

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

**Special Meeting**

**MINUTES**

**Jarvis Hall**

**4505 Ocean Drive**

**Tuesday, January 11, 2011**

**7:00 P.M.**

**1. CALL TO ORDER, MAYOR ROSEANN MINNET**

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Present were Vice Mayor Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Scot Sasser, and Commissioner Chris Vincent. Also present were Town Manager Connie Hoffmann, Town Attorney Susan L. Trevarthen, Town Clerk June White, and Deputy Clerk Nekisha Smith.

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

**3. Ordinance 1st Reading - Public Hearing**

- a. Ordinance 2011-01: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING SECTION 30-272 "SETBACKS," IN THE B-1 DISTRICT, OF THE CODE OF ORDINANCES TO AMEND PARKING REQUIREMENTS; AMENDING SECTION 30-318 "MINIMUM PARKING REQUIREMENTS," TO REVISE PARKING REQUIREMENTS FOR PLACES OF PUBLIC ASSEMBLY, RESTAURANTS AND THEATRES; AMENDING SECTION 30-321 "MODIFICATION OF PARKING REQUIREMENTS," TO PROVIDE PROCEDURES FOR MODIFICATION OF MINIMUM PARKING REQUIREMENTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE**

Attorney Trevarthen read Ordinance 2011-01 by title. Mayor Minnet opened the meeting for public comments.

Yann Brandt stated that Chris Brown's discussion was his favorite part of the Community Talk on Friday, January 7, 2011 as he projected many ideas for the community. He believed this ordinance needed to be marketed to attract more business and eliminate barriers instead of creating additional barriers for new businesses. Mr. Brandt urged the Commission to pass the parking exemption.

Chuck Clark recommended tabling the ordinance until more thought was given and a more detailed plan was presented.

Paul Novak spoke as the President of the Chamber of Commerce. He was in favor of eliminating the parking requirement for new restaurants and said it would encourage new businesses in Town along with attracting more visitors. Mr. Novak said that a restaurant should not be treated any differently than a retail establishment when it came to parking requirements.

He recommended implementing a total exemption as it would eliminate most of the restrictions that a suspension program would create.

Diana Kugler explained that she was in favor of any program that would encourage new business in Town; however, she wanted assurance that residents could change or repeal the ordinance whenever necessary. She asked the Commission to pay close attention to any long term issues that may occur once the program was implemented.

Marie Chiarello was concerned that the Town Attorney would not publically disclose what could happen if the Town chose to change the ordinance at a later date. She said she was in favor of new businesses in Town; however, more thought was needed as the Town already had enough parking. Ms. Chiarello said the issue needed to be the responsibility of the business owners and not responsibility of the residents. She urged the Commission to take more time for thought so as to implement the program the right way.

Everett Sorenson hoped the Commission thought through the ordinance carefully. He pointed out that the Town currently had six (6) restaurants and two (2) ice cream parlors and explained that an additional restaurant would hinder retailers from conducting business. Mr. Sorenson explained that the A1A parking lot was very difficult to enter and exit and it needed additional signage. He believed more research was needed on this ordinance before a decision could be made.

Bill Ciani did not believe there was a parking problem in Town. He said that a parking garage was needed to support the additional people coming into Town. Mr. Ciani believed nice restaurants attracted nice merchants and that parking was the least of the Town's problems as a parking garage could be paid for by outside revenues.

Ken Kugler suggested looking at the City of Delray Beach in relation to restaurants. He said that he never had a problem finding a parking space. He agreed more restaurants would bring in additional retail and there was plenty of room for development on Commercial Boulevard west of A1A.

Ron Piersante pointed out that three (3) restaurants in Town recently went out of business, of which none had a parking problem. He questioned whether the idea was to have more restaurants east of A1A, and the reason the restaurants went out of business. Mr. Piersante suggested cutting the required number of spaces in half first, to see whether that attracted new businesses.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Clotey made a motion to allow discussion. Vice Mayor Dodd seconded the motion. All voted in favor.

Commissioner Vincent explained that the Commission was informed by staff that several restaurants were not permitted to open due because they failed to provide the required number of spaces. He said that initially the Commission looked to give the Town Manager authority to waive the requirement on a case by case basis, but after further deliberation it was determined to change the Code so as to bypass the requirement all together. Commissioner Vincent believed it was a good idea to exempt all businesses and proposed quarterly or bi-annual reports from staff that outlined the number of restaurants in the program. He said the goal was

to see three (3) or four (4) new restaurants open under the program to stimulate the economy of the Town. Commissioner Vincent explained that restaurants were closing due to the lack of visitors traveling west of A1A.

Vice Mayor Dodd pointed out that the success of the City of Delray Beach took fifteen (15) years and resulted in a 60% restaurant ratio. He said the Towns' current restaurant ratio was 15% and staff recommendations of a two (2) year exemption would fail to stimulate growth within the Town. Vice Mayor Dodd said that he was willing to compromise and support a four (4) year program and change the word "suspension" to "elimination". He added that a review of the program would take place after three (3) years.

Commissioner Clotey favored easing the parking requirements, but was concerned that the P&Z (Planning & Zoning Board) voted 4-1 not to approve the ordinance. She explained that further discussion was needed to avoid having to change the ordinance later on. She reminded the Commission that another speaker was scheduled to come to Town in a couple of months and suggested the Commission wait to hear what that person had to say. Commissioner Clotey did not see a reason to rush through this. She said the parking expenses should be shared by both the business owners and the residents. Commissioner Clotey requested that staff provide the amount of income, in term of taxes and franchise fees that the current restaurants in Town generated. She requested the Commission take more time to sort through the details before a decision was made.

Commissioner Sasser clarified that the parking spaces required for restaurants to open were privately owned and were not owned by the Town. He felt the Commission was jumping to conclusions that the program would immediately cause a problem once implemented.

Mayor Minnet stated that there were many pros and cons on the issue. She suggested a complete parking study be done and did not want to rush through the ordinance. She reminded the Commission that Mr. Brown indicated that before a restaurant could open in the City of Delray Beach, they needed to prove they had the capital necessary to be a viable business; not parking. Mayor Minnet explained that government was not in the business of making money, but easing the taxes for property owners. She pointed out that the City of Ft. Lauderdale recently endured the same situation and eased the restrictions instead of eliminating them. Mayor Minnet understood that nothing in government was permanent, but questioned at what cost to the Town. She clarified that she was in favor of the business community and that she always supported changes to the Code that helped the businesses. Mayor Minnet was concerned that the residents would end up paying for the parking. She preferred to see a partnership between the residents, business owners, and government.

Commissioner Vincent reminded the Commission that more parking equaled more revenue. He reiterated his request to see a report quarterly of the number of businesses who opened under the program. Commissioner Vincent explained that if nothing was done, then the Town would receive nothing. He wanted to make sure that the Town was ready to compete with neighboring communities when the economy got better. Commissioner Vincent said he was in favor of a four (4) year exemption; however, not with the word "elimination". He preferred to keep the word "suspension" in the ordinance. Commissioner Vincent suggested not implementing an application process until after the third year of the program.

Commissioner Sasser explained that there were other factors to consider when businesses in Town closed. He did not believe the program would cause any problems immediately after

implementation. Commissioner Sasser explained that the Town was not desperate, and this was a good way to attract more people to the Town.

Commissioner Clottey made a motion to defer Ordinance 2011-01 until June. The motion failed for lack of a second.

Commissioner Vincent made a motion to adopt Ordinance 2011-01 with the following changes: change the word "suspension" to "exemption"; change the length of the program from three (3) years to four (4) years; staff to provide quarterly or bi-annual reports; and no application process until the fourth year. Vice Mayor Dodd seconded the motion.

Attorney Trevarthen explained that an application process was necessary for staff to fulfill the reporting requirement. Assistant Town Manager Bud Bentley explained that in a case where a restaurant needed to pull a building permit, the information could be captured at that time. He said that if the business did not need a permit, the information could not be captured unless an application process was in place. Assistant Town Manager Bentley said the application would be short and would include service area information and a question of whether the expansion was facilitated under the parking exemption program. He requested the Commission leave the application provision in the ordinance as it would safeguard the applicant and the Town.

Commissioner Vincent agreed to keep the provision in the ordinance and withdrew that section of the motion.

Commissioner Clottey made a point of information and questioned whether the program would be open to existing businesses. Assistant Town Manager Bentley confirmed the program would be open to new businesses and existing business expansions.

Commissioner Vincent referenced a 1995 parking ordinance and questioned what the procedure would be for a non-conforming building being rebuilt after it was destroyed. Assistant Town Manager Bentley believed that those buildings were no longer considered non-conforming. Attorney Trevarthen explained that later code changes could have deemed some of those properties non-conforming.

Attorney Trevarthen advised the Commission that it was not necessary to discuss the administrative details; however, staff had direction as to what the Commission wanted in terms of the application process.

Town Manager Hoffmann referred to page four (4) and five (5) of the ordinance and pointed out that the application would state that if the business did not have a Certificate of Occupancy by the deadline, they still had a right to participate in the program. Assistant Town Manager Bentley added that the applicant needed to have a completed application in to the Town by the deadline to participate in the program.

Assistant Town Manager Bentley suggested the Commission title the program the "Restaurant Exemption Program" to make it more specific in the Code and to make the program easier to market.

Attorney Trevarthen clarified that the motion was to approve Ordinance 2011-01 with the following changes: change the word "suspension" to "exemption"; to change the length of the program from three (3) years to four (4) years; to provide for bi-annual reports from staff as to the utilization of/and interest expressed in the program; and the application and implementation

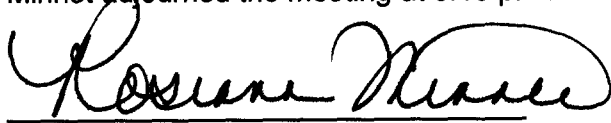
process be as streamlined as possible consistent with clearly recording the rights to the benefit of both the applicant and the Town.

Commissioner Vincent wanted to make sure the application clearly stated to the applicant, what the process was even if a Certificate of Occupancy was not received by the application deadline. Assistant Town Manager Bentley explained that the language was included in the ordinance. He said the completed application needed to be submitted by the deadline in order to be considered in the program. Attorney Trevarthen pointed out that the language was located on line 141 of the ordinance.

The motion carried 5 - 0.

#### 4. ADJOURNMENT

Vice Mayor Dodd made a motion to adjourn. With no further business before the Town, Mayor Minnet adjourned the meeting at 8:15 p.m.



Mayor Roseann Minnet

ATTEST:

  
Town Clerk, June White

2-23-11  
Date

