

Town of Lauderdale-By-The-Sea

Special Town Commission

Agenda

Tuesday, February 27, 2024

5:00 PM



Jarvis Hall 4505 N. Ocean Drive
www.Lauderdalebythesea-fl.gov

LAUDERDALE-BY-THE-SEA TOWN COMMISSION

Mayor Chris Vincent
Vice Mayor Edmund Malkoon
Commissioner Buz Oldaker
Commissioner Randy Strauss
Commissioner Theo Pouloupoulos

Linda Connors, Town Manager
Susan Trevarthen, Town Attorney
Katrina Adler, Town Clerk

Special Town Commission

Tuesday, February 27, 2024, 5:00 PM
Jarvis Hall 4505 N. Ocean Drive

1. **CALL TO ORDER, MAYOR CHRIS VINCENT**
 2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
 3. **PRESENTATION**
 - 3.a. BSO Update
 4. **PUBLIC COMMENTS**
 5. **DISCUSSION ITEM**
 - 5.a. Lifeguard Discussion
 - 5.b. Ordinance Discussion Regarding Digging on the Beach
 - 5.c. Memorial for Sloan Mattingly
 6. **ADJOURNMENT**
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THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING

SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.

INVOCATION:

The Invocation before each Town Commission meeting is a voluntary service of a private citizen, offered to serve the spiritual needs of the members of the Town Commission and solemnize the meeting. It is not intended to be an opportunity to advance or disparage one faith or belief over another. The views expressed in the Invocation have not been previously reviewed by the Town and do not necessarily represent the beliefs of any Town employee or official. No person is required to be present at or participate in the Invocation, and the decision whether to be present or participate in the Invocation will not affect any person's

right to actively participate in the official business of the Town or obtain any benefit from the Town. The Town's written Invocation policy is available on its website, and upon written request to the Town Clerk.all static



Town Commission Agenda Item Report

Meeting Date: February 27, 2024

Submitted By: Edmund Malkoon, Vice Mayor

Submitting Department: Town Commission

Item Type: Action Item

Agenda Section: DISCUSSION ITEM

Subject Title: Lifeguard Discussion

Explanation: In response to the recent tragic event on our beach last week, staff has conducted research pertaining to lifeguards on the beach.

Overview and History

Our 2.5 miles of beaches are state-owned, but they are controlled by the Town. Neither the state nor the county has lifeguard requirements. We have seven beach portals on El Mar Drive and an additional two access points at the north end of Town that provide public access to our beaches.

Adding lifeguards to our beaches has been discussed and considered by past Commissions at various points in time dating back to 1988. The discussion topics surrounding lifeguards on our beaches varied.

Last year, Town entered into a contract with the City of Pompano Beach to provide fire rescue, suppression and prevention services, and emergency medical services. The contract includes a provision for the Town to elect to add ocean rescue services to the scope anytime during the contract's term, with the annual compensation being negotiated separately.

Currently, Pompano Beach Rescue patrols the Town's beaches two times per shift. Additionally, BSO includes beach patrol with their deputies and the Citizen Observer Patrol (COP). The BSO beach patrol hours for 2023 are outlined in the table below.

Table 1 - BSO Beach Patrol Hours

MONTH	MILES	HOURS
January	273	37
February	353	44.75
March	669	90.75
April	544	77
May	324	49
June	276	40

July	326	53
August	264	30
September	264	37
October	116	16.5
November	239	31
December	140	20
TOTAL	3,788	526

In addition to the 526 hours BSO spent patrolling the beach last year, the Citizen Observer Patrol (COP) volunteers also spent 126 hours patrolling the beach.

Research

In the absence of state and county requirements, Town staff has conducted research to determine if there are notable standards regarding lifeguards being present on the beach. The information we've sourced from the below cities does not provide a consistent standard to which beaches are monitored. For ease of consideration, staff has provided the information in two tables – Table 2 – Broward County and Table 3 – Palm Beach County.

Table 2 - Broward County

City	Amount of Beach Guarded	Number of Towers	Ratio Tower: Yard	Hours	Population
Deerfield Beach	1,760 yds	9	1:195	9:00 am – 5:00 pm	87,032
Pompano Beach	1,200 yds	8	1:150	9:00 am – 4:45 pm EST 9:00 am – 6:45 pm DST*	113,088
Fort Lauderdale	4,523 yards	20	1:226	9:45 am – 7:00 pm 9:15 am – 6:00 pm Fall	185,416
Hillsboro Beach	Not Guarded				1,959
Dania Beach	749 yds	5	1:150	9:00 am – 5:00 pm	31,658
Hollywood	7,920 yds	28	1:282	9:00 am – 5:00 pm EST 9:00 am – 6:00 pm DST	153,096
Hallandale Beach	1,443 yds	4	1:361	9:45 am – 5:00 pm EST 9:45 am – 6:00 pm DST	41,299

DST - Daylight Savings Time EST - Eastern Standard Time

Palm Beach County addresses lifeguards differently than Broward with the County and State providing lifeguard stations in several instances. For ease of comparison, the total number of guarded beaches per community has been combined and the number of stations include both municipal, county and state in the total. The information provided is approximations.

Table 3 - Palm Beach County

City	Amount of Guarded Beach	Number of Towers	Ratio Tower: Yard	Hours	Population
Boca Raton	3696 yds	21	1:173	9:00 AM – 5:00 PM EST 9:00 AM – 6:30 PM DST	99,222
Riviera Beach	545.6 yds	1	1:280	9:00 AM – 5:20 PM EST	38,546
Delray Beach	2288 yds	8	1:478	9:00 AM – 6:30 PM EST	67,407
Gulf Stream	200 yds	1	1:200	9:00 AM – 5:20 PM EST	953
Juno Beach	617 yds	2	1:308	9:00 AM – 5:20 PM EST	3,887
Palm Beach	1438 yds	4	1:359	9:00 AM – 5:20 PM EST	9,238
Ocean Ridge	664 yds	1	1:200	9:00 AM – 5:20 PM EST	1,836
Boynton Beach	327 yds	3	1:109	9:00 AM – 5:00 PM EST	81,474
Tequesta	200 yds	1	1:870	9:00 AM – 5:20 PM EST	6,104
North Palm Beach	Not guarded				13,089
Lake Worth Beach	464 yds	3	1:255	Not listed	43,183
Lantana	250 yds	1	1:250	9:00 AM – 5:00 PM EST	12,086
Palm Beach Shores	119 yds	1	Not listed		1,328

Recommendation: Provide staff direction.

Exhibits: None



Agenda Item No: 5.b.

Town Commission Agenda Item Report

Meeting Date: February 27, 2024

Submitted By: Buz Oldaker, Commissioner

Submitting Department: Town Commission

Item Type: Action Item

Agenda Section: DISCUSSION ITEM

Subject Title: Ordinance Discussion Regarding Digging on the Beach

Explanation: The Town's public information team has already begun developing an expanded beach safety campaign to continue to educate the public. It will include precautions for digging, rip currents, sea animal stings, snorkeling and diving best practices, and others. Visit Lauderdale has reached out to us and we hope to partner with them to amplify our reach. This will be a fully integrated campaign that includes printed and digital messaging, flyers, social media, and more. As materials become available, the Business Outreach Team will be working with our hotels, condo associations, vacation rentals, businesses, and our visitor's center to get the word out.

In addition to these efforts, it is within the Town's authority to adopt an ordinance prohibiting or regulating recreational digging on the ocean beach. State law addresses negligence liability for leaving holes that are more than two feet deep, which provides one potential benchmark for regulation.

A review of municipal codes online from the South Florida area reveals inconsistent treatment of this issue, and very few ordinances directly addressing recreational digging on an ocean beach. See attached chart. Similar to the Town, many regulate digging in parks. A number of codes require holes to be filled, or sand/soil not to be removed from the beach or natural resource.

If the Town Commission wishes to adopt something on this issue, it could do so either by amending its Code of Ordinances or by adopting a regulation for the use of the beach outside of the Code, as Fort Lauderdale did. The language could be added to our current beach signage to address the dangers of digging in the sand. We are currently gathering estimates for the cost to update these panels to include this language.

Recommendation: Provide staff direction.

Exhibits:

1. Beach Code Provisions 2.23.24

**Selected Coastal Cities Code Provisions
Related To Recreational Digging of Holes On Beach or
Digging in Parks**

Municipality	Code Provision
Broward	
Hallandale Beach	Sec. 16-4. - Property. (b) <i>Trees, shrubbery, lawns.</i> No person shall: (1) <i>Injure and remove.</i> Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. Nor shall they dig in, walk upon, or otherwise disturb grass areas, beach dunes, or planted areas which have been posted as such or in any other way injure or impair the natural beauty or usefulness of any area.
Fort Lauderdale	No Code provision. Beach rules address issue: 7.4(g) Digging holes or erecting tents, canopies and fencing is prohibited.
Pompano Beach	§ 98.03 DAMAGE TO CITY PROPERTY. It shall be unlawful for any person to commit any of the following acts. (B) Misuse, damage, or injure any municipal public beach property at the municipal public beach area, or to fail to comply with the regulations pertaining to the picnic area. ----- § 151.07 BACKFILLING TIDAL FLOOD BARRIERS, RIP-RAP. (A) All existing tidal flood barrier or rip-rap and newly erected or repaired tidal flood barriers or rip-rap shall be backfilled with clean fill material. The fill material shall be backfilled to the finished elevation of the seawall cap, or to the level of the finished floor elevation if the seawall cap exceeds the level of the finished floor elevation. There shall be no depressions, holes, or any other conditions which would allow stagnant water to accumulate anywhere landward behind the tidal flood barrier or rip-rap or cause excess or concentrated drainage into the adjoining property.

	(B) All tidal flood barriers or rip-raps shall be maintained in such a manner as to prevent the erosion or damage to any adjoining property. All holes, depressions, or other similar conditions occurring on property behind existing tidal flood barrier or rip-rap as a result of settlement, erosion, or any other condition of the soil or tidal flood barrier or rip-rap shall be filled and maintained at the finished elevation of the tidal flood barrier or rip-rap or to the level of the finished floor elevation if the seawall cap exceeds the level of the finished floor elevation.
Lauderdale-By-The-Sea	Sec. 14.3-6. - Protection of property, structures and natural resources. (a) <i>Disturbance of natural features.</i> It shall be unlawful for any person to: (2) Dig trenches, holes or other excavations in a park. Chapter 5, Article II: Beach rules are silent.
Palm Beach	
Palm Beach County	Sec. 11-256. - Buildings and other property. (b) No person shall dig, move, or remove from any natural area any sand, soil, rocks, stones, trees, shrubs, or plants, fallen timber, or other wood or materials, or make any excavation by tool, equipment, blasting or other means.
	Sec. 21-20. - Buildings and other property. (b) No person shall dig, move or remove from any park area any beach sand, soil, rocks, stones, trees, shrubs, whether submerged or not, or plants, down-timber, or other wood or materials, or make any excavation by tool, equipment, or other means, or construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such land, or affix any materials to any park property, except with the prior written approval of the director. Metal detecting is prohibited except at oceanfront beach parks between the dune and high tide mark outside of turtle nesting season.
Highland Beach	Sec. 5-5. - Removal of sand, earth from beach.

	It shall be unlawful for any person to take or remove from the ocean beach within the limits of the town any sand or earth.
Jupiter	Sec. 14-115. - Buildings and other property. (b) No person shall dig, move, or remove from any natural area any sand, soil, rocks, stones, trees, shrubs, or plants, fallen timber, or other wood or materials, or make any excavation by tool, equipment, blasting or other means.
Juno Beach	Sec. 18-30. - Removing natural resources. No person in a park shall dig, or remove any soil, rocks, stones, shrubs or plants, downed timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
Palm Beach	Sec. 66-83. - Beaches; removing sand or earth. It shall be unlawful for any person to take or remove from the ocean beach within the limits of the town any sand or earth.
Palm Beach Shores	Sec. 48-2. - Park property. (a) <i>Buildings and other property:</i> (3) <i>Removal of natural resources.</i> No person in a park shall dig, or remove any sand, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood materials, or make any excavation by tool, equipment, blasting, or other means or agency.
Mangonia Park	Sec. 16-2. - Park property. (3) <i>Removal of natural resources.</i> No person in a park shall dig, or remove any sand, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood materials, or make any excavation by tool, equipment, blasting, or other means or agency.

Lake Worth	Sec. 7-80. - Additional regulations applying to the municipal beach area. <i>Purpose.</i> Citizens and visitors should be afforded a safe, clean environment in which recreational opportunities can be maximized. Due to the wide variety of patron needs and use of city property, it is necessary to establish the following regulations. These regulations are in addition to regulations that are contained in other sections of the Code of Ordinances or otherwise posted in particular parks, recreational facilities or municipal beaches. (r) <i>Holes on the beach.</i> No large holes should be left on the municipal beach without the filling in of such holes before an area is left for the day.
Miami-Dade	
Miami	Sec. 38-52. - Damaging, removing, etc., park property; climbing trees. All property in park areas belongs to the citizens. No property, animate or inanimate, shall be damaged, destroyed or removed from the park or moved from the location where it is installed or planted. No holes shall be dug and no structures, either temporary or permanent, shall be erected unless authorized by the city manager or his/her designated representative. No climbing of trees is permitted within park limits.
Sunny Isles Beach	§ 201-4. - Park property. (5) Move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground.
Key Biscayne	Sec. 19-7. - Preservation of property. No person in the Village shall: (e) Move, disturb, or take any earth, stone or other material from any Village park.
Miami Beach	Sec. 82-482. - Prohibited activities.

	(a) It shall be unlawful and prohibited for any person to conduct or permit to be conducted any of the following activities upon the dune: (2) Maintain a dump of, or discard of, sand, rock, or other debris; (4) Excavate, mine and remove, or haul sand or soil from the beach or dune;
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Agenda Item No: 5.c.

Town Commission Agenda Item Report

Meeting Date: February 27, 2024

Submitted By: Linda Connors, Town Manager

Submitting Department: Administration

Item Type: Action Item

Agenda Section: DISCUSSION ITEM

Subject Title: Memorial for Sloan Mattingly

Explanation: A Mattingly family member contacted staff to discuss erecting a permanent memorial sign on the beach.

In September 2023, the Commission adopted policies and procedures for naming town-owned properties (Exhibit 1). The beach in question is directly east of a private hotel on private property. In addition, any structure erected in this area would fall under the regulation of the State because it is east of the coastal construction control line. Therefore, staff recommends the Commission consider placing a memorial or naming opportunity in an alternative location such as Friedt Park in memory of Sloan.

Recommendation: Provide direction to the Town staff.

Exhibits:

1. Resolution 2023-59 Town Naming Policy

RESOLUTION NO. 2023-59

**A RESOLUTION OF THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA,
ADOPTING POLICIES AND PROCEDURES FOR NAMING
OF TOWN-OWNED PROPERTIES AND FACILITIES;
PROVIDING FOR EXECUTION, IMPLEMENTATION,
CONFLICTS, AND AN EFFECTIVE DATE.**

WHEREAS, the Town Commission (“Town Commission”) of the Town of Lauderdale-By-The-Sea (“Town”) is desirous of adopting policies and procedures for naming, co-naming, and re-naming of Town-owned properties, facilities, parks, and memorials (“Properties”); and

WHEREAS, the process of naming, co-naming, and re-naming Town-owned Properties should be guided by a clear and transparent set of policies and procedures to ensure fairness, inclusivity, and accountability; and

WHEREAS, the Town Commission finds that adopting the policies and procedures for naming, co-naming, and re-naming of Town owned Properties is in the best interests of the residents and businesses of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**

Section 1. Recitals. Each “WHEREAS” clause set forth above is true and correct and herein incorporated by this reference.

Section 2. Policy. The Town Commission hereby adopts the following policies, procedures and criteria for naming, co-naming, and re-naming (“Naming”) of Town-owned properties, facilities, parks, and memorials (“Naming Policy”).

1. *Approving Authority.* The Town Commission has the authority to approve or deny Naming applications by resolution.

2. *Scope.* The Town will consider Naming Properties after individuals whose contributions have significantly improved the Town's quality of life and excludes naming based on monetary donations. Naming of streets within the Town is outside the scope of this Naming Policy.

3. *Objectives.*

- a. Establish clear criteria and procedures for Naming Town-owned Properties.
- b. Empower the Town Commission to approve or deny Naming applications through resolution.
- c. Focus on Naming after individuals whose work has made substantial contributions to the Town's quality of life.
- d. Avoid Naming decisions in recognition of monetary donations, property, or items with monetary value.

4. *Criteria.*

- a. Long and exemplary private, public service, or military career with significant positive recognition for the Town or their community.
- b. Significant contributions to the Town's reputation through volunteerism, leadership, or other quality services.
- c. Good public standing and a substantial contribution to the Town's quality of life by organizations, including statewide or national recognition.
- d. Contribution that demonstratively enhances public safety and overall well-being.
- e. Evaluation of the character and quality of the person for whom the facility is being named.

5. *Exclusions.*

- a. Anyone serving in public office for the Town, or any other public officials in office at the time of consideration is ineligible.
- b. A person for which a property, facility, park, or memorial was named, co-named or re-named within ten (10) years of the current Application is ineligible.
- c. If the person is associated with support of discrimination or socially unacceptable precepts, or if other behavior or events in the person's background reflects unfavorably on them and anything to which their name is affiliated or affixed, the person is ineligible.

6. *Considerations.*

- a. Strong consideration should be given to Naming only after persons who are deceased or in their twilight years as it is never desirable to have to rename or remove the name of a facility.
- b. The dedication of small amenities with an identifiable lifespan and not intended to be permanent such as fixed park benches, bricks, trees, and other similar items are not recommended.
- c. Intent of the Naming is to be permanent and never changed or altered. If non-permanent items are selected, staff recommends the Naming is for the lifetime of the amenity.

- d. Consideration should be given to any applicable historical significance, geographical identifiers, or natural characteristics at the site.
- e. The proposed name should not duplicate the name of another Property within the Town.
- f. Naming after living persons should only be done in cases of unusually outstanding public service and in the person's twilight years.

7. *Procedure.*

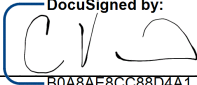
- a. Naming requests must be initiated by a Commissioner and submitted through an Town Naming Application ("Application") to staff.
- b. Applications should include details about the:
 - a. Individual's significance, such as their contributions through volunteerism, leadership, and other services;
 - b. Individual's association with an organization that has significantly impacted the Town's quality of life at local, state, or national levels; and
 - c. Documentation of a long and exemplary private, public service, or military career.
- c. Once a complete Application is received, it will be scheduled for consideration by the Commission. To name a property, an entire building, or room in a building, the Application must receive at least four (4) affirmative votes. Streets are not covered by this Naming Policy, as they require additional approval from the US Post Office.

8. *Costs.* At the time of approval, the Commission will assess whether the Town will cover the expenses for the plaque or signage. If the Town is obligated to do so, a budget for the maker will be established at the time of the Naming's approval.

Section 3. Severability. If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

Section 4. Effective Date. This Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED this 26th day of September 2023.

DocuSigned by:

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Mayor Chris Vincent

Attest:

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DocuSigned by:

Katrina Adler

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Katrina Adler, Town Clerk

(CORPORATE SEAL)



APPROVED AS TO FORM:

DocuSigned by:

Susan L. Trevarthen

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Susan L. Trevarthen, Town Attorney