

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, January 24, 2017
6:30 PM**

1. CALL TO ORDER, MAYOR SCOT SASSER

Mayor Scot Sasser called the meeting to order at 6:35 p.m. Also present were Vice Mayor Mark Brown, Commissioner Alfred "Buz" Oldaker, Commissioner Eliot 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, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, Planning Technician Juliana Cardona, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pastor James Corgie gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. New Destination Marketing Branding (Debbie Hime, Special Events Coordinator)

Kathy Koch of Ambit Marketing provided a presentation on the Town's branding, stating that this focuses on what makes a town or place unique. The focus of destination marketing branding promotes the Town as a diving destination and brands its hotels, streets, and restaurants accordingly. Ms. Koch showed slides of advertisements for the Town with the "Relax...You're Here" tagline, pointing out that ads are aimed at both visitors to and residents of Florida and address a wide range of ages. They also emphasize the Town's small size, charm, and walkability.

6. PUBLIC COMMENTS

At this time Mayor Sasser opened public comment.

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Jerry Sehl, representing the Lauderdale-By-The-Sea Kiwanis Club, invited all present to the next Kiwanis Club meeting, which is scheduled for February 7, 2017 and will discuss plans for a new charity the organization hopes to support. He also spoke in support of a respite area with facilities for disabled persons on Washington Avenue.

Ann Marchetti, resident, addressed the topic of Farmers' Markets and their role in building healthy lifestyles, driving economic development, and bringing communities together. She thanked the Town Commission for their presence at the recent grand opening of the Lauderdale-By-The-Sea Farmer's Market in 2017.

Blake Hallonquist, resident, recommended that the Town invest in new commercial investments and restaurants, and should embrace alternative businesses such as Airbnb rather than investing in more hotels. He emphasized the role of technology in the future economy.

Jeffrey Lynne, representing the owners of the property at 4433/4437 Poinciana Street, advised that his clients are seeking a refund of the money spent on permit fees to build on this property. In June 2016, Resolution 2016-02, which allows only a 50% refund of these fees, was passed by the Commission. He requested that the Town Commission allow an exception for his clients.

Doug Barrow, representing the Florida Development Group (FDG), shared photographs of one of the properties on which Americans with Disabilities Act (ADA) requirements are being addressed before FDG applies for an occupancy permit. Drainage improvements are underway as well. He estimated that the completion date will be March 2017.

Regarding the former Villa Capri property, Mr. Barrow called the Commissioners' attention to photos showing landscaping, signage, hedge, and trim improvements. Parking lot improvements, including paving and striping, are planned for the southern properties, and a structural engineering contract has been awarded to speed up rehabilitation of buildings. He reiterated his commitment to providing a monthly update to the Commissioners on the properties' progress.

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

7. PUBLIC SAFETY DISCUSSION

a. VFD December 2016 Report (Chief Judson Hopping)

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

b. Citizen Observer Patrol Awards and Promotions (Captain Tom Palmer)

Captain Tom Palmer of the Broward Sheriff's Office (BSO) recognized volunteers with the Citizen Observer Patrol (COP) program, in which citizens volunteer their time to patrol the Town in marked vehicles and on bicycles to provide increased visibility and public safety. Volunteers provided a total of 2256 hours over the past year to help prevent crime.

Capt. Palmer reported the promotion and recognition of the following COP volunteers:

- Joan Garrett
- Rocky Narain
- Pam Roberts
- Tim Bokovoy
- Tom Criqui
- Philip Wojahn
- Dr. Lou Barbara

Mayor Sasser thanked all the COP volunteers for their service to the community.

8. TOWN MANAGER REPORT

a. Chamber of Commerce December Statistics Report (Tedra Allen, Town Clerk)

The Commissioners accepted the report without discussion.

b. November Finance Report (Lisa Fuentes, Finance Director)

The Commissioners accepted the report without discussion.

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

Town Manager Bud Bentley stated that Staff has worked with the Lauderdale-By-The-Sea Garden Club and Chamber of Commerce on an additional investment in orchids to replenish and expand the Orchid Walk. He estimated that this expense would be approximately \$1000, which is within the Town Manager's authority to purchase. Expansion of the Orchid Walk would contribute to the Town's growing walkability on West Commercial Boulevard.

Town Manager Bentley continued that the fiscal year (FY) 2017 Action Plan will be attached to the Town Manager's Report for the second meeting of each month.

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Mayor Sasser recognized the efforts of Town Staff, the Chamber of Commerce, and resident Ron Piersante in making sure the Town's walking maps are available at most businesses.

Town Attorney Susan Trevarthen addressed the request from public comment with regard to the refund of permit fees, stating that the Town adopted a Resolution that created the right to a 50% refund of these fees. She characterized the issue as a policy question, pointing out that a variance would not apply in this case.

Commissioner Sokolow recalled a State law that prohibited the collection of fees in excess of costs for building permits. Town Attorney Trevarthen confirmed that this law is still on the books. Development Services Director Linda Connors advised that in this individual case, the Town did expend some of the permit fee in question, as there was a permit review process. Part of the fee covers costs associated with permit processing, while another portion of the fee covers these inspections to a property.

Commissioner Vincent asked if it would be possible to charge fees that are proportionate with the amount of time spent in administrative review, pointing out that some projects are significantly larger and more expensive to review than others. Development Services Director Connors explained that the Resolution allows for a 50% refund if an owner has requested a refund prior to the beginning of work. Commissioner Vincent proposed maintaining a record of the administrative hours spent on major projects. Town Manager Bentley stated that Staff would follow up on this item and provide an update as part of the next Town Manager Report.

Vice Mayor Brown addressed the FY17 Action Plan, noting that the crosswalk under consideration at Pine Avenue was expected to be north of the traffic light so it is more convenient for residents of the Sea Ranch condominiums. Town Manager Bentley replied that the crosswalk proposed in the Action Plan has been under consideration for at least four years, while the proposed crosswalk to the north was not approved by the Florida Department of Transportation (FDOT) due to its proximity to the traffic light.

Town Manager Bentley recommended that Mr. Hallonquist, who had raised issues, meet with Development Services Director Connors to discuss some of the history related to the issues he had raised, particularly with regard to hotels and Airbnb.

Commissioner Oldaker recalled that at recent meetings, there were discussions of heavy Code fines that have accrued over months or years for specific properties. The current total of short- and long-term fines is approximately \$13.5 million throughout the Town. He recommended that Staff update the Commission on these fines in an attachment to the Town Manager's Report at future meetings.

Vice Mayor Brown addressed the report provided by Mr. Barrow of FDG, noting that he had expressed the intent to make a decision on the company's building options by April 15, 2017. He asked if this deadline anticipates all options, such as placing properties up

for sale. Mr. Barrow replied that FDG's ownership wants to renovate the properties if possible, although there is room in the budget for reconstruction if structural review reveals unsound findings.

Commissioner Oldaker commented that properties overseen by FDG and Hospitality Ventures Management Group (HVMG) are within the top 10 percent of the Town's heaviest Code fines. He asked if progress has been made with regard to the establishment of a website on which residents may track this issue. Mr. Barrow confirmed that this is in development, adding that the site will include his contact information. Commissioner Oldaker emphasized the need for progress on this site.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

- a. January 10, 2017 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)**

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

11. CONSENT AGENDA

None.

12. OLD BUSINESS

- a. Florida Coast Church Jarvis Hall Use (Tedra Allen, Town Clerk)**

Commissioner Vincent made a motion to approve.

Vice Mayor Brown asked how long the Florida Coast Church has been seeking a location within the Town. Pastor Larry Trotter of the Florida Coast Church replied that the church relocated to the Town six months ago, but there are neither available nor affordable properties at present.

Vice Mayor Brown expressed concern that while the request is for four months' use, there is no guarantee that the Florida Coast Church will find a permanent location within that time frame. He also stated his concern with the potential establishment of a precedent that could have unforeseen consequences. Commissioner Sokolow observed that his primary concern was with the possibility of intermingling church and state, which may also have negative repercussions.

Commissioner Oldaker stated that another issue could be the policy and procedure used to rent Jarvis Hall, as he did not wish to potentially block the use of the facility by other organizations for several weeks or months. He proposed that the Commission revisit its rental policy to address this concern.

Commissioner Vincent pointed out that tonight's vote represented only a policy decision rather than an endorsement, and that no events were booked for the four months of Sundays requested.

Town Attorney Trevarthen briefly reviewed the Town's policy regarding rental of Jarvis Hall, pointing out that while first priority goes to Town activities, the facility remains open for civic use. Both individual and monthly uses would be consistent with past policy. She advised that the interested party has the same right to rent the facility as any other entity; however, there have been no weekly rentals for significant periods of time in the past. Town Attorney Trevarthen also confirmed that equal treatment could prevent the Town from saying no to less traditional requests for use in the future.

Commissioner Oldaker seconded the motion.

Commissioner Oldaker reiterated his concern that the Commission revisit its policy on how the facility is rented.

Motion carried 3-2 (Vice Mayor Brown and Commissioner Sokolow dissenting).

13. NEW BUSINESS

None.

14. COMMISSIONER COMMENTS

Vice Mayor Brown commended the students from Florida Atlantic University (FAU) on their conceptual work on the Town Hall complex. He also encouraged all present to attend a free Community Center program on January 25, 2017.

Commissioner Vincent also thanked the FAU students for their work.

15. ORDINANCES

a. Ordinances 1st Reading

- i. Ordinance 2017-03 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-261, “B-1-A DISTRICT – BUSINESS,” AND 30-271, “B-1 DISTRICT –**

BUSINESS,” TO REVISE DEVELOPMENT REQUIREMENTS, REORGANIZE THE SECTIONS AND MOVE RELEVANT SUBSECTIONS TO SECTION 30-11, “DEFINITIONS” AND SECTION 30-313, “GENERAL PROVISIONS,” ADD MIXED USE AS A CONDITIONAL USE IN THE B-1-A ZONING DISTRICT WITH REQUIREMENTS, AND REVISE REQUIREMENTS FOR MIXED USE DEVELOPMENT IN THE B-1 ZONING DISTRICT; 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.

Mayor Sasser clarified that because this Item was advertised, it was raised at tonight’s meeting; however, discussion of this proposed Ordinance will be moved to February 14, 2017. The date of the second reading will not be affected.

Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to table until February 14. Motion carried 5-0.

- ii. **Ordinance 2017-04 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, TO ELIMINATE THE USE OF PARKING WAIVERS IN THE B-1 AND B-1-A ZONING DISTRICT AND CREATE A “PAYMENT IN LIEU OF PARKING” PROGRAM TO ADDRESS PARKING ALTERNATIVES; 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 Connors explained that the proposed Ordinance would create a payment in lieu of parking program. She provided a brief overview of the history of parking in the Town, which established parking regulations and a waiver provision in 1995. In 2011 a parking exemption program was established for four years in order to provide greater flexibility, particularly for businesses that had changed their uses to restaurants. The program has allocated 126 parking spaces, which benefited roughly 17 restaurants.

Code also allows for parking adjustments, which allow 34 parking spaces benefiting five restaurants and two commercial establishments. In order to grant an adjustment, the

Commission must find there is sufficient public parking available within reasonable walking distance.

There have been several discussions of a pilot parking in lieu program, including one discussion that was part of the Town's recent parking study. As a result, the Commission asked Staff to draft such a program, which would be consistent with linking its fee to the cost of an annual space in the A1A parking lot.

Development Services Director Connors explained that a payment in lieu of parking (PILOP) program allows business owners to convert their buildings to uses that require more parking without an accompanying requirement to provide those parking spaces. The program allows the property owner to pay the Town for each new parking space not provided. The funds collected through a PILOP program must be designated to pay for parking enhancements, such as spaces, construction related to parking, pedestrian enhancements, or a shuttle program.

Staff researched PILOP programs in the cities of Fort Lauderdale, Deerfield Beach, and Delray Beach, among others, including the prices for parking spaces, how payments are due, applicability, and the percentages of spaces permitted to be used. They have drafted an Ordinance with the following recommendations, two of which vary from the directive previously provided by the Commission:

- Time frame: the suggested payment schedule extends for no more than three years;
- PILOP fees to be paid upon issuance of a building permit or business tax receipt (BTR) may be three payment plans: 50% for the first year and 25% during years two and three.

Development Services Director Connors described the PILOP fees used in other communities, which include one-time fees and differing fee schedules for hotel/motel and commercial/retail uses. The community found to be most similar to Lauderdale-By-The-Sea, Delray Beach, requests a \$23,600 space east/west of the Intracoastal Waterway and uses the staggered three-year payment program described above.

The Town currently has two projects underway, including the South Ocean parking lot and the recently purchased Majestica Apartments, which have 54 and 34 spaces respectively. The cost per space is \$95,200 at Majestica and \$58,925 at South Ocean. Staff does not recommend that a business be charged this full expense due to several factors; instead, they feel the fee per space should be more reflective of the actual cost to provide it.

The proposed Ordinance includes a PILOP fee to be established by Resolution, which shall not exceed the cost of providing a surface parking space, including land costs. The fee should be updated as necessary in order to reflect cost changes. Parking adjustment programs in B-1-A and B-1 districts would be deleted. Participants may not have previously obtained a parking exemption or reduction. The program requires new

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construction to provide ground-floor street frontage in order to improve the Town's pedestrian experience.

The program also allows for a suspension in payment or withdrawal by the property owner, and requires funds to be used for parking and related improvements. Staff recommends approval of the proposed Ordinance on first reading. Prior to the second reading, Staff plans to meet with affected property and business owners. A Resolution establishing PILOP fees will be presented upon second reading.

The Commission discussed the proposed Ordinance, with Development Services Director Connors clarifying that the Item had already been subject to one public hearing by the Planning and Zoning Board. Further community outreach is planned to explain the program thoroughly. Mayor Sasser recommended that the businesses that had urged the Town to invest in parking lots attend future meetings.

Commissioner Vincent asked if spaces purchased through a PILOP program would remain in perpetuity with locations or with businesses. Development Services Director Connors replied that property owners are considered applicants, as they may pass the costs of any necessary upgrades on to the business owners.

Commissioner Vincent also asked if the success of a given business would be a consideration. Development Services Director Connors explained that participants may drop out of the PILOP program, citing a Suspension of Payment plan and a Withdrawal from Program. The property owners would also be responsible for removing a participant from the program.

Town Manager Bentley advised that the proposed PILOP program would be available when there is a change in use, which typically involves the upgrade of a retail use for an incoming restaurant. A restaurant also often pays significantly higher rents. If a restaurant leaves a property and is replaced by retail, this would result in a reduced parking requirement, although Town Manager Bentley pointed out that this would be an uncommon occurrence.

Development Services Director Connors noted that most of the Town's buildings were deficient in parking when the Town's existing parking regulations were enacted in 1995. Commissioner Vincent requested additional consideration of the 50% payment required in the first year of the program, which could have a significant effect on a business.

Vice Mayor Brown stated that he was supportive of a PILOP program, which would provide a better structure for incoming businesses than the current parking waiver program. He added that if spaces are allocated to a business that leaves its location, they should go back into a pool of available spaces.

Commissioner Sokolow advised that the proposed Ordinance has not quantified how many spaces might be used by restaurants of varying size. He emphasized the need to

make mathematical calculations for these spaces. Development Services Director Connors replied that this has been calculated for restaurants of different sizes and customer service areas under the current exemption program. Commissioner Sokolow also expressed concern with the potential fees to be assigned to the program. He felt the approach to the PILOP program was incorrect, and could stifle the development of additional restaurants in the Town.

Commissioner Oldaker observed that he was in favor of a PILOP program, noting that decisions will be made by property owners in conjunction with their business tenants. He clarified that the square footage of a given space would determine how many spaces an owner could purchase, and asked if withdrawal from the program could be partial or must be complete. Development Services Director Connors explained that if an owner fails to pay, s/he withdraws from the program and must either provide parking spaces or cease use.

If an owner withdraws from the program, s/he is vested with the number of spaces already paid for; that owner may also suspend participation in the program if a business leaves until such time as another business comes into the space. Participation in the program also results in a higher use for the property owner, which is typically accompanied by a higher rent return. If a property is sold, the purchased spaces would accompany that property. Commissioner Oldaker also recommended the establishment of a payment plan up-front rather than allowing an annual adjustment.

Commissioner Vincent stated that there should be no rush to create a PILOP program until all the details have been fully reviewed. He also pointed out that the Town could continue the parking exemption program if they wished, and that parking should stay with the property if a tenant leaves a building. He concluded that he could not vote in favor of the Ordinance upon first reading.

Mayor Sasser commented that he shared some of the other Commissioners' questions regarding the PILOP program, and would be willing to work with Town Staff on the proposed Ordinance if they wished to proceed.

Town Manager Bentley stated that Staff wished to withdraw the Item from consideration and reschedule its first reading for a later date. He requested consensus from the Commissioners regarding the effect the program could have on future restaurants, pointing out that these restaurants or expansions are unlikely at present due to the Town's lack of public parking spaces within a walkable area.

Vice Mayor Brown addressed the possibility of returning parking spaces to a pool if a business leaves a property, explaining that he had meant this to apply to the free spaces provided in the past through the waiver program.

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2017-04 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, URGING THE FLORIDA LEGISLATURE AND THE FLORIDA GOVERNOR TO OPPOSE LEGISLATIVE CHANGES PROHIBITING THE LOCAL REGULATION OF VACATION RENTALS AND SUPPORT LEGISLATIVE CHANGES ALLOWING THE LOCAL REGULATION OF VACATION RENTALS; PROVIDING DIRECTION TO TOWN OFFICIALS; PROVIDING FOR AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

At this time Mayor Sasser opened public comment.

Edmund Malkoon, resident, reported that some major cities have prohibited vacation rentals within certain areas and limiting their rental time to a certain number of days per year. Businesses such as Airbnb are sharing their information with these towns in an effort to promote compliance.

Blake Hallonquist, resident, requested clarification of the City's stance on this issue.

Tom Heinrich, of Pompano Beach, stated that the Town Commission has prevented him from acting as an agent of property owners with vacation rentals, as he does not reside or own property in Lauderdale-By-The-Sea. He felt the issue at stake is the government's role in regulating individual property rights, and that these regulations prevent visitors from coming to the Town. Mr. Heinrich concluded that further regulatory action by the Town could open it up to litigation.

As there were no other individuals wishing to speak on this Item, Mayor Sasser closed public comment.

Town Attorney Trevarthen explained that no action affecting regulation of vacation rentals is before the Commission at this time: the only Item on tonight's Agenda is whether or not to take a position on legislative action by the State of Florida. The Town's existing regulations were grandfathered in when the State took legislative action in 2011.

There are currently two bills before the Florida Legislature in its current session: Senate Bill (SB) 188, which would preempt all further local regulation going forward and may also affect grandfathered regulations, and House Bill (HB) 6003, which urges the Legislature to respect local authority. The Resolution before the Commission at this time states only that the Town believes it should have the right to local regulation.

Commissioner Vincent addressed Mr. Hallonquist's request for clarification, stating that the Item before the Commission would oppose SB 188 and support HB 6003. He emphasized that the intent is to do what is best for the Town and for the residents who live there, which may differ from what the owners of vacation rental properties feel is best for their property values.

Mayor Sasser added that the Commission is tasked with striking a balance for what is best for all members of the community, which they feel they are better able to do than a representative of the State Legislature who may not be aware of the Town's needs or concerns.

Vice Mayor Brown pointed out that there are also concerns from neighbors to vacation rental properties who do not wish to be burdened with the potential consequences of these rentals. Commissioner Oldaker stated that vacation rentals are becoming more and more of an issue in neighborhoods like his own, which are residentially zoned single-family communities and not intended to accommodate transient or business traffic.

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

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 these Items. Individuals wishing to speak on these items were sworn in at this time.

a. Administrative Adjustment request to allow a front setback of not less than 21'6" where 25' is required (Juliana Cardona, Planning Technician)

Planning Technician Juliana Cardona explained that an administrative adjustment is requested for the property located at 4416 El Mar Drive. The project was first presented to the Commission in October 2016, at which time they approved an adjustment of 2 ft. 2 in. to the front setback in order to accommodate a Midcentury Modern privacy façade. When the Applicant completed plans for the building permit, they realized that the original request did not provide sufficient room to accommodate program requirements. As a result, they are requesting an additional 16 in. to allow an adjustment of 3 ft. 6 in. to the front setback for a total setback of 21 ft. 6 in.

The Application has been presented to the Board of Adjustment, which voted unanimously to recommend approval. Staff also recommends approval of the Application. One comment in opposition to the request has been received by Staff.

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Commissioner Vincent also requested clarification of whether or not the adjustment would affect ingress/egress. It was clarified that there was no such conflict, nor is there encroachment into the view corridor.

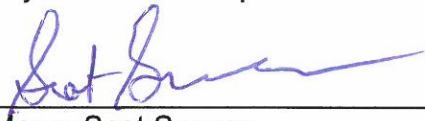
Paul Novak, Applicant, advised that the building's architect made a 16 in. error. The necessary space is intended to accommodate the moving of equipment in and out of the facility.

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

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

18. ADJOURNMENT

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

2-14-17
Date