR DURATION OF RENTAL; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Development Services Director Linda Connors reviewed Ordinance 2017-05, which establishes short-term rental regulations within the Town. She recalled that when vacation rental regulations were adopted in 2009, they were for single-family and town home properties only. Since that time the Florida Legislature has limited the Town's ability to regulate vacation rental properties. For this reason, the Town has proposed short-term rental regulations, which differ from vacation rental regulations and comply with State requirements.

Short-term rental regulations address duplex, triplex, and four-unit properties and follow the same regulations as vacation rentals, including requirement of an agent, inspections, limitations on the number of individuals who may stay on the property, parking requirements, and others. They do not require the same limitation on the number of nights a tenant may rent the property. Development Services Director Connors added that another proposal for short-term rentals is a limitation on the hours of operation for pools. The Planning and Zoning Board recommended that pool use hours be between 8 a.m. and 8 p.m., while Staff suggests a regulation of all outdoor areas between 8 a.m. and 10 p.m.

Staff also proposes regulation of noise by any machine or device producing or reproducing sound, such as speakers, phones, and similar devices. They recommend that this noise be prohibited between the hours of 10 p.m. and 8 a.m. The Planning and Zoning Board recommends adoption of the Ordinance by a 5-0 vote.

The Commission discussed the proposed Ordinance, with Commissioner Sokolow requesting clarification of how the hours of operation will be enforced. Development Services Director Connors replied that these hours will most likely be enforced by BSO. The penalty for violation of the Ordinance may be retraction of the rental license of either

the property agent or the property itself; however, the Ordinance does not establish a specific number of violations allowed before a penalty applies.

Commissioner Sokolow also asked if an owner or longer-term tenant-occupied structure adjacent to a short-term rental would be restricted in the same manner. Town Attorney Trevarthen explained that since 2010, there have been several restrictions applied to vacation or short-term rentals that are not applied to every residential use. The rule governing enforcement of all properties is that violation of Code requires properties to go through the Code Enforcement process.

Development Services Director Connors added that the Planning and Zoning Board recommended that the Town not change vacation rental requirements for pool or noise-generating activity. The reason was that they wished to ensure there would be no change that resulted in loss of grandfathered status for the Town. Town Attorney Trevarthen noted that other City Attorneys throughout the State may see this issue differently, as it is not always clear whether or not a minor change would threaten loss of grandfathered status.

Vice Mayor Brown expressed concern that the Ordinance could result in the loss of grandfathered status for the Town under State law, which would mean the Town had no controls over vacation rental properties. He requested greater clarity as to whether restricting noise and/or outdoor activity for short-term rentals could jeopardize this status.

Town Attorney Trevarthen replied that the key difference between regulating vacation and short-term rentals is that only single-family and town homes are grandfathered: because short-term rental regulations do not establish a minimum duration or limit the frequency of rental, the Town may regulate them at will. By contrast, however, grandfathered status would be in jeopardy if the Town proposed a new regulation, or altered an existing regulation, applicable to vacation rentals in single-family or town home properties.

Vice Mayor Brown continued that he also shared Commissioner Sokolow's concern regarding the regulation of adjacent properties, as only the short-term rental property's outside or noise-generating activity would be subject to regulation. Town Attorney Trevarthen pointed out, however, that the regulations proposed by Ordinance 2017-05 are not part of the current Code regulating vacation rentals, nor are they proposed as part of the Code regulating those properties.

Mayor Sasser asked why short-term rental properties' pools are not mandated under the Americans with Disabilities Act (ADA) in the same manner as hotel pools. Town Attorney Trevarthen replied that there is nothing in the Town's Building Code placing similar requirements on pools. She agreed to look further into this issue for greater clarity.

Commissioner Vincent stated that he was not certain outdoor and noise-generating activity should be regulated in short-term rental properties, as existing noise Ordinances govern this activity. He also referred to concerns raised by companies such as Airbnb,

which has suggested that short-term rental property owners partner with that organization and the Town to ensure that fewer issues occur. He concluded by pointing out that short-term rentals are not asked to pay the same 11% bed tax required of the Town's hotels.

Mayor Sasser commented that he felt the Ordinance establishes a baseline by which the Town may keep up with any infractions committed by short-term rental properties. They may then take action against properties with a history of problematic activity. Vice Mayor Brown again expressed concern regarding noise regulation.

Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to approve as recommended by Staff. Motion carried 4-1 (Vice Mayor Brown dissenting).

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2017-07 -- A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, REAPPOINTING A PLANNING AND ZONING BOARD MEMBER TO FILL A VACANCY ON THE BOARD, PROVIDING FOR CONFLICTS, PROVIDING FOR AN EFFECTIVE DATE (Tedra Allen, Town Clerk)**

At this time Mayor Sasser opened public comment.

Edmund Malkoon, resident, recommended that the Town encourage its new residents to participate in this and other advisory entities.

With no other individuals wishing to speak at this time, Mayor Sasser closed public comment.

Commissioner Vincent recommended the reappointment of Planning and Zoning Board member David Chanon.

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

- b. Resolution 2017-08 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, URGING ALL MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE HB 17 AND SB 1158, WHICH PREEMPT LOCAL BUSINESS REGULATIONS, PROHIBIT LOCAL GOVERNMENT FROM IMPOSING OR ADOPTING ANY NEW REGULATIONS ON BUSINESSES UNLESS EXPRESSLY AUTHORIZED**

BY THE FLORIDA LEGISLATURE; DIRECTING THE TOWN MANAGER TO TRANSMIT A CERTIFIED COPY OF THIS RESOLUTION TO THE BROWARD LEAGUE OF CITIES, THE BROWARD COUNTY LEGISLATIVE DELEGATION, AND ANY OTHER INTERESTED PARTIES; PROVIDING FOR AN EFFECTIVE DATE (Vice Mayor Brown)

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

The Commissioners discussed the Resolution, with Vice Mayor Brown stating that the Broward League of Cities voted unanimously to go on record in opposition to House Bill (HB) 17 and Senate Bill (SB) 1158, and encourage other Broward County municipalities to do the same. He asserted that the proposed bills prohibit home rule in governing business activity in addition to repealing any such existing regulations beginning in the year 2020.

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

c. Resolution 2017-09 -- A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE BUILDING PERMIT AND INSPECTION FEE SCHEDULE; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Development Services Director Connors explained that this Resolution would amend the Town's building permit and inspection fees. It is the result of a request made by the Commission at an earlier meeting, following discussion of the Town's policy of 50% reimbursement of these fees if construction of a building project is not undertaken. The previous Resolution left this issue to the discretion of building officials.

Staff has surveyed other communities' practices, concluding that there is a range of reimbursement percentages and procedures allowed. They recommend that the permit fee refund policy allow applicants to request a refund if a project is abandoned or has not commenced construction. Building officials are authorized to approve these refunds, less the cost of work performed by the Town, administrative expenses, or non-refundable fees to other parties.

Town Manager Bentley added that the proposed policy allows applicants to receive a refund even after they have received a building permit as long as construction has not commenced.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
March 14, 2017

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

17. QUASI JUDICIAL PUBLIC HEARINGS

None.

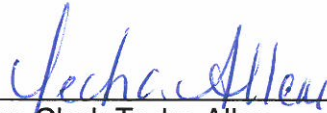
18. ADJOURNMENT 9:05 pm

With no further business to come before the Commission at this time, the meeting was adjourned at 9:05 p.m.



Mayor Scot Sasser

ATTEST:



Town Clerk Tedra Allen

3-28-17
Date