

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, February 26, 2019
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Vincent called the meeting to order at 6:33 p.m. Also present were Vice Mayor Elliot Sokolow, Commissioner Edmund Malkoon, Commissioner Alfred "Buz" Oldaker, Commissioner Randy Strauss, Town Manager Bud Bentley, Deputy Town Manager Tony Bryan, Town Attorney Susan L. Trevarthen, Municipal Services Director Ken Rubach, Development Services Director Linda Connors, Special Projects Coordinator Debbie Hime, Kathie Margoles, Project Manager, 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

Mayor Vincent requested that Item 13a be heard as Item 5c.

5. PRESENTATIONS

a. 2019 Turtle Season Presentation by Broward County Program Manager

Stephanie Kedzuf, Natural Resources Specialist for Broward County, showed a PowerPoint presentation on the Broward County Sea Turtle Conservation Program, which she manages. This program is funded by the Broward County Board of County Commissioners and is contracted to Nova Southeastern University, which is responsible for serving beaches for annual sea turtle nesting activity. Nesting season begins on March 1 and lasts through October 31 each year.

One of the greatest threats to sea turtles in Southeast Florida is light pollution. Artificial light mimics moonlight, which means it can confuse turtles and hatchlings into moving away from the water. The solution is sea turtle-friendly lighting, which follows three rules:

- Keep fixture height close to the ground and ensure the lumens (amount of light) is low
- Keep light shielded by directing fixtures downward so bulbs are not visible
- Keep lighting wavelength long (560 nanometers or greater), which places light in the amber/red/orange range of the spectrum

Window tinting is also important, as interior lights can disrupt sea turtles as well. The Florida Fish and Wildlife Commission (FWC) provides guidelines for window tinting, recommending either 45% or 15% light transmittal or less. This reduces light outside a property without compromising the view.

Lauderdale-By-The-Sea has helped Broward County coordinate various beach events by allowing survey teams sufficient time to survey beaches for turtle activity before any events occur. Code Enforcement also works closely with the County by providing lighting surveys. Ms. Kedzuf concluded that she is available for site visits to any property or business owner interested in retrofitting to sea turtle-friendly lighting.

b. Sea Shorts Play Festival Presentation (Steve d'Oliveira, Public Information Officer)

Public Information Officer Steve d'Oliveira introduced Brenda Aulbach, who will direct the 2019 Sea Shorts. She is a resident of Lauderdale-By-The-Sea and directed two of the November 2018 Sea Shorts. The 2019 Sea Shorts will consist of eight short plays, all written by Florida playwrights. Most of the actors are senior citizens, many of whom also live in the Town. The Lauderdale-By-The-Sea community theater does not require auditions and provides an opportunity for any interested resident to participate.

Sea Shorts will open on Friday, March 1, 2019 with a performance at 7 p.m. Additional performances will be held on Saturday at 7 p.m. and a matinee on Sunday. This schedule will repeat the following week.

c. Seismic Blasting Offshore (Mayor Vincent)

Catherine Uden, representing Oceana, showed a presentation on the federally proposed offshore drilling plan. The Department of the Interior oversees this program. Although

offshore oil and gas drilling was permanently banned in 2016, this was overturned by a Presidential executive order in 2017.

The effects of seismic blasting include temporary and permanent hearing loss, abandonment of habitat by wildlife, disruption of mating and feeding, and beach strandings. The practice is carried out by boats towing large arrays of compressed air, which is released through underwater explosions up to every 10-12 seconds. Blasting affects all animals and can be devastating to marine life. The practice cannot definitively show where oil and gas deposits are located beneath the ocean floor.

Five companies would be permitted to undertake seismic air gun blasting within specific zones. If areas showing the potential for oil and gas deposits are identified, companies would drill exploratory wells. Ms. Uden recalled that the BP Deepwater Horizon, which leaked over 100 million gallons of oil and caused the deaths of 11 people, practiced exploratory drilling. This spill had long-term effects on marine life and the marine ecosystem.

In addition to the opening of areas for drilling, the current administration also hopes to roll back existing regulations for offshore drilling. This would repeal many of the safety improvements enacted following the Deepwater Horizon spill. Ms. Uden emphasized the importance of a clean coastline to the economy of South Florida. She concluded that if Lauderdale-By-The-Sea passes a Resolution against seismic blasting, it will be the 82nd Florida municipality to do so.

Mayor Vincent explained that he had brought this Item forward so he, the Commission, and residents of the Town would hear additional information on the issue. He recalled that both the current and previous Florida Governors have spoken against seismic blasting. He recommended that the Commissioners look further into this issue before a Resolution is presented.

The Commissioners agreed by 4-1 consensus to have Staff draft a Resolution addressing seismic blasting and offshore drilling.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Danielle Del Sordo, resident, requested that the Town oppose seismic air gun blasting and offshore drilling, noting that many other Florida cities have passed Resolutions to this

effect. She expressed concern for how seismic blasting or offshore drilling could affect the tourist economy.

Desiree Clemente, representing Surf Rider Broward, stated that this organization had worked toward the recent passage of Amendment 9, which banned offshore drilling. She noted that numerous marine species, including endangered species, would be negatively affected by seismic blasting, and the commercial fishing economy for the state of Florida could be harmed as well.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO January Report (Captain Tom Palmer)

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

b. AMR January Report (Chief Brooke Liddle)

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

8. TOWN MANAGER REPORT

a. January Finance Report (Tony Bryan, Deputy Town Manager)

Deputy Town Manager Tony Bryan noted that for the month of January 2019, parking revenue showed a 77% increase over budget. On a year-to-date basis, revenue is approximately 44% ahead of budget, which places the Parking Fund in a good position.

The Commissioners accepted the report without discussion.

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

Town Manager Bud Bentley reported that he and Town Attorney Susan Trevarthen met with a representative of the Florida Development Group (FDG) to review a purchase and

sales agreement that has been executed. He provided the Commissioners with a press release sent out by the purchaser.

Town Attorney Trevarthen advised that the agreement is based upon some contingencies, including the following:

- Exploration of the land use and zoning rights of the property
- Exploration of possible lien mitigation the buyer may be able to obtain from the Town
- Contemplation of two 120-day periods in which the buyer may fully explore these possibilities

Town Attorney Trevarthen recalled that at a previous meeting, the Commission had authorized a 30-day stay so FDG could develop the contract, which has been executed by both parties. This would have also provided a trigger for one 120-day due diligence period. The request for two such periods was unexpected.

Town Attorney Trevarthen continued that she and Town Manager Bentley would like to present this new development as an Agenda Item at the March 12, 2019 meeting. They will provide recommendations and further details on how the Commission might address this. The contract has been reviewed in depth and appears to be commercially reasonable.

Within five days of the March 12 meeting, the contract would become effective and a deposit would be made from the purchaser to the seller. The contract is not contingent upon the Town's approval of lien mitigation or a new site plan before closing, but is tied to the additional time period that would allow the buyer to determine if the Town's support for their preferred outcome is acceptable.

Town Attorney Trevarthen stated that with consensus approval from the Commissioners, Staff will place this Item on the March 12, 2019 Agenda, at which time they may vote on the issue of the additional 120 days. There will be further discussion of the Item at that time. The Commissioners agreed by consensus to hear the Item at the March 12 meeting.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

- a. February 12, 2019 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

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

11. CONSENT AGENDA

- a. Special Event Application from the Community Church for an Easter Sunday Worship Service proposed for Sunday, April 22, 2019 (Debbie Hime, Special Projects Coordinator)**
- b. Special Event Application for VFD Easter Egg Hunt April 20, 2019 (Debbie Hime, Special Projects Coordinator)**
- c. Special Event Application Team Building Beach Clean-Up May 7, 2019 (Debbie Hime, Special Projects Coordinator)**

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve all three items. Motion carried 5-0.

12. OLD BUSINESS

- a. FY 19 Action Plan Status Report (Bud Bentley, Town Manager)**

Town Manager Bentley advised that this is the first scheduled presentation of the FY 19 Action Plan Status Report at the second meeting of the month. He encouraged the Commissioners to review the update at their leisure, noting that it will also be posted on the Town's website so the community can follow along with the Action Plan's progress. He anticipated a more robust report at the March 26, 2019 meeting.

Vice Mayor Sokolow noted that the Fort Lauderdale-Hollywood International Airport has implemented a system in one of its garages which informs drivers of how many spaces are available in the facility, as well as how many spaces are available in the sections of the garage they are entering. He suggested the Town consider looking into the possibility of implementing a similar system.

Town Manager Bentley recalled that Staff has discussed this possibility with vendors, although they have not proceeded with negotiations, as the technology for in-ground

placement of sensors and lights is very different for a surface lot than it is for a covered facility. One possibility is an information board showing how many spaces are open in different lots. He concluded that he felt parking notification hardware was within the Town's ability to fund.

13. NEW BUSINESS

a. Special Event Application for Station 44 Holiday Events (Bud Bentley, Town Manager)

Town Manager Bentley advised that he has discussed this issue further with the Applicant, and they have different opinions on the subject: the Applicant's concern is for his ability to conduct business and expand the number of special events, while the Town Manager's concern is for the bigger picture. He has heard input from the Applicant, the Commission, and the community at large.

An upcoming workshop will address this issue, along with several sign issues and the possibility of allowing musicians and/or street performers in public rights-of-way. Town Manager Bentley noted that special events and business promotion events will be included in this discussion. He recommended that the Item be tabled and the Commission establish a moratorium on accepting any new events of this type until after the workshop has been held and the Commissioners have provided additional policy direction.

Vice Mayor Sokolow stated that he did not agree with this approach, pointing out that this special event application did not seem sufficiently different from other applications the Commission has granted in the past. He also noted that the Applicant has scaled back the hours of performance to end at an earlier time, as well as the decibel level allowed. He also pointed out that no workshop has been scheduled thus far.

Commissioner Oldaker commented that while he was in favor of Town Manager Bentley's recommendation, he also felt the proposed event date of Monday, April 22 was acceptable. He expressed concern, however, with the possibility of scheduling special events on holidays, and noted that music can be audible at significant distances.

Commissioner Strauss recommended that the workshop be held before the tourist season ends, as scheduling it later could prevent businesses from capitalizing on the opportunities provided by special events. He suggested allowing the April 22 event with the understanding that the issue will be discussed further during a workshop. He also

agreed that noise from Downtown businesses can constitute a nuisance to residential neighborhoods.

Mayor Vincent pointed out that the amended Application was brought forward by the Applicant in advance of the workshop, although the Applicant had also requested that a workshop be scheduled. He concluded that no date has been set for the workshop thus far because the intent is for the new Town Manager to be present.

Vice Mayor Sokolow made a motion to approve the amended Special Event Application for April 22, 2019, with other dates to be considered at a later date with no additional application fee.

Mayor Vincent advised that the Town may wish to measure noise levels at the site on April 22, 2019 and/or reach out to neighbors to determine if music can be heard from a distance. It was clarified that there was no mention of reduced decibel levels in the Application itself. Deputy Town Manager Bryan confirmed that the Applicant has offered to meet the decibel level allowed for music on weeknights rather than the level allowed for special events.

Town Manager Bentley pointed out that the noise level permitted is the same for special events as regular weeknight events, but is measured differently. Deputy Town Manager Bryan clarified that the Applicant is asking that noise be measured from the source, not from a distance of 100 ft.

Commissioner Strauss seconded the motion.

Town Attorney Trevarthen noted that the Application document does not accurately reflect the current request, which would relocate music into the right-of-way but measure noise from the source of the sound, for the April 22 event. The Commissioners confirmed this modification to the normal measurement of sound.

Motion carried 4-1 (Commissioner Oldaker dissenting).

**b. Furniture for Development Services Department (Linda Connors,
Development Services Manager)**

Development Services Director Linda Connors advised that since the Commission funded the renovation of the Development Services Department, they have been able to replace a door with a window and level the floor. This request would provide furniture with hutch

that would serve as partition walls and provide additional storage space. The cost of three desks, two tables, and two hutches is approximately \$12,000, which includes delivery and installation. This expense would “piggyback” on a recent School Board contract. Money for the purchase would come from the Contingency Fund.

Vice Mayor Sokolow observed that the amount seemed high, and suggested it may be more reasonable to make the purchase without piggybacking on an existing contract. Development Services Director Connors explained that because the Town has used this vendor before, they did not compare prospective furniture costs with other vendors. Commissioner Malkoon advised that this was also his concern, and also suggested considering a direct purchase.

Mayor Vincent stated that the intent was to provide a healthy working environment and did not take exception to the proposed cost. Town Manager Bentley noted that Staff may price additional furniture, but cautioned that based on recent review of costs, the ultimate expense would be greater, and would also carry expenses related to the research and bidding processes.

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

14. COMMISSIONER COMMENTS

Commissioner Malkoon advised that he would not be present for the March 12, 2019 meeting. He added that the Windjammer property recently undertook dune restoration with the help of the Youth Environmental Alliance, and recognized that the Town serves as a role model for other coastal communities through efforts such as this.

Mayor Vincent read an email from a Fort Lauderdale resident recognizing Lauderdale-By-The-Sea’s development policies, branding and signage, and pedestrian atmosphere, as well as the exceptional community programs offered at Jarvis Hall.

Commissioner Oldaker congratulated future Town Manager Bill Vance on his selection for this position. He also recalled that there had been discussion of moving the pay station from the A1A parking lot to the corner of Commercial Boulevard and A1A in order to redirect pedestrian traffic toward the intersection with crosswalks.

Town Manager Bentley recalled that when this was first discussed in 2018, there had been a recommendation to move the pay station south of the alley rather than moving it

near the intersection. He agreed to add evaluation of relocating the pay station, but requested that the Commission not specify a location at this time.

Commissioner Oldaker continued that the Commission has had additional meetings with the marina owner, who has prepared conceptual designs for the redevelopment of his property with a hotel or motel. He suggested that they may wish to reconsider amending the Business District to allow for more space for hospitality.

Mayor Vincent asked if this would mean bringing the allowance of hotels in the B-1 district before the Planning and Zoning Board. Commissioner Oldaker confirmed this. Mayor Vincent agreed with this suggestion, citing the loss of hotel beds in the Town in recent years. Commissioner Malkoon proposed looking into allowing hospitality uses in the B-1-A zoning district as well.

Commissioner Strauss stated that he had requested Staff look into the possibility of having natural gas brought from Commercial Boulevard to the Silver Shores area.

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

15. ORDINANCES – PUBLIC COMMENTS

a. Ordinances 1st Reading

None.

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

None.

17. QUASI JUDICIAL PUBLIC HEARINGS

Town Attorney Trevarthen explained the procedures for the hearing of quasi-judicial items, and the Commissioners disclosed any ex parte communications on the Item. Individuals wishing to speak on the Item were sworn in at this time.

a. Tropicare Site Plan Modification (Linda Connors, Development Services Director)

Development Services Director Connors stated that the request is for Site Plan modification. The property was originally built in the 1950s with additions made later. There are nine legal units on the property. When the current owner applied for a business tax license, it was discovered that at some point the building had been renovated to include 15 units. Because this was done with no history of permits, the units were determined to be illegal.

Staff spoke with the owner's representatives to determine how the site could best be reconfigured. The result was that the property is not allowed to include 15 units due to density restrictions within the RM-25 zoning district. The property may have up to 12 residential units. The owner is requesting a Site Plan Amendment for 12 units, six with kitchens and six without.

Staff proposes a number of conditions for the property, many of which are standard. While these are incorporated into the record as part of the Application, the most important conditions are the requirement that the Applicant must certify that there are no liens on the property, as well as the requirement to file the modification as part of a building permit application. The owner is amending the landscape and parking plans with a bicycle reduction, and will include an Americans with Disabilities Act (ADA) –accessible space. The Planning and Zoning Board has recommended approval of the Application, as does Staff.

Dwayne Dickerson, representing the Applicant, advised that he has worked with Town Staff for some months to bring this issue to resolution. He noted that the property was purchased by the Applicant in 2016, which meant the internal modifications were made well before the Applicant took ownership. The proposed 12 units are permitted by Code, as well as by the Town's Comprehensive Plan.

While the Applicant has reviewed all conditions of approval and supports them, Mr. Dickerson noted that condition #3 would allow for only nine rented units on the property until the Applicant moves forward with final renovations. He requested that the Commission permit the rental of 12 units once all life safety issues on the property have been addressed.

Mayor Vincent advised that he had discussed this request with Staff, and pointed out that the three additional units would require inspection before they are considered safe to rent, as they were constructed without a permit. He was not certain the Town could sign off on the request for this reason, although he agreed the approval process should move forward as quickly as possible.

Mr. Dickerson explained that the property owner would submit plans reflecting the improvements necessary to resolve life safety issues and allow for the rental of 12 units. The request would not apply until the plans are reviewed by Staff and properly approved by building officials. He added that phasing of the improvements may be possible to address life safety issues.

Town Attorney Trevarthen pointed out that condition #3 states no more than nine units could be rented at any time until all work on the property is complete. The Commission may modify this condition if they wish.

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

Dulce Conde, Sol-ARCH, architect for the Applicant, explained that the intent is to undertake a two-phased permit, as the additional improvements proposed take parking, landscaping, ADA improvements, and other longer-term considerations into account. In order to make the units acceptable to Code, the Applicant will ensure there is a one-hour fire separation between units, which can be accomplished quickly. Once this construction is complete and inspections have been passed, the proposal would allow the Applicant to rent the additional three units while the rest of the improvements are underway.

Development Services Director Connors advised that condition #3 was written to ensure the Applicant was only using the nine legally constructed units. If these units can be renovated and not used until they meet current Code, the time frame for the completion of construction remains. This condition can be amended if the Applicant can show that the additional three units can be made safe.

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to approve with a modification to condition #3 that the Applicant can have three additional units as all necessary permits, Code, and inspection issues have been satisfied. Motion carried 5-0.

18. ADJOURNMENT

Lauderdale-By-The-Sea
Regular Town Commission Meeting
February 26, 2019

With no further business to come before the Commission at this time, the meeting was adjourned at 8:22 p.m.



Mayor Chris Vincent

ATTEST:



Town Clerk Tedra Allen



Date