

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, January 22, 2019
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Vincent called the meeting to order at 6:31 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, Assistant Town Manager Sharon Ragoonan, Town Attorney Susan L. Trevarthen, Municipal Services Director Ken Rubach, Development Services Director Linda Connors, 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

Reverend Fred Powell gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

The Commissioners agreed by consensus to move Agenda Item 13a to the Consent Agenda as Item 11f.

5. PRESENTATIONS

a. Citizen Observer Patrol Annual Awards and Promotions (Captain Thomas Palmer, BSO)

Captain Thomas Palmer of the Broward Sheriff's Office (BSO) recognized participants in the Citizen Observer Patrol (COP) program, in which citizens volunteer their time to patrol the Town in specially marked vehicles and on bicycles. They assist with traffic control, parking, and other duties at various events. There were 1752 total volunteer hours for the program in 2018.

Volunteers are recognized when they accrue hours in increments of 500. Captain Palmer recognized the following individuals:

- Joan Garrett: 500 hours
- Tom Criqui: 1000 hours
- Pam Roberts: 1000 hours

Captain Palmer also announced the following promotions:

- Sergeant: Robert Fitzpatrick
- Sergeant: James Mead
- Captain: Pam Roberts
- Captain: Tom Criqui

The Mike San Miguel Award for most volunteer hours in a year goes to Tom Criqui, who volunteered for over 329 hours.

Captain Palmer also recognized Colonel Bill Johansen, who has worked to advance the COP program beyond the Town's borders by encouraging other volunteers to become certified for the Fort Lauderdale Citizen Emergency Response Team (CERT). Colonel Johansen volunteered his time in the Florida Panhandle in fall 2018 after Hurricane Michael.

Captain Palmer concluded by recognizing Deputy Ben Koos, who is one of the coordinators of the COP program and oversees its training and curriculum.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Charles Mangano, resident, stated his opposition to plans that would install parking meters next to his family's property. He recalled that there were multiple disputes in the 1940s and 1950s concerning the property line at this location, noting that his family has maintained this area for several years. He did not oppose the installation of a sidewalk.

John Boutin, business owner, addressed Item 12b, residential neighborhoods should remain resident neighborhoods and did not feel the prohibition against short-term tenancy on lots less than 60 ft. in width should be changed. He also spoke on Item 13b, pointing out that it can be difficult for business tenants in Lauderdale-By-The-Sea due to rental costs, expenses, and proximity to the ocean. He felt tenants should be allowed to improve

their spaces as much as possible, and that having an entertainer facing a place of business would be a positive change.

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

7. PUBLIC SAFETY DISCUSSION

a. BSO December Report (Captain Thomas Palmer)

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

b. AMR December Report (Chief Brooke Liddle)

Commissioner Oldaker complimented American Medical Response (AMR) for their recent response times, which averaged 2.5 minutes in December 2018. Commissioner Malkoon added that he recently reviewed a number of calls from the Town with Chief Brooke Liddle for efficiency and accuracy, and AMR continues to do a good job.

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

c. VFD December 2018 Report (Chief Judson Hopping)

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

8. TOWN MANAGER REPORT

a. Chamber of Commerce Visitor Center Quarterly Report (Eva Marissa, Chamber of Commerce)

Eva Marissa, representing the Lauderdale-By-The-Sea Chamber of Commerce, advised that the Chamber is working with the Town to explore new revenue options to support the operations of the Visitors' Center. She thanked the Town for their ongoing support.

The Commissioners accepted the report without discussion.

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

Town Manager Bud Bentley stated that he would address business related to the Florida Development Group (FDG) later in tonight's Agenda.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

a. January 8, 2019 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)

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

11. CONSENT AGENDA

Mayor Vincent requested that Item 11c be pulled for additional discussion. Vice Mayor Sokolow asked that Item 11f also be discussed.

Commissioner Malkoon made a motion, seconded by Commissioner Strauss, to approve Items 11a, 11b, 11d, and 11e. Motion carried 5-0.

- a. Florida Retirement System Correction Payment (Tony Bryan, Deputy Town Manager)**
- b. Special Event Application for St. Patrick's Day Celebration, March 17, 2019 (Debbie Hime, Special Projects Coordinator)**
- c. Award of Contract to Granicus for Agenda Management and Video Streaming Services – RFP No. 18-07-01 (Steve d'Oliveira, Public Information Officer)**

Public Information Officer Steve d'Oliveira advised that Granicus is a nationwide company providing video streaming and agenda management. The Town's contract with its previous provider, Sire, recently ended and a request for proposal (RFP) was issued in August. The Town received five responses, and a committee of three Staff members

evaluated the proposals and ranked the top three. Following presentations by the top three providers, the committee selected Granicus as the best option.

Byron Gillin, Regional Director for Granicus, provided a brief presentation to the Commission, emphasizing that the company hopes to help the Town be more internally efficient, keep citizens engaged, and help the Commission with preparation, including building and distribution of documents to the Commissioners and to the Town's website.

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

- d. Agreement with Florida Animal Removal for Removal of Iguana and Non-Native Removal Service (Sharon Ragoonan, Assistant Town Manager)**
- e. Extension of Time for the Mitigation of Code Enforcement Liens at 4546-4560 El Mar Drive (FDG Central) (Linda Connors, Development Services Director)**
- f. Interactive Speed Display Units (Ken Rubach, Municipal Services Director)**

Vice Mayor Sokolow recalled that other nearby municipalities use similar units, and asked if the other cities' units are significantly more expensive than those proposed for the Town. Municipal Services Director Ken Rubach explained that some of the signs proposed for Lauderdale-By-The-Sea used the same interactive options used in other towns. The signs in question would simultaneously show speed, flashing lights, and a message. They come with a two-year warranty.

Commissioner Oldaker asked if there are longer-term plans regarding the positioning of the proposed signs and how it can be coordinated with BSO. Municipal Services Director Rubach replied that BSO will work with the Municipal Services Department to administer the signage program, beginning with two test signs on Commercial Boulevard before the signs are deployed elsewhere. Some signs are portable and can be moved or re-positioned as necessary. If problems continue in some areas, less portable solar signs are available and may be installed after a trial period.

Mayor Vincent requested additional information regarding data capture. Captain Palmer of BSO replied that other municipalities who use these signs had positive responses. The

signs emit their own wifi signals, which law enforcement may log into and request traffic data from a given time period. The signs provide days of the week, times of day, and speeds. Data from individual vehicles is not collected.

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

12. OLD BUSINESS

a. Town Manager Search Update (Connie Hoffmann)

Consultant Connie Hoffmann reported that one of the six candidates the Commission had wished to interview for the Town Manager position had withdrawn his candidacy, which left five candidates who visited the Town for skills testing. Background and reference checks for these finalists have been performed. She recommended that the following three candidates be invited to interview as finalists:

- Glenn Irby
- David Stahl
- William Vance

Ms. Hoffmann recommended that the Commissioners schedule a special meeting for January 31, 2019. Each candidate would be invited to make a 15-minute presentation to the Commission and the audience. She also proposed that the Commissioners interview the candidates individually prior to the special meeting on January 31, 2019. She concluded that if possible, the Commissioners should identify their first and second choices from among the candidates, as they are competing for positions in other municipalities. The Town Attorney and Commission Liaison could then begin contract negotiations with the chosen candidate.

Commissioner Oldaker made a motion, seconded by Commissioner Malkoon, to approve Glenn Irby, David Stahl, and William Vance as the final candidates. Motion carried 5-0.

Ms. Hoffmann advised that she would schedule the candidates' interviews with the individual Commissioners on Wednesday, January 30 and Thursday, January 31, 2019. She recommended that a reception be held for the new Town Manager when he is selected.

Commissioner Oldaker made a motion, seconded by Commissioner Malkoon, to schedule a special meeting for January 31, 2019 at 6 p.m. Motion carried 5-0.

b. Prohibition of Short-Term Tenancy Units on Lots 60ft (Linda Connors, Development Services Director)

At this time Mayor Vincent opened public comment.

Ron Piersante, resident, stated that he was not in favor of changing the prohibition of short-term tenancy units on lots of less than 60 ft. west of Bougainvillea Drive. He asserted that there would be no benefit to Lauderdale-By-The-Sea, but only to investors who own properties in the Town. He concluded that he shared many of the concerns expressed by the Town's Planning and Zoning Board, which voted 5-0 against a change to the Ordinance.

Drew Melville, representing property owner, advised that he represents the owners of a property at 4550 Poinciana Drive, who are precluded from allowing short-term rentals. He did not believe it was reasonable for the Town to enforce Code that prohibited these types of rentals, as that section of Code was not intended to address current rental models such as Airbnb or VRBO. Mr. Melville concluded that these types of rentals are allowed by right in every other zoning district in the Town, including single-family residential districts.

Development Services Director Linda Connors explained that the Item addresses a prohibition on short-term rental of units 60 ft. or less in width located in the RM-25 zoning district west of Bougainvillea Drive. She recalled that in April 2018, the Mayor had requested feedback from the Commissioners related to reviewing this regulation. In July 2018, a significant number of individuals offered public comment regarding this provision, and in October 2018, the Commission asked Staff to bring this issue before the Planning and Zoning Board for review.

At their November 2018 meeting, the Planning and Zoning Board discussed this issue, reviewed the Staff Report, and recommended that no changes be made. The Board also requested additional information comparing the subject area to the rest of the RM-25 zoning district. Permitted uses in RM-25 include apartment houses and hotels. RM-25 zoning also allows 25 units per acre, or 50 units if the property is a hotel without a full kitchen.

There are 351 units subject to the prohibition, as well as 545 units not affected by it. A total of 14 properties and 17 units currently have licenses for short-term tenancy. Since

the prohibition came forward for review, two of these properties have not requested renewal of their leases. The Planning and Zoning Board's action was to recommend that Code be maintained as it is today.

Vice Mayor Sokolow asked how long this provision has been part of Code. Development Services Director Connors explained that the provision was approved in 2000. Staff researched previous minutes to determine the driving factor behind the prohibition, but could not find conclusive information. Code states that the provision is meant to encourage the redevelopment of these properties. In 2000, programs such as VRBO and Airbnb were not widespread as rental property models.

Vice Mayor Sokolow asked if the properties that chose not to renew their licenses for short-term rentals have likely ceased to offer these units. Development Services Director Connors advised that one owner is now licensed for long-term rentals.

Vice Mayor Sokolow requested input regarding state laws that govern vacation rental properties and zoning Code. Town Attorney Susan Trevarthen replied that because this provision of the Town's Code predates any legislative preemptions, it is possible to enforce this Code without being prevented from doing so by State Statute.

Vice Mayor Sokolow requested additional information regarding the 60 ft. lot size determination. Development Services Director Connors replied that lots of greater width than 60 ft. may have vacation rentals; furthermore, if the property was subdivided after this regulation was approved, both subdivided properties on a wider lot may have vacation rentals. Vice Mayor Sokolow expressed concern with the logic behind the prohibition.

Mayor Vincent observed that while there is no clear background information on why the prohibition was implemented in 2000, and while he shared Vice Mayor Sokolow's concern for property rights, he respected the Planning and Zoning Board's recommendation on this issue, even in the absence of background information. He pointed out that the Town may always propose a change to the Ordinance in the future.

Town Attorney Trevarthen advised that the Code provision in question is an outright prohibition on short-term rental use for these specified properties. The Commission may choose to direct Staff to draft an Ordinance repealing this prohibition; however, if that is done, the Town would not be able to reinstate it.

Mayor Vincent also noted that the prohibition has not precluded some properties from being used as vacation rentals, although the Town seeks to enforce compliance. He was

not aware of any major complaints involving these properties. Density and zoning have not been affected by the prohibition.

Mayor Vincent continued that should the Commission repeal the prohibition, he would recommend a thorough review of its language to determine if parts of the prohibition should remain. Town Attorney Trevarthen stated that thus far, all Staff's analysis has focused on the rental ban. Staff can review the full section of Code in order to determine if there is reason for any of the section to exist and bring back a recommendation to the Commission.

Commissioner Oldaker stated that residents who live in their homes on a full-time basis have overwhelmingly expressed their opposition to more vacation or short-term rentals. He added that he would prefer to wait and see what action is taken by the state at the next legislative session before making any changes to the prohibition.

Commissioner Malkoon agreed that this was a protection for the Town. While he sympathized with property owners who were issued business tax receipts (BTRs) in error, he agreed with Commissioner Oldaker that the prohibition should remain in place, as requested by resident input.

Mayor Vincent reiterated that the primary issue for him is the lack of clarification of a reason behind the Ordinance. He noted that repealing the Ordinance would provide the Town with an opportunity to monitor or control the rental properties and ensure that their managers are responsive to the Town's needs.

Commissioner Oldaker asked if this issue can be revisited and considered for repeal next year. Town Attorney Trevarthen replied that this would be possible if the Town still has the authority to do so under State Statute. Full preemption by the state would preclude them from repeal. Commissioner Oldaker cautioned against giving up the protection the Ordinance affords the Town.

Commissioner Strauss requested clarification of how the Town might update or "tweak" this section of Code. Town Attorney Trevarthen explained that the only action that may be taken at tonight's meeting is direction to Staff, as there has been no advertisement of changes to an Ordinance.

Commissioner Strauss also asked how much revenue the Town receives from vacation rental properties. Development Services Director Connors replied that the application fee for vacation rentals is \$750, which covers the costs of administering the program.

Town Manager Bentley stated that if Staff is asked to prepare an Ordinance to repeal the prohibition on short-term rentals, they would also like to review the rest of this section to determine if the remaining regulations are still applicable or if they are covered by other sections of Code. This would lead to greater uniformity within the RM-25 zoning district and uniformity of the Town's approach to transient rentals.

Commissioner Malkoon asked if it would be possible for the Town to grandfather in the properties that currently have vacation rental licenses in the subject area as long as those owners maintain control of the properties. Town Attorney Trevarthen replied that Staff can evaluate this possibility if that is the Commission's direction.

The Item died for lack of motion.

c. Florida Development Group (FDG) Request for a stay in foreclosure litigation (Bud Bentley, Town Manager)

Town Manager Bentley recalled that the Commission authorized foreclosure on the Florida Development Group (FDG) for outstanding Code liens. The action involves four separate parcels. The central parcel will be withdrawn from the foreclosure action, as the Commission approved an extension for the payment of a mitigated lien under Consent Agenda Item 11e.

Foreclosure proceedings will move forward against the Villa Caprice and 4116 Ocean Drive properties. FDG's representative has advised the Town that they are in discussions with a prospective purchaser, and has requested a stay in the lawsuit so they can focus on evaluating and pursuing this potential sale. Staff believes this will be beneficial to the Town.

Town Attorney Trevarthen stated that the memorandum includes a three-part recommendation:

- FDG has requested that the Commission approve the Town joining with them in an agreed motion to the court that the foreclosure filed against FDG would be stayed for 30 days for the purpose of attempting to bring the property under contract
- If FDG does not return with a contract at the end of this time period, they will use a 20-day extension to respond to the Town's complaint, and both parties will return to the foreclosure litigation

- If FDG succeeds in obtaining a contract on the property within the 30 days, the Commission is asked to authorize Town Manager Bentley and Town Attorney Trevarthen to agree to support a lengthening of the stay for another 120 days for due diligence

Commissioner Malkoon advised that there is significant background on this Item. He reminded all present that the objective is to see the FDG properties sold, and concluded that he was supportive of the Item for this reason.

Vice Mayor Sokolow agreed that the Town should allow a qualified buyer the opportunity to consider purchasing and redeveloping the property.

Commissioner Strauss expressed concern with the possibility of multiple lengthy stays of the proceedings, and asked if the Town may limit this action to one time only. Town Attorney Trevarthen replied that the action would only grant one stay of 120 days.

Commissioner Oldaker also agreed with the Agenda Item, citing the need to see the property sold to a bona fide purchaser.

Town Manager Bentley advised that it is Staff's understanding that FDG will proceed with the demolition of the Villa Caprice property regardless of how this Item moves forward.

At this time Mayor Vincent opened public comment.

Nectaria Chakas, representing FDG, stated that she could not confirm whether or not FDG has obtained a permit for demolition on the Villa Caprice property; however, she recalled that when she recently saw the demolition checklist, all items appeared to have been addressed.

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

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to approve the recommendations of Town Staff and extend the extensions as requested. Motion carried 5-0.

13. NEW BUSINESS

a. Request to Allow Entertainers in the Right-of-Way (Bud Bentley, Town Manager)

Town Manager Bentley recalled that there had been a request from the proprietor of Station 44 to allow entertainers to perform in rights-of-way. Staff's analysis and recommendation is that there be no change to Town policy to allow music in rights-of-way except through the issuance of a special event permit.

Ray Chehata, owner of Station 44, recalled that when he previously discussed this issue before the Commission, he pointed out that there is no reference in Code to allowing entertainment in rights-of-way, and asked that Code be reviewed and make recommendations for changes that could be made. He felt the Agenda Item, which provided backup materials including emails and notes, was not representative of his request.

Mr. Chehata continued that Code does not include any provisions for performance in a sidewalk café, which is what he is requesting rather than in the right-of-way. The performer would not block or impede pedestrian access. Whether the musician would face east or west makes no difference to the issue. His intent was to remove a table from his sidewalk café and have the musician face east.

Mr. Chehata advised that the Town would not allow him to apply for a special event permit for seven days. Mayor Vincent confirmed this. Mr. Chehata reiterated that he had understood Staff would review this issue and look into potential Code changes that would allow entertainers in sidewalk cafés.

Mayor Vincent noted that if the Commission wishes to expand the frequency of use to allow music and/or noise in a right-of-way, it would require revisions to Code Chapter 14.5, which addresses promotional entertainers and street performers. The Commission will discuss this Item to determine whether or not they would like Staff to review it. Mayor Vincent cautioned that he was not certain whether or not the Commission was willing to make a change to Code at this time without further research into the issue.

Vice Mayor Sokolow suggested that a workshop be scheduled to address this and other potentially contentious issues between business owners and Staff. He noted that alternatively, special events could also be included in an upcoming sign workshop.

The Commissioners agreed by consensus to table this Item until it can be discussed as part of a workshop, which will be open to business owners and residents.

14. COMMISSIONER COMMENTS

Commissioner Oldaker thanked Staff for installing speed limit signs, as discussed earlier at tonight's meeting. He also referred to Item 16a, advising that e-scooters are also becoming a concern in other South Florida municipalities, such as Fort Lauderdale. He concluded that Lauderdale-By-The-Sea continues to be a destination community as well as a good place to live.

Mayor Vincent advised that the Community Center will hold its annual Masquerade Ball on Wednesday, January 23, 2019 from 7 p.m. to 9 p.m. at Jarvis Hall. The event is free and open to the public. The Garden Club will hold its annual rummage sale on Saturday, January 26, 2019 from 8:30 a.m. to 12:30 p.m., also in Jarvis Hall.

Commissioner Malkoon added that the Garden Club is collecting items for the upcoming rummage sale. Individuals may contact him or any member of the organization and make arrangements for items to be picked up. He concluded that he and Mayor Vincent attended the recent rededication of the Women's Club.

15. ORDINANCES – PUBLIC COMMENTS

a. Ordinances 1st Reading

None.

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2019-03 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, SUPPORTING CONTINUED PROHIBITION OF E-SCOOTERS ON STREETS AND LOCAL CONTROL OVER OPERATION OF E-SCOOTERS ON TOWN SIDEWALKS AND SIDEWALK AREAS; FORMALIZING PROCEDURES AND FEES FOR UNAUTHORIZED OPERATION OF SHARED E-SCOOTERS WITHIN THE TOWN; PROVIDING FOR CONFLICTS,**

SEVERABILITY, AND FOR AN EFFECTIVE DATE (Bud Bentley, Town Manager)

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

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

17. QUASI JUDICIAL PUBLIC HEARINGS

None.

18. ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 8:28 p.m.



Mayor Chris Vincent

ATTEST:



Town Clerk Tedra Allen



Date