

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, November 13, 2018
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Vincent called the meeting to order at 6:30 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, 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 George Hunsaker gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

None.

5. PRESENTATIONS

a. Roland Waldron Birthday Proclamation

Mayor Vincent read a Proclamation in honor of Town resident Roland Waldron's 93rd birthday.

b. Sea Oats Plantings Update (Lee Gottlieb, Youth Environmental Alliance – YEA)

Lee Gottlieb, representing the Youth Environmental Alliance (YEA), provided a report on sea oats plantings in Lauderdale-By-The-Sea. Since 2014, YEA and its partners have planted over 80,000 sea oats and other native species on more than 75% of the Town's

beaches during 19 different events. They have also removed more than 9000 sq. ft. of exotic invasive plant species. Over 1400 student and adult volunteers have participated in this effort. They hope to continue to make the Town's coastline more resilient and sustainable. He thanked the Commissioners for their ongoing support.

Commissioner Malkoon asked what type of commitments YEA seeks when undertaking a project with a property owner. Mr. Gottlieb replied that it differs city to city. In Hollywood for example, individual property owners adjacent to the beach assume responsibility for the upkeep of sea oats planting projects once the planting is complete.

c. Lauderdale-By-The-Sea Garden Club Butterfly Program Proclamation (Steve d'Oliveira, Public Information Officer / Rose Bechard-Butman, Broward County Environmental Protection and Growth Management Department)

Mayor Vincent read a Proclamation declaring Thursday, November 15, 2018 to be Butterflies-By-The-Sea Day. The Town has recently joined the National Wildlife Federation (NWF) with the intent of creating at least 150 certified pollinator habitats throughout the community, including a certified butterfly garden created by the Town's Garden Club in front of Town Hall.

Rose Bechard-Butman, representing the Broward County Environmental Protection and Growth Management Department, recognized the Town's registration with NWF as a community wildlife habitat. Habitats provide food, water, cover, and a place for species to raise their young. A free training session for habitat stewards will be held by Broward County from January 7-11, 2019. Interested parties are invited to contact rbechardbutman@broward.org.

d. Boo-By-The-Sea Brief (Debbie Hime, Special Projects Coordinator)

Special Projects Coordinator Debbie Hime provided a brief review of the recent Boo-By-The-Sea event, which invited families with young children into the Town's Plazas. Over 31 local businesses participated in the Halloween event. She thanked members of Town Staff and the community for their assistance.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Vincent Bolocofsky, resident, asked the Commission to consider a Resolution banning the use of plastic straws within the Town. He also addressed the recent passage of Florida Amendment 9 on referendum and recommended that the Town adopt a Resolution opposing offshore drilling in U.S. waters.

Gail Sarkisian, Vice President of the Lauderdale-By-The-Sea Women's Club, invited the Commissioners to attend a ribbon-cutting ceremony rededicating the organization's clubhouse on January 17, 2019.

Leah Bandell, resident, addressed the dangers of plastic pollution on beaches and in the ocean, and asked that the Commission ban the use of plastic straws in the Town.

Shahana Sala, student, also stated that plastic pollution damages the ecosystem and economy, and proposed a ban on plastic straws.

Kayla Bello, student, also advocated for a ban on plastic straws, stating that individuals with disabilities have other options that would allow for this ban to be enacted. She emphasized the importance of clean beaches and oceans to the tourist economy.

Andree Elgarrahy, resident, expressed concern with the existing marina, including its cleanliness and sanitation if more boats are brought into the facility.

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

7. PUBLIC SAFETY DISCUSSION

a. AMR October 2018 Report (Chief Brooke Liddle)

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

b. BSO October 2018 Report (Captain Tom Palmer)

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

8. TOWN MANAGER REPORT

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

Commissioner Oldaker observed that the number of walk-in visitors to the Visitors' Center has increased significantly in the past year. Eva Marissa, representing the Chamber of Commerce, pointed out that the Town has also seen an increase in hotel accommodation inquiries at the Center. It was noted that a decrease in online activity occurred during the same time period.

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

Town Manager Bud Bentley advised that Dancing-By-The-Sea classes are held at the Pavilion on the second and fourth Sundays of each month through May 2019. An upcoming workshop is scheduled for individuals interested in controlling the iguana population.

The Farmers' Market will be open beginning Sunday, December 2, 2018, and Christmas-By-The-Sea is scheduled for Wednesday, December 5, beginning at 5:30 p.m. The Town's 71st anniversary will be November 30, 2018.

Commissioner Oldaker noted that new signage has been placed on the beach.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

a. October 23, 2018 Town Commission Workshop Minutes (Tedra Allen, Town Clerk)

b. October 23, 2018 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

- a. Special Event Application for LBTS Restaurants for New Year's Eve Celebration Sunday, December 31, 2018-Monday, January 1, 2019 (Debbie Hime, Special Projects Coordinator)**

Town Manager Bentley requested that this Item be removed from the Consent Agenda and added as Item 13e.

- b. Special Event Application for Ragnar Relay South Florida Event on Saturday, February 9, 2019 (Debbie Hime, Special Projects Coordinator)**
- c. Republic Parking System: Parking Employee Compensation (Sharon Ragoonan, Assistant Town Manager)**

Vice Mayor Sokolow made a motion, seconded by Commissioner Malkoon, to approve Items 11b and 11c. Motion carried 5-0.

12. OLD BUSINESS

- a. FDG South – Authorization to Foreclose on Code Liens (Bud Bentley, Town Manager / Susan Trevarthen, Town Attorney)**

Town Manager Bentley recalled that at the recent Commission workshop, the Commissioners requested a report, including analysis from the Town Attorney, on the possibility of foreclosure on properties owned by the Florida Development Group (FDG). The report has been included in the Commissioners' backup materials, along with a letter provided to FDG from the Town. Staff recommends proceeding with foreclosure. Town Manager Bentley advised that Staff and the Town Attorney will work together on this process and provide a report at the December 11, 2018 meeting before legal documents are filed.

Nectaria Chakas, representing FDG South, Central, and North, stated that her client would prefer that the Town not foreclose on the subject properties. FDG has filed for demolition permits for three of its buildings. She noted that the Plunge hotel property in particular has experienced a significant increase in assessed property value since it was purchased by FDG. Ms. Chakas pointed out that some Code violations existed prior to purchase by FDG.

Ms. Chakas continued that the South property was purchased with the intent of redevelopment or renovation. Code violations and fines have accumulated over a number of years, dating back to before the property was purchased by FDG. She requested that the Town take no steps toward foreclosure prior to the December 11, 2018 Commission meeting, so FDG may discuss this issue further with Town Staff. Demolition permits are expected to be issued within approximately one month.

Mayor Vincent observed that while the Commission is aware some properties were not in compliance with Code at the time of purchase, FDG was aware of this situation when they purchased the properties.

Commissioner Strauss requested additional information regarding the time frame for demolition of the buildings. Ms. Chakas replied that demolition would be expected roughly another month after permits are issued.

Commissioner Malkoon asked why the money necessary for demolition could not be used to correct some of the Code violations on the properties. Ms. Chakas responded that fines are accruing at a rate of approximately \$2500/day, and prospective purchasers are concerned with the fines and liens. They have also expressed concern with the properties' zoning, the buildings' legal nonconforming status, and the time frame in which redevelopment would be required.

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to defer any action on foreclosure until the December 11, 2018 meeting.

Vice Mayor Sokolow clarified that his motion was not intended to prevent further dialogue between Town Staff and FDG, but only to defer the filing of foreclosure documents until December 11.

Motion carried 5-0.

13. NEW BUSINESS

a. Dockless Mobility Units by Lime (Sharon Ragoonan, Assistant Town Manager)

Assistant Town Manager Sharon Ragoonan explained that the use of scooter and bicycle sharing programs have grown in popularity and use throughout South Florida and the United States. Municipalities are adopting regulations to control or direct how

these units are used within different communities. Lime is one provider of dockless mobility units. Tonight's presentation is intended to be informational and seek direction from the Commission regarding how to address this use.

Vivian Myrtetus, Community Affairs Manager for Lime, provided a brief presentation on dockless devices, which were launched in the city of Fort Lauderdale on November 2, 2018. Thus far, approximately 22,000 trips have been taken in that city by an estimated 9000 riders.

Lime currently operates at over 115 cities and universities across the United States. The service operates using dock-free technology, which means units may be picked up and dropped off at any location using a mobile app. Scooters are available at a rate of \$1 to unlock and 15 cents per minute to ride. They reach a maximum speed of less than 15 miles per hour. A "Respect the Ride" safety campaign encourages the use of helmets.

Mayor Vincent expressed concern with the continuing nature of rider education, including liability and the use of dockless devices. Town Attorney Trevarthen advised that this is an issue for city attorneys throughout the United States. Questions include the use of public rights-of-way, safety in and out of traffic, and parking of scooters, among other considerations. She emphasized that this is a new dynamic for local governments.

Commissioner Oldaker observed that devices are left on sidewalks and in public rights-of-way as well as in private neighborhoods, and asked what should be done if a scooter is left in a residential area. Ms. Myrtetus replied that each device has a phone number which can be called for pickup; in addition, they can be picked up by new users and ridden elsewhere. Lime looks for and picks up devices in areas where it is unlikely they will be ridden.

Commissioner Strauss also expressed concern with using scooters in vehicular traffic, as well as with the need for helmets and other safety measures. Ms. Myrtetus emphasized the need for education about the use of these devices. She did not have statistics regarding injuries.

Commissioner Malkoon asked how riders locate scooters to be ridden. Ms. Myrtetus replied that devices are collected overnight with assistance from part-time staff. These individuals charge the devices and place them throughout the community.

Mayor Vincent requested input from Broward Sheriff's Office (BSO) Captain Tom Palmer. Captain Palmer advised that the devices are currently classified as motorized scooters, which are not permitted in roadways or on sidewalks. He noted that more discussion is necessary at the state level regarding this classification. Ms. Myrtetus stated that during the next legislative session, the State Legislature is expected to clarify these devices' vehicular classification. It was determined that Town Staff will continue to gather information from other municipalities regarding the use of this new technology.

b. Hurricane Michael (Mayor Vincent)

Mayor Vincent recalled that Hurricane Michael made landfall over the Florida Panhandle on October 11, 2018. It was the third most intense hurricane, in terms of pressure, to make landfall in the United States, and the strongest storm on record in the Panhandle, resulting in at least 54 deaths in the U.S. and Central America.

Mayor Vincent explained that this Item was scheduled in order to discuss assistance Lauderdale-By-The-Sea may provide to those most affected by Hurricane Michael, whether through charitable or monetary donation or by other means. The Commissioners agreed by consensus to provide assistance to the communities affected by Hurricane Michael. Mayor Vincent concluded that he would bring this Item back on a subsequent Agenda with recommendations.

c. Mailing of the Town Topics (Commissioner Malkoon)

Commissioner Malkoon explained that in the past, the Town Topics newsletter was mailed to many Town residents. Because there is an Action Plan Item including newsletters, he proposed that this be combined with Town Topics at an incremental cost to the Town in order to provide information to residents. Different options are outlined in the Commissioners' backup materials.

It was noted that Town Topics is currently delivered to single-family homes and provided to condominiums in their lobbies. Vice Mayor Sokolow suggested that because most residents have access to the internet, the additional expense of mailing the newsletter to condominiums may not be necessary. Public Information Officer Steve d'Oliveira recalled that the newsletter was no longer mailed to condominiums as a cost-saving measure. Town Topics is produced on a quarterly basis.

Commissioner Strauss suggested that the Commission consider this further once the Town's new website goes into effect. It was determined that the Town would continue to

drop the newsletter to single-family homes and provide copies in bulk to condominiums at a cost of \$1700.

d. Town Manager's Compensation (Mayor Vincent)

This Item was postponed until the end of the meeting.

e. Special Event Application for LBTS Restaurants for New Year's Eve Celebration Sunday, December 31, 2018-Monday, January 1, 2019 (Debbie Hime, Special Projects Coordinator)

Town Manager Bentley advised that this event is similar to previous New Year's Eve celebrations. Its approval was moved to New Business, as some new participants currently have noise and sidewalk café-related Code citations, which are not allowed under the conditions of the permit. Staff will meet with these businesses to discuss this issue further. He concluded by requesting consensus from the Commission that Staff be permitted to continue to uphold Code as it is written, and by recommending approval of the Application.

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

14. COMMISSIONER COMMENTS

Commissioner Malkoon extended his condolences to the family and friends of Bill Vitola, who was very active in the Lauderdale-By-The-Sea community. He also congratulated Commissioner Strauss and Town Staff on the success of both the recent Veterans' Day event and the Sea Shorts plays at the Community Center.

Commissioner Oldaker thanked the young members of the community who attended tonight's Commission meeting to express their concerns. He also recognized the efforts of BSO Staff in helping a neighbor locate a missing pet.

Mayor Vincent also extended sympathies to the family and friends of resident Bill Vitola.

Commissioner Strauss thanked all who attended and helped plan the Town's Veterans' Day event.

Vice Mayor Sokolow noted that the Town's annual menorah lighting ceremony is planned for December 2, 2018 at the Beach Pavilion.

15. ORDINANCES – PUBLIC COMMENTS

a. Ordinances 1st Reading

None.

b. Ordinances 2nd Reading

- i. Ordinance 2018-26 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, AMENDING SECTION 30-137, “NONCONFORMING USES AND STRUCTURES,” TO REVISE REGULATIONS APPLICABLE TO NONCONFORMING STRUCTURES AND PARKING; AND PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

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

Development Services Director Linda Connors stated that this Ordinance was presented on first reading to clarify nonconforming sections of Town Code and secure the Town's pedestrian environment through redevelopment of properties. No changes were made before second reading.

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

- ii. Ordinance 2018-28 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 18, “TAXATION AND FINANCE,” OF THE CODE OF ORDINANCES, BY AMENDING SECTION 18-1, “ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 AND OLDER” TO PROVIDE FOR AN ADDITIONAL HOMESTEAD EXEMPTION**

**FOR LOW-INCOME SENIORS; PROVIDING FOR
CODIFICATION, SEVERABILITY, CONFLICTS, AND AN
EFFECTIVE DATE (Tony Bryan, Deputy Town Manager)**

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

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

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2018-37 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A SETTLEMENT AGREEMENT AND RELEASE WITH DEUTSCHE BANK NATIONAL TRUST COMPANY REGARDING 1724 BEL-AIR; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT AND AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE ALL ACTIONS NECESSARY TO OBTAIN EXECUTION OF AND IMPLEMENT THE AGREEMENT; PROVIDING 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.

Town Manager Bentley thanked the Commission for their policy direction in relation to this Item, pointing out that the impact of derelict properties on the community as a whole is significant. While the settlement process can be time-consuming, results are often positive in the long run.

- b. Resolution 2018-38 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, SEEKING TECHNICAL SUPPORT FROM BROWARD COUNTY FOR THE BUILDING OF AN ARTIFICIAL REEF; PROVIDING FOR CONFLICT AND FOR AN EFFECTIVE DATE (Steve d'Oliveira, Public Information Officer)**

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

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

- c. Resolution 2018-39 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE SECOND AMENDMENT TO THE SETTLEMENT AGREEMENT WITH BROWARD COUNTY FOR THE LITIGATION STYLED CITY OF SUNRISE ET. AL. VS. BROWARD COUNTY (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 Commissioner Malkoon, to approve. Motion carried 5-0.

- d. Resolution 2018-40 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE 2017/2018 FISCAL YEAR BUDGET IN ACCORDANCE WITH THE ATTACHED EXHIBIT “A”; AUTHORIZING APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE 2017/2018 FISCAL YEAR BUDGET AS AMENDED; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND FOR AN EFFECTIVE DATE (Tony Bryan, Deputy Town Manager)**

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

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

- e. Resolution 2018-41 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AND AUTHORIZING THE PROPER TOWN OFFICIALS TO RETAIN THE SERVICES OF WASTE CONNECTIONS OF FLORIDA, INC., TO ADMINISTER, MANAGE, AND SUPPORT THE TOWN'S**

SOLID WASTE DISPOSAL SERVICES BY PIGGYBACKING THE TERMS OF THE CITY OF DEERFIELD BEACH'S EXISTING AGREEMENT; A COPY OF THE CONTRACT IS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Sharon Ragoonan, Assistant 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

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. 2018-L2-AA-01: Administrative Adjustment Request to Section 30-313(s) to allow an air conditioning unit to encroach 1 foot 4 inches into the required 5 foot setback (Linda Connors, Development Services Director)

Development Services Director Connors explained that this request would allow an accessory structure, in this case an air conditioning unit and slab, to encroach into the required 5 ft. setback. The permit was properly issued and the slab and unit encroach a distance of 1 ft. 4 in.

The Board of Adjustment unanimously recommended approval of the Application. While there was no public testimony at their meeting, Staff has since received one letter from a member of the public who opposed the request.

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.

Town Attorney Trevarthen advised that Items 17b and 17c address the same property, but would be presented separately. The Commissioners disclosed any ex parte communications on the Item. Individuals wishing to speak on the items were sworn in at this time.

Commissioner Oldaker suggested that due to the nature of these Items, the Commission may wish to defer a final decision until the next meeting, or perhaps schedule a special meeting for additional discussion.

b. Request for Conditional Use Approval for a Marina located 227-230 Basin Drive (Linda Connors, Development Services Director)

Development Services Director Connors stated that this request is a conditional use Application for Marina-By-The-Sea, which is within the B-1 zoning district. The conditional use Application includes the designation of a marina mooring area and alternate navigational channel. A Resolution is also required to ratify the designation of the marina mooring area. The Site Plan Amendment would allow the construction of docks, pilings, and finger piers required on the site. The Applicant also requests an Americans with Disabilities Act- (ADA-) compliant restroom.

A partitioning agreement is tentatively scheduled for the December 11, 2018 Commission meeting. This agreement relates to the ownership of the canal and submerged land.

Development Services Director Connors briefly reviewed some of the history of the subject site, which is the Silver Shores Yacht Basin. The Town owns 18/19ths of the submerged land in this basin, while Marina-By-The-Sea owns 1/19th. The property has historically been used as a storage and boat broker marina; however, over time construction extended the property's finger piers without the necessary permits.

In 2015, the Commission agreed by consensus to allow this nonconforming use to continue while marina regulations were developed. This resulted in Ordinance 2015-17, which established conditional use. The previous owner complied with a request to remove the finger piers, which were in unsafe condition. The property was sold to the current owner, who submitted an Application to bring the site up to current Code requirements by establishing conditional use. A total of five properties share the basin area with the marina.

Development Services Director Connors explained that zoning districts have specific uses that are permitted by right. Code also establishes conditional uses, which may require additional review and/or restrictions. The Commission has the opportunity to determine if these additional conditions are necessary.

There are four conditional use criteria the Commission may review:

- Land use compatibility: this ensures that the use is compatible with adjacent uses and has no adverse effects on residential uses/activities in the vicinity
- Sufficient site size
- Compliance with the Comprehensive Plan: water-dependent uses such as marinas are prioritized for the area under the Future Land Use element
- Establishing conditional use requires the proper use of mitigation techniques

There are no changes proposed to the 14 slips historically used at the site. There are also no substantial changes proposed to the existing building, with the exception of an ADA-compliant restroom that would be available to patrons of the marina. Some landscaping would be reduced in order to accommodate the ADA requirements of a path to the restroom facility. No additional traffic effects are anticipated.

Development Services Director noted that there is a common mooring area at the intersection of two properties. Code requires that the Applicant either come into agreement with the owner(s) of the neighboring properties or adjudicate the agreement and let the Town know of the final decision, which will be recorded in Broward County Public Records. A draft agreement has been submitted for the west side of the property, while the property on the east side is being sold and no agreement has been negotiated thus far.

The criterion requiring use of mitigation techniques allows the Commission to add requirements of the marina which would assist the property in relations with the surrounding property owners. Staff recommends conditions relating to the hours of operation, marina operations, noise, external lighting, number of boat slips, environmental considerations, and derelict watercraft, among others.

One main requirement of the conditional use is the establishment of a marina mooring area. This is the area allowed for mooring or docking outside of the standard mooring area allowed by right. This standard area is 30% of the canal basin.

Marina-By-The-Sea is requesting a 22,250 sq. ft. marina mooring area. After review by the Planning and Zoning Board, Staff has recommended an amendment to reduce the

marina mooring area to 18,938 sq. ft. This includes 14 slips ranging in length from 34 ft. to 83 ft., with a center turning basin of approximately 60 ft. The property owner has agreed to this reduction. The navigational channel to the east is roughly 38 ft. and is 45.2 ft. to the west. A condition regarding common docking areas will limit construction if no such common area can be agreed upon.

Staff retained a consultant to review the reduced navigational area of the waterway and the operational feasibility of the proposed marina mooring area. The proposed marina met five of the consultant's six findings, which related to air and draft restrictions, slip widths, finger pier dimensions, existing utilities, and fire/life safety standards. The one criterion not met by the proposal is the maneuvering area. Industry standards recommend 1.5 ft. of the length of the boat, although 1.3 ft. and 1.1 ft. are not uncommon in South Florida. The Applicant proposes 0.72 ft. for a turning radius circle of 60 ft. for an 80 ft. boat with a slip length of 83 ft.

Development Services Director Connors advised that she had reached out to the consultant once more regarding this issue, as the Applicant had raised the possibility of a T-turn. The consultant agreed that this could be done for boats within the basin; however, because the site is a turning area for boats using the canal, boats from outside the marina must be taken into consideration.

One requirement of Town Code is that the marina either become a Florida Clean Marina or that the marina follow the best practices of this organization if its size is not permitted membership. The Applicant has submitted a management plan to the state of Florida to determine if they may meet the requirements of a Florida Clean Marina. The state has expressed interest in allowing smaller marinas to participate in this program and plans to determine whether or not the subject property may become a Florida Clean Marina. A pump-out facility is not considered a best practice, and the Applicant does not propose such a facility for the marina.

As part of the approval of a development order for conditional use, there are a number of conditions the Town proposes to place on the marina. These include the following:

- Operate the marina according to the Marina Operations Manual as submitted, but allow the Town Manager to make applicable amendments as conditions arise
- Secure docking agreement with adjacent properties or adjudicate to permit construction in the common area
- Limit the number of watercraft to 14
- Overall boat length may not extend beyond the slip length

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- Operations shall be conducted in an orderly and reasonable manner, with no noise-generating activities between 10 p.m. and 8 a.m.
- Boats must park stern to dock whenever possible, with no parallel docking or rafting
- Tenants must follow emergency evacuation and hurricane plan
- A plan must exist for the storage of derelict or inoperable watercraft
- Lights may not spill over onto other properties
- Gates must have locks approved by BSO and the Fire Department so they may access the marina in the event of an emergency
- Agent contact information must be filled out and provided to the Town, with similar conditions to those required of vacation rental properties
- Marina must be certified as a Florida Clean Marina nine months after a certificate of occupancy has been issued for construction
- Applicant must comply with several environmental laws
- Variance is required if no Site Plan Amendment is submitted on the upland property to construct the ADA-compliant restroom and reduce the required landscaping
- Town can inspect the premises
- No fines may be owed to the Town prior to building permit issuance
- Applicant must execute a partitioning agreement for approval to become effective
- Approval is specific to the Applicant
- Document must be recorded with Broward County Public Records

The Planning and Zoning Board took a two-part vote on the conditional use aspect of the Application: establishment of a marina mooring area passed 3-2 for the proposed 22,250 sq. ft. area. The second vote, which would have established the marina as a conditional use, failed 2-3.

Ryan Barna, representing Marina-By-The-Sea, reviewed the original plat for the Silver Shores waterway and its surrounding neighborhood, as well as images from the Broward County Property Appraiser's Office. He explained that these visuals demonstrate the size of boats that were historically allowed within the marina during the past 20 years in comparison to the boat sizes that would be permitted under the

proposed use. The marina also accommodated more and larger boats in the past than the 14 currently proposed.

Mr. Barna pointed out that the marina has been operational in the past under different conditions, with no reports of accidents or difficulty maneuvering in the area. Bill Smeltzer, also representing the Applicant, asserted that the conditions in the marina for the maneuverability of boats could not be better, as it is located at the end of the canal where current and wind are not issues.

Commissioner Oldaker noted that property owners adjacent to the marina could install pilings in the future. He added that his primary concern was for the largest boat docked at the marina. Mr. Smeltzer replied that there would still be more than sufficient room for large boats to maneuver in the turning basin.

Commissioner Strauss asked if there are issues other than space for turning with which the proposed marina is not compliant. Development Services Director Connors advised that the turning basin was the consultant's only concern, as the standard is a 1.5 to 1.3 ft. turning radius while the Applicant proposes 0.72 ft. She confirmed that vessels in the basin may also make a T-turn, although it is not certain this could be done while an 80 ft. boat is docked at the marina.

Commissioner Strauss asked if one of the items at the Town Manager's discretion would be the size of the largest boat docked at the facility: for example, whether or not the Town Manager could require boats no larger than 70 ft. could be docked there rather than the planned 80 ft. boat. Town Manager Bentley clarified that the property's development order has been amended to provide him with the authority to make changes to the operational manual as necessary. Further authority would require that an additional condition be written into the manual to allow the Town Manager to reduce the size of the largest vessel at the marina.

Town Attorney Trevarthen advised that while the Commission could add this condition, the concept before them tonight is to have the property's partitioning extend into the marina mooring area. This means there may be details not yet addressed under future conditions.

Mayor Vincent asked if the primary concern is the maneuverability of larger boats at the marina or the potential for docking larger boats along the canal that may use the end of the basin. It was confirmed there could potentially be up to 13 vessels 90 ft. in length along the canal, which may use the turning basin or conduct T-turns. The basin was

characterized by the Applicant's team as a luxury for boats docked in the area rather than a necessity for turning.

Commissioner Oldaker commented that he felt the basin was designed as a turning basin rather than a yacht basin only, pointing out that the canal is a public waterway. Mayor Vincent observed, however, that the history of the site is important when determining potential conditional uses.

At this time Mayor Vincent opened public comment.

Ed Ellis, resident, stated that he has gathered information about available pump-out equipment, which can cost up to approximately \$17,415. He felt the marina should not be allowed to proceed without a system that can deal with sewage from the boat slips. Mr. Ellis concluded that the consultant's report states the conditional use application does not satisfy current planning and navigational standards.

Larry Kaiser, resident, expressed concern with sewage issues at the marina and their potential environmental impact. He urged the Commission to require pump-out capability at the marina to protect the health and safety of residents on the canal.

James Karas, resident, also advocated for the requirement of pump-out capability at the marina to ensure it is a sanitary facility.

John Lanata, resident, felt the requirement of a pump-out system at the marina was common sense.

Nancy Dvorak, resident, expressed concern with the lack of pump-out facilities for boats docked at the marina in order to prevent dumping of sewage, fuel, and other potentially hazardous materials. She added that the Florida Clean Marina program is voluntary and does not conduct compliance checks.

Peter Sampo, resident, stated that the proposed marina would not benefit neighbors of the property, as it would increase traffic and erosion of seawalls. He suggested that existing Code be fully enforced at the site with no deviation from the recommendations of the consultant's report. He concluded that there were no restrictions on commercial activity, which could significantly increase traffic at the facility.

Lewis DeVore, resident, asked if the Applicant and his team have had previous experience developing marinas, and felt the plans proposed by the Applicant were

insufficient. He expressed concern with the current state of the existing marina and the ability of the Applicant to operate the facility successfully.

David Schmidt, resident, noted that the conditional use plan does not address the length of stay for boats docked at the marina. This will affect the environmental needs of the site, as some vessels may be more apt to pump waste into the canal.

Ross Tannenbaum, Applicant, advised that he and his team disputed the turning radius information originally provided in the consultant's report. Regarding the need for a pump-out system, he has not yet made a decision on this amenity. He pointed out that this system may contribute to odors at the site, and reminded the Commission that boats docked at the facility are not intended to include sleep-aboard vessels. The marina is intended primarily for boat storage.

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

Mayor Vincent emphasized that the intent of tonight's meeting is discovery so all present can hear more information about plans for the marina. The primary concern of most members of the public appeared to be the need for a pump-out station at the facility; however, he addressed some of the other concerns raised by the public, pointing out that "live-aboard" boats will not be allowed at the marina. Mayor Vincent concluded that conditional use approval will allow the Town to inspect the marina and ensure it is operating according to the agreement.

Development Services Director Connors advised that while Code allows for commercial charter or sightseeing boats, this would require a separate conditional use, which the Applicant has not requested. Fueling at the site has also not been requested; should fuel docks be requested in the future, a Site Plan Amendment would be required, with additional review. Town Manager Bentley added that fuel delivery to boats is not regulated by the Town.

Town Manager Bentley continued that one benefit to residents along the canal is that they currently own 5% of the submerged land in an undivided interest. The proposed partitioning agreement would consolidate these residents' ownership of the submerged land beneath the proposed marina. This removes any potential conflict for owners along the canal.

Vice Mayor Sokolow also addressed concerns raised during public comment, pointing out that there are several slips on the canal without sewer connections or pump-out equipment. He concluded that he would like to see the marina redeveloped so it is no longer a blight on the surrounding community.

Commissioner Strauss commented that the marina is not being granted "extra property" at no cost. The Applicant owns 5% of submerged land throughout the canal: the partitioning agreement consolidates this owned land under the marina. He continued that while he shared residents' concerns for waste materials in the canal, the Town can take steps to control this issue. He felt it was not unreasonable to consider requiring a pump-out station at the marina.

Mayor Vincent suggested that the Town consider requiring the Applicant to install sewer laterals or lines to show their commitment to providing sanitary facilities. Mr. Tannenbaum replied that when redevelopment of the marina is underway and utilities are being installed, he would be amenable to including infrastructure for a potential pump-out facility, with the decision to activate this amenity to be made at a later time.

Commissioner Oldaker requested clarification of what would trigger the requirement for a pump-out facility. Mayor Vincent advised that this responsibility would fall on the marina owner. Should a problem arise, installation of the infrastructure would allow the marina to implement sanitary equipment.

Mr. Ellis, resident, again addressed the use of a pump-out system, stating that the lines used in this system prevent odors from being discharged into the air. He cautioned that if this is not required, boat owners at the marina are likely to release sewage into the canal, which has been a problem in the past.

It was noted that the marina's operation manual ensures that all new boats at the facility are using their "black water" tanks. The marina manager will inspect vessels to ensure compliance. Town Attorney Trevarthen also referred to the operation manual, advising that black water holding tanks must be verified as empty as part of the marina intake procedure. The manual also describes the vessel fueling policy.

Mr. Tannenbaum reiterated that installing a pipe at the time of construction would prevent the need for pump-out equipment at the marina. He asserted that most boaters abide by existing law, which prevents them from dumping waste into the marina. Mayor Vincent cautioned that providing a pump-out facility could attract more vessels to the marina in order for them to pump out waste.

Vice Mayor Sokolow made a motion, seconded by Commissioner Strauss, to extend the meeting for 10 minutes. Motion carried 5-0.

Vice Mayor Sokolow made a motion to approve the conditional use with the installment of pipe which can be handled at building permit issuance.

Development Services Director Connors recommended that the installation of pipes be required when the Applicant submits a Site Plan for redevelopment of the building, and within three months' time if no Site Plan is submitted. Vice Mayor Sokolow agreed with this proposed revision.

Commissioner Oldaker advised that there are additional conditions that should be addressed in the motion, including the following:

- Include the requirement that the marina's operations manual be dated
- Require that the marina comply with existing Town Code regarding generators
- Town may require the marina to evict derelict or problematic vessels as quickly as possible under applicable laws

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to extend the meeting by 10 minutes. Motion carried 5-0.

Commissioner Oldaker reiterated his earlier recommendation that this Item be tabled and revisited at the next meeting in order to ensure clarity of multiple issues included under conditional use. The Commission did not elect to table the Item at this time.

Commissioner Oldaker continued that the additional conditions of concern include:

- Information on how monitoring of the facility will be handled by the Applicant
- Specific reference to management of sewage or human waste

Commissioner Oldaker made a motion made, seconded by Commissioner Malkoon, to extend the meeting 15 minutes. Motion carried 5-0.

Vice Mayor Sokolow agreed to the inclusion of Commissioner Oldaker's additional conditions in his earlier motion.

Commissioner Malkoon seconded the motion to approve with revisions. Motion carried 4-1 (Commissioner Oldaker dissenting).

Development Services Director Connors pointed out that Resolution 2018-43 also requires approval. She read the title into the record at this time:

Resolution 2018-43: A Resolution of the Town of Lauderdale-By-The-Sea, Florida, accepting and ratifying the designation of a marina mooring area and alternate navigational channel, pursuant to conditional use approval; providing for conflict; providing for severability; and providing for an effective date

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

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

c. Marina Site Plan (Linda Connors, Development Services Director)

Development Services Director Connors advised that the Site Plan includes the construction of docks, pilings, and finger piers that meet Code requirements. It also adds an ADA-compliant restroom to the main structure, with the provision that any updated Site Plan for the upland property will not require additional improvements. If the Site Plan is not submitted within six months, the Applicant must apply for a variance for any landscaping removed to construct an ADA-accessible path. The Planning and Zoning Board recommended approval of the Site Plan by a vote of 5-0.

Development Services Director Connors clarified that one Site Plan Application is currently under review; a second Application has not yet been reviewed, as the subject property is under contract for purchase by a new owner. The pilings shown within the Site Plan are required to be within the marina mooring area. It was further noted that the Applicant plans to retain a marina engineer to determine best practices before the final Site Plan is submitted for approval.

At this time Mayor Vincent opened public comment.

John Lanata, resident, asked if the length of the 80 ft. boat includes the bow. Development Services Director Connors replied that the measurement includes the overall length of the boat, including the bow pulpit and any other areas within the slip.

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

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

The following Item was taken out of order on the Agenda.

13. NEW BUSINESS

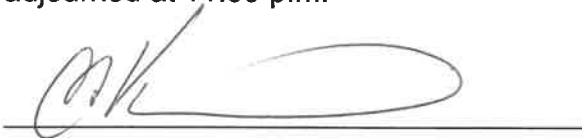
d. Town Manager's Compensation (Mayor Vincent)

Mayor Vincent recalled that because the Town Manager is hired through employment contract, he is excluded from the merit increases cited in the personnel manual. In order to move beyond the midpoint of the salary range, an employee's performance must be found to be Above Satisfactory, and s/he may receive up to a 5% merit increase. If the merit increase results in the employee's salary exceeding the acceptable range, the amount over that range will be paid as a lump sum payment. Mayor Vincent concluded that Town Manager Bentley's performance has been exemplary and more.

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

14. ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 11:35 p.m.



Mayor Chris Vincent

ATTEST:



Town Clerk Tedra Allen

12-11-18

Date